

**Fourth Opinion on Austria,
adopted on 14 October 2016**

Summary

Interethnic relations in Carinthia have improved following the 2011 compromise facilitated by the federal government. The compromise led to amendments of the National Minorities Act regarding the use of minority languages, introducing a closed list of localities where minority languages can be used in official contacts and are to be used in topography. The list was established as a constitutional provision and can therefore not be challenged in any court. No agreement was reached on the long-promised comprehensive reform of the National Minorities Act. As a result, access to minority rights still varies significantly from one Land to another.

Financial support provided for the preservation of minority cultures has not been increased since 1995 and is insufficient. The competence of the National Minority Advisory Councils remains limited to decision making concerning the distribution of cultural funds, whereas broader concerns of autochthonous minorities represented in the Councils are not sufficiently taken into account in political decision-making processes, particularly at federal level. An advanced system for teaching and learning of minority languages remains in place in Carinthia and in Burgenland, including bilingual teaching. No comprehensive solution has been found for the specific educational needs of many persons belonging to national minorities who live in other regions and in Vienna.

Recommendations for immediate action

- **Engage in a comprehensive process of modernising the legislative framework pertaining to national minorities with a view to ensuring the consistent application of the Framework Convention to all persons belonging to national minorities, based on an individual rights approach and on an article-by-article basis where appropriate;**
- **Ensure systematically full and effective equality before the law of all persons belonging to national minorities by guaranteeing effective access to a legal remedy to challenge the denial of minority rights, including language rights;**
- **Prioritise the reform of the National Minority Advisory Councils to ensure that they constitute a functional mechanism through which persons belonging to national minorities can participate effectively in all relevant decision-making processes, beyond the allocation of cultural support.**

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I. Key findings

Monitoring process

1. This fourth cycle Opinion on the implementation of the Framework Convention by Austria was adopted in accordance with Article 26(1) of the Framework Convention and Rule 23 of Resolution (97)10 of the Committee of Ministers. The findings are based on information contained in the fourth [State Report](#), submitted by the authorities on 14 January 2016, other written sources and on information obtained by the Advisory Committee from governmental and non-governmental sources during its visit to Vienna and Parndorf from 4 to 8 July 2016.

2. The Advisory Committee welcomes the authorities' co-operative approach and expresses its gratitude for the assistance provided before and during the country visit. Comments to the third cycle Opinion were received promptly and both documents were made public, including on the website of the Federal Chancellery. The Opinion was not translated into German, however, and its findings were not distributed among national minorities. The Advisory Committee therefore reiterates its strong recommendation to translate this Fourth Opinion into German as this would significantly increase knowledge about the monitoring process. This is important in particular as no follow-up seminar was organised after the third cycle which could have provided an opportunity for a targeted dialogue of the Advisory Committee with government and national minority representatives in order to elaborate the reasoning behind the various recommendations contained in the Opinion. While the fourth State Report contains comprehensive information and national minority representatives were given the opportunity to add their comments in the form of annexes, the Advisory Committee considers that the preparation of the State Report could have been an occasion for a direct and comprehensive discussion with national minority representatives about various issues of concern to them (see also Article 15).

General overview of the present situation

3. There has been little change overall with respect to the protection of national minorities in Austria since the third monitoring cycle. A compromise between the regional and local authorities in Carinthia and representatives of the Slovene minority, facilitated by the federal government, led in July 2011 to amendments of the National Minorities Act regarding the use of minority languages in official contacts and in topography. As a result, the state of interethnic relations in Carinthia is considered to have improved; both bilingualism as such and the presence of the Slovene minority have become more accepted as an integral part of society. There is a widely shared sense of disappointment among national minority representatives, however, that the long-promised comprehensive reform of the National Minorities Act has not been completed. That was meant to establish access to minority rights throughout Austria in line with an inclusive and consistent legislative framework at federal level. Enjoyment of minority rights therefore continues to vary significantly from one Land (*Länder*) to another. Moreover, after the amendments of July 2011, it is impossible for persons belonging to national minorities to address the courts in order to challenge the denial of access to a minority right, which was an important and often successful remedy for them in the past. There is therefore a mounting sense of frustration and alienation amongst persons belonging

to national minorities in response to the, in their view, rather restrictive and sometimes dismissive attitude towards them.

4. According to national minority representatives, their specific concerns as autochthonous minorities in an increasingly diverse society are not sufficiently taken into account in political decision-making processes, including on issues that directly affect them. The only decision-making process that explicitly involves national minority representatives concerns the distribution of the limited funds that are made available on a yearly basis to support cultural activities of national minority associations. At regional level, however, the Dialogue Forum in Carinthia has offered a possibility for national minority representatives directly to address the legislature on issues of concern to them, which has made a positive impact on interethnic relations, in particular since 2013. It is further welcomed that a dialogue mechanism for representatives of national minorities was established within the Ministry of Education in 2015 to ensure that regular meetings take place to discuss the specific concerns with respect to the conditions and standards of minority language education.

Assessment of measures taken to implement the recommendations for immediate action from the third cycle

5. Extensive consultations regarding the reform of the National Minorities Act included national minority representatives and experts in three working groups and led to the elaboration of comprehensive draft amendments. The process was discontinued, however, over disagreements between national minority representatives and the authorities. Mainly, national minority representatives did not agree with a government proposal to alter the composition of the National Minority Advisory Councils, as they considered it an attempt to increase undue state influence over their affairs. As a result, none of the proposed amendments was adopted, not even those on which a broad expert agreement had previously been found. Importantly, the mandate of the Advisory Councils has not been broadened and the extent of their competence covers only the allocation of cultural support to minority associations. The political compromise regarding the specific locations where the various minority languages may be used in official contacts and in topography was not comprehensively discussed with representatives of all national minorities and is not based on coherent legal criteria. Therefore, it does not contribute to a more consistent exercise of linguistic rights, nor has flexibility been introduced to avoid arbitrary distinctions.

Assessment of measures taken to implement the further recommendations from the third cycle

6. A compilation of all political and legal measures undertaken with respect to the Roma was prepared in 2012 in the framework of the EU National Strategies for the Integration of the Roma, which was followed up with a progress report in 2013. A process of updating is ongoing. A Roma Dialogue Platform was further established in 2012 to facilitate regular consultation with Roma and civil society organisations. Financial support available for the preservation of the cultures of national minorities has neither been increased, nor decreased, and allocation and payment modalities also remain unaltered. Considerable efforts have been made to combat more effectively all forms of hate crime, including through a tightening of criminal law provisions. Manifestations of racism in the political arena and in some media have increased, however, and are not always appropriately condemned and sanctioned. The legislative

framework for the protection from discrimination remains highly complex and scattered over numerous federal and regional level laws. Nevertheless, awareness amongst the public of the available legal and non-legal remedies is growing and the number of complaints submitted to relevant authorities is increasing. The Ombudsperson for Equal Treatment can only make non-binding recommendations and is seeking an extension of its mandate to include the possibility to address the courts directly.

7. Radio broadcasting in minority languages has been expanded and amendments to the Press Promotion Act are being considered by the authorities to increase the thus far very limited support available for minority language print media. A dialogue mechanism was initiated by the Ministry of Education in 2015 to consult national minority representatives at expert level on all issues pertaining to minority language teaching and learning. While an advanced system remains in place particularly at elementary school level in Carinthia and in Burgenland, including bilingual teaching, no comprehensive solution has been found for the specific educational needs of many persons belonging to national minorities who live in other regions and in Vienna. A possible amendment of the Private School Act has been favourably considered by the authorities, which could not only resolve the continuous economic difficulties of one private minority language school in Vienna, but could possibly also improve the situation of other groups whose educational needs are currently met only through optional courses and some private initiatives in cultural centres. Representatives of national minorities share the view that their traditions and cultures, as integral elements of Austrian diversity over centuries, are still insufficiently reflected in the curriculum and that there is overall too little awareness of their specific needs and concerns within increasingly diverse society.

II. Article by article findings

Article 3 of the Framework Convention

Personal scope of application

Present situation

8. The scope of application of the Framework Convention has not changed since the third monitoring cycle. The following groups meet the legal requirements of the 1976 National Minorities Act: the Burgenland-Croat minority, the Slovene minority, the Hungarian minority, the Czech minority, the Slovak minority and the minority of the Roma.¹ Access to rights contained in the Framework Convention of persons belonging to these six recognised groups varies significantly, however, depending on the region. This is due to the fact that core obligations relating to the use of minority languages in official communication and in topography, and relating to education in minority languages are provided in the 1955 State Treaty of Vienna only to the Slovene minority in Carinthia and Styria and to the Croat minority in Burgenland. These obligations were translated into laws at regional level in Carinthia and Burgenland only, while persons belonging to the Slovene minority in Styria do not enjoy the rights bestowed upon them in the State Treaty (see further Articles 10, 11 and 14). The authorities argue that the low density of minority settlement in Styria does not justify any special provisions.²

9. Overall, the distribution of competences between federal and *Länder* level in Austria is rather complex (see also Article 4). The provision that was added to the constitution in 2000 in order to guarantee the protection of national minorities at the federal level is based on a “targeted objective”, meaning that it does not directly grant rights.³ Persons belonging to the six recognised national minorities have requested for years that a more consistent and inclusive legislative framework at the federal level be developed that would establish access to minority rights throughout Austria, in line with the provisions of the Framework Convention.⁴ The Advisory Committee reiterates its concern that the significant variations in the level of enjoyment of minority rights in the various *Länder* run counter to the expressed “value judgment in favour of minority protection”, as mandated by the above constitutional provision. Indeed, the fact that persons belonging to the Burgenland Croat minority who move to Vienna lose access to minority rights, in particular as regards education, has resulted in notable assimilation and may thus not be compliant with Article 8(2) of the constitution. The Advisory Committee shares the concerns of persons belonging to the six recognised national minorities

¹ See State Report, page 18. According to Article 1(2) of the 1976 National Minorities Act (*Volksgruppengesetz*, Federal Law Gazette No. 396/1976) ‘ethnic groups’ are defined as groups who ‘live traditionally in parts of the territory of the Republic of Austria, are composed of Austrian citizens with non-German mother tongues and have their own ethnic cultures’.

