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

Third Opinion on Hungary adopted on 18 March 2010

EXECUTIVE SUMMARY

Since it ratified the Framework Convention, Hungary has made considerable efforts to ensure the continuation of improvements in the protection of the rights of persons belonging to national minorities and to implement the legislation in force in this field. Substantial financial resources have been released to ensure the full application of these measures.

Steps have also been taken to extend the scope of anti-discrimination legislation, while the activities of the Equal Treatment Authority make an effective contribution to sanctioning discrimination against persons belonging to national minorities. Despite these efforts, a new wave of mistrust and hostility towards the Roma is widespread within Hungarian society.

Hungarian anti-discrimination legislation should nevertheless be reviewed to sanction racist and hate speech while ensuring freedom of expression.

Roma are confronted with discrimination and are often the victims of racially-motivated offences. Cases of ill-treatment by the police have also been reported. Given the climate of intolerance that is developing in Hungary, the authorities must act vigorously to promote intercultural dialogue and combat all forms of intolerance, including in the media and in political discourse.

The authorities have launched an ambitious action plan with a view to improving the situation of the Roma in several spheres such as housing, employment, education and health. However, further efforts are necessary to ensure that the situation of those Roma, who are excluded from mainstream society, improves significantly, in particular in the field of education where Roma children still suffer from segregation.

The media continues to broadcast programmes in different minority languages but often outside prime time hours. The possibilities for learning minority languages have increased and steps have been taken to promote bilingual education.

The reform of minority self-governments now guarantees that they are independent from both the operational and financial standpoint, particularly in the fields of culture and education. Several minority self-governments have now acquired a number of cultural institutions and schools, for which they have administrative and financial responsibility.

Despite the fact that there is a highly developed system for the representation of minorities, the institutional framework needs to be rapidly adjusted to ensure that national minorities are adequately represented in the Hungarian Parliament.

Issues for immediate action

- **Take more resolute measures to combat all forms of intolerance, including in political discourse, and take further steps to promote mutual understanding and respect, especially with regard to Roma. These efforts should include measures at local level, both in respect of local authorities and the local population. The authorities must effectively prevent, investigate and sanction all forms of discrimination by members of the police force.**
- **Continue strengthening measures to ensure that the implementation of the Roma Decade Action Plan results in substantial and lasting improvement in the participation of disadvantaged Roma in economic and social life, in close consultation with their representatives. These measures should be regularly monitored and their impact carefully evaluated. Take resolute measures to put an end, without further delay, to the continuing segregation of Roma children at school.**
- **Take resolute measures to enable persons belonging to national minorities to be represented as such in Parliament.**

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
Intercultural dialogue and tolerance.....	7
Roma	7
Media.....	7
Education.....	8
Right of persons belonging to minorities to effective participation.....	8
II. ARTICLE-BY-ARTICLE FINDINGS	9
Article 3 of the Framework Convention.....	9
Article 4 of the Framework Convention.....	11
Article 5 of the Framework Convention.....	14
Article 6 of the Framework Convention.....	15
Article 9 of the Framework Convention.....	18
Article 10 of the Framework Convention.....	19
Article 11 of the Framework Convention.....	20
Article 12 of the Framework Convention.....	20
Article 14 of the Framework Convention.....	23
Article 15 of the Framework Convention.....	25
Article 18 of the Framework Convention.....	28
III. CONCLUSIONS	30
Positive developments following two cycles of monitoring	30
Issues of concern following two cycles of monitoring	31
Recommendations	31
Issues for immediate action	31
Further recommendations	32

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

THIRD OPINION ON HUNGARY

1. The Advisory Committee adopted the present Opinion on Hungary 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 4 June 2009, and other written sources and on information obtained by the Advisory Committee from governmental and non-governmental contacts during its visit to Budapest, from 7 to 11 December 2009.
2. Section I below contains the Advisory Committee's main findings on key issues pertaining to the implementation of the Framework Convention in Hungary. 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 Hungary, adopted on 22 September 2000 and 9 December 2004 respectively, and in the Committee of Ministers' corresponding Resolutions, adopted on 21 November 2001 and 14 December 2005.
4. The concluding remarks, contained in Section III, could serve as the basis for the Committee of Ministers' forthcoming conclusions and recommendations on Hungary.
5. The Advisory Committee looks forward to continuing its dialogue with the authorities of Hungary as well as with representatives of national minorities and others involved in the implementation of the Framework Convention. In order to promote an inclusive and transparent process, the Advisory Committee strongly encourages the authorities to make the present Opinion public upon its receipt.
6. The Advisory Committee would also like to bring to the attention of State parties that on 16 April 2009, the Committee of Ministers adopted new rules for the publication of the Advisory Committee's Opinion and other monitoring documents, aiming at increasing transparency and at sharing the information on the monitoring findings and conclusions with all the parties involved at an early stage (see Resolution CM/Res(2009)3 amending Resolution (97) 10 on the monitoring arrangements under Articles 24-26 of the Framework Convention for the Protection of National Minorities).

I. MAIN FINDINGS

Monitoring process

7. The Hungarian authorities have pursued their constructive approach to the monitoring process under the Framework Convention, *inter alia* by submitting the State Report on time. The Advisory Committee would also emphasise, as a positive step, that the Hungarian authorities organised a follow-up seminar in 2006 which was instrumental in disseminating the results of the second monitoring cycle. Furthermore, it notes with interest that several events relating to national minorities were held in 2008, including a "Minorities Day" organised by the Secretariat of State for Minorities at the Parliament in Budapest, to commemorate the 15th anniversary of the passing of the Act of 1993 on the Rights of National and Ethnic Minorities, and a series of seminars in 2007 on the European Charter for Regional or Minority Languages.

8. The Advisory Committee notes that the third State Report was prepared in consultation with national, regional and local minority self-governments. The Hungarian authorities also underlined that they approached a considerable number of non-governmental institutions and civil society organisations with a view to ascertaining their opinion on the situation of persons belonging to national minorities and preparing a Report providing full information from varied sources.

9. The Advisory Committee visited Hungary from 7 to 11 December 2009. The visit, organised at the invitation of the Hungarian Government, provided an opportunity to engage in direct dialogue with the parties concerned. The additional information gathered from the Government and other sources, including representatives of national minorities, proved particularly useful. Talks were held not only in Budapest but also in surrounding areas (Lorev, Monor, Pilisvörösvár, Vác). The Advisory Committee welcomes the spirit of co-operation shown by the Hungarian authorities during the process, which culminated in the adoption of the present Opinion.

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

10. Since ratifying the Framework Convention in 1995, Hungary has continued in its efforts to protect national minorities. The Hungarian authorities continue to show their commitment to the implementation of this treaty and often draw on it when deciding on the future course of their policy in favour of national minorities.

11. In addition, the Hungarian authorities have always adopted a genuinely co-operative approach in their exchanges of information with the Advisory Committee.

12. Hungary's policy on minorities has often been a major focus of international attention, because the protection of persons belonging to national minorities is particularly highly developed there through institutional arrangements designed to promote the effective participation of national minorities at all levels.

