

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



ACFC/OP/IV(2018)006

Fourth Opinion on Albania - adopted on 11 October 2018

Summary

Albania is pursuing institutional reforms, driven by the wish to modernise the country and to obtain membership of the European Union. In 2014, an administrative and territorial reform was implemented in Albania, with the aim of increasing the efficiency of local administrative-territorial units so as to enable them to provide better services to its citizens. The number of municipal local government units (LGUs) was reduced from 373 to 61. The authorities have taken care at the planning stage to maintain the demographic structure in the three newly created LGUs where persons belonging to national minorities constitute majorities of local populations. Regrettably, no consideration was given to the impact on the proportions of the population in areas where persons belonging to national minorities constitute a substantial, albeit a minority part.

The adoption, in October 2017, of the Law on the Protection of National Minorities was a step along the way to improving the legal framework on respect for and protection of national minorities. The new law determines the personal scope of application and the rights of persons belonging to national minorities. It has to be noted, however, that the law is very general and programmatic in nature. In many important areas it delegates specific matters to Council of Ministers' decisions, which were to be adopted within six months of the entry into force of the law. Regrettably that has not happened and the implementation of the law in many areas cannot begin. Moreover, the Council of Ministers' decisions, being of subordinate legal status, will provide a lesser degree of protection of rights.

The new Law on the Protection of National Minorities perpetuates the authorities' reliance on the documentation contained in the civil registry with regard to ethnic affiliation. The effect is that citizens of Albania are deprived of the right to free self-identification and cannot access specific rights. In particular, the civil registry data contained in the archives is incomplete, as regards records on national minorities it covered and areas of the country where such records were kept. For some national minorities, in particular the former "ethno-linguistic" minorities, and for newly recognised national minorities, no records were kept. Moreover, the provision in the law on fines for "incorrect" answers to the question on ethnic affiliation (nationality) introduced in advance of the 2011 population census has not been repealed and remains in force until this day.

Schools teaching in the Greek language continue to function in Gjirokaštër, Sarandë, Delvina and Korçë counties, and teaching in the Macedonian language is carried out in schools in the Korçë county. Apart from limited teaching of the Romani language, no teaching of other national minority languages has been introduced. The new law on national minorities opens up the possibility of opening classes teaching languages of all national minorities in Albanian schools. However, restrictive criteria for setting up classes teaching national minority languages have been formulated in the draft Council of Ministers' decisions.

The situation of the Roma and Egyptians remains an unresolved and urgent problem in Albania. Roma continue to be excluded from effective participation in social and economic life, as both groups continue to suffer from high unemployment. Factors contributing to this state of affairs include discrimination, lack of education and qualifications, as well as general impoverishment and underdevelopment of regions inhabited by the Roma. The authorities have continued to implement policies for Roma inclusion. The National Action Plan for the Integration of the Roma and Egyptians 2016-2020 strives to address issues related to Roma and Egyptians in the field of education, housing and urban integration, access to healthcare and social protection. The most significant allocations from the State budget have been earmarked to fund projects in the field of education and the promotion of intercultural dialogue as well as housing and urban integration. It has to be noted nonetheless that a significant part of the funding is provided by foreign donors, which can undermine the authorities' ownership of the implementation process.

Recommendations for immediate action:

- **Adopt without any further delay the secondary legislation necessary to make the Law on the Protection of National Minorities operational, in conformity with international human rights standards and in particular the provisions of the Framework Convention on National Minorities;**
- **Respect strictly the principle of free self-identification; cease to rely exclusively on archival data and civil registry "evidence" to verify the authenticity of the self-declarations of persons belonging to national minorities; repeal legislative provisions, ahead of the 2021 census, on sanctions for "incorrect" answers to the question on ethnic affiliation (nationality), so as to enable respondents to avail themselves of the right to free self-identification, as contained in Article 3 of the Framework Convention;**
- **Increase efforts to prevent and combat the inequality and discrimination suffered by Roma and Egyptians; take additional measures, in particular at local level and in consultation with Roma and Egyptians' representatives, to improve the living conditions, access to employment, education and healthcare of Roma and Egyptians and to promote the integration of society;**
- **Ensure effective access to the right to education, including for numerically smaller national minorities; respect strictly the principle of free self-identification of persons asking for opening of classes or schools with teaching in or of a national minority language; ensure that an adequate supply of textbooks in minority languages is available at all levels of education;**
- **Review, in consultation with representatives of national minorities, the impact of the administrative and territorial reform on access to rights by persons belonging to national minorities; apply the 20 per cent threshold, which conditions access to certain rights, to local communities (neighbourhoods) in a flexible way.**

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I. Key findings

Monitoring process

1. This fourth cycle Opinion on the implementation of the Framework Convention by Albania 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 18 November 2016, other written sources, and on information obtained by the Advisory Committee from governmental and non-governmental representatives during its visit to Tirana, Finiq, Himarë, Shijak and Vlorë from 12 to 16 March 2018.

2. The Advisory Committee welcomes the authorities' overall constructive and cooperative approach towards the monitoring process and the considerable assistance provided by them with respect to the fourth cycle visit. The third cycle opinion was published promptly and a follow-up seminar was organised in February 2017 in order to discuss the findings with the main stakeholders. In particular, it welcomes the fact that the third opinion and resolution were translated into the state language, as well as into Romani and Vlach/Aromanian languages. The follow-up event in February 2017 was a useful opportunity for discussion on the opinion and the Committee of Ministers' recommendations, as well as more generally of developments affecting national minorities and policies implemented to address their concerns. Finally, the Advisory Committee welcomes the engagement of civil society and acknowledges additional written information from representatives of some minority groups and civil society representatives.

3. The Advisory Committee looks forward to continuing its dialogue with the authorities of Albania as well as with representatives of national minorities and others involved in the implementation of the Framework Convention. In order to promote an inclusive and transparent process, the Advisory Committee strongly encourages the authorities to make the present opinion public upon its receipt. It also invites the authorities to consider translating this opinion and the forthcoming Committee of Ministers' Resolution into local languages, including minority languages, and to disseminate it widely among all relevant actors.

General overview of the current situation

4. Albania is pursuing institutional reform, driven by the wish to modernise the country and with the view to enabling a better standard of living and services to its citizens. An important stimulus to the reform process is provided by the implementation of the Stabilisation and Association Agreement with the European Union (EU).

5. In 2014 an administrative and territorial reform was implemented in Albania, with the aim of increasing the efficiency of local administrative-territorial units, so as to enable them to provide better services to citizens. The number of municipal local government units (LGUs) was reduced from 373 to 61. As a consequence, the average population of an LGU increased significantly. The authorities have taken due care at the planning stage to maintain the demographic structure in the three newly created LGUs where persons belonging to national minorities constitute majorities of local populations. These three LGUs are: Finiq in the Vlorë

county, Dropull in the Gjirokastrë county (where in both cases persons belonging to the Greek national minority are in the majority) and Pustec in the Korçë county (inhabited predominantly by persons belonging to the Macedonian national minority). The Advisory Committee regrets that no consideration was given to the impact on the proportions of the population in areas where persons belonging to national minorities constitute a substantial, albeit a minority part.

6. The adoption, in October 2017, of the Law on the Protection of National Minorities was an important step along the way to improve the legal framework on respect for and protection of national minorities. The law to a great degree replicates the provisions contained in the Framework Convention. The Advisory Committee has noted, however, that the law is very general and programmatic in nature. In many important areas it delegates specific matters to the decisions of the Council of Ministers of Albania (later in the text “Council of Ministers”), which, being of subordinate legal status, provides lesser a degree of protection of rights. These decisions were to be adopted within six months of the entry into force of the law. The Advisory Committee notes that two decisions of the Council of Ministers: “on the measures in the field of education and scientific research aiming at fostering the recognition of the culture, history, language and religious faith of the national minorities” and “on the equipment of students with school texts, the continuous professional development of teachers and the establishment and functioning of classes in the language of national minorities” were adopted on 29 September 2018.

7. Regrettably, most of the decisions of the Council of Ministers, necessary for making the Law operational, have not been adopted. The implementation of the law in many areas cannot begin. This concerns such important matters as the procedure for recognition of national minorities and criteria for determining local government units where classes or schools teaching a national minority language can be established. The scope within which a national minority language may be used in relations with the administrative authorities, for topographic indications and other signage as well as the procedures and terms of reference for the establishment and functioning of the Committee on National Minorities has also not been determined. Moreover, by delegating competences in these important areas to the executive, the Parliament of Albania weakened substantially the protection of the rights enshrined in the law, on account of the fact that changes to any decision of the Council of Ministers would not require parliamentary consent.

Assessment of measures taken to implement the recommendations for immediate action

8. There has been progress with the adoption of a consolidated and coherent legal framework related to minority rights protection. The Law on the Protection of National Minorities was adopted on 13 October 2017 and entered into force on 24 November 2017. The new law determines the personal scope of application and the rights of persons belonging to national minorities. Moreover, the law abolishes the division of minorities into “national” and “ethno-linguistic” and formally does away with the abandoned concept of “national minority zones”.

9. The population and housing census of 2011 was conducted in an atmosphere of intimidation and mistrust caused by hastily passed amendments to the census law of 2000, adopted just three months prior to the census date. The amendments introduced a fine for an “incorrect” reply to the question on ethnic affiliation (nationality), while determining that a

reply would be considered incorrect if it did not correspond with data contained in the civil registry. Before the census, a number of national minority organisations called for a boycott of the census, and in particular of the question on ethnic affiliation (nationality). A significant number of respondents (13.96 per cent of the resident population) chose not to answer the question. Consequently, the census results are widely considered by representatives of national minorities to be unreliable and inaccurate. No preparations have yet been made for the census of 2021.

10. Regrettably, the new Law on the Protection of National Minorities perpetuates the authorities' reliance on the documentation contained in the civil registry with regard to nationality, thus depriving citizens of Albania of the right to free self-identification. It has to be noted that civil registry data contained in the archives is incomplete, both as regards (i) national minority groups covered and (ii) areas of the country where such records were kept. In addition, the authorities' reliance on the civil registry data cannot be accepted, in the light of the judgement of the Constitutional Court of 1 December 2011, which invalidated provisions of the law on the civil status on the inclusion of entry of nationality in documents issued by the civil status service. Moreover, the authorities assert that "no record of ethnicity, race, etc., is kept at the National Registry of Civil Status (NRCS)".¹

11. No progress has been achieved as regards teaching in or of minority languages throughout the country. Schools teaching in the Greek language continue to do so in Gjirokastrë, Sarandë, Delvina and Korçë counties, and teaching in the Macedonian language is carried out in schools in the Korçë county. Apart from limited teaching of the Romani language, no teaching in or of other national minority languages has been introduced. Local parents' initiatives to establish classes teaching the Serbian language in Libofshë and the Macedonian language in Trebisht were thwarted by the Regional Educational Directorates.

12. The new law on national minorities opens up the possibility of establishing classes teaching minority languages. Regrettably, the Council of Ministers decision which would specify the criteria for determining the local self-governing units where national minority schools could be set-up, the "substantial number" and the "adequate requests", has not been adopted in the six month period established by the law.

13. As a follow-up to the National Strategy "For the improvement of the living conditions of the Roma minority" and the Action Plan of the "Decade of Roma Inclusion" (2005-2015), the authorities developed the National Action Plan for the Integration of the Roma and Egyptians 2016-2020 (adopted in December 2015). The Action Plan strives to address issues related to Roma and Egyptians in the field of education, housing and urban integration, access to healthcare and social protection. It identifies sources of existing public funding and possible external funding. It is estimated that implementation of the Action Plan necessitates expenditure of almost 56 million Euro, of which 31 million Euro to be provided by the State budget with a further 25 million Euro to be secured from, as envisaged, other foreign donors. The Advisory Committee notes with satisfaction that the most significant allocations from the State budget have been earmarked to fund projects in the field of education and the promotion of intercultural dialogue, as well as housing and urban integration. It has to be noted nonetheless that a significant part of the funding is provided by foreign donors. Such

¹ State report, p.61.

heavy reliance on external funding can undermine the authorities' ownership of the implementation process.

Assessment of measures taken to implement the further recommendations

14. The Commissioner for Protection from Discrimination and the People's Advocate (Ombudsperson) continue to enjoy public support and receive a substantial number of complaints every year. The Commissioner continues to provide inputs to legislative initiatives pertaining to rights of persons belonging to national minorities. It has to be noted, however, that the impact of the recommendations of People's Advocate remains limited, as it depends on the willingness of the authorities to implement them.

15. No data is systematically collected on the prevalence of racially and ethnically motivated crimes and on the cases relating to incitement to racial hatred. A tool for reporting online hate speech was established in 2014 by the Section for Cyber Crime of the State Police but, reportedly, the police fail to take notice even in cases of hate-motivated threats. In consequence, the number of prosecutions of such offences is insignificant.

16. The Law on the Protection of National Minorities, adopted in 2017, contains declaratory provisions aimed at protecting, preserving and developing cultural identities and languages of national minorities. Enabling secondary regulations, in the form of Council of Ministers' decisions, are needed however to make the legislative provisions effective. Regrettably, these decisions have not been adopted within the legally prescribed deadline of six months of the law's entry into force, thus depriving persons belonging to national minorities of access to rights.