² See State Report, page 20.

³ According to Article 8(2) of the 2000 Federal Constitution Act, “The Republic (federal, regional and local authorities) is committed to the linguistic and cultural diversity, as it has developed over time and which finds expression in the autochthonous national minorities. The language and culture, the existence and preservation of these national minorities shall be respected, safeguarded and promoted”. See State Report, page 27.

⁴ The Advisory Committee has made similar observations and strong recommendations in its three previous opinions on the implementation of the Framework Convention by Austria.

that such territorial application of minority rights does not adequately reflect and accommodate the needs of a modern and pluralist society, and that it negatively affects the access to rights of persons belonging to national minorities (see further Article 4).⁵ It therefore regrets the fact that the envisioned reform of the National Minorities Act in 2012 was not completed, despite an extensive consultation process that included many experts (see also Article 15).

10. Persons belonging to the Polish community continue to seek recognition as a national minority with the Federal Chancellery, despite the fact that their initiative was previously rejected.⁶ The Advisory Committee notes the reasoning for this rejection provided in the State Report, i.e. that the Polish community in Vienna has the “socio-graphic characteristics of a migrant group”. It was informed by the authorities during its monitoring visit that the situation could be reviewed in 20-30 years when there will be continued settlement over three generations.⁷ While the presence of a Polish community in Vienna in the late 19th century is undisputed, the State Report questions the continuity of settlement. It coins the term of a “rolling minority”, referring to a situation where “there are new inflows time and again, while the earlier arrivals either become assimilated or return or move on”.⁸ The Advisory Committee considers that the fact that a community has assimilated owing to the lack of adequate support for the preservation of its distinct features or worse, due to evident hostility towards the particular community as experienced by the Polish community from 1938–1945, should not be used as a valid argument against continuity of settlement, especially as this thwarts the very effort of the group to reverse assimilation. According to the officials met by the Advisory Committee during its visit, other communities, such as the Turkish or Serb community, may be considered a national minority in 40-60 years. While always welcoming an inclusive approach to the scope of application, the Advisory Committee has repeatedly underlined that the length of residency in the country should not be considered a determining factor for the applicability of the Framework Convention as a whole.⁹

Recommendations

11. The Advisory Committee reiterates its urgent call on the authorities to engage in a comprehensive and genuine effort to review the legislative framework for the protection of national minorities with a view to ensuring the consistent application of the Framework Convention throughout Austria to all persons belonging to national minorities in line with the constitutional provision and based on an individual rights approach.

⁵ See also ACFC Fourth Thematic Commentary on the scope of application of the Framework Convention, May 2016.

⁶ According to the results of the 2001 census, some 12,700 citizens self-identify as members of the Polish community. Representatives consider the actual number to be much larger.

⁷ ‘Living in parts of the territory’ is understood to mean “continuous settlement history in a specific territory over a minimum period of three generations, whereby 30 years are regarded as a yardstick for one generation, so that a total of about 100 years is accumulated”. See State Report, page 18.

⁸ See State Report, page 18.

⁹ See ACFC Fourth Thematic Commentary on the scope of application of the Framework Convention, May 2016, para. 31, pointing out that it follows by implication from Articles 10(2), 11(3), and 14(2) of the Framework Convention that the length of residency is of relevance only to those provisions but not to the application of the Framework Convention as a whole.

12. It further calls on the authorities to engage in a constructive dialogue with representatives of the Polish community with a view to establishing the application of the Framework Convention to persons belonging to this group on an article-by-article basis.

Article 4 of the Framework Convention

Legal and institutional framework for the protection from discrimination and the promotion of equal treatment

Present situation

13. The legislative framework for the protection from discrimination and the promotion of equal access to rights of persons belonging to national minorities overall rests on two pillars. Persons belonging to national minorities are protected by the broad principle of equality that is enshrined in Austria's legal system, extending to all citizens.¹⁰ In addition to constitutional provisions that include the European Convention on Human Rights and the Charter of Fundamental Rights of the European Union, a complex and multi-tiered legislative and institutional framework for the protection and promotion of equal treatment is in place. However, there is no unambiguous and comprehensive prohibition of all forms of discrimination in the private and public sector. Different pieces of legislation outlaw certain forms of discrimination committed by specific actors at federal and regional levels in certain spheres, such as those related to the working environment or the supply of goods and services, and many entities have been established to which related complaints can be submitted.¹¹ Persons who regard themselves as victims of discrimination thus have a wide variety of possible avenues to seek remedy. The Advisory Committee was able to meet representatives from various federal and regional entities concerned, and was reassured by their professionalism and dedication. The Advisory Committee further notes that the number of complaints received by the various institutions is increasing continuously, which is widely interpreted as a sign that the different efforts made to raise awareness and understanding of the available legal remedies amongst the public have been successful.

14. Overall, however, the number of complaints has remained low.¹² Many individuals, according to minority and civil society representatives, are still discouraged by the complexity of the system and the resulting lack of transparency.¹³ Moreover, there is a sense that the effort to seek redress will likely not be rewarded. The Advisory Committee notes that the effectiveness of the Equal Treatment Commission and Equal Treatment Ombudsperson is limited by the fact that these bodies can only establish that discrimination took place and make non-binding recommendations. They cannot, however, award compensation or damages, or impose penalties. Compensation can only be sought before the courts. Here the financial risk of the often lengthy proceedings is carried by the litigants and, given the complexity of the legislation, even lawyers may have difficulties in identifying the correct legal basis and the most

¹⁰ See also State Report, pages 23 and 24.

¹¹ See also the more detailed analysis provided in ECRI's fifth monitoring cycle report on Austria, adopted in June 2015, paras. 15ff.

¹² According to representatives of the Office of the Equal Treatment Ombudsperson, an average of some 4 000 inquiries, complaints and cases are handled per year, of which discrimination is established to have occurred in some 800-1 000 cases.

¹³ See also Report by the Commissioner for Human Rights following his visit to Austria in June 2012 (CommDH(2012)28, para.12).

convincing argument, for instance in cases of multiple discrimination.¹⁴ The Advisory Committee is therefore pleased to note the intention of the Ombudsperson's Office for Equal Treatment to seek the mandate of addressing the courts itself, including by way of representing the alleged victims, with a view to enhancing the effectiveness of the redress mechanism for the persons affected.

15. The Advisory Committee further notes the intention of the authorities to produce guidelines offering an overview of the various institutions responsible for the protection from discrimination.¹⁵ These guidelines are intended to form part of the first National Action Plan for Human Rights, which is in the process of preparation and is expected to be adopted in autumn 2016 (see also Article 15). According to governmental and non-governmental interlocutors, the Action Plan, once adopted, is likely to constitute a compilation of already existing initiatives and activities. The Advisory Committee trusts that the announced guidelines, that are intended to facilitate access for the affected individuals to the competent institutions and to increase knowledge about the multiple forms of discrimination that exist, will be made widely accessible through proactive dissemination beyond their mere inclusion in the National Human Rights Action Plan.

16. The Advisory Committee welcomes efforts made by the Equal Treatment Ombudsperson to increase awareness of anti-discrimination standards in particular amongst possible actors of discrimination, such as large companies and enterprises, in order to prevent such incidents from occurring in the first place.¹⁶ While some progress has been made and understanding has grown, for instance, regarding the fact that job or housing advertisements must not contain discriminatory language, discriminatory attitudes against some persons belonging to national minorities have not diminished.¹⁷ According to reports of civil society and minority representatives, they remain rather widespread, particularly in the education and employment spheres (see also Article 12 and 15) and are particularly directed at the Roma.¹⁸ The Advisory Committee is concerned by reports that Roma continue not to be taken seriously when reporting instances of alleged discrimination but are informed by relevant officials that such attitudes are common-place and thus not discriminatory.¹⁹

¹⁴ See also the Annual Report 2014 of the *Klagsverband zur Durchsetzung der Rechte von Diskriminierungsopfern*, page 25, pointing out that legal counsellors who represent victims of discrimination in court require further training as they do not feel confident about the legal aspects of an issue.

¹⁵ See Observations by the Republic of Austria in respect of the fifth report by the ECRI on Austria (August 2015), available at <https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Austria/AUT-CbC-V-2015-034-ENG.pdf>.

¹⁶ See a list of activities undertaken by the Office of the Equal Treatment Ombudsperson to raise awareness on discrimination and its various forms at the workplace, available at <http://www.gleichbehandlungsanwaltschaft.at/site/7239/default.aspx>.

¹⁷ According to reports from minority representatives and representatives of the equal treatment entities, persons belonging to Roma communities still regularly face situations where their applications for housing or employment are rejected as soon as their background has been established with the explanation that the respective offer has just been filled.

¹⁸ See Briefing Paper on the situation of Roma and Travellers in Austria, available at European Roma and Travellers Forum (ERTF), April 2014.

¹⁹ See *Romano Centro Antigypsyism in Austria*, Incident documentation 2013–2015, November 2015.

Recommendations

17. The Advisory Committee calls on the authorities to increase the support for the activities of and co-operation between the various entities responsible for the promotion of equality at federal and regional level, and to proactively raise awareness among relevant actors and society as a whole of the applicable anti-discrimination standards and the judicial and administrative remedies available in case of violations.

18. The Advisory Committee further encourages the authorities to explore all available means to ease access to effective redress mechanisms for the affected individuals, including investing the Ombudsperson for Equal Treatment with the power to provide legal aid and to address the courts on behalf of the victim.