13. Cultural diversity is often regarded as a well-established fact in Hungary; it is viewed by the authorities as an asset. The country has developed a very elaborate language policy, which recognises and promotes the languages of the thirteen recognised national minorities.

14. In spite of all this progress, Hungary is currently facing a worrying rise in intolerance and racism, chiefly aimed at Roma. Notwithstanding Hungary's increased efforts in recent years, it has not succeeded in fully integrating the Roma into society. Significant advances have been made, but it has to be said that, at present, the Roma's fundamental rights are not always respected. The authorities acknowledge how serious these problems are, and express a firm intention to solve them, in particular by putting a stop to prejudice against Roma and eliminating segregation at school. In order to achieve this, they have introduced more comprehensive legislation, awareness-raising programmes and increased funding. Among their stated political priorities are measures to combat discrimination and promote equal opportunities, particularly in schools.

15. However, the overall situation of Roma is still a source of considerable concern, both because of the sometimes extremely serious acts of racist violence to which they are increasingly subjected and as a result of the very difficult financial and social circumstances in which they live.

16. Widespread public sector budget stringency is adversely affecting national minorities. According to information received by the Advisory Committee, the economic crisis which Hungary is currently experiencing may partly account for the growing climate of intolerance in the country. In a shrinking labour market, fear of the future is driving ever increasing numbers of people to regard the Roma minority as the cause of all their ills. The deterioration in the social climate is exacerbated by the racist statements of one extremist and xenophobic political party, which exploits people's prejudices towards Roma.

17. While bearing in mind the fact that Hungary, like other European countries, is currently experiencing difficult economic times, leading to a general reduction in public resources, it is particularly important for Hungary to continue the work that it has been doing to protect national minorities since it ratified the Framework Convention. The authorities should rely on the positive results so far and take the necessary measures to prevent the economic crisis from having a disproportionate effect on persons belonging to national minorities, particularly the most vulnerable amongst them.

Legislative and institutional framework

18. For almost twenty years, Hungary has had an extensive legal framework for the protection of the rights of persons belonging to national minorities.

19. On its adoption in 1993, the Act on the Rights of National and Ethnic Minorities was regarded as an ambitious law making it possible for the thirteen recognised national minorities to participate in decision-making processes. In recent years some major changes have been made to this Act, taking into account some of the problems identified by the Advisory Committee in its previous opinions. In 2005, the Hungarian Parliament amended the 1993 Act to increase national minorities' powers of self-governments and rectify some of the problems that had emerged in its implementation. As far as the election procedure of minority self-governments is concerned, a new regulation introduced the institution of a "register of minority voters" to ensure that only persons belonging to a given national minority may take part in the election of the self-governments concerned. When the register of minority voters is established, the authorities must ensure full compliance with the principles of self-identification and with the international standards on personal data protection. National minorities now have real functional and financial autonomy and have been allowed to acquire and take on administrative and financial responsibility for educational and cultural institutions. It is regrettable nonetheless that

there is still inadequate representation of national minorities in Parliament, despite repeated requests by the Advisory Committee, the Committee of Ministers of the Council of Europe and the national minorities themselves.

20. Measures have been taken with a view to improving the legislative framework to prevent and combat discrimination. The Equal Treatment Authority was set up in 2005 and is competent for receiving complaints and investigate matters on its own initiative. In addition NGOs have the possibility to launch proceedings, when they see a risk of discrimination even when there is no identified victim.

Intercultural dialogue and tolerance

21. In general, the representatives of national minorities other than Roma did not report intolerance towards members of their community. However, there is an alarming increase in violence towards the Roma minority who have been victims of displays of intolerance, insults and racist acts. There is also a worrying rise in racism and intolerance in public statements which have not been sanctioned because the current legislation makes it extremely difficult to punish hate speech.

22. Furthermore, discriminatory behaviour on the part of members of the police force remains a major problem.

Roma

23. The authorities have made increased efforts to combat discrimination and integrate Roma into society. The legislative framework has been consolidated and, in 2007, Parliament passed a Resolution on the Strategic Plan to implement the Decade of Roma Integration programme for 2007-2015 laying down a set of tasks geared to equal treatment in the areas of education, employment, housing and health care.

24. Nevertheless, the situation of Roma is improving too slowly and persons belonging to this minority still face discrimination and difficulties in different sectors.

25. The Roma generally still have few prospects of employment even if specifically targeted training is offered to young Roma graduates to help them find employment. Despite the fact that public funds have been earmarked for the implementation of the “Housing and Social Integration Programme for Residents of Roma settlements” in 30 municipalities, many Roma families still appear to live in substandard housing. The health system was reformed in 2006 and a supervisory authority was set up and is competent for receiving complaints if the rights of patients are breached including by discrimination. Even if there are very few complaints of direct discrimination on grounds of ethnic origin, it seems that persons belonging to the Roma minority suffer from indirect discrimination which deprives them of equal access to health services.

Media

26. Radio and television channels continue to broadcast in the languages of national minorities. However national minorities programmes are still broadcast at off-peak times when few people are able to listen or to watch them.

27. It seems that the public budget allocated to State television in 2010 will be heavily cut which could mean that the State television authorities stop creating new programmes by, for and about national minorities and content themselves with broadcasting repeats of old programmes.

Education

28. Roma children still face serious difficulties in the education system even if an explicit ban on segregation was introduced by the Law on Equal Treatment and the Promotion of Equal Opportunities. Overall segregation of Roma children being placed in special schools or within the public schools, persists in practice despite the Hungarian authorities' clear political will to put an end to this phenomenon.

29. The authorities have adopted general, legislative, financial and educational measures to improve the integration of disadvantaged children into the school system. The Public Education Act has introduced a new concept: “children with multiple disadvantages” for children with different social and cultural backgrounds who shall benefit from special educational and financial support throughout their primary and secondary education. While not specifically aimed at Roma children, these measures are particularly beneficial to Roma children.

Right of persons belonging to minorities to effective participation

30. Although the Hungarian Constitution and the Law on the Rights of National and Ethnic Minorities guarantee in general terms the possibility for minorities to be represented in Parliament, a specific mechanism for the representation of minorities in Parliament is still lacking.

31. There is still a persistent lack of effective participation of Roma in social and economic life, despite the numerous steps taken by the Hungarian authorities over the past few years to improve the integration of Roma into various spheres of life. Measures should be enhanced and their impact carefully and regularly evaluated.

II. ARTICLE-BY-ARTICLE FINDINGS

Article 3 of the Framework Convention

Criterion of citizenship in the definition of the expression “national and ethnic minorities”

Recommendations from the two previous cycles of monitoring

32. In the previous cycles of monitoring, the Advisory Committee encouraged the authorities to continue their efforts to include in the personal scope of application of the Framework Convention persons belonging to groups other than the recognised national minorities.

Present situation

33. The Advisory Committee notes with interest that persons belonging to groups other than the thirteen recognised national minorities¹ may ask to be covered by the national legislation on minorities by availing themselves of the popular initiative procedure.²

34. The Advisory Committee observes that during the reference period, persons belonging to the Jewish, Russian, Hun and Bunjevci communities made use of this possibility. In the first two cases (Jewish and Russian communities), the 1,000 signatures required in support of the request were not obtained within the stipulated time of two months.