17. There has been some progress as regards access of persons belonging to national minorities, including numerically smaller communities, to radio and television programmes in their language. Daily ten-minute news programmes are broadcast, dubbed into Greek, Macedonian, Roma, Serbian and Aromanian languages. In addition, Radio Tirana 1 broadcasts five times a week 45- to 60-minute cultural programmes, consisting primarily of traditional Roma music. Representatives of national minorities unanimously consider these programmes too scarce, and, in terms of their content, not responding to interests of persons belonging to national minorities.

18. Awareness-raising training courses for law enforcement officials on human rights standards, implemented in particular by the Commissioner for Protection from Discrimination in co-operation with central and local institutions, NGOs and international organisations such as the United Nations Development Programme and the EU, have continued in recent years at a sustained pace.

19. The Law on the Protection of National Minorities, adopted in 2017, seeks to fill in the lacunae that existed hitherto in the legislation as regards the use of minority languages in relations with the administrative authorities and for topographic indications and other signage. Pursuant to the legal provisions on local self-governance, organs of local self-governing units, where over 20 per cent of the inhabitants belong to a national minority, shall create the necessary conditions for the use of the minority language between the persons belonging to minorities and these bodies. The local councils may also decide to display, alongside the

Albanian language, the names of relevant administrative units, roads and other topographical indicators, also in a minority language.

20. The threshold of 20 per cent to be calculated with respect to the population in each of the 61 municipalities, established as a result of the 2014 territorial administrative reform, constitutes an insurmountable barrier preventing effective access to rights. According to the information given by the authorities in the State report,² there are only three LGUs where the number of persons belonging to national minorities is likely to meet this threshold (Dropull, Finiq and Pustec). No other national minority, or persons belonging to the Greek and Macedonian national minorities residing outside of those three municipalities, is likely to benefit from a number of provisions contained in the Law on the Protection of National Minorities, adopted in 2017, that are operational only in the municipalities where persons belonging to a national minority constitute at least 20 per cent of the local population.

21. The law on national minorities provides for the establishment of a new Committee on National Minorities, to be composed of representatives of all recognised national minorities. Once established, this body will be a consultative organ whose competencies will include recommending and providing opinions on draft legislation, policies and programmes related to the rights of persons belonging to national minorities, submitting periodic reports to the Assembly on the situation of national minorities and monitoring the implementation of the legal framework and state policies on national minorities. It has to be noted however that the provisions contained in the law pertaining to Committee on National Minorities are programmatic in nature and can only be made operational by adoption of a Council of Ministers' decision. Another decision of the Council of Ministers is needed to establish the rules for the operation of the Committee on National Minorities. The aforementioned decisions of the Council of Ministers were not adopted within the period of six months following the entry into force of the law. As a consequence the process of forming the new Committee on National Minorities has not commenced.

22. Regrettably, the law on national minorities does not address the issue of consultative mechanisms for persons belonging to national minorities at the local level. Given that many issues, in particular those concerning education, use of national minority languages in contacts with local administration and for topographic indications are within the competences (or shared competences) of LGUs, the absence of consultative organs at the municipal level may significantly impact access to minority rights.

² State report, p. 81.

II. Article-by-article findings

Article 3 of the Framework Convention

Personal scope of application of the Framework Convention

23. On 13 October 2017 the Law on the Protection of National Minorities was adopted.³ The new law determines the personal scope of application of the rights of persons belonging to national minorities⁴ and abolishes the division of minorities into “national”⁵ and “ethno-linguistic”⁶ minorities. Furthermore, the law expands the number of recognised national minorities to nine, namely: Aromanian,⁷ Bosniak, Bulgarian, Egyptian, Greek, Macedonian, Montenegrin, Roma and Serb.⁸

24. The Advisory Committee acknowledges that the Contracting Parties have a margin of appreciation in determining the personal scope of application of the Framework Convention. It considers, however, that it is part of its duty to examine the personal scope of application given to the implementation of the Framework Convention in order to verify that no arbitrary or unjustified distinctions have been made.⁹ The Advisory Committee regards as problematic, from the viewpoint of the Framework Convention, the application by Albania of the criterion of citizenship for access to rights listed in the Law on the Protection of National Minorities and by extension to the protection under the Framework Convention, and considers that such a step is not in line with the current efforts aimed at developing a more nuanced approach to the use of the citizenship criterion in the protection of national minorities.¹⁰ The Advisory Committee indeed considers that while citizenship may be a legitimate requirement in fields such as representation in Parliament, the general application of this criterion nevertheless remains problematic in relation to the guarantees associated with other important fields covered by the Framework Convention, such as non-discrimination and equality, as well as certain cultural and linguistic rights.¹¹

25. In more general terms, the Advisory Committee encourages the authorities to favour an open and inclusive approach to the scope of the Framework Convention, both in respect of practical measures taken to implement legislation on national minorities and as regards persons belonging to other groups seeking the protection under the Framework Convention and asking for recognition as a national minority.

³ Law No.96/2017 on the “Protection of National Minorities”, adopted on 13 October 2017, published in the Journal of Laws No. 198/2017 on 9 November 2017. The law entered into force 15 days after the publication date (24 November 2017).

⁴ The law (Article 3) defines a national minority in the following terms “a group of Albanian citizens who live in the territory of the Republic of Albania and who have earlier and sustainable links with the Albanian state, who manifest distinct cultural, ethnic, linguistic, religious or traditional characteristic and who are willing to collectively express, preserve and develop their distinct cultural, ethnic, linguistic, religious or traditional identity.”

⁵ Before the entry into force of the Law on national minorities, persons of Greek, Macedonian, Serb/Montenegrin ethnicity were recognised as belonging to the respective national minorities.

⁶ Before the entry into force of the Law on national minorities, Roma and the Aromanians/Vlachs were recognised as “ethno-linguistic” minorities.

⁷ Persons belonging to this group had been recognised before entry into force of the law as Aromanians/Vlachs. Some persons belonging to this group prefer to be referred to as “Armâns”.

⁸ Article 3.2 “Definitions”.

⁹ Thematic Commentary No. 4 on the on the Scope of Application of the Framework Convention (May 2016), para. 26, available at: <https://rm.coe.int/16806a4811>.

¹⁰ Compilation of Venice Commission Opinions and Reports Concerning the Protection of National Minorities”, doc. ref.: CDL(2011)018, pp. 4-9, available at [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=cdl\(2011\)018-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=cdl(2011)018-e).

¹¹ See Thematic Commentary No.4 on the Scope of Application of the Framework Convention (May 2016), para. 29.

26. Article 4 of the law provides for the possibility of recognition of a national minority and establishes a procedure for this. In particular, it stipulates that an application for formal recognition is to be filed with the Minister of the Interior by a group of no less than 300 citizens of Albania who claim to belong to a national minority. The law also provides for the establishment of an ad hoc committee at the Ministry of the Interior to decide on an application for recognition and foresees the right to a judicial review of such decisions.

27. The Advisory Committee notes with interest that the draft decision of the Council of Ministers on “Determining the Composition, Functions, and Procedure for the Examination of the Request for Recognition of a National Minority by the Ad-Hoc Committee in the Ministry of the Interior” establishes that an ad hoc Committee is to be composed by representatives of various relevant ministries, other governmental agencies and the Academy of Sciences, the Centre for Albanological Studies and the Institute of History. It also specifies the procedures to be followed and a timetable for the examination of a request for recognition.

28. Furthermore, it notes that the draft decision of the Council of Ministers “on the Documentation and Procedures for Collecting Data about Persons Belonging to National Minorities” requires each person supporting a request for recognition to submit a number of documents including “certificates issued by the archive unit of the civil registry office or administrative attestations issued by the civil registry offices, where they are registered since in their origins, according to the chronological order”, “documents issued by the General Directorate of Archives and the Directorate of the Archive System of the Ministry of Interior”.

29. The Advisory Committee considers the authorities’ approach fundamentally flawed, contravening directly the right to free self-identification of persons belonging to national minorities, as stipulated in the Framework Convention. It draws the authorities’ attention to the Fourth Thematic Commentary on the Scope of Application of the Framework Convention where it is stated that “self-identification begins with the free decision of the individual which, if no justification exists to the contrary, is to be the basis of any personal identification. In the view of the Advisory Committee, a person’s free self-identification may only be questioned in rare cases, such as when it is not based on good faith.” In particular, relying systematically on archival data or civil registry “evidence” of belonging to a national minority cannot be accepted, given the fact that records were kept only for some national minority communities and only in some areas.

30. The Advisory Committee recalls further that in the Fourth Thematic Commentary it called on States “to ensure that all persons and groups who may benefit from the Framework Convention are made aware and enabled to avail themselves of the right to self-identify freely in order to access the rights contained in the Framework Convention. This is the case when the choice of affiliating with a minority is not made difficult in practice and when it is assured that the choice is made free of fear of resulting disadvantages or of loss in social prestige”.¹²

31. The Judgement of the Constitutional Court No. 52 of 1 December 2011 invalidated provisions of the law on the civil status on the inclusion of entry of nationality in documents issued by the civil status service. Moreover, the authorities asserted¹³ that no record of ethnicity or race is kept at the National Registry of Civil Status (NRCS). It is of great concern to the Advisory Committee, given that no records of ethnicity were kept beyond the narrowly defined confines imposed by the totalitarian communist regime, that the obligation of producing documentary

¹² Thematic Commentary No. 4 on the on the Scope of Application of the Framework Convention (May 2016), para. 14.

¹³ State report, p. 61.

archival or civil registry evidence is flawed as it excludes the possibility of recognising any national minority group other than those already recognised by law. On the individual level, the provisions of the law on national minorities and the draft decisions of the Council of Ministers, which condition recognition on producing archival evidence, deprive persons belonging to national minorities from being recognised as such by the authorities and accessing rights.

32. In this context the Advisory Committee notes that the definition contained in Article 3(1) of the law on national minorities contains a list of identity markers which are sufficient for determining the personal scope of application of the law. The criteria included therein by the legislator do not include any obligation of producing archival or civil registry evidence.

Recommendations

33. The Advisory Committee strongly urges the authorities not to condition recognition of the ethnicity of a person claiming affiliation with a national minority on submitting archival or civil registry “evidence” of belonging to a national minority, as relying on civil registry data for the purpose of recognition of a person’s affiliation with a national minority is contrary to the principle of free self-identification.

34. The Advisory Committee calls on the authorities to review regularly the impact of the application of the citizenship criterion as regards access to minority rights, in order to ensure that it does not have the effect of excluding people from the scope of application of the Framework Convention in an unjustified and arbitrary, i.e. discriminatory manner, in particular as regards their linguistic and cultural interests.

Population census and birth certificates

35. The Advisory Committee recalls that the population census was conducted in October 2011 in Albania. The Law on the General Census of Population and Housing of 26 October 2000 was amended just three months ahead of the 2011 census date¹⁴ to introduce a fine for an “incorrect” reply to the question on ethnic affiliation (nationality), while determining that a reply would be considered “incorrect” if it did not correspond with data contained in the civil registry. The census itself was carried out amidst calls for a boycott issued by some organisations representing national minorities¹⁵ and the census results are widely considered by representatives of national minorities as unreliable and inaccurate.¹⁶ In this context, the Advisory Committee expressed concerns about the incompatibility of the census law, in particular as regards fines for “incorrect” replies, with the principles enshrined in Article 3 of the Framework Convention. The Advisory Committee specifically stated in its third Opinion on Albania that “given the possibility of applying fines and the resulting calls for a boycott of the census, the Advisory Committee considers that the results of the census must be viewed with the utmost caution and calls on the authorities not to rely exclusively on the data on nationality collected during the census in determining its policy on national minorities.”¹⁷ Moreover, the Advisory Committee recalls that it has consistently “cautioned States parties against exclusively relying on unofficial statistics and figures, as these, for a variety of reasons, may not fully reflect reality.”¹⁸

¹⁴ State report, p. 17.

¹⁵ Gezim Krasniqi, “The politics of numbers and identity in Albania”, available at <http://www.citsee.eu/blog/politics-numbers-and-identity-albania>.

¹⁶ Greek Minority In Albania: Minorities Declare Manipulation Of Albanian Census, available at <http://www.unpo.org/article/13466>.

¹⁷ ACFC 3rd Opinion on Albania, para 17, p. 6.

¹⁸ Thematic Commentary No. 4 on the on the Scope of Application of the Framework Convention (2016), para. 18.

36. The Advisory Committee further notes that the practice, carried over from the communist regime, of mandatory recording in birth certificates of the ethnicity of persons belonging to the Greek and Macedonian national minorities residing in the former “minority zones” was abolished by a decision of the Council of Ministers in May 2011. Such records, which were based on the parents’ birth certificates rather than on a free declaration by the persons concerned, constituted discrimination among persons belonging to different national minorities. Furthermore, the ruling of the Constitutional Court¹⁹ entirely abolished Articles 6(1), 8, 42(2) and 58(e) of the law on civil status²⁰ on account of their incompatibility with the Constitution. The invalidated provisions concerned the inclusion of the entry of nationality in documents issued by the civil status service.

37. The provision introducing fines for “incorrect” answers to the question on ethnic affiliation (nationality) was not repealed and remains in force until this day. The Advisory Committee notes nonetheless the authorities’ assertion that each census in Albania is conducted on the basis of a specific law adopted for that purpose, and that a new law will be adopted ahead of the 2021 census.²¹

38. Against this background, the Advisory Committee notes that the Law on the Protection of National Minorities, adopted in 2017, provides for the right to free self-identification. Furthermore, the law authorises public institutions at central and local levels to collect data regarding the identification of persons belonging to national minorities while taking into account the documentation of the civil registry.

