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

Third Opinion on the Czech Republic, adopted on 1 July 2011

EXECUTIVE SUMMARY

Since ratifying the Framework Convention in 1997, the Czech Republic has continued its efforts to protect persons belonging to national minorities. Efforts have been made, on the legislative and policy levels, to develop further the system of protection of national minorities.

The adoption in 2009 of the Anti-Discrimination Act, introduces an adequate legal basis for protection against discrimination, including in the field of employment on racial, ethnic, national or religious grounds and establishes courts' jurisdiction in alleged cases of discrimination. The Public Defender of Rights has been charged with assisting victims of discrimination, including in the private law sphere.

A climate of tolerance and dialogue generally prevails in the Czech Republic. However, the Advisory Committee deplores the persisting negative attitudes and prejudice against Roma.

New primary and secondary school curricula, introduced in 2009, aim at teaching children about diversity of cultures, traditions and values and raising children's awareness of their own cultural identity and traditions. A well-developed system of Polish language education, from pre-school to secondary school level, exists in the Frýdek-Místek and Karviná districts, permitting students belonging to the Polish national minority to receive instruction in their language.

The authorities continue to provide various forms of assistance to cultural activities of national minorities, such as support for music and drama festivals, art exhibitions and other artistic events, museums and cultural centres.

The authorities have in recent years increased their efforts to combat discrimination and implement policies for Roma inclusion into the mainstream society. The Agency for Social Inclusion of Roma Localities was established and the authorities adopted the Roma Integration Concept for 2010-2013.

Negative attitudes and prejudice against Roma continue to persist in large segments of the Czech society. Anti-Roma rhetoric has been repeatedly used, including by public figures and some broadcasting and print media. The tolerance on the part of the authorities for inflammatory anti-Roma statements stimulates an attitude of impunity in which the far right extremist and neo-Nazi groups feel emboldened to stage anti-Roma marches designed to intimidate and to exclude them from mainstream Czech society. Legal action taken against these groups by the authorities, has thus far not been effective.

In spite of the apology by the Czech government in 2009 for the sterilisation of Roma women without their prior free and informed consent, which followed the Public Defender of Rights findings of the illegality of the practice, and recent changes in the jurisprudence of the Constitutional Court, most victims of such a gross violation of human rights have not yet been compensated.

Roma children still face serious difficulties in the education system. “Practical schools”, attended by a disproportionately large number of Roma children, have replaced “special schools” without any substantial change to their composition, curriculum and position within the education system of the country and continue to teach on the basis of a reduced curriculum which does not give them access to higher educational levels.

In spite of the low legal threshold required for the establishment of committees for national minorities at the municipal level, and the legal obligation to do so, a small number of committees have been set up. It is of concern that in eight years of the implementation of the law only 69 committees for national minorities have been set up in 283 municipalities meeting the legislative criteria for their establishment.

Issues for immediate action

- **increase efforts to combat all forms of intolerance, racism, and xenophobia; take further legislative measures and policies to combat racist manifestations, in particular against Roma, including in the media, and the political arena, in conformity also with the Committee of Ministers’ Recommendation N° R(97)20 on “Hate Speech”;**
- **eliminate, without further delay, practices that lead to the continued segregation of Roma children at school; redouble efforts to remedy all shortcomings faced by Roma children in the field of education;**
- **ensure that local committees for national minorities are effectively established in the municipalities where the conditions are met for setting them up.**

TABLE OF CONTENTS

I. MAIN FINDINGS.....	5
Monitoring process.....	5
General overview of the implementation of the Framework Convention after two monitoring cycles	5
Legislative and institutional framework	6
Tolerance and intercultural dialogue	6
Use of minority languages	7
Education	7
Participation	7
II. ARTICLE-BY-ARTICLE FINDINGS.....	8
Article 3 of the Framework Convention.....	8
Article 4 of the Framework Convention.....	10
Article 5 of the Framework Convention.....	13
Article 6 of the Framework Convention.....	14
Article 9 of the Framework Convention.....	17
Article 10 of the Framework Convention.....	18
Article 11 of the Framework Convention.....	19
Article 12 of the Framework Convention.....	20
Article 14 of the Framework Convention.....	22
Article 15 of the Framework Convention.....	24
III. CONCLUSIONS	27
Positive developments following two cycles of monitoring.....	27
Issues of concern following two cycles of monitoring.....	27
Issues for immediate action	28
Further recommendations	28

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

THIRD OPINION ON THE CZECH REPUBLIC

1. The Advisory Committee adopted the present Opinion on 1 July 2011 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 3 May 2010 and other written sources and on information obtained by the Advisory Committee from governmental and non-governmental contacts during its visit to Prague, Ostrava and Český Těšín the Czech Republic from 11 to 15 April 2011.
2. Section I below contains the Advisory Committee's main findings on key issues pertaining to the implementation of the Framework Convention in the Czech Republic. 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 monitoring of the Framework Convention, contained in the Advisory Committee's first and second Opinions on the Czech Republic, adopted on 6 April 2001 and 24 February 2005 respectively, and in the Committee of Ministers' corresponding Resolutions, adopted on 6 February 2002 and 15 March 2006.
4. The concluding remarks, contained in Section III, could serve as the basis for the Committee of Ministers' forthcoming conclusions and recommendations on the Czech Republic.
5. The Advisory Committee looks forward to continuing its dialogue with the authorities of the Czech Republic 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. The Advisory Committee would also like to bring to the attention of States 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).

I. MAIN FINDINGS

Monitoring process

6. The Czech Republic has adopted a constructive approach to the monitoring process of the Framework Convention. In October 2007, it hosted a follow-up seminar, with representatives of national minorities and of the Advisory Committee, to discuss the best ways of putting the findings of the 2nd cycle of monitoring into practice. Moreover, the Advisory Committee wishes to highlight useful steps taken by the authorities to disseminate the results of the two first cycles of monitoring. The government's Comments and the Resolution of the Committee of Ministers on the implementation of the Framework Convention were translated in the Czech language and disseminated. The Advisory Committee regrets that the above documents were not translated and disseminated in minority languages. The Advisory Committee welcomes the translation and dissemination of its "Commentary on Education" and "Commentary on Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs".

7. The Advisory Committee notes with satisfaction that representatives of national minorities within the Council for National Minorities were given an opportunity to provide their comments on the State Report before it was submitted to the Council of Europe.

8. The Advisory Committee visited Prague, Ostrava and Český Těšín in the Czech Republic from 11 to 15 April 2011. The visit, organised at the invitation of the Czech Government, provided an opportunity to engage in direct dialogue with the parties concerned. The Advisory Committee welcomes the spirit of co-operation shown by the authorities during the visit.

General overview of the implementation of the Framework Convention after two monitoring cycles

9. Since ratifying the Framework Convention in 1997, the Czech Republic has continued its efforts to protect persons belonging to national minorities. In the eight years since the entry into force of the Act on the Rights of Members of National Minorities of 2001, the authorities gathered considerable experience in implementing its provisions, and took steps to overcome problems which became apparent. For example, in order to ensure that persons belonging to national minorities can use their surnames and given names in a minority language, amendments were made both as regards legislation, with changes to the Registries Act, and to the administrative practice.

10. Notwithstanding considerable independence of local authorities in managing their affairs, the state authorities have taken steps to encourage them to set up consultative committees of national minorities in these municipalities where the national minorities constitute the required proportion of the population, and to implement locally provisions on minority education and topographical signs in languages of national minorities. The Advisory Committee regrets that despite these efforts, only a small number of committees have been set up. Due to persisting problems in a number of municipalities, the authorities have also considered introducing amendments to the Municipalities Act to find alternative solutions.

11. The authorities have in recent years increased their efforts to combat discrimination and implement policies for Roma inclusion into the mainstream society. The Agency for Social Inclusion of Roma Localities was established and the authorities adopted the Roma Integration Concept for 2010-2013.

12. It is worrying that the Roma continue to face serious difficulties and discrimination, in particular regarding access to employment, housing and health services; they suffer under segregation, eviction of Roma families from town centres, widespread anti-Gypsyism, and hate speech. The tolerance for anti-Roma rhetoric used in political discourse by some high-ranking government officials, including ministers, members of Parliament and local representatives creates a climate of impunity in which the far right extremist and neo-Nazi groups feel encouraged to stage anti-Roma marches designed to intimidate them and to exclude them from mainstream Czech society. A particular issue of serious concern are racially-motivated attacks against the Roma, including fire bombings, beatings and shootings.