Legal and institutional framework for the promotion of full and effective equality of persons belonging to national minorities

Present situation

19. In addition to the generally available mechanisms for the promotion of equal access to rights, persons belonging to national minorities benefit from special provisions that are intended to increase their access to rights. The Advisory Committee notes with concern in this regard that access to rights of persons belonging to national minorities is made dependent upon strict territorial limitations that result in unequal levels of enjoyment in the various regions. It underlines the fact that the individual rights of persons belonging to national minorities, in line with Article 4 of the Framework Convention, must be made accessible in order to promote the individual's full and effective equality vis-à-vis persons belonging to the majority.²⁰ Minority rights are human rights in line with Article 1 of the Framework Convention and are not special entitlements granted only within certain regions or upon a specific decision of the relevant government entities. Such an approach would undermine the general principles of transparency and legal certainty in accessing rights. The Advisory Committee is deeply concerned by the fact that the amendment of the National Minorities Act in 2011 in effect resulted in a further deterioration of the situation of persons belonging to national minorities as their access to individual rights contained in the Framework Convention has been limited to certain localities, without a possibility to challenge this decision through an effective legal remedy (see also Articles 10 and 11). The Advisory Committee considers this inability to contest the denial of access to a minority right in court a violation of the rights of equality before the law of persons belonging to national minorities and of equal protection of the law, as prescribed in Article 4(1) of the Framework Convention.

20. With respect to the full and effective equality of the Roma, the Advisory Committee notes that in early 2012 Austria submitted a description to the European Commission of the various activities, projects and policies related to the Roma.²¹ The document was developed in consultation with Roma and civil society representatives and constitutes a compilation of important activities, often non-governmental, without, however, establishing target goals or indicators for improvement of the situation. Nevertheless, the document is referred to as the

²⁰ See Article 4(2) of the Framework Convention.

²¹ See the report "EU Framework for National Strategies for the Integration of Roma by 2020 – Political and Legal Measures in Austria", available at <https://www.bka.gv.at/DocView.axd?CobId=51753>.

Roma Strategy and was followed up with a progress report in 2013. A Roma Dialogue Platform, consisting of representatives of both the federal government and civil society, was established in 2012 to monitor the implementation of the strategy. Civil society representatives welcome the existence of a government entity responsible for all questions related to the integration of the Roma within the EU Framework and the organisation of regular meetings.²² However, they consider that there have been few results in the past four years since the Dialogue Platform was established, as the office is still mainly occupied with stocktaking rather than the formulation of clear goals and target indicators. The Advisory Committee was informed by the relevant officials that, indeed, the development of clear indicators was not planned within the ongoing update of the strategy, as civil society organisations were unwilling to share the names and addresses of individual beneficiaries of their respective project activities. The Advisory Committee considers that such personal data should by no means be included in a publicly available strategic document.

21. The Advisory Committee reiterates, however, that special measures to promote the equality of the Roma in the areas of education, employment, health and housing can only be effective if they are formulated on the basis of a profound understanding of the specific challenges faced by them (see also Articles 12 and 15), particularly because of the heterogeneity of the communities in Austria. Measures should be based on disaggregated equality data that is to be gathered in close co-ordination and consultation with Roma representatives and strictly in line with the right to free self-identification. A comprehensive assessment of the specific challenges faced by the Roma with respect to equal opportunities is equally essential in order to evaluate properly the effectiveness of measures that have already been taken and may require adjustments to maximise their impact.

Recommendations

22. The Advisory Committee urges the authorities to ensure full and effective equality before the law of all persons belonging to national minorities by guaranteeing access to an effective legal remedy to challenge the denial of access to minority rights.

23. The Advisory Committee calls on the authorities to proactively step up the implementation of measures aimed at the protection and promotion of effective equality of the Roma, based on a comprehensive understanding of the specific challenges faced by persons belonging to Roma communities and in line with a clear strategic direction and indicators that are developed in close consultation with Roma representatives.

Article 5 of the Framework Convention

Support for the preservation and development of national minority identities and cultures

Present situation

24. The system for the allocation of cultural support for the associations of national minorities has not changed significantly since 1995, despite repeated and joint requests by national minority representatives as well as the Advisory Committee in its three previous

²² The number of meetings organised per year has apparently diminished from six in 2013, to three in 2014 and two in 2015. See <http://www.austria.gv.at/site/7660/default.aspx>.

opinions. The overall budget remains at 3.8 million EUR which, given the increase in the consumer price index by some 40% since 1995, constitutes an actual decrease in real terms. While the authorities have maintained over the years that their commitment to the preservation of national minority cultures is proven by the fact that the budget – contrary to other budgets – has not been cut despite economic difficulties, the Advisory Committee notes with concern the sense of frustration and consternation among persons belonging to national minorities, who observe budgets for a variety of societal interests being increased every year, while the budget for cultural preservation of the autochthonous groups is stagnating in their view. As a result, they remain dependent on the additional support from other public entities, such as local and regional authorities or the Ministry of Education, which varies and has indeed diminished in recent years in line with new priorities.²³ Where possible, associations of national minorities have also sought support from neighbouring governments, which in the case of Slovenia, is reportedly essential in order to maintain a visible presence of the Slovenian minority culture. The Advisory Committee regrets in this context that the continued existence of *Glasbena šola*, the Slovene music school in Carinthia, had to be negotiated as part of a broader political compromise (see Article 6), rather than being ensured through the allocation of cultural funds in line with Article 5 of the Framework Convention.

25. The Advisory Committee is deeply concerned by the common perception of national minority representatives that their identities and cultures are becoming increasingly threatened by assimilation, as they are unable to maintain visibility for their specific characteristics. In addition to the concern about the insufficiency of funds, representatives of national minorities deplore the inefficiency and difficulty of the process itself. Each year, the National Minority Advisory Councils (see further Article 15) must submit their applications for funding to the Federal Chancellery by 15 March. While their proposals are reportedly followed in most cases, the formal funding agreement is often received much later, sometimes only in November or December. This situation makes it exceedingly difficult for the associations to plan their activities, particularly since these must be implemented exactly in line with the funding agreement.²⁴ As a result, national minority associations have accepted the fact that they have to bridge the gap with private means, often without being reimbursed, which is not possible for all of them. Moreover, some associations have been asked five years after completing a project to submit the original bills for their activities in minute detail or reimburse the allocation with accrued interest, which they consider an undignified procedure. The Advisory Committee encountered the unanimous view among all representatives of national minorities whom it met that the allocation process, which appears to be administered by a rather small team, requires a significant boost in efficiency and organisation to remain a worthwhile investment of the associations' time and resources.

26. The Advisory Committee further notes that the comparatively low budget allocated to national minority associations is supposed to cover not just cultural projects but, due to a lack

²³ Support from the Land of Styria to the cultural activities of the Pavel House, which is the representative organisation of the Slovenian minority in Styria, was reduced by 30 000 EUR for the years 2016-2018, for instance, which has a serious impact on its activities.

²⁴ Young representatives of national minorities wishing to organise a summer camp, for instance, found themselves obliged to book and organise the bus trip in August from their own funds. They were later only partially reimbursed because the number of participants, due to the involuntary short notice of the trip's organisation, slightly differed from the original proposal.

of alternative funding opportunities, also other important activities, such as in the area of education and the media. The Czech minority, for instance, devotes 80% of its cultural funds to the maintenance of the Komenský School (see further Article 13). Conversely, a Hungarian language periodical which received support from the Federal Chancellery, due to lack of alternative funding opportunities, was subsequently questioned over the content of its articles, as these covered broader issues of regional concern rather than focusing only on the cultural traditions of the Hungarian minority in Austria. The Advisory Committee is further concerned by reports from national minority representatives that their requests for additional funding for teaching materials in minority languages (see Article 12) or for press subsidies (see further Article 9) are regularly refused with the argument that they have special funds to turn to and therefore do not require another source of support. The Advisory Committee deeply regrets this apparent reduction of minority concerns to those related to traditional culture. It stresses that persons belonging to national minorities must have access to all publicly available funding opportunities, in addition to the special support for the preservation and development of their identities and cultures, as provided for in Article 5 of the Framework Convention.

Recommendations

27. The Advisory Committee reiterates its urgent call on the authorities to increase significantly the funds, including baseline funding, made available to national minority associations in order to enable them to preserve and develop their distinct identities effectively as an integral part of the cultural diversity of Austria. Support for activities in other spheres, such as education or the media, must be made available through separate funding options, as they serve an equally important but different purpose.

28. The Advisory Committee further reiterates its urgent call to simplify and accelerate the process leading to the actual disbursement of funds to enable the associations to plan and implement their activities in an efficient and cost-effective manner.

Article 6 of the Framework Convention

Tolerance and intercommunity relations

Present situation

29. In spring 2011, the State Secretary in the Federal Chancellery facilitated negotiations between regional and local authorities in Carinthia and representatives of the Slovene minority regarding the long-standing question as to the locations where minority languages should be permitted in official use. As a result of the ensuing compromise, which was used as the basis for the amendment of the National Minorities Act in July 2011 (see also Articles 10 and 11),²⁵ the overall situation in Carinthia is considered to have improved. According to minority representatives, bilingualism as such and the presence of the Slovene minority have become more accepted, and are acknowledged as part of daily life. According to most observers, the creation of the “Dialogue Forum” within the Carinthian Parliament has been particularly significant in this positive development, in particular following the elections in March 2013,²⁶

²⁵ See for divergent views on the process leading to the compromise, the State Report, pages 12-14 and pages 152-155 reflecting the comments made by the various National Minority Councils.

²⁶ See also State Report, page 51.

as it offers a possibility for national minority representatives to address the legislature directly (see also Article 15). While welcoming these developments, the Advisory Committee notes with concern that, in particular, younger national minority representatives point to an overall superficiality of this dialogue and express doubts as to whether the recent decrease in tension is not mainly a result of the current deflection of public hostility towards refugees as new targets. According to them, there is a widely shared perception among representatives that interethnic tensions could easily erupt again as persons belonging to the Slovene minority are still “viewed as second class citizens” by an important proportion of the Carinthian population.

30. The Advisory Committee further notes that the solution to preserve *Glasbena šola*, the formerly privately run Slovene music school in Carinthia, through its integration into the network of Carinthian music schools in 2015, is considered unsatisfactory by national minority representatives. According to them, the scope of the school’s activities had to be reduced considerably in a process that overall demonstrated an uncertain commitment on the part of the authorities towards their rights and concerns, and at times even showed disrespect.²⁷ The Advisory Committee reiterates its concern regarding the mounting sense of frustration and disappointment among national minority representatives, which is not conducive to the formation of a cohesive and integrated society. It further notes that particular attention is paid by the authorities to underlining the special status accorded to the autochthonous groups in constitutional provisions and various bilateral treaties. A careful distinction is drawn between these groups and the “newer minorities”, as there are fears that the number of minority rights holders could increase. Given the fact that the actual exercise of minority rights is rather complex, the Advisory Committee considers it unlikely that the number of groups requesting the status of a recognised ethnic group (*Volksgruppe*) in Austria will increase significantly.