39. The draft decision of the Council of Ministers “on the Documentation and Procedures for Collecting Data about Persons Belonging to National Minorities” implementing Article 7(2) of the law, stipulates that the Prefect of the region in cooperation with the Ministry of the Interior shall verify the self-declarations of persons belonging to national minorities. Such verification of authenticity is to be based on archival data and civil registry “evidence”. The Advisory Committee notes these provisions of the Law and of the draft decision of the Council of Ministers with deep concern and considers them incompatible with the principle of free self-identification enshrined in Article 3 of the Framework Convention.

40. In particular, the Advisory Committee notes that the recording of nationality in documents issued by the civil status service has been abolished by the Constitutional Court. It recalls that “evidence” contained in the archives is incomplete both as regards (i) national minority groups covered and (ii) areas of the country where such records were kept. It recalls that the ethnicity of persons belonging to those national minorities which were formerly considered as “ethno-linguistic minorities” was never recorded. Moreover, the Advisory Committee recalls that the right to free self-identification is a fundamental human right protected under the Framework Convention.

41. The Advisory Committee regrets to note that, apart from the contested census data, there has been little progress regarding the collection of statistical data on the situation of persons belonging to national minorities. It notes nonetheless that the UNDP office in Tirana, in collaboration with the Albanian Institute of Statistics (INSTAT), prepared an overview based on the 2011 census on “Roma and Egyptians in Albania: A profile of socio-demographic and economic development”.²² In addition, the creation of a database on Roma and Egyptian communities is planned in the framework of the Action Plan for the Integration of Roma and Egyptians 2016-2020.

¹⁹ Judgement of the Constitutional Court No. 52, dated 1 December 2011.

²⁰ Law no. 10129 “On Civil Status”, dated 11 May 2009.

²¹ State report, p. 12.

²² State report, p. 18.

The Advisory Committee recalls that such data collection should be conducted in close co-operation with representatives of national minorities and with full respect for the safeguards, notably those related to international standards on the protection of personal data, the specific and limited use of such data by the authorities, and the free, informed and unambiguous consent of the persons concerned, as laid down in the Committee of Ministers' Recommendation(97)18 concerning the protection of personal data.

42. The next census in Albania is planned for 2021. The Advisory Committee reminds the authorities that close consultation with minority communities in the preparation of the census of 2021 is of crucial importance, given the identified shortcomings of the census of 2011. This census should be preceded by an awareness-raising campaign explaining to the population the significance of collecting accurate information on the diversity of Albanian society with a view to guiding a well-informed national minority policy. Such information is also an essential condition for implementing effective policies and measures aimed at protecting minorities and helping them to preserve and assert their identity. Careful attention must be paid to ensure that enumerators, as well as the interviewees, are made aware of the right to free self-identification of persons belonging to national minorities, including by foreseeing the possibility to opt for multiple ethnic and/or linguistic affiliations, or none. In this context, the Advisory Committee underlines that interviewees should not necessarily be encouraged to opt for a single affiliation and that efforts should be made to ensure that multiple affiliations can be processed and accurately reflected in the results of the census in line with the UN Conference of European Statisticians Recommendations for the 2020 Censuses of Population and Housing.²³

43. In this context the Advisory Committee further recalls that "the right to free self-identification applies in each data collection exercise separately. This means that persons belonging to national minorities must not be required always to self-identify in the same manner. Lists of possible responses to identity-related questions should be open not closed, and the opportunity to express multiple affiliations should be provided explicitly. Given the importance attached in some states parties to the size of a minority population for access to minority rights, multiple affiliations must also not only be recorded but also adequately processed, analysed and displayed. These considerations on the collection, processing and reporting of data must also be applied to other situations (for example school enrolment) that can imply self-identification."²⁴

Recommendations

44. The Advisory Committee calls on the authorities not to rely exclusively on the archival data and civil registry "evidence" to verify the authenticity of the self-declarations of persons belonging to a national minority.

45. The Advisory Committee urges the authorities to adopt without delay a law on the population census of 2021, in accordance with international standards. Data collection should be based on free self-identification of affiliation with a national minority. Such approach would preempt any "incorrect" answers. Should the census of 2021 be conducted on the basis of the current law, the provision on fines for "incorrect" answers should be repealed and other shortcomings identified in the 3rd ACFC Opinion on Albania rectified.

²³ Conference of European Statisticians Recommendations for the 2020 Censuses of Population and Housing, pp. 148-150, available at https://www.unecsc.org/fileadmin/DAM/stats/publications/2015/ECECES41_EN.pdf.

²⁴ Thematic Commentary No. 4 on the on the Scope of Application of the Framework Convention (2016), para. 16.

46. The Advisory Committee calls on the authorities to review, in close consultation with representatives of national minorities, the methodology of the population census, the wording of the questions asked and safeguards for voluntary and informed answers, including the possibility of multiple affiliations, in line with the Conference of European Statisticians Recommendations for the 2020 Censuses of Population and Housing.

47. The Advisory Committee reiterates its strong recommendation to the authorities to develop mechanisms for the regular collection of updated and reliable information on the number of persons belonging to national minorities, as well as on their situation as regards access to rights and resources. Data collection should be conducted in close co-operation with representatives of national minorities and with full respect for the safeguards, notably those related to international standards on the protection of personal data, as laid down in the Committee of Ministers' Recommendation(97)18 concerning the protection of personal data.

Article 4 of the Framework Convention

Legislative framework for prohibiting discrimination

48. The Advisory Committee notes with satisfaction that the Law on the Protection of National Minorities, adopted in 2017, prohibits any form of discrimination against any person on account of his/her belonging to a national minority. Furthermore, the law, in line with Article 4 (2) of the Framework Convention, obliges public institutions to adopt and implement the necessary measures to guarantee full and effective equality in economic, social, political and cultural life between persons belonging to national minorities and those belonging to the majority. The Advisory Committee welcomes this provision.

49. The Advisory Committee welcomes the fact that the law on the protection from discrimination, modelled on the European Council Directive on Racial Equality (2000/43/EC) and the European Council Directive on Employment Equality (2000/78/EC), was adopted in 2010. The law contains provisions prohibiting direct and indirect discrimination on the grounds of *inter alia* race, ethnic affiliation and nationality in the fields of employment, health care, education, welfare, access to services and housing, and establishes the courts' jurisdiction in alleged cases of discrimination. The Office of the Commissioner for Protection from Discrimination was set up in 2010 and the Commissioner, in addition to examining complaints from individuals, conducting investigations and sanctioning breaches of the law, is empowered to represent victims of discrimination before courts.

50. Amendments to the Labour Code adopted in 2015 strengthened the prohibition of any form of discrimination in the exercise of the right to employment, by defining discrimination as any distinction, exclusion, restriction or preference based on the protected grounds, such as those listed in the law on protection from discrimination.²⁵

²⁵ The new regulations prohibit all types of discrimination. Each employee has the right to be treated equally based on their qualifications and performance in terms of education effort and level of responsibility without discrimination on the grounds of: gender, ethnicity, colour, language, gender identity, sexual orientation, disability, health status, social origin, national origin or religion, philosophic or political opinion, economic, education and social situation, maternity, parental background, parental responsibility, age, marital or family status, civil status, residence, health status, genetic predispositions, disability, living with HIV/AIDS, joining or belonging to labour organisations, belonging to a particular group, or any other reason, that aims or causes to prevent or make impossible the exercise of the right of employment and occupation, in the same way as others (Article 4/2 of the Law No. 136/2015 changing Article 9 of the existing regulation in the Labour Code), see further: Institute for Democracy and Mediation Report "Labour Standards in

51. According to the Annual report for 2016,²⁶ the Commissioner dealt with 239 cases (216 complaints and 23 ex-officio cases). Of these 131 (120 complaints²⁷ and 11 ex-officio cases) were new complaints filed in 2016. In 57 (out of 202) decisions in 2016, the Commissioner established that the alleged behaviour constituted discrimination. Another 11 cases were resolved through mediation. In ten cases, the Commissioner imposed sanctions in the form of a fine for failure to comply with her recommendations or failure to provide information. Moreover, the Commissioner initiated two lawsuits aiming to establish discrimination before courts and has participated in 45 proceedings before the courts. This represents, according to the Annual report, a significant increase in the number of court proceedings that the Commissioner participated in, as compared to previous years.

52. The Advisory Committee also notes that in recent years, the Commissioner has organised on a regular basis awareness-raising activities in co-operation with central and local institutions, NGOs and international organisations such as the UNDP and the EU. In May and June 2016, the Commissioner organised 19 training sessions for police officers in 12 districts where 471 officers from the Local Police Directorate were trained "On Protection from Discrimination".²⁸

53. The Office of the People's Advocate (Ombudsperson) was awarded "A-status" in 2014, the highest level granted by the International Co-ordinating Committee of National Institutions for the Promotion and Protection of Human Rights.²⁹ It continues to enjoy public support and receives a substantial number of complaints every year (4,546 in 2017, 5,512 in 2016, 4,203 in 2015). However, the Advisory Committee notes that the impact of the recommendations of People's Advocate remains limited, as it depends on the willingness of the authorities to implement them.³⁰

54. In the last few years, the Advocate submitted to Parliament a number of reports on problems affecting the Roma. These include a report "On the rights of the Roma minority" (2012), "On the problems and the situation of the rights of the Roma minority in Albania" (a report submitted in 2014 after an inspection of all the main sites of Roma in Albania) and a report on "Displacement of the Roma/Egyptian community, located in the area of Artificial Lake, Tirana" (2016).³¹

55. Following up on these reports, the People's Advocate made a number of recommendations addressed to the authorities including: amending the law on social housing programmes,³² facilitating procedures for the transfer of civil status data to LGUs where they have a new residence, and addressing the issue of the housing problems of Roma families affected by the construction of the new ring road around Tirana, and those settled in the Shkoza area, as well as in the "Bregu i Lumit" area of Tirana. The People's Advocate also made a number of

Albania" Tirana, 2016, available at http://idmalbania.org/wp-content/uploads/2016/12/IDM_LabourStandards_ENG.pdf

²⁶ Commissioner for Protection from Discrimination "Annual report for 2016", available at <http://www.kmd.al/?fq=brenda&emri=&qj=qj1&kid=142&kidd=176> (in Albanian only); the Annual Report for 2017 is unavailable.

²⁷ In 2016, 91 complaints alleged discrimination based on race, two on colour, 26 on ethnicity and three on language.

²⁸ Idem, p.7.

²⁹ GANHRI Sub-Committee on Accreditation Report – 21 February 2018, available at <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/Statuspercent20Accreditationpercent20Chart.pdf>.

³⁰ Annual report "On the activity of the People's Advocate Year 2016", p. 2, available at http://www.avokatipopullit.gov.al/sites/default/files/RAPORTET/RAPORTET_VJETORE/Report_2016.pdf.

³¹ See also ECRI Conclusions on the Implementation of the Recommendations in respect of Albania subject to Interim Follow-up (doc. ref. CRI(2018)20, adopted on 21 March 2018, available at <https://rm.coe.int/ecri-conclusions-on-the-implementation-of-the-recommendations-in-respe/16808b76f0>

³² Law No.9232 / 2004 "On social housing programs for residents in urban areas".

recommendations in the field of education including amending the law on education,³³ and inclusion of Roma in vocational training and employment. A Law on Legal Aid, that had been a longstanding proposal of the People's Advocate was enacted in December 2017 and entered into force in June 2018.³⁴

56. The Advisory Committee warmly welcomes these efforts of the People's Advocate aimed at promoting the rights of Roma and Egyptians. The People's Advocate, upon invitation to participate in the work of the inter-institutional Working Group "For the assessment of the legislative framework and policies on minorities", issued in March 2015 a Special Report "On the situation of the minority rights in Albania" and presented it to Parliament. In the report the People's Advocate recommended *inter alia*: adoption of a law specifying the definition and the "de jure" recognition criteria of minorities, in accordance with the provisions of the Framework Convention, expanding opportunities for minority education, including teaching in minority languages, promoting identities and developing cultures of minorities and last but not least, conducting a population census "based on the best international criteria and standards, where minorities would find themselves to be objectively and unconditionally expressed about their existence".³⁵

Recommendations

57. The Advisory Committee encourages the authorities to maintain their support for the activities of the Office of the Commissioner for Protection from Discrimination and the Office of the People's Advocate by continuing to provide them with appropriate resources in order to allow both Offices to fulfil their duties effectively and independently.

58. The Advisory Committee calls on the authorities to co-operate with the Office of the People's Advocate in order to increase the effectiveness of its actions, in particular as regards the enforcement of the recommendations of the People's Advocate.

Socio-economic situation of the Roma and Egyptians

59. The situation of the Roma and Egyptians remains an unresolved and urgent problem in Albania. The Advisory Committee notes that the authorities have continued their efforts to combat discrimination and implement policies for Roma inclusion. As a follow-up to the National Strategy "For the improvement of the living conditions of the Roma minority" and the Action Plan of the "Decade of Roma Inclusion" (2005-2015), the authorities developed the National Action Plan for the Integration of the Roma and Egyptians 2016-2020 (adopted in December 2015). The Action Plan, which was elaborated in consultation with representatives of the Roma and Egyptians strives to address issues related to Roma and Egyptians, in the fields of education, housing and urban integration, access to healthcare and social protection.