Legislative and institutional framework

13. The Czech Republic adopted the Anti-Discrimination Act in June 2009 which provides an adequate legal basis for protection against discrimination, including in the field of employment on racial, ethnic, national or religious grounds and establishes courts' jurisdiction in alleged cases of discrimination. The Advisory Committee welcomes the establishment of the Office of the Government Commissioner for Human Rights and the recent filling of the post.

14. The Anti-Discrimination Act established the office of the Public Defender of Rights as the body charged with assisting victims of discrimination, including in the private law sphere. The Advisory Committee also notes with satisfaction that the Office of the Public Defender of Rights (Ombudsman) plays an active role in protecting human rights in the country. It receives a considerable number of complaints, among them a small number of complaints alleging discrimination on ethnic grounds.

Tolerance and intercultural dialogue

15. The Advisory Committee notes that in general, a climate of tolerance and dialogue generally prevails in the Czech Republic. However, it deplores the persisting negative attitudes and prejudice against Roma.

16. The Advisory Committee finds it commendable that new primary and secondary school curricula introduced in 2009 aim at teaching children about diversity of cultures, traditions and values and raise children's awareness of their own cultural identity and traditions.

17. Radio and television channels continue to broadcast a wide array of programmes for or about national minorities, ranging from documentaries and educational programmes to news and current affairs.

18. However, the Advisory Committee notes with concern the persisting negative attitudes and prejudice against Roma. In particular, the Advisory Committee is deeply concerned about anti-Roma rhetoric, including by public figures. Some broadcasting and print media continue to stereotype Roma and portray them in a negative light. Most worryingly, the far right extremist and neo-Nazi groups continue to organise marches aiming to intimidate the Roma, and legal action taken against them by the authorities, has thus far not been effective.

19. The situation of the Roma remains particularly disturbing. A large proportion of Roma remain excluded from mainstream society and face difficult living conditions. Roma continue to face problems in relation to personal security, education, adequate housing, social protection and healthcare facilities, and access to employment.

20. The Advisory Committee regrets to note that the National Action Plan for the Decade of Roma inclusion and the Roma Integration Policy Concept 2010-2013, designed to improve the situation of the Roma have been strongly criticized by civil society members of the Council for

Roma Community Affairs for not bringing about significant results. Moreover, Roma representatives claim that they were not consulted at the planning stage of these programmes.

Use of minority languages

21. The right to display bilingual signs and place-names is respected in practice in thirteen municipalities in the Frýdek-Místek and Karviná districts. Some documents, such as bilingual school graduation diplomas are in use in Polish minority schools. Persons belonging to national minorities can register and use their names in a minority language with language-specific diacritical marks.

Culture

22. The authorities continue to provide various forms of assistance to national minorities, such as support for cultural centres, libraries, music and drama festivals, art exhibitions, amateur cultural productions and other artistic events. However, various sources indicate that public financial support for national minorities' activities is still quite limited and insufficient to meet the needs of persons belonging to national minorities.

Education

23. Roma children still face serious difficulties in the education system. The European Court of Human Rights in the case of D.H. and others v. the Czech Republic from 2007 ruled that the Czech Republic violated the European Convention on Human rights by placing a disproportionate number of Roma children into "special schools" in which they were subjected to a limited curriculum and segregated from the mainstream student population. The measures needed to fully implement this judgment have not yet been introduced. Changes introduced in recent years have not yielded significant results.

24. "Practical schools", attended by a disproportionately large number of Roma children, have replaced "special schools" without any substantial change to their composition, curriculum and position within the education system of the country. These schools have not been integrated into the mainstream education system and continue to teach on the basis of a reduced curriculum which does not give the pupils attending these schools access to higher educational levels. Moreover, there are no opportunities for Roma children to learn the Romani language in primary schools, and Romani is taught as a subject only in some secondary schools.

25. In contrast, the Advisory Committee welcomes the well-developed system of Polish language education, from pre-school to secondary school level which exists in the Frýdek-Místek and Karviná districts, permitting students belonging to the Polish national minority to receive instruction in their language.

Participation

26. The Council for National Minorities, composed of representatives of national minorities and of government ministries is the principal forum for a regular dialogue on issues affecting persons belonging to national minorities. In spite of the low legal threshold required for the establishment of committees for national minorities at the municipal level (10% of the population) and the regional level (5%), and the legal obligation to do so, a small number of committees have been set up. It is of concern that only 69 committees for national minorities have been set up in 283 municipalities meeting the legislative criteria in eight years of the implementation of the law.

II. ARTICLE-BY-ARTICLE FINDINGS

Article 3 of the Framework Convention

Personal scope of application

Recommendations from the two previous cycles of monitoring

27. In the previous cycles of monitoring, the Advisory Committee encouraged the authorities to pursue an open and flexible approach to the personal scope of application of the Framework Convention and not to use the citizenship criterion to exclude certain persons from the personal scope of application of the Framework Convention.

Present situation

28. The Advisory Committee notes that there has been no change since the 2nd monitoring cycle in the position of the Czech authorities concerning the scope of application of the Framework Convention. The Advisory Committee further notes that citizenship still continues to be a precondition in the law for persons belonging to national minorities to be able to benefit from minority rights. The Advisory Committee welcomes however, that in practice the Framework Convention is applied in an inclusive way,¹ covering all groups meeting the criteria established in the definition of the concept “national minority”² contained in Article 2 of the Act on the Rights of Members of National Minorities of 10 July 2001.

29. The Advisory Committee notes in this context that non-citizens residing in the Czech Republic can take part in activities of organisations of their kin minorities traditionally settled in the country. Thus persons of Croat and Serb nationality who moved into the Czech Republic in the last two decades, irrespective of their citizenship, can access measures taken for the protection of national minorities and thus benefit from the protection of the Framework Convention.

30. The Advisory Committee would like to remind the authorities that the citizenship criterion cannot be considered as the only condition for enjoying minority rights under the Framework Convention, and that undue citizenship requirements can have discriminatory effects in some areas of life. Using a citizenship requirement in a general provision dealing with the scope of application of minority rights is not fully in line with the aim and spirit of the Framework Convention for the Protection of National Minorities. Minority rights are human rights and cannot as a principle be reduced to the rights of citizens. In particular, the Advisory Committee considers that the authorities should review the use of the citizenship criterion and limit its use only to those provisions, such as those relating to electoral rights at national level, where such a requirement is relevant. This would be consistent with current efforts at European level to develop a more nuanced, i.e., flexible and contextualized approach to the application of the citizenship criterion in the protection of national minorities, as consistently pursued by the Advisory Committee in its opinions and suggested by the Venice Commission.³

¹ In practice, persons protected in the Czech Republic by the Framework Convention are those who belong to groups represented on the Council for National Minorities, a government advisory body. These are Bulgarians, Croats, Hungarians, Germans, Poles, Roma, Ruthenians, Russians, Greeks, Slovaks, Serbs and Ukrainians.

² “A citizen of the Czech Republic who professes other than Czech ethnic origin and wishes to be considered a member of a national minority in common with other persons who profess the same ethnic origin”.

³ See also Report on “non-citizens” and minority rights, CDL-AD(2007)001, paragraph 137, adopted by the Venice Commission at its 69th plenary session on 15-16 December 2006.

Recommendations

31. The Advisory Committee calls on the authorities to maintain an inclusive and open approach towards the scope of application of the Framework Convention.

32. The Advisory Committee also urges them to review regularly the established criteria of eligibility for protection under the Framework Convention, in order to ensure that the criteria does not have the effect of excluding people from the scope of application of this convention in an unjustified and arbitrary, i.e. discriminatory manner.

Collection of data*Recommendations from the two previous cycles of monitoring*

33. In the previous cycles of monitoring, the Advisory Committee encouraged the authorities to undertake awareness-raising measures to encourage the persons concerned to use the possibility of indicating their ethnic affiliation in the next census, and to devise new ways of obtaining information on the actual number of persons belonging to national minorities, while ensuring that the international rules on the protection of personal data were respected.

