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

Second Opinion on Ireland, adopted on 6 October 2006

EXECUTIVE SUMMARY

Ireland has taken a number of significant measures to advance the implementation of the principles of the Framework Convention, the pertinence of which has only increased with the expanding diversity of the country.

The institutional framework to combat discrimination is advanced and legislation in this sphere has been further improved. These legal guarantees are particularly important to Travellers and to more recent minority groups, who continue to face discrimination in various contexts. It is essential that the accessibility and effectiveness of the related remedies are guaranteed.

In the area of accommodation, promising plans have been put in place, but their implementation remains uneven. Travellers continue to face significant problems also in the field of education, where the planned strategy, coupled with an implementation plan, needs to be launched and monitored rapidly. There have been a number of positive examples of Travellers' participation in decision-making, but certain new structures, such as the High Level Group on Travellers, should step up their efforts to involve Travellers in their work.

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

SECOND OPINION ON IRELAND

1. The Advisory Committee adopted the present Opinion on Ireland 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 second State Report (hereinafter the State Report), received on 3 January 2006, and other written sources and on information obtained by the Advisory Committee from governmental and non-governmental contacts during its visit to Dublin and Galway from 29 – 31 May 2006.
2. Section I below contains the Advisory Committee's main findings on key issues pertaining to the implementation of the Framework Convention in Ireland. 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 Ireland, adopted on 22 May 2003, and in the Committee of Ministers' corresponding Resolution, adopted on 5 May 2004.
4. The concluding remarks, contained in Section III, could serve as the basis for the Committee of Ministers' forthcoming conclusions and recommendations on Ireland.
5. The Advisory Committee looks forward to continuing its dialogue with the authorities of Ireland 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.

I. MAIN FINDINGS

Monitoring process

6. Ireland has pursued a constructive approach to the monitoring process under the Framework Convention. Although the first Opinion of the Advisory Committee was made public only upon the adoption of the Committee of Ministers' Resolution, the monitoring results were subsequently circulated to minority representatives and civil society actors, including through the Internet. Furthermore, a successful follow-up seminar was organised in Dublin on 28 February 2005 to discuss the implementation of the findings in the presence of key governmental and non-governmental bodies. The Advisory Committee also welcomes the fact that the Irish authorities have kept the Committee abreast of the key developments between the monitoring cycles, by sending relevant documentation to the Secretariat.

7. In the preparation of the 2nd state report, the authorities followed an inclusive approach. They consulted a range of non-governmental organisations and representatives of minorities, and the end result is a rich report, which contains also welcome elements of self-criticism, even though information on some sectors could have been more extensive. The Advisory Committee welcomes, in particular, the inclusion in the state report of a section devoted to Traveller women.

8. In various stages of monitoring, the authorities have justifiably focussed on the Travellers, but they have also recognised the relevance of certain provisions of the Framework Convention for other groups. This commendable position merits being consolidated.

9. The Advisory Committee notes that the Framework Convention is not considered to apply to persons speaking the Irish language (*Gaeilge*), which is recognised in the Constitution as the national language and the first official language of the country, and related issues have not been addressed in detail in the monitoring process. The Advisory Committee would, however, like to take this opportunity to welcome the positive measures taken in respect of this language, spoken by a minority of the population, in various fields, ranging from the media to education.

General legislative and institutional framework

10. Ireland has put in place an impressive institutional framework to address issues concerning minorities and non-discrimination. In addition to the statutory bodies set up in this sphere, the framework includes a range of sectoral coordination and other bodies. There is a need to take further steps to ensure that the Traveller organisations as well as other stakeholders are fully involved also in the work of new structures, such as the High Level Group on Travellers. Further measures are required to ensure that the pertinent bodies have the resource capacity needed to deal with their tasks, and in this respect the Equality Tribunal's processing delays merit particular attention.

11. Reflecting its common law tradition, Ireland's measures to implement the Framework Convention are largely policy-based rather than rooted in specific legislative acts. In such circumstances it is of particular importance that there are clear benchmarks and effective follow-up structures in place, capable of measuring and monitoring progress.

Data collection and self-identification

12. Ireland has stepped up its efforts to collect data related to minorities in a number of fields covered by the Framework Convention, including in connection with the population census of 2006. As they pursue these important initiatives, in which the gender dimension merits also being highlighted, the authorities should pay increasing attention to the principle of self-identification and other principles stemming from Article 3 of the Framework Convention. This needs to be born in mind also in the on-going discussion on whether the Travellers constitute an ethnic group.

Anti-discrimination legislation

13. Ireland has developed further its anti-discrimination legislation, notably through the Equality Act of 2004, and there is an important discussion underway on how to make further progress in this sphere. The legislative progress is coupled with important policy commitments and range of initiatives pursued by governmental and non-governmental bodies.

14. Travellers have in a number of contexts been exposed to discrimination, and it is therefore important they have actively invoked anti-discrimination legislation to defend their rights. Against this background, it is important to ensure that the impact of the recent changes to the complaint mechanisms, notably the transfer of non-discrimination cases concerning licensed premises from the Equality Tribunal to the District Court, is carefully monitored so as to ensure that they do not hurt the accessibility or effectiveness of the remedies available.

Inter-ethnic relations

15. The Irish authorities' determination to tackle racism and manifestations of intolerance – which are most frequently targeted at Travellers and persons belonging to certain more recent minority groups – is reflected in the commendable Action Plan Against Racism, adopted in 2005. The importance of full implementation and monitoring of the Plan will only grow as the ethnic diversity of Irish society continues to expand. The authorities should also ensure that there are effective legal tools in place to combat incitement to hatred and other related crime, building on the related review process that has been on-going for several years.

16. Balanced media reporting on minority issues is a key factor in improving inter-ethnic relations, and it is therefore regrettable that, despite a number of positive examples, the stereotyping and other undue reporting on Travellers and certain other minorities continues to be a problem within some media. It is to be hoped that the implementation of such promising initiatives as the setting up of a Press Council will help to address these concerns, in a manner that fully respects freedom of expression.