60. The Action Plan identifies sources of existing public funding and possible external funding. The overall funding required for the implementation of the Action Plan was estimated at almost 56 million Euros, of which 31 million Euros to be provided by the State budget with a further 25 million Euros to be secured from other, in principle foreign, donors.³⁶ In this context, the Advisory Committee notes that the most significant allocations from the State budget have been earmarked

³³ Law No. 69 "On pre-university education system in the Republic of Albania", dated 21 June 2012.

³⁴ Report by Dunja Mijatović, Commissioner for Human Rights of the Council of Europe, following her visit to Albania from 21 to 25 May 2018, p. 25.

³⁵ Annual report "On the activity of the People's Advocate Year 2016", p. 80.

³⁶ National Action Plan for Integration of Roma and Egyptians in Albania, p. 59, available at <http://www.al.undp.org/content/albania/en/home/library/poverty/national-action-plan-for-integration-of-roma-and-egyptians-in-th.html>.

to fund projects in the field of education and the promotion of intercultural dialogue (1.8 billion LEK, equivalent to 13.8 million euros³⁷) and housing and urban integration (1.16 billion LEK, equivalent to 9 million euros).

61. While welcoming the involvement of external donors, the Advisory Committee notes that the primary responsibility for addressing the challenges faced by the Roma and Egyptians, including the implementation of the Action Plan, rests with the State authorities. Heavy reliance on external funding can undermine the authorities' ownership of the implementation process. Furthermore, Roma representatives informed the Advisory Committee that an implementation mechanism at the local level is lacking. Notwithstanding this drawback, the Advisory Committee notes the efforts undertaken by the authorities, in particular as regards housing, access to healthcare and education (for issues related to access of Roma and Egyptian children to education see under Article 12).

62. In the area of housing, the Ministry of Urban Development has implemented, starting in 2014, the "programme to improve the living conditions of the Roma and Egyptian community". The scope of the projects covered under the programme has been increasing each year with over 260 million LEK provided to finance housing projects in 22 LGUs, benefitting over 800 Roma and Egyptian families in 2014-2016. Most of these funds were used for projects on reconstruction or renovation of existing houses and were allocated for families who hold a legal title to their properties. Further plans for 2017-2018 foresaw projects aiming to benefit 210 families in 2017 and 420 families in 2018. The Advisory Committee welcomes the authorities' aim to comprehensively resolve housing issues affecting Roma and Egyptians within 10 years.³⁸

63. The Advisory Committee notes with interest the authorities' intention to follow-up on the recommendations of the People's Advocate to include Roma as a priority group in housing projects and allocate to Roma families 5 per cent of housing units built under each project. Furthermore, the Law on Social Housing³⁹ adopted in 2018 provides the basis for affordable housing programmes for vulnerable groups, including Roma.⁴⁰ Regrettably, according to information provided by Roma representatives, current drafts of the Law on Social Housing seem not to address adequately the problem of legalisation of dwellings. In this context, the Ministry of Urban Development has elaborated the Social Housing Strategy 2016-2025 and the Action Plan.⁴¹ One of the aims of those documents is to improve the living conditions of vulnerable groups, including Roma and Egyptians that cannot afford housing at market prices. The Commissioner for Protection from Discrimination recommended amending the draft to prevent abusive and discriminatory evictions. The Advisory Committee notes that these undertakings are yet to produce any results.

64. The Ministry of the Interior, in co-operation with the UNHCR, UNICEF, NGOs specialising in legal assistance and local Roma NGOs organised a number of awareness raising campaigns on the importance of birth registration and "registration events" were held in the communities inhabited by the Roma. In addition, roundtables were organised on civil registration and on practical measures to be taken by local institutions in order to facilitate registration by members of local Roma communities.

65. Nevertheless, in spite of the efforts undertaken by the authorities in recent years, significant problems affecting Roma and Egyptians' access to healthcare continue to be reported.

³⁷ At the time of the adoption of this Opinion 1 euro was equivalent to 125 LEK.

³⁸ State Report, pp. 28-29.

³⁹ Law n° 22/2018 on Social Housing.

⁴⁰ State report, p. 37.

⁴¹ Both documents were approved by a decision No. 405 of the Council of Ministers on 1 June 2016.

Roma children are less likely than other children to benefit from the full range of vaccinations and “one-third of Roma girls are likely to be married before they reach eighteen”⁴², disregarding the legal provisions of the Family Code of Albania.⁴³ Against this background, the Advisory Committee notes that, in principle, compulsory vaccination is provided in Albania free of charge. According to the State report, particular efforts are undertaken to identify and vaccinate Roma and Egyptian children, regardless of their status as regards registration and identity documents.⁴⁴ The Institute of Public Health (IPH) undertook in 2014 an initiative to cover more than 95 per cent of Roma and Egyptian children. These efforts were accompanied by social workers or health mediators to improve communication with the Roma and Egyptian communities.

Recommendations

66. The Advisory Committee urges the authorities to increase their efforts to prevent, combat and sanction the inequality and discrimination suffered by the Roma and Egyptians. The authorities must step up their efforts, in particular at local level, to improve the living conditions and access to healthcare of Roma. The authorities should ensure that the persons concerned have the possibility to participate effectively in the consultation and decision-making processes regarding these matters.

67. The Advisory Committee calls on the authorities to guarantee the funding necessary for the effective implementation of the National Action Plan for the Integration of the Roma and Egyptians 2016-2020 and other infrastructure projects. Implementing mechanisms at the local level for the Action Plan need to be identified in close cooperation with Roma and Egyptian representatives.

Article 5 of the Framework Convention

Policy on supporting minority cultures

68. The Advisory Committee notes that the Law on the Protection of National Minorities, adopted in 2017, secures for persons belonging to national minorities “the right to maintain and develop their linguistic, cultural, religious identity and cultural heritage”.⁴⁵ It also specifies that “persons belonging to national minorities shall enjoy [...] the right to celebration of events linked with the promotion of their distinct cultural identity”.

69. The Advisory Committee welcomes the establishment, under the new law of the Fund for National Minorities administered by the Committee on National Minorities.⁴⁶ The purpose of the fund is to support initiatives and projects aiming at defending the rights of national minorities, preserving and promoting the distinct cultural, ethnic, linguistic, traditional and religious identities of national minorities.

70. The Advisory Committee notes that in recent years the authorities pursued their efforts to support cultural activities of national minorities. One of the objectives of the cultural policies in Albania is “enabling the expression of national cultural diversities (languages, minorities, religions)”.⁴⁷ Associations representing national minorities participate in the grant scheme

⁴² Unicef “Child Notice Albania”, 2015, p. 34, available at <https://www.unicef.nl/files/unicef-child-notice-albania.pdf>.

⁴³ The legal marital age is set in Article 7 of the Family Code at the 18 years of age. See Family Code of Albania, available at <http://www.durajlaw.com/PDFen/Family%20Code.pdf>.

⁴⁴ State report, p. 28.

⁴⁵ Article 12 “Maintenance of Cultural Identity of National Minorities”.

⁴⁶ Article 21 “Fund for National Minorities”.

⁴⁷ Philippe Kern “A Cultural Strategy for Albania - Implanting the Cultural Bug”, p. 8, March 2018, available at <https://rm.coe.int/a-cultural-strategy-for-albania-implanting-the-cultural-bug/1680794665>.

implemented by the Ministry of Culture for cultural activities. The Advisory Committee notes that the total budget for such projects, amounting 300,000 Euro, seems to be relatively low, for the number of activities it strives to cover.

71. In recent years a number of cultural undertakings were supported by the authorities.⁴⁸ In this context, the Advisory Committee regrets to note that most of the projects tend to concentrate on traditional expressions of culture, such as song, music, dance and handcraft. These initiatives, although praiseworthy in themselves, risk presenting a folkloristic picture of national minorities.

72. Financial support was provided also for a number of concerts such as a concert of traditional Roma music and a minority folk concert in Sarandë. In the literary field support was given to the publication of literary works on the Roma and on the Aromanian minority in Albania. A dictionary of Romani-Albanian Vocabulary was published in 2016. Funding from the Ministry of Culture was also made available for Multicultural Përmet Festival, for the photography exhibition – “Dropulli’s Chronicle” celebrating Greek culture at the Culture Centre of Dervitsani, and for a multicultural festival “People and Ideas” in Berat.

73. The Advisory Committee considers in this context that the support of the authorities should extend, in addition to traditional cultural expressions, also to contemporary manifestations of culture. Accordingly, support should be extended to initiatives that involve minority youth and those addressing every day needs of persons belonging to national minorities.⁴⁹

Recommendations

74. The Advisory Committee calls on the authorities to provide more structured, substantial, regular and adequately financed support to allow organisations of national minorities to maintain and develop their cultures and languages, including contemporary manifestations of culture. The authorities should adopt a more proactive approach towards cultural expressions of national minorities and promote a wider array of manifestations, not just those confined to folklore.

75. The Advisory Committee also calls on the authorities to elaborate in close co-operation with representatives of national minorities and adopt without any further delay the criteria and procedures that would allow effective participation of representatives of national minorities in the decision-making process for supporting initiatives and projects to be financed from the Fund for National Minorities and in respect of strategies, programmes and action plans to create the necessary conditions to preserve and develop distinct minority identities.

Article 6 of the Framework Convention

Tolerance and intercultural dialogue

76. The authorities have continued their efforts to promote tolerance and facilitate integration in Albanian society as a whole. A climate of respect and tolerance generally prevails. Representatives of national minorities reported that incidents of racist or ethnic intolerance were rare. The Advisory Committee notes the many campaigns, programmes, seminars and initiatives to promote diversity and intercultural dialogue organised by the Commissioner for Protection from Discrimination, aimed at reaching the general population, media outlets and the authorities.⁵⁰

⁴⁸ State Report, pp. 42-45.

⁴⁹ Thematic Commentary No. 4 on the on the Scope of Application of the Framework Convention (2016), para. 70.

⁵⁰ Sate report, pp. 50-51.

77. Efforts have also been undertaken by the authorities to increase awareness of the whole population, including persons belonging to national minorities, politicians and the media, of the need for tolerance and respect for diversity, and to combat prejudices against the Roma and Egyptians through campaigns and other activities organised under the auspices of the Ministry of Culture. Notwithstanding these efforts, there is a noticeable perception of persistent xenophobia and intolerance directed in particular against the Roma and Egyptians. The Advisory Committee notes that the Commissioner for Protection from Discrimination intervened on a number of occasions to protect the rights of Roma and Egyptians. The last case concerned a Roma activist who was refused entry to a bar in Tirana, on account of his ethnicity.⁵¹ It has to be noted however that the scale of discriminatory practices remains a matter of speculation as the law does not allow the Commissioner to conduct simulation and testing of discrimination in bars or in other instances such as at the job market, etc.

78. Law enforcement bodies are reportedly slow to intervene in cases of domestic violence within Roma families, putting Roma women's lives further at risk. Roma women found it particularly difficult to access the justice system as, until recently, no free legal services were provided, in spite of the fact that the National Action Plan clearly lists free legal aid among its objectives. The Advisory Committee is deeply concerned by these shortcomings, which contribute to compounded gender-based discrimination. They are not compatible with Article 6 of the Framework Convention and require an urgent response by the authorities.

79. The Advisory Committee notes that Roma and Egyptians are particularly vulnerable to trafficking for the purpose of labour exploitation as they are often employed in the informal economy. Also, it is reported that children from Roma and Egyptian communities are being exploited for forced begging, prostitution and as victims of trafficking in human beings.⁵²

Recommendation

80. The authorities should intensify their efforts to adopt awareness-raising measures on tolerance and anti-discrimination issues, in particular in the media, directed at the public at large.

81. The authorities should take special and targeted actions to protect women and children from vulnerable communities from exploitation and abuse. The Advisory Committee also calls on the authorities to take steps to ensure that persons belonging to vulnerable groups, in particular women and children, have effective access to free legal aid and the justice system.

Hate crime, hate speech

82. The Albanian Criminal Code provisions on hate crime were amended in 2013. Its Articles 119, 120 and 84 criminalise insults, defamation and threats of death or serious bodily injury. In addition, Articles 119b and 84a cover insults and threats of death or serious injury on the grounds of "ethnicity, national origin, race or religion committed through computer systems." Article 265 criminalises incitement to hatred on the grounds of "race, ethnicity, religion or sexual orientation, as well as intentional preparation, dissemination or preservation for purposes of distributing writings with such content, by any means or forms". The Advisory Committee notes that language is not one of the protected grounds. Moreover, incitement to violence and discrimination are not addressed in the code. Racial discrimination by civil servants and persons carrying out public duties

⁵¹ The Commissioner, following an investigation, imposed a fine of 5,000 euros on the owners of the bar. No cases of refusal of entry have been reported since.