Present situation

34. The Advisory Committee notes that a population census was organised in the Czech Republic in March and April 2011. The questionnaire used during the census contained optional open-ended questions on ethnic origin (nationality), religion and language. The Advisory Committee particularly welcomes the possibility which allowed the respondents to indicate more than one ethnic affiliation or more than one language, in line with the Conference of European Statisticians Recommendations for the 2010 Censuses of Population and Housing.⁴

35. The Advisory Committee also welcomes the translation of the census forms and explanatory notes into English, French, German, Polish, Romani, Russian, Ukrainian and Vietnamese languages and inclusion of persons belonging to national minorities among the census enumerators.

36. The Advisory Committee notes, however, that, according to some representatives of national minorities, the significance and meaning of census questions was not sufficiently clear, in particular as regards the difference between citizenship and nationality. In this context, given that a number of rights protected under the Framework Convention and secured in the domestic legislation (such as the right to establish Committees of National Minorities and the right to display topographical signs in a minority language, the right to set up minority language schools) are conditional on the number of persons belonging to national minorities residing in a given municipality, the Advisory Committee notes with concern that the census results may not adequately reflect the real ethnic composition of the Czech society. Consequently it should also not be considered as the only indicator of their number when implementing policies and measures to protect minorities and to help them to preserve and assert their identity.⁵

⁴ Conference of European Statisticians Recommendations for the 2010 Censuses of Population and Housing, prepared in co-operation with the Statistical Office of the European Communities (EUROSTAT) and the United Nations Economic Commission for Europe, paragraph 426: “respondents should be free to indicate more than one ethnic affiliation or a combination of ethnic affiliations if they wish so”, paragraph 431: “Questions will generally refer to one language only. Multiple languages may be required for the mother tongue and main languages of minority groups”.

⁵ See the Advisory Committee’s “Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs” adopted on 27 February 2008.

Recommendations

37. The Advisory Committee encourages the authorities to process the census data with full respect for the safeguards, notably those related to the protection of personal data, as laid down in the Committee of Ministers Recommendation (97)18 concerning the protection of personal data.

38. The Advisory Committee invites the authorities to consider additional means of collecting information on the situation of national minorities outside the census, while fully respecting international standards in the field of personal data protection.⁶

Article 4 of the Framework Convention

Legal and institutional protection against discrimination

Recommendations from the two previous cycles of monitoring

39. In the previous cycles of monitoring, the Advisory Committee encouraged the authorities to accelerate the adoption and entry into force of the new anti-discrimination legislation, and use all available means, including information and awareness-raising campaigns, to ensure its effective implementation.

40. The Advisory Committee also called on the authorities to provide additional support for the Ombudsman institution and to ensure that the Ombudsman's recommendations were followed up by the competent institutions.

Present situation

41. The Advisory Committee welcomes the adoption of the Anti-Discrimination Act in June 2009 (in force as from 1 September 2009) which transposed into Czech legislation the European Council Directive on Racial Equality (2000/43/EC) and the European Council Directive on Employment Equality (2000/78/EC). The act provides an adequate legal basis for protection against discrimination, including in the field of employment (among others) on racial, ethnic, national or religious grounds and establishes courts' jurisdiction in alleged cases of discrimination. The Advisory Committee welcomes in particular the shifting of the burden of proof in cases of indirect discrimination and the provision enlarging the scope of application of the law to private relations, thus including also horizontal effects into non-discrimination law. The Advisory Committee also notes in this context that the legislation introduced the office of the Public Defender of Rights as the body charged with assisting victims of discrimination including in the private law sphere.

42. The Advisory Committee welcomes the establishment of the Office of the Government Commissioner for Human Rights and the recent filling of the post. The Commissioner has been empowered to evaluate the situation and set standards regarding the protection of human rights, review legislation and draw up national proposals for the development of human rights protection in the Czech Republic. The Advisory Committee also notes that one of the principal tasks of the Commissioner is to collect information and draw up proposals to promote the

⁶ See, for example, the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108) and the Committee of Ministers' Recommendation Rec(97)18 concerning the protection of personal data collected and processed for statistical purposes. See also Council of Europe Recommendation CM/Rec(2010)13 of the Committee of Ministers on the protection of individuals with regard to automatic processing of personal data in the context of profiling, adopted on 23 November 2010.

observance of human rights of the Roma and to improve the situation of Roma communities in society.

43. The Advisory Committee notes with satisfaction that the Office of the Public Defender of Rights (Ombudsman) plays an active role in monitoring the protection of human rights in the country and it receives a substantial number of complaints. In 2010, it handled 6,339 complaints, and began 724 investigations. The Advisory Committee notes that these complaints concerned a large variety of issues including a small number of complaints alleging discrimination on ethnic grounds. It finds it worrying, however, that recommendations made by the Public Defender for remedial action addressed to offices in cases of identified malpractice were not always followed. In 17 cases handled in 2010, the office did not rectify its mistakes even after a final statement had been issued by the Defender.

Recommendations

44. The Advisory Committee urges the authorities to support appropriately the newly established Office of the Government Commissioner for Human Rights, in order to allow it to fulfil its duties effectively.

45. The Advisory Committee calls on the authorities to ensure that the Office of the Public Defender of Rights is granted all the support it needs to continue carrying out its role effectively, in particular as regards the enforcement of the Defender's recommendations.

Application of the principles of equal treatment and non-discrimination with respect to the Roma

Recommendations from the two previous cycles of monitoring

46. In the previous cycles of monitoring, the Advisory Committee strongly encouraged the authorities to consider setting-up of a special agency to combat social exclusion. The Advisory Committee also asked the authorities to pursue and expand the sectoral measures aiming to improve the situation of Roma, in particular in the field of housing and employment.

47. It further urged the authorities to look into the causes of inadequate implementation of the government policy for the Roma integration at local level and to verify whether legislative or other measures were needed to define more exactly the role and responsibilities of local authorities in areas affecting national minorities.

Present situation

48. The Advisory Committee welcomes the fact that the authorities have increased their efforts in recent years to combat discrimination and implement policies for Roma inclusion into the mainstream society. The Agency for Social Inclusion of Roma Localities was established in 2008 with the principal task of implementing local social inclusion projects and promoting partnership between the Roma and local authorities. Since 2008, the Agency has been implementing 28 projects with another 10 projects planned for 2011. However, the Advisory Committee notes that, according to Roma representatives, the inclusion of Roma in the activities of the Agency has until now not reached the desirable level.

49. The Advisory Committee welcomes the adoption and implementation of the Roma Integration Concept for 2010-2013. The Concept covers the key areas of employment, health, housing, social protection, education, support for Roma culture and language, personal security and over-indebtedness. In particular, the Advisory Committee is pleased to learn that the different government agencies have been assigned specific tasks and the authorities are

monitoring the progress on their implementation. The most recent assessment of the situation of Roma communities, entitled *Report on the Position of Roma Communities in the Czech Republic* of 2009, was approved by the government on 14 June 2010 and is available on the government website.⁷

50. The Advisory Committee regrets, however, that in spite of the progress registered thus far, the Roma continue to face serious difficulties and discrimination, in particular as regards access to employment, health-services, main-stream and higher education, housing segregation, eviction of Roma families from town centres, widespread anti-Gypsyism, and hate speech. The Advisory Committee deplores in particular repeated violent clashes provoked by far right extremist and neo-Nazi groups aiming to intimidate the local Roma, such as the 2008 riot in Litvinov or clashes after rallies of the extremist Workers' Party of Social Justice (DSSS) in the towns of Novy Bydzov in March 2011 and in Krupka in April 2011. The Advisory Committee also is concerned about reports, including that of the Public Defender of Rights, of evictions in the town of Vsetin of Roma families from the town centre to container-like houses on the town's fringes and to surrounding villages.

51. Another issue of serious concern is repeated stigmatisation of the Roma in the media and by the local politicians, leading to dissemination of prejudices and perpetuation of social exclusion patterns of Roma in society. Consequently, according to information obtained from Roma representatives, negative attitudes towards the Roma prevail in the majority society, with 86% of those surveyed rejecting Roma people, demanding that they be segregated, and calling for repressive measures against them⁸ (see also related comments under Article 6 below).

Recommendations

52. The authorities must make more comprehensive and effective efforts to prevent, combat and sanction the inequality and discrimination suffered by the Roma, and to promote tolerance and anti-discriminatory attitudes throughout the majority population.