35. The other two initiatives (Hun and Bunjevci communities) were dismissed by Parliament, voting with a very substantial majority and thus concurring with the unfavourable opinion of the President of the Hungarian Academy of Science who, in accordance with the Act on National Minorities, was invited to indicate in an advisory capacity whether the conditions stipulated by the Act on the Rights of National and Ethnic Minorities were fulfilled.

Recommendation

36. The Advisory Committee encourages the authorities to continue efforts to include the possibility for persons belonging to other groups to enjoy the protection of the Framework Convention and to be covered by the national legislation on minorities.

¹ According to the Act on the Rights of National and Ethnic Minorities, the following groups are recognised as national minorities: Armenians, Bulgarians, Croats, Germans, Greeks, Poles, Roma, Romanians, Ruthenians, Serbs, Slovaks, Slovenes and Ukrainians. According to the 2001 census, 92.3% of the country population identified themselves as Hungarians, 1.9% identified themselves as Roma/Gipsy and 5.8% as persons belonging to other minorities. In a total of 10,198,315 inhabitants, the most important community is Roma/Gipsy: 1.86%, followed by German: 0.61%, Slovak: 0.17%, Croatian: 0.15%, Romanian: 0.07%, Ukrainian: 0.04%, Serbian: 0.03%, Slovene: 0.02%, Polish: 0.02%, Greek: 0.02%, Bulgarian: 0.01%, Ruthenian: 0.01% and Armenian: 0.006%.

² A civil initiative is a matter to be brought before the National Assembly and may start upon authentication of the signature sheets by the National Election Committee (OVB). Subsequently, initiators have two months to obtain the support of at least 1,000 voters belonging to that minority on the authenticated signature sheets. The signatures thus gathered are to be submitted to the OVB by the stipulated deadline.

List of voters for the election of national and ethnic minority self-governments

Recommendations from the two previous cycles of monitoring

37. In the previous cycles of monitoring, the Advisory Committee highlighted the need to find a solution to the problem of persons managing, through the openness of the electoral system, to create self-governments representing a minority with whom they had no links at all. It recommended that Hungary should combat abuse of the electoral system for minority self-governments by adopting the necessary legislative changes.

Present situation

38. The Advisory Committee welcomes the legislative amendments made in 2005 which put an end to the problems found in previous cycles relating to the election procedure of minority self-governments. It notes that the new regulation introduced the institution of a “register of minority voters”. Accordingly, only those Hungarian citizens who have voting rights to elect the representatives of a local self-government and a mayor, who belong to and identify themselves as belonging to a given national minority and are listed in the register of minority voters following a written declaration, have both active and passive rights to vote in the election of that minority self-government. Thus, only persons belonging to a given national minority may take part in the election of the self-government concerned. At the local level, on polling day, a minimum of 30 persons must be entered on the electoral list as candidates for the election to take place. The Advisory Committee recalls that it is important, when the register of minority voters is established, to respect compliance with the principles of self-identification and to follow the international standards on personal data protection.

39. The Advisory Committee notes with interest that, according to the information gathered from the representatives of the self-governments during its visit, the elections held in October 2005 at the local level under the new legislation in force allowed for a considerable reduction of the abuse identified in the past.

Recommendation

40. The Advisory Committee encourages the authorities to continue their efforts to ensure that the next elections of self-governments comply with the principles of self identification and with the international standards on personal data protection to implement all legal safeguards so that they take place in full accordance with the principles of the Framework Convention.

Data collection

Present situation

41. The Advisory Committee notes that a new population census is planned in 2011 and that the authorities have already begun preparations. The Advisory Committee welcomes the fact that the representatives of the national minorities have been consulted on the wording of the open questions (which will be identical to those used in the 2001 census) and on the selected methodology. The representatives of minority self-governments confirmed to the Advisory Committee during its visit that the Statistics Office had involved them in its work on the next census, including the practical details. Optional and open questions have been agreed upon by the Statistics Office in consultation with representatives of minorities, as in 2001, with regard to an individual's identification with a minority, use of the mother tongue and the culture with which the respondent identifies. The Advisory Committee wishes to emphasise that the

questionnaire should also include the possibility for multiple identity affiliations (e.g. for children of mixed marriages) – in order for the census results to reflect each individual’s actual choice. Public awareness campaigns and training sessions for census enumerators, which will include persons belonging to a national minority will be organised throughout the year.

42. The Advisory Committee draws the attention of the authorities to the need to raise awareness among persons belonging to national minorities, particularly via the media and in consultation with the representatives of the national minorities, about the importance of the census in order to promote optimal participation. This issue is of particular importance in the current climate of opinion towards the persons belonging to the Roma minority as these persons could be reluctant to register themselves as Roma.

Recommendations

43. The Advisory Committee invites the authorities to continue consulting the representatives of the national minorities throughout the preparatory phase of the next census in their efforts to carry out an accurate census.

Article 4 of the Framework Convention

Institutional and legal developments in the area of discrimination

Recommendations from the two previous cycles of monitoring

44. In the previous cycles of monitoring, the Advisory Committee pointed out shortcomings with regard to the inclusion of the prohibition of discrimination in the legislative framework. It stressed the need to develop measures to address discrimination in the areas of education, employment and housing, to step up co-operation and coordination between the different actors and to set up swiftly the independent authority provided for in the Law on Equal Treatment and the Promotion of Equal Opportunities.

Present situation

45. The Advisory Committee notes with satisfaction that substantial measures have been taken with a view to improving the legislative framework to prevent and combat discrimination and that the persons belonging to national minorities with whom it met during the visit, with the exception of the Roma minority, emphasised that they encountered no discrimination in their daily lives.

46. The Advisory Committee notes that the Equal Treatment Authority responsible for ensuring equal treatment, set up in 2005, is competent for receiving complaints and investigating matters on its own initiative. Its decisions are binding, it may impose fines³ and publicly name perpetrators of discrimination. The Authority also gives opinions on draft legislation, makes proposals to the Government and checks whether companies fulfil their legal obligations in the area of equal opportunities.⁴

47. The Advisory Committee also notes with interest the latest developments since the setting up of the Authority, including the shifting of the burden of proof. In addition NGOs have

³ Ranging between 1,700 EUR and 2,650 EUR

⁴ Following amendments to the 1993 Law on Equal Treatment and Promotion of Equal Opportunities, any company employing over 50 people must adopt an equal opportunities plan.

the possibility to launch proceedings when they see a risk of discrimination, even when there is no identified victim.

48. The Advisory Committee also observes that a co-operation agreement has been signed by the Authority with the Equal Opportunities Offices existing in all 19 Hungarian counties aimed at facilitating access to remedies for victims outside the capital. Extensive publicity work has been carried out in the various media in order to raise awareness and inform a very wide audience of the remedies which exist in the event of discrimination.