17. Important steps have been taken to facilitate recruitment of police officers from minority communities and to increase awareness amongst the police in general of issues concerning Travellers and other minorities. However, there is a significant amount of work to be done to ensure that the relations between the police and the Travellers and other minority communities improve throughout the country, and in this respect the implementation of recommendations resulting from the An Garda Síochána's Human Right Audit is particularly important.

Traveller accommodation

18. The Irish authorities have taken a number of measures to address Travellers' accommodation problems, and the adoption of local accommodation plans throughout the country is a significant step in this respect. However, the implementation of such plans has been inadequate in a number of localities. Improved provision of halting sites is one area that merits particular attention, bearing in mind also the consequences of criminalisation of trespassing through legislation which has been criticised, *inter alia*, by the Irish Human Rights Commission.

Education

19. Important surveys have been launched to improve the Travellers' position in education and the authorities are committed to phasing out the Travellers-only primary schools in Ireland. Despite certain positive signs, the Travellers' average school attendance and achievement levels remain low and in some cases negative societal attitudes towards Travellers are felt also in schools. The Survey of Traveller Education Provision, issued by the Department of Education in 2006, is a useful aid towards the improvement of Travellers' position in education. However, there is a clear need to launch rapidly the Traveller education strategy and an associated implementation plan, the issuance of which has been delayed.

20. The growing diversity of Ireland is in many ways affecting the education system of Ireland, and in this context the authorities are encouraged to pursue their commitment to take into account the growing demand for non-denominational or multi-denominational schools.

Participation

21. The Advisory Committee welcomes the fact that the importance of Travellers' participation in decision-making has been emphasised in Ireland, and Travellers' input has been sought in a number of initiatives. There is a need to ensure that such positive practices are maintained and expanded in the work of any new coordination and other bodies dealing with Traveller issues. At the same time, it is important to address obstacles that may hamper Travellers' participation in electoral processes.

22. Despite certain promising initiatives, Travellers' participation in economic life remains limited. In order to tackle unemployment and other problems in this sphere, further steps aimed to facilitate self employment and other economic activities of the Travellers are needed.

II. ARTICLE-BY-ARTICLE FINDINGS

Article 3 of the Framework Convention

Scope of application of the Framework Convention

Findings of the first cycle

23. In its first Opinion on Ireland, the Advisory Committee considered that that it would be possible to examine the inclusion of additional groups in the application of the Framework Convention on an article-by-article basis.

Present situation

a) Positive developments

24. The Advisory Committee welcomes the fact that the Irish authorities, while justifiably continuing to focus on the situation of the Irish Travellers in the context of the Framework Convention, accept that other groups may benefit from the protection of the Framework Convention on an article-by-article basis, and they have sought to expand their consultation process accordingly.

25. Various civil society representatives have actively invoked articles of the Framework Convention in different stages of the monitoring process in relation to the rights of persons belonging to new immigrant groups. Similarly, the Advisory Committee welcomes the fact that, during the country-visit, the authorities engaged in a substantive dialogue on issues pertaining to such groups, even though the state report contains only limited information in respect of them.

b) Outstanding issues

26. The Advisory Committee considers that, while the authorities' approach in terms of the scope of application of the Framework Convention is in practice inclusive and positive, it is important to ensure that written statements concerning the issue consistently reflect this position. In this connection, the Advisory Committee would like to stress that, while it agrees that many of the provisions of the Framework Convention have particular significance for "groups which have come about as a result of political upheaval and which have historical ties to a country", the relevance of the Convention is not restricted to persons belonging to groups meeting these criteria.

Recommendations

27. The Irish authorities should ensure that the inclusive approach in terms of the scope of application of the Framework Convention is consistently and unequivocally reflected in the authorities' statements on the matter.

Recognition of Travellers as an ethnic group

Present situation

28. The question of recognising Travellers as an ethnic (minority) group has received considerable attention in recent years in Ireland and also in international treaty monitoring in

relation to Ireland.¹ Travellers' organisations and other key actors dealing with related issues, including the Irish Human Rights Commission, have called for the recognition of the Travellers as an ethnic group but the Government disagrees. The Advisory Committee acknowledges that the recognition of a specific ethnic identity of a particular group involves complicated issues and that the applicability of many of the relevant standards does not necessarily require a formal recognition of this nature by the Government concerned. In particular, the applicability of the Framework Convention does not necessitate a formal domestic recognition of a group as a national minority *per se* and it is, *a fortiori*, clear that the recognition of a group as an ethnic group is not a precondition for access to the protection of the Framework Convention.

29. While not in a position to state whether the authorities should make such a formal recognition – advocated in various well-reasoned submissions – the Advisory Committee finds it is regrettable that the authorities have, instead of reserving their position on the matter, at least pending further examination of the issue and consultations with Travellers and others concerned, expressed a view according to which the Travellers “do not constitute a distinct group from the population as a whole in terms of race, colour, descent or national or ethnic origin”. Such a conclusion appears to be, at best, premature, bearing in mind, *inter alia*, that there are no procedures or criteria in place for the authorities to determine the issue and that several Traveller groups and a number of other stakeholders have presented a range of arguments in favour of an opposite conclusion.

30. As regards the present practical importance of the question, the Advisory Committee recognises that equality legislation, notably the Irish Equality Act, explicitly prohibits discrimination not only on the grounds of race, colour, nationality or ethnic or national origin but also on the “Traveller community ground”. This reduces domestic legal implications of the Government’s position as regards Travellers’ ethnic origin. There are, however, concerns, expressed *inter alia* by the Irish Human Rights Commission, that, aside from the symbolic significance of the issue, the Government’s position may affect the Travellers’ possibilities to employ normative tools to combat discrimination, for example, in terms of invoking the EU Directive 2000/43/EC (“Racial Equality Directive”) in relation to issues that are allegedly not adequately covered by the enabling domestic legislation referring specifically to the Travellers.

