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

(adopted on 18 March 2010)

AND

**COMMENTS OF THE GOVERNMENT OF BULGARIA ON THE SECOND
OPINION OF THE ADVISORY COMMITTEE ON THE IMPLEMENTATION
OF THE FRAMEWORK CONVENTION FOR THE PROTECTION OF
NATIONAL MINORITIES BY BULGARIA**

(received on 3 January 2011)

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

(adopted on 18 March 2010)

EXECUTIVE SUMMARY

Since the adoption of the Advisory Committee's first Opinion in May 2004, some steps have been taken by the Bulgarian authorities to bring about reforms pertaining to minority protection. The legal and institutional framework has been strengthened by the adoption of the Protection against Discrimination Act which, together with the establishment of the Commission for Protection against Discrimination, provides a clear legal basis for protection against discrimination, including in the field of employment.

Persons belonging to national minorities continue to participate actively in the political life of Bulgaria.

The authorities have shown increased attention to the question of co-operation with organisations representing national minorities, most notably through the National Council for Co-operation on Ethnic and Demographic Issues, though there are serious shortcomings in its activities.

Problems remain as regards the implementation of some provisions of the Framework Convention, in particular those concerning the personal scope of application due to the non-recognition of the existence in Bulgaria of the Pomak and Macedonian minorities.

The Roma are confronted with discrimination and are frequently the victims of racially-motivated offences. Cases of ill-treatment by the police have been reported. Given the climate of intolerance that is developing in Bulgaria, the authorities must proceed vigorously so as to promote intercultural dialogue and combat all forms of intolerance, including in the media and in political discourse. Furthermore, the Roma continue to face wide spread prejudice in society, and the authorities have not taken effective measures to combat cases of hate speech directed at them in the press.

The TV and radio programmes which are currently broadcast in minority languages are insufficient to meet the needs of persons belonging to national minorities. In addition, the situation with regard to the use of minority languages for topographical indications and in dealings with the administrative authorities has not improved in Bulgaria since the first monitoring cycle. The changes recommended by the Committee of Ministers ResCMN(2006)3 to the legislative provisions in these areas have not been enacted.

In the last few years, Bulgaria has developed a number of programmes to implement the National Action Plan 2005-2015 under the Decade of Roma Inclusion. These programmes, which aim to improve the socio-economic status and social inclusion of Roma in the society have not achieved thus far satisfactory results. Cases of forced evictions of Roma without the proposition of alternative accommodation, continue to be reported.

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

SECOND OPINION ON BULGARIA

1. The Advisory Committee adopted the present Opinion on 18 March 2010 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 State Report (hereinafter the State Report), received on 23 November 2007,¹ and other written sources and on information obtained by the Advisory Committee from governmental and non-governmental contacts during its visit to Sofia and Plovdiv from 28 September to 2 October 2009.
2. Section I below contains the Advisory Committee's main findings on key issues pertaining to the implementation of the Framework Convention in Bulgaria. These findings reflect the more detailed article-by-article findings contained in Section II, which covers those provisions of the Framework Convention on which the Advisory Committee has substantive issues to raise.
3. Both sections make extensive reference to the follow-up given to the findings of the first cycle of monitoring of the Framework Convention, contained in the Advisory Committee's first Opinion on Bulgaria, adopted on 27 May 2004, and in the Committee of Ministers' corresponding Resolution, adopted on 5 April 2006.
4. The concluding remarks, contained in Section III, could serve as the basis for the Committee of Ministers' forthcoming conclusions and recommendations on Bulgaria.
5. The Advisory Committee looks forward to continuing its dialogue with the authorities of Bulgaria 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.
6. The Advisory Committee would also like to bring to the attention of State parties that on 16 April 2009, the Committee of Ministers adopted new rules for the publication of the Advisory Committee's Opinion and other monitoring documents, aiming at increasing transparency and at sharing the information on the monitoring findings and conclusions with all the parties involved at an early stage (see Resolution CM/Res(2009)3 amending Resolution (97) 10 on the monitoring arrangements under Articles 24-26 of the Framework Convention for the Protection of National Minorities).

¹ Due on 1 September 2005

I. MAIN FINDINGS

Monitoring process

7. The Advisory Committee welcomes the Bulgarian authorities' willingness to pursue, in the context of the second cycle of monitoring of the Framework Convention, the dialogue on the implementation of this Convention in Bulgaria. The Advisory Committee welcomes the consultation of representatives of national minorities, notably in the framework of the National Council for Ethnic and Demographic Issues (NCCEDI) in the preparation of the second State Report. It regrets, however, that the State Report was submitted with a delay of over two years.

8. It is unfortunate that representatives of national minorities and Bulgarian civil society were able to acquaint themselves only with great difficulty with the findings of the first cycle of monitoring of the application of the Framework Convention contained in the Opinion of the Advisory Committee and the government's comments thereon, as the translation of these documents into the Bulgarian language was not readily accessible on any of the web-sites of the institutions competent for minority protection. The Advisory Committee further regrets that these documents were not translated into any of the minority languages used in Bulgaria. As well as making the Advisory Committee's dialogue with the relevant non-governmental contacts more difficult, this situation has also had an adverse impact on the effectiveness of the monitoring of the Framework Convention. It is essential that, in future, the authorities take more decisive measures to inform the public and raise awareness of the findings of the monitoring process, *inter alia*, by translating the relevant documents, such as the Opinion of the Advisory Committee, the State Comments and the corresponding Resolution of the Committee of Ministers.

9. Without the publication and dissemination of information about the first cycle and adoption of the first Resolution by the Committee of Ministers, the Bulgarian authorities were unable to hold a follow-up seminar bringing together representatives of the various government bodies concerned, national minorities and the Advisory Committee, in order to consider the most appropriate ways of applying the findings of the monitoring process. The experience of the first monitoring cycle in respect of several countries shows that, on the one hand, such activities foster constructive dialogue at national level regarding the implementation of the Framework Convention, and, on the other hand, they raise awareness and give the various groups concerned a better understanding of the issues surrounding national minorities.

Personal scope of application of the Framework Convention

10. The Advisory Committee notes that the Bulgarian authorities do not recognise the existence of the Pomak and Macedonian minorities as such, despite their request presented to the Advisory Committee that they should be protected by the Framework Convention as national minorities.

11. The Advisory Committee notes that the scope of application of the Framework Convention remains a subject of discussion and that the authorities should demonstrate a more flexible, open and inclusive approach to the persons who express the wish to benefit from its protection.

General legislative framework and institutional arrangements

12. The Advisory Committee welcomes the establishment of the Directorate for Ethnic and Demographic Issues (DEDI) responsible for the elaboration and implementation of the government policy for integration of persons belonging to ethnic minorities and providing the

necessary organisational and technical support for the activities of the National Council for Co-operation on Ethnic and Demographic Issues.

13. The adoption of the Protection against Discrimination Act (CPD), together with the establishment of the Commission for Protection against Discrimination, provides a clear legal basis for the protection against discrimination, including in the field of employment. The consistent application by the judges of the shifting of the burden of proof principle in cases of discrimination and the provision allowing non-profit making public interest organisations to litigate on their own behalf, when the rights of many are infringed upon, have significantly strengthened effective protection for the victims of discrimination.

14. The Advisory Committee welcomes the establishment in 2005 of the Commission for Protection against Discrimination which has been empowered, together with the courts, to enforce the Act and in particular to receive complaints from individuals, make rulings on infringements, issue binding instructions on the application of the anti-discrimination legislation, decree measures to be taken to terminate established infringements, and apply pecuniary fines.

15. The Advisory Committee notes, however, that the Office of the Ombudsman established in 2004 plays no significant role in the protection of persons belonging to national minorities in Bulgaria. According to the information available to the Advisory Committee, neither the National Office in Sofia, nor the local ombudsman in Plovdiv, where the number of persons belonging to the Roma is quite substantial and where there are significant problems affecting them, deal with minority complaints.

Tolerance and intercultural dialogue

16. The National Council for Co-operation on Ethnic and Demographic Issues is the main institution which is responsible for coordinating policies related to intercultural dialogue. It facilitates co-operation between State bodies and NGOs of different minority groups and considers policy proposals submitted by other governmental departments. The National Council monitors, analyses and coordinates measures aimed at preserving and strengthening tolerance and understanding and creating conditions which ethnic minorities in Bulgaria need in order to sustain and develop their culture, as well as to preserve the most important elements of their identity: religion, language, traditions and cultural heritage.

17. Action plans were developed by the Ministry of Education and Science for the school year 2008/2009 to provide various means for kindergarten and elementary level students to learn about the history and culture of ethnic minorities, to integrate intercultural education in the curricula of the humanities courses and to examine existing curricula, with a view to eliminating references to ethnocentrism, negative stereotypes and hate speech. The Advisory Committee also notes the activities designed to achieve sustainable and cultural integration of the Roma in Bulgarian society under the National Action Plan on the Roma Inclusion Decade.

18. Some printed and electronic media continue to incite intolerance, and sometimes hatred, notably with regard to the Turkish and Roma minorities. The Advisory Committee is particularly concerned that despite numerous sanctions applied against the broadcasters in question, they continue to broadcast intolerant and discriminatory views against persons belonging to these ethnic minorities. Newspapers such as *Ataka*, *Nova Zora*, and *Novinar* continue to publish articles which perpetuate the negative stereotype of Roma. There is an unacceptable complacency on the part of the Bulgarian Press Ethics Commission which has not taken any action even in the most deeply disturbing cases of hate speech.

Police and ethnically-motivated incidents

19. According to the information available to the Advisory Committee by NGOs there has been a marked reduction of ill-treatment of detainees by police since the adoption of the first Opinion on Bulgaria. The number of complaints of ill-treatment by police during and after arrest decreased by almost 50% in the first half of the decade. The National Institute of Justice developed a training programme on “Human Rights: Guarantees of Protection against Discrimination” as a part of the compulsory training of judges, prosecutors and investigating magistrates. The police receive similar training in the framework of the courses delivered by the Academy of the Ministry of Interior.

20. Despite recent improvements in this regard, cases of police brutality against Roma and failure to investigate them properly continue to be reported. These cases include shootings, death while in police custody and excessive use of force resulting in death. Cases of forced evictions, such as that of some forty Romani households from the Gorno Ezerovo district of Bourgas on 8 September 2009, without adequate alternative accommodation being proposed are a matter of serious concern. Additionally, excessive police raids on Roma homes after which no charges were brought against any police officers, despite the victims of physical violence being in possession of medical certificates attesting their injuries, remain a matter of serious concern.

21. The Advisory Committee considers in this regard that the authorities should review the administrative and judicial mechanisms in place in cases of offences allegedly committed by police officers so as to ensure that a reliable and independent complaint system is introduced to undertake prompt, impartial and effective investigations into allegations of ill-treatment by the police. They should also intensify awareness-raising measures for law enforcement officials on human rights standards and on the inadmissibility of meting out collective punishment.

Support for minority cultures

22. The Advisory Committee welcomes the efforts made by the authorities who allocate annual resources for promoting and developing the traditions and cultures of national minorities.

23. However, it considers that the public financial support for national minorities is limited and insufficient, in particular with regard to the numerically smaller groups.

Use of minority languages in the public sphere

24. The Advisory Committee notes that public television services continue to broadcast some programmes addressed to persons belonging to minorities, including in their languages. The Advisory Committee regrets however, that the programmes currently broadcast in minority languages are not sufficient to meet the needs of persons belonging to national minorities in Bulgaria.

25. The Advisory Committee notes with regret that the situation with regard to the use of minority languages for topographical indications and in dealings with the administrative authorities has not changed in Bulgaria since the first monitoring cycle. According to the information available to the Advisory Committee, there have been no changes to the legislative provisions in these areas, as recommended by the Committee of Ministers ResCMN(2006)3, and the authorities have not carried out any studies into the demand and have not assessed the existing needs in the geographical areas inhabited by a substantial number of persons belonging to national minorities. The Advisory Committee considers that the existing situation with regard to the use of minority languages for topographical indications and in dealings with the administrative authorities is not in conformity with the relevant provisions of the Framework Convention.

Teaching in/of minority languages

26. The Advisory Committee notes that the 2004 Strategy for the Educational Integration of Children and Pupils belonging to Ethnic Minorities has developed additional initiatives for the study of the mother tongue: Romani, Turkish, Armenian and Hebrew are now part of the curriculum, additional mother tongue experts have been recruited, special training for teachers in Romani have been established, additional textbooks and grammars in minority mother tongues were published. However, notwithstanding the progress achieved, there is still a significant demand for more education in minority languages in schools.

The situation of the Roma

27. The authorities have taken some steps to improve the unacceptable living conditions in a number of Roma settlements by carrying out technical infrastructure projects such as laying water pipes and constructing sewage networks, as well as by improving fire safety by installing hydrants in over 90 Roma neighbourhoods. The authorities should continue and increase these efforts, particularly in the areas of housing, employment, medical care and education, and allocate adequate resources to remedy the existing situation. In this context, more determined efforts should be made to find ways and means to substantially improve the participation of the Roma - including Roma women – in decision-making processes.

28. The authorities should ensure that the Roma and their organisations are treated as key partners in governmental programmes aimed at improving their situation. In so doing, they should involve them in the design, implementation, monitoring and evaluation of the various measures taken by the different ministries to implement the National Action Plan on Roma Inclusion and incorporate models of good practice pioneered by certain local authorities and civil society organisations.

29. The living conditions and the lack of legal security of tenure in some of the Romani neighbourhoods, such as the Stolipinovo quarter in Plovdiv, are a source of deep concern. Lack of proper sanitation, total dilapidation of buildings, and non-existent refuse collection endanger not only the health but even the life of inhabitants. It is most disturbing that no action has been taken to remedy the situation in spite of the authorities having been aware of the problem for years.

30. There have been documented cases of discriminatory practices against Roma in the provision of medical services, namely the refusal to send emergency aid ambulances to Romani districts, the segregation of Romani women in maternity wards, and the use of racially-offensive language by doctors.

31. Physical barriers such as two-metre high metal or concrete fences surrounding Roma neighbourhoods, segregating them from the rest of the community, have been constructed at the expense of the respective municipalities in Plovdiv (around the Sheker Romani mahala), as well as in Romani neighbourhoods in Kazanlak and Kiustendil. Such practices are incompatible with the principles of Article 4 of the Framework Convention.

Participation in public affairs

32. Persons belonging to national minorities continue to play an active role in the political life of Bulgaria. The Movement for Rights and Freedoms, representing primarily the interests of the Turkish minority, has been a well-established political entity in the national and regional political spectra, and its representatives have participated actively in elections to the National Assembly and local councils. Roma candidates were also included on party lists during parliamentary elections in July 2009 and one of the candidates won a seat in the National Assembly, becoming the first Roma woman Member of Parliament in this region of Europe. At

the local level, representatives of national minorities were successful in attracting a large share of the popular vote in the local elections of 2007. Generally, in recent local and parliamentary elections, a number of mainstream political parties have also shown greater interest in minority issues, putting forward minority candidates and addressing minority concerns.

33. The Advisory Committee also notes that the authorities developed a number of programmes designed to increase the participation of national minorities in the social and economic life of society. These programmes, notably in the fields of education, health and employment, while not targeting any particular ethnic group, largely benefit the Roma.

II. ARTICLE-BY-ARTICLE FINDINGS

Article 3 of the Framework Convention

Personal scope of application of the Framework Convention

Findings of the first cycle

34. In its first Opinion, the Advisory Committee found a divergence of views between the authorities and the representatives of the Macedonian and Pomak communities as regards the applicability of the Framework Convention. The Advisory Committee considered that the Government should review the matter in consultation with those concerned.

Present situation

a) Positive developments

35. The Advisory Committee notes that the Bulgarian legal order does not define the concept of national minority. However, according to the authorities, the Framework Convention applies to all Bulgarian citizens who identify themselves as belonging to one of the country's ethnic, religious or linguistic minorities and have freely expressed the wish to be treated as such.

b) Outstanding issues

36. The Advisory Committee notes that the Bulgarian authorities do not recognise the existence of the Pomak and Macedonian minorities as such, considering that there are no objective criteria for distinguishing persons belonging to the Macedonian and Pomak communities from the majority population. The Advisory Committee recalls that recognition by the State as a minority is not a prerequisite to qualify for the protection of the Framework Convention.

37. The Advisory Committee notes that, according to the authorities, the existence of a national minority should be based on both objective criteria (such as identifiable distinctive features) and subjective criteria (self-identification as a minority). They underline that groups other than those represented in the National Council for Ethnic and Demographic Issues are potentially eligible to benefit from the protection of the Framework Convention if they satisfy certain objective and subjective criteria. Yet, the Advisory Committee further notes that the authorities consider that the 2001 census² is not sufficient to determine the scope of application of the Framework Convention because it is only based on the subjective criterion of individuals' freely expressed choice to be identified with a particular ethnic, religious or linguistic minority.

38. The Advisory Committee held discussions with representatives of the Macedonian community who expressed their wish to benefit from the protection of the Framework Convention.

39. The Advisory Committee was also informed during an exchange of views with representatives of the Pomak community that they consider the failure to recognise their distinct identity as Bulgarian Muslims as discriminatory. Persons belonging to the Pomak minority identify themselves as persons with distinct differences in their life styles, culture, religion, work traditions, dress and use of language. They consider that all these aspects present a identity distinct from that of other citizens.

40. 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

² In the 2001 census, 5,071 persons identified themselves as "Macedonian". Of a total of 966,978 persons belonging to the Muslim religious minority, 131,531 identified themselves as "Bulgarian" and 49,764 as "Bulgarian Muslims".

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.

41. The Advisory Committee considers self-identification with a minority as an essential component in determining whether a person can benefit from the protection of the Framework Convention. It reminds the authorities that it may be legitimate to link the recognition of a group as a national minority to objective criteria (which means precisely determined and measurable criteria, for example life styles, culture, religion, work traditions, dress and use of language). However, these criteria should be relevant to the person's identity and tradition, and not be construed in the legislative framework of the country in question in such a way so as to limit arbitrarily the possibility of such recognition.³ The Advisory Committee regrets that apparently no consultations with the two groups concerned have been organised.

Recommendation

42. The Advisory Committee urges the authorities to engage in a dialogue with persons belonging to groups interested in the protection offered by the Framework Convention. In particular, the authorities are encouraged to act on the Committee of Ministers Resolution (ResCMN(2006)3) adopted in the first cycle of monitoring and to pursue an inclusive approach to the personal scope of application of the Framework Convention, in consultation with those concerned and in accordance with the provisions of the Framework Convention.

Collection of ethnicity data

Findings of the first cycle

43. In its first Opinion on Bulgaria, the Advisory Committee found that a number of national minority representatives had expressed concerns over the implementation of the principle under which every person belonging to a national minority has the right freely to choose to be treated or not to be treated as such, in particular in the context of the population census of 2001.

Present situation

a) Positive developments

44. The Advisory Committee notes that a new population census is scheduled for March 2011 in Bulgaria and that the authorities have already begun preparations for this. The Law on the Population and Housing Census of 2011 has been adopted. This Law was drafted in accordance with Regulation (EC) N° 763/2008 of the European Parliament and of the European Council of 9 July 2008 on population and housing censuses and contains optional questions on ethnic origin (nationality), religion and language.