53. The authorities must step up their efforts, in particular at local level, to improve the employment opportunities and living conditions of Roma, to include Roma in all projects and activities concerning them and to promote their integration into society. Particular attention must be paid to improving housing conditions in Roma neighbourhoods.

Allegations concerning the sterilisation of Roma women without their prior free and informed consent

Recommendations from the two previous cycles of monitoring

54. In the previous cycles of monitoring, the Advisory Committee urged the authorities to investigate allegations concerning the sterilisation of Roma women without their prior free and informed consent in optimum conditions of transparency, independence and impartiality by the special commission of enquiry established by the Ministry of Health. It further asked that more comprehensive regulations be adopted, in compliance with relevant international standards, in order to define prior free and informed consent with sufficient clarity.

Present situation

⁷ See "Zpráva o stavu romských komunit v České republice za rok 2009"

http://www.vlada.cz/assets/ppov/zalezitosti-romske-komunity/dokumenty/3_zprava_09_material_final.doc

⁸ See press release "Roma Association Forum calls on EU to halt Structural Funds for Czech Republic" of 12 May 2011 http://www.romea.cz/english/index.php?detail=2007_2430&id=detail

55. The Advisory Committee notes the public statement of regret made in November 2009 by the Czech government, officially apologising for the sterilisation of Roma women without their prior free and informed consent. This apology followed the 2005 report of the enquiry of the Public Defender of Rights and the findings of the Advisory Board of the Ministry of Health of 2006 which both established the illegality of the practice.

56. The Advisory Committee notes further that subsequent legislation, adopted in 2007, amended provisions on prior free and informed consent.⁹ The Advisory Committee notes also that in a recent decision, the Constitutional Court held that a three-year statute of limitations for bringing compensation claims cannot be applied to restrict patients' rights in cases of medical malpractice.¹⁰ Considering the long period that most victims of such a gross violation of human rights have been waiting for compensation, the Advisory Committee expects that pending cases will be resolved without further delay.

Recommendation

57. The Advisory Committee strongly urges the authorities to resolve without further delay all pending compensation cases brought by the victims of sterilisation without prior free and informed consent. In addition, the Advisory Committee urges the authorities to continue to ensure that legal provisions on prior informed consent are adhered to at all times.

Article 5 of the Framework Convention

Support for the cultural activities of persons belonging to national minorities

Recommendations from the two previous cycles of monitoring

58. In the previous cycles of monitoring, the Advisory Committee called on the authorities to use all means available to encourage local and regional authorities to do more to support the efforts of persons belonging to national minorities to preserve their identities. In particular, it recommended that authorities at all levels as well as minority representatives make additional efforts to increase awareness of the state aid available and procedures for obtaining it.

Present situation

59. The Advisory Committee is pleased to note that the authorities continue to provide various forms of assistance to cultural activities of national minorities, such as support for music and drama festivals, art exhibitions and other artistic events, museums, cultural centres, etc. In this context, it welcomes the establishment under the auspices of the Prague City Hall of the House of National Minorities, which provides offices for 11 organisations of the officially recognised national minorities, as well as an exhibition space and a performance area.

60. The Advisory Committee also notes with interest that the funding for cultural projects amounted to between 9,5 million Kč and 10,1 million Kč in the years 2004-2008, with over half of the sum allocated each year to cultural projects of Roma, Slovak and Polish minorities. In addition, the Advisory Committee notes that under another budgetary heading *Integration of Persons Belonging to the Roma Community*, Roma art, cultural education, and publications on Roma culture and traditions receive annually subsidies of 2 million Kč.

⁹ See Article 23§1 of the Law on Healthcare of the Population (Law 20/1966 as amended by Law 111/2007 collection of law)

¹⁰ See for example decisions of the Constitutional Court: II.ÚS 635/2009 of 31 August 2010 and II.ÚS 3168/2009 of 5 August 2010, <http://nalus.usoud.cz/Search/ResultDetail.aspx?id=67316&pos=1&cnt=1&typ=result>.

61. The Advisory Committee welcomes the practice of the Regional and National Cultures Department of the Ministry of Culture of subsidising up to 90% of cost of cultural activities of the Roma, instead of the standard 70%.

62. The Advisory Committee notes however that various interlocutors have underlined that public financial support for national minorities' activities, in particular the numerically-smaller ones is insufficient to meet the needs of these groups in order to protect, preserve and develop their cultural identities. Representatives of the Croat minority have indicated to the Advisory Committee their wish to create a museum in Jevišovka to document 300 years of presence of Croats in the southern Moravia.

Recommendation

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

Article 6 of the Framework Convention

Tolerance and intercultural dialogue

Recommendations from the two previous cycles of monitoring

64. In the previous cycles of monitoring, the Advisory Committee called on the authorities to increase their efforts to combat social exclusion and manifestations of intolerance, racism and xenophobia present in Czech society and to monitor the situation more effectively, investigate and apply adequate sanctions when necessary.

65. The Advisory Committee also asked the authorities to pay more attention to manifestations of intolerance, racism and xenophobia in the media and encouraged self-regulatory and monitoring bodies, as well as ethical councils to combat such manifestations by all means at their disposal.

Present situation

66. The Advisory Committee notes that a climate of tolerance and dialogue generally prevails in the Czech Republic. However, it deplores the persisting negative attitudes and prejudice against Roma.

67. The Advisory Committee is deeply concerned about anti-Roma rhetoric used in political discourse by some high-ranking government officials, including ministers, candidates for elections, members of Parliament and local representatives.¹¹ The tolerance on the part of the authorities for inflammatory anti-Roma statements stimulates an attitude of impunity in which the far right extremist and neo-Nazi groups feel emboldened to stage anti-Roma marches designed to intimidate and to exclude them from mainstream Czech society (see related comment under Article 4 above). The Advisory Committee is deeply concerned by this situation, which it finds incompatible with Article 6 of the Framework Convention, and recalls that it is an obligation of States Parties to undertake appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity.

¹¹ For example, according to the Czech media, in one particular incident a candidate for the Senate distributed matches to prospective voters in the wake of the court verdict in the case of the arson attack on a Roma family in Vitkov.

68. The Advisory Committee notes that the media coverage of Roma issues varies according to the editorial line and political leanings of the publisher or broadcaster. Regrettably, some broadcasting and print media continue to stereotype Roma and portray them in a negative light. On the other hand, the Advisory Committee commends anti-racist campaigns on public television, transmitted at half time of popular football matches, aimed at sports audiences and raising awareness of the danger of racism in sport and beyond. It welcomes the promotion of Roma and other persons belonging to national minorities to positions of TV reporters and commentators. Such actions raise awareness within the Czech society of its diversity and influence positively the image of minorities.

69. Against this background, the Advisory Committee notes a number of initiatives to celebrate in 2008 the European Year of Intercultural Dialogue. The priorities established by the national coordination point, the Arts and Theatre Institute, were the promotion of the change of thinking in the Czech society and in minorities with an emphasis on school and out of school education of young people, and integration of foreigners and the Roma community using cultural and artistic dialogue.

70. Czech civil society engaged in promoting tolerance and combating xenophobia in many creative ways; through research projects, education and art exhibitions. A cultural project Babylon fest was organised by the Brno Cultural Centre, while the Counselling Centre for Integration in Usti nad Labem runs a Colour Planet Festival.

71. In 2010, within the framework of the International Year of Convergence of Cultures, ten cultural projects from the Czech Republic celebrating cultural diversity and intercultural dialogue were implemented.

72. The Advisory Committee welcomes the establishment of a memorial site in Lety to commemorate victims of the Roma holocaust at the Nazi concentration camp and of the Education and Documentary Centre of the Romany Holocaust in Hodonin u Kunstatu. It however deplores that the site of the concentration camp at Lety still remains for its most part occupied by a pig farm established there by the communist regime in 1970s. The Advisory Committee particularly regrets that the authorities have not implemented their own decision of 1998 to remove the pig farm, despite the continuing calls from the Roma representatives and international bodies.¹² Given in particular the symbolism of what the site is still used for, the Advisory Committee considers its continuing use as a pig farm to be a grave violation of Article 6 of the Framework Convention.