Recommendations

31. The Irish authorities should refrain from conclusive statements affirming that the Travellers do not constitute an ethnic minority in so far as such a position is not based on clear criteria and does not result from a dialogue with the minority concerned, taking into account the principle of self-identification stemming from Article 3 of the Framework Convention. At the same time, the authorities should ensure, both *de jure* and *de facto*, the applicability of international and domestic non-discrimination and minority rights guarantees in relation to the Travellers.

Data collection and census

Findings of the first cycle

32. In its first Opinion on Ireland, the Advisory Committee called for further steps to improve the scope and accuracy of data concerning persons belonging to national minorities.

¹ See in particular paragraph 20 of the Concluding Observations of the UN Committee on the Elimination of Racial Discrimination, adopted on 10 March 2005 (CERD/C/IRL/CO/2).

Present situation

a) Positive developments

33. Ireland has stepped up its data collection on minority-related issues, and a range of sectoral initiatives have been launched, or considered, to improve collection of ethnicity data in areas ranging from education to health service, which will hopefully address, *inter alia*, the need for gender disaggregated data. Furthermore, in the census of 2006, Ireland included for the first time a census question on “ethnic or cultural” background, whereas in the previous census only persons’ possible affiliation with Travellers was queried. In this connection, the Advisory Committee welcomes the information it has received indicating that the census forms were translated into several minority languages, which undoubtedly increased the accessibility of the process amongst the groups concerned. The census has resulted in comprehensive new data on the ethnic make-up of the population.

b) Outstanding issues

34. The Advisory Committee welcomes the fact that the authorities included a question on ethnicity in the population census of 2006, as this can result in useful information for meeting the needs of minorities. The Advisory Committee notes, however, that legislation pertaining to the census made it compulsory for persons participating in the census to provide information on their “ethnic or cultural” background (either in the pre-determined specific categories or under the general category “other”). The Advisory Committee repeats its view, expressed in relation to population censuses and other data collection exercises, that an optional question on persons’ ethnicity would better reflect the principles of the Framework Convention than a mandatory question, as the latter may lead to problems in relation to the right not to be treated as a person belonging to a national minority contained in Article 3 of the Framework Convention. It is also important to ensure that, if pre-determined categories are used, such categories are chosen in a manner that takes into account the principle of self-identification and reflects the diversity and views within the groups concerned.

35. Whereas the census data on ethnicity is based on the principle of self-identification by the individuals concerned, there are other data collection contexts in which the said principle needs to be employed more consistently. This is the case, for example, in the field of accommodation, where the local authorities carry out an annual count of Traveller families as a basis for evaluating their accommodation needs. The Advisory Committee is aware of the fact that this issue is being examined by the authorities.

Recommendations

36. The authorities are encouraged to pursue further their plans to improve data on issues concerning Travellers and minorities in general. In this context, they should pay increasing attention to the voluntary nature of data collection on individuals’ ethnicity and to the principle that such data collection is to be consistently based on self-identification by the individuals concerned.

Article 4 of the Framework Convention

Equality legislation and mechanisms

Findings of the first cycle

37. In its first Opinion, the Advisory Committee noted that further steps could be taken to enhance the effectiveness of equality legislation and related institutions.

Present situation

a) Positive developments

38. Ireland has further strengthened its equality legislation by adopting the Equality Act in 2004. The Act, the purpose of which is also to transpose the EU “equality directives” in the domestic law, contains a range of commendable provisions, including in relation to the burden of proof and other matters, extending the protection offered by the Equal Status Act of 2000 and the Employment Equality Act of 1998. The relevance of the equality legislation for groups covered by the Framework Convention is evidenced by the fact that cases brought under “the Traveller community ground” constitute the largest category of the Equality Authority’s case-files, while race is the most common ground invoked in cases brought to the Authority under the Employment Equality Act. The adoption of the European Convention on Human Rights Act in 2003, aimed to incorporate the Convention in the Irish law, was another significant step that benefits also persons belonging to minorities.

39. The Advisory Committee commends the fact that the institutional framework to combat discrimination is advanced, and key actors include not only the Equality Authority and the Equality Tribunal, the statutory bodies set up under equality legislation, but also the National Consultative Committee on Racism and Interculturalism (NCCRI) and the Human Rights Commission, both of which have launched a range of valuable initiatives to advance non-discrimination and other rights of Travellers and persons belonging to other minorities. Ireland’s state report also details a number of sectoral initiatives, including in accommodation, education and employment, which merit decisive follow-up.

40. Ireland is committed to being at the forefront in efforts to ensure strong equality legislation, and the Advisory Committee is encouraged by the fact that there is an on-going discussion on how to strengthen further the guarantees in this field, including valuable proposals to introduce specific legislative provisions on positive duties to promote equality and to extend the protection of non-discrimination guarantees to public functions going beyond the concept of “service”.

b) Outstanding issues

41. While commending the expertise and the commitment of the bodies established to advance the implementation of equality legislation, the Advisory Committee is concerned that the significant delays in the processing of cases by the Equality Tribunal hamper the accessibility and effectiveness of this remedy, and there is therefore a clear need to bolster the capacity of the Tribunal to carry out its work. In this respect, it is encouraging that the Ten-Year Framework Social Partnership Agreement 2006-2015, proposed in June 2006, highlights the removal of the current backlog of cases before the Equality Tribunal as a priority.

42. In 2003, the adjudication of discrimination cases involving licensed premises was transferred from the Equality Tribunal to District Courts. As this is an area where cases of

discrimination towards Travellers have been particularly frequent, the transfer could have clear implications for efforts to combat discrimination, and the Advisory Committee pointed already in its first opinion to the problems that such a transfer, which had by then been proposed, could involve. The Advisory Committee understands that, in the District Court, compensation awarded for victims of discrimination may be markedly higher than those given by the Equality Tribunal, and the Committee is aware of the Tribunal's capacity problems (mentioned above). However, the Advisory Committee notes that the transfer could also have negative implications for the accessibility, affordability and flexibility of the process, and it refers in this connection to the reports suggesting that, since the transfer, there has been a clear drop in the number of discrimination cases brought by Travellers concerning licensed premises.