45. Representatives of the National Statistical Institute responsible for the preparation of the census assured the Advisory Committee that the census will follow the established practice of voluntary self-identification and that the census enumerators will be obliged to record strictly the respondents' choice. The respondents will be allowed to indicate "none" or "not declared" when asked the three questions concerning ethnicity, language and religion.

46. The Advisory Committee welcomes the information that there are plans to consult representatives of national minorities affiliated with the National Council for Coordination on

³ The Constitution of the Republic of Bulgaria reads: "Article 6(2) All citizens shall be equal before the law. There shall be no privileges or restriction of rights on the grounds of race, nationality, ethnic self-identity, sex, origin, religion, education, opinion, political affiliation, personal or social status or property status", "Article 54.(1) Everyone shall have the right to avail himself of the national and universal cultural values and to develop his own culture in accordance with his ethnic self-identification, which shall be recognised and guaranteed by the law."

Ethnic and Demographic Issues in the course of the preparation of the programme and methodology of the census.

47. The Advisory Committee also welcomes plans to include persons belonging to the different national minorities among the census enumerators which, in principle, should promote the atmosphere of trust necessary to obtain reliable figures in respect of the ethnic composition of the population.

b) Outstanding issues

48. The conduct of the 2001 census and the nature of the questions contained therein gave rise to criticism as to the freedom to exercise the right to declare affiliation with a national minority, and subsequent doubts as to the reliability of the data as regards the ethnic composition of the country.

49. The Advisory Committee considers it important that representatives of national minorities be consulted on the wording of the questions, in as much as it concerns national minorities and the methods to be used for collecting data of an ethnic nature.

50. The Advisory Committee notes that, according to the information provided by the National Statistical Institute, the authorities do not collect information on the situation of persons belonging to the various national minority groups, in particular the Roma, in various relevant sectors, such as employment, health etc. The Advisory Committee finds that the lack of comprehensive ethnic data, disaggregated by ethnicity, gender and geographical location, significantly complicates the task of the Government to design, implement, monitor and evaluate its policies targeting national minorities. In this context, it is essential that the Government steps up its efforts to obtain reliable data on the socio-economic situation of national minorities in all relevant fields and to this end, develop adequate methods of ethnic data collection while fully respecting the principle of self-identification and in accordance with international standards of personal data protection.⁴

Recommendations

51. During the preparatory phase of the next census, the authorities should continue to consult the representatives of minorities about questions relating to a person's affiliation with a national minority and to his or her mother tongue.

52. The Advisory Committee calls upon the authorities to take specific measures to include persons belonging to minorities, and persons speaking a minority language among the census officials.

53. The authorities should undertake awareness-raising activities among persons belonging to national minorities well in advance of the next census, in co-operation with minority representatives. These activities should relate to the importance and usefulness of the collection of information about the ethnic composition of the population, as well as about national safeguards and international standards for the protection of personal data.

54. The Advisory Committee calls upon the authorities to identify further ways and means of obtaining, in accordance with international standards of personal data protection, reliable data that is disaggregated by ethnicity, gender and geographical location and encourages them to ensure public availability of such data.

⁴ See for instance the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS 108) and the Committee of Ministers Recommendation (97) 18 on the protection of personal data collected and processed for statistical purposes.

Article 4 of the Framework Convention

Legal and institutional protection against discrimination

Findings of the first cycle

55. In its first Opinion on Bulgaria, the Advisory Committee found that the anti-discrimination provisions contained in Bulgarian legislation were rarely applied in practice, and that the relevant case-law of the courts did not reflect the true number of acts involving discrimination and racism.

56. The Advisory Committee also found that the measures taken to narrow the socio-economic gaps between the Roma and the population at large had proved unsuccessful overall and considered that more determined efforts should be made to improve these persons' living conditions and promote their integration.

a) Positive developments

57. The Advisory Committee notes the establishment of the Directorate for Ethnic and Demographic Issues (DEDI) within the structure of the Ministry of Labour and Social Affairs. The Directorate has the responsibility for assisting the Government in the elaboration and implementation of the government policy for integration of persons belonging to ethnic minorities and providing the necessary organisational and technical support for the activities of the National Council for Co-operation on Ethnic and Demographic Issues.

58. The Advisory Committee notes that the Directorate is charged with the elaboration and implementation of anti-discrimination measures and monitoring the implementation of the Framework Programme for Equitable Integration of Roma into Bulgarian Society.

59. The Advisory Committee welcomes the adoption of the Protection against Discrimination Act (in force as from 1 January 2004) which transposed into Bulgarian legislation the European Council Directive on Racial Equality (2000/43/EC) and the European Council Directive on Employment Equality (2000/78/EC) which provides a clear legal basis for protection against discrimination, including in the field of employment. The Act ensures effective and comprehensive protection for the victims of discrimination. The Advisory Committee notes in particular the shifting of the burden of proof in cases of discrimination and the provision allowing non-profit public interest organisations to litigate on their own behalf when the rights of many are breached.

60. The Advisory Committee notes further that the Act protects *inter alia* against discrimination in the exercise of labour rights, the exercise of the right to education and training, and equal participation of men and women, and of persons belonging to ethnic, religious and linguistic minorities in governance and decision-making processes within the State authorities, public bodies and local self-governments.

61. The Advisory Committee welcomes the establishment in 2005 of the Commission for Protection against Discrimination (CPD) which has been empowered, together with the courts, to enforce the Act and in particular to receive complaints from individuals, make rulings on infringements, issue binding instructions on the application of the anti-discrimination legislation, decree measures to be taken to terminate established infringements, and apply pecuniary fines. The Commission is also entitled to review draft legislation, suggest amendments to existing legal acts, and to make recommendations to State and municipal authorities on termination of discriminatory practices and repealing of their decisions.

62. The Advisory Committee notes that, according to the information in its 2008 Annual Report, the Commission issued 268 decisions, 182 of which on merit. The Advisory Committee

considers that the high number of applications to the Commission attests to a high degree of trust on the part of the public.

63. The Advisory Committee welcomes the information according to which the Commission for Protection against Discrimination, in the period since its establishment until 1 September 2009, has adopted 70 decisions on the grounds of ethnicity (11 per cent of all 585 decisions decreed by the CPD), ascertaining discrimination in 36 of these cases (51 per cent of all decisions on the grounds of ethnicity). Of these, 27 decisions were appealed against in court and two decisions reached a settlement.

64. The Advisory Committee was informed that courts consistently interpret the Protection against Discrimination Act as special legislation in relation to the laws that regulate the different areas in which discrimination is manifested, recognising thus the primacy of the Protection Against Discrimination Act in comparison to other laws. According to the same information, judges are consistently paying attention to the application of the shifting of burden of proof principle and treating it as a significant element of anti-discrimination protection.

65. The Commission for the Protection against Discrimination, in addition to fulfilling its primary monitoring role, also developed an awareness-raising campaign in the framework of the Action Plan to Combat Discrimination 2006-2010. The objective of this campaign is to raise public awareness of discrimination issues, to inform about the Commission's functions and powers, and to familiarise the public with the existing possibilities of seeking redress through the Commission or the courts in cases of discrimination.

b) Outstanding issues

66. The Advisory Committee notes that in February 2007, the Bulgarian Constitution was amended and that at the request of the Monitoring Committee of the Parliamentary Assembly, the Venice Commission issued an Opinion on the entire text of the Constitution, focusing in particular on the provisions regarding the judiciary and, to a lesser extent, on human rights provisions.

67. The Advisory Committee welcomes and strongly supports the Venice Commission's recommendation that the Constitution expressly takes into account the rights of persons belonging to national minorities under the Framework Convention rather than relying solely on the general rule of non-discrimination. It also strongly supports the recommendation that the language used in the Constitution be reviewed in order to convey a more open attitude towards minorities.

68. The Advisory Committee also shares the concern expressed by the Venice Commission that a number of provisions of the Bulgarian Constitution seem to restrict fundamental rights to citizens only. While accepting that the term 'citizen' refers to all individuals to whom this Constitution applies, the Commission recommended that the equivalent of 'citizen' be replaced with the equivalent of 'everyone' during a future constitutional revision, to make the wording of the Constitution unambiguous.

69. In regard to Article 11(4) of the Bulgarian Constitution which prohibits the existence of political parties on ethnic, racial or religious lines, the Advisory Committee shares the Venice Commission's concern that such prohibition could be used to prevent minority, linguistic, ethnic or religious groups from organising themselves at all and supports the recommendation that the Constitution expressly takes into account the rights of these persons rather than simply relying on the general rule of non-discrimination (see also remarks in respect of Article 15).

70. The Advisory Committee notes that the State Report describes the Office of the Ombudsman, established in 2004, as an independent institution, the aim of which is to uphold the rights and freedoms of citizens. It asserts further that in some municipalities local

ombudsmen, established under the Law on Local Government and Local Administration, focus mainly on the local protection of the rights of persons belonging to national minorities. In this context, the Advisory Committee finds it disturbing that the Ombudsman Office in Sofia, in its six years of existence, has received no complaints from persons belonging to national minorities. The local ombudsman in Plovdiv, where the number of persons belonging to the Roma is quite substantial and where there are significant problems affecting the Roma, has not dealt with minority issues either.

Recommendations

71. In the view of the Advisory Committee, the Commission for Protection against Discrimination should be given the appropriate resources, including financial means, to allow it to fulfil its duties effectively and independently and to intensify the monitoring of alleged cases of discrimination.

72. Legislation should be revised to guarantee expressly the rights of persons belonging to national, ethnic, linguistic or religious minorities. The authorities should tackle vigorously any discriminatory practices affecting minorities, including through public awareness-raising campaigns and training programmes for persons concerned.

Implementation of the principles of full and effective equality and non-discrimination in respect of the Roma

Findings of the first cycle

73. In its first Opinion, the Advisory Committee found persistent and considerable socio-economic gaps between the Roma and the population at large. It further found that the measures taken under the Framework Programme launched by the Government in 1999 to narrow the gaps had overall proven unsuccessful. The Advisory Committee considered that more determined efforts should be made by the Government to improve these persons' living conditions and promote their integration.

Present situation

a) Positive developments

74. Significant efforts, including financial, have been undertaken since 2006 by the Ministry of Regional Development and Public Works to implement measures planned under the National Programme for the Improvement of the Living Conditions of Roma. The Ministry informed the Advisory Committee of ongoing efforts to legalise existing Roma neighbourhoods and identify opportunities for the creation of new zones for housing construction.⁵

75. The Advisory Committee welcomes the efforts of the Agency for Geodesy, Cartography and Cadastre which has so far spent a total of more than 16,500,000 leva (~8,250,000 €) to finance the preparation of cadastral maps and cadastral registers for 42 Roma settlements⁶ of a cumulative surface area of 167,450 ha (of which 26,860 ha located in urban areas). Cadastral maps for other settlements have been prepared or are in the process of being established as well. These noteworthy undertakings should significantly improve the legal guarantees and safeguards of tenure within the Roma settlements.

76. The Advisory Committee welcomes the information that authorities have taken steps to improve the unacceptable living conditions in a number of Roma settlements by carrying out

⁵ Such projects are implemented for example in the municipalities of Peshtera, Strelcha, Levski, Septemvri, Yambol, Popovo, Sliven, Elhovo, Tundzha, Nikolaevo, Targovishte, Svilengrad, Yakoruda, Dupnitsa, Bratsigovo and Belovo.

⁶ These are the municipality centres of Gotse Delchev, Bansko, Sandanski, Primorsko, Devnya, Svishtov, Lom, Bratsigovo, Peshtera, Krichim, Kubrat, Razgrad, Tsar Kaloyan, Silistra, Stara Zagora, Elhovo and Yambol and seven of the boroughs of Sofia.

technical infrastructure projects such as laying water pipes and constructing sewer networks, as well as by improving fire safety by installing hydrants in over 90 Roma neighbourhoods (see also related comment under Article 15).

b) Outstanding issues

77. The Advisory Committee is deeply concerned that despite the progress achieved in some fields, in particular in the improvement of the technical infrastructure in some Roma settlements, the situation of Roma in respect of health, employment and housing is still a matter of serious concern. Moreover, according to information received by the Advisory Committee, physical barriers such as two-metre high metal or concrete fences surrounding Roma neighbourhoods segregating them from the rest of the community, have been constructed at the expense of the respective municipalities in Plovdiv (around the Sheker Romani mahala), as well as in the Romani neighbourhoods in Kazanlak and Kiustendil. Such practices are incompatible with the principles of Article 4 of the Framework Convention.⁷

78. Public services such as waste collection or public transportation are almost non-existent in such segregated neighbourhoods and the majority of residents do not enjoy legal guarantees or safeguards of tenure.

79. The Advisory Committee is deeply concerned about the living conditions in the Plovdiv Stolipinovo Romani neighbourhood inhabited by approximately 40,000 Roma which the delegation of the Advisory Committee visited and witnessed. According to information obtained from the local Roma representatives, some 95% of the residents live without legal guarantees or safeguards of tenure. The concrete apartment blocks, built in the 1970s, are in a state of total dilapidation. Sewage which has flooded the basements waist-high seeps out and flows into the courtyards. Refuse has not been collected in years and water supply does not reach beyond the fourth floor (out of ten) apparently due to problems with water pressure in the buildings. The Advisory Committee notes with consternation that no action has been taken to remedy the situation in spite of the authorities being aware of the problem for years.

80. Cases of forced evictions without adequate alternatives proposed, abusive police raids on their homes and even destruction of property of Roma are not infrequent in Bulgaria. The Advisory Committee shares the view expressed by the European Committee of Social Rights that Bulgaria has discriminated against Roma families by failing to take into account that Roma families run a higher risk of eviction than the rest of the Bulgarian population due to the precariousness of their tenancy and that they are disproportionately affected by the legislation limiting the possibility of legalising illegal dwellings.⁸

81. The Advisory Committee is deeply concerned in this context about the forced eviction of some forty Romani households from the Gorno Ezerovo district of Bourgas on 8 September 2009 as well as a number of threatened evictions from a number of locations such as Meden Rudnik and Batalova vodenitza in the Vazrazhdane district of Sofia where Roma families have lived for decades.

82. In this context, the Advisory Committee is also deeply concerned by the documented cases of discriminatory practices against Roma in the provision of medical services, namely the refusal to send emergency aid ambulances to Romani districts, the segregation of Romani women in maternity wards, and the use of racially-offensive language by doctors, which were quoted in the European Committee of Social Rights decision on a complaint⁹ submitted by the

⁷ See Advisory Committee on the Framework Convention for the Protection of National Minorities: second Thematic Commentary on the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs (2008) §§57-60

⁸ See the Complaint N° 31/2005 submitted by the European Roma Rights Centre against Bulgaria

⁹ See the Complaint N° 46/2007 submitted by the European Roma Rights Centre against Bulgaria

Roma Rights Centre in which Bulgaria was found to be not in conformity with the Revised European Social Charter.

Recommendations

83. The Advisory Committee urges the Bulgarian authorities to stop all forced evictions of Roma, including from informal settlements, without adequate alternative accommodation being proposed. It further urges the authorities to take, as a matter of priority, vigorous measures to put an end to practices carried out by some municipalities of separating Roma from the majority population by means of walls or fences. Adequate measures must be designed to prevent such practices from recurring in the future. It is imperative that local authorities be reminded of their responsibilities in the field of respect for human rights, and in particular rights of persons belonging to national minorities.

84. The authorities should thoroughly investigate any complaint of alleged discrimination of Roma in the provision of goods and services. If discriminatory acts are established, the perpetrators must be adequately sanctioned. The authorities must also ensure that in such instances, Roma receive adequate protection and, where applicable, compensation from law enforcement agencies and local authorities.

85. The Advisory Committee urges the authorities to intensify their efforts to prepare cadastral maps and cadastral registers of properties in Roma settlements with a view to improving the legal guarantees and safeguards of tenure within these settlements. Particular attention should be paid to improving housing conditions in Roma neighbourhoods. The authorities should also ensure that persons concerned have the possibility to participate effectively in the search for solutions.

Article 5 of the Framework Convention

**Legal guarantees and support for the preservation of the culture
of persons belonging to national minorities**

Findings of the first cycle

86. The Advisory Committee found that the efforts made by the State to foster the advancement of the culture, language and traditions of minorities were insufficient, and considered that the authorities should take all necessary steps to afford persons belonging to national minorities suitable conditions for asserting their culture and identity, including by making provision for resources to be earmarked.

87. The Advisory Committee found that most of the Roma in Bulgaria face marginalisation and isolation, and considered it essential that this be counteracted by more substantial State support for the promotion of their culture, language and traditions.

Present situation

a) Positive developments

88. The Advisory Committee notes that the Bulgarian authorities allocate annual resources for promoting the traditions and the cultures of national minorities. The Advisory Committee notes that in 2009, 180,000 leva (~90,000 €) were allocated to the National Council for Co-operation on Ethnic and Demographic issues which supported 54 projects for the preservation and development of the cultural identity of persons belonging to national minorities (31 projects concerned the Roma community, seven the Turkish community and 16 the other communities). The Ministry of Culture has also supported a number of cultural events for an amount of approximately 50,000 leva (~25,000 €).

89. The restoration of the Synagogue in Sofia was completed on the occasion of its 100th anniversary with the financial assistance of the Ministry of Culture, amounting to 275,000 leva (~137,500 €).

90. The Advisory Committee also notes that a Council for Cultural Integration of Roma was set up in 2007 to advise the Ministry of Culture on topical Roma issues.

b) Outstanding issues

91. The Advisory Committee notes that, although the additional information provided by the Bulgarian authorities shows an increase in State support to minority cultural events, various interlocutors have underlined that public financial support for national minorities' activities is still extremely limited and insufficient.

92. The Advisory Committee takes note of complaints expressed by representatives of minorities concerning the lack of support for their activities, in particular from the numerically smaller groups, such as the Aromanians, who find it difficult to carry out activities to preserve their language. Representatives of the Armenian minority also claim that the efforts made to preserve and promote the Armenian language and culture are inadequate.

93. The authorities explained that, according to the Rules for Application in force since 2007, the criteria used to determine the amount of the subsidy for each national minority takes into account the number of individuals concerned, the variety of events and the national coverage. Projects intended to promote inter-ethnic co-operation receive larger support. Regarding the Roma, the fact that they are the most marginalized and needy explains the additional support received.

94. The Advisory Committee welcomes the efforts made by the public authorities to maintain and develop minority cultures and appreciates the authorities' argument that the allocation of subsidies must take into account the number of individuals concerned, their needs, as well as national coverage. However, the Advisory Committee is of the view that the authorities should consider the specific financial problems of numerically smaller minority institutions and organisations and underlines that representatives of several national minorities attach great importance to State support for the development of their cultural activities. Notwithstanding the budget allocated by the Government to protect the cultural identity of minorities in Bulgaria, the current amount seems insufficient to meet their demands.

Recommendations

95. The Bulgarian authorities should continue and step up their efforts to support initiatives aimed at protecting, preserving and developing the cultural identity of minorities, including numerically smaller groups.

96. The Advisory Committee invites the authorities to pay more attention to the needs of all national minorities, including numerically smaller groups, in the field of the preservation and development of their culture and language.

Article 6 of the Framework Convention

Tolerance and intercultural dialogue

Findings of the first cycle

97. In its first Opinion, the Advisory Committee found that negative attitudes persist in Bulgaria towards the Roma, but also to persons belonging to the Macedonian and Pomak communities, not only among the population but also conveyed by some media or by certain members of public authorities. The Advisory Committee found moreover that, within Bulgarian

society, there is a degree of apprehension about recognising the existence of minorities. It further considered that specific measures of information and awareness-raising should be adopted in order to foster a social climate more receptive to diversity and intercultural dialogue.