Recommendations

73. The Advisory Committee strongly urges the authorities to increase their efforts to combat all manifestations of intolerance, racism, and xenophobia. In particular, the Advisory Committee urges the authorities to take further legislative measures and policies to combat racist manifestations in the media, including in the political arena, in the spirit of the Committee of Ministers' Recommendation N° R(97)20 on "Hate Speech" in particular against Roma. Measures should, in particular, be taken to prevent and combat intolerance and hate speech in politics.

74. The Advisory Committee strongly urges the authorities to remove as a matter of priority the pig farm from the site of the concentration camp at Lety.

¹² In 2005 and 2008, the European Parliament passed resolutions calling on the Czech authorities to remove the pig farm from the site. <http://www.radio.cz/en/section/curraffrs/ep-urges-prague-to-remove-pig-farm-from-the-site-of-a-wwii-concentration-camp> , http://www.romea.cz/english/index.php?id=detail&detail=2007_722

Fight against discrimination, hostility or violence on ethnic or racial grounds

Recommendations from the two previous cycles of monitoring

75. In the previous cycles of monitoring, the Advisory Committee called on the authorities to monitor and investigate speedily, impartially and effectively all reported cases of discrimination, hostility or violence perpetrated on ethnic or racial grounds and to ensure that adequate sanctions are imposed when appropriate.

Present situation

76. The far right extremist and neo-Nazi groups in the Czech Republic continue to operate actively in spite of the legal action taken against them by the authorities. The Advisory Committee takes note of the decision by the Czech Supreme Administrative Court, at the request of the government, to dissolve the far right Workers' Party in February 2010. In spite of this, the Advisory Committee learnt with deep concern that the far right extremists created a new Workers Party of Social Justice which continues to call for the overthrow of the Czech political system, advocates anti-Roma and anti-minority policies, and organises marches to mobilise its supporters and to intimidate the Roma (see also under Article 4 above).

77. Against this background, the Advisory Committee also notes the commitment of the judiciary to fulfil the legal obligation to prosecute and sanction racially- or ethnically-motivated crimes brought before the courts. In particular, the Advisory Committee acknowledges the successful prosecution of the arsonists found guilty of a 2009 firebomb attack on a Roma house in Vitkov, who, in addition to being handed long prison sentences were ordered to financially compensate the victims. It however notes with concern that other similar cases of firebomb attacks (for example at Opava in June 2008, Kozolupy in September 2008 or at Zdiby-Brnky in May 2009) remain unresolved and have not come before the courts.

78. The Advisory Committee finds it worrying that in a number of substantiated alleged cases of racially-motivated offences, such as beatings and shootings, the law enforcement agencies and the prosecution did not manage to identify the perpetrators and suspended the investigations. More notably, in those cases where perpetrators were identified, racial motivation was not found to constitute an aggravating factor when sentencing was pronounced.¹³

Recommendations

79. The Advisory Committee invites the authorities to ensure that more vigorous, speedy and effective action be taken to prevent, investigate and prosecute perpetrators of offences committed with racial or xenophobic motives, and to provide for constant monitoring of this phenomenon within the society.

80. The Advisory Committee expects that competent authorities when deciding whether there was a racial motivation behind offences, attacks and other unfavourable treatment against the Roma, take into account that discrimination based on race or ethnic origin affects the core of personal dignity and, consequently, investigate and pass rulings with more scrutiny as to whether such cases are racially motivated.

¹³ See "Imperfect Justice, A Report by the Roma Rights Centre", March 2011 <http://www.errc.org/cms/upload/file/czech-hungary-slovakia-imperfect-justice-06-march-2011.pdf>

Article 9 of the Framework Convention

Access of persons belonging to national minorities to the media

Recommendations from the two previous cycles of monitoring

81. In the previous cycles of monitoring, the Advisory Committee called on the authorities to improve access of persons belonging to national minorities, in particular the numerically-smaller ones, to the media. It also asked that the authorities, while ensuring that editorial independence of the media is respected, endeavour to make the media more aware of the specific concerns of persons belonging to national minorities, and of their role in promoting tolerance and cultural pluralism.

Present situation

82. The Advisory Committee notes that radio and television channels continue to broadcast a wide array of programmes for or about national minorities, ranging from documentaries and educational programmes to news and current affairs. The Babylon review on national minority issues, broadcasted from Ostrava, has been a regular programme since 2004.

83. The state television continues to broadcast documentaries, feature films, drama and music in the languages of national minorities with Czech subtitles. Whereas these programmes constitute a substantial segment of broadcasting time (881 hours in 2008), most of them are not specifically targeting national minorities. The Advisory Committee notes that almost half of foreign language programmes were in English (430 hours), as compared with 176 hours of broadcasting time in the Slovak language, 28 hours in the German language and 22 hours in the Polish language, and 13 hours in the Russian language. The only broadcast in 2008 by the Czech television in a minority language and specifically targeting that minority was the “Do We Know Each Other?” programme in Polish.

84. The Czech public radio broadcasts programmes in the languages of the national minorities, including Slovak (146 hours yearly) and Polish (222 hours yearly). It also broadcasts a bilingual Czech and German review (130 hours) and a course on Romani language (90 hours). The Advisory Committee notes with satisfaction that a Polish studio at the Czech Radio in Ostrava has been created to produce programmes for the Polish minority living in the region.

85. The Advisory Committee notes that the Ministry of Culture disburses each year 30 million Kč to support printed media in minority languages, including those spoken by numerically-smaller groups.¹⁴

86. The Advisory Committee notes however that the possibility of persons belonging to national minorities to be consulted by the editorial boards of radio and TV stations broadcasting programmes on minorities and to be involved directly in producing programmes for minorities remains limited. According to information obtained by the Advisory Committee during the visit, an advisory Assembly of Minorities has been in operation at the regional Czech Radio Ostrava, but there are no minority representatives in the Czech regional TV station in Ostrava.

¹⁴ These publications include: in Bulgarian – Roden Glas (bi-monthly), in Hungarian Prágai Tükör (quarterly), in German – Eghaland Bladt (monthly), in Polish – Glos Ludu (3 times a week) and Nasza gazetka (bi-weekly), in Russian - Russkoye Slovo (monthly), Afisha and Artek (irregular magazines), in Greek – Kalimera (bi-monthly), in Slovak – Korene, Slovenské dotyky, Listy (monthlies), in Serbian – Srpska rec (bi-monthly), in Ukrainian – Ukraïnský žurnál (monthly) and Porohy (bi-monthly).

Recommendations

87. The Advisory Committee calls upon the authorities to continue supporting radio and television broadcasting programmes for or about national minorities, and in languages of national minorities.

88. The authorities should ensure that national minorities are consulted by the editorial boards and encourage the direct involvement of minorities in producing programmes by recruitment of journalists belonging to national minorities into staff of radio and TV stations broadcasting programmes on minorities, especially in those regions where persons belonging to national minorities live in substantial numbers.

Article 10 of the Framework Convention

The use of minority languages in dealings with administrative authorities

Recommendations from the two previous cycles of monitoring

89. In the previous cycles of monitoring, the Advisory Committee called on the authorities to eliminate the legal insecurity associated with the criteria used to select administrative-territorial units where minority languages may be used in dealings with administrative authorities and for publication of election-related information. It further asked that local authorities do not make excessive use of their margin of discretion concerning the setting-up of committees for national minorities.

Present situation

90. The Advisory Committee notes that the exercise of this right is authorised only in the municipalities where committees for national minorities have been established. The Advisory Committee finds it deeply worrying in this context that in only in 69 of the 283 municipalities where persons belonging to national minorities constitute more than 10% of the population, which is a legal prerequisite for the creation of committees for national minorities such committees have been established (see also under article 15 below).

91. The Advisory Committee regrets the lack of information on the practical implementation of this right even in such municipalities where the committees for national minorities have been established. It notes with satisfaction that bilingual school graduation diplomas are in use in Polish minority schools in the Frýdek-Místek and Karviná districts.

92. The representatives of national minorities did not indicate to the Advisory Committee any difficulties concerning the right provided for in the Act on the Rights of Members of National Minorities, to use minority languages for publication of election-related information.

Recommendation

93. The authorities should review, in consultation with representatives of national minorities, the legislation, policies and practical situation of the use of minority languages in relations with administrative authorities. The authorities are urged in particular to ensure that the right to use a minority language in relations with administrative authorities be respected in all municipalities where the law is applicable.