Recommendations

43. The Irish authorities should bolster the capacity of the Equality Tribunal in order to reduce delays in the processing of cases and to ensure the effectiveness of the Tribunal. The authorities should also, in co-operation with all stakeholders, evaluate the impact of the transfer of jurisdiction over discrimination cases concerning licensed premises, and, as necessary, review the transfer decision in order to ensure an accessible, affordable and effective remedy for such cases.

Implementation of equality legislation

Findings of the first cycle

44. In its first Opinion, the Committee expressed concerns about discrimination of Travellers in a wide range of societal settings, including education, employment, health care, accommodation and access to goods and services.

Present situation

a) Positive developments

45. The Advisory Committee welcomes the commitment of the Government to combat discrimination. It welcomes the National Action Plan against Racism, issued in January 2005. The Plan was drawn up through an inclusive process, and contains a range of important proposals, the implementation of which should be carefully monitored, evaluated and resourced.

46. The Committee also recognises that an impressive range of sectoral programmes have been launched to advance effective equality of Travellers in the fields highlighted by the Advisory Committee.

b) Outstanding issues

47. There remains concern that the various sectoral programmes introduced to ensure equal treatment of Travellers have had only limited impact. For example, discrimination in the field of employment, coupled with problems they face in education (see related comments under Article 12) and other related areas, continues to hamper efforts to ensure their equal access to labour market. As was recognised in the March 2006 Report of the High-Level Group on Traveller Issues, Travellers "are discouraged from seeking mainstream employment by discrimination, hostility and the fear of rejection".

48. In certain other areas, the results of the relevant programmes and projects are yet unclear and, for instance, comprehensive information on the results of the implementation of the Travellers' Health Strategy (2002-2005) is not yet available, pending the preparation of the all-

Ireland National Health Study. The Advisory Committee recalls in this context the importance of involving Travellers in the design, implementation and evaluation of the relevant Government programmes, in order to ensure that they are well-targeted and effective (see also related comments under Article 15).

Recommendations

49. Ireland is called on to ensure decisive follow-up to the sectoral and other programmes and policies initiated to advance non-discrimination, and to make sure that they are adequately resourced and monitored in co-operation with minority representatives and others concerned.

Traveller women

Present situation

50. The Advisory Committee is concerned about the situation of many Traveller women, who are often particularly exposed to inequalities in key fields, ranging from accommodation (see comments concerning removals under Article 5) to health. In many areas, however, the evaluation of their situation is hampered by lack of data (see related comments above under Article 3). The Advisory Committee finds it promising that the forthcoming National Women's Strategy is expected to include objectives related to minority women.

Recommendations

51. The Advisory Committee considers that the gender dimension needs to be taken into account in the design and implementation of all minority initiatives, including in terms of data collection, with a view to ensuring Traveller women's full and effective equality.

Article 5 of the Framework Convention

Recognition of Travellers' culture

Findings of the first cycle

52. In its first Opinion, the Advisory Committee called for greater recognition of various aspects of Travellers' culture and identity.

Present situation

a) Positive developments

53. The Advisory Committee welcomes various projects implemented by Pavee Point, Irish Traveller Movement, National Traveller Women's Forum and other organisations to promote Travellers' culture and the fact that public funding has been made available to support such projects.

b) Outstanding issues

54. The Advisory Committee recalls that a number of important initiatives to promote Travellers' culture were carried out in the framework of the "Citizen Traveller" campaign, and believes that that a number of further initiatives are required in this area.

Recommendations

55. Ireland should support continuation of initiatives to promote Traveller culture, taking into account its various aspects, and ensure that related civil society initiatives receive adequate support.

Travellers' Accommodation*Findings of the first cycle*

56. In its first Opinion, the Advisory Committee noted lack of appropriate accommodation, including in terms of halting sites, and expressed concerns about the impact of new legislation concerning trespassing.

Present situation

a) Positive developments

57. The Advisory Committee recognises that the authorities have paid significant attention to the issue of accommodation, and it finds it encouraging that, according to the authorities, the number of families in unauthorised sites has decreased. It welcomes the authorities' commitment to making further progress, including through the implementation of the recommendations contained in the 2004 Review of the operation of the Housing (Traveller Accommodation) Act of 1998. The Advisory Committee also welcomes the adoption of Traveller accommodation programmes for 2005-2008, by all local authorities and the inclusion of accommodation targets in such programmes. It further notes that the judiciary has recently confirmed the fact that the delivery of halting sites is a mandatory duty of local authorities and not merely an aspirational goal.

b) Outstanding issues

58. Despite reported improvements in certain localities, the implementation of the accommodation programmes continues to be hampered by various factors and many local authorities have failed to meet their own targets in this area. More concerted efforts are needed to remove obstacles and to step up the accommodation provision rate. The Advisory Committee highlights in this context the importance of genuine and effective consultation structures and draws attention to the related proposals contained in the above-mentioned Review (see also related comments under Article 15).

59. While noting the persisting delivery shortcomings in terms of permanent housing, the Advisory Committee considers that the lack of appropriate transient halting sites continues to be one of the key problems relating to accommodation of Travellers. The Advisory Committee welcomes the fact that the High Court has recently stressed that local authorities must take the needs of Travellers as a starting point in providing accommodation and that the High-Level Group on Travellers has noted that improved provision of halting sites is a matter of priority.

60. Negative effects of the above shortcomings are in some cases aggravated by the implementation of the legislative provisions contained in section 24 of the Housing (Miscellaneous Provisions) Act of 2002. These provisions, which criminalises trespassing that had previously been a civil offence, have been strongly criticised as authorising the law-enforcement authorities to remove alleged trespassers under vaguely worded conditions without providing robust procedural guarantees for the persons concerned. Among the critics of these provisions is the Human Rights Commission of Ireland, which has stated that the legislation

concerned “reveals serious questions as to its consistency with the protection of human rights” and “is out of harmony with respect for nomadism”.