31. The Advisory Committee welcomes the immense efforts made by governmental and non-governmental actors alike in coping with the sudden arrival of unprecedented numbers of refugees and migrants in 2015. It further notes that the plight of refugees and migrants continues to occupy a large share of public discourse, while their reception and treatment – in keeping with the strict distribution of competences between federal and *Länder* levels - varies from one Land to another. The Advisory Committee is pleased to note the exemplary initiatives for instance in the City of Vienna, which has invested significant expertise and resources in supporting the speedy access of refugees to education (see also Article 14) and in awareness-raising activities and campaigns that are aimed at furthering the integration of society through dialogue and deconstruction of prejudice.²⁸ However, the arrival and presence of refugees has resulted in a rise in societal tension in other regions, where parts of the political spectrum, aided by some media, appear to be instrumentalising latent fears amongst the population for their political gain.²⁹ According to some national minority representatives, mounting xenophobia and the increasing rejection of diversity as such in some regions have resulted in a climate where some persons belonging to national minorities are reluctant to use their

²⁷ See State Report, page 172.

²⁸ See the site of the municipal department 17 for integration and diversity for an overview of the multitude of activities and campaigns in Vienna, available at <https://www.wien.gv.at/english/social/integration/>.

²⁹ According to the 2015 Racism Report of the organisation ZARA, the noticeable rise of reported instances of incitement to hatred and racism in 2015 is due to the result of the increasingly hostile attitude towards refugees in the public and political discourse, who are often depicted as a source of danger. See <http://www.zara.or.at/index.php/rassismus-report/rassismus-report-2015>, page 69 (in German).

minority languages in public or to reveal their identity through other means, as they fear a hostile response. The Advisory Committee welcomes the fact that a variety of community media initiatives have been developed, often with public funding, to enable migrants and refugees themselves to participate actively in the media, thereby helping to overcome prejudice and stereotypes.³⁰

32. Following the adoption of the National Action Plan on Integration in January 2010 and the creation of the State Secretariat as part of the federal government in April 2011, increased attention has been paid to promoting the integration of Austrian society. Responsibilities at federal level were transferred in 2014 to the Ministry of Europe, Integration and Foreign Affairs. An Expert Council on Integration has been established, which has been active not only in developing priority areas of implementation of the Action Plan, but also in regularly evaluating the relevant policies and activities. According to civil society representatives, most activities are still organised by way of small-scale projects that are aimed at a variety of meaningful causes such as in the field of education or labour market participation.³¹ Yet, few strategic initiatives have been launched to address society as a whole including persuasive messages regarding the values of societal integration. The Advisory Committee notes the significant increase in scepticism towards integration found in recent years amongst the majority population, while 75% of migrants themselves consider that their level of inclusion and overall situation have either remained stable or improved.³²

Recommendations

33. The Advisory Committee calls on the authorities to demonstrate a firm commitment to dialogue and respect in all efforts aimed at the protection and promotion of the specific rights of persons belonging to national minorities as integral and valued members of diverse Austrian society.

34. The Advisory Committee calls on the authorities to increase their efforts towards fostering a public debate on societal integration that is based on mutual respect and tolerance, and to ensure that all segments of society are adequately informed, included and consulted with respect to the goals and activities at federal, regional and local levels with a view to promoting an overall positive attitude towards diversity and societal integration.

³⁰ Bum Media, for instance, produces broadcast and print media for a broad audience in “the three most important first languages spoken in Austria (German, Serbokroatian, Turkish)”. See <http://bummedia.at/ueber-uns/>. JoinMedia (<http://www.join-media.eu/>) was founded in 2015 to provide opportunities for media professionals from Afghanistan, Austria, Iran, Iraq, Lebanon, Pakistan and Syria to work together and support knowledge transfer; *Radio Afrika TV* is attempting to promote a nuanced perception of the African continent.

³¹ One such effort with an immediate positive impact on integration is the Recognition Act of July 2016, which enables faster recognition of qualifications acquired abroad and the introduction of relevant evaluation procedures for candidates, following research conducted by the Austrian Integration Fund. See <https://www.bmeia.gv.at/en/the-ministry/press/announcements/2016/07/in-force-with-immediate-effect-recognition-act-for-qualifications-acquired-abroad/>.

³² According to the Annual Report “Migration and Integration 2015”, issued by Statistics Austria, 40% of the population without migrant background considered that co-existence had deteriorated, with only 18% considering that it had improved. Some 34% of immigrants saw their situation as having improved, and 24% as having deteriorated. See https://www.bmeia.gv.at/fileadmin/user_upload/Zentrale/Integration/Integrationsbericht_2015/20150709_migration_integration2015-EU.pdf, page 94.

Combating racism and the protection from hate crime

Present situation

35. Following several rounds of amendments of the Criminal Code in 2011 and 2015, relevant provisions for the prosecution of hate crime have been tightened further. As of January 2016, incitement to hatred against protected groups or individuals belonging to those groups can be punishable, according to Article 283, when accessible to a “simple public”, or to “many persons”, as opposed to the previous “broad public”.³³ It is further welcomed that the dissemination of propaganda of violence and/or any form of racist hatred is now punishable according to Article 283(4) of the Criminal Code. The relevant provisions regarding insults based on racist grounds, as well as Article 33 of the Criminal Code on aggravating circumstances of any offence, have also been amended in order to enhance the effectiveness and rigour of protection under criminal law against racism and racial violence. The Advisory Committee is pleased to note these developments and understands that the number of prosecutions in line with the amended provisions is increasing.³⁴ It further understands that a comprehensive system for the recording of all cases of alleged hate crime from the investigation through to the prosecution and sanctioning stage is yet to be established in order to provide a better overview of the prevalence and nature of hate crime in Austria.

36. The Advisory Committee notes with concern that incidents of hate crime and racially motivated violence, often directed against refugees and migrants, have continued to rise in recent years. Governmental and non-governmental sources point towards a negative trend, with a particular focus in terms of numbers and gravity of the incidents reported on the internet.³⁵ Anti-gypsyism and Islamophobia are reported to be growing in particular on social media, and the negative public debate fed by stereotypes and the construction of enemy images has also led to more frequent violent attacks.³⁶ While, according to the Forum Against Anti-Semitism, physical attacks against members or assets of the Jewish community have decreased in recent years, the community is equally affected by an increase in hate speech on the internet.³⁷ According to many observers, there are still substantial numbers of cases of anti-Semitism, anti-gypsyism and Islamophobia that remain unreported due to ignorance, hesitation or fear on the part of the affected individuals.

37. Given the particular prevalence of hate crime and incitement to hatred in the media, the active engagement of the Press Council is highly welcome. This independent self-regulating

³³ The categorisation of “broad public” comprising about 150 persons had previously limited the scope of application of Article 283 of the Criminal Code (see Third Opinion on Austria, para. 62). Incitement to hatred is as of 2012 punishable already when accessible to some ten persons (simple public) or to some 30 persons (many persons), and as of 2016 also when directed only against a specific person. See State Report, page 54, and the revised version of Article 283, available at http://www.jusline.at/283_Verhetzung_StGB.html.

³⁴ See for figures regarding 2013 and 2014, State Report, page 54.

³⁵ Incidents of hate crime on the internet have almost doubled in 2015. See ZARA, Racism Report 2015, page 23, available at http://www.zara.or.at/wp/wp-content/uploads/2016/03/ZARA_Rassismus_Report_2015_web_fin.pdf (in German).

³⁶ See, among others, *Romano Centro* Antigypsyism in Austria, Incident document 2013-2015, (November 2015), page 28, available at http://www.romano-centro.org/downloads/Antiziganismus%202015_web.pdf.

³⁷ The Forum further points to the fact that Anti-Semitism in Austria continues to be monitored only under the broader rubric of right-wing extremism. This, in their view, does not cover the full spectrum of anti-Semitic behaviour which also includes left-wing radicalism. See *Forum gegen Antisemitismus, Jahresbericht 2015*, page 46, available at http://www.fga-wien.at/statistics/FgA_Jahresbericht-2015_DE.pdf.

body which oversees adherence to the Journalist Code of Ethics has, since its reconstitution in 2010, dealt with an increasing number of cases.³⁸ According to its representatives, a majority of their current cases relate to the damaging portrayal of refugees or migrants. The Press Council acts in response to complaints received by readers and can also initiate proceedings *ex officio*. However, online media, including also social media, are not covered by the mandate of the Press Council. This extends only to print media that are members of the Council, including their websites. The Advisory Committee welcomes the intention of this body to seek an extension of its mandate to cover all online media in its monitoring work and establish a mechanism to block hateful messages and promote adherence to the Code of Ethics also online. In addition, the Council makes efforts to increase professionalism amongst journalists and to promote media literacy in the broader public in order to raise awareness of the ethical standards and of the redress mechanisms available in cases of apparent violation. The Advisory Committee is pleased to note the perception shared by civil society organisations that the activities of the Press Council have already resulted in an improvement of standards in large print media.

38. It remains of deep concern to the Advisory Committee, however, that certain political actors themselves continue to instigate hostile attitudes towards refugees, migrants, and sometimes, persons belonging to national minorities. Given their particular influence as senior political figures and the immediate amplification of their actions via the media, the impact of such statements on public debate and on the level of awareness in terms of which language is acceptable and which is not, is immense. While welcoming the investment of efforts and resources in a more effective combat of hate speech, the Advisory Committee regrets that there appears to be no comprehensive response mechanism to ensure that all hate speech in political discourse is immediately and unambiguously condemned and countered at the highest level. It also regrets that hate speech in parliament is neither systematically monitored nor expressly prohibited.³⁹

Recommendations

39. The Advisory Committee encourages the authorities to pursue their efforts to combat more effectively all forms of racism and hate crime by ensuring that all such alleged offences are promptly and effectively investigated, prosecuted and sanctioned, in accordance with the law.