49. The Advisory Committee notes that the number of complaints has increased considerably since 2005.⁵ According to the authorities, this reflects the effectiveness of this institution. The representatives of minorities have indeed emphasised the high quality of the work carried out by the Equal Treatment Authority. In most cases, the courts petitioned by plaintiffs seeking redress have confirmed the Authority's opinion. The Advisory Committee notes however that the increased number of complaints reflects that cases of discrimination occur in Hungary.

50. The Advisory Committee welcomes the support provided by the Government to the Anti-Discrimination Customer Service Network set up by the Ministry of Justice and Law Enforcement to help the Roma to bring proceedings in the event of discrimination. This Network was reinforced in 2009 through the hiring of 30 additional law specialists who operate in 47 municipalities.

Recommendation

51. The Advisory Committee encourages the authorities to continue to take measures to combat discrimination. It calls on the authorities to maintain their support for the Equal Treatment Authority's activities by continuing to provide it with the necessary human and financial resources.

Situation of Roma

Recommendations from the two previous cycles of monitoring

52. In the previous cycles of monitoring, the Advisory Committee stressed that serious problems subsisted with regard to Roma, particularly concerning acts of discrimination against them, and it referred to the difficulties faced in different sectors, such as education, employment, housing and health. It encouraged the authorities to step up their efforts to enable all Roma to enjoy decent living conditions.

Present situation

53. The Advisory Committee notes that for some years now the authorities have made increased efforts to combat discrimination and integrate Roma into society. The legislative framework has been consolidated and, in 2007, Parliament passed a Resolution on the Strategic Plan to implement the Decade of Roma Integration programme for 2007-2015,⁶ laying down a set of tasks geared to equal treatment in the area of education, employment, housing and access to health care. The Plan also involves the media and civil society in promoting the integration of

⁵ 491 complaints were dealt with in 2005, 592 in 2006, 756 in 2007 and 1153 in 2008.

⁶ Declaration of the Decade of Roma Inclusion was signed in Sofia, Bulgaria, on February 2, 2005 by the Prime Ministers of Bulgaria, Croatia, the Czech Republic, Hungary, "the former Yugoslav Republic of Macedonia", Montenegro, Romania, Serbia, Slovakia. Three other States (Albania, Bosnia and Herzegovina, and Spain) joined the "Decade" later.

Roma. In addition, in May 2008, an Inter-ministerial Commissioner on Roma Affairs was instituted to coordinate the State tasks pertaining to Roma issues.

54. Nevertheless, the Advisory Committee notes with regret that the situation of Roma only seems to improve very slowly and they still face discrimination and difficulties in different sectors, in particular in employment, education and housing (see comments on Article 15, paragraph 128 to 133).⁷

55. A number of sources concur that it is extremely difficult for the Roma to obtain employment. NGO representatives met during the visit mentioned, for instance, frequent instances of people of Roma origin arriving for a job interview previously arranged by telephone only to be systematically told that the job vacancy had already been filled. It is with concern that the Advisory Committee hears from different sources, like the European Committee of Social Rights,⁸ that despite the measures taken to encourage the employment of the most vulnerable groups, persons belonging to the Roma are more often discriminated against in the labour market than others.^{9 10}

56. The Advisory Committee further notes that the authorities reformed the health system in 2006 and instructed a supervisory authority to receive complaints and to fine health care providers and publicly name them if the rights of patients are infringed. The Advisory Committee notes, according to the data available to it, that there are very few complaints of direct discrimination on grounds of ethnic origin. Nevertheless, it is concerned by the fact that Roma still suffer from discrimination, despite the different programmes set up by the authorities to raise awareness among medical staff of the specific problems of the Roma.

Recommendation

57. The Advisory Committee urges the authorities to exert more efforts to prevent, to combat and to sanction the inequality and discrimination suffered by the Roma. The authorities should step up their efforts to improve the living conditions of Roma and to promote their integration into society.

Ethnic data collection

Recommendations from the two previous cycles of monitoring

58. In the previous cycles of monitoring, the Advisory Committee stressed the need for reliable data in order to implement the Framework Convention by the collection of statistical data in various fields or by other means, such as findings based on *ad hoc* studies and special surveys or opinion polls.

Pret situation

59. The Advisory Committee notes with interest that the Hungarian National Statistical Office, relying on the results of the 2001 population census, regularly issues analyses

⁷ For more details on unemployment attainment among persons of Roma origin, see the UNDP Vulnerability Study in relation to the Decade of Roma Inclusion 2005, UNDP groups in Central and South East Europe, Statistical Profile.

⁸ European Social Charter, Conclusions XIX-2, Hungary, article 1 paras. 1 and 2

⁹ The State Report indicates that, in addition to the Roma population, discrimination in the labour market affects women aged over 50 years, persons with dependent children and persons with disabilities.

¹⁰ See also European Union Agency for Fundamental Rights (FRA), Data in Focus Report, The Roma, 2009: according to the FRA, 62% of the persons belonging to the Roma minority reported having been discriminated in the previous 12 months.

disaggregated by areas such as age, sex, education, employment, occupational qualifications, civil status, etc. on the situation of persons belonging to national minorities. The demographic situation of minorities has also been the subject of studies conducted by the National Minorities Research Institute and the Hungarian Academy of Science.

60. The Advisory Committee takes note of the preparation of a National Segregation Database which, according to the authorities is to be an important element in the 2010-2011 Action Plan to implement the Strategic Plan of the Decade of Roma Inclusion Programme, having won support from the European Commission's Progress Programme. The major goal of the project is to prepare, based on data on population, schooling, employment, etc. available in the National Statistical Office, maps showing segregated settlements and discriminatory sectors for the entire country.

61. More generally, the Advisory Committee recalls the importance to collect further information on the situation of national minorities, while fully respecting international standards in the field of personal data protection.

Recommendation

62. The Advisory Committee encourages the authorities to continue with their efforts to ascertain the impact of policies on the socio-economic position of national minorities in all relevant fields and to this end, develop adequate methods of ethnic data collection while fully respecting the principle of self-identification and in accordance with international standards of personal data protection.¹¹

Article 5 of the Framework Convention

Conditions enabling minorities to maintain and develop their culture

Recommendations from the two previous cycles of monitoring

63. In the previous cycles of monitoring, the Advisory Committee encouraged the authorities to take adequate measures in order to ensure that the Roma were better protected against the discrimination they faced in different fields.

Present situation

64. The Advisory Committee is pleased to note that the authorities continue to provide various forms of assistance to national minorities, such as support for drama festivals, art exhibitions and other artistic events, museums, cultural centres, etc.

65. The Advisory Committee also notes with interest that the reform of the system regulating the minority self-government made in 2005 henceforth guarantees them functional and financial independence, particularly in the sphere of culture. Several minority self-governments have thus purchased, managed and administered a variety of cultural institutions.

66. Nonetheless, representatives of various national minorities have complained of a significant reduction for several years in the official grants. According to them, the budgetary

¹¹ See for instance the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS 108) and the Committee of Ministers Recommendation (97) 18 on the protection of personal data collected and processed for statistical purposes.

cuts will have negative consequences on sustainability of cultural activities in the future. The Roma in particular consider that the efforts undertaken to preserve their identity and culture are inadequate. The Advisory Committee considers it important that the authorities pay particular attention to the impact of the economic crisis, which can affect disproportionately persons belonging to national minorities.