61. The Advisory Committee finds it particularly disquieting that in some cases removals of alleged trespassers have concerned families that are waiting for local authorities to provide them accommodation in accordance with the latter’s statutory obligations. It is, therefore, encouraging that the relevant Minister has recently urged *An Garda Síochána* (Ireland's National Police Service) to avoid removing families in such situations. The Advisory Committee recalls in this connection that in many cases such removals have particularly serious consequences for Traveller women, whose situation merits particular attention. The Advisory Committee stresses the importance of the Recommendation Rec(2005)4 of the Committee of Ministers on improving the housing conditions of Roma and Travellers in Europe, including its provisions pertaining to evictions and the need to provide alternative accommodation in eviction situations.

Recommendations

62. The Irish authorities should make concerted efforts to ensure that the local authorities meet Traveller accommodation targets and step up the delivery of appropriate accommodation options, including through improved provision of halting sites. The Advisory Committee recommends a speedy mid-term evaluation of the Traveller accommodation programmes for 2005-2008 and development of a mechanism to support their full implementation by 2008.

63. Anti-trespassing legislation and related procedures should be reviewed and, as appropriate, amended, in consultation with those concerned, to ensure they comply with Article 5 of the Framework Convention and other pertinent human rights standards. In the meantime, the authorities should take into account that some of the trespassing may be linked to the local authorities’ failure to meet their statutory obligation to provide accommodation.

Article 6 of the Framework Convention

Manifestations of intolerance

Findings of the first cycle

64. In its first Opinion, the Advisory Committee urged the authorities to pay further attention to racism including in the context of the upcoming Action Plan Against Racism. It also highlighted the problems of discrimination and hostility faced by immigrants, asylum seekers and refugees, and also pointed to reports of unfair practices by some employers who could exert pressure on their migrant staff through the employers’ control of work permits.

Present situation

a) Positive developments

65. Ireland introduced in 2005 an impressive Action Plan Against Racism. The plan was drafted through an inclusive process, and it is now essential to ensure that its implementation is decisively followed up and resourced. In this respect, the Advisory Committee welcomes the announcement, in July 2006, of a major funding initiative for integration work, which will be partially directed to support integration efforts envisaged in the Action Plan. The Committee also applauds the awareness-raising work that is being carried out in this field, such as the handbook on seeking advice and redress against racism, launched by the National Consultative Committee on Racism and Interculturalism in 2005.

66. The Advisory Committee welcomes the commitment of the authorities to reform the employment permit system, notably through the Employment Permit Bill of 2005, in a manner that reduces the risk that the employers use their control over work permits as a means to place undue pressure on migrant employees.

b) Outstanding issues

67. Despite the above-mentioned efforts, manifestations of racism and intolerance towards minorities continue to be a problem in Ireland, as demonstrated by the frequent reporting of incidents related to racism, through the valuable recording system created by the National Consultative Committee on Racism and Interculturalism.

68. The laudable goals of the Action Plan Against Racism have not fully penetrated into the society at large, where cultural and ethnic diversity has broadened rapidly in recent years. Travellers and more recent minority groups are subject to intolerance based on racial stereotypes, which is at times fuelled by some media.

Recommendations

69. The Advisory Committee calls on the authorities to continue to provide substantive support to anti-racism initiatives, and to ensure that the implementation of the Action Plan Against Racism is supported and monitored by all sectors of administration at both local and central level.

70. Reform of the employment permit system should be completed rapidly and in a manner that provides robust guarantees against abuse of migrant employees concerned.

Legislation concerning racist crime

Findings of the first cycle

71. In its first Opinion, the Advisory Committee noted criticism expressed towards the effectiveness of the legislation concerning incitement to hatred and lack of cases in which this legislation was invoked. It stressed that the on-going review of the said legislation provided an opportunity to strengthen it.

Present situation

a) Positive developments

72. The Prohibition of Incitement to Hatred Act remains unchanged, but it has in recent years resulted in a growing number of convictions, which suggests that its relevance is increasing. The Advisory Committee notes that additional steps are being taken to identify and remedy any shortcomings in the related legislative framework, including through the involvement of the Steering Group of the National Action Plan Against Racism and through new research that has been commissioned on the issue. The Advisory Committee welcomes the emerging tendency to look at the issues involved in a manner that goes beyond the Prohibition of Incitement to Hatred Act and takes into account the broader legislative framework related to racist crime. In this respect, a number of valuable proposals covering related legislation more generally have already been floated by interested parties, including proposals to introduce the concept of racially aggravated crime in Irish legislation. The Advisory Committee further notes that the need to combat racist speech on the internet is also addressed in this context.

b) Outstanding issues

73. Although under discussion for several years, there are no new published state plans on how to improve the legislative framework in these areas. It should also be noted that experts looking into the matter have found that the lack of comprehensive data, including in terms of related jurisprudence, complicates efforts to evaluate the situation and to make recommendations.

Recommendations

74. The Advisory Committee encourages rapid completion of the research launched in these areas and calls on the authorities to pursue their concrete follow-up measures, with a view to ensuring that there are effective legal tools to combat racist crime.

Police (An Garda Síochána)

Findings of the first cycle

75. In its first Opinion, the Advisory Committee concluded that despite improvements there was a need to continue efforts to raise awareness of human rights and intercultural issues amongst *Gardaí* and call for greater inclusiveness in *Gardaí*'s contacts with communities concerned.

Present situation

a) Positive developments

76. The important work of the *Garda* intercultural office continues and ethnic liaison officers have been appointed throughout the country. The commitment of the *Garda* leadership to address human rights problems is reflected also in the decision of the Garda Commissioner to commission a Garda Human Rights Audit in 2003 and in the publication of the action plan to follow up the Audit's findings in 2005.

77. Bearing in mind the importance of minority representation for the implementation of the principles of the Framework Convention (including its Article 6 and Article 15), the Advisory Committee is pleased to note that significant efforts have been taken to remove obstacles in this respect. It notes in particular the removal of the rigid Irish language proficiency requirement and the augmented recruitment efforts amongst minorities as measures that are likely to yield concrete improvements in this sphere.