Article 11 of the Framework Convention

Surnames and first names in minority languages

Recommendations from the two previous cycles of monitoring

94. In the previous cycles of monitoring, the Advisory Committee called on the authorities to apply provisions of the Act on civil status registers in a manner which would ensure that persons belonging to national minorities can effectively exercise the right enshrined in Article 11, paragraph 1, of the Framework Convention.

Present situation

95. The Advisory Committee notes that the Registries Act was recently amended. It notes with satisfaction that under the new provisions of the law, the name of person belonging to a national minority can be written, at his or her request, in the register in a minority language with language-specific diacritical marks. The same transcription of the name is to be used in any subsequent registry documents issued to the person.

96. The Advisory Committee further notes that according to the Registries Act, e.g. a woman who is a Czech citizen belonging for example to the Polish or German national minority may have her surname written in her documents without the Czech language female suffix, “ová”. According to information received from representatives of the Polish minority, there have been some difficulties with the correct spelling of some names, which were due primarily to a lack of sufficient awareness on the part of civil registry officials.

Recommendation

97. The Advisory Committee encourages the authorities to interpret the Registries Act in a way which as far as possible accommodates the needs expressed by persons belonging to national minorities, in accordance with the principles set out in Article 11 of the Framework Convention.

98. In particular, the Advisory Committee expects that the authorities take necessary and appropriate measures to raise the awareness on the part of civil registry personnel as regards the rights of the persons belonging to national minorities under the recent revision of the Registries Act.

Bilingual signs and place-names

Recommendations from the two previous cycles of monitoring

99. In the previous cycles of monitoring, the Advisory Committee called for proper implementation of the regulations on the use of bilingual signs and place-names in minority languages. It further encouraged the authorities not to make the census data the sole indicator for implementation of the legislative provisions, but to take into account the real situation in the localities concerned.

Present situation

100. The Advisory Committee notes that the exercise of this right is conditioned on the number of persons belonging to the national minority constituting no less than 10% of all residents of the municipality and on the establishment there of the committee of national minorities. It notes that the legal requirements for displaying bilingual Czech and Polish signs and inscriptions are met in thirty-one municipalities in the Frýdek-Místek and Karviná districts,

Czech and Slovak signs in eight municipalities in the Brtnál, Břeclav, Cheb, Karlovy Vary and Jeseník districts and Czech and German in three municipalities in the Sokolov district.

101. The Advisory Committee notes with satisfaction that the right to display bilingual Czech-Polish signs and place-names is respected in practice in thirteen municipalities in the Frýdek-Místek and Karviná districts. It notes however that, whereas generally both the majority and the minority have shown a positive attitude towards the display of bilingual signs, there have been a few cases of difficulties, in particular as regards displaying of town names at train stations, which are administered by the Czech Railways.

102. The Advisory Committee further notes with regret that the right to display bilingual Czech and Slovak and Czech and German signs is not implemented in any of the municipalities which meet the legal criteria. It further regrets that, according to some German minority representatives, requests for such signs are not put forward due to apprehension about the possible negative reaction of the Czech majority.

103. The Advisory Committee also notes that an amendment to the Municipalities Act is currently under consideration. The proposed changes, if adopted, would allow NGOs representing national minorities to propose introducing bilingual signs in municipalities where persons belonging to national minorities constitute at least 10% of the population. According to the State Report, this would ease the situation in those municipalities where the local authorities have not been forthcoming in respecting the right to bilingual topographical signs.

Recommendation

104. The Advisory Committee urges the authorities to take more proactive measures in order to ensure that the provisions of Article 11, paragraph 3 of the Framework Convention are effectively implemented, including at the regional and local level.

Article 12 of the Framework Convention

Intercultural dimension of education

Recommendations from the two previous cycles of monitoring

105. In the previous cycles of monitoring, the Advisory Committee called on the authorities to reinforce the intercultural element in education, with a view to fostering mutual knowledge and dialogue between the majority and the various minorities.

Present situation

106. The Advisory Committee notes with interest that within the Framework Grammar School Education Programme, approved in 2007 by the Ministry of Education and implemented since 2009, a new cross-curricular subject *A Citizen in a Democratic Society* became a compulsory part of the curriculum. It covers issues such as political radicalism and extremism, current Czech extremist movements and their symbols.

107. The Advisory Committee commends further that within the Framework Elementary School Education Programme, a cross-curricular subject *Multicultural Education* aims at teaching children about diversity of cultures, traditions and values and raises children's awareness of their own cultural identity and traditions. The Advisory Committee welcomes the Ministry of Education's resolve to include in the curricula a range of topics addressing national minority issues such as the Holocaust, post-war expulsion of ethnic Sudeten Germans, as well as information on languages and cultures of different national minorities living in the Czech Republic.

108. Finally, the Advisory Committee welcomes the information on the ongoing review of history textbooks with a view to examining the treatment of Jewish and Roma themes in history textbooks and identifying aspects of their history which should be discussed in greater detail.

Recommendation

109. The Advisory Committee encourages the Czech authorities to continue their efforts to develop civic and intercultural contents in textbooks and curricula and to ensure that history teaching contains adequate coverage of the 20th century.

Equal access to education; the situation of the Roma

Recommendations from the two previous cycles of monitoring

110. In the previous cycles of monitoring, the Advisory Committee called on the authorities to make their support measures for Roma children in the field of education more effective. It urged the authorities to combat isolation of Roma children in both ordinary and “special schools” and that preparatory classes for children be supported and promoted.

Present situation

111. The Advisory Committee recalls that the European Court of Human Rights in its Grand Chamber judgment of 13 November 2007¹⁵ in the case of D.H. and others v. the Czech Republic (application no. 57325/00) found that the Czech Republic violated the European Convention on Human Rights by placing a disproportionate number of Roma children into “special schools” in which they were subjected to a limited curriculum and segregated from the mainstream student population. The Court held that such differential treatment had a indirect discriminatory effect, thus confirming earlier findings of the ECRI, the Commissioner for Human Rights and of this Advisory Committee.¹⁶ The Advisory Committee notes that the supervision of the execution of this ruling by the Committee of Ministers of the Council of Europe is continuing, indicating that the general measures called for, remain to be introduced.

112. The Advisory Committee notes that the authorities adopted in March 2010 a National Action Plan for Inclusive Education with the stated aim of designing the plan for including children with difficulties into mainstream education. The Advisory Committee regrets to note that more than fifty experts from an Education Ministry Working Group which was supposed to design a plan to improve disadvantaged children’s education resigned in June 2011, alleging in their resignation letter that the Ministry had paid insufficient attention to taking concrete steps to support disabled pupils and Roma pupils.¹⁷

113. The Advisory Committee further notes with deep concern that “practical schools”, attended by a disproportionately large number of Roma children, have replaced “special schools” without any substantive change to their composition, curriculum and position within the education system of the country. These schools have not been integrated into the mainstream education system and continue to teach on the basis of a reduced curriculum which prevents these pupils from accessing higher educational levels. This practice is incompatible with Article 12, paragraph 3 of the Framework Convention.

¹⁵ See the ECHR press release :

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=825441&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

¹⁶ See Advisory Committee on the Framework Convention for the Protection of National Minorities Second Opinion on the Czech Republic adopted on 24 February 2005, pages 31-33

¹⁷ See Education International press release: *Czech Republic: Inclusive education experts resign at government inaction* http://www.ei-ie.org/en/news/news_details/1827

114. Moreover, it is worrying that the authorities have as yet not adopted measures which would prevent children from being inappropriately placed in the “practical schools”, nor have they taken steps to require informed parental consent as a condition for placement into special education. According to non-official, but widely circulating figures, about 30% of Roma children continue to be taught in "special" or "practical" schools, as compared to 2% of non-Roma children.

115. Against this background, the Advisory Committee welcomes the initiatives taken by the civic associations such as the Jekhetani Luma NGO in the town of Mladá Boleslav to counsel Roma parents on the available pre-school opportunities and to raise their awareness about the necessity for enrolling their children in pre-school establishments in order to facilitate children’s Czech language acquisition and subsequent integration into the ordinary primary schools.

116. The Advisory Committee also notes with interest the growing awareness on the part of local authorities of the need for a greater partnership between the municipalities and the Roma, in particular as regards setting up pre-school and elementary school facilities, as demonstrated recently by statements made at the convention of the Movement of Mayors and Independents.