Present situation

a) Positive developments

98. Since the end of the one party rule and establishment of democracy in Bulgaria in 1990, relations between the majority and minority communities have improved considerably. The Advisory Committee notes that the Movement for Rights and Freedoms, primarily representing the interests of the Turkish minority, participates actively in the political life at national and local levels voicing the concerns of that sector of the population and is thus contributing to the development of political process and democratic culture in Bulgaria.

99. The Advisory Committee notes that the National Council for Co-operation on Ethnic and Demographic Issues (NCCEDI) is the main institution which is responsible for coordinating policies related to intercultural dialogue. It facilitates co-operation between State bodies and NGOs of different minority groups and considers policy proposals submitted by other governmental departments. The NCCEDI monitors, analyses and coordinates measures aimed at preserving and strengthening tolerance and understanding and creating the conditions that ethnic minorities in Bulgaria need in order to sustain and develop their culture, as well as to preserve the most important elements of their identity, namely religion, language, traditions and cultural heritage.

100. The Advisory Committee notes the adoption by the National Council of the Strategy for Educational Integration of Children and Students from Ethnic Minority Groups and follow-up action plans developed by the Ministry of Education and Science for the school year 2008/2009. The Advisory Committee welcomes in particular the activities designed to provide various means for kindergarten and primary level children to learn about the history and culture of ethnic minorities, to integrate intercultural education in the curricula of the humanities courses and to examine existing curricula, with a view to eliminating references to ethnocentrism, negative stereotypes and hostile speech.

101. The Advisory Committee also notes the activities designed to achieve sustainable and cultural integration of the Roma people in Bulgarian society under the National Action Plan on the Roma Inclusion Decade (2005-2015). Noteworthy efforts include support for programmes and projects for cultural and social integration at a municipal level; new libraries, internet-clubs, schools, courses; support for artistic groups and others undertaking creative work; setting up, maintaining and supporting "chitalishte"¹⁰ cultural clubs in the Roma districts, the establishment of a "chitalishte" resource centre for the Roma in Sofia, the creation of a Roma musical theatre; and the creation and maintenance of a Roma culture web portal.

b) Outstanding issues

102. According to the information obtained by the Advisory Committee from non-governmental organisations, schools, despite having some autonomy in determining their curricula and programmes, do not avail themselves of this opportunity to any meaningful degree. The Advisory Committee was also informed by representatives of NGOs that one of the factors restricting genuine curricular diversification is the fact that schools cannot apply bilingual curricula due to the legal restriction on teaching subjects, other than the minority language, in the mother tongues of minorities.¹¹

¹⁰ "Chitalishte" are traditional, valued educational-cultural establishments in Bulgaria.

¹¹ The Constitution of the Republic of Bulgaria reads: "Article 36.(1) The study and use of the Bulgarian language shall be a right and an obligation of every Bulgarian citizen. (2) Citizens whose mother tongue is not Bulgarian shall have the right to

103. The same sources indicated to the Advisory Committee that the national education requirements for curricular content, related to culture-related areas of education such as Bulgarian language and literature, public affairs, civic education and the arts, continue to signify that teaching about people who are different from them and about the values of ethno-cultural diversity in society and the contribution of minorities to the public, political and cultural life of the country remains inadequate. It was also claimed that such themes are taught in a monotonously general and abstract manner, mainly comprising traditional folklore, with nothing about the other dimensions of the cultural identity and the contribution of minority groups to the general life and achievements of the country.

Recommendation

104. The authorities should give priority to reviewing the existing textbooks and the compulsory curriculum in consultation with minority representatives, with a view to ensuring a better reflection of the history, culture and traditions of national minorities.

Police and ethnically-motivated incidents

Findings of the first cycle

105. In its first Opinion, the Advisory Committee found that there were reports of improper conduct on the part of the police in respect of Roma and other groups. The Advisory Committee considered it essential that the authorities ensure that there be independent control mechanisms, and that recruitment to the police force of persons belonging to minorities be promoted.

Present situation

a) Positive developments

106. The Advisory Committee welcomes the information contained in NGO reports according to which there has been a marked reduction of ill-treatment of detainees by police since the adoption of the first Opinion on Bulgaria. The number of complaints of ill-treatment by police during and after arrest decreased by almost 50% in the first half of the decade.

107. The Advisory Committee acknowledges that the National Institute of Justice developed a training programme on “Human Rights: Guarantees of Protection against Discrimination” as part of the compulsory training of judges prosecutors and investigating magistrates. The police receive similar training in the framework of the “Community Policing in multi-ethnic communities”, “Police and Human Rights” and “Police Ethics” courses delivered by the Academy of the Ministry of Interior. In the framework of the National Action Plan for the decade of the Roma Inclusion 2005-2015, one-week long training courses are held on a regular basis at national and regional levels.

b) Outstanding issues

108. The Advisory Committee is deeply concerned that, despite recent improvements in this regard, cases of police brutality against Roma and of failure to investigate them properly continue to be reported. These cases include shootings of Romani men Messrs Kiril Stoyanov and of Boris Mihaylov in 2004, the death while in police custody of Mr Valentin Angelov in 2007 and the excessive use of force resulting in the death of Mr Marko Bonchev in 2006. According to information available to the Advisory Committee, police organised raids against Roma neighbourhoods (Hristo Botev neighbourhood in Sofia on 21 August 2006, Filipovtsi neighbourhood in Sofia on 24 August 2006, Iztok neighbourhood in Pazardzhik on 13 October

study and use their own language alongside the compulsory study of the Bulgarian language. (3) The situations in which only the official language shall be used shall be established by law.”

2006) in which no charges were brought against any police officers, despite victims of physical violence being in possession of medical records certifying their injuries.¹²

Recommendations

109. The authorities must intensify awareness-raising measures for law enforcement officials on human rights standards, including on the rights of persons belonging to national minorities.

110. The authorities must review the administrative and judicial mechanisms in place in cases of offences allegedly committed by police officers so as to ensure that a reliable and independent complaint system is further developed to undertake prompt, impartial and effective investigations into allegations of ill-treatment by the police.

Efforts to combat hostility or violence on ethnic grounds

Findings of the first cycle

111. In its first Opinion, the Advisory Committee was concerned about acts of violence with racial or ethnic motivation and it considered that additional efforts were needed to combat such outbreaks, both in collecting and processing relevant information.

Present situation

112. Cases of racially-motivated violence continue to be reported in Bulgaria, with some media suggesting that their number is on the increase.¹³ The Advisory Committee is particularly concerned about reports in the media of skinheads and other racist groups assaulting Roma and persons belonging to the Turkish minority and of attacks against property, such as the July 2009 arson attack against the synagogue in Burgas or the destruction of a memorial plaque in Blagoevgrad motivated by anti-Semitism.

113. As already noted in the first Opinion of the Advisory Committee, racist motivation for any ordinary offence does not constitute an aggravating circumstance according to the Bulgarian Criminal Code. The Advisory Committee shares the recommendation expressed more recently by ECRI in their fourth Report on Bulgaria that the authorities amend the Criminal Code so that it states expressly that racist motivation for any ordinary offence constitutes an aggravating circumstance.

Recommendations

114. The Criminal Code should be further developed so that it states expressly that racist motivation for any ordinary offence constitutes an aggravating circumstance.

115. All racially-motivated or anti-Semitic acts must be effectively identified, investigated, prosecuted and sanctioned as necessary. Systematic monitoring of these acts must be carried out by the authorities.

Hate speech

Findings of the first cycle

116. In its first Opinion, the Advisory Committee found that some candidates and certain media resorted to anti-Roma rhetoric during the October 2003 local elections.

¹² See the “Written Comments of the Bulgarian Helsinki Committee and the European Roma Rights Centre Concerning Bulgaria for Consideration by the United Nations Committee on the Elimination of Racial Discrimination at its 74th session” of December 2008, pg. 6-7, available at: http://www2.ohchr.org/english/bodies/cerd/docs/ngo/BHC_ERRC_Bulgaria_CERD74.pdf

¹³ Nikoleta Popkostadinova, “Tolerance to Discrimination (2007) Marks Highest Number of Racially Motivated Acts of Violence”, Capital weekly, 50 (2007), Buhner-Tavanier Jana “Djaved decides to die”, “My Home is my Fortress”, Capital weekly, 24 (2007)

Present situation

a) Positive developments

117. The Advisory Committee welcomes the adoption by the Bulgarian legislature in April 2009 of amendments to the Criminal Code concerning hate speech. The incitement in speech, print or other mass media, or through electronic information systems, or through other means, to ethnic hostility or hatred was added to the provision on propaganda of and incitement to racial or national hostility or hatred or to racial discrimination and the penalty was also increased to imprisonment of up to four years (from a maximum penalty of three years imprisonment) and a maximum fine was increased to 10,000 leva (~5,000 €).

118. The Advisory Committee notes also that the Radio and Television Act of 2002 stipulates the “inadmissibility of broadcasts which ... incite to hatred on grounds of race, sex, religion or nationality” and that the Council for Electronic Media (CEM) in its capacity as an independent regulator has been given the task of supervising the activities of radio and television broadcasters for compliance with this Act and has been given the right to sanction violations by issuing decrees ranging from fines against the broadcasters in breach of the law to revoking the broadcasting licence.

119. The Advisory Committee welcomes the information according to which the Council monitors the programmes of broadcasters, in particular those who tend to violate the provisions of the law and that on a number of occasions it has sanctioned broadcasters for providing a platform for voicing ethnic intolerance and nationalistic xenophobia.

b) Outstanding issues

120. The Advisory Committee finds it particularly worrying that ethnic divisions are used for political purposes and presented by some as a root cause for the cleavages in society. Additionally, intolerance based on ethnic affiliation has recently been stirred up in political discourse. The Advisory Committee is deeply concerned by these developments and considers that they harm good community relations in Bulgaria.

121. The Advisory Committee notes with deep concern that some media incite intolerance, and sometimes hatred, notably with regard to the Turkish minority and the Roma. The Advisory Committee is particularly concerned that despite numerous sanctions applied against the SKAT TV, it continues to broadcast intolerant and discriminatory views against persons belonging to the Roma, and the Turkish national minority. According to information available to the Advisory Committee, other private broadcasters, such as BBT cable TV are also known for their use of extremely aggressive and abusive language against Roma and other minorities.

122. The Advisory Committee is deeply concerned about the openly racist language used with impunity in the printed media, and in particular by newspapers such as *Ataka*, *Nova Zora*, and *Novinar* which stereotype Roma as people who steal, beg, terrorise their neighbourhoods, fight and kill. By way of example, one may evoke the *Novinar* newspaper which published in recent years a number of articles attacking the dignity of the Roma (Gypsies and Cattle, *Novinar*, 20.02.2008, The Gypsies are Cumming, *Novinar*, 20.12.2007).

123. The Advisory Committee is aware that these deplorable outbursts happened before the entry into force in April 2009 of amendments to the Criminal Code concerning hate speech, but nonetheless finds it deeply concerning that the Bulgarian Press Ethics Commission has apparently not taken any action against the journalist in question. It is deeply disturbed that he was awarded by the Union of Publishers of Bulgaria on 25 May 2008 the Young Journalist of the Year Prize, which was only revoked four months later following wide-reaching condemnation by journalists and civil society in Bulgaria and abroad.

Recommendations

124. The authorities must take the necessary steps to prosecute incitement to ethnic or religious hatred in the media, so as to prevent such breaches in the future, while fully respecting the editorial independence of the media.

125. It is essential that the authorities take more resolute measures to combat all forms of intolerance and promote understanding and mutual respect, including respect for ethnic diversity. Measures should, in particular, be taken to prevent and combat intolerance and hate speech in politics.

126. The authorities must step up their efforts to combat all manifestations of intolerance, racism, anti-Semitism and xenophobia. In particular, the Advisory Committee urges the authorities to take further legislative measures and adopt policies to combat racist manifestations in the media, in the spirit of the Committee of Ministers' Recommendation N° R(97)20 on "Hate Speech".

127. The media should be encouraged to adopt a tolerant and inclusive approach. Due attention should be paid to the existing codes of ethics of the media and journalists.

Article 7 of the Framework Convention

The right to peaceful assembly and association

Findings of the first cycle

128. In its first Opinion, the Advisory Committee found that Bulgaria's constitutional provisions concerning political parties on ethnic, racial, or religious lines and pertinent legislative provisions raised problematic issues in the light of the Framework Convention. The Advisory Committee asked the authorities to re-examine these provisions in order to secure adequate guarantees for the practical application of Article 7 of the Framework Convention.

Present situation

a) Positive developments

129. The Advisory Committee notes that the Political Parties Act was amended in January 2009. According to the amendments introduced, the number of members required for the foundation of a political party decreased from 5,000 to 2,500.

b) Outstanding issues

130. The Advisory Committee notes that the situation with regard to the right to association, as far as the establishment of political parties on ethnic, racial, or religious lines is concerned, has not changed since the adoption of the first Opinion. The Advisory Committee draws the attention of the Bulgarian authorities to the recent criticism of this situation by the Venice Commission, which expressed its concern "that such provisions could be used to prevent minority linguistic, ethnic or religious groups from organising themselves at all"¹⁴ and made the suggestion "to amend some of the above mentioned provisions in the Constitution by softening their wording in order to convey an open attitude towards minorities also in the language used in the Constitution"¹⁵.

¹⁴ See Opinion of the Venice Commission on the Constitution of Bulgaria adopted at its 74th Plenary Session on 14-15 March 2008.

¹⁵ See also the Bulgarian Constitutional Court decision No. 4 of 21 April 1992 in case 1/91 in which the Court rejected the application to declare unconstitutional the Movement for Rights and Freedoms (MDL), notwithstanding that the majority of that movement at that time was Turkish. In its decision, the Court interpreted Article 11.4 of the Constitution to mean that "a party can be alleged to be founded on ethnic grounds when its constitution does not allow persons belonging to other ethnic groups to become its members".

131. In spite of a number of judgments of the European Court of Human Rights (ECHR)¹⁶ finding Bulgaria in violation of Article 11 of the European Convention on Human Rights, which guarantees the right to freedom of association for everyone, all attempts to register in courts or achieve recognition in any other way of the United Macedonian Organisation Ilinden by persons identifying themselves as Macedonians have not been successful. Representatives of Macedonians have also informed the Advisory Committee about the difficulties in organising meetings of their organisation and of the intimidating behaviour of the police towards their members. It was also alleged that members of the UMO Ilinden face harassment at their workplace and in contacts with State representatives.

Recommendation

132. The Advisory Committee urges the authorities to remove all the existing obstacles preventing the interested groups from exercising their right to peaceful assembly and association, guaranteed by the Framework Convention. Such obstacles are incompatible with the principles of Article 7 of the Framework Convention.

Article 8 of the Framework Convention

The right to manifest religion or belief

Findings of the first cycle

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

Present situation

a) Positive developments

134. The Advisory Committee welcomes the changes introduced in 2003 in the Bulgarian Law on Religion (Confessions Act 2002). Henceforth, the Religious Affairs Directorate of the Bulgarian Council of Ministers, which was previously a directing and controlling organ, is now an advisory body. Consequently, the competence for registering religious communities who wish to obtain a legal personality is conferred on a judicial body, the Sofia Court, and no longer to an executive organ. The Advisory Committee also notes the measures taken by the authorities to implement two judgments¹⁷ of the European Court of Human Rights considering that there had been State interference with the internal organisation of the Muslim community in violation of the right of freedom of religion.¹⁸

¹⁶ See United Macedonian Organisation Ilinden and Ivanov against Bulgaria (application no. 44079/98), judgment of 20/10/2005, final on 15/02/2006; Ivanov and others against Bulgaria, (application no. 46336/99), judgment of 24/11/2005, final on 24/02/2006; United Macedonian Organisation Ilinden and others against Bulgaria (*application no. 59491/00*), judgment of 19/01/2006, final on 19/04/2006.

¹⁷ ECHR judgments of 26 October 2000 in the case Hassan and Tchaouch v. Bulgaria and of 16 December 2004 in the case of Supreme Holy Council of Muslim Community v. Bulgaria.

¹⁸ The ECHR ruled that the provisions of the Religious Denominations Act of 1949 did not meet the required standards of clarity and predictability and allowed unfettered discretion to the executive in registering religious denominations. To implement the judgements, the authorities adopted the new Religious Denominations Act, which entered into force in 2003, which represents a guarantee in order to prevent new violations. A judicial body – the Sofia City Court – and no longer the executive, is now competent to register religious communities wishing to obtain legal personality. The Bulgarian authorities consider that the direct effect of the case-law of the European Court, which is recognised by domestic courts will prevent new, similar violations to that found in the present case, not least by ensuring that the Religious Denominations Act and the provisions which regulate the registration of religious denominations, are interpreted in conformity with the requirements of the Convention.

b) Outstanding issues

135. The Advisory Committee notes that, according to section 10 of the 2002 Confessions Act, the Bulgarian Orthodox Church is exempted from the need to register, unlike other confessions. While no minority representatives complained about this to the Advisory Committee, it draws the attention of the authorities to the need to ensure that the special recognition given to the Bulgarian Orthodox Church will not lead to discrimination against other religions.¹⁹

136. The Advisory Committee has received disturbing reports from the media and the representatives of the Pomak communities in Garmen and Ribnovo about arrests of local community leaders by the authorities in March and September 2009, charged with promoting radical Islamism, exerting pressure on others to force them to practice religion and for instigating religious hatred and ethnic hostility. The Advisory Committee was further informed that no charges were ever brought against the persons arrested, and the Pomak community leaders consider that these actions constitute harassment aimed at preventing the local population from exercising its right to cultivate their traditions and religion which constitute the foundation for their identity as Pomaks.

Recommendation

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

Article 9 of the Framework Convention

Broadcasting for minorities/broadcasting in minority languages

Findings of the first cycle

138. In its first Opinion on Bulgaria, the Advisory Committee found inadequacies as regards access to, and presence in the media of persons belonging to minorities, particularly in the audiovisual media of the State broadcasting system and asked the authorities to ensure that there was no discrimination or undue hindrance to the exercise of the rights of persons belonging to minorities, including numerically smaller ones, in this sphere.

Present situation

a) Positive developments

139. The Advisory Committee notes that the Radio and Television Act provides that national radio and television must produce programmes for people whose mother tongue is not Bulgarian (Article 49.1) and contains provisions prohibiting programmes that incite ethnic, racial, national or religious intolerance (Articles 10.1 and 17.2). It further notes that two Roma newspapers are published with financial support of the National Council for Co-operation on Ethnic and Demographic Issues (4,000 leva each).

b) Outstanding issues

140. The Advisory Committee notes that public television services continue to broadcast programmes addressed to persons belonging to national minorities, including in their minority languages. The Advisory Committee regrets that the Bulgarian National Television broadcasts only one daily fifteen-minute programme in the Turkish language at 4pm with limited

¹⁹ In its Resolution 1390(2004) on the “New Bulgarian Law on Religion, known as the Confessions Act 2002”, the Parliamentary Assembly has considered that the wording of section 10 of the 2002 Confessions Act was not objectionable *per se*.

viewership. It considers that this schedule limits considerably the opportunities of persons concerned to follow this programme.