78. The Advisory Committee considers that the effective supervision of activities of the police is essential to build trust, and it welcomes the decision to set up a Garda Ombudsman Commission to investigate complaints. It hopes that the Commission, once it becomes operational, pays careful attention to minority issues.

b) Outstanding issues

79. The important initiatives to improve relations between the police and minorities, including the Travellers, have not yet had a strong impact on the everyday practice in all localities. Many of the problems were openly stated in the above mentioned Garda Human Rights Audit, which, while recognising also positive aspects, stated, *inter alia*, that "the procedure and operating practices of An Garda Síochána can lead to institutional racism particularly in relation to the Nigerian community, the travelling community and to a slightly lesser degree at present, the Muslim community".

Recommendations

80. The Advisory Committee supports swift implementation of the proposals contained in the Garda Human Rights Audit, including its call for recruitment, retention and progression of a more diverse police service.

Media reporting on minorities*Findings of the first cycle*

81. The Advisory Committee's first Opinion pointed to negative reporting and under reporting on minorities, and called for improved access to the media by minorities and for the establishment of an effective complaint procedure.

Present situation

a) Positive developments

82. The Advisory Committee notes that a number of media in Ireland report on minority issues in a balanced and professional manner. The Committee also welcomes the steps taken towards the establishment of a Press Council, which, according to the National Plan Against Racism, would prepare a Press Code of Conduct – including standards in dealing with matters such as ethnic or national origin and membership in the Traveller community and investigate complaints about the Code's alleged breaches.

b) Outstanding issues

83. Reporting based on, and promoting, negative stereotypes concerning minorities continues in some sectors of the Irish media. There were disconcerting examples of this in 2005, when manslaughter of a Traveller led some press to defend the killing and to label Travellers *en masse* as criminals. The Advisory Committee also regrets that the ethnic background of criminal suspects from minority communities is recurrently mentioned by some newspapers even when it is of no relevance to the case at issue.

Recommendations

84. The establishment of a Press Council, already proposed by the Minister for Justice, Equality and Law Reform, should be pursued as a priority, in a manner that ensures an effective complaint mechanism that takes into account the concerns related to minority reporting, while fully respecting freedom of expression and editorial independence of the media. The Advisory Committee also supports the idea of drawing up a press code of conduct.

Article 9 of the Framework Convention**Minorities and access to the media***Findings of the first cycle*

85. In its first Opinion, the Advisory Committee noted that the structure, personnel and content of the media still predominantly reflects the majority public interest and it considered that further efforts could be made to facilitate access by minorities to broadcasting and written media.

Present situation

a) Positive developments

86. The Advisory Committee notes that new radio programmes and a range of new minority print media have been launched in Ireland. The Advisory Committee also attaches importance to the Irish Language, Multicultural and Education Programmes of the Radio Telefís Éireann (RTÉ).

b) Outstanding issues

87. The RTÉ has taken some important steps to address the needs of minority communities, but it appears that its work in this sphere has not expanded at equal pace with the diversity of Ireland. Furthermore, the Advisory Committee considers that the Public Service Broadcasting Charter adopted in 2004, while noting the need to cater for the expectations of members with “minority interests”, could have addressed more explicitly guarantees for minorities’ access to the media. This issue should also be taken into account in the on-going preparations of a new Broadcasting Bill.

88. The Advisory Committee stresses the significance for minorities of the planned complete switchover to digital TV in Ireland. The Advisory Committee stresses that digitalisation should lead to greatly increased diversity and increased choice also in relation to minority media. It is also important that the specific situation of Travellers and other minorities is taken into account in the planning and implementation of digitalisation so as to ensure that the new technical requirements or other factors do not create new obstacles to their media access.

Recommendations

89. Ireland should in further stages of monitoring of the Framework Convention cover media issues more extensively. Furthermore, it should, in practice, pay more attention to the issues of access of minorities to the media, and this perspective should be carefully taken into account also in the on-going preparations of a new Broadcasting Bill as well as in the planning and implementation of pending digitalisation initiatives.

Article 12 of the Framework Convention

Education of Travellers

Findings of the first cycle

90. In its first Opinion, the Advisory Committee noted a range of challenges faced by Traveller pupils, and called for further measures to deal with rejection, racism as well as separate educational facilities experienced by Travellers. The Committee also pointed to the need to step up efforts to improve Travellers’ literacy and their access to third level education as well as to address the lack of qualified teachers from the Traveller community.

Present situation

a) Positive developments

91. The Advisory Committee welcomes the fact that the authorities and civil society alike see progress in the educational sphere as one of the most important issues concerning Travellers, and the Ten-Year Framework Social Partnership Agreement 2006-2015, proposed in June 2006, also underlines the issue. Several promising initiatives have been launched, including in terms of facilitating Travellers’ access to post-primary education, and certain concrete results are

indicated, for example, in the state report and in the Second Progress Report of the Committee monitoring the implementation of the recommendations of the Task Force on the Travelling Community.

92. The development of a five-year Traveller Education Strategy is of great significance for future work in this sphere, and it is expected to cover all key areas of concern. It is therefore regrettable that the adoption of the Strategy, the development of which commenced already in autumn 2003, has met with repeated delays. At the same time, the Advisory Committee recognises that, parallel to the development of the Strategy, valuable data and analysis of Travellers' educational status and needs have been prepared, and it wishes to highlight in particular the in-depth Survey of Traveller Education Provision in Irish Schools, issued by the Inspectorate of the Department of Education and Science in 2006.

93. The Advisory Committee welcomes the publication of guidelines on intercultural education, prepared for primary schools by the National Council for Curriculum and Assessment in 2005, and it hopes that the guidelines will constitute an integral element of teacher training materials and that they will be regularly consulted by practicing teachers.

b) Outstanding issues

94. Despite the measures introduced, the educational situation of Travellers remains disconcerting. The above-mentioned survey shows that the Travellers' average school attendance and achievement levels are low in comparison with pupils generally and in some cases negative societal attitudes towards Travellers are felt also in schools.