Recommendations

117. The Advisory Committee urges the authorities to eliminate, without further delay, practices that lead to the continued segregation of Roma children at school and to redouble their efforts to remedy other shortcomings faced by Roma children in the field of education, and to ensure to Roma children equal opportunities for access to all levels of quality education. In particular, steps should be taken to prevent children from being inappropriately placed in “practical schools”, and to ensure that fully-informed consent is given as a condition for placement into special education.

118. The Advisory Committee urges the authorities, as a matter of priority, to make more sustained efforts to ensure access to pre-school facilities for all Roma children and guarantee that the curriculum in such kindergartens correspond to the diverse needs and multi-lingual composition of the groups concerned.

Article 14 of the Framework Convention

Teaching of minority languages and instruction in these languages

Recommendations from the two previous cycles of monitoring

119. In the previous cycles of monitoring, the Advisory Committee encouraged the authorities to ensure that persons belonging to national minorities have adequate opportunities for being taught the minority language and for receiving instruction in this language. It further called on the authorities to continue to support initiatives taken by minorities themselves, for teaching of their languages outside the ordinary education system.

Present situation

120. The Advisory Committee notes that the Education Act of 2004 creates the necessary conditions guaranteeing equal access of children belonging to national minorities to education and that representatives of national minorities express general satisfaction with its implementation.

121. The Advisory Committee notes in particular that a well-developed system of Polish language education, from pre-school to secondary school level, exists in the Frýdek-Místek and Karviná districts, permitting students belonging to the Polish national minority to receive

instruction in Polish. It further notes that in the 2010/2011 academic year, 778 children attended 32 Polish language kindergartens and 1,622 children receive instruction in Polish in 25 elementary schools in the region. More than 500 children attend one of the three Polish language high-schools (one grammar school and two trade schools). It also notes that representatives of the Polish minority express their general satisfaction with the existing opportunities for receiving instruction in their language.

122. However, the Advisory Committee notes with some concern that some Polish-language schools, e.g. the junior high school in Třinec, are threatened with closure due to falling enrolment caused by negative demographic trends. The Advisory Committee wishes to emphasise that minority language schools should have a lower threshold in terms of the minimum number of pupils per class than regular schools as they fulfil a specific public function in offering minority language education and preventing families from having to move to find suitable education for their children.

123. The Advisory Committee notes with regret the closure of the only Slovak language school in Ostrava, apparently due to the fall in enrolment in recent years. Slovak representatives explained this development by the proximity of both languages and cultures and the perception of security of the Slovak identity among the persons belonging to that minority, who peacefully coexisted with the Czech majority in one state for decades. At the same time, some of them expressed concern that the young generation, born after the dissolution of Czechoslovakia, does not have necessary conditions to learn or be taught in Slovak, which is a key element in their ethnic identity. The Advisory Committee accordingly welcomes a recent initiative by Slovak minority representatives to open a bilingual Czech and Slovak school in Prague, which would attract children from the Czech majority and the Slovak minority.

124. The Advisory Committee notes with regret that currently there are no opportunities for Roma children to learn the Romani language in primary schools, and that only some secondary schools (e.g. in Kolin and in Ostrava) teach Romani as a subject. At the tertiary level, Romani is offered as a bachelors and masters degree at the Charles University in Prague and Romani language courses are also offered at the Department of Special Pedagogy of that University and at the Masaryk University in Brno.

125. The authorities provided a grant to the Charles University in Prague in 2008 to conduct a socio-linguistic survey of the situation of the Romani language. The Advisory Committee also notes that work is ongoing on the translation into the two Romani dialects used in the Czech Republic of the European Language Portfolio Models supplementing the Curriculum Framework for Romani,¹⁸ and on the development of teaching materials in Romani. The Advisory Committee further welcomes the information on the pilot activities which were organised in the 2009/2010 academic year and are currently being evaluated.

Recommendations

126. The Advisory Committee calls on the authorities to continue monitoring the situation, in consultation with the representatives of national minorities, to assess whether the framework for teaching of and in minority languages corresponds to actual needs and, where appropriate, take the necessary steps to address any shortcomings.

127. The Advisory Committee considers that the authorities should resolutely continue to train teaching staff in the Romani language and to develop the necessary teaching materials, taking

¹⁸ See “A Curriculum Framework for Romani” developed in co-operation with the European Roma and Travellers Forum. Language Policy Division, Council of Europe, Strasbourg 2008, http://www.coe.int/t/dg4/linguistic/Source/Rom_CuFrRomani2008_EN.pdf.

into consideration the Curriculum Framework for Romani, with a view to creating opportunities for the teaching of or in the Romani language, where there is a sufficient demand.

128. The authorities should consider encouraging bilingual and dual medium education models, which can attract children from majority and minority backgrounds.

Article 15 of the Framework Convention

Participation of persons belonging to national minorities in the decision-making process

Recommendations from the two previous cycles of monitoring

129. In the previous cycles of monitoring, the Advisory Committee called on the authorities to ensure that legislative provisions designed to promote effective participation are implemented in practice, and in particular that local committees for national minorities are established in all municipalities where the relevant provisions apply.

Present situation

130. The Advisory Committee notes that the key consultative structures to ensure participation of persons belonging to national minorities in public affairs, which have been established at the central and local levels following the adoption of the Act on the Rights of Members of National Minorities of 2001, have since gathered significant experience and authority and continue to play an active role in raising awareness and resolving the issues of concern affecting national minorities. The Council for National Minorities, composed of representatives of all recognised national minorities and of government ministries, is responsible for developing, implementing and monitoring minority policies and is the principal forum for a regular dialogue on issues affecting national minorities. The Council meets at quarterly intervals and reports each year to the government on its activity and on the key issues under its consideration, thereby placing the minority concerns within the realm of public debate.

131. The Advisory Committee welcomes in particular the active role played by the Council in seeking solutions to unresolved issues, for example by proposing legislative changes, such as the amendment to the Municipalities Act that aims to resolve difficulties with the setting up of bilingual signs in those municipalities where such signs were not introduced due to poor functioning of committees of national minorities (see related comment under Article 11 above).

132. The Advisory Committee further notes that a specialised Council for Roma Community Affairs is responsible for developing and implementing measures aiming at better integration of the Roma into society. The Council coordinates the work of ministries responsible for the implementation of specific measures adopted in the Roma Integration Policy Concept and in the framework of the Decade for Roma Inclusion 2005-2015.

133. The Advisory Committee regrets that, in spite of the low threshold required for the establishment of committees for national minorities at the municipal level (10% of the population) and the regional level (5%) and the legal obligation to do so, a small number of committees have been set up. It is deplorable that only 69 committees for national minorities have been set up in 283 municipalities in eight years of the implementation of the law. This also demonstrates insufficient awareness, both on the part of the municipal authorities and of national minorities of the potential benefits for the local community of integrating national minorities in the democratic decision-making process at the local level and indicates the need for a statutory instrument to ensure implementation and provide guidance in this regard.

134. The Advisory Committee notes nonetheless that there are positive examples of proactive measures taken in some municipalities, in particular in those where the statutory conditions for

setting up committees for national minorities are not met and where the local authorities established national minority commissions instead.

135. The Advisory Committee notes in this context that some national minorities' representatives, made critical remarks as to the inconsistent and unclear procedures used for the appointment of members to serve on the municipal committees for national minorities. It also notes in this regard that, according to national minorities' representatives, some committees for national minorities do not in fact fulfil their function of relaying national minority concerns (e.g. to introduce bilingual topographical signs) to the municipal councils, thus effectively blocking the enjoyment of rights secured under the Framework Convention and in the Act on the Rights of Members of National Minorities of 2001.

Recommendations

136. The Advisory Committee urges the authorities to review, in consultation with representatives of national minorities, legal provisions and administrative policies and practice regulating the establishment, appointment and functioning of the committees for national minorities with a view of eliminating the identified shortcomings.

137. It also calls on the authorities to ensure that local committees be effectively established to relay national minorities' concerns and to guarantee their rights in the municipalities where the conditions are met for setting them up. Further measures should be taken in order to ensure that these bodies carry out their tasks efficiently and effectively and that they have adequate co-operation with local authorities including joint consultations and, where appropriate, access to training and legal aid.