141. The Advisory Committee welcomes a new initiative launched by a Turkish youth organisation which set up a radio station for young persons belonging to the Turkish minority but regrets that, according to the organisation concerned, its sustainability is endangered by the absence of any public financial support. The Advisory Committee equally received information from representatives of numerically smaller minorities that there is no public funding available for media in their minority language and thus no access, by these groups, to the media in their languages.

142. The Advisory Committee regrets the lack of progress since the first monitoring cycle and stresses that the programmes currently offered in minority languages are not sufficient to meet the needs of persons belonging to national minorities in Bulgaria.

Recommendations

143. The authorities are encouraged to increase their financial support to ensure access of persons belonging to national minorities, including numerically smaller groups, to radio and television programmes in their language.

144. The Advisory Committee further urges the authorities to ensure that the Turkish community continues to benefit from the daily Turkish TV news programme and that there are sufficient opportunities for broadcast at appropriate times.

Article 10 of the Framework Convention

Use of minority languages in relations with administrative authorities

Findings of the first cycle

145. In its first Opinion, the Advisory Committee noted the absence in Bulgaria of adequate legal safeguards to permit the use of minority languages in dealings with the administrative authorities and considered that a study of the demand and an assessment of existing needs should be carried out in the geographical areas where there is a substantial or traditional settlement of persons belonging to minorities, and that consequently an appropriate legal and administrative framework should be adopted for implementing the provisions of Article 10, paragraph 2 of the Framework Convention. The Committee of Ministers also recommended that Bulgaria undertake further efforts in the legislative sphere and at the practical level to enable persons belonging to minorities to use their languages in dealings with the administrative authorities, under the conditions set out in Article 10.2 of the Framework Convention.

Present situation

146. The Advisory Committee notes with regret that the situation with regard to the use of minority languages in dealings with the administrative authorities has not changed in Bulgaria. According to the information available to the Advisory Committee, there have been no changes to the legislative provisions in this area and the authorities have not carried out any studies of the demand and have not assessed the existing needs in the geographical areas inhabited by a substantial number of persons belonging to national minorities.

Recommendations

147. The authorities should, in consultation with representatives of national minorities, assess whether there is sufficient need or demand for the use of minority languages in dealings with the administrative authorities in the geographical areas inhabited by a substantial number of persons belonging to national minorities.

148. In the light of the first Opinion of the Advisory Committee and the resolution of the Committee of Ministers ResCMN(2006)3 which followed, the Advisory Committee urges the Bulgarian authorities to take adequate remedial measures to bring the legislation and the relevant practice into conformity with Article 10.2 of the Framework Convention.

Article 11 of the Framework Convention

Bilingual topographical indications and other inscriptions

Findings of the first cycle

149. In its first Opinion, the Advisory Committee noted the lack of adequate guarantees in Bulgaria for the effective application of the provisions of Article 11.3 of the Framework Convention concerning use of minority languages for topographical indications, and considered that the authorities should take all the necessary legislative and practical measures to remedy this situation. The Committee of Ministers also recommended that Bulgaria undertake further efforts in the legislative sphere and at the practical level to enable persons belonging to minorities to use their languages in topographical indications, under the conditions set out in Article 11.3 of the Framework Convention.

Present situation

150. The Advisory Committee notes with regret that the situation concerning the use of minority languages for topographical indications has not changed in Bulgaria. According to the information available to the Advisory Committee, there have been no changes to the legislative provisions in this area and the authorities have not carried out any studies of the demand and have not assessed the existing needs in the geographical areas inhabited by a substantial number of persons belonging to minorities.

Recommendations

151. The authorities should, in consultation with representatives of national minorities, assess whether there is sufficient need or demand concerning the use of minority languages for topographical indications in the geographical areas inhabited by a substantial number of persons belonging to national minorities.

152. The Advisory Committee urges the authorities to introduce, in line with the first Opinion of the Advisory Committee and the resolution of the Committee of Ministers ResCMN(2006)3, the appropriate legal safeguards to enable national minorities to display traditional local names, street names and other topographical indications intended for the public in the minority language. Legislation and practice must be in conformity with Article 11.3 of the Framework Convention and the conditions described therein.

Article 12 of the Framework Convention

Intercultural dimension of education

Findings of the first cycle

153. The Advisory Committee found deficiencies in the promotion of knowledge of culture, history and traditions of minorities in Bulgarian education, and considered that the authorities should take positive measures to give the Bulgarian education system a genuine intercultural perspective conducive to tolerance and openness to dialogue and diversity.

Present situation

a) Positive developments

154. The Advisory Committee welcomes the establishment on 11 January 2005 of the Centre for Educational Integration of Children and Pupils from Ethnic Minorities under the Minister of Education and Sciences. The Centre elaborates, finances and pilots projects promoting the culture of children and pupils belonging to national minorities at kindergartens and schools, thereby improving the situation of disadvantaged minority groups.

b) Outstanding issues

155. The Advisory Committee observes that, notwithstanding the various initiatives taken in recent years by the Ministry of Education, Youth and Science to develop intercultural teaching, their actual impact remains limited. According to various sources, there is still very little information available in public schools on the history and culture of national minorities, especially as regards Roma culture. This approach does not guarantee that even basic information on the history, culture and traditions of national minorities will be taught to all students in Bulgaria.

156. In addition, the Advisory Committee notes that the number of teachers trained to provide intercultural teaching and to work with Roma pupils remains limited and finds that this situation is an obstacle to improving achievement of Roma pupils and their increased integration at school.

157. Some representatives of national minorities, in particular from Turkish and Roma communities, indicated to the Advisory Committee that the textbooks used by the educational system insufficiently reflect the specific features and history of their communities. Moreover, they complained that the textbooks currently in use often contain a biased approach towards their history, and are furthermore outdated and thus irrelevant to the modern environment in which children belonging to national minorities live in Bulgaria today.

Recommendations

158. The authorities should review the existing textbooks and the compulsory curriculum in consultation with minority representatives, with a view to ensuring a better reflection of the history, culture and traditions of national minorities which should form a part of the curriculum for all students in Bulgaria.

159. More sustainable efforts are needed to promote intercultural teaching methods at school, particularly as regards additional training for teachers working with Roma pupils.

Roma children at schools*Findings of the first cycle*

160. In its first Opinion, the Advisory Committee found that despite some measures taken in that respect, equal opportunity in access to education was not yet secured for Roma, who continued to face difficulties such as their isolation in schools, unwarranted placement of some in "special" schools, poor school attendance, high drop-out rates, increasing illiteracy, and lack of suitable teaching material.

Present situation

a) Positive developments

161. The Advisory Committee recognises that efforts have been made to tackle the unsatisfactory situation of Roma children in the education system. According to Section 29 (1) of the Protection against Discrimination Act (2004), the Ministry of Education, Youth and

Science and the local self-governments have the obligation to take adequate measures to prevent racial segregation in educational institutions. In addition, the main objective of the Centre for Educational Integration of Children and Pupils from Ethnic Minorities is to promote equal access to high quality education to all, among others by helping municipalities to combat the *de facto* segregation faced by Roma pupils. In September 2006, new anti-discrimination rules were transmitted to all school directors and included in the school regulations.

162. The Advisory Committee notes that despite some positive results, the initiative to introduce Roma teaching assistants has been pursued on an *ad hoc* basis, often with limited funding. The Advisory Committee recalls that Roma assistant teachers and outreach workers play crucial roles in finding solutions to existing problems facing both Roma pupils and their families and act as a link between Roma families, the majority population, the school and the authorities.

163. The Advisory Committee welcomes the various programmes adopted by the Bulgarian authorities to improve the integration of Roma in the field of education. For example, the Strategy for the Educational Integration of Children belonging to Ethnic Minorities envisages concrete measures to be implemented by the Minister of Education, Youth and Sciences and has developed several activities aimed at school desegregation.

164. The Advisory Committee was also informed of a number of positive educational programmes in the towns of Lom and Sliven, supported by the local authorities, and of NGO projects that were models of good practice in early years education in Stolipinovo.

b) Outstanding issues

165. The Advisory Committee notes with deep concern that there is still a concentration of Roma pupils in separate classes in some areas as a result of the catchment areas for schools where a high proportion of Roma live. According to the second State Report, data collected by the Regional Education Inspectorates (REI) indicated that during the 2005-2006 school year, the total of pupils from grades I to XII was 867,496 persons among which about 90,000 were from the Roma community. According to the REI, during the same period, 30,421 Roma children attended kindergartens and schools located within the larger, separate urban Roma neighbourhoods. During the next school year (2006-2007), about 27,000 Roma children attended schools located in separate Roma neighbourhoods and 40,000 in the single schools in rural locations within predominantly Roma populations.

166. The above numbers seem to indicate that over 70 % of Roma pupils are attending schools that are predominantly Roma. According to Roma representatives, the infrastructure and technical equipment in many of these schools are particularly poor and the quality of teaching needs to be considerably improved. The Advisory Committee is deeply concerned by this situation and recalls that the segregation of pupils on the basis of their ethnic origin is incompatible with the principles of the Framework Convention, the aim of which is to promote integration.

167. The Advisory Committee further notes with concern that Roma pupils continue to face the same difficulties as pointed out in its first Opinion: low-level school attendance particularly for Roma girls, high drop-out rates, failure in the entrance exams at schools and universities, lack of suitable teaching material, and insufficient support measures. The Advisory Committee notes that the authorities recognise that specific problems related to the education of Roma children still present a challenge for Bulgarian society but underline that there is now a political consensus to solve this issue. Even though different pilot projects have been carried out in recent years with positive results, these projects have been discontinued.

168. In line with information provided by representatives of the Roma and some NGOs, the Advisory Committee notes that the greatest problem has been the failure of the Government

locally or centrally to mainstream the many successful Roma education initiatives that are mainly piloted by NGOs with external funding. While these projects are often not supported with governmental resources or institutional change, their success has often depended on the support of local authorities who do not systematically implement the Government's school support scheme and do not always have the determination needed to act effectively in this field.

169. The Advisory Committee is concerned by the low number of Roma children attending pre-school. According to non-official estimates, about 60-70% of Roma children do not go to pre-school. According to information received by the Advisory Committee from representatives of the Roma community, parents face multiple difficulties: the obligation to prove that they have paid all their taxes to have access to kindergartens, the absence of free public transport, the limited number of places, a shortage of buildings for kindergartens in the large cities following the major rural migration to cities especially Sofia, and a shortage of funds in the State budget. The Advisory Committee notes that the one year pre-school education is already mandatory and that there are initiatives to prolong that to three years for all children aged between five and seven, including children of national minorities, to help them master the Bulgarian language. However, it was informed by various sources that the public funds allocated to this programme are insufficient to meet the needs.

Recommendations

170. The Advisory Committee urges the Bulgarian authorities to put an end to practices of placing Roma pupils in separate classes or schools. Instead, measures should be taken to promote their integration into mainstream schools and classes. The situation at all levels should be closely monitored in order to avoid further segregation based on ethnic affiliation. Against this background, the role of Roma teaching assistants should be developed and financially supported, and intercultural teaching methods promoted with priority given to schools attended by Roma pupils.

171. The Advisory Committee calls on the authorities to monitor, develop and mainstream the good practices identified to improve access to and quality education for Roma children and ensure that the programmes decided by the Ministry of Education, Youth and Sciences are systematically implemented by local authorities in consultation with Roma representatives.

172. The Advisory Committee calls on the authorities, as a matter of priority, to make more sustained efforts to ensure access to kindergartens for all Roma children and guarantee that the curriculum in such kindergartens corresponds to the diverse needs and multi-lingual composition of the groups.

Article 14 of the Framework Convention

Minority language teaching

Findings of the first cycle

173. In its first Opinion, the Advisory Committee found that mother tongue teaching for persons belonging to minorities within the State education system remains limited and that instruction in minority languages was virtually non-existent in Bulgarian State schools. It considered that the authorities should look into the situation in this respect and take steps as appropriate to take into account the needs and demands for this education.

Present situation

a) Positive developments

174. The Advisory Committee notes that the teaching of the languages of persons belonging to minorities is guaranteed by the Bulgarian legal order. Article 36, paragraph 2 of the Constitution

guarantees that “Citizens whose mother tongue is not Bulgarian shall have the right to study and use their own language alongside the compulsory study of the Bulgarian language”. According to the relevant legislation,²⁰ education in minority languages is now provided during the regular school hours with full-time teachers.

b) Outstanding issues

175. The Advisory Committee notes that Turkish is studied as a mother tongue in the framework of school programmes from the 1st to 8th grades. Additional opportunities are under examination to offer Turkish education in the 9th, 10th and 11th grades. Armenian, Hebrew and Greek are also studied as mother tongues in Bulgarian schools in Sofia, Plovdiv, Sliven and in other cities though these schools do not provide compulsory classes for the study of these languages after the 8th grade. Romanian is studied in a specialized senior high-school in Sofia which at present welcomes 25 pupils from the 8th and 9th grades and 12 pupils from the preparatory 8th grade. Other minority languages, such as Aromanian and Greek are taught sporadically as private initiatives by the respective communities. However, the Advisory Committee notes that some minority communities have complained that these classes normally cease after the 8th grade.

176. The Advisory Committee notes that, notwithstanding the progress achieved in the teaching of minority languages, there is still a significant demand for more education in minority languages in schools. At present, it is only possible to have two classes per week in the minority language in response to parental wishes. According to the information available to the Advisory Committee, this is primarily due to the legal restriction on teaching subjects, other than the minority language, in the mother tongue of minorities (see related comment under Article 6).

177. In 2009, according to data provided by the Ministry of Education, Youth and Sciences to the Advisory Committee, courses in the Turkish language are followed by 24,185 pupils, courses in the Hebrew language by 1,040 pupils, courses in the Armenian language by 290 pupils and courses in the Romani language by 160 pupils. According to the Armenian and Romanian communities, it is difficult for the smaller minorities to reach the minimum of 26 children registered in order to have access to lessons in their language. The Turkish community confirmed that, at the local level, these opportunities are often non-existent. Romani as a mother tongue is not being taught and studied systematically. According to various sources, the textbooks are often inadequately translated into minority languages and the availability of qualified teachers is also problematic.

178. The Advisory Committee notes that, according to independent sources, the number of pupils receiving instruction in minority languages is diminishing. One of the reasons given to the Advisory Committee is that the lack of adequately trained teachers and textbooks discourages some parents belonging to minority communities to enrol their children in minority education for fear of giving them a lower quality education. It seems also that the parents prefer other western European languages, often English, for their children’s future employment opportunities and that minority children themselves usually do not prioritise their minority language. Among other reasons, the fact that the existing educational and social environment in Bulgaria doesn’t consider linguistic diversity as an added value, may partly explain this trend.

Recommendations

179. The Advisory Committee calls upon the authorities to intensify their dialogue with national minority representatives to analyse the existing demands of minorities, including from the numerically smaller groups such as the Romanian minority, to receive instruction in or of their minority language.

²⁰ Law on Educational Standards, Basic general education and Curriculum of 1999, amended in 2002 and again in 2009

180. The Advisory Committee considers that the authorities should increase their efforts to provide opportunities for pupils belonging to minority communities to learn their minority language and requests that they examine the possibility of developing bilingual education.

181. The Advisory Committee calls upon the authorities to abolish all the legal and administrative restrictions on teaching subjects, other than the minority language, in the mother tongues of minorities.

Article 15 of the Framework Convention

Participation in decision-making processes

Findings of the first cycle

182. The Advisory Committee considered that the participation of persons belonging to minorities in Bulgarian public life was limited and recommended that adequate measures be taken in order to help increase the presence of these persons in elected bodies and the State administration.

Present situation

a) Positive developments

183. The Advisory Committee notes with satisfaction that persons belonging to national minorities continue to play an active role in the political life of Bulgaria. The Advisory Committee notes that in spite of the Constitutional prohibition of establishment of political parties on ethnic, racial or religious lines, persons belonging to national minorities continue to be represented in the Parliament, including following the elections of July 2009, as a result of their inclusion on the lists of some political parties. At the local level, they are represented in locally-elected bodies in regions where national minorities live in substantial numbers.

184. The Advisory Committee notes that the Movement for Rights and Freedoms, representing the interests of the Turkish minority, has been a well-established political entity in the national and regional political spectra, and its representatives actively participate in elections to the National Assembly and local councils. Politicians representing the Movement for Rights and Freedoms have been members in a number of Ministerial cabinets in the past two decades. About 15 Roma candidates were included on party lists during parliamentary elections in July 2009. One of the candidates, a 29-year-old Roma politician from the *Evrroma* party, won a seat in the National Assembly, becoming the first Roma woman MP in this region of Europe.

185. At the local level, representatives of national minorities were successful in attracting a large share of the popular vote in the local elections of 2007, with one study putting the number of municipal councillors belonging to national minorities at 1,181 out of the total of 5,231 for the whole of Bulgaria, municipality mayors belonging to national minorities at 45 out of 264 and village mayors at 883 out of 2,916.²¹ The principal political force representing the interests of persons belonging to national minorities has been the Movement for Rights and Freedoms, with *Eurroma* and *Party Roma* also participating actively. In the recent local and parliamentary elections, a number of the mainstream political parties have also shown greater interest in minority issues, putting forward minority candidates and addressing minority concerns.

b) Outstanding issues

186. The Advisory Committee notes that, despite notable electoral achievements in the representation of national minorities, the number of elected councillors and members of

²¹ Marko Hajdinjak, International Center for Minority Studies and Intercultural Relations (IMIR), Sofia, Bulgaria, 2008: "Political Participation of Minorities in Bulgaria", page 11; http://www.foruminst.sk/publ/egveb/ethnicstability/ethnicstability_marko_hajdinjak_II.pdf

Parliament representing national minorities does not reflect the actual ethnic composition of the country. In particular, the Roma do not benefit from appropriate political representation, especially at the national level.

187. In this context the Advisory Committee would like to draw the attention of the authorities to the Recommendation CM/Rec(2008)5 of the Committee of Ministers to member states on policies for Roma and/or Travellers in Europe²² which encourages the states, where they have not yet done so to “consider amending their national legislation in an appropriate manner in order to enable positive action aimed at overcoming particular disadvantages experienced by Roma and/or Travellers and at giving equal opportunities for Roma and/or Travellers in society.”²³ The Committee of Ministers further recommended that “an equal participation of Roma and/or Travellers in electoral processes at the national, regional and local levels should be encouraged.”

Recommendations

188. The Advisory Committee urges the Bulgarian authorities to take measures to improve minorities’ representation in elected assemblies, by removing all undue obstacles, including those enshrined in law, to the effective participation in public affairs of persons belonging to national minorities.

189. Substantial efforts should be made to promote a better representation of the Roma at all levels. Particular attention should also be paid to the representation of persons belonging to numerically smaller minorities.

Consultative mechanisms

Findings of the first cycle

190. In its first Opinion, the Advisory Committee found that additional efforts were needed at the institutional level to enhance consultation of minorities on issues concerning them and also that the authorities should take the necessary measures to reinforce the National Council for Ethnic and Demographic Issues.

Present situation

a) Positive developments

191. The Advisory Committee welcomes the attention shown by the authorities to the question of co-operation with organisations representing national minorities and to the transformation in December 2004 of the former National Council for Ethnic and Demographic Issues at the Council of Ministers (NCEDI) into the National Council for Co-operation on Ethnic and Demographic Issues (NCCEDI). The Advisory Committee notes that the NCCEDI is composed of 16 ministries, nine State agencies and 52 NGOs representing various minority groups. It further notes that the NCCEDI of the Council of Ministers is the main body for consultation and coordination of Government policies regarding persons belonging to ethnic, religious or linguistic minorities and that it meets at least once every three months.