⁵² GRETA Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Albania (Second Evaluation Round) adopted on 11 March 2016, p. 7 and p. 14.

constitutes a crime under Article 253 of the Criminal Code. However, racial discrimination in the private sector is not covered by this provision.⁵³

83. Endangerment of social peace by incitement to violence “against parts of the population” (as well as by inciting to national hatred or “arbitrary actions” against them) is criminalised by Article 266 of the Criminal Code. The Advisory Committee shares the concerns expressed by ECRI that this provision only covers the grounds of ethnic affiliation. The restriction of the scope of Article 266 to cases where public peace is at risk is also problematic.⁵⁴

84. Finally, the Advisory Committee notes that article 50 of the Criminal Code, setting out the aggravating circumstances for all criminal offenses, was amended in 2013 and now contains the following grounds: “gender, race, colour, ethnicity, language, gender identity, sexual orientation, political, religious or philosophical convictions, health status, genetic predispositions or disability”.

85. The Advisory Committee regrets to note that no data is systematically collected on the prevalence of racially motivated crimes and on the number of cases relating to incitement to racial hatred. It notes in this context that regrettably Albania has not reported periodically the numbers of hate crimes recorded by police to the Office for Democratic Institutions and Human Rights (ODIHR).⁵⁵ The absence of data has negative consequences on the awareness of the authorities and the population about the prevalence of such acts and does not motivate the competent authorities to devise preventive measures. Furthermore it does not motivate the law enforcement agencies to adopt a more systematic approach to combatting the phenomena.

86. The Advisory Committee deeply regrets the lack of data on hate speech and hate crime in Albania. Data is not collected systematically either by the police or the prosecution service. No information has been collected by the People’s Advocate or the Commissioner for Protection from Discrimination. Given the general dearth of information in this area, the Advisory Committee welcomes the creation in 2014, by the Section for Cyber Crime of the State Police, of a tool for reporting online hate speech. It notes, however, that according to civil society representatives, the police fail to take notice even in cases of hate-motivated threats. In consequence, the number of reported cases of hate speech remains very low, as – according to civil society representatives – no appropriate follow-up is given by the law enforcement agencies.

87. In the absence of official data, the Advisory Committee notes that circumstantial evidence indicates cases of racially motivated crimes and bullying in schools, in particular in respect of the Roma and Egyptians.⁵⁶ According to NGOs, the internet and, in particular, social media in Albania are filled with offensive content and continue to produce racist messages.

Recommendations

⁵³ ECRI Report on Albania (fifth monitoring cycle), adopted on 19 March 2015, p. 12, available at <https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Albania/ALB-CbC-V-2015-18-ENG.pdf>.

⁵⁴ See also Thematic Commentary No. 4 on the on the Scope of Application of the Framework Convention (2016), paras. 55-56.

⁵⁵ OSCE Participating States have committed themselves to: "nominate, if they have not yet done so, a national point of contact on hate crimes to periodically report to the ODIHR reliable information and statistics on hate crimes", to "collect, maintain and make public, reliable data and statistics in sufficient detail on hate crimes and violent manifestations of intolerance, including the numbers of cases reported to law enforcement, the numbers prosecuted and the sentences imposed." (MC Decision No. 9/09), available at <http://hatecrime.osce.org/what-dowe-know/our-mandate>, OSCE ODIHR Hate Crime Reporting, available at <http://hatecrime.osce.org/albania>.

⁵⁶ Fifth ECRI report on Albania (2015), p. 17.

88. The Advisory Committee calls on the authorities to review the provisions of the criminal law with a view to introducing legislative amendments to fill the existing lacunae, in particular as regards hate crime based on language.

89. The authorities should establish a data collection system to record the number of racist or ethnically motivated crimes and incidences of hate speech.

90. The Advisory Committee reiterates its call on the authorities to continue to assign high priority to combating all forms of racism, intolerance and discrimination and ensuring respect for diversity in society. In particular, the authorities should take steps to increase the efficiency of the law enforcement bodies in combatting hate crimes.

Article 8 of the Framework Convention

Right to manifest religion or belief and establish religious institutions

91. The Law on the Protection of National Minorities, adopted in 2017, guarantees to persons belonging to national minorities the right to freedom of conscience and religion and the right to manifest, individually or collectively, or in community with others, their religion or faith.⁵⁷ The Advisory Committee further welcomes the fact that persons belonging to national minorities shall have the right to set up their religious organisations and associations, in conformity with the relevant legislation in force.

92. However, the Advisory Committee is deeply concerned about cases of vandalism or destruction of Orthodox Churches serving persons belonging to the Greek national minority. Reports of vandalism and looting of the Church of the Virgin Mary in Përmet's Old Bazaar in August 2013⁵⁸ and the demolition by the local authorities of the Church of St. Athanasius in Dhërmi in August 2015⁵⁹ are of particular concern. Neglect and unresolved property issues have also led to the continuous decay of religious heritage sites such as the collapse in May 2017 of the St. Athanasius Monastery in Lower Leshnicë, in the Sarandë region, a historic monument, dating back to 1797, that the Orthodox believers officially asked the authorities to restore to them in 2016.⁶⁰ The Advisory Committee notes that unresolved property issues, overlapping ownership claims and the validity of building permits lie at the root of the problems and recalls that in its previous opinions it called on the authorities to ensure that the process of returning property belonging to religious communities and granting compensation was fair and equitable. Furthermore, the Advisory Committee notes that the law on national minorities imposes an obligation on public institutions to protect persons belonging to national minorities against threats, discrimination, hostility or violence due to their distinct cultural, ethnic, linguistic, religious or traditional identities.

Recommendation

⁵⁷ Article 10 "Freedom of Conscience and Religion".

⁵⁸ Unholy Row Reignites Albania-Greece Tensions, available at <http://www.balkaninsight.com/en/article/albania-greece-rift-over-church-property-row> and Tensions between Albania and Greece grow over Orthodox community of Përmet, available at <http://www.lastampa.it/2013/08/23/vaticaninsider/eng/world-news/tensions-between-albania-and-greece-grow-over-orthodox-community-of-prmet-TViSOklwap6yKsbikeAudK/pagina.html>.

⁵⁹ Church of St. Athanasius Levelled by Albanian Government, available at <http://myocn.net/church-of-st-athanasius-levelled-by-albanian-government/>.

⁶⁰ Request for the Return of Churches, Monasteries and Sacred Objects, available at <http://orthochristian.com/91601.html>; Reconstruction of ancient churches begins in Albania, available at <http://orthochristian.com/110365.html>.

93. The Advisory Committee reiterates its call on the Albanian authorities to intensify their efforts to return property belonging to religious communities and to grant fair and equitable compensation, and to combat all manifestations of hostility based on religion.

Article 9 of the Framework Convention

Access of persons belonging to national minorities to the media

94. The Law on the Protection of National Minorities, adopted in 2017, guarantees to persons belonging to national minorities the right to express their thoughts and hold opinions and to receive and impart information in minority languages, without discrimination and without the interference of the public authorities. It further secures the right to persons belonging to national minorities to create their own printed and electronic media and to use audio and audio-visual media services without discrimination. The law also stipulates that licensing of radio and television broadcasting services be done without discrimination and that public radio and television shall broadcast informative and cultural programmes in minority languages. The Advisory Committee welcomes the fact that the legislative provision in Article 14 of the law corresponds to the relevant text contained in the Framework Convention.

95. Moreover, the law on the audio-visual media⁶¹ contains provisions on audio-visual programmes in minority languages and on their cultures. The law introduced a concept of "community audio services", which can be used by persons belonging to national minorities. The Advisory Committee further notes that the law provides that the community audio broadcasting service "is to be operated, owned and managed by the community that it serves" and that the license is to be granted for a limited geographical area. According to available information, currently there are no national minority operated "community audio services".

96. The Advisory Committee welcomes the continuation of some programming on public television and radio in national minority languages. It notes, in particular, the broadcasting of the daily five-minute news programmes, dubbed into the Greek, Macedonian, Romani, Serbian and Aromanian languages. Also, 25-minute long programmes presenting documentaries, reports and music are broadcast in each of these languages. Finally, Radio Tirana 1 broadcasts five times a week cultural programmes of 45 to 60 minutes' duration, consisting primarily of traditional Roma music. In addition, the Advisory Committee notes that the "ALPO" TV in Gërokašter broadcasts a one-hour programme "Greetings to the minority" in the Greek language dedicated to minority issues, every Wednesday evening at 20:30 (re-transmitted on Friday at 16.30). It regrets to note, however, that other private broadcasters, such as the "ARMONIA" RTV, TV "KRISTAL" and the "Prespa" Radio, have either never broadcasted in national minority languages in spite of having a licence to do so or have ceased broadcasting in a minority language. According to Roma interlocutors, there are ongoing efforts to maintain internet-based radio stations in the Romani language.

97. Finally, the Advisory Committee regrets that there has been no change since the previous monitoring cycle as regards the print media in minority languages. The authorities provide no support at all to the press in national minority languages.

Recommendations

⁶¹ Law No. 97/2013 on the "On the Audiovisual Media in the Republic of Albania".

98. The Advisory Committee calls on the authorities to ensure that public radio and television networks continue to expand their programmes in minority languages, in line with the relevant provisions of the Framework Convention.

99. The Advisory Committee encourages the authorities to ensure that community audio services are accessible to persons belonging to all national minorities.

Article 10 of the Framework Convention

Use of minority languages in relations with the administrative authorities

100. The Law on the Protection of National Minorities, adopted in 2017, seeks to fill the lacunae that existed hitherto in the legislation as regards the use of minority languages in relations with the administrative authorities. The Advisory Committee welcomes the fact that Article 15.2 of the law corresponds to the relevant text in the Framework Convention, but notes with concern that a threshold of 20 per cent, which does not appear in Article 10.2 of the Framework Convention, has been added as an additional condition.

101. The threshold of 20 per cent, to be calculated with respect to the population of each of the 61 municipalities, constitutes an insurmountable barrier for effective access to rights by persons affiliated with national minorities. According to the information given by the authorities, there are only three local government units where this threshold is met.⁶² These are the municipalities of Dropull in the Gjirokaštër county and Finiq in the Vlorë county (inhabited by persons belonging to the Greek minority) and the municipality of Pustec in the Korçë county (inhabited by persons belonging to the Macedonian minority).

102. Many other municipalities traditionally inhabited by a substantial number of inhabitants affiliated with national minorities (such as Himarë or Shijak) were merged⁶³ with other municipalities, inhabited by few persons affiliated with national minorities. As a consequence, persons belonging to national minorities living in such amalgamated local government units are not in a position to access their language rights. The Advisory Committee considers this a very serious impediment, which requires urgent remedies to be taken at the legislative level. It recalls in this context that “the rights of Article 10.2 are triggered by one of the two main criteria (substantial number *or* area traditionally inhabited), they apply also to areas where only a relatively small percentage of persons belonging to national minorities reside, provided that persons belonging to national minorities *traditionally* inhabit the areas concerned, that there is a request by these persons, and that such a request corresponds to a real need.”⁶⁴

103. In this context, the Advisory Committee notes that the law on local self-government⁶⁵ provides for the establishment of community structures in towns (Article 68) and in the countryside (Article 70). Certain competences may be delegated or devolved to these neighbourhood community councils of administrative units. The Advisory Committee considers that the rights of persons belonging to national minorities would be protected much more effectively if the threshold

⁶² State report, p. 81.

⁶³ The municipality of Himarë was formed in the wake of the administrative and territorial reform, by the merger of the former municipalities of Himarë, Lukovë and the commune of Horë-Vranisht (which became municipal units). The municipality of Shijak was formed by the merger of the former municipalities of Gjepalaj, Maminas, Shijak and Xhafzotaj (which became municipal units).

⁶⁴ Thematic Commentary No. 3 on the language rights of persons belonging to national minorities, para. 56, available at <https://rm.coe.int/16806b6a0b>.

⁶⁵ Law no. 139/2015 "On Local Self-Government", adopted on 17 December 2015.

were applied to the local communities (neighbourhoods) and the decisions on the use of minority languages in relations with the administrative authorities were taken by such neighbourhood community councils.

104. Furthermore, the Advisory Committee recalls that in its thematic commentary on the language rights of persons belonging to national minorities it encourages states to give careful consideration to the setting up of thresholds for determining the areas inhabited by persons belonging to national minorities in substantial numbers and welcomes measures taken by the authorities to lower any such thresholds as appropriate.⁶⁶ Furthermore, it encourages maximum implementation of the possibilities provided by law to allow the use of minority languages in contacts with administrative authorities at local level and in education. In this context, the authorities are also invited to consider carefully the situation of those national minorities whose members live in substantial numbers outside of their traditional territories (often in capital cities).⁶⁷

Recommendations

105. The Advisory Committee calls on the authorities to review the legislative provision on the right to use of minority languages in relations with the administrative authorities with a view to making access to this right effective. The Committee calls on the authorities to consider applying the threshold established in the law to local communities (neighbourhoods), and to ensure that the competence to make decisions on the use of minority languages in relations with the administrative authorities is vested with neighbourhood community councils.

106. The authorities are also asked to consider, in consultation with representatives of national minorities, the adoption of flexible measures which would facilitate the use of minority languages in dealings with local administrative authorities, in particular in areas traditionally inhabited by persons belonging to national minorities, where they constitute only a relatively small percentage of the population.