40. The Advisory Committee calls on the authorities to condemn systematically and promptly all instances of hate speech in public discourse, particularly as part of political discourse, and to increase their efforts to promote professionalism and ethical behaviour in the media, including by promoting training and awareness-raising activities for journalists and media professionals.

³⁸ The number of investigations rose from 80 in 2011 to 253 in 2015. See an overview of all statistics, available at http://www.presserat.at/rte/upload/pdfs/fallstatistik_presserat_2011-2015_stand_01.06.2016.pdf (in German).

³⁹ See also ECRI's fifth monitoring cycle report on Austria, adopted in June 2015, para. 47.

Article 9 of the Framework Convention

Radio and television broadcasting and print media in minority languages

Present situation

41. The Austrian Public Broadcaster (ORF) continues to air television and radio programmes in minority languages in line with the ORF Act. These are limited to one programme of 30 minutes each in Slovenian and in Burgenland Croatian on Sundays in the early afternoon (with a night-time repetition), one programme of 25 minutes in the Hungarian language which is aired six times per year, and one programme of 25 minutes jointly in the Czech and Slovak languages, equally broadcasted on a bi-monthly basis. Most of these programmes are also available via the internet, which further increases their accessibility. However, national minority representatives unanimously would like increased broadcasting in their languages, in particular on public television. The Advisory Committee shares the concern of national minority representatives that the scope of the existing programmes does not do justice to national minority languages as an integral part of the historical linguistic diversity of Austria.

42. The bi-monthly programmes in the Hungarian, Czech and Slovak languages are further reported to be of limited appeal, as they provide little context to current affairs in Austria and tend to focus on traditional music or cultural renditions. They are further broadcasted during an unfavourable timeslot (mid-morning, mid-week).⁴⁰ The Advisory Committee regrets that no minority language television programmes are geared towards children. Such an offer could increase the attractiveness of the languages for children and stimulate their use from an early age, which may help in reversing the growing assimilation amongst youth, as reported in particular in Burgenland and in Vienna. It further notes demands from some national minority representatives for more subtitling to increase the visibility of minority languages through a broader audience and through more countryside broadcasting.

43. There is more variety in terms of radio broadcasting in minority languages, both at federal and regional level. This is mainly provided through the ORF and, since 2011, in Carinthia also through a private radio station that co-operates with the ORF and provides 24 hours of Slovenian language radio. Since 2015, the coverage of the Slovenian language radio in Styria has also significantly improved and an expansion of Hungarian language radio, currently offered for 26 minutes per week, by 22 minutes, is also planned for 2016. While welcoming this public service radio broadcasting in minority languages, the Advisory Committee considers that a further increase in high quality programmes could meaningfully enhance the presence and prestige of minority languages in society, in particular for the numerically smaller groups and those who live dispersed. The Croat minority from Burgenland, for instance, has – according to governmental and non-governmental interlocutors – lost some 50% of its minority language speakers and requires particular efforts to reverse this trend. The Advisory Committee is pleased to note the existence, since April 2010, of a multilingual open radio, *RadioOP* in Oberpullendorf, which broadcasts in German, Croatian and Hungarian, in co-operation with the local high school where both minority languages are offered as part of the optional curriculum. The Advisory Committee welcomes this initiative as an effort to address in particular young individuals belonging to national minorities who otherwise have very limited access to quality

⁴⁰ See Annual Report ORF 2015, page 146, available at http://zukunft.orf.at/rte/upload/texte/2016/jahresbericht_2015.pdf (in German).

entertainment in minority languages, and notes with interest that the initiative is seeking the acquisition of additional frequencies and funding in order to extend its coverage throughout Burgenland.

44. The Advisory Committee further notes that some 60 000 EUR per year have been provided in recent years for the support of weekly print media in minority languages, two in Slovenian in Carinthia and two in Croatian in Burgenland.⁴¹ The Press Promotion Act provides subsidies dependent on the number of print editions of the papers. It is particularly generous with respect to daily newspapers, to which it allocates a yearly baseline support of at least 200 000 EUR.⁴² Minority language newspapers at federal level are exempted from the requirement of a minimum of 10 000 prints.⁴³ However, they do not obtain the much more substantial baseline support, because they are weekly, and not daily editions. As a result, the four above-mentioned print media have been struggling for years to maintain their publications, whilst the situation for the speakers of the other four languages is even worse.⁴⁴ According to representatives, they rely mainly on voluntary work and donations, as well as on some support from the cultural budget of the Federal Chancellery which, however, is provided only to “culturally-focused” productions (see Article 5). The Advisory Committee notes with interest the collective request of national minority representatives to amend the Press Promotion Act to increase the subsidies available to national minority language print media. In particular, baseline support is needed in order to compensate for their small size and to acknowledge their particular contribution to diversity. The Advisory Committee welcomes the indication from the authorities during the visit that the proposal is being considered favourably.

Recommendations

45. The Advisory Committee calls on the authorities to increase the availability of minority language programmes on public television and radio, and to ensure through adequate human and financial resources and in close consultation with national minority representatives that quality programmes are developed that appeal to all segments of society, including youth. Particular support, including baseline support, should be provided to independent and small media outlets in minority languages, including through adequate financial support and the allocation of additional frequencies.

46. The Advisory Committee calls on the authorities to increase substantially the support made available to print media published in minority languages, including by pursuing the amendment of the Press Promotion Act without delay and in close consultation with national minority representatives.

⁴¹ The overall budget of yearly press subsidies amounts to some 12 million EUR, paid mainly to daily newspapers. The four weekly minority language papers therefore receive some 0.5% of the yearly press subsidies.

⁴² Daily newspapers that contribute to regional diversity even receive a yearly baseline allocation of 500 000 EUR. See Article 8(5)(1) of the *Presseförderungsgesetz 2004 BGBl. I Nr. 136/2003*.

⁴³ See Article 2(2) of the *Presseförderungsgesetz 2004 BGBl. I Nr. 136/2003*. As there is no such exemption in Carinthia, the two Slovenian language papers do not receive any regional press subsidy either.

⁴⁴ See also Third Opinion on Austria, para. 76.

Article 10 of the Framework Convention

Use of minority languages at local level

Present situation

47. The amendments of the 1976 National Minorities Act in July 2011 altered the legislative framework governing the use of minority languages in contacts with administrative authorities at local level based on the compromise that had been reached at political level between the federal government and the Land of Carinthia. Accordingly, minority languages may be used in those localities that are included in a closed list of administrative districts, municipalities, and sometimes individual villages, for which an agreement was found in April 2011. This list was included as an attachment to the National Minorities Act in July 2011. Yet, unlike other provisions of this Act, the list of localities was adopted as a constitutional provision.⁴⁵ As a result, denial of the right to use one's minority language in official contacts in localities not included in the list cannot be questioned in any court.⁴⁶ According to the authorities, this amendment has provided legal clarity as well as an actual increase in the number of localities where minority languages may be used in official contacts.⁴⁷ However, the Advisory Committee questions the overall approach taken towards the implementation of minority rights, which is not in line with the general principle of equality before the law (see also Article 4).⁴⁸ In the view of the Advisory Committee, as the list is not based on coherent criteria, it does not contribute to legal predictability or consistency.

48. Article 10(2) of the Framework Convention provides for the use of minority languages in official contacts 'either' in areas traditionally settled by national minorities 'or' where they reside in substantial numbers. The consideration of the size of the population is therefore irrelevant from the international law point of view, as the 'traditional' settlement in the case of all three minority languages in point is undisputed. According to the State Report, all localities are included where the minority population according to the census amounts to at least 17.5%, plus those where the Constitutional Court had previously considered that the threshold of a "mixed population" for purposes of minority language rights was met.⁴⁹ Consequently, the use of minority languages is admitted in localities with quite varying populations, made up by persons belonging to national minorities sometimes by over 17.5%, and sometimes by only 10.1%. As national minority representatives stated, there are over a hundred villages where a convincing legal argument for their inclusion in the list could be made, based on equality considerations and based on the argumentation provided in the consecutive Constitutional

⁴⁵ Some provisions of the National Minorities Act have constitutional rank (*Verfassungsbestimmung*), while others do not. Provisions with constitutional rank can be changed only through a two-thirds majority vote in parliament and cannot be challenged in the Constitutional Court.

⁴⁶ See the consolidated National Minority Rights Act, including the list, available at <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10000602> (in German).

⁴⁷ See State Report, page 13, pointing out that Slovenian is admitted as an official language in 16 municipalities now, even if the admission is sometimes limited to only some villages within the municipal territory.

⁴⁸ The Advisory Committee has underlined the necessity to ensure that persons belonging to national minorities have an effective legal remedy to challenge a refusal with respect to minority rights in a number of its opinions.

⁴⁹ See State Report, page 13. See also ACFC Third Opinion on Austria, paras. 81ff. The Constitutional Court decided in a number of cases that an average of 10% of the minority population should be considered sufficient for the purposes of establishing a "mixed population", where minority languages should be admitted in official contacts or in topography.

Court decisions. Furthermore, not all localities for which the Constitutional Court had confirmed a “mixed population”, are included in the list. In its decision of October 2000, for instance, the Constitutional Court held that a resident of the village of Eberndorf/Dobrla vas should have the right to use Slovenian as an official language at local level.⁵⁰ Nevertheless, the village of Eberndorf/Dobrla vas is not included in the list. This right, as established by the Constitutional Court decision, has thus been withdrawn through a legislative amendment that can no longer be challenged in court.

49. The Advisory Committee further notes that there was no consultation on the above “consensus” with the representatives of the Hungarian and Croat minorities in Burgenland, despite the fact that the list also exhaustively establishes the localities where these minority languages are admitted for official use (27 municipalities in the case of Croatian and four in the case of Hungarian).⁵¹ Overall, there is much less controversy in this region as persons belonging to the two minorities typically live there in substantial numbers and thus fulfil the criteria of a “mixed population”, at least on paper. In spite of this, Croatian and Hungarian are according to both national minority and government representatives, used mainly in oral communications, and very few individuals request written procedures to be conducted in minority languages. In their view, the use of minority languages in daily life would need to be actively encouraged in order to reverse the already quite advanced linguistic assimilation of these communities. However, as extra expenses for supporting bilingualism have to be covered by the municipalities, they depend on the commitment of the respective municipal council and mayor.