95. The Advisory Committee appreciates the fact that the Government has now adopted a policy of integrating Travellers in schools with majority population, and it urges the authorities to complete its on-going process of phasing out Travellers-only primary schools.

96. The Advisory Committee stresses, however, that the risk of isolation and separation of Traveller pupils exists also in "regular" schools, in some cases stirred by negative attitudes amongst parents of majority children. In some schools, there is a tendency to give Traveller children unchallenging tasks and "resource teacher" support merely on the basis of their Traveller affiliation. Risks of undue isolation exist also at the enrolment stage: While there are positive enrolment practices, interviews conducted in the context of the above-mentioned Survey suggest that some schools do not welcome Traveller children but refer them to another school, known to have enrolled a number of other Travellers. The Advisory Committee also stresses that the specific adult education programmes, such as Senior Traveller Training Centres, which are intended for adult Travellers, should be designed so that they do not encourage young Travellers to leave secondary level mainstream education.

Recommendations

97. The pending Traveller Education Strategy, with an implementation plan, should be issued as rapidly as possible and given resolute follow-up at all levels of education, including in terms of resources and appropriate awareness-raising, which should be pursued among all actors concerned, involving also persons belonging to the majority in the communities concerned. Enhanced support should be made available for community development work of Traveller organisations in recognition of its positive education implications. The Advisory Committee urges the authorities to combat any practices that may contribute to isolation or separation of Traveller pupils and make sure that there is no direct or indirect anti-Traveller bias in enrolment processes, in the formation of study groups or in any other aspects of education.

Denominational schools

Present situation

98. The Advisory Committee has received detailed information from non-governmental sources on the way in which the limited number of non-denominational or multi-denominational schools in Ireland – where an overwhelming majority of schools are run by Catholic bodies – can complicate efforts to find a school that would adequately take into account the cultural or religious background of non-Catholic minority children. The Advisory Committee welcomes the fact that the Irish authorities are paying increasing attention to the issue and that there is a commitment to step up support for expanding the network of non-denominational or multi-denominational schools. This has already resulted in the establishment of a number of new multi-denominational primary schools in recent years, although progress in this respect still appears to lag behind growing demand.

99. The Advisory Committee stresses that, in addition to widening the non-denominational and multi-denominational school network, there is a legal obligation to ensure that, in denominational schools, there is a possibility to opt out of religious instruction. It is important that this possibility is offered and organised in a manner that does not unduly single out the pupils concerned. The Advisory Committee further recalls that the above issues are likely to only increase in importance as the religious and cultural diversity of the country expands further.

Recommendations

100. The Advisory Committee urges the authorities to pursue their commitment to widen schooling options, including in terms of non-denominational and multi-denominational schools, in a manner that ensures that the school system reflects the growing cultural and religious diversity of the country.

Article 14 of the Framework Convention

Present situation

101. The Advisory Committee welcomes moves by the authorities towards acknowledgement of minority languages, including through possibilities to take minority languages as state examination subjects at senior cycle in second level education.

Recommendations

102. The Advisory Committee encourages the authorities to pursue their commitment in this area, including through provision of minority language as an education subject.

Article 15 of the Framework Convention

Participation in elected bodies

Findings of the first cycle

103. In its first Opinion, the Advisory Committee noted that there is a disproportionately low level of representation and participation of Travellers in political life and called for a review of related obstacles.

Present situation

a) Positive developments

104. The Advisory Committee considers it important that residency requirements and other rules pertaining to elections are designed and implemented in a manner that does not disenfranchise Travellers. The Committee was, therefore, pleased to learn that the department concerned has given advice to local authorities on this issue, aimed to maximise the number of Travellers registered as electors. There are also some positive examples of Travellers elected to local municipal councils.

b) Outstanding issues

105. The level of participation of Travellers in elected bodies remains low at all levels, and there is a need to take further steps to address remaining obstacles.

Recommendations

106. The Irish authorities are encouraged to pursue further their efforts to encourage Travellers' participation in elections, both as electors and candidates, at all relevant levels.

Participation in structures devoted to minority issues*Present situation*

107. The Advisory Committee welcomes the fact that the importance of Travellers' participation in decision-making has been emphasised in Ireland. There are a number of sectoral and other initiatives in which Travellers' views have been sought in the development and monitoring phases. The Committee would like to highlight, in particular, the inclusive nature of, and the Traveller representatives' role in the Committee set up to monitor and co-ordinate the implementation of the recommendations of the Task Force, which issued its last report in December 2005.

108. The Advisory Committee notes that the institutional arrangements concerning the authorities' work on Traveller issues has recently undergone a number of changes. The above-mentioned monitoring body no longer operates and a new High Level Group on Traveller Issues has been launched.

109. The Advisory Committee welcomes the establishment of the High Level Group as an instrument to promote the implementation of public policies on Traveller issues, and it recognises the commitment of its ministerial-level leadership to Traveller issues. The Committee regrets, however, that the High Level Group, which has no members from the Traveller community, has carried out its work with limited direct input from, and involvement of, the main non-governmental organisations dealing with Traveller issues. This has caused widespread dissatisfaction within the Traveller organisations, many of which consider that the working methods and composition of the Group represent a step back in terms of participation of Travellers. The Advisory Committee recognises the value of inter-departmental dialogue on Traveller issues, and it agrees that the Group can perform an important function in this respect. However, in so far as the work of the Group includes formulation or prioritization of key policy initiatives on Travellers, it is essential that the involvement of Traveller organisations, from local to the central level, is ensured more comprehensively than is currently the case.

110. Bearing in mind the principles of Article 15 of the Framework Convention, it is instrumental that the role of civil society actors representing Travellers is not limited to the provision of service, but involves also critical input to the decision-making processes and to the evaluation of policies and practices. The importance of this principle is accentuated by the low number of Travellers in the public bodies involved in these processes, and it should be kept in mind also in the development of policies in relation to new minority groups, such as Roma.