67. The Advisory Committee, while noting the resources deployed by the authorities to preserve and promote the cultural heritage of the Roma, considers the highly vulnerable situation of this group, as requiring major sustained support.

Recommendations

68. The Advisory Committee invites the Hungarian authorities to maintain their support for the cultural activities of the national minorities' organisations and to ensure that budgetary cuts will not affect disproportionately persons belonging to national minorities.

69. The Advisory Committee invites the authorities to pay particular attention to the needs of the Roma regarding the preservation and the development of their identity and culture.

Article 6 of the Framework Convention

Interethnic and intercultural relations

Recommendations from the two previous cycles of monitoring

70. In the previous cycles of monitoring, the Advisory Committee invited the Hungarian authorities to continue their efforts particularly through education and media and to inform the public about the history and culture of minorities.

71. The Advisory Committee also recommended to the authorities to monitor acts of police brutality against Roma and, where appropriate, take the necessary legal action against police officers as well as carry out human rights awareness and training initiatives for the police.

Present situation

72. On a general level, the Advisory Committee notes with interest that the representatives of national minorities, who do not belong to the Roma, did not report intolerance towards members of their communities. It also notes, in connection with the European Union's European Year of Intercultural Dialogue 2008, numerous events were organised in media and schools in order to promote and highlight the cultural and linguistic diversity of Hungarian society. It also observes that new legislative measures were taken in 2006 to combat anti-Semitism.¹²

73. Nevertheless, the Advisory Committee is deeply concerned by an alarming increase in violence towards the Roma. According to various sources, the Roma, already frequently stereotyped, have been victims of intolerance, insults and racist acts. Interlocutors of the Advisory Committee believed that intolerance towards Roma is widespread in Hungarian society and that public opinion is distrustful and vindictive towards them. The Advisory Committee recalls that integration involves duties for both the minorities and all of society. This

¹² See also Fourth Report on Hungary adopted by the European Commission against Racism and Intolerance (ECRI) on 20 June 2008.

requires, in particular, an open attitude and willingness to work together in the interest of a cohesive society.

74. The Advisory Committee is deeply concerned by violent attacks targeting the Roma community, including the murders of Roma committed recently. It notes the Government statement to the effect that it has prioritised the rapid investigation of these crimes, including by recruiting 100 additional investigators, that led to the arrest of four suspects in August 2009.¹³ It notes that, despite these arrests, there is still a climate of fear within the Roma community and that Roma self-defence groups have been established in certain villages. The Advisory Committee takes note of the letter by the Council of Europe Commissioner for Human Rights to the Hungarian Prime Minister where he states that “these crimes should be subject to effective investigation by competent authorities and that racist motivation in the context of criminal law should constitute an express aggravating circumstances”.¹⁴

75. Since its creation in 2007, the Hungarian Guard (Magyar Garda), has organised numerous public rallies throughout the country, including in villages with large Roma populations, during which members of the Hungarian Guard parade in matching, paramilitary-style black boots and uniforms, with Nazi insignia and flags. Even though this paramilitary association was banned by a court decision in July 2009, similar demonstrations with guards in uniform continue to take place and the Advisory Committee is concerned by this threatening behaviour. In November 2009 in Sajobabony, according to numerous sources, discriminatory conduct was displayed by police called by the radical party Jobbik to a clash between Roma and party sympathisers wearing uniforms similar to those of the Hungarian Guard. It appears that, instead of protecting the Roma from the demonstrators who were insulting and threatening them, the police arrested several Roma but did not take any action against the persons parading in banned uniforms. The police apparently justified their actions by stating that complaints from residents had related only to Roma.

76. The Advisory Committee is also concerned by the worrying rise in racism and intolerance in public statements. According to several interlocutors of the Advisory Committee, racist articles insulting Roma had been published in certain privately-owned media and were circulating on the Internet. It would also appear that media often emphasise, without any apparent need, the ethnic origin of alleged perpetrators of criminal offences if they are Roma.

77. The Advisory Committee is also deeply concerned by the fact that intolerance and prejudice towards Roma are being fanned by the statements of certain extreme right-wing politicians. Several NGOs felt that neither the Government nor the traditional political parties were firm enough in condemning these acts. The Advisory Committee considers that such complacency could lend legitimacy to xenophobic and racist speech and aggravate the particularly intolerant climate towards the Roma minority currently prevailing in Hungary.

78. The Advisory Committee was informed that current legislation makes it extremely difficult to punish hate speech. It notes that previous initiatives aimed at imposing stricter sanctions in case of incitement to racial hatred failed to obtain the two-thirds majority required to amend the Constitution. The limitations, which may be imposed on freedom of expression are interpreted by the Constitutional Court in such a way as to give very broad guarantees of the right to freedom of expression. These limitations only cover dangerous conduct posing an

¹³ The rising number of violent attacks against Roma became a big issue in Hungary after the murder of nine persons in late 2008 and 2009.

¹⁴ See the letter of 22 October 2009 of the Council of Europe Commissioner for Human Rights to the Prime Minister of Hungary.

immediate potential threat to public order by provoking violent acts. This situation may give the perpetrators of hate speech a general feeling of impunity.

Recommendations

79. The Advisory Committee urges the authorities to take more resolute measures to combat all forms of intolerance including in political discourse, and take further steps to promote mutual understanding and respect, especially with regard to Roma. These efforts should include measures at local level, both in respect of local authorities and the local population. The authorities must effectively prevent, investigate and sanction all forms of discrimination by members of the police force. Furthermore the Advisory Committee invites the authorities to take the necessary steps to ensure that the prohibition of demonstrations, such as those by the Hungarian Guard in its various guises, is effectively implemented.

80. The Advisory Committee invites the authorities to take measures to combat the dissemination of stereotypes or hate speech by certain privately owned media, while fully respecting the editorial independence of the media. In addition, the authorities are invited to encourage the media to play a more positive role in promoting mutual understanding and respect.

81. The Advisory Committee calls on the authorities to envisage measures for combating and sanctioning the use of hate speech in political discourse.

Police

82. The Advisory Committee notes with concern that racially-motivated abuse by members of the police force is still reported. In particular, representatives of the Roma reported several cases in which the Roma had suffered from racist attitudes and brutal treatment from members of the police force.

83. The Advisory Committee is also deeply concerned by the Government's weak response to the actions of demonstrators behaving like a paramilitary fraction and expressing their racist views in public, allegedly without intervention of the police. The Advisory Committee considers that banning the wearing of the uniform by such groups is not a sufficient response to combat these provocations. More resolute measures are required.