50. The Advisory Committee notes that overall the amended legislative framework has not led to more clarity and consistency in the implementation of language rights. This situation, as also agreed by the authorities, varies from location to location. Some villages and municipalities encourage the direct communication in the minority language and also make bilingual forms available, including online. Such efforts are very welcome because they promote the active use of minority languages in daily life. In other localities, officials reportedly react surprised and unprepared to guarantee communication in minority languages. Translation services must thus be requested separately which leads to significant delays and discourages the implementation of the law. Moreover, legal aspects also remain unclear. For instance, a contract may be valid in the minority language in front of a bilingual court, yet it is not considered a valid document in front of the responsible notary. Moreover, no provision has been made to clarify access to district and higher level courts in the minority languages when appealing decisions rendered by the so-called bilingual courts. The Advisory Committee reiterates its concern about the highly complex and yet incomplete legislative framework, which is based on political-level negotiations rather than on firm and rights-based considerations. Such an approach appears to contradict the constitutional-level “targeted objective” of safeguarding, respecting and promoting minority rights (see also Article 4) and increasingly causes frustration and disappointment amongst the affected national minority communities.

⁵⁰ See Constitutional Court decision of 4 October 2000 (V 91/99), available at http://www.menschenrechte.ac.at/orig/00_6/VfGHV91_99.pdf (in German).

⁵¹ See State Report, page 14.

Recommendation

51. The Advisory Committee urges the authorities to ensure that the rights contained in Article 10(2) of the Framework Convention are consistently implemented at local level on the basis of firm legal grounds and in line with targeted objectives enshrined in the constitution. Persons belonging to national minorities must have the opportunity to challenge the denial of the right to use one's language in official contacts through an effective legal remedy.

Article 11 of the Framework Convention

Minority languages on topographical signs and in identity documents

Present situation

52. The amendment of the National Minorities Act in July 2011 (see Article 10) also produced a list of localities where the Slovenian, Croatian and Hungarian minority languages shall be displayed on topographical signs. The list contains 164 villages in 24 municipalities with respect to the Slovenian language, 28 municipalities with respect to Croatian and four with respect to Hungarian. Interestingly, the right to bilingual topographical signs is thus implemented in more localities than the right to use one's language in official contacts, despite the fact that the Framework Convention attaches more conditionality to the former.⁵² While welcoming the fact that the actual placement of the bilingual signposts in Carinthia reportedly occurred without major difficulty, the Advisory Committee reiterates its deep concerns regarding the overall approach taken by the authorities and the resulting denial of a possibility to seek an effective legal remedy for persons belonging to national minorities. It further regrets that the definition of "signs and inscriptions of a topographical nature" refers exclusively to place names but not to street names or other topographical indications, despite the fact that these are explicitly mentioned in Article 11(3) of the Framework Convention. National minority representatives in the bilingual areas should also be consulted with respect to the new street names that are being introduced in the context of ongoing efforts to comply with emergency service regulations. It is welcome, however, that in some municipalities in Burgenland and Carinthia, additional bilingual signposts have been displayed on municipal buildings and other institutions that offer public services.

53. In addition to the list of localities where bilingual place names must be displayed, municipal councils may also voluntarily decide to do so. However, no such decision has been taken thus far. In one case, an application was made by residents, yet it was rejected by a majority vote. As regards the issuance of personal documents in minority languages, the Advisory Committee notes that practice also varies. In some municipalities, birth certificates in minority languages are regularly issued in addition to German-language birth certificates. In others, such a request has never been made, as persons belonging to national minorities are not aware of that possibility. It is noteworthy, however, that the necessary technical adjustments for the use of diacritic signs in line with spelling and grammar rules of the national minority languages have been completed and personal identity documents are now issued without errors. The Advisory Committee underlines that any applications made to correct

⁵² Article 11(3) of the Framework Convention establishes the obligation, under certain conditions, of displaying bilingual topographical indications in areas traditionally inhabited by substantial numbers of persons belonging to national minorities.

previous inaccuracies in identity documents must be responded to efficiently and free of charge.

Recommendation

54. The Advisory Committee calls on the authorities and on national minority representatives to demonstrate flexibility and openness towards dialogue with respect to bilingual topographical indications, in line with Article 11(3) of the Framework Convention. Persons belonging to national minorities must in particular have the opportunity to seek redress through an effective legal remedy.

Article 12 of the Framework Convention

Equal access to education

Present situation

55. The Advisory Committee is pleased to note the substantial efforts made by the authorities to promote equal access to education for Roma children. A variety of governmental and non-governmental reports point to a clear improvement with respect to the inclusion and acceptance of Roma children in school, as compared with previous generations. At the same time, there is also agreement that previous practices of exclusion, including through the disproportionately frequent placement of Roma children in special schools, have resulted in high levels of illiteracy among the Roma of a certain age. This in turn has led to a parent generation that is often ill-prepared to accompany their children through a school system that classifies children according to their academic potential from a very early age.⁵³ Civil society and national minority representatives consider the availability of Roma school mediators a key factor in order to promote trust and dialogue between parents and teachers, and to support children in their daily work at school. While coaching lessons have become available free of charge in many schools in Vienna, the Advisory Committee regrets that only four Roma school mediators are engaged by eight schools to look after some 250 children.⁵⁴ It notes with interest that civil society organisations are very actively engaged in providing additional assistance to Roma children in schools through a variety of projects where necessary. While improvements continue to be made in this regard, Roma children remain disproportionately under-represented in upper secondary and higher education.

56. In addition, anti-gypsyism in school is still reported to be common and has a negative impact on the individual learning situation of Roma children.⁵⁵ In the opinion of national minority and civil society representatives, there is still far too little appreciation of Roma cultures and traditions in schools. Furthermore, there is very little awareness of the history of persecution and deportation suffered by the Roma in Austria. This lack of understanding and critical reflection translates into affirmation of prejudice and stereotyping in the school environment, as teachers do not systematically condemn and address discriminatory attitudes amongst pupils and thereby inadvertently encourage them.⁵⁶ The Advisory Committee notes with interest the observation put forward by national minority representatives that the risk of

⁵³ See ERTF Briefing Paper on the situation of Roma and Travellers in Austria (April 2014), page 10.

⁵⁴ See State Report, page 101.

⁵⁵ See, among others, *Romano Centro*, Antigypsyism in Austria (November 2015), page 24.

⁵⁶ See also ROMBAS study on the education situation of Roma and Sinti in Austria (Vienna 2014), page 202.

being discriminated in schools faced by Roma children diminishes in more heterogeneous settings. The situation in the very diverse schools in Vienna, where some teachers and school administrators have been trained to accommodate diversity in the classroom, is reportedly much less problematic than for instance in Burgenland, where Roma pupils and their parents do not always feel treated with the necessary respect (see also paragraph 61).

Recommendation

57. The Advisory Committee calls on the authorities to increase their efforts to promote equal opportunities in access to education for Roma children at all levels, including by providing consistent learning support with the help of Roma school mediators and by ensuring that teachers are adequately trained and prepared to systematically prevent and combat all discriminatory attitudes.

Teaching and learning materials, teacher training and inter-cultural education

Present situation

58. The Advisory Committee welcomes the substantial efforts that continue to be invested in an advanced system of teaching and learning minority languages through the preparation of relevant educational materials and through specialised teacher training in the respective languages. As of 2013, language learning is considered to be one of the basic competencies for all students of pedagogy and multilingualism is especially encouraged throughout the education system. In the pedagogical colleges of Burgenland and Carinthia, teacher training courses are offered in Slovenian, Croatian and Hungarian, both for bilingual classroom teaching and for teaching the languages as a subject (see Article 14). While there is no shortage of interested students for the teaching of Slovenian, the number of students wishing to become minority language teachers in Burgenland is diminishing. This affects in particular Burgenland Croatian, a regional variation of Croatian that is taught at primary school level.⁵⁷

59. While in Burgenland childcare facilities and preschool establishments are also covered by the Burgenland Child Education and Childcare Act, which offers nursery school teachers access to specialised training courses and diplomas for bilingual teaching, there is no such provision in Carinthia. Despite the fact that one year at nursery school forms part of compulsory education, staff at the ten bilingual private nursery schools do not need to be in possession of a specialised qualification. According to national minority representatives, this should be required to ensure relevant standards from an early age onwards and facilitate learning in primary school. The Advisory Committee further regrets that there are still no opportunities to study Romani at university anywhere in Austria which could promote interest in the teaching and learning of Romani in schools.

60. While the teaching and learning of minority languages thus forms an integral part of the curriculum (see Article 14), the Advisory Committee notes the shared concern of national minority representatives that their distinct cultures, traditions, and history in Austria over centuries are not adequately reflected in relevant educational materials, nor in the curriculum. The State Report makes reference to a number of exhibitions and initiatives to commemorate the history of national minorities that are being promoted within the educational system. Yet,

⁵⁷ Burgenland schools teach Burgenland Croatian up to the 6th grade and standard Croatian at upper secondary level.

the Advisory Committee understands that schools and teachers are free to choose from these topics as part of the framework curriculum “if there is interest”. However, there is no minimum set of data and information that ‘must’ be included. According to national minority representatives, students in Burgenland and Carinthia are often unaware of the fact that national minority communities have been living in the territory and contributing to the development of society for centuries, and that their languages are today still taught in schools.

61. Moreover, while welcoming information that plaques have been established at various locations in Burgenland to commemorate Roma victims of the Holocaust,⁵⁸ the Advisory Committee points to the concerns of national minority representatives that teachers require additional sensitisation and training before they can adequately accompany their classes to such sites. With respect to intercultural content being developed in schools in order to foster respect and dialogue among students, the Advisory Committee welcomes in particular initiatives developed, among others, in the cities of Vienna, Graz and Dornbirn. It regrets, however, the apparent lack of such initiatives in other regions and considers that all teachers at all schools should be trained to accommodate diversity in the classroom and promote openness and mutual respect among all pupils (see also Article 6).