Article 11 of the Framework Convention

Surnames (patronyms) and first names in minority languages

107. The Law on the Protection of National Minorities, adopted in 2017, fills the lacunae that existed hitherto in the legislation as regards the use of surnames and first names in minority languages and their official recognition. The Advisory Committee notes that Article 15.1(a) conditions the right to use surnames and first names in minority languages on using it alongside the Albanian language and does not correspond to the relevant text in the Framework Convention.⁶⁸

108. The Advisory Committee further notes that a number of regulations have been adopted in recent years to clarify the procedure for changing names and surnames. The law on civil status was amended⁶⁹ in 2013. In line with these changes, an application for changing one's name or surname may be filed "only once and only for reasons of inadequacy". Changing name is not permitted when the applicant is under criminal investigation or trial. Secondary legislation established further

⁶⁶ Thematic Commentary No. 3 on the language rights of persons belonging to national minorities, para.57, available at <https://rm.coe.int/16806b6a0b>.

⁶⁷ Thematic Commentary No. 3 on the language rights of persons belonging to national minorities under the Framework Convention (2012), paras. 57-58.

⁶⁸ Thematic Commentary No. 3 on the language rights of persons belonging to national minorities, para. 61-63.

⁶⁹ Law No. 130/2013 "On some amendments to Law no. 10129 "On Civil Status" of 11 May 2009.

correction procedures.⁷⁰ It also established the national commission for the final evaluation of applications for changing name and surname,⁷¹ and enacted rules regarding names and surnames considered unfit and those with historical significance, of nationally prominent or well-known families,⁷² and on fees on filing an application and posting the announcement of the application for changing the name/surname.⁷³ The Advisory Committee notes that the representatives of national minorities, with whom it spoke during the visit, did not indicate having had difficulties in reverting to the traditional forms of their names.

Recommendation

109. The Advisory Committee invites the authorities to clarify the legislative provision on the right to use surnames and first names in minority languages to eliminate any ambiguity concerning its use “alongside the Albanian language”.

Topographical indications in minority languages

110. The Law on the Protection of National Minorities, adopted in 2017, fills the lacunae that existed hitherto in the legislation as regards the use of minority languages for topographic indications and other signage. The Advisory Committee notes that Article 15.3 does not correspond adequately to the relevant text in the Framework Convention as it does not refer to “areas traditionally inhabited by substantial numbers of persons belonging to national minorities”. It introduces nonetheless a specific threshold of 20 per cent of the population of a municipality (which does not appear in Article 11(3) of the Framework Convention). This threshold, to be calculated with respect to the population of each of the 61 municipalities, constitutes an insurmountable barrier for effective access to minority rights.

111. Moreover, the Advisory Committee notes that the law on local self-government⁷⁴ attributes to municipal councils the right to decide on names of streets, squares, territories, institutions and facilities under municipal jurisdiction.⁷⁵ Such decisions are to be made upon proposals of neighbourhood community councils of administrative units.⁷⁶ The Advisory Committee considers that rights of persons belonging to national minorities would be protected much more effectively if the threshold were applied to the local communities (neighbourhoods) and the decisions on the use of minority languages for topographic indications and other signage in national minority languages were taken by such neighbourhood community councils.

112. The Advisory Committee recalls that in its thematic commentary on the language rights of persons belonging to national minorities it has consistently called for the lowering of thresholds and asked that “the demographic structure of the area in question should be considered over a certain period in order to ensure that more recent assimilation tendencies do not work against the

⁷⁰ Instruction No. 481 of the Ministry of Interior “On the correction procedures of the name/surname as material error” dated 5 September 2013.

⁷¹ Order no. 236/1 “On the establishment of the national commission for the final evaluation of applications for changing the name and surname”, dated 20 January 2014.

⁷² Instruction No. 91 of the Minister of Interior “On rules regarding the defining of names/surnames considered unfit and those with historical significance, of nationally prominent or well-known families in the municipality/commune where the person concerned has his residence”, dated 2 April 2014.

⁷³ Joint Order No. 146, of the Minister of Interior and the Minister of Finance “For establishing tariffs on filing an application and posting the announcement of the application for changing the name/surname”, dated 19 May 2014.

⁷⁴ Law no. 139/2015 “On Local Self-Government”, adopted on 17 December 2015.

⁷⁵ Article 54 / II of the Law no. 139/2015 “On Local Self-Government”, adopted on 17 December 2015.

⁷⁶ Article 66 of the Law no. 139/2015 “On Local Self-Government”, adopted on 17 December 2015.

preservation of the minority language”.⁷⁷ It recommended therefore that “authorities should interpret and apply legislation in a flexible manner without relying too strictly on the threshold requirement”.⁷⁸

113. The Advisory Committee notes that in practice some topographic indications and other signage in the Greek language alongside the Albanian language have been displayed in the administrative unit of Finiq in the Vlorë county and in the municipality of Dropull and in Çarshovë administrative unit (located within the municipality of Përmet) in Gjirokastër county.

Recommendations

114. The Advisory Committee calls on the authorities to review the legislative provision on the right to use minority languages for topographic indications and other signage with a view to making access to this right effective. The authorities are asked to consider applying the threshold established in the law to local administrative units and ensure that the competence to make decisions on the use of minority languages for topographical indications is vested with neighbourhood community councils.

115. The Advisory Committee further calls on the authorities to consider, in consultation with representatives of national minorities, the adoption of flexible measures which would facilitate the use of minority languages for topographic indications and other signage in areas traditionally inhabited by substantial numbers of persons belonging to national minorities, in accordance with the Framework Convention.

Article 12 of the Framework Convention

Access to education for Roma and Egyptians

116. Steps taken in the last decade, in particular within the framework of the National Strategy for Improving the Living Conditions of the Roma Community, have led to some positive outcomes as regards the schooling of Roma and Egyptian children. A database on school enrolment among Roma children maintained at the Ministry of Education and Science allows to assess progress achieved thus far and to fine-tune policies aimed at increasing enrolment.

117. The Advisory Committee notes that, according to information contained in the State report, the number of Roma and Egyptian children in elementary, primary and secondary schools is increasing each year.⁷⁹ Also, the proportion of Roma and Egyptian children attending pre-school increased to 69 per cent.⁸⁰ Active measures have been taken to seek out and enrol children lacking identity documents.⁸¹ In order to facilitate access to education, Roma and Egyptian children are given textbooks free of charge,⁸² and are offered school meals free of charge. However, the

⁷⁷ Thematic Commentary No. 3 on the language rights of persons belonging to national minorities under the Framework Convention (2012), para.66.

⁷⁸ *Idem*.

⁷⁹ In the 2014-2015 school year 4,437 Roma pupils were enrolled in compulsory education (up to the age 16) with further 408 Roma children in the upper secondary education. In the 2013-2014 school year the number of children in primary and secondary education totalled 4,219, as compared to 4,085 in the 2012-2013 school year – see State report, para. 71, p. 26.

⁸⁰ Hazizaj A. et al., National Survey 2014: Access of Roma Children in Education and Health Services in Albania (2015), p. 43, available at <http://www.crc.a.al/en/national-study-looks-access-roma-children-early-childhood-services-albania>.

⁸¹ For example, in 2014, 147 children were enrolled without having to provide identity documents.

⁸² In 2013-2014 school year 3,370 children received such aid, in 2014-2015 school year – 3,219 children and in the 2015-2016 school year 3,205 children.

Advisory Committee notes that in order to benefit from this provision, parents must obtain an affidavit from a notary confirming their declaration of ethnicity. Roma interlocutors of the Advisory Committee proposed that a document from a registered Roma NGO should suffice. In addition, each year 80 social scholarships (30 Euro/month) are awarded to Roma and Egyptian children who completed the ninth grade to allow them to continue their education in upper secondary schools. The authorities have taken also a number of steps to establish “second chance” courses.⁸³

118. Furthermore, the adoption of the law on education in 2012 confirmed the existing practice of employment of assistants to teachers to facilitate the learning process of Roma children.⁸⁴ According to the State report,⁸⁵ a number of such assistants were hired in different municipalities to assist 450 children. It has to be noted also that there are no specialised courses to train assistants to teachers in Albania, resulting in the current lack of qualified personnel. As a result, teacher assistants without adequate training have been hired to perform the tasks.⁸⁶

119. The law on higher education adopted at the end of 2015 recognises the freedom of public universities to decide on admission quotas and tuition fees. Upon the entry into force of the law, the Council of Ministers adopted in 2017 a decision concerning the categories of students that are to be exempted from the payment of the tuition fee of the bachelor program, including Roma and Egyptian students. Accordingly, their fees are to be supported by public funds. This Council of Ministers decision reinforces an earlier regulation which provided for waiving tuition fees for certain categories of students belonging to vulnerable groups pursuing bachelor studies at public universities and halving tuition fees of master of science/professional master students.⁸⁷

120. The Advisory Committee is concerned about studies indicating that the number of Roma and Egyptian children remaining outside of the education system is still alarmingly high. A 2014 survey found that only 61.4 per cent of Roma and Egyptian children attended compulsory education. Roma and Egyptian children are five times more likely to be living in poverty than non-Roma children. Only about 50 per cent of Roma children complete their basic schooling and only one in six Roma children has a chance to complete middle school.⁸⁸ Roma girls are particularly affected, with only less than half of them continuing education past the fifth grade (age 12).⁸⁹ These figures, given in a UNICEF report, do not confirm the information contained in the State report which claims that the “participation and inclusion of the Roma children in the basic educational system has reached 87 per cent”.⁹⁰

Recommendation

⁸³ Decision of the Council of Ministers no. 29 "On the procedures of attending the basic education, part-time" of 8 February 2013, Decision of the Council of Ministers no. 31 "On enrolment procedures of the basic education for students who have not attended at least two classes of the basic education", dated 8 February 2013, Order No. 344, "On establishment of the psycho-social service unit" of 19 August 2013.

⁸⁴ Law No. 69 dated 21.06.2012 "On pre-university education system in the Republic of Albania".

⁸⁵ State report, p. 66.

⁸⁶ Institute of Public Opinion in Albania (ISOP) Report "Facing the Challenges of Inclusive Education in Albania", Tirana 2016, p. 39, available at https://www.unicef.org/albania/2016_ALB_study_report-Facing_the_challenges_of_inclusive-education.pdf.

⁸⁷ Decision of the Council of Ministers no. 638 dated 23.07.2015 "On admission quotas at public institutions of higher education in study programs in the first cycle, in professional non-university study programs and in the integrated study programs of the second cycle, full time as well as the tuition fees for the academic year 2015 - 2016".

⁸⁸ Kevin Byrne "Analysis of Policies and Reforms affecting the situation of children in Albania" (2014) pp. 7-8, available at https://www.unicef.org/albania/Analyses_of_policies_and_reforms_affecting_the_situation_of_children_Alb2014.pdf.

⁸⁹ Hazizaj A et al., op. cit. p. 58.

⁹⁰ State report, p. 31.

121. The Advisory Committee reiterates its call on the authorities to increase their efforts to tackle the difficulties facing Roma and Egyptian pupils, and in particular girls, in the education system at all levels and to offer additional support for measures in this regard. These undertakings should be monitored and evaluated on a regular basis. Representatives of these communities and parents should be effectively involved at all stages in education programmes, including their design, monitoring and evaluation.

Cultural diversity, teaching and learning materials

122. The Advisory Committee regrets to note that although teaching of tolerance, respect and openness towards other cultures is a part of the curriculum in primary schools, it does not necessarily promote actively the presentation of cultures and traditions of national minorities living in Albania. As a consequence, children may learn about cultures and traditions on other continents but have no knowledge about the culture and traditions of other Albanian citizens living in the same municipality or another region of the country.

123. Since 2011, the authorities have embarked on revision of 96 subject curricula in primary schools (grades 1-9). The curricula of the Albanian language, social studies, arts, sports, history and culture have been revised. The Advisory Committee welcomes that the module on Roma history and culture has been included for the first time in the school curriculum. However, the Advisory Committee notes that this module has been communicated only to about 300 teachers in Korçë and Gjirokastër, which would seem to suggest that it is to be used only optionally and only in those districts where Roma and Egyptian children live in greater number. Such an approach on the part of the authorities fails to seize the opportunity offered by the revision of curricula to teach about the history of co-existence of different ethnic groups in Albania, the development of cultural, social and economic relations within the country and in relation to neighbouring states. The Advisory Committee finds this deeply regrettable, as such knowledge would contribute to the integration of society.

Recommendation

124. The Advisory Committee urges the authorities to ensure a more comprehensive account of the history, cultures and traditions of national minorities in the school curricula at all levels of education, including by increasing the opportunities to learn about the country's history and cultural diversity.

Articles 13 and 14 of the Framework Convention

Teaching in and of minority languages and instruction in these languages

125. The Advisory Committee regrets that the situation on the ground as regards teaching in or of minority languages and instruction in these languages is limited. Public schools teaching in the Greek language exist only in Gjirokastër, Sarandë, Delvina, and Korçë counties.⁹¹ Teaching in the Macedonian language is carried out in six schools in the Korçë county. The Advisory Committee notes that currently, at the primary school entrance level, 90 per cent of classes are taught in a minority language and 10 per cent in Albanian. These rates are gradually reduced so that by the ninth grade, 60 per cent of the curriculum is taught in a minority language and 40 per cent in Albanian.⁹²

⁹¹ State report, pp. 74-75.

⁹² UNICEF "Child Notice Albania", p. 35, available at <https://www.unicef.nl/files/unicef-child-notice-albania.pdf>.