Recommendations

111. There is a need to ensure that the past positive practices of Traveller participation in various bodies are built upon as new structures dealing with Traveller issues are being developed. Such participation should not be limited to the provision of service, but involve also critical input to the decision-making processes and to the evaluation of policies and practices. In this respect, the High Level Group on Traveller Issues should associate the representatives of Traveller organisations, from local to central level, more closely in its activities, especially in so far as they involve the formulation and/or prioritization of policies pertaining to Traveller.

112. In view of the increased diversification of Irish society, the Advisory Committee also encourages the authorities to promote relevant participation in decision making by members of new minority groups, including Roma, in line with the recommendations of the state's National Action Plan against Racism.

Participation in economic life

Findings of the first cycle

113. In its first Opinion on Ireland, the Advisory Committee referred to the high level of unemployment among Travellers and called for further measures to facilitate Travellers' access to employment.

Present situation

a) Positive developments

114. The importance of addressing unemployment of Travellers is widely recognised in Ireland. Certain departments have taken promising specific measures to recruit Travellers, and Travellers' participation in economic life of the country is also referred to in the Ten-Year Framework Social Partnership Agreement 2006-2015, proposed in June 2006

115. Furthermore, the Advisory Committee finds that improvements in anti-discrimination legislation are likely to contribute to eliminating obstacles for Travellers in employment, although so far Travellers have only relatively rarely invoked anti-discrimination guarantees in the field of employment. In this connection, the Advisory Committee also highlights the importance of ensuring non-discriminatory treatment in labour market of persons belonging to new minority groups (see related comments under Article 6).

b) Outstanding issues

116. Unemployment amongst Travellers remains high,² and it is clear that shortcomings in the field of education (discussed above under Article 12 of the Framework Convention) contribute to this state of affairs. Another factor behind problems in this area – openly recognised by the

² The state report refers to the 2002 census data, indicating that of the 7,401 Irish Travellers in the labour force 70% were unemployed.

authorities in the state report – is the fact that, with increasing regulation in work areas associated with Travellers, such as recycling, waste disposal and horse trading, opportunities to continue self employment have become more difficult.

117. The Advisory Committee has also received reports about obstacles Travellers face in accessing financial services, as some of them are not in a position to provide documentary evidence required, such as utility bills, to open bank accounts. Such obstacles can harm the participation of Travellers in economic life.

Recommendations

118. The authorities should take additional proactive measures to advance employment of Travellers in both public and private sector. It is essential to eliminate practical and legal obstacles that hinder full participation of Travellers in economic life, including by ensuring that their self employment and other economic activities as well as equal access to financial services are facilitated.

III. CONCLUDING REMARKS

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

Positive developments

120. Ireland has taken a number of steps to improve the implementation of the Framework Convention following the adoption of the first Opinion of the Advisory Committee in May 2003 and the Committee of Ministers' Resolution in May 2004. It has espoused an inclusive position as regards the scope of application of the Framework Convention, and the authorities are actively seeking solutions to address new challenges resulting from the expanding diversity of the country.

121. Ireland has strengthened further its anti-discrimination legislation, and these legal guarantees are reinforced by an advanced institutional framework devoted to issues concerning minorities and non-discrimination.

122. There are valuable initiatives to tackle racism and manifestations of intolerance, notably in the commendable Action Plan against Racism, which was prepared through an inclusive process.

123. Ireland has commissioned a high number of studies, plans and reports designed to address problems faced by Travellers, in fields ranging from accommodation to health issues. The Committee monitoring the implementation of the recommendations of the Task Force on the Travelling Community carried out important work, with significant Traveller participation, up until 2005.

124. The authorities have planned new data collection activities, which are likely to facilitate efforts to identify and address Travellers' concerns.

Issues of concern

125. Certain new structures dealing with Traveller issues have not involved Traveller representatives sufficiently in their work, while some of the previous channels of communication between Travellers and the authorities have ceased to exist.

126. Travellers continue to be exposed to discrimination in different context, and negative societal attitudes towards them and certain new minority groups persist. These problems are at times fuelled by some media reports promoting negative stereotypes.

127. The principle of voluntary self-identification of persons belonging to minorities has not always been fully taken into account by the authorities in such contexts as data collection and in discussions on whether the Travellers constitute an ethnic group.

128. The Equality Tribunal's processing delays are negatively affecting the effectiveness of this remedy, while the transfer of non-discrimination cases concerning licensed premises from the Equality Tribunal to the District Court has prompted concerns.

129. The implementation of Traveller accommodation plans has been inadequate in a number of localities. Improved provision of halting sites merits particular attention, bearing in mind also the consequences of criminalisation of trespassing.

130. The Travellers' average school attendance and achievement levels remain low and in some cases negative societal attitudes towards Travellers are felt also in schools. Such problems in the field of education contribute to the significant unemployment amongst Travellers. At the same time, the issuance of the Traveller education strategy and associated implementation plan has been delayed.

131. Further steps are also needed to accommodate the growing diversity of Irish schools, including in relation to the increasing demand for nondenominational or multi-denominational schools.

Recommendations

132. 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:

- Ensure Traveller representatives' effective participation in various bodies dealing with Traveller issues, while facilitating Travellers' involvement also in elected bodies.
- Pay increasing attention to the principle of self-identification in data collection and other contexts.
- Monitor the impact of the recent changes to the complaint mechanisms for non-discrimination cases so as to ensure that they do not harm the accessibility or effectiveness of the remedies available and ensure that the structures concerned are adequately resourced.
- Take decisive measures to ensure the implementation of Traveller accommodation plans throughout the country. Launch rapidly the Traveller education strategy, coupled with an implementation plan, and follow it up decisively.
- Pursue on-going efforts to accommodate growing diversity in Irish schools, including in terms of demand for non-denomination or multi-denominational schools.
- Take further steps aimed to facilitate self employment and other economic activities of the Travellers.