Recommendations

62. The Advisory Committee calls on the authorities to extend the availability of specialised teacher training courses for the teaching and learning of minority languages to the preschool level in order to ensure that relevant education standards are set and consistently adhered to and monitored throughout compulsory education.

63. The Advisory Committee calls on the authorities to ensure in close consultation with national minority representatives that the history and distinct cultures of their communities are suitably reflected in the curriculum and that pupils in all schools are made aware of the traditional diversity of Austrian society. Teachers and school staff must further be adequately trained to accommodate diversity in the classroom and to promote intercultural respect and understanding throughout the educational system.

Article 13 of the Framework Convention

Minority language teaching and learning at private schools

Present situation

64. The public education system continues to offer minority language education only in Burgenland and Carinthia. As a result, teaching and learning in minority languages for the continuously increasing number of persons belonging to national minorities in Vienna remains available only through private schools. The most prominent example is still the Komenský School, a private school with public law status that offers Czech-German and Slovak-German bilingual education from kindergarten and primary school level through to school-leaving examinations. Despite its high reputation, the school’s financial situation has been precarious for years. While its teachers are publicly funded and the school continues to receive the Federal Chancellery’s cultural allocation, it is financed mainly through parental fees as well as

⁵⁸ See State Report, page 95.

donations provided by a variety of sources, including the City of Vienna, the Ministry of Education and, as of 2016, the government of the Czech Republic. Representatives of national minorities have requested for years that a suitable and long-term solution be found to ensure that the educational needs of persons belonging to national minorities living in Vienna are adequately addressed, in line with the provisions made in Burgenland and Carinthia, as otherwise persons belonging to the recognised national minorities who live outside those two regions suffer an undue disadvantage.

65. While efforts to promote the adoption of a Vienna National Minorities School Act have been discontinued due to difficulties encountered, the Advisory Committee notes with interest the current proposal for the amendment of the Private School Act to provide minority language schools with a similar status to that afforded to church schools.⁵⁹ Accordingly, the school would be provided with a public per-pupil subsidy on the basis of the average cost of a pupil in the public education system. The Advisory Committee welcomes this proposal as well as the indications made by a variety of governmental interlocutors that its adoption, in the second half of 2016, amidst a broader school reform, is likely. It considers that this amendment may, in case of parental demand, also provide a suitable option for other groups, including the Slovenes and Croats in Vienna and the Slovenes in Styria, whose educational needs are currently addressed through optional courses (see Article 14) or through several small-scale private initiatives at cultural centres.

Recommendation

66. The Advisory Committee encourages the authorities to pursue the amendment of the Private School Act in order to address the long-standing question of access to education for persons belonging to national minorities who live outside Burgenland and Carinthia.

Article 14 of the Framework Convention

Minority language teaching and learning at public schools

Present situation

67. The Advisory Committee is pleased to note that the minority language education system, according to the 1988 Minorities School Act for Carinthia, is further developing and that interest in bilingual education is constantly increasing. According to national minority representatives in this Land, the appeasement after years of tensions surrounding bilingual signposts (see Article 11) has had a positive impact on prestige and attractiveness of the Slovenian language amongst the public. Close to 50% of primary school pupils attend bilingual classes. As a result, the percentage of children who do not have Slovenian as a first language when they start school has also increased.⁶⁰ In the view of the Advisory Committee, it is therefore particularly important to provide sufficient opportunities to access bilingual nursery schools as an integral part of public education, so that children may begin their language immersion from an early age. While welcoming the increased public support provided to the

⁵⁹ The proposed amendment only foresees such a status for the schools that offer teaching and learning of the languages of the recognised national minorities in areas where such an offer is not included in the public school system.

⁶⁰ See State Report, page 110. In some years, the percentage of first year pupils with little or no prior knowledge of the Slovenian language amounts to 85%.

ten private nursery schools that offer bilingual tuition, the Advisory Committee agrees with national minority representatives that the number of available spaces for bilingual preschool tuition in Carinthia is far too limited. While noting that some municipal kindergartens also receive support for their bilingual groups from the Federal Chancellery, it further considers that bilingual preschool education should be funded in line with the Carinthian legislative framework through the public education system and not from the scarce funds available for cultural activities, in particular given that one year forms part of compulsory schooling.

68. In Burgenland, Burgenland Croatian continues to be taught in bilingual classes at 24 primary schools and may be studied as an optional subject in some additional schools. There are also two bilingual German-Hungarian primary schools. With few exceptions, all children living in the bilingual municipalities therefore attend bilingual primary schools. In those municipalities, minority languages are also taught in the nurseries for at least 12 hours per week. In other municipalities, this is possible if 25% of parents so request. According to national minority representatives, however, the availability of minority language daytime care establishments depends substantially on the will of the respective mayor and municipal council because the additional costs must be carried by the municipal budget. Moreover, the quality of teaching reportedly often remains low and few pupils gain acceptable levels of proficiency at the end of the fourth grade. As demand is rising, so is the need for qualified staff. National minority representatives argue that particular expertise and specialisation are required from teachers to cope with the fact that only a small percentage of the children speak the minority language at home and very few opportunities exist to hear the languages outside the classroom (see also Article 10). It is further regrettable that the interest among the Roma in Romani language classes remains very low.⁶¹ The Advisory Committee welcomes efforts by the regional school authorities to organise workshops regarding the Romani language and culture in interested schools which may trigger awareness of the possibilities for Romani language classes among parents.

69. In both regions, the minority language education system is particularly well established and attended at primary school level. At secondary level, however, the provision of bilingual education is considerably reduced to three schools in Carinthia and four schools in Burgenland. In addition, the minority languages can be chosen as compulsory subjects in a number of secondary level schools in Carinthia as well as in some schools in Burgenland. Often however, the continued learning of the minority language can be chosen only at the expense of studying another foreign language, such as English, which demotivates students. In addition, the limited number of suitably qualified teachers as well as the fact that most students would have to travel to attend a school where they could study the minority language, results in overall significantly reduced numbers of students of the minority languages at upper secondary level, particularly in Burgenland.⁶² Minority representatives are further concerned by the fact that the standardisation of the school-leaving examination has resulted in reduced opportunities for students of Croatian to pass the examination in that language. As of 2015, this is no longer possible at schools where Croatian is merely a subject of choice. Given the particular significance of high quality minority language education for the affected communities, the

⁶¹ While seven primary school children were enrolled in Romani classes in Burgenland in 2011, there are no classes in 2016.

⁶² In the school year 2015/16, some 1 400 children were enrolled in German-Croatian bilingual primary schools, while the number of students at secondary level was 264.

Advisory Committee is pleased to note the establishment of a dialogue mechanism in early 2015, at the initiative of the Ministry of Education (see also Article 15), that enables national minority representatives to meet regularly with education officials to discuss their specific concerns with respect to the conditions and standards of minority language education.

70. Outside Burgenland and Carinthia, minority language education in the public school system is limited to optional classes that are offered at some schools where there is parental demand and subject to the availability of teachers. The Advisory Committee notes that an increasing number of pupils in Styria have chosen Slovenian as an optional subject and that national minority representatives consider that there is sufficient demand for a more comprehensive approach, including the use of Slovenian in nursery schools. The system of first language teaching is implemented in Vienna in respect of 27 languages, either through a second teacher who accompanies all classes and provides teaching in a language other than German, or through additional classes. Croatian may be chosen as an optional subject in a number of schools,⁶³ and as of 2016, this is also possible for Slovenian.⁶⁴ The Advisory Committee further welcomes the fact that Romani-language classes are also offered at some schools in Vienna. Overall, it considers that the flexible and student-oriented approach taken by school authorities towards growing linguistic diversity in classrooms could pave the way for responding more comprehensively also to the specific educational needs of persons belonging to national minorities outside Burgenland and Carinthia, such as in Vienna and in Styria.

Recommendations

71. The Advisory Committee calls on the authorities to pursue their efforts towards promoting high-quality minority language teaching and learning, including through bilingual methodology, and to take all necessary measures to enhance access to minority language learning in particular at the upper secondary level.

72. The Advisory Committee calls on the authorities to maintain close dialogue with national minority representatives to ensure that their specific needs and concerns with respect to the conditions and quality of the teaching and learning of the national minority languages throughout Austria are adequately considered.

Article 15 of the Framework Convention

Representation in elected bodies and the civil service

Present situation

73. The national minorities in Austria continue to be represented in elected bodies at all levels, mainly in municipal councils and regional parliaments, and also in the civil service, including in executive positions. While this representation is highly welcome and attests to the long-standing integration of society, the Advisory Committee underlines the fact that it does not guarantee that the specific issues and concerns of persons belonging to national minorities are effectively represented and taken into account in relevant decision-making processes.

⁶³ “Bosnian-Croatian-Serbian” may be chosen as a second foreign language in an increasing number of primary and secondary schools in Vienna.

⁶⁴ The Advisory Committee was informed during its visit that, as of the school year 2016/17, first language teaching was also going to be available with respect to Chinese and Slovenian.

While minority representatives acknowledge that they may be able to address individual members of elected bodies that affiliate with national minorities through informal channels, there is no institutionalised mechanism to ensure such consultation, in particular at federal level. The Advisory Committee is pleased to note the creation of a Dialogue Forum in Carinthia as part of the political negotiations that led to the compromise with respect to language rights (see Articles 10 and 11), as it institutionalises the direct access of national minority representatives to senior regional policy makers. While dysfunctional in the beginning, the Dialogue Forum has, according to minority representatives, picked up in recent years and has been a valuable tool to ensure that the specific concerns of national minorities are effectively addressed.⁶⁵ The Advisory Committee considers that a similar mechanism at federal level could meaningfully help to address the sense of alienation and frustration shared by all national minorities, who have repeatedly demanded a form of guaranteed representation of their interests in the elected bodies at regional and federal levels.

Recommendation

74. The Advisory Committee calls on the authorities to establish appropriate mechanisms at local, regional and federal levels to promote institutionalised consultation and dialogue between representatives of national minorities and senior decision makers to ensure that their views and concerns are effectively taken into account.