84. The Advisory Committee notes that, for several years now, the authorities have made substantial efforts to curtail abuse on the part of the police. These efforts included stepping up the recruitment of Roma police officers, training in human rights, systematically punishing police officers found guilty of discriminatory acts; setting up, in 2008, the Independent Police Complaint Committee (IPCC), responsible for receiving complaints against the police. According to various sources, this Committee seems however not to be effective, one reason being that its members have no access to the procedural files required to carry out in-depth investigations. On the other hand, the Advisory Committee notes the recent decision of the Head of the National Police who approved the conclusions of the Independent Police Complaint Committee and initiated disciplinary procedures against the police officers.¹⁵

¹⁵ In February 2010, the Head of the National Police, approving the resolution of the Independent Police Complaint Committee (IPCC) on the violation of the fundamental rights of the victims in the murder committed in Tatarszentgyörgy on 23 February 2009, adopted an administrative decision in which he approved the findings of the IPCC and noted that disciplinary procedures were initiated against two police officers who were held accountable for the failures.

85. Notwithstanding the measures taken, the Advisory Committee notes that discriminatory behaviour on the part of the police remains a major problem.

Recommendations

86. The Advisory Committee calls on the authorities to carry out effective investigations and punish all instances of abusive conduct and discriminatory acts by police officers. The Independent Police Complaint Committee must be given additional means of monitoring and investigating the conduct of police officers.

87. The authorities must continue to promote the recruitment of members of national minorities, especially Roma, within the police. They should build on existing efforts to train police officers in the area of human rights, including minority rights. It is furthermore of the utmost importance to ensure regular dialogue and co-operation between the police and persons belonging to national minorities.

88. The Advisory Committee urges the authorities to take adequate measures to ensure that the members of the police force behave professionally in the face of racist conduct inciting hatred during meetings, parades or any other demonstration.

Article 9 of the Framework Convention

**Legal framework for access of persons
belonging to national minorities to the media**

Recommendations from the two previous cycles of monitoring

89. In the previous cycles of monitoring, the Advisory Committee recommended that the authorities maintain, if not increase, the financial and technical support provided for the broadcasting of radio and television programmes for persons belonging to national minorities.

90. As timeslots reserved for minority programmes did not facilitate an optimal number of viewers or listeners, the Advisory Committee invited the authorities to review the timeslots of those programmes in consultation with the national bodies representing minorities.

Present situation

91. The Advisory Committee is pleased to note that radio and television channels continue to broadcast in the languages of national minorities. It notes in particular that, following amendments to the law on minorities, an independent budget has been allocated since 2005 for the purpose of guaranteeing the creation and dissemination of high-quality programmes for minorities, launching a new public radio channel in minority languages and broadcasting several programmes intended specifically for the Roma.

92. Nevertheless, the Advisory Committee was informed that the budget allocated to State television in 2010 would be heavily cut. It further noted claims that the State television authorities may stop creating new programmes for national minorities and content themselves with broadcasting repeats of old programmes. The Advisory Committee is concerned that State television authorities, in doing so, would not be complying with the Law on the Media. Taking note of the political will of the Government to monitor closely the evolving situation together with the representatives of minority self-governments, the Advisory Committee invites the

Hungarian authorities to take the necessary steps to ensure that members of national minorities are not unduly affected by the budgetary trade-offs under discussion.¹⁶

93. Furthermore, according to information received from representatives of national minorities, programmes by, for and about national minorities are still broadcast at off-peak times when few persons are able to watch them. The Advisory Committee regrets that this situation, criticised by representatives of national minorities for many years, remains unchanged. It notes that the Working Group on the media, set up in 2008 under the responsibility of the Secretary of State for Minorities, has not managed to reach an agreement with the State television authorities on this issue despite several attempts. The Advisory Committee reiterates its view that the Hungarian authorities should take adequate measures to enable members of national minorities to watch the programmes intended for them.

Recommendations

94. The Advisory Committee calls on the authorities to ensure scrupulously that public television broadcasting complies with its legal obligations and continues to produce and disseminate minority language programmes in line with relevant legislation.

95. In addition, the authorities should take resolute measures to find a solution to the problem of the broadcasting times of programmes intended for minorities in consultation with the representatives of minorities.

Article 10 of the Framework Convention

Use of minority languages in relations with administrative authorities

Recommendations from the two previous cycles of monitoring

96. In the previous cycles of monitoring, the Advisory Committee noted that the Hungarian legislative framework was compatible with the Framework Convention and requested that the authorities continue their efforts to encourage the use of minority languages in relations with administrative authorities.

Present situation

97. The Advisory Committee is not aware of any particular problem in this area. It notes with interest that the possibility of using minority languages in public bodies and administrative procedures was extended in 2008 to the Romani and Beash languages, in the hope of improving the social integration of the persons who use these languages.

Recommendation

98. The Advisory Committee recommends that the authorities continue to encourage persons belonging to national minorities to use their own language when dealing with administrative authorities.

¹⁶ The Law on the Media places an obligation on State radio and television to create and disseminate programmes in minority languages.

Article 11 of the Framework Convention

Use of the name and first names in minority languages

Recommendations from the two previous cycles of monitoring

99. In the previous cycles of monitoring, the Advisory Committee recommended that the authorities continue their efforts to train officials responsible for the registration of surnames and first names in order to raise their awareness of the importance of the registries compiled by the minority self-governments.

Present situation

100. The Advisory Committee is not aware of any particular problems in this area. It is pleased to note that specific training courses have been introduced to enable officials to use the new computerised system for birth and marriage registries which includes translations of all the surnames and first names compiled by the minority self-governments. Furthermore, the Advisory Committee welcomes the fact that, since 2007, the register of official geographical names also includes names in the minority languages.

Recommendation

101. The Advisory Committee recommends that the authorities continue their efforts to ensure the implementation of Article 11 of the Framework Convention as regards the proper use and registration of names and first names.

Article 12 of the Framework Convention

Situation of Roma children in the sphere of education

Recommendations from the two previous cycles of monitoring

102. In the previous cycles of monitoring, the Advisory Committee recommended that the Hungarian authorities put an end to the unjustified and frequent placement of Roma children in specialised teaching establishments for mentally disabled children and eliminate the various forms of segregation suffered by Roma in the sphere of education.

103. The Advisory Committee called for the reinforcement of relevant legislation with a view to ensuring its proper implementation in practice and supervising local authorities' actions in organising education, by providing, for example, for the possibility of imposing fines and other sanctions when exclusion or discrimination were practised. The Advisory Committee also requested the Hungarian authorities to modify the decision-making mechanism for the granting of private pupil status.

Present situation

104. The Advisory Committee notes with deep concern that Roma children still face serious difficulties in the education system. The rates of Roma children attending schools are, throughout the country, considerably lower than those of other children, particularly where girls are concerned, notwithstanding the various remedial tuition programmes and grants provided for

young Roma wishing to pursue higher education.¹⁷ It notes that although a relatively high proportion of Roma children enter primary school, there is still a high drop out at the end of primary schooling (see also Article 15, paragraph 128 to 133).

105. The Advisory Committee is particularly worried by the fact that, despite the central authorities' clear political will to put a definitive end to the phenomenon, the overall segregation of Roma children being placed in special schools or within public schools, subsists in practice.¹⁸ This practice is not compatible with the Framework Convention.