126. Teaching in these education institutions is regulated by the law on pre-university education,⁹³ which in principle guarantees to persons belonging to national minorities the right to learn a minority language, or to receive instruction in it. In accordance with this law, decisions on opening and closing educational institutions teaching in languages of national minorities are made by the Council of Ministers, at the proposal of the Minister of Education.⁹⁴

127. Apart from teaching in the Greek and Macedonian languages, and to a limited extent the Romani language, currently no teaching in or of other minority languages exists in Albania. Multiple demands on the part of representatives of national minorities have been turned down by the authorities. For example, the Serb Association of Albania "Jedinstvo" has made constant demands for the introduction of the Serbian language teaching in the "Kozma Ndreçko" school in Libofshë as an elective school subject.⁹⁵ Although the Ministry of Education gave its approval for the introduction of Serbian language classes, the Regional Educational Directorate of Fier did not authorise the school in question to do so. In a similar case, the Regional Educational Directorate of Bulqizë did not authorise teaching in the Macedonian language in Trebisht, requested by 45 parents and supported by the Most Association.⁹⁶

128. In Himarë, the Omiros School, teaching in the Greek language since 2006,⁹⁷ continues to function as a private school, with the support of the Greek authorities and charitable donations of the Greek diaspora.⁹⁸ It has failed, however, to obtain the authorities' commitment to establish a public school there, teaching in the Greek language. Other private educational establishments include the "Holy Cross" and "Spirit of Love" schools in Durres, "Omiros" and "Platon" schools in Korçë, "Arsakeio" and "Protagonists" (12 grade school) in Tirana, "Omiros" school in Vlorë, "Holy Cross" school in Gjirokastër and "Spirit of Love" school in Delvina. Teaching of the Bosnian language in the public school in Shijak was only possible due to a private sponsoring and financing of the language teacher. Regrettably, that school had to be closed due to its dilapidated state.

129. The Advisory Committee welcomes the fact that teacher training courses for teachers in minority language schools continue to be organised by the Regional Education Directorates in Korça and Gjirokastër. The curricula for schools teaching in national minority languages have also been reviewed⁹⁹ and syllabi duly adapted.¹⁰⁰ It has to be noted, however, that according to representatives of national minorities, provision of textbooks in Greek and Macedonian languages has not kept up with these changes. In this context, the Advisory Committee notes that Albania and Greece co-operate bilaterally on the textbooks which are to be used in schools using Greek as the language of instruction with Greece providing to the Albanian authorities textbooks used in schools in Greece on history, geography, language, literature, culture, and economics.¹⁰¹ According to the State report, the Ministry of Education and Science established in 2012 the BOTEM publishing

⁹³ Law no. 69, "On pre-university education system in the Republic of Albania", dated 21 June 2012.

⁹⁴ State report, p. 72.

⁹⁵ Letter of the Serbian association "Jedinstvo" to the Ministry of Education, available at <http://www.identitet.al/en/shkrese-e-shoqates-jedinstvo-drejtuar-ministrise-se-arsimit/>.

⁹⁶ Annex 4 to the State report – Additional information provided by Commissioner for Protection from Discrimination, p. 13.

⁹⁷ Parliamentary Assembly of the Council of Europe "Report on Honouring of obligations and commitments by Albania", dated 20 December 2006.

⁹⁸ See for example Himarrioton Society of America "Donations & Fundraising", available at <http://himarriotonsocietyny.org/donations-fundraising/>.

⁹⁹ Order No. 186 of the Minister of Education and Science "On determining the curriculum for national minorities", of 15 May 2015.

¹⁰⁰ Instruction No. 16, of the Minister of Education and Science "For the start of 2016-2017 school year".

¹⁰¹ See information contained in the State report on the 2nd Meeting of the Albanian-Greek Joint Committee, held in Tirana on 19 November 2014.

house that deals only with publication of textbooks to be used in schools using Greek as the language of instruction. These textbooks are distributed to children free of charge.

130. Few Romani language classes are taught in Albania now. According to the information available on the official website of the Municipality of Elbasan, in 2015 an elective course of Romani language was introduced in the curricula of the 9-year elementary school "Hamit Mullisi" in Elbasan. According to this source, around 269 students are enrolled in the school, out of whom 57 belong to the Roma community. The Advisory Committee notes with interest that development of a curriculum for teaching Romani language and culture in primary and secondary schools has been identified as one of the priorities of the National Action Plan for the Integration of Roma and Egyptians in Albania, 2015-2020, to be implemented by the Ministry of Education and Science. In this context, it also welcomes that an Institute of Romani Language has been opened at the "Alexander Xhuvani" University in Elbasan, and that in 2018 the first graduates will have completed their studies.

131. The new Law on the Protection of National Minorities adopted in October 2017 introduced important changes to legal guarantees in the field of national minority education. The Advisory Committee welcomes that the right to learn the minority language will henceforth apply to all national minorities recognised in Albania. Also the law clearly departs from the prior practice of allowing for the establishment of schools teaching in and of national minority languages only in "the former minority zones".

132. The Advisory Committee notes that the above provision can only be made operational by the adoption of the Council of Ministers' decisions on the criteria for determining the local self-governing unit, the substantial number and the adequate requests, and on measures in the field of education and scientific research aimed at fostering the recognition of the culture, history, language and religious faith of the national minorities and the majority.

133. The Advisory Committee notes that the draft decision of the Council of Ministers on "the criteria for determining the self-governance units, essential number and sufficient demand from national minorities for education in the language of national minorities" determines the minimum number of students to be educated in a language of national minority at no less than 15 per class (with exceptions possible in case of smaller classes by a decision of the Minister of Education). Moreover, the draft Council of Ministers' decision stipulates that "the Ministry of Interior shall determine the criteria of location, number of inhabitants, number of children under the age of 16, and the number of parents/custodians, who have been issued a certificate from the Prefect certifying that they are part of a national minority". The Advisory Committee notes these provisions with deep concern and considers them incompatible with the principle of free self-identification enshrined in Article 3 of the Framework Convention.

Recommendations

134. The Advisory Committee calls on the authorities to create the conditions for teaching in or of all languages spoken by persons belonging to national minorities. It calls on the authorities to take into account, when considering policies on teaching national minority languages, the relevant comments of the Advisory Committee outlined in the thematic commentary on education, in particular as regards numerical thresholds, availability, accessibility, acceptability and adaptability of schools.

135. The Advisory Committee calls on the authorities to apply thresholds established for the purpose of opening classes teaching in or of national minority languages in a flexible manner. The principle of free self-identification of persons asking for opening of classes or schools teaching in or of a language of national minority should be strictly respected.

136. The Advisory Committee calls on the authorities to ensure that an adequate supply of textbooks in minority languages is available at all levels of education.

137. The Advisory Committee calls upon the authorities to develop the curriculum for teaching Romani language and culture in primary and secondary schools and to continue to take the necessary measures to extend the teaching of the Romani language as well as train teaching staff and develop appropriate materials for teaching the Romani language.

Article 15 of the Framework Convention

Government bodies responsible for minorities and dialogue with minorities

138. The existing State Committee on Minorities does not fulfil its function as a representative body of national minorities, and the authorities acknowledge this fact.¹⁰² Identified shortcomings include a lack of representativity, of recourse to state institutions involved in drafting state policies or strategies for minorities (including the absence of an obligation on their part to seek the Committee's views when drafting such policies and strategies), the lack of a mechanism for involving the Committee in the work of local authorities and the absence of any decision-making functions.

139. The Law on the Protection of National Minorities adopted in October 2017 foresees the establishment of a new Committee on National Minorities, under the auspices of the Prime Minister, to be composed of representatives of all recognised national minorities. Each national minority is entitled to be represented by one member, to be appointed for a period of four years by the Prime Minister from among the candidates fielded by the associations representing them. The number of mandates of members of the committee is not restricted. The Prime Minister shall also directly appoint a chairperson and a deputy chairperson of the committee. The Advisory Committee notes with concern that procedures and rules for the development of this process shall be regulated by a decision of the Council of Ministers, as proposed by the Prime Minister, and therefore will not allow for a truly independent committee.

140. The law stipulates that the future Committee on National Minorities will be a consultative organ whose competences will include (among others) making recommendations and providing opinions regarding draft legislation, policies and programmes related to the rights of national minorities, making recommendations to the Council of Ministers, ministries and other central institutions, as well as to bodies of local governance on issues related to national minorities, submitting periodic reports to Parliament on the situation of national minorities, monitoring implementation of the legal framework and state policies on national minorities and raising awareness of the rights of persons belonging to national minorities and strengthening dialogue with the national minority associations. Members of the Committee on National Minorities will be employed as full-time civil servants and will receive salaries for performing their work.

¹⁰² State report, p. 78.

141. The Advisory Committee further regrets to note that the law on national minorities does not address the issue of consultative mechanisms for persons belonging to national minorities at the local level. This is most regrettable as many issues, in particular those concerning education, use of national minority languages in contacts with local administration and for topographic indications, are within the competence (or the shared competence) of LGUs. The Advisory Committee also regrets that the absence of any institutionalised consultative mechanism jeopardises the implementation of the National Action Plan for the Integration of the Roma and Egyptians 2016-2020.

Recommendations

142. The Advisory Committee invites the authorities to establish a transparent, inclusive and independent process of selection of candidates for the Committee of National Minorities and to proceed with their appointment without any undue delay. The authorities should aim to ensure that membership of the committee is truly representative and capable of voicing the diverse concerns of persons belonging to national minorities. Such bodies need to represent also diversity within minorities.

143. The Advisory Committee further calls on the authorities to consider reviewing and revising the law on national minorities with a view to establishing consultative mechanisms at the local level for persons belonging to national minorities.

Political participation: electoral representation and process

144. The electoral law in Albania does not contain any special provisions facilitating elections of persons belonging to national minorities. Nonetheless, a number of political parties represent interests of persons belonging to national minorities and participate actively in the political life of the country. In the parliamentary elections in 2017, the Human Rights Union Party (HRUP), representing interests of persons belonging to the Greek minority, joined forces with the Democratic Party (DP). Following an agreement between these two parties, the HRUP chairperson accepted a prominent position on the DP list in Vlorë, and another HRUP member was included on the DP list in Korçë. The Macedonian Alliance for European Integration (AMIE) decided to support the Socialist Movement for Integration (SMI) with a candidate on its list in Korçë. The Advisory Committee further notes that the Greek Minority for the Future (MEGA) party, the only party on the ballot representing a national minority, used its free airtime on the RTSH half in the Albanian language and half in the Greek language.¹⁰³

145. In the 2015 local elections, HRUP presented candidates in 36 municipalities,¹⁰⁴ MEGA in four¹⁰⁵ and AMIE in 16 municipalities.¹⁰⁶ HRUP and MEGA presented also seven candidates for mayors.¹⁰⁷ The Advisory Committee notes that a number of candidates representing national minorities were successful, with HRUP winning seats in municipal councils in Finiq (six), Himarë (four), Dropull (three), Konispol (one), Mirditë (one) and Sarandë (one). MEGA won seats in

¹⁰³ Statement of Preliminary Findings and Conclusions of the International Election Observation Mission in the Republic of Albania – Parliamentary Elections, 25 June 2017, available at <https://www.osce.org/odihr/elections/albania/325491?download=true>.

¹⁰⁴ These were: Finiq; Fushë-Arrëz; Gjirokastrë; Gramsh; Has; Himara; Kavaja; Këlcyra; Klos; Konispol; Korçë; Kucova; Kukes; Kurbin; Lezha; Libohova; Librazhd; Malësi e Madhe; Mat; Mirdita; Patos; Përmet; Pogradec; Poliçan; Prrenjas; Puka; Roskovec, Saranda; Selenicë; Shkodra; Tirana; Tropoja; Vlorë.

¹⁰⁵ Dropull, Finiq, Konispol, Saranda.

¹⁰⁶ Belsh, Berat, Bulqiza, Devoll, Elbasan, Kavaja, Korçë, Kuçovë, Lushnje, Maliq, Pogradec, Prrenjas, Pustec, Shijak, Tiranë, Ura Vajgurore.

¹⁰⁷ The municipalities where HRUP presented mayoral candidates: Dibër, Dropull, Finiq, Himare, Konispol. The municipalities where MEGA presented mayoral candidates: Dropull, Finiq.

municipal councils in Pustec (seven), Dropull (one) and Sarandë (one), while AMIE won seats in Pustec (seven), Pogradec (one) and Maliq (one). Finally, MEGA's candidate became the mayor of Finiq while the Chairman of the AMIE Party won the post of the mayor of Pustec.

146. The Advisory Committee welcomes that the new Law on the Protection of National Minorities confirms the right of persons belonging to national minorities to establish and take part in political parties, associations and other civil organisations with a view to expressing and protecting their interests and to be elected to representative bodies at central and local levels.

147. Moreover, in LGUs where persons belonging to national minorities make up over 20 per cent of the population, Article 15 of the law on national minorities specifically authorises the use, alongside the Albanian language, of the language of the national minority "to provide information on the progress of the electoral process". The law also stipulates that the Central Election Commission shall adopt acts regulating "the provision of information in the language of the minority on the progress of the electoral process". The Advisory Committee regrets that restriction of the use of languages of national minorities to LGUs where persons belonging to national minorities make up over 20 per cent of the population would deprive many candidates of the right to communicate with their electorates in a minority language.¹⁰⁸ In fact, most of the candidates representing parties of national minorities, such as HRUP, MEGA and AMIE, who participated in the 2015 local elections, would be deprived of this right.