192. The Advisory Committee also welcomes the establishment of Regional Councils for Ethnic and Demographic Issues operating within the regional administrations, whose role is to develop and implement regional programmes for the integration of persons from ethnic minorities.

²² Recommendation CM/Rec(2008)5 of the Committee of Ministers to member states on policies for Roma and/or Travellers in Europe adopted by the Committee of Ministers on 20 February 2008 at the 1018th meeting of the Ministers’ Deputies

²³ See also Advisory Committee on the Framework Convention for the Protection of National Minorities: second Thematic Commentary on the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs (2008).

193. The Advisory Committee further welcomes the establishment of specialised consultative organs on Roma issues such as the Commission on the Integration of Roma within the NCCEDI, supported administratively by the Department on the Integration of Roma at the governmental Directorate for Ethnic and Demographic Issues; the Council on the Equal Integration of Roma in the Bulgarian Society at the Ministry of Labour and Social Policy, the Roma Public Council on Culture at the Ministry of Culture, etc. All these different, multilayered and interlocking types of mechanisms for coordination and consultation aim at facilitating the participation of minorities particularly Roma representatives, in decision-making processes.

b) Outstanding issues

194. The Advisory Committee notes with concern the fact that the NGOs wishing to participate in the work of the NCCEDI are admitted by the decision of the Chairperson upon a recommendation of the Commission (also designated by the Chairperson of the National Council and headed by a Deputy Chairperson)²⁴ and that the membership is reviewed every year. The Advisory Committee considers that such short tenure and the lack of transparency of the admission procedure are not conducive to the establishment of a long-term dialogue between the representatives of national minorities and the authorities. The Advisory Committee also considers that the high turnover of the NGOs in the NCCEDI is bound to have a detrimental effect on the Council's work, as does the infrequency of their meetings both at the central and local levels.

195. The Advisory Committee has been informed of repeated refusals to admit an NGO representing the Armenian minority to the Council, which is currently under appeal to the Commission for the Protection against Discrimination. While recognising the necessity to limit, for the sake of efficiency, the number of members in the NCCEDI, the Advisory Committee considers that the admission process should be made more transparent and inclusive.

Recommendations

196. The Advisory Committee calls on the Bulgarian authorities to ensure that the National Council for Co-operation on Ethnic and Demographic Issues can effectively play its role as a consultation mechanism and enable persons belonging to national minorities to participate effectively in decision-making. It also invites ministries and other relevant bodies to maintain direct contacts with representatives of national minorities, including with those which are not part of the National Council for Co-operation on Ethnic and Demographic Issues.

197. The Advisory Committee further calls on the authorities to ensure that admission of NGOs representing national minorities to the National Council for Co-operation on Ethnic and Demographic Issues follows a transparent and inclusive process and that the length of time for which they are admitted be extended to at least three years.

Participation in economic and social life

Findings of the first cycle

198. In its first Opinion, the Advisory Committee noted the Government's efforts to assist the development of disadvantaged regions, in many cases settled by persons belonging to national minorities, and encouraged the authorities to associate minorities with its preparation and to monitor the implementation of such measures.

²⁴ See Advisory Committee on the Framework Convention for the Protection of National Minorities: second Thematic Commentary on the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs (2008) §§106-108.

Present situation

a) Positive developments

199. The Advisory Committee notes that in February 2005 the Government of Bulgaria, together with eight other governments in Central-Eastern Europe²⁵ signed the Declaration of the Decade of Roma Inclusion committing themselves to improve the socio-economic status and social inclusion of Roma. The Declaration was followed by Bulgaria adopting in April 2005 a National Action Plan 2005-2015 which focuses on the priority areas of education, employment, health-care and housing, and commits relevant government ministries and agencies to take into account the other core issues of poverty, discrimination, and gender (see also related comment under Article 4).

200. The Advisory Committee is also pleased to note the adoption of the Health Strategy for Disadvantaged People from Ethnic Minorities (September 2005), the National Programme for the Improvement of the Living Conditions of Roma (March 2006) and the Strategy for Educational Integration of Students and Children from Ethnic Minorities (June 2004).

201. The Advisory Committee also notes that the authorities developed a number of programmes in the employment field, which, while not targeting any particular ethnic group, benefit largely persons belonging to the Roma. In this context, the Advisory Committee welcomes in particular the efforts undertaken in the framework of the “From Social Benefits to Providing Employment” programme offering temporary employment to poorly-qualified persons on social benefits, the “Activating Inactive Persons” programme aimed at discouraged persons who have given up looking for work, the “Beautiful Bulgaria” programme offering employment in the fields of construction and tourism and offering vocational training in these domains, and finally the “Employment through Business Support” project which allowed for the creation of 42 business centres and 10 business “incubators” by providing consultations, fundraising and micro-credit for budding entrepreneurs.

202. Persons belonging to the Roma minority have also benefited from the National Roma Literacy and Qualification Programme and the Human Resources Development Programme offering literacy and vocational training.

203. There are some positive experiences of mainstreaming Roma issues at the municipal level and sustained local development, for example in the towns of Sliven and Lom where there is a significant Roma minority presence in the town and on its council, where there is an excellent set of community development projects leading to wide participation of Roma in education and in social, economic and political life.

204. The Advisory Committee notes the efforts undertaken by the authorities in the last few years in the sphere of health care, with the assistance of financial resources from the pre-accession facilities of the European Union. The Project on Health Strategy Concerning People in a Disadvantaged Position, Belonging to Ethnic Minorities, implemented in the framework of the National Action Plan for the Decade of Roma Inclusion focused on on-site preventive medical examinations in settlements and neighbourhoods inhabited by persons of Roma origin without compulsory health insurance.

205. The Advisory Committee further notes that the Ministry of Health, in co-operation with its regional structures (the regional health care centres and the regional inspectorates for public health protection and control), the project coordinators who represent the Roma community and with the assistance of the health mediators, successfully organised preventive examinations implemented with the mobile equipment provided under the projects. The financial resources

²⁵ Declaration of the Decade of Roma Inclusion was signed in Sofia, Bulgaria, on February 2, 2005 by the Prime Ministers of Bulgaria, Croatia, the Czech Republic, Hungary, “the former Yugoslav Republic of Macedonia”, Montenegro, Romania, Serbia, Slovakia. Three other states (Albania, Bosnia and Herzegovina, and Spain) joined the “Decade” later.

allocated to the project increased in the years 2006-2009 and the allocations programmed for the next three-year period should guarantee its sustainability in the long-term.

206. The information available also shows that considerable efforts are placed on improvement of health and hygiene awareness of the populations concerned. Community meetings were organised to conduct lectures, talks and on-site discussions, at which expressly prepared health information material on various illnesses, patients' rights, social assistance opportunities, and the role of health mediators were disseminated.

207. The Advisory Committee welcomes the inclusion of the position of health mediator in the National Classification of Occupations and Positions. A programme for the training of health mediators has been elaborated at two colleges, and the graduates are awarded appropriate certificates of qualification. Such training, which in the past was lacking, is of vital importance also for the medical personnel working in a multi-cultural environment.

b) Outstanding issues

208. In spite of these positive developments, participation in economic and social life for the Roma remains limited, particularly at the central level. Various sources indicate that the authorities involved in the implementation of measures aimed at improving the situation of the Roma often fail to establish an effective partnership with Roma organisations. More generally, their involvement in decision-making that affects them remains insufficient. The presence of Roma in executive structures, as well as in the public administration, is extremely limited.

209. According to information at the disposal of the Advisory Committee, the Roma continue to be disproportionately affected by unemployment. According to data for 2007 presented by the Max Planck Institute and the Institute of Sociology at the Bulgarian Academy of Sciences, the rate of unemployment stood at 7,6% among persons of Bulgarian ethnic origin, at 26,8% among persons belonging to the Turkish minority and at 48,3% among persons belonging to the Roma minority.²⁶

210. The Advisory Committee notes also that the level of education of the Roma remains low. Various studies estimate that between 7 and 18% of adult Roma are illiterate and that over 80% of Roma do not continue education past primary school.

211. The National Statistical Institute informed the Advisory Committee that it does not conduct special surveys on the situation of the Roma. The Advisory Committee is of the opinion that the lack of reliable statistics, disaggregated by ethnicity, gender and geographical distribution, especially in the field of employment, leads to increased difficulties in elaborating targeted minority policies. It considers that collecting such statistical data in a way that conforms to international standards on data protection is indispensable to design well-targeted and sustainable measures that meet the needs of persons belonging to national minorities. The Advisory Committee wishes to emphasise the importance of such data for the preparation, implementation and monitoring of public policies with regard to the protection of minorities and especially disadvantaged groups. Awareness-raising among national minorities of the necessity to collect such data for the elaboration of adequate policies is also desirable.

Recommendations

212. The Advisory Committee urges the Bulgarian authorities to collect information, disaggregated by ethnicity, gender and geographical location, regarding the socio-economic situation of the persons belonging to various communities, in particular the Roma. In co-operation with those concerned, they are encouraged to make use of findings based on *ad hoc*

²⁶ For more details on unemployment and education attainment among persons of Roma origin see the UNDP Vulnerability Study on the Roma in relation to the Decade of Roma Inclusion 2005, UNDP Vulnerable Groups in Central and South East Europe, Statistical Profiles, <http://vulnerability.undp.sk/>

studies, special studies or any other scientifically valid methods to ensure greater impact and efficiency of current and future efforts to address the considerable gaps in the living conditions, health and employment that exist between the Roma and the majority population.

213. The authorities should also continue and increase efforts to develop and implement policies to address the problems confronting the Roma in a number of fields, particularly in the areas of housing, employment, medical care and education, and allocate adequate resources to remedy the situation and mainstream the local good practices at the national level.

214. More determined efforts should be made to find ways and means to improve substantially participation of the Roma - including Roma women - in decision-making processes. The authorities should ensure that the Roma and their organisations are treated as key partners in governmental programmes aiming at improving their situation. In so doing, they should endeavour to associate them in the design, implementation, monitoring and evaluation of the various measures taken by the different ministries to implement the National Action Plan.

III. CONCLUDING REMARKS

215. The Advisory Committee considers that the present concluding remarks could serve as a basis for the conclusions and recommendations to be adopted by the Committee of Ministers with respect to Bulgaria.

Positive developments

216. The adoption of the Protection against Discrimination Act together with the establishment of the Commission for Protection against Discrimination, provide a clear legal basis for the protection against discrimination, including in the field of employment. The consistent application by the judges of the shifting of the burden of proof principle in cases of discrimination, and the provision allowing non-profit making, public interest organisations to litigate on their own behalf when the rights of many are breached, have significantly strengthened effective protection for the victims of discrimination.

217. Persons belonging to national minorities continue to play an active role in the political life of Bulgaria. The Movement for Rights and Freedoms, representing the interests of the Turkish minority, is a well-established political entity in the national and regional political spectra, and its representatives actively participate in elections to the National Assembly and local councils. Politicians representing the Movement for Rights and Freedoms have been members in a number of Ministerial cabinets. Roma candidates were also included on party lists during parliamentary elections in July 2009 and one of the candidates won a seat in the National Assembly, becoming the first Roma woman MP in this region of Europe. At the local level, representatives of national minorities have been successful in attracting a large share of the popular vote in the local elections of 2007. Generally, in the recent local and parliamentary elections, a number of the mainstream political parties also demonstrated greater interest in minority issues, putting forward minority candidates and addressing minority concerns.

218. The authorities have shown increased attention to the question of co-operation with organisations representing national minorities most notably through the National Council for Co-operation on Ethnic and Demographic Issues (NCCEDI) but also through the Regional Councils for Ethnic and Demographic Issues operating within the regional administrations. The Advisory Committee further welcomes the establishment of specialised consultative organs on Roma issues such as the Commission on the Integration of Roma, the Council on the Equal Integration of Roma in the Bulgarian Society at the Ministry of Labour and Social Policy, and the Roma Public Council on Culture at the Ministry of Culture. All these different, multilayered and interlocking types of mechanisms for coordination and consultation aim at facilitating the participation of minorities, particularly Roma representatives, in decision making processes.

219. In the last few years, Bulgaria has developed a number of programmes to implement the National Action Plan under the Decade of Roma Inclusion (2005-2015). These multiple programmes which focused on the priority areas of education, employment, health-care, housing, poverty reduction, discrimination and gender aim to improve the socio-economic status and social inclusion of Roma in the society.

Issues of concern

220. The personal scope of application given to the Framework Convention by the Bulgarian authorities remains limited. In particular, in spite of a large number of persons identifying themselves as belonging to the Macedonian and Pomak minorities, the exclusion of these groups from the scope of application of the Framework Convention and the lack of dialogue in this respect give cause for deep concern.

221. Despite recent improvements, cases of police brutality against Roma and of failure to investigate them properly, continue to be reported. These cases include shootings, death while in police custody and excessive use of force resulting in death. Cases of forced evictions, such as the one of some forty Romani households from the Gorno Ezerovo district of Bourgas on 8 September 2009, without adequate alternative accommodation, abusive police raids on Roma homes and even destruction of Roma property, remain matters of serious concern and raise questions as to the compatibility of these measures with Article 4 of the Framework Convention.

222. Physical barriers, such as two-meter high metal or concrete fences surrounding Roma neighbourhoods and segregating them from the rest of the community, have been constructed at the expense of the respective municipalities in Plovdiv (around the Sheker Romani mahala), as well as in Romani neighbourhoods in Kazanlak and Kiustendil. Such practices are incompatible with the principles of Article 4 of the Framework Convention.

223. Some media incite intolerance, and sometimes hatred, notably with regard to the Turkish and Roma minorities. The Advisory Committee is particularly concerned that despite numerous sanctions applied against broadcasters in question, they continue to broadcast intolerant and discriminatory views against persons belonging to Roma, and persons belonging to the Turkish minority. The printed media, and in particular newspapers such as *Ataka*, *Nova Zora*, and *Novinar* continue to publish articles which perpetuate negative stereotyping of Roma. There seems to be a unacceptable complacency on the part of the Bulgarian Press Ethics Commission which has apparently not taken any action even in the most deeply disturbing cases of hate speech.

224. There are deep concerns about the living conditions and the lack of legal guarantees or safeguards of tenure in some of the Romani neighbourhoods, such as the Stolipinovo quarter in Plovdiv. Lack of sanitation, total dilapidation of buildings, and inexistent refuse collection endanger not only the health but even the life of the inhabitants. It is most disturbing that no action has been taken to remedy the situation in spite of the authorities being aware of the problem for years. There have been documented cases of discriminatory practices against Roma in the provision of medical services, namely the refusal to send emergency aid ambulances to Romani districts, the segregation of Romani women in maternity wards, and the use of racially-offensive language by doctors.

225. The currently offered television programmes in minority languages are insufficient to meet the needs of persons belonging to national minorities.

226. Public financial support for national minorities' activities is still limited and insufficient, in particular for numerically smaller groups.

227. Despite recent improvements, there are deep concerns about the situation of Roma children in schools. There is still a concentration of Roma children in separate classes in some areas. They continue to face serious difficulties: low-level of school attendance, particularly for Roma girls, high drop-out rates, failure at the entrance exams for schools and university, lack of suitable teaching material, and insufficient support measures. Furthermore, there is a low number of Roma children attending pre-school education.

Recommendations

228. In addition to the measures to be taken to implement the detailed recommendations contained in Sections I and II of the Advisory Committee's Opinion, the authorities are invited to take the following measures to improve further the implementation of the Framework Convention:

- undertake wider consultation with representatives of the various ethnic groups and civil society regarding the personal scope of application given to the Framework Convention in Bulgaria;
- review the administrative and judicial mechanisms in place in cases of offences allegedly committed by police officers so as to ensure that a reliable and independent complaint system is further developed to undertake prompt, impartial and effective investigations into allegations of ill-treatment by the police ;
- undertake vigorous measures, as a matter of urgency, to put an end to practices carried out by some municipalities of separating Roma from the majority population by means of walls or fences; design adequate measures to prevent such practices from re-occurring in the future ;
- cease all forced evictions of Roma, including from informal settlements, without adequate alternative accommodation being proposed ;
- investigate any complaint of alleged discrimination of Roma in the provision of goods and services and sanction the perpetrators when discriminatory acts are established ;
- take the necessary steps to prosecute incitement to ethnic or religious hatred through hate speech and in printed and electronic media, review the existing codes of ethics of the media and their enforcement procedures ;
- increase financial support to ensure access of persons belonging to national minorities, including numerically smaller groups, to radio and television programmes in their language and ensure that the Turkish community continues to benefit from the daily Turkish TV news programme ;
- continue and step up the efforts to support initiatives aimed at protecting, preserving and developing the cultural identity and language of minorities ;
- put an end to practices of placing Roma pupils in separate classes or schools; promote their integration into mainstream schools and classes; monitor closely the situation in order to eliminate segregation based on ethnic affiliation ;
- ensure that there are sufficient resources made available for the effective implementation of the National Action Plan for the Inclusion of Roma; involve Roma to the full extent in the design, implementation and monitoring and evaluation of the various measures taken by the different authorities to implement this Action Plan.

**COMMENTS OF THE GOVERNMENT OF BULGARIA
ON THE SECOND OPINION OF THE ADVISORY COMMITTEE ON THE
IMPLEMENTATION OF THE FRAMEWORK CONVENTION FOR THE PROTECTION
OF NATIONAL MINORITIES BY BULGARIA**

(received on 3 January 2011)

**Comments by the Bulgarian authorities
on the Second Opinion of the Advisory Committee on the Implementation
of the Framework Convention for the Protection of National Minorities in Bulgaria**

The Republic of Bulgaria shares the generally accepted concept that the rights of persons belonging to different ethnic, religious or linguistic groups form an integral part of the overall body of rights and fundamental freedoms.

Implementing in practice the principle that ethnic identity is a matter of free personal choice for any individual **all** Bulgarian citizens are given the opportunity to freely state their affiliation to a certain ethnic, religious or linguistic group. The protection of their rights and freedoms is guaranteed by the Bulgarian Constitution, the national legislation and Bulgaria's international legal obligations in the field of human rights, in strict conformity with the principles of equality and non-discrimination.

The Republic of Bulgaria is a State Party to all the main international human instruments in the field of human rights, including those of the United Nations, the Council of Europe and the European Union. All necessary legal and institutional guarantees are established in the country for the effective realisation of human rights and fundamental freedoms, as well as for prevention and protection against any violations.

Among these instruments is the Framework Convention for the Protection of National Minorities, which the Republic of Bulgaria ratified in 1999. Since then, in conformity with its Article 2, the provisions of the Framework Convention have been applied by the Bulgarian authorities in good faith.

In this context, the Bulgarian authorities have carefully considered the Second Opinion on Bulgaria (doc. ACFC/OP/I(2004)001) prepared by the Advisory Committee on the Framework Convention for the Protection of National Minorities.

The Bulgarian authorities note positively that the Advisory Committee has recognized some of the achievements in the country in the period following the first monitoring cycle. The opinion rightly points out the strengthened legal and institutional framework for protection against discrimination and for implementing a modern state policy in the field of human rights, including the rights of persons belonging to minority groups. It specifically highlights the role of the National Council for Co-operation on Ethnic and Demographic Issues (NCCEDI) at the Council of Ministers, which is the main body for consultation and coordination of the policies of the Government with organisations representing national minorities.