Effective participation in decision-making processes

Present situation

75. The National Minority Advisory Councils continue to be the main instrument for ensuring the effective participation of national minorities in decision-making processes. However, their composition and mandate have not changed since the last monitoring cycle. Some 50% of the members are national minority representatives. While noting the assurances from the authorities that these representatives are designated through a democratic process, the Advisory Committee disagrees. The national minority representatives are selected by the Federal Chancellery from a list that is proposed by the communities. In so doing, the responsible officials take care to “sort out the best experts” in order to ensure that the Councils “can best fulfil their role as advisory body”. This, in the view of the Advisory Committee, contradicts the essence of a democratic process, even if no ill-intention is present. The other 50% of members are made up of representatives of the various political parties and by church representatives, without any input from the national minority communities. Yet, some national minority representatives consider the members who represent political parties and the churches as a rather important linkage with broader societal interests. In fact, national minority representatives did not agree with the proposal by the government to alter the Advisory Councils’ composition by raising the proportion of national minority representatives from 50% to 75%. Given their disagreement with the fact that the Federal Chancellery selects

⁶⁵ The Advisory Committee notes, for instance, that the new draft Constitution of Carinthia contains for the first time the explicit mention of the Slovene minority as an integral part of the cultural and linguistic diversity of the population.

the national minority representatives, they felt that such an increase would only strengthen the influence of government over the affairs of the National Minority Advisory Councils.⁶⁶

76. The Advisory Committee notes with deep concern that the Councils, irrespective of their composition, have very limited competencies. Effectively, their only role is to meet once a year in order to approve the cultural projects that are supported by the limited funds of the Federal Chancellery. While highly appreciating the solidarity and co-operation among the various Councils, the Advisory Committee considers this process of limited relevance, as most allocations follow a certain pattern of support and merely need to be “rubber-stamped”. Highly important matters of relevance to all national minority communities, however, appear not to be discussed with the Advisory Councils. The education reform package, for instance, was prepared without special consultations, despite its obvious importance to national minority communities. The authorities put forward that Council members may, like any member of society, provide their comments within four weeks of the draft’s publication. The Advisory Committee, however, considers that more effective ways should be found for promoting participation of national minorities through a meaningful dialogue in a variety of consultation processes on issues of concern to national minorities. While the drafting of the National Human Rights Action Plan, for instance, was transparent in the sense that the proposals made by civil society representatives were made publicly accessible,⁶⁷ there was reportedly little genuine exchange and very few of the proposals were taken into account.⁶⁸ Another example is the preparation of the fourth State Report on the implementation of the Framework Convention. The report was prepared by the Government and minority representatives were then asked to provide their comments. As a result, the State Report and its various annexes contain rather contradictory views, as the opportunity for a meaningful dialogue on issues of concern to national minorities and for the formation of a consolidated assessment on how best to reach progress in implementing minority rights was missed.

77. The Advisory Committee is pleased to note a variety of other advisory mechanisms through which persons belonging to national minorities are consulted on issues of their concern. In early 2015, the Ministry of Education created its own advisory forum, where representatives of national minorities are invited at an expert level to discuss specific issues related to minority language education. The forum has met several times, including in

⁶⁶ In this context, the Advisory Committee notes the shared disappointment amongst all national minority representatives that the long-promised reform of the National Minorities Act was not completed. According to the authorities, the process was discontinued because no consensus could be reached among the national minorities. According to civil society and minority representatives, however, agreement on substance was reached in expert working groups and elaborate proposals for amendments were made on a number of important issues. National minorities only failed to agree with the proposed changes of the composition of the Advisory Councils, which then reportedly became the “make or break” decision maker for the authorities. See also State Report, pages 12 and 168.

⁶⁷ See a list of comments and proposals made by civil society representatives to the National Human Rights Action Plan available at http://volksanwaltschaft.gv.at/downloads/89124/1_Zusammenfassung%20Vorsch%C3%A4ge%20der%20Zivilgesellschaft%20Stand%202015.pdf (in German). The Advisory Committee was informed that a number of civil society organisations had withdrawn their participation in the process as they considered it ineffective and not conducive to producing a result that could address comprehensively the priority concerns and most important actions to be taken in the field of human rights, including the protection of equality, in Austria.

⁶⁸ See the current draft of September 2015, available at <http://volksanwaltschaft.gv.at/praeventive-menschenrechtskontrolle/nationaler-aktionsplan-menschenrechte-1> (in German).

Klagenfurt and Eisenstadt. Regrettably, however, it is only concerned with the implementation of the education rights of persons belonging to national minorities in Carinthia and Burgenland and not of those in Styria or Vienna (see also Article 14). One representative of the National Minority Advisory Councils has further been appointed as a member of the Audience Council of the public broadcaster. While this is welcome, the Advisory Committee considers that the participation of one person is insufficient to represent the diversity of views among and within the national minority communities and can therefore not replace additional consultations with the various communities to ensure that their views are adequately taken into account. It further notes that there has been some consultation with civil society and national minority representatives in the context of the update of the Roma Strategy, but the process is reported to have mainly allowed for submission of comments rather than constituting an occasion for a meaningful dialogue.

Recommendation

78. The Advisory Committee reiterates its urgent call on the authorities to take all necessary measures to ensure that the National Minority Advisory Councils constitute a functional mechanism through which persons belonging to national minorities can participate effectively in all relevant decision-making processes, not limited to allocations for cultural purposes, and have access to senior policy makers, where necessary, in order to engage in a meaningful dialogue on issues of their concern.

Effective participation in socio-economic life

Present situation

79. The overall unemployment rate in 2015 reportedly remained at below 10%, but there is agreement among experts that the situation is worse for youth. Some of the areas where national minorities reside in substantial numbers, such as Burgenland, are particularly affected by limited infrastructure and employment opportunities. As a result, many young people belonging to national minorities are moving to Vienna and other urban centres, where they lose access to minority rights and are exposed to further assimilation processes. The Roma continue to face particular difficulties in accessing employment, as well as housing and there are continuous reports of discriminatory attitudes being encountered with respect to access to social services (see also Article 4). The Advisory Committee is pleased to note that a variety of activities aimed at empowerment and the promotion of access to the labour market have commenced in 2016 in the form of projects under the European Social Fund, with advance funding being provided by the Ministry of Labour, Social Affairs and Consumer Protection. It further notes the continued engagement of non-governmental organisations in Burgenland who are seeking to continue their support for long-term unemployed Roma through vocational training and coaching.

Recommendation

80. The Advisory Committee calls on the authorities to pursue their support for improving access to the labour market for persons belonging to national minorities, also including relevant vocational training for the Roma throughout Austria.

III. Conclusions

81. The Advisory Committee considers that the present concluding remarks and recommendations could serve as the basis for the resolution to be adopted by the Committee of Ministers with respect to the implementation of the Framework Convention by Austria.

82. The authorities are invited to take account of the detailed observations and recommendations contained in Sections I and II of the Advisory Committee's Fourth Opinion.⁶⁹ In particular, they should take the following measures to improve further the implementation of the Framework Convention:

Recommendations for immediate action⁷⁰

- **Engage in a comprehensive process of modernising the legislative framework pertaining to national minorities with a view to ensuring the consistent application of the Framework Convention to all persons belonging to national minorities, based on an individual rights approach and on an article-by-article basis where appropriate;**
- **Ensure systematically full and effective equality before the law of all persons belonging to national minorities by guaranteeing effective access to a legal remedy to challenge the denial of the enjoyment of minority rights, including language rights;**
- **Prioritise the reform of the National Minorities' Advisory Councils to ensure that they constitute a functional mechanism through which persons belonging to national minorities can participate effectively in all relevant decision-making processes, beyond the allocation of cultural support.**

Further recommendations⁷¹

- Promote co-operation between the various entities responsible for the promotion of equality at federal and regional levels, and proactively raise awareness of the applicable standards and legal and non-legal remedies amongst the relevant actors and society at large; bestow upon the Ombudsperson for Equal Treatment the power to address the courts in order to strengthen the effectiveness of the redress mechanism for victims;
- Step up the implementation of measures aimed at the promotion of equal opportunities for the Roma, including in the areas of education, housing, health and employment, based on a clear understanding of the specific challenges faced by them and in close consultation with minority representatives;

⁶⁹ A link to the Opinion is to be inserted in the draft resolution before submission to the GR-H.

⁷⁰ The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

⁷¹ The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

- Increase significantly the funds available to national minority associations in order to support their efforts to reverse the growing assimilation trends and effectively preserve and develop their distinct cultures, separately from support for other activities in the education or media fields;
- Foster an overall positive attitude towards integration and diversity in public discourse and promote, in a spirit of dialogue and mutual respect, the distinct interests of persons belonging to national minorities as integral and valued members of Austria's increasingly diverse society;
- Pursue efforts to combat all forms of racism and hate crime more effectively through investigation and prosecution where applicable, and condemn systematically and promptly all instances of hate speech in public discourse, particularly when part of political discourse; promote professionalism and ethical behaviour in the media through targeted training activities;
- Increase the availability of high quality minority language media broadcasts on public television and radio, particularly targeting youth and children, and including independent and small media outlets; increase substantially the subsidies available for minority language print media, including through amending the Press Promotion Act;
- Ensure, in close consultation with national minority representatives, that the history and cultures of their communities are adequately reflected in curricula and education materials and that students of all schools are made aware of the historic diversity of Austria; ensure that teachers and school staff are appropriately trained to accommodate diversity in the classroom and to promote intercultural respect while combating all discriminatory attitudes;
- Consider favourably the amendment of the Private School Act in order to address the long-standing concerns of access to education for persons belonging to national minorities outside Burgenland and Carinthia;
- Extend the availability of specialised teacher training courses for the teaching and learning of minority languages, including Romani and including the preschool level, to promote effectively high quality learning throughout compulsory education; take all necessary measures in close consultation with national minority representatives to enhance access to and the quality of minority language education at the upper secondary level;
- Establish appropriate mechanisms at local, regional and federal levels to promote institutionalised consultation and dialogue between national minority representatives and senior decision makers to ensure that their views and concerns are effectively taken into account.