106. The Advisory Committee is concerned by the fact that there are still a large number of schools in which the majority of pupils are Roma children. It is aware that this is mainly the outcome of the high concentration of Roma in small villages or disadvantaged urban areas, who send their children to schools in the local catchment area. According to information received by the Advisory Committee during its visit, the high concentration of Roma children in these schools, unfortunately, does not only lead to *de facto* segregation but also to a deterioration in the quality of education offered. Apparently, the facilities are not only in a poorer state than in other schools but also the teaching standards have decreased in schools where the majority of the pupils are Roma children.¹⁹ The Advisory Committee notes with concern that this situation is detrimental to these children's education and undermines their chances to reach secondary education.

107. The Advisory Committee notes that the Hungarian authorities are aware of this problem and that they have adopted various measures to redress the situation. The Advisory Committee welcomes that an explicit ban on segregation was introduced in the Law on Equal Treatment and the Promotion of Equal Opportunities.²⁰

108. On the issue of Roma children unduly placed in special schools for children with disabilities, the Advisory Committee notes that, following medical examinations to reassess their intellectual aptitude, a substantial number of Roma children were re-registered into the normal school system. Furthermore, since 2008, the rehabilitation commissions have been using a new assessment tool oriented towards social and cultural differences, taking greater account of the specific situation of Roma children.

109. The Advisory Committee notes with interest that the authorities have decided to reconsider the configuration of catchment areas in cases where segregation could occur. Under the provisions of the Public Education Act concerning the geographical division of school catchment areas, it is now compulsory to reconsider the school catchment area if the percentage of "children with multiple disadvantages" (see definition in paragraph 110) registered in state

¹⁷ In 2007, about 23,000 persons belonging to the Roma community received public financial support, including 1,600 for university study in 2007 (see International Education, Barometer on Human Rights and Union Rights in the Educational Sector, June 2007).

¹⁸ See also the Report of the Independent Expert on Minority Issues, UN Human Rights Council, A/HRC/4/9/Add.2, 4 January 2007 and the Concluding Observations of the UN Committee on Economic, Social and Cultural Rights on Hungary, E/C.12/HUN/CO/3, 16 January 2008.

¹⁹ The Advisory Committee was informed that this form of segregation was also due to the fact that Hungarian law allowed parents to choose the school they wished their children to attend and that parents who did not belong to the Roma community often decided not to register their children in schools with a large number of Roma pupils and that some even withdrew their children from such schools.

²⁰ As a result of amendments to the State Education Act and the Law on Equal Treatment and the Promotion of Equal Opportunities, the Educational Authority now has greater responsibilities. This body co-operates closely with the Equal Treatment Authority in uncovering any remaining examples of segregation in the school system. The Educational Authority visits schools, in particular in towns where the authorities have been informed of cases of segregation or in which the municipal authorities have been found guilty of segregation before.

schools exceeds 25%. State schools no longer have the right to refuse a pupil a place at a school and must register children in a pre-established order.²¹

110. The Advisory Committee notes with interest that the authorities have also adopted general, legislative, financial and educational measures to improve the integration of disadvantaged children into the school system. The Public Education Act has introduced a new concept: “children with multiple disadvantages” for children with different social and cultural backgrounds. The pupils who can benefit from this programme are those children whose parents attended only elementary school and find it difficult to understand the modern requirements of schools and are eligible for supplementary family allowances as they come from an economically disadvantaged environment. Children who are identified as belonging to this category shall benefit from special educational and financial support throughout their primary and secondary education.

111. The Advisory Committee welcomes the substantial efforts invested by the authorities in promoting equal opportunities for “children with multiple disadvantages”. While not specifically aimed at Roma children, the measures are particularly beneficial to them as many Roma parents meet the conditions. The Advisory Committee notes with interest that, in order to avoid situations where “children with multiple disadvantages” are arbitrarily grouped into separate classes within ordinary schools, the authorities have attached several conditions to the granting of financial aid for integration: the school concerned must adopt an equal opportunities plan and the percentage of “children with multiple disadvantages” per class must be below 50.

112. The Advisory Committee notes also with interest that new kindergartens are being built in villages where none previously existed to ensure that all children have access to pre-school education.²² To encourage parents to send their children to kindergartens, financial aid is paid to parents for the purchase of clothing and supplies, and the children receive free meals.

113. However, according to representatives of the Roma, young Roma children are faced with particular difficulties when entering kindergarten as they and their parents are often confronted with unfamiliar practices and rules which are not customarily applied in their family. While commending their substantial efforts to promote attendance by Roma children at kindergarten and noting that the accommodation of multi-diversity, including cultural and social diversity, is now a component of teacher training courses, the Advisory Committee encourages the authorities to provide for a gradual integration of children into the school system with the increased support of Roma mediators and assistants.

114. While the Advisory Committee notes with interest the various measures adopted during the last years by the Hungarian authorities, it is concerned by the limited results. For example, despite the legal prohibition of segregation, several of its interlocutors commented that the application of this measure remains limited. The Advisory Committee is concerned that despite a number of court decisions ruling that the ban on segregation had been violated by certain local authorities, schools concerned have apparently not yet taken adequate measures to remedy the situation.

²¹ The order is the following: firstly, all children living in the local catchment area, followed by disadvantaged children from other catchment areas who apply for registration, and finally children who already have a brother or sister at the school. Any remaining places are allocated by lot. 25% of the intake of private schools must comprise children living in the local catchment area.

²² Financial aid is paid to kindergartens attended by at least 70% of the “children with multiple disadvantages” within their education sector on condition that these children represent at least 15% of the total enrolled.

Recommendations

115. The Advisory Committee urges the authorities to put an end, without further delay, to the continuing segregation of Roma children at school and to strengthen their efforts to remedy other shortcomings faced by Roma children in the field of education. While noting the variety of commendable initiatives, the Advisory Committee encourages the authorities to monitor continuously and evaluate their impact on the actual situation in the schools with a view to adapting them swiftly where necessary.

116. The Advisory Committee asks the authorities to continue the integration of Roma children placed in special schools on insufficient grounds into general public schools.

117. The Advisory Committee calls on the authorities to take relevant steps to establish and develop further an atmosphere of mutual trust and understanding between Roma parents and school officials, particularly teachers, through appropriate teacher training, the increased use of Roma mediators and assistants, and through creating increased awareness among Roma parents. In view of the generally hostile atmosphere towards Roma, awareness-raising is also needed among the children, parents and the general public.

Article 14 of the Framework Convention**Teaching in and of minority languages***Recommendations from the two previous cycles of monitoring*

118. In the previous cycles of monitoring, the Advisory Committee noted that a low percentage of children from minorities were taught in a minority language in bilingual and monolingual establishments and asked the Hungarian authorities to pursue efforts to develop the teaching of minority languages for the numerically smaller minorities and to introduce forms of bilingual teaching for the numerically larger minorities where there is a sufficient demand.

Present situation

119. The Advisory Committee welcomes the fact that the amendments made in 2005 to the Law on the Rights of National and Ethnic Minorities granted self-governments representing minorities greater autonomy in the sphere of education. The self-governments may now take over the organization of schools or create new ones, managing them administratively, educationally and financially. These positive developments have enabled several minority self-governments to manage new schools. The self-government representing the German minority took over the management of two additional schools and now manages eight. The self-government representing the Slovak minority, which recently took over one school, now manages three, and the self-government representing the Croat minority now manages one school.