At the same time, it is regrettable that some of the very important comments of the Bulgarian authorities presented during the first monitoring cycle were not duly considered by the Advisory Committee. It should therefore be reiterated that the position of the Bulgarian authorities on those issues is legally and factually substantiated and remains unchanged.

In particular, the Bulgarian authorities would again draw attention to the attempts of the Advisory Committee to justify a widening of the personal scope of application of the Framework Convention beyond the limits set by its relevant provisions as interpreted in the Explanatory Report in conformity with the will of the States Parties. It will be reiterated in this regard that, in the absence of a definition of the term "national minorities" in the Framework Convention, the determination of its personal scope of application is the exclusive competence of the Parties themselves.

Likewise, the Bulgarian authorities do not accept the interpretation by the Advisory Committee of certain provisions of the Framework Convention, according to which certain actions, expressly envisaged only as **conditional possibilities**, are presented as being practically unconditionally applicable in all cases.

Furthermore, it would be recommended that the Advisory Committee make more use of official sources of information, such as the annual reports of the Ombudsman before the National Assembly. This would contribute to the quality of its Conclusions which would be then more pertinent to the reality of the situation in Bulgaria.

Detailed comments on the contents of the Advisory Committee's Second Opinion on Bulgaria are provided below, which clearly indicate that the "findings" and "recommendations", contained in the said Opinion, are not entirely accurate and, together with the concluding remarks, should be thoroughly re-examined in order to adequately serve as a basis for the corresponding conclusions and recommendations of the Committee of Ministers with respect to Bulgaria.

It should also be noted that the Opinion of the Advisory Committee during the first monitoring cycle and the comments of the Government thereon **are** accessible to everyone, including to representatives of minority groups and the civil society, on the web-sites of the NCCEDI.²⁷ Apparent difficulties encountered in accessing this web-site were temporary and due to technical problems.

The documents are translated into Bulgarian, which is the language spoken by all Bulgarian citizens. The education in the school system is also carried out in Bulgarian (with some exceptions for the foreign language schools). In addition, all documents of the Advisory Committee could be easily consulted on the web-site of the Council of Europe in their English and French versions.

With regard to the follow-up seminar, this is an option suggested by the Advisory Committee which is **not** provided for in the Framework Convention. The usefulness or not of organizing such a seminar is assessed by each member-State individually. Furthermore, it should be noted that during their visit to Bulgaria in September - October 2009, the members of the Advisory Committee were able to meet representatives of all relevant state institutions and of the various minority groups.

Article 3 of the Framework Convention

Personal scope of application of the Framework Convention

The Advisory Committee correctly notes that "*the Bulgarian legal order does not define the concept of national minority*". Neither does the Framework Convention itself, or any other universal legally binding instrument, to which Bulgaria is a party. The Advisory Committee also notes that "*recognition as a minority is not a prerequisite to qualify for the protection of the Framework Convention*".

However, in the absence of such a definition, each State Party is sovereign to determine the personal scope of application of this Convention within its territory.

As stated before, the Republic of Bulgaria adheres to the principle that ethnic identity is a matter of free personal choice for any individual. Self-identification is one indispensable

²⁷ See <http://www.nccedi.government.bg/page.php?category=87&id=1207> and <http://www.nccedi.government.bg/page.php?category=87&id=1206>

criterion to be considered when defining the personal scope of application of the Framework Convention. By its very nature, though, self-identification is a **subjective** criterion.

It shall be recalled, however, that according to paragraph 35, second sentence, of the Explanatory Report to the Framework Convention: “*The individual’s subjective choice is inseparably linked to objective criteria relevant to the person’s identity.*” It is evident from this explicit text that the personal scope of application of the Framework Convention is inherently linked to the existence of both subjective and objective criteria **cumulatively**.

Subjective criteria should not be assigned decisive significance, while the objective criteria could not be disregarded practically, especially given the unstable dynamics of the subjective criteria (i.e. different self-identification of the same person in changing circumstances). Consequently, any individual, who may wish to come under the protection flowing specifically from the principles of the Framework Convention must fully satisfy both types of criteria cumulatively in order to qualify for such protection (i.e. a mere wish and/or sentiment could not suffice).

Within this clear legal framework, defined by the Convention itself, the Bulgarian authorities have adopted a genuinely inclusive approach regarding the personal scope of application of the Framework Convention. Based on the Constitution of the Republic of Bulgaria, in connection with the provision of Art.3, paragraph 1 of the Framework Convention, and to the extent that the individual choice of every person regarding his/her belonging to a given ethnic, religious or linguistic minority group or community is linked to the existence of objective criteria, relevant to that person’s identity, the principles of the Framework Convention are applicable to all citizens of the Republic of Bulgaria.

With regard to individuals who identify themselves as belonging to a Macedonian minority, the Republic of Bulgaria, as already stated, adheres to the principle that ethnic identity is a matter of free personal choice. Accordingly, during the 2001 population census, 5 071 persons identified themselves as Macedonians. Of these, 1 623 persons have declared that their mother tongue was Bulgarian. These facts are included in the official census results which are freely available and do not require any additional specific act of recognition by the state authorities. However, by its very nature self-identification is a subjective criterion and does not in itself suffice to qualify for the protection of the Framework Convention. It should be reiterated, though, that these persons enjoy fully and effectively, without any discrimination, the rights and freedoms guaranteed to all Bulgarian citizens.

Likewise, with respect to Bulgarian-speaking Muslims in Bulgaria (also referred to as “Pomaks” in the Opinion of the Advisory Committee), it will be noted that during the national census of 2001, conducted in conformity with the highest international standards, every individual was free to declare her/his ethnic self-identity according with their own free choice, 49,764 individuals identified themselves as Muslim Bulgarians – “българи-мохамедани”. This fact was duly reflected in the official results of the 2001 national census.

It will be reiterated that individuals, who identify themselves as Bulgarian Muslims, as part of the Muslim religious minority in Bulgaria, are eligible, without discrimination, for protection under any provision of the Framework Convention which is applicable to religious minority groups.

These persons also enjoy fully and effectively, without any discrimination, the rights and freedoms guaranteed to all Bulgarian citizens. There have been no reports indicating the existence of discrimination against the Bulgarian-speaking Muslims. Furthermore, the existing provisions in Bulgaria's legislation, expressly prohibiting discrimination on the basis of religion, are rigorously enforced.

Collection of ethnicity data

With regard to the results of the 2001 census, it should be underlined that the census was carried out in full compliance with the relevant international standards. In the period after 2001, neither has any specific criticism been expressed concerning the exercise of the right to self-identification, nor has any doubt been ever raised as to the authenticity of the data.

As to the forthcoming census in 2011, the Council of Minister of the Republic of Bulgaria adopted on 23 June 2010 the Programme and the toolbox for it. The counting card for the population includes some additional questions, such as degree of knowledge of the Bulgarian language, knowledge of other languages apart from the Bulgarian and the mother tongue, religious identity of the individuals, etc. All these will complement the picture regarding the ethnic self-identification of the population of the Republic of Bulgaria.

The National Statistical Institute (NSI) has already carried out consultations with representatives of the Roma community. On 26 April 2010, the Council for the integration of Roma in the Bulgarian society specifically discussed the issue. The meeting was organized by Mr. Milan Milanov, adviser to the Minister of Labour and Social Policy and National coordinator for the international initiative “Decade for Roma Inclusion, 2005-2015”. A representative of the NSI briefed the participants in detail on the methodology for the census; presented the counting card, and confirmed the intention of the NSI to include persons of Roma origin among the counting personnel.

In addition, on 29 April 2010 the NCCEDI discussed the programme for the census, with particular focus on the process of gathering data on ethnic self-identification. The NSI once again reaffirmed its readiness to include as counting personnel during the census representatives of various ethnic groups.

During both meetings, the participants were acquainted with the joint recommendations of EUROSTAT and UNECE on the new cycle of censuses, the methodology, the formulation of the questions and the classifications used. The NSI will continue to consult representatives of various minority groups and will use their representatives as counting and monitoring personnel during the information gathering phase of the census. Moreover, the NSI undertakes a wide and active awareness raising campaign among all social groups on the aims and the importance of the population census.

With regard to gathering reliable data on the socio-economic situation of persons belonging to various minority groups, it should be pointed out that censuses provide data with regard to all criteria included in the programme and all persons in the territory of the country regardless of their ethnic, religious and/or other self-identification. These criteria are sex, age, education, marital status, country of birth, citizenship, place of residence, migration, labour status, etc. In this context, the claim of the Advisory Committee with regard to “*the lack of comprehensive ethnic data, disaggregated by ethnicity, gender and geographical location...*” is inaccurate.

Within the executive, various mechanisms have also been established to determine the necessity for specific activities and measures to improve the situation of disadvantaged citizens belonging to various ethnic groups. Some of them are the health and employment mediators whose work aimed at encouraging the integration of Roma in the Bulgarian society is financed by the state budget. The Centre for educational integration of children and pupils belonging to ethnic minorities with the Ministry of Education, Youth and Science also avails itself of expert estimates to define the impact of its projects on the target groups. Such data are also utilized by the indicators developed by the Secretariat of the “Decade for Roma Inclusion, 2005-2015” at the MLSP.

Article 4 of the Framework Convention

Legal and institutional protection against discrimination

In its Opinion the Advisory Committee noted positively the establishment of the Directorate for Ethnic and Demographic Issues (DEDI) as a specialised agency of the Council of Ministers assisting the Government in the elaboration and implementation of the government policy for integration of persons belonging to ethnic minorities.

In this context, the Bulgarian authorities would like to inform that in September 2009 the administration of the Council of Ministers was restructured with the aim of avoiding duplication of activities with other administrative structures and increasing efficiency. All activities within the administration of the Council of Ministers related to the ethnic and demographic issues were transferred to the MLSP. This was done in order to take full account of the socio-economic character of the challenges which citizens belonging to ethnic minority groups were confronted with in their everyday life.

The “Demographic Development, Ethnic Issues and Equal Opportunities” Directorate at the MLSP has two departments – “Demographic Policy, Equal Opportunities and Anti-Discrimination” and “Integration of Ethnic Minorities”. The Directorate is responsible for the elaboration, coordination and implementation of state policies in the field of demographic development, ethnic issues and equal opportunities. It also carries out monitoring and analytical activities. As mentioned above, the National coordinator for the initiative “Decade for Roma Inclusion, 2005-2015” is also based at the MLSP.

In its Opinion the Advisory Committee also welcomes the establishment in 2005 of the Commission for Protection against Discrimination (CPD). In addition to its powers, described in para. 61 of the Opinion, the Commission provides independent assistance to victims of discrimination lodging complaints. Through its offices and regional representatives, the CPD helps the victims of discrimination in their search for protection of their rights both as citizens and as representatives of minority groups.

It is also necessary to specify that the Law on Protection against Discrimination envisages two types of proceedings for protection against discrimination – one the one hand proceedings before the CPD, and on the other - judicial proceedings according to the general civil procedural order. The proceeding before CPD is administrative and does not require state taxes. It takes place under a special informal procedure stipulated in the Law on Protection against Discrimination itself. The time limits for considering a certain complaint or allegation are short and established by law. Citizens in vulnerable situations, including persons belonging to minority groups, prefer this administrative proceeding to the general court action.

The Advisory Committee also refers in its Opinion to suggestions made in 2007 by the Venice Commission to change the language used in the Bulgarian Constitution in order to “convey a more open attitude towards minorities”, as well as to replace the term “citizen” with the term “everyone” to make the wording of the Constitution “unambiguous”.

It will be recalled in this regard that Bulgaria became a member of the Council of Europe in 1992 with the Constitution, which is currently in force. At the time of accession the Constitution of the Republic of Bulgaria was judged to be fully compatible with the standards of the Council of Europe and with Bulgaria's international legal obligations. The situation has not changed since.

The Constitution of the Republic of Bulgaria guarantees fully, in accordance with the country's international legal obligations, the rights and freedoms of all persons within its

jurisdiction, including foreigners. The only exceptions regard certain rights, for which Bulgarian citizenship is expressly required (ref: Articles 24(2), 25, 26(1), 35(2), 36(1), 59, 65 and 110).

Regarding specifically the term "citizen", it should be reiterated that it was used in the Constitution of 1991 in order to emphasize that all individuals possess inherent dignity and rights, which are not granted and may not be taken away by the State; that the new Bulgarian State may not treat persons under its jurisdiction as "subjects" (as, unfortunately, was often in practice the case in pre-1989 authoritarian times). Consequently, the use of the term "citizen" was never intended to attempt to limit the scope of the international legal obligations assumed voluntarily by Bulgaria under the relevant international legal instruments. It may be recalled in this context, that Bulgaria is a party to all major United Nations conventions in the field of human rights and has been fulfilling its obligations fully and in good faith. Furthermore, pursuant to the provision of Article 5(4) of the Constitution of 1991, these legal instruments are part of domestic law.

Consequently, the will of the legislator was perfectly obvious - that everyone within the jurisdiction of the Bulgarian State shall be secured the rights and freedoms as guaranteed by these conventions. Had this not been the case, as a minimum, the international legal instruments providing for the equal treatment of everyone, including foreigners, would not have been included in the domestic law.

Likewise, the Constitution of the Republic of Bulgaria fully guarantees the rights of persons belonging to minorities. The Constitution recognises explicitly the existence of religious, linguistic and ethnic differences, respectively of bearers of such differences in Bulgaria. This constitutional fact has been clearly confirmed by the Constitutional Court. E.g. Article 54(1) of the Constitution stipulates that everyone shall have the right, *inter alia*, to develop their own culture in accordance with their ethnic identification. This right is fully recognized and guaranteed by the law. Furthermore, Article 29(1) of the Constitution provides, *inter alia*, that no one shall be subjected to forcible assimilation.

The principle of equality is guaranteed in Article 6(1) of the Constitution, according to which all people are born free and equal in dignity and rights.

The general principle of equal treatment/non-discrimination of all persons, including those belonging to minority groups, is legally guaranteed and scrupulously observed in Bulgaria in all spheres. This has been the essential characteristic of Bulgaria's successful model of ethnic relations, based on the values of pluralist democracy and the rule of law.

The "concern" expressed about the hypothetical possibility of using Article 11(4) of the Constitution of Bulgaria to limit the rights of persons belonging to ethnic, religious and linguistic minority groups to organise is equally unfounded.

The constitutionally guaranteed freedom under Article 44(1) - that "the citizens may associate freely", is of universal character and refers to all persons irrespective of possible ethnic, religious or linguistic differences. As an individual human right it applies to any person no matter whether he/she is related to a minority or a majority.

The possibility for the state to introduce by law limitations on the freedom of association is internationally recognized. Thus, according to Article 11(2) of the European Convention for the Protection of Human Rights and International Freedoms, the state may limit the rights to freedom of association "*in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others*". The limitations envisaged in the Bulgarian

Constitution have universal character and are applied to all associations irrespective of their membership and/or formally declared goals.

In its essence, the provision of Article 11(4) of the Constitution guarantees the participation of all Bulgarian citizens in political life and state power structures irrespective of their ethnic or religious affiliation.

The Constitutional Court of the Republic of Bulgaria has clearly defined in a relevant Decision (№ 4 от 21 април 1992 г. по к.д. № 1 от 1991 г.) the scope of Article 11(4) of the Constitution. The Court stated that Article 11(4) prohibits the existence of political parties, the membership of which is expressly limited by its articles of association to persons belonging to a particular racial, ethnic or religious group, irrespective of whether it is in a majority or in a minority. This provision does not contain limitations on - and consequently may not be used to prevent - any minority religious, ethnic or religious groups from "organising themselves at all". On the contrary, there are both political parties, the membership of which includes overwhelmingly persons, belonging to particular ethnic groups, and associations formed by persons, all of whom belong to a particular ethnic group. One of these parties has until recently been a partner in coalition governments in Bulgaria.

The formation of political parties and their activities are regulated by the Law on Political Parties which is fully in conformity with the standards of the European Convention on Human Rights.

With respect to the Ombudsman Office, the allegations of the Advisory Committee that "...the Office of the Ombudsman... plays no significant role in the protection of persons belonging to national minorities in Bulgaria" are unfounded and do not correspond to the factual situation. In this regard, the Bulgarian authorities draw attention to some of the documents issued by the Ombudsman, reflecting his work on cases of violation of human rights of representatives of minority groups in Bulgaria: *Opinion of the Ombudsman on the eviction of Roma in Dolno Ezerovo (Bourgas), Assanova Mahala (Sofia), etc.* – included in the 2009 Annual Report²⁸; *Opinion of the Ombudsman on the operation carried out by the Prosecutor's Office and the State Agency "National Security" in the village of Ribново, municipality of Gurmen* – included in the 2008 Annual Report²⁹; recommendations by the Ombudsman with regard to complaints alleging separation of Roma children in Blagoevgrad and on hindered access to education following the closure of schools with predominantly Roma children in remote regions, such as Lesichovo; check-ups with regard to the access of persons of Roma origin to municipal services, in particular to electricity and water supply etc.

As evident from the above, the Ombudsman undertakes serious efforts in the field of human rights protection in various spheres perceived as typical areas of concern regarding the situation of Roma - the human rights of persons in closed institutions, alleged violations of human rights by the police and the law-enforcement authorities, the rights of children in institutions, etc. The findings and the recommendations on those issues are presented as separate chapters in the Annual reports of the Ombudsman before the National Assembly. They are also public and easily accessible on the Internet.

The Ombudsman in Plovdiv also conducts out discussions with Roma representatives issues related to the unemployment among the community and the education of Roma children. The Ombudsman has the powers to initiate check-ups and research on all issues related to the living conditions of the Roma. It was through his mediation that the municipal companies "Gardens and Parks" and "Cleanness" have hired with priority unemployed Roma.

²⁸ See http://www.ombudsman.bg/documents/annual_report_2009.pdf

²⁹ See <http://www.ombudsman.bg/documents/gd2008.pdf>

In Bulgaria, there are regular awareness raising campaigns on human rights and human rights training for law enforcement personnel, for staff members of the judiciary, etc. These campaigns and training programmes include as a component issues related to the rights of persons belonging to minorities, and are conducted by human rights institutions, by the state authorities or by non-governmental organizations with the support by the institutions.

Implementation of the principles of full and effective equality
and non-discrimination in respect of the Roma

The Bulgarian authorities are fully committed to the goal of equal integration of the Roma into society and are implementing numerous targeted measures aimed at improving their socio-economic situation, in strict adherence to the principle of equality of all Bulgarian citizens and non-discrimination on any grounds, including ethnic affiliation.

The Bulgarian Government approved the new *Framework Programme for Integration of Roma in Bulgarian Society, 2010-2020* (12 May 2010) and the *Strategy for Educational Integration of Children and Pupils from Ethnic Minorities* (4 March 2010).

The Framework Programme stipulates the strategic priorities with regard to the policies aimed at the equal integration of Roma in the Bulgarian society and at the harmonious development of each individual and the society as a whole. The Programme lays out the political framework for coordinating the activities of the state bodies for integration of Roma as a part of the nation-wide policy for raising the quality of life of the citizens and for guaranteeing equal opportunities for all. It is aligned with the EU political framework in the area of non-discrimination and equal opportunities. The priority areas for action correspond to the National Action Plan for the initiative “Decade for Roma Inclusion, 2005 – 2010” – education, healthcare, housing, employment, culture, non-discrimination and equal opportunities.