148. Also, the Advisory Committee notes that the Central Election Commission did not issue, in the eleven months that followed the adoption of the law on national minorities, acts regulating "the provision of information in the language of the minority on the progress of the electoral process". As no elections were held in that period, there were no negative consequences so far for persons belonging to national minorities. Nonetheless, the Advisory Committee recalls that without such acts the aforementioned legislative provision remains ineffective. The Advisory Committee considers that the rights of persons belonging to national minorities would be protected more effectively if the decisions of the Council of Ministers implementing the Law ensured that political parties representing, or promoting the interests of, persons belonging to national minorities have adequate opportunities to campaign during elections, in line with the guidance of the Advisory Committee expressed in its thematic commentary on effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs.¹⁰⁹

149. Finally, the Advisory Committee regrets that numerically smaller minorities, in particular the Roma, do not benefit from effective political representation, at either national or local levels. According to information obtained from Roma representatives, two Roma councillors were elected to local councils in the last elections.

Recommendations

150. The Advisory Committee calls on the authorities to consider reviewing and revising the law on national minorities with a view to authorising the use of national minority languages by all candidates participating in elections.

¹⁰⁸ Thematic Commentary No. 2 on effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, para. 77, available at <https://rm.coe.int/16806b6a0b>.

¹⁰⁹ Thematic Commentary No. 2 on effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, para. 92.

151. Substantial efforts should be made to promote better representation of the Roma and Egyptians at all levels. In addition, particular attention should be paid to the representation of persons belonging to numerically smaller minorities.

Participation of national minorities in economic and social life

152. The socio-economic situation of most national minorities living in Albania does not diverge from the majority population. With the exception of the Roma and Egyptians, persons belonging to various ethnic groups making up Albanian society participate fully in economic, social and cultural life. Regrettably, Roma and Egyptians continue to be excluded from effective participation in socio-economic life. Unemployment among them is a source of grave concern. According to various non-governmental sources, more than 70 per cent of Roma and Egyptians in Albania are unemployed. This is five times more than the general rate of unemployment in the country. The only way for many Roma to earn any income is to participate in the "grey economy". Factors contributing to this state of affairs include discrimination, lack of education and qualifications, as well as general impoverishment and underdevelopment of regions inhabited by the Roma.

153. Consequently, according to self-declarations of monthly household income, made during the survey "Roma Population and Housing in Albania", the average income of a Roma household appears to be quite low compared with the minimum wage (19,000 LEK/ month in 2014). About 48 per cent of Roma households reported that they have less than 10,000 LEK monthly income, followed by 35 per cent of the households reporting less than 20,000 LEK of monthly income. The results indicate that less than one per cent of Roma households declare incomes up to 50,000 LEK per month.¹¹⁰

154. The 2015 National Action Plan for the Integration of the Roma and Egyptians 2016-2020 continues to be the main operating tool for the implementation of governmental policies, with active Roma participation, in the fields of culture, improving living and health conditions and reducing unemployment (see Article 4). In addition, projects aimed at improving employment and social cohesion, increasing the education level and reducing social exclusion of the Roma continue to benefit from financing available from the European Social Fund.¹¹¹ The Advisory Committee recalls in this context that "due to the centrality of effective participation of national minorities in public life, particular attention must be paid to ensure that the views and concerns within the various minority communities are adequately taken into account."¹¹²

155. As regards access to employment, the Action Plan aims at improving Roma participation in the labour market by training aimed at skills development conducted in the framework of the Vocational Education and Training and the Employment Promotion Programmes implemented by the Ministry of Social Welfare and Youth. Vocational training is provided to registered unemployed jobseekers and the Roma free of charge by the Regional Directorates of Public Vocational Training.¹¹³ However, according to available information most unemployed Roma remain unregistered. According to the State report,¹¹⁴ the authorities intended to introduce tax breaks for private companies employing people from the Roma and Egyptian communities. The Advisory

¹¹⁰ Annex 4 to the State report «Additional information provided by Commissioner for Protection from Discrimination», p. 9.

¹¹¹ Instrument for Pre-Accession Assistance (IPA II) 2014-2020 "Albania - Economic and Social Empowerment for Roma and Egyptians - a booster for social inclusion (ESERE)", available at <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/albania/ipa/2015/20160126-economic-and-social-empowerment-of-roma-and-egyptian-communities.pdf>.

¹¹² Thematic Commentary No. 4 on the on the Scope of Application of the Framework Convention (2016), para. 77.

¹¹³ Council of Ministers order No. 286 "On the tariffs of public vocational training system" dated 16 December 2013.

¹¹⁴ State report, p. 41.

Committee regrets to note that, according to the information at its disposal, no follow-up was given to this proposal.

Recommendation

156. The Advisory Committee urges the authorities to intensify measures aimed at promoting access to employment for Roma and Egyptians. Specific vocational training is needed to support the long-term unemployed. Measures must be closely co-ordinated with Roma and Egyptians themselves at the national, regional and local levels. Solutions should be found to promote training opportunities among unregistered unemployed.

Article 16 of the Framework Convention

Territorial reform

157. In 2014, an administrative and territorial reform was implemented in Albania with the aim of increasing the efficiency of local administrative-territorial units, so as to enable local authorities to provide better services to citizens. The number of units was reduced from 373¹¹⁵ to 61 by the law on administrative-territorial division of the local government units (LGUs).¹¹⁶ In consequence, the average population of an LGU increased from 7,579 inhabitants in 2011 (calculated on the basis of the 2011 census) to 46,422 inhabitants after the reform. The territorial-administrative reform was supported by the UNDP, the Council of Europe, the World Bank, the Organisation for Security and Cooperation in Europe and other international institutions and was deemed necessary as one of the preconditions towards EU integration and accession.

158. The Advisory Committee notes further that when planning the new administrative-territorial division of the country, the authorities have taken due care to maintain the demographic structure in the three newly created LGUs where persons belonging to national minorities constitute majorities of local populations. These three LGUs are: Finiq in the Vlorë county, Dropull in the Gjirokastrë county (in both cases persons belonging to the Greek national minority are in the majority) and Pustec in the Korçë county, (inhabited predominantly by persons belonging to the Macedonian national minority).¹¹⁷

159. The Advisory Committee deeply regrets, however, that no consideration was given to the impact of the reform on the proportions of the population in areas where persons belonging to national minorities constitute a substantial, albeit minority part. Such areas can easily be identified by the electoral results in local elections of candidates representing political parties defending the interests of persons belonging to national minorities. Such LGUs include: Himarë, Konispol, Sarandë, Pogradec and Maliq. According to the Advisory Committee's interlocutors, in none of the above LGUs were the views of the local population on the proposed mergers with adjoining LGUs inhabited primarily by persons belonging to the majority taken into account. In consequence, a number of former small communes, where persons belonging to national minorities constituted substantial minorities, were merged with adjacent ones inhabited primarily by the majority.

¹¹⁵ Before the reform, the first level of local government in Albania was composed of 65 municipalities and 308 communes. Municipalities and communes had equal functions, competencies and responsibilities.

¹¹⁶ Law no. 115/2014 "On Administrative-Territorial Division of the Local Government Units in the Republic of Albania" of 31 July 2014.

¹¹⁷ State report, p. 81.

160. The law on local self-government¹¹⁸ provides for community structures that can be setup in the urban LGUs (Article 68) and in the rural LGUs (Article 70). According to the State report,¹¹⁹ neighbourhood community councils have been set up on a voluntary basis in some municipalities and perform the tasks conferred on them by the municipal councils. The municipal councils may also decide on establishing joint or unified neighbourhood community councils for two or more neighbourhoods. The Advisory Committee welcomes these provisions and considers that they may constitute an indispensable element in the structure of local democracy that would enable persons belonging to national minorities to express their concerns and to access rights under the law on national minorities and the Framework Convention. In particular, the Advisory Committee encourages the authorities to make full use of the above legislative provisions. It also holds a principled view that, in order to guarantee effective access to rights, the thresholds for determining the areas inhabited by persons belonging to national minorities in substantial numbers should be applied to local communities (neighbourhoods) and not to local government units (see related comments under Articles 10, 11 and 14).

161. Given the demographic situation of Albania and the pattern of residence of persons belonging to national minorities, some rights contained in the law on national minorities can only be accessed in three out of 61 municipalities. This indicates that in order for the rights to be effectively enjoyed, and not only declared in an inapplicable law, the basic territorial unit to be taken to determine the areas inhabited by persons belonging to national minorities in substantial numbers must be that of a local community (neighbourhood).

Recommendation

162. The Advisory Committee strongly urges the authorities to review, in consultation with representatives of national minorities, the impact of the administrative and territorial reform on access to rights by persons belonging to national minorities. In particular, the Advisory Committee calls on the authorities to apply in a flexible way the 20 per cent threshold, which conditions access to certain rights, to local communities (neighbourhoods).

Article 18 of the Framework Convention

Bilateral co-operation

163. A number of bilateral agreements with neighbouring and other States further co-operation on issues pertaining to national minority protection, in particular in the fields of culture and education. In particular, the Advisory Committee notes the signing on 2 July 2015 of the "Agreement between the Government of the Republic of Albania and the Government of the Republic of Macedonia for cooperation in education and science".¹²⁰ This agreement provides for co-operation between the two States with the aim of teaching in the language of the national minority, in accordance with domestic law, but taking into account the Framework Convention. The Advisory Committee further notes that Albania and Greece co-operate bilaterally on the issues pertaining to education with beneficial effect for children learning in the Greek language. The Advisory Committee wishes nonetheless to recall that the protection of national minority rights in any State is primarily a responsibility of that State. In no case should it be dependent on the condition of bilateral relations, or the conclusion of specific agreements between States.

¹¹⁸ Law No. 139/2015 "On Local Self-Government" of 17 December 2015.

¹¹⁹ State report, p. 59.

¹²⁰ State report, p. 82.

164. The Law on the Protection of National Minorities, adopted in 2017, confirms that persons belonging to national minorities shall enjoy the right to establish and maintain free and peaceful contacts with persons outside the borders of the Republic of Albania with whom they share the same ethnic, cultural, linguistic or religious identity or cultural heritage.¹²¹ The law also anticipates that Albania may conclude, where necessary, bilateral and multilateral agreements with other States, in order to ensure the protection of persons belonging to national minorities. Such agreements shall be, in principle, the subject of consultation with the Committee on National Minorities.¹²²

Recommendation

165. The Advisory Committee encourages the authorities to implement the existing bilateral agreements and to continue to promote bilateral co-operation on issues pertaining to minority protection in the spirit of good neighbourliness, friendly relations and co-operation between States, whilst respecting the role of multilateral standards and procedures.

¹²¹ Article 17 “International Agreements”.

¹²² See Thematic Commentary No. 4 on the on the Scope of Application of the Framework Convention (2016), para. 36.

III. Conclusions

166. 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 Albania.

167. 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.¹²³ In particular, they should take the following measures to improve further the implementation of the Framework Convention:

Recommendations for immediate action¹²⁴

- **Adopt without any further delay the secondary legislation necessary to make the Law on the Protection of National Minorities operational, in conformity with international human rights standards and in particular the provisions of the Framework Convention on National Minorities;**
- **Respect strictly the principle of free self-identification; cease to rely exclusively on archival data and civil registry "evidence" to verify the authenticity of the self-declarations of persons belonging to national minorities; repeal legislative provisions, ahead of the 2021 census, on sanctions for "incorrect" answers to the question on ethnic affiliation (nationality), so as to enable respondents to avail themselves of the right to free self-identification, as contained in Article 3 of the Framework Convention;**
- **Increase efforts to prevent and combat the inequality and discrimination suffered by Roma and Egyptians; take additional measures, in particular at local level and in consultation with Roma and Egyptians' representatives, to improve the living conditions, access to employment, education and healthcare of Roma and Egyptians and to promote the integration of society;**
- **Ensure effective access to the right to education, including for numerically smaller national minorities; respect strictly the principle of free self-identification of persons asking for opening of classes or schools with teaching in or of a national minority language; ensure that an adequate supply of textbooks in minority languages is available at all levels of education;**
- **Review, in consultation with representatives of national minorities, the impact of the administrative and territorial reform on access to rights by persons belonging to national minorities; apply the 20 per cent threshold, which conditions access to certain rights, to local communities (neighbourhoods) in a flexible way.**

¹²³ A link to the Opinion is to be inserted in the draft resolution before submission to the GR-H.

¹²⁴ The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

Further recommendations¹²⁵

- ensure adequate funding for the effective implementation of the National Action Plan for the Integration of the Roma and Egyptians 2016-2020 and other infrastructure projects affecting national minorities;
- take special and targeted actions to protect women and children belonging to vulnerable communities from exploitation and abuse; ensure that they have effective access to free legal aid and the justice system;
- ensure that public radio and television networks expand their offers in order to include minority language programmes, in line with the relevant provisions of the Framework Convention;
- ensure that the competence to make decisions on the use of minority languages in relations with the administrative authorities and for topographic indications and other signage is vested, in line with Articles 68 and 70 of the Law on Local Self-government, in neighbourhood community councils;
- adopt the decisions on the procedures and rules for the establishment and functioning of the Committee on National Minorities; consider reviewing and revising the law on national minorities with a view to establishing consultative mechanisms for persons belonging to national minorities at local level.

¹²⁵ The recommendations below are listed in the order of the corresponding articles of the Framework Convention.