Participation of Roma

Recommendations from the two previous cycles of monitoring

138. In the previous cycles of monitoring, the Advisory Committee expressed concern at the problems encountered by Roma seeking to play an effective part in economic, cultural and social life, and in the taking of decisions affecting them, and encouraged the authorities to co-operate with Roma representatives in examining the situation of the Roma in this regard, and to find ways of improving it substantially.

Present situation

139. The Advisory Committee notes that in February 2005 the government of the Czech Republic, together with eight other governments in Central-Eastern Europe¹⁹ signed the Declaration of the Decade of Roma Inclusion committing itself to improve the socio-economic status and social inclusion of Roma. The Czech Republic adopted subsequently a National Action Plan for the Decade, which focuses on the priority areas of education, employment, health-care, housing, and commits relevant government ministries and agencies to take into account the other core issues of poverty, discrimination, and gender. However, the Advisory Committee notes with concern that the implementation of the Action Plan was strongly criticized

¹⁹ Declaration of the Decade of Roma Inclusion was signed in Sofia, Bulgaria, in February 2005 by the Prime Ministers of Bulgaria, Croatia, the Czech Republic, Hungary, Montenegro, Romania, Serbia, Slovakia and "the former Yugoslav Republic of Macedonia". Three other States (Albania, Bosnia and Herzegovina, and Spain) joined the "Decade" later.

by civil society members of the Council for Roma Community Affairs for not bringing about significant improvements to the situation of the Roma in the Czech Republic.²⁰

140. The Advisory Committee notes further that the authorities adopted in December 2009 a Roma Integration Policy Concept 2010-2013 focusing on measures to improve the situation of Roma in the priority areas of culture, education, employment, health-care, social protection, housing, over-indebtedness, and personal security and assigns specific responsibilities to relevant government ministries and agencies. The Advisory Committee welcomes the adoption of the Roma Integration Policy Concept and considers that full and effective involvement of Roma representatives through the Council for Roma Community Affairs and the Agency for Social Inclusion of Roma Localities remains an indispensable precondition for achieving such aims. In this context, the Advisory Committee finds regrettable that the Concept does not mention whether Roma representatives were consulted at the planning stage and whether their input had been taken into account.

141. The Advisory Committee notes with deep concern that a large proportion of Roma remain excluded from mainstream society and live under deplorable conditions. Roma continue to face serious problems in relation to personal security, education, adequate housing, social protection and healthcare services, access to employment, and with general attitudes in society, where discrimination and stereotyping prevail.

Recommendations

142. Far more determined efforts should be made to find ways and means to improve substantially the participation of the persons belonging to 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 Roma Integration Policy Concept.

143. The authorities should continue and increase efforts to develop and efficiently implement policies addressing the problems confronting the Roma in a number of fields, particularly in the areas of security, education, housing, social protection and healthcare services, employment, and allocation of adequate resources is a condition *sine qua non* to remedy this situation.

144. The authorities are encouraged to take steps to ensure the effective participation of Roma in the decision-making process.

²⁰ See Press release “Civil society members of the Czech Government Inter-ministerial Commission for Roma Community Affairs strongly criticize EdMin, the Czech Decade presidency, and the Agency for Social Inclusion” of 11 March 2011, http://www.romea.cz/english/index.php?id=detail&detail=2007_2242

III. CONCLUSIONS

145. 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 the Czech Republic.

Positive developments following two cycles of monitoring

146. Since ratifying the Framework Convention in 1997, the Czech Republic has continued its efforts to protect persons belonging to national minorities. The Anti-Discrimination Act, which was under consideration for a number of years, was adopted in June 2009 providing an adequate legal basis for protection against discrimination, including in the field of employment on racial, ethnic, national or religious grounds and establishes courts' jurisdiction in cases of alleged discrimination. The Public Defender of Rights has been charged with assisting victims of discrimination, including in the private law sphere.

147. The authorities continue to provide various forms of assistance to cultural activities of national minorities, such as support for music and drama festivals, art exhibitions and other artistic events, museums and cultural centres. New primary and secondary school curricula, introduced in 2009 aim to teach children about diversity of cultures, traditions and values and raises children's awareness of their own cultural identity and traditions. A well-developed system of Polish language education, from pre-school to secondary school level, exists in the Frýdek-Místek and Karviná districts, permitting students belonging to the Polish national minority to receive instruction in their language.

148. The right to display bilingual signs and place-names is respected in practice in thirteen municipalities in the Frýdek-Místek and Karviná districts. Some documents, such as bilingual school graduation diplomas are in use in Polish minority schools. Persons belonging to national minorities can register and use their names in a minority language with language-specific diacritical marks.

149. The authorities have increased in recent years their efforts to combat discrimination and implement policies for Roma inclusion into the mainstream society. The Agency for Social Inclusion of Roma Localities was established and the authorities adopted the Roma Integration Concept for 2010-2013.

Issues of concern following two cycles of monitoring

150. Negative attitudes and prejudice against Roma continue to persist throughout Czech society. Anti-Roma rhetoric has been repeatedly used, including by public figures; some broadcasting and print media continue to stereotype Roma and portray them in a negative light. The tolerance on the part of the authorities for inflammatory anti-Roma statements stimulates an attitude of impunity in which the far right extremist and neo-Nazi groups feel emboldened to stage anti-Roma marches designed to intimidate and to exclude them from mainstream Czech society. The legal action taken against these groups by the authorities, has thus far not been effective.

151. Roma children still face serious difficulties in the education system. Measures taken to implement the ruling of the European Court of Human Rights in the case of D.H. and others v. the Czech Republic, apparently have not yielded significant results. "Practical schools", attended by a disproportionately large number of Roma children, have replaced "special schools" without any substantial change to their composition, curriculum and position within the education system of the country. These schools have not been integrated into the mainstream education system and

continue to teach on the basis of a reduced curriculum, due to which the pupils attending these schools are denied access to higher educational levels.

152. In spite of the apology by the Czech government in 2009 for the sterilisation of Roma women without their prior free and informed consent, which followed the 2005 report of the enquiry of the Public Defender of Rights and the findings of the Advisory Board of the Ministry of Health of 2006 of the illegality of the practice, and recent changes in the jurisprudence of the Constitutional Court, most victims of such a gross violation of human rights have not been compensated.

153. In spite of the low threshold required for the establishment of committees for national minorities at the municipal level (10% of the population) and the regional level (5%) and the legal obligation to do so, a small number of committees have been set up. It is of deep concern that only 69 committees for national minorities have been set up in 283 municipalities meeting the legislative criteria in eight years of the implementation of the law.

Recommendations

154. 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:

Issues for immediate action²¹

- **increase efforts to combat all forms of intolerance, racism, and xenophobia; take further legislative measures and policies to combat racist manifestations, in particular against Roma, including in the media, and the political arena, in conformity also with the Committee of Ministers' Recommendation N° R(97)20 on "Hate Speech";**
- **eliminate, without further delay, practices that lead to the continued segregation of Roma children at school ; redouble efforts to remedy all shortcomings faced by Roma children in the field of education;**
- **ensure that local committees for national minorities are effectively established in the municipalities where the conditions are met for setting them up.**

Further recommendations²²

- ensure that the Office of the Public Defender of Rights is granted all the support it needs in order to continue carrying out its role effectively, in particular as regards the enforcement of the Defender's recommendations;
- resolve without further delay all pending compensation cases brought by the victims of sterilisation without prior free and informed consent; continue to ensure that legal provisions on prior free and informed consent are adhered to at all times;

²¹ The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

²² The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

- improve the employment opportunities and living conditions of Roma, include Roma in all projects and activities concerning them and promote their integration into society; pay particular attention to improving housing conditions in Roma neighbourhoods;
- continue to ensure proper implementation of the legislation on the use of bilingual signs and place-names in minority languages;
- make more sustained efforts to ensure access to pre-school facilities for all Roma children and guarantee that the curriculum in such kindergartens corresponds to the diverse needs and multi-lingual composition of the groups concerned; continue monitoring the framework for teaching of and in minority languages and, where appropriate, take the necessary steps to address any shortcomings;
- make determined efforts to find ways and means to improve substantially participation of the Roma - including Roma women - in decision-making processes; ensure that the Roma and their organisations are treated as key partners in governmental programmes aiming at improving their situation.