A full review of the implementation of the *National Action Plan for the Decade for Roma Inclusion (2005-2015)* and the *National Programme for Improving the Housing Conditions of Roma (2005 – 2015)* is also under way. The results of the review will be taken into consideration with a view to improving the effectiveness of activities in the relevant sectors.

It should be emphasized, however, that - as acknowledged during the recent Council of Europe High-level meeting on Roma - the process of successful integration of Roma into society is a shared responsibility and positive results may only be achieved through the joint commitment and effort of the governments and the Roma communities.

Concerning housing, local authorities have been implementing urban regulation of residential areas with predominant Roma populations with a view to including new zones for housing development. Funds from the state budget have been allocated for improving the existing and developing new infrastructure in Roma residential areas (BGN 11,647 million for 2009, including transfers to the municipalities). Considerable funds are being invested in the rehabilitation and construction of roads, water supply and sewage under the Rural Development Programme, including in areas with compact Roma population (a total of 216 projects worth BGN 400.3 million for the first half of 2010).

With reference to the allegation of the Advisory Committee concerning a “lack of legal security” regarding property ownership in some neighbourhoods with predominantly Roma inhabitants, it should be noted that the lack of – or the confusion around the ownership of the plots, is a key issue to be solved when it comes to the search for durable solutions of

Roma housing problems. This process has been additionally aggravated in recent years by continuing illegal construction activities.

The local authorities are searching for opportunities for a sustainable solution, for example through providing accommodation in municipal social housing, granting construction permits for municipal plots, renting municipal land for symbolic payment, etc.

In 2004, the law provided an opportunity for the legitimization of illegal constructions conforming to certain basic technical and social requirements. Unfortunately, this opportunity was not utilized. Nevertheless, construction activities cannot be carried out counter to the principles of the rule of law, the market economy and the welfare state.

A large part of the buildings occupied by Roma are under a regime of tolerability as long as they meet certain technical requirements. Whenever possible, municipalities search for alternative solutions – including temporary accommodation in other places, municipal or state property, until the issue is resolved.

In not so rare cases, citizens accommodated temporarily or permanently in state or municipal property, cause destruction of the respective buildings which necessitates expensive repair works or even their demolition. Consequently, the responsibility for the condition of the housing and the environment cannot be borne solely by the authorities, especially in cases when there is lack of care on behalf of the tenants of municipal or state property.

Moreover, it should be underlined that municipalities can offer alternative housing only to citizens with proper address registration. There are no legal grounds to demand accommodation in municipal housing for persons who own real estate in other places of residence.

Applications from candidates for municipal housing, who comply with the relevant criteria, are processed without any discrimination, including on grounds of ethnic self-identification.

The Bulgarian authorities are not aware of any cases of eviction of citizens of Roma origin from their own property.

Regarding the case in the district of Gorno Ezerovo (Bourgas) it should be noted, that the eviction of the persons illegally settled there, took place in full compliance with national legislation. The persons concerned had been properly informed at a very early stage. The proceedings themselves lasted for several years and those, eligible by the law, have been offered opportunities for alternative housing. Such an approach, however, cannot be applicable to illegal inhabitants who have address registration in other municipalities.

Regrettably, raising the issue in the way suggested by the Advisory Committee may only reinforce the problem, as it contradicts the basic legal principle that no one should profit from his/her illegal behaviour.

Therefore, the allegation of the AC that *“the Roma families run a higher risk of eviction ...and are disproportionately affected by the legislation limiting the possibility of legalising illegal dwellings”* is incorrect.

As to alleged discriminatory practices against women of Roma origin when providing medical services, the competent Bulgarian authorities are informed only of very isolated cases, which have been subject to investigations and followed by administrative sanctions. However, it should be pointed out in this regard that the chaotic illegal construction on a mass scale in Roma neighbourhoods and the destruction of transport infrastructure makes it impossible or severely hinders the access of medical teams.

In the case of Stolipinovo, Plovdiv, it should be stressed that in 2006 and 2008, when epidemics of type A hepatitis spread there, the Ministry of Health and the Plovdiv Municipality allocated additionally over 1 million BGN for urgent vaccinations and cleaning up the area.

Regarding complaint № 46/2007 before the European Committee on Social Rights, it would be recalled that on 31 March 2010 the Committee of Ministers of the Council of Europe adopted a resolution which closed its supervision in relation to this complaint. The Committee of Ministers welcomed the measures undertaken by the Bulgarian authorities to improve the access of Roma to health services and the medical care provided to vulnerable groups.

Likewise, the Bulgarian authorities are deeply surprised by the allegation made by the Advisory Committee for the construction of “...*physical barriers such as two-metre high metal or concrete fences surrounding Roma neighbourhoods segregating them from the rest of the community...*” Such fences simply **do not exist**. On the contrary, safety and noise-reduction barriers have been built – in full compliance with the law and common practice, separating roads with high intensity traffic and urban territories. Such barriers have been built everywhere, in accordance with the relevant technical requirements, irrespective of the ethnic affiliation of the inhabitants. Their aim is to provide the safety of the local residents against road accidents and traffic noise. More specifically, the safety and noise-reduction barrier in Plovdiv is 250 m long, erected along the city main road, which exits into the “Maritsa” motorway. In Kyustendil, the barrier runs alongside International highway E 871 which is a part of the Pan-European transport corridor № 8 Durrës – Tirana – Skopje – Sofia – Plovdiv – Bourgas – Varna, etc.

The Bulgarian authorities underline that the neighbourhoods in question are not fenced, and the safety barriers do not in any way restrict the access of the residents to the other parts of the cities.

Article 5 of the Framework Convention

Legal guarantees and support for the preservation of the culture of persons belonging to national minorities

The provision of assistance for the development of the culture, language and traditions of minority groups in Bulgaria is carried out within the limits and possibilities of the state budget. The main sources are the NCCEDI (through the budget of the administration of the Council of Ministers), the Ministry of Culture, the Ministry of Labour and Social Policy, other structures at central level, and the municipal budgets. Assistance is provided on the basis of specific projects submitted by interested authors and evaluated on their merits. The ambition is to support quality projects involving as many communities as possible. Thus, assistance is provided for initiatives not only of numerically larger communities but also of numerically smaller ones.

The authorities provide financial assistance for various cultural events organized by representatives of ethnic minority groups, including concerts, music festivals, etc. Among those, the events organized by the Roma community attract particular interest.

The newly updated *Framework Programme for the integration of Roma in the Bulgarian society (2010-2020)* and *the National Action Plan for the initiative “Decade for Roma Inclusion, 2005-2015”* contain a special chapter “Culture” which envisages specific activities for the advancement of Roma culture, language and traditions.

The initiatives supported in 2010 include, *inter alia*, the national campaign “Give a Hand, Be Human”, which included a charity musical and dance performance “Nomads” in the National Palace of Culture on 8 April 2010; the television show “The World of the Roma” on the National Television; the initiative “The World is Colorful” by the foundation “Roma fashion”, etc.

Article 6 of the Framework Convention

Tolerance and intercultural dialogue

Bulgaria joined the Council of Europe campaign “DOSTA!” which is aimed at overcoming negative stereotypes and discrimination towards Roma in Europe. Within this campaign the Ministry of Labour and Social Policy (MLSP) has organized training for journalists in 2010.

The MLSP supports various activities promoting tolerance, inter-cultural dialogue, mutual understanding and respect for ethnic diversity.

Furthermore, the MLSP has launched specific initiatives in the area of inter-cultural education, among them – the analysis carried out by outside experts and relevant NGOs of various school textbooks. Representatives of minority groups also participated in the process.

In this regard, the recommendations by the Advisory Committee have already been met.

Police and ethnically motivated incidents

With regard to the positive comments of the Advisory Committee on the human rights education and training of police personnel, the Bulgarian authorities would like to present the following additional information:

Appropriate training in human rights protection is being provided to police officers on a regular basis. The topic is a priority in the education and qualification programmes of the Academy of the Ministry of Interior. The police officers are acquainted with the case-law of the European Court on Human Rights in the framework of the course “Human Rights Protection”, and are also familiarized with the ethical norms of conduct and the relevant procedures regarding the observance of human rights in their everyday work. In addition, under the EU programme “Crime Prevention and Fights against Crime”, the Ministry of Interior is developing a specific project on “Police training in the European standards of human rights protection”.

It should be also added that the Ministry of Interior is currently implementing a three-year Strategy “Police near the community”, a substantial part of which are activities aimed at raising awareness of persons belonging to ethnic minorities of the work of the police and at the same time – the improvement of the skills of police officers, working in areas with mixed populations or areas predominantly inhabited by persons belonging to ethnic minority groups.

As a mechanism for monitoring and control over activities of police officers, the permanent Commission on Human Rights and Police Ethics (PCHRPE) within the Ministry of Interior performs its activities in active co-operation with civil society and other relevant public organizations. It implements joint projects with the Ombudsman, the Commission for Protection against Discrimination, the NCCEDI, and relevant media and NGOs, aimed at consolidating positive police practices and harmonizing the standards of police conduct with the requirements arising from the membership of the Republic of Bulgaria in the EU.

The PCHRPE has regional branches at local levels, and all its activities are organized in accordance with a Working plan, updated annually. The plan covers a wide range of topics, such as monitoring of the compliance with the rights of detainees, and persons held in the structures of the Interior Ministry; consideration of signals for violation of human rights and freedoms of citizens by officials of the Interior Ministry; the development of the legislative changes related to the use of firearms on the part of the police authorities in order to be achieved full compliance with European Convention on Human Rights and documents of the Council of Europe and the UN; thematically training of officers in the field of human rights protection, etc.

In addition, a Code of Ethics of police officers has been adopted in compliance of Recommendation of the Committee of Ministers of the Council of Europe on European Code of Police Ethics – Rec(2000)10. Its non-observance (violation) is raised to the rank of a disciplinary offence. Control over the implementation of the Code is exercised by the Commission on Human Rights and Police Ethics of the Ministry of Interior.

As to the finding of the Advisory Committee based on unspecified NGO reports that “...there has been a marked reduction of ill-treatment of detainees by police...” and that “the number of complaints of ill-treatment by police during and after arrest decreased by almost 50% in the first half of the decade”, the Ministry of Interior notes that the analysis of the complaints registered in the period 2005 – 2010 actually show a decrease by 70% .

In the case of the removal of 42 unlawful constructions in the district of Gorno Ezerovo in Bourgas on 8 September 2009, the Ministry of Interior provided the necessary protection of public order. On that day, before commencing demolition, the police was compelled to stop an assault by a group of residents. In that incident a police officer was injured by a stone. So far, the Ministry of Interior has not received any complaints alleging police violence against civilians during the operation.

Regarding possible cases of police brutality and the alleged failure to investigate them properly, it shall be reiterated that in all cases involving supposed violations of the law by the police forces, inquiries are conducted and where these violations have been proved, the perpetrators and where necessary – their immediate superiors, are sanctioned. Thus, as previously noted also by ECRI, there are numerous cases of police officers having been dismissed from the police after they had been proven guilty of such violations. Moreover, when the facts of an inquiry indicate that a crime has possibly been committed all the collected materials are submitted to the Prosecutor’s office for further action. This is the mandatory procedure, which is followed without exception, irrespective of the ethnic self-identification of the victims of the alleged violations.

In addition, the necessary practical measures are also taken by the Ministry of the Interior in order to eliminate the root causes of such violations and prevent their recurrence in the future. For instance, a special registration system for complaints of alleged ill treatment by police officers has been introduced and is closely monitored. The competent authorities in Bulgaria are prepared to take appropriate action if concrete facts are presented to them, which would demonstrate that persons belonging to any minority groups are deliberately singled out for ill-treatment by the police.

The independence of the investigation is guaranteed by the provision of article 194, para.1, point 2 of the Penal Procedural Code, according to which the investigation of cases involving alleged crimes by policemen shall be conducted by examining magistrates and not by investigating policemen.

Efforts to combat hostility or violence on ethnic grounds and hate speech

Regarding the repeated contention of the Advisory Committee that racist motivation for any ordinary offence does not constitute an aggravating circumstance according to the Bulgarian Criminal Code, it will be recalled that offences against national and racial equality are expressly criminalised in Chapter Three, Section I of the Special Part of the Penal Code (CC). The principal characteristic of these offences, which are regulated in Article 162 and Article 163 of the Penal Code, is the racist or nationalistic motives of the perpetrators. The penal sanctions provided for offences against national and racial equality demonstrate that the legislator treats these offences as presenting a high degree of social danger. They are all punished by different terms of deprivation of liberty, public reproach, and only in one case the law envisages probation as an alternative to deprivation of liberty.

The introduction of the EU requirements (Framework decision 2008/913/JHA) in the field of combating racism and xenophobia through penal law is also under way. This will be realized by expanding the scope of application of article 162, paragraphs 1 and 2 of the Penal Code. The amendment synchronizes the list of the grounds of discrimination in the Constitution of the Republic of Bulgaria (article 6, paragraph 2), the Law on Protection against Discrimination (article 4, paragraph 2) and the Penal Code, and criminalizes any public incitement to violence or hatred. Furthermore, “racist and xenophobic motives” will be included as additional qualifying circumstances for murders and bodily injuries, and a new *corpus delicti* will be introduced in Chapter XIV „Crimes against Peace and Humanity”.

The provisions of the General Part of the Penal Code expressly state that in determining the penal sanction, the court takes into consideration, *inter alia*, the motives for the commission of the act (Article 54 (1) of the Penal Code), including possible racist motives. According to the principles established in the Penal Code for definition of punishment, the court takes into account – besides the extenuating and aggravating circumstances, also the motives for the particular criminal act, and the racist motives are always being considered as an aggravating circumstance.

The Penal Code does not specify which circumstances should be considered as extenuating or aggravating. The judgment is passed by the court based on the factual circumstances. The presence of an aggravating circumstance determines the imposition of a heavier punishment.

Besides, the law allows that one act be considered as perpetrating two different crimes – e.g. as a combination of a crime against the national and racial equality and simultaneously another crime envisaged in the Special part of the Penal Code.

Notwithstanding the significance of the cases of racially motivated violence, it should be pointed out that these are individual cases, not linked to one another, and they are all subject to police investigation and proceedings before the judicial authorities.

The Bulgarian authorities fully concur with the Advisory Committee that any attempts to use ethnic issues for political purposes are unacceptable, and will continue to resolutely combat any such attempts.

With the amendments to the Penal Code in 2009, incitement to ethnic hostility or hatred - in speech, print or other mass media, through electronic information systems or through other means, was added to the provision on propaganda of, and incitement to, racial or national hostility or hatred or to racial discrimination, and the penalty was also increased to imprisonment of up to four years (from a maximum penalty of three years incarceration) and a maximum fine was increased to 10 000 BGN.

In line with the positive results already achieved, the Council for Electronic Media (CEM) confirms its readiness to continue to exercise resolutely its powers, in accordance with the Law on Radio and Television and its imperative requirements on “non-admission of broadcasts, inciting national, political, ethnic, religious and racial intolerance” on behalf of the providers of media services in the territory of Bulgaria.

In addition, CEM will continue to initiate public and professional debate on preventing and combating hate speech in the media and politics. The Bulgarian Government is actively engaged in combating intolerance and continues its efforts to ensure wider professional and public interaction among CEM, the providers, the relevant Ethics commissions in the field of media and the law-enforcement authorities.

Regarding the specific media providers mentioned by the Advisory Committee, CEM notes a certain positive evolution. For example, TV SKAT has created and broadcasts a programme on the integration of Roma in the society, together with programmes dedicated to some other minority groups. Discriminatory manifestations against Roma have largely stopped. As to the “Balkan Bulgarian Television”, the provider has completely changed its profile and has ended completely all broadcasts on minority groups.

Specifically on hate speech against Roma in the media, it should be mentioned that the Bulgarian Government co-financed the *First Public Roma Debate*, held on 19 November 2009 in the “Red house” in Sofia. The event was co-sponsored by the NCCEDI, the Open Society Institute in Budapest, the National Association “Debates”, the newspaper “Drom Dromendar” and the “Red house” - Center for culture and debates. In this unique format, two teams, both of them composed of young Roma - university students of philosophy, law, medicine, public administration, business, etc. – held a debate. They explored together how hate speech in the media affected the equal participation of Roma in public life, how should the Roma take more responsibility for their own fate, and how hate speech could be transformed into the speech of change.

Article 7 of the Framework Convention

The right to peaceful assembly and association

Regarding the right of peaceful assembly and association, it will be recalled that the principle of freedom of assembly and association is fully guaranteed by the Constitution and relevant legislation in Bulgaria to every person without discrimination in full conformity with the country’s international legal obligations.

Consequently, there would be no obstacles for the registration of a political party, including by persons identifying themselves as “Macedonians”, provided that all the formal requirements of the Political Parties Act in force are met. These requirements are clear and applicable to everyone without exception and/or discrimination.

The fact that the applications for registration lodged by particular individuals were unsuccessful was entirely due to their failure to meet the formal requirements of the Political Parties Act. However, there are no limitations in this regard and the said individuals are free to again apply for registration at any time.

It will also be noted that the Law on Assemblies, Meetings and Demonstrations was amended by the National Assembly in March 2010 and thus brought into full conformity with Article 13 of the European Convention on Human Rights.

Also, information concerning the public events freely organized by “representatives of Macedonians” in the past two years clearly indicates that the said individuals fully enjoy the right to freedom of assembly in accordance with the applicable legislation.

Article 8 of the Framework Convention

The right to manifest religion or belief

The Bulgarian authorities note the acknowledgement of the Advisory Committee that “no minority representatives complained about” section 10 of the 2002 Confessions Act.

It should be also recalled that in Bulgaria the Constitution and the legislation in place explicitly prohibit discrimination on the grounds of religion or belief, and the State provides assistance aimed at promoting tolerance and respect among followers of different religions, as well as between believers and non-believers.

Furthermore, the implementation of the Confessions Act has clearly demonstrated that its provisions are fully in line with Article 9 of the European Convention on Human Rights.

Article 9 of the Framework Convention

Broadcasting for minorities/broadcasting in minority languages

The Bulgarian authorities would like to recall that in Bulgaria there are no legal restrictions regarding the access of persons belonging to any ethnic, religious or linguistic minority groups to the media. Likewise, all persons, irrespective of their ethnic self-identification, may create and use their own media outlets in compliance with the provisions of the Law on Radio and Television.

It would further be noted that the Framework Convention does not impose any obligation on the national authorities to ensure dissemination of information on minority languages through national media. The State-party to the Convention is obliged to ensure, within its legal system that persons belonging to minority groups are not subject to discrimination in their access to the mass media. It is for each State-party itself to determine, within its national legal system, what measures should be undertaken to facilitate the access to mass media of persons belonging to minority groups.

In this context, the Law on Radio and Television envisages that “*The programmes or individual broadcasts can be in other languages when...they are designated for Bulgarian citizens whose mother tongue is not Bulgarian...*”³⁰ and that “*the Bulgarian National Radio and the Bulgarian National Television shall create national and regional programmes; programmes for abroad, including for the Bulgarians abroad of whom the Bulgarian language is not mother tongue, including in their language.*”³¹

Accordingly, since 2000, the Bulgarian National Television (BNT) has been broadcasting a daily 10-minute information programme in Turkish language. The BNT is a national public operator, broadcasting for all Bulgarian citizens, irrespective of their ethnic self-identification.

The “World of Roma” programme is broadcasted regularly by the BNT, with the support of the NCCEDI and the National Coordinator for the “Decade of Roma Inclusion, 2005-2015”.

³⁰ See Article 12 of the Law on Radio and Television.

³¹ See Article 49 of the Law on Radio and Television.

In addition, CEM will have opportunities, during forthcoming competitive procedures for licensing and registration of new media providers, to encourage other programme content for persons belonging to minority groups to be included in the media landscape in Bulgaria.

It should also be noted that some newspapers in minority languages are published with the support of the NCCEDI and other public institutions, despite rigid budget restrictions.

The role of the State is to assist, and not to replace or substitute the initiative of the organizations of Bulgarian citizens belonging to ethnic minority groups.

Article 10 of the Framework Convention

Use of minority languages in relations with administrative authorities

In its Opinion the Advisory Committee refers to “conformity” with Article 10.2 of the Framework Convention and “conditions set out in” Article 10.2 of the Framework Convention.

It should be recalled in this respect that in its first Opinion on Bulgaria the Advisory Committee itself clearly stated that there is “**no** prima facie impediment” to the use of the mother tongue in dealings with the administrative authorities.

It would further be recalled that according to the Explanatory Report to the Framework Convention, the provision of Art. 10, paragraph 2 leaves Parties “a wide measure of discretion”.

Furthermore, this is a fundamental concept applicable to the Framework Convention in general as stated in Paragraph 11 of the Explanatory Report, which clearly stipulates that these provisions “which will not be directly applicable” and “leave the States concerned a measure of discretion in the implementation of the objectives which they have undertaken to achieve, thus enabling them to take particular circumstances into account”.

Indeed, Article 10, paragraph 2 of the Framework Convention states that there should be “**a real need**”, on the basis of which the Parties should “**endeavour to ensure, as far as possible, the conditions which could make it possible**” to use a minority language in relations with the administrative authorities.

Consequently, the intent of the States Parties was that there would not – and could not - be one single form of “conformity” with the “conditions” of Article 10.2 of the Framework Convention.

It follows that it is the prerogative solely of the States Parties, within the “wide measure of discretion”, to determine the parameters of implementation of the provision in accordance with their particular circumstances.

In the case of Bulgaria these circumstances are clearly defined in the Constitution of the Republic of Bulgaria, which stipulates that “Bulgarian shall be the official language of the Republic” (Article 3) and that “The study and use of the Bulgarian language shall be a right and an obligation of every Bulgarian citizen. Citizens whose mother tongue is not Bulgarian shall have the right to study and use their own language alongside the study of the Bulgarian language. The situations in which only the official language shall be used shall be established by law” (Article 36, paragraphs 1, 2 & 3). Therefore, the present situation in Bulgaria concerning Article 10, paragraph 2 of the Framework Convention remains in conformity with its relevant undertakings

Article 11 of the Framework Convention

Bilingual topographical indications and other inscriptions

Concerning Article 11, paragraph 3 of the Framework Convention, the Advisory Committee in its present Opinion expresses the view that *“legislation and practice must be in conformity with Article 11.3 of the Framework Convention and the conditions described therein”*.

The Bulgarian authorities accept this view. In this context, it will be recalled that according to the provision of Article 11, paragraph 3 of the Framework Convention, the Parties should *“endeavour, in the framework of their legal systems ... and taking into account their specific conditions”*, to display traditional local names, etc. also in a minority language.

It would be further recalled that according to the Explanatory Report to the Framework Convention, the provision of Art. 11, paragraph 3 provides **only** for such a “possibility”, but does not give rise to a direct obligation.

For reasons already clarified in the comments regarding Article 10.2 of the Framework Convention above, the “conformity” with its Article 11.3 in different States Parties could not be expected to take identical forms because it is determined “in the framework of their (respective) legal systems” and “specific conditions”.

Consequently, the present situation in Bulgaria concerning Article 11, paragraph 3 of the Framework Convention also remains in conformity with her relevant undertakings.

Article 12 of the Framework Convention

Intercultural dimension of education

Referring to the view expressed by the Advisory Committee with regard to intercultural education, attention should be drawn to the extensive information contained in the textbooks on Bulgarian language and literature, on history and civilization as well as on subjects in the field of philosophy, in compliance with the needs of intercultural teaching.

It should also be noted that many teachers have undergone special training in order to acquire multicultural skills through projects financed both nationally and with international support.

With reference to the content of the textbooks, it should be noted that it fully provides for multicultural learning. For example, the school programme for instruction in literature in the 5th grade is concretely aimed at providing knowledge on, and fostering respect for, the traditions and culture of different ethnic groups living in Bulgaria. The goal of the instruction after the 5th grade is to promote ethnic and religious tolerance as a core value of the Bulgarian society.

The Consultative Council on Inter-Cultural Education at the Minister of Education, Youth and Science is also analysing the school programmes and textbooks currently in use. The analysis conducted so far has positively assessed the modern teaching materials applied in the educational process. Therefore, the claims of “some representatives” of certain minority groups that *“the textbooks used by the educational system insufficiently reflect the specific features and history of their communities”* cannot be accepted as objective and well founded.

In addition, the new draft Law on Education envisages a special standard on intercultural education which will significantly enhance the intercultural perspective of the Bulgarian educational system.

The intercultural dimension of education is included in the National Action Plan for the initiative “Decade for Roma Inclusion, 2005-2015”. It is also one of the priorities in the area of education in the new Framework Programme for integration of Roma in the Bulgarian society, 2010-2020.

Roma children at schools

Regarding the Advisory Committee’s comment that there is “still a concentration of Roma pupils in separate classes in some areas”, we concur with its observation that this is an unintended consequence of the former administrative division of the school system. According to the rules valid for all children irrespective of their ethnic origin, admittance to any public school was linked administratively to the domicile of the family. In neighbourhoods where the population was predominantly of Roma origin, this system produced schools attended predominantly by pupils of Roma origin. The system was abolished years ago and the authorities have taken special measures to rectify the situation.

Therefore, due consideration should be given to geographic factors and to the fact that the right to choose freely a school has since been explicitly provided for by the Law on public education. In this context, the educational authorities undertake consistent efforts to prevent the formation of classes on “ethnic” grounds, and not to allow enrolment in “special” schools of children who do not fulfill the respective requirements.

The Bulgarian authorities would like to point out in this context that Regulation No 6 (2002) of the Minister of Education and Science explicitly forbids the enrolment of pupils with normal intellectual capabilities in establishments for children with disabilities. Its implementation is closely monitored by the Commission for Protection against Discrimination, together with relevant NGOs. Within this monitoring, various recommendations were made, and they led to the adoption of another Regulation No. 1 in 2009 which strengthened the control over the enrolment process of pupils with special educational needs. According to the current procedure, a special expert commission considers all applicants to ensure that all healthy children, irrespective of their ethnic origin, are sent to general schools. The final list of the children, with special educational needs is approved by the Minister of Education, Youth and Science. Due to these additional procedural guarantees, the number of children with special educational needs dropped by 760. As of September 2010, the total number of children with disabilities who attend special schools was 1811.

By September 2010, the number of schools in residential areas inhabited mainly by Roma were 65 – compared to 105 three years ago. The figures relate to the entire territory of the country, and are just an example of the intensive reform process underway.

The Bulgarian authorities continue also their efforts to increase the quality of education and improve the educational facilities. All measures are discussed with relevant NGOs (the latest round table of the Ministry of Education, Youth and Science with Roma NGOs was held in June 2010). The funds in the 2010 state budget for these activities amount to BGN 12 million (around EUR 6 million). In addition, the Centre for Educational Integration of Children and Students from Ethnic Minorities cooperates with the Roma Education Fund in Budapest and co-finances specific projects encouraging the integration of Roma children in mainstream education and preventing early drop-outs.

In 2009, the State Agency for Child Protection developed a model for local level interaction, with the objective of returning children back to school, which was submitted for implementation by the municipalities. In the same year, over 20 thousand persons were covered by programmes of the Ministry of Education, Youth and Science for prevention of early dropout from school.

It should be pointed out once again that the school attendance by children of Roma origin and the drop-out from education of boys and girls after the 7th and 8th grade is due mainly to traditions and strong pressure from within the community. The role of the parents is crucial in this respect. Without their active support, the efforts of teachers and social workers are doomed to failure, and the process of early dropouts could hardly be stopped. The change should develop within the Roma community itself, together with the Roma leaders and various Roma organizations. Objectively, this is a long and difficult process, and results could not be expected overnight.

229. Regarding access to kindergartens for all Roma children and the guarantees that “*the curriculum in such kindergartens corresponds to the diverse needs and multi-lingual composition of the groups*”, it should be pointed out that children of Roma origin usually do not enroll *en masse* in kindergartens, and this problem affects negatively their learning abilities in the first and following school grades. Taking this into account, the obligatory pre-schooling is planned to be extended to two years. Sanctions are also envisaged for parents who do not send their children to pre-school and school education.

In addition, the Bulgarian authorities are implementing a Project for social inclusion of children up to 7 years of age (including children of the Roma community) financed through a loan of 40 million EUR by the International Bank for Reconstruction and Development. The project envisages the provision of integrated social services and services related to childcare. Capacity building is also envisaged, including through developing parental skills for future and present parents, early intervention for children with disabilities, family consulting and support, health consulting, etc. For children of 3 to 7 years of age, the project finances activities supporting their integration in kindergartens as well as social work with their parents, reduction of fees, transport, etc.

Regarding the assistant-teachers for Roma children, it should be borne in mind that this is a social, and not a pedagogical function. The assistant-teachers are mediators between the school and the child and the parents. Therefore, the authorities currently consider their transfer from the Ministry of Education, Youth and Science to the Agency for Social Assistance. It is also envisaged to finance assistant-teachers through the budgets of the municipalities instead of the school budgets. In this way all schools will have the opportunity to use assistant teachers.

It should be further noted that the Consultative Council on Education of children and pupils belonging to ethnic minorities is established at the Minister of Education, Youth and Culture as a specific mechanism for involving public opinion when developing policies and measures related to persons belonging to minority groups. Members of the Council are representatives of Roma and other minority groups, of non-governmental organizations, universities and experts familiar with the process of educational integration

It should also be recalled in this respect that there had never been a policy of school "segregation" – *de jure* or *de facto* - of Roma children in the national education system. Therefore, the term "segregation" with respect to Roma children is inaccurate.

Article 14 of the Framework Convention

Minority language teaching

As noted in the Opinion of the Advisory Committee, there are special programmes in Bulgaria for education in the mother tongue – Roma, Turkish, Armenian, Hebrew. There is a

special training for teachers in Roma language. Additional textbooks and grammar books are published in minority languages.

In this context, it is evident that in Bulgaria education in mother tongue receives the necessary support. However, despite the opportunities made available by the state, there is a clear trend of decreasing numbers of the pupils belonging to minority groups willing to receive education in their mother tongue. This trend is evident among all groups without exception, including for persons belonging to the Turkish community, and is linked mainly to the opportunities for integration in the labour market after graduation.

Therefore, the allegation by the Advisory Committee that “...*there is still a significant demand for more education in minority languages in schools*” does conform to reality. On the contrary, the number of children, willing to study Roma language, dropped from over 4000 in the beginning of the 1990s to less than 100 in the last two school-years. Teaching in mother tongue is provided also in villages and small towns. At the same time, however, the prevailing will of parents and children is to study languages which will facilitate their further study or job opportunities in the USA, the EU member-states or certain international structures. This preference is the right of every citizen in Bulgaria, irrespective of her/his ethnic self-identification and as such the authorities fully respect it.

In this regard it should be mentioned that at the University of Veliko Tarnovo a bachelor’s degree was offered for students in the programme “Elementary and pre-school pedagogies in Roma language”. Due to insufficient interest on behalf of the students, this opportunity could not be further developed.

As to the possibility to introduce teaching in various subjects in the mother tongue, it should be recalled that according to the provision of Article 14, paragraph 2 of the Framework Convention, as interpreted in paragraphs 75-77 of the Explanatory Report, it is subject to several conditions and that this provision does not impose an obligation upon the State to do so. However, there are no legal or administrative impediments for that in the Bulgarian educational system.

Article 15 of the Framework Convention

Participation in decision-making processes

It will be recalled that in the Republic of Bulgaria the right of all citizens, irrespective of their ethnic origin, religion and language, to partake in the decision-making processes and mechanisms is fully guaranteed.

There are no “obstacles” in the Bulgarian legislation to the effective participation of citizens, who identified themselves as belonging to ethnic minorities, including Roma, in the process of elaboration, adoption and implementation of respective decisions.

Consultative mechanisms

Regarding the selection procedures for NGO membership in the NCCEDI, the Bulgarian authorities note that this issue has never been raised before the National Council. The criteria for membership in the NCCEDI, which are publicly known, have never been questioned.

It should also be noted that in 2010 the Commission for protection against Discrimination ruled that the Chairperson of the NCCEDI had accepted in 2008 one organization from the Armenian community as a member of the NCCEDI without proper reasoning.

Following the 2009 parliamentary elections, Mr. Tzvetan Tzvetanov, Deputy Prime Minister and Minister of Interior was appointed by the new Government as Chairman of the NCCEDI. Mr. Tzvetanov identified shortcomings in the work of the previous leadership and already in November 2009 sent a letter expressing readiness to improve the mechanism for membership selection. This was immediately manifested in the selection process for NCCEDI membership in 2010.

It is foreseen that the NCCEDI be transformed into a State-Public Consultative Commission which will widen the opportunities for a yet more active participation of the non-governmental sector. In this process all relevant recommendations expressed by the Advisory Committee in its second Opinion will be given due consideration.

It should also be pointed out that since August 2006, a Council for equal integration of Roma in the Bulgarian society functions at the Minister of Labour and Social Policy. Its main functions are to discuss and advise on issues of social inclusion of Roma, on draft strategic and working documents, etc. The Council includes as its members 24 non-governmental organizations (around 80 in its extended composition) as well as experts on issues related to minority integration.

Participation in economic and social life

In addition to the programmes listed in the Opinion and implemented by the Bulgarian Government with regard to persons belonging to ethnic minority groups, and Roma in particular, the following should be noted:

- In 2010, for the fourth consecutive time, young Roma had their practice at the National Assembly. It was held under the auspices of H.E. Mrs Tzetzka Tzacheva, Chairperson of the National Assembly. In this way, the initiative received clear institutional support;

- The Employment Agency supports actively as one of its priorities the socio-economic integration of persons in vulnerable situations in the labour market. In its activities, the Agency strictly abides by the principle of zero-tolerance to any discriminatory practices and circumstances allowing for violations of the right to equal opportunities of all persons in search of employment;

- Within the international initiative “Decade for Roma Inclusion, 2005-2015”, the Bulgarian Government, through the Employment Agency, carries out annual action plans, including measures aimed at training and re-qualification of registered unemployed Roma in order to facilitate their integration in the labour market. In 2010, 7 600 persons were included in such programmes;

- A new scheme will be launched within operational programme “Human Resources Development” which will create opportunities for jobs for 5000 registered unemployed Roma;

- Since 2005, the Employment Agency has been organizing specialized “job fairs” in regions with denser Roma population (in the period 2006 – 2009, there were 20 such “job fairs”, and in the first six months of 2010 they were 10);

- Roma mediators are trained and appointed to promote employment (a total of 102 mediators have been working at the territorial directorates as of February 2010). Meetings are also held locally with official representatives and informal leaders of the Roma community aimed at improving awareness and promoting employment (169 such meetings were organised in 2009, together with 312 meetings with NGOs, social partners, employer organizations, etc.);

- In order to better tailor its programmes, the Employment Agency introduced in 2007 the opportunity for the unemployed, when registering, to identify - on a strictly voluntary basis - their ethnic affiliation;

- Through the multiyear project “Improvement of the situation and promotion of integration of disadvantaged persons belonging to minority groups, with a special focus on Roma”, the NCCEDI implements a series of measures in the field of housing infrastructure development, education, health care, employment, participation in political and economic life at local level, etc. Roma representatives are included in the elaboration of the project in all its stages. Progress is monitored monthly and in 6-month periods, and the efficiency of the measures is assessed together with Roma representatives after the completion of the contracts;

- In the field of health care, the model of the health mediator has been applied since 2001. Health and social centres managed by local organizations working with the Roma community have been developed in the Roma residential areas in Plovdiv, Sliven, Sofia, Bourgas, Varna, Vidin, Pazardjik and Stara Zagora. The health and social services are offered by specially trained Roma teams. Work is concentrated in fields like maternity and child health care, drug prevention, inclusion of parents in the process of adaptation of children to the requirements of the educational system, services for career guidance;

- Bulgarian citizens in a disadvantaged position, including Roma, also have the benefit of the Human Resources Development Operational Programme implemented by the MLSP and co-funded by the European Social Fund.

The Bulgarian authorities draw attention to the fact that the new Framework Programme for integration of Roma in the Bulgarian society (2010-2020) clearly emphasizes the need to involve actively citizens of Roma origin, in particular women, in its implementation.

The Bulgarian authorities once again particularly underline that during the population censuses the NSI collects, processes and disseminates reliable statistical information, disaggregated also according to the ethnic self-identification of the persons, sex and geographic location. Fully aware of the significance of this information for the elaboration of well targeted policies, including those related to persons belonging to minority groups, the NSI will continue its efforts to collect such statistical data, in accordance with the international standards in the field of personal data protection.

The Government of Bulgaria has at its disposal one general and several strategic documents referring to particular areas of integration of Roma in the Bulgarian society. Their implementation is closely monitored, and in this process research is being carried out and data collected, including with the agreement of the persons interviewed. This is done mainly in the field of employment where there are currently around 200 mediators among the Roma community. The data available at the NSI ensure an effective statistical backup of the general and area-specific policies.

In July 2007, a sociological study was carried out with a follow-up discussion under the topic “Roma for Roma”. The objective was to clarify the perception among Roma of the main problems faced in everyday life, how the Roma themselves view their role in the contemporary Bulgarian society, how do they understand the ways and means for their own integration, etc. The results of this initiative contributed to fostering the dialogue with the Roma representatives and the activity among the communities themselves in the inclusion processes.

It should also be noted that the Bulgarian authorities carry out consistent targeted training activities to encourage the persons belonging to the Roma community to be an active

partner to the national institutions when implementing projects for social inclusion. Regional seminars are organized aimed at increasing awareness among the Roma community, including Roma women, on various issues related to protection against discrimination, school attendance and early dropouts from school, responsible parenting, the social role of the Roma woman, etc. In the period of 2006 – 2007, 22 such regional seminars were held, and in 2008 – 5 national seminars and 4 round tables dedicated specifically to topics related to the professional and social integration of the Roma women. In 2009, there were 4 seminars with formal and informal Roma leaders used also to assess the impact of the measures undertaken thus far within the initiative “Decade for Roma Inclusion, 2005-2015”.

The fifth anniversary of the launch of the “Decade for Roma Inclusion, 2005-2015” was marked on 8 April 2010, with the participation of parliamentarians, including representatives in the European Parliament, ministers, deputy ministers and experts, regional governors, representatives of international organizations, of the civil society and the media. The reports by the ministries responsible for the specific focus areas of the initiative – employment, housing, education, health care, culture and anti-discrimination, were followed by an open discussion with the participation of Roma nongovernmental organizations.

Sofia, December 2010.