120. The Advisory Committee notes with satisfaction that the teaching of minority languages is incorporated into the public education system at all levels and takes note of the authorities' determination to go on developing bilingual teaching methods and the teaching of and in minority languages.²³ The Advisory Committee notes with interest that Romani and Beash are

²³ The establishments offering these possibilities receive a higher level of public funding (70 % on top of the usual grant) than those currently teaching general curricula in Hungarian.

now recognised as minority languages and lessons in these languages are also available. It is also planned to set up a bilingual section in the Gandhi School managed by the self-government representing the Roma in Pecs. The Advisory Committee observes that the Ministry of Education continues to fund language training for teachers in minority languages, new manuals for the teaching of minority languages have been devised, and substantial work to renovate school buildings where teaching takes place in minority languages has been funded by the State.

121. According to the information received by the Advisory Committee, the bilingual system (with 50% of the curriculum taught in the minority language and 50% of at least three subjects in Hungarian), is increasingly attractive for minorities, even if the larger minorities still send their children mainly to monolingual minority language schools.²⁴ Despite this progress, the Advisory Committee notes that it is apparently still difficult for numerically smaller minorities to set up their own schools and recommends that additional resources be provided so that the children of numerically smaller minorities may benefit from more teaching in their respective languages.

Recommendation

122. The Advisory Committee encourages the authorities to pursue their efforts aimed at enabling minority self-governments to acquire and manage their own schools and to develop a bilingual education system. It calls on the authorities to pay special attention to the needs of the numerically smaller minorities.

Funding for minorities' education

Recommendations from the two previous cycles of monitoring

123. In the previous cycles of monitoring, the Advisory Committee, while commending the considerable efforts made by the Hungarian authorities in the sphere of education for minorities, stressed that there were difficulties regarding the funding of schools with classes or study groups in a minority language, with local authorities' choices for allocating resources often disputed by self-governments representing minorities.

Present situation

124. The Advisory Committee is pleased to note that the representatives of the minority self-governments acknowledge that substantial improvements have been made in the area of funding for schools since 2005. The problems encountered in the past, namely overly complex financial arrangements, difficult relations between local authorities and minority self-governments and cuts in funding as a result of choices made by local authorities, appear to have been resolved thanks to the full financial autonomy now granted to self-governments representing minorities.

125. However, the Advisory Committee was informed that problems persist between certain local authorities and local self-governments representing the Roma as to the use of State funds. The Advisory Committee understands that insufficient use was made of available funds to develop teaching of Roma culture and teaching in the Romany and Beash languages. The Advisory Committee considers it to be the responsibility of the central authorities to find adequate ways of ensuring that the provisions of the Law on National Minorities that grant

²⁴ According to the information available to it, the Advisory Committee notes that between 2004 and 2008, the number of children going to monolingual schools teaching in the minority language remained stable at primary and secondary level but there have been more children attending bilingual kindergartens in recent years.

minority self-government autonomy in the management of minority language education are implemented in practice.

Recommendation

126. The Advisory Committee encourages the authorities to ensure that the prerogatives and autonomy of minority self-governments in the area of funding for education are respected at all levels, particularly at local level.

Article 15 of the Framework Convention

Participation in economic and social life

Recommendations from the two previous cycles of monitoring

127. In previous cycles of monitoring, the Advisory Committee recommended that efforts aimed at improving the housing conditions of Roma be strengthened by combating particularly the segregation that existed at local level. The Advisory Committee further recommended the gathering of data on the health situation and access to care facilities for the Roma as well as increased efforts at combating the chronic level of under-employment of Roma.

Present situation

128. The Advisory Committee is deeply concerned by the persistent lack of effective participation of the Roma in social and economic life, despite the numerous steps taken by the Hungarian authorities over the past years to improve the integration of Roma into various spheres of life.²⁵ The Advisory Committee notes that in June 2007 the Hungarian Parliament adopted a resolution on the strategic plan set up under the Decade for Roma Integration programme. This Plan comprises four priority objectives, i.e. to improve Roma access to education, employment, a decent standard of housing, and health care. The ways in which the plan is implemented and the corresponding budgetary resources are reviewed every two years to keep abreast of changes in the situation²⁶ (see comments on Article 4, paragraph 54).

129. The Advisory Committee notes that some 2,875 billion HUF have been earmarked for the implementation of the “Housing and Social Integration Programme for Residents of Roma settlements” programme in 30 municipalities. With a view to dealing with the problem of the segregation of Roma communities living in large numbers in disadvantaged areas where there is neither decent housing nor suitable infrastructure, 160 anti-segregation plans have been set up to rehouse Roma in areas also inhabited by majority communities. However, despite these measures, many Roma families still live in substandard housing.

130. Finally, the Advisory Committee joins the European Committee of Social Rights²⁷ in observing that the situation regarding social housing for Roma is still worrying and the number of evictions from illegal houses of Roma in Hungary still disproportionately high. While the Advisory Committee realises that the expulsion procedure concerns all occupants of housing

²⁵ See the Report of the Independent Expert on Minority Issues, UN Human Rights Council, A/HRC/4/9/Add.2, 4 January 2007 and the Concluding Observations of the UN Committee on Economic, Social and Cultural Rights on Hungary, E/C.12/HUN/CO/3, 16 January 2008

²⁶ Budget amount provided in 2007: 4467.7 HUF million; in 2008: 5238,7 HUF million

²⁷ Conclusion XVIII-1, Hungary, article 16.

that is not owned or rented, it is deeply concerned by its disproportionate impact on Roma, especially children, who are in a particularly difficult social and economic situation.

131. Recognising that public employment agencies have assisted a large number of Roma to find employment,²⁸ the Advisory Committee regrets that they generally still have few prospects of employment. The Advisory Committee notes with interest that specifically targeted training is offered to young Roma graduates to help them find employment as public officials in ministries and that there are plans to recruit an additional 300 Roma police officers.

132. The Minister of Health has set up programmes to improve the health of persons living in particularly disadvantaged regions. These programmes are not designed only for the Roma, but, owing to their particular vulnerability, they are the main beneficiaries. Emphasis has been placed on two aspects: improving prevention by making Roma parents aware of the importance of consulting health assistants and ensuring that health practitioners do not have discriminatory attitudes. The aim of the “Tolerance for Health programme” is to inform the medical profession of Roma traditions and culture and to employ Roma mediators in hospitals.

133. Some of the information brought to the attention of the Advisory Committee suggests that, as the Roma are very vulnerable, they have been particularly affected by the recent economic crisis. In this context the Advisory Committee would like to draw the attention of the authorities to Recommendation CM/Rec(2008)5 of the Committee of Ministers to member States on policies for Roma and/or Travellers in Europe²⁹ which encourages the States, where they have not yet done so to “consider amending their national legislation in an appropriate manner in order to enable positive action aimed at overcoming particular disadvantages experienced by Roma and/or Travellers and at giving equal opportunities for Roma and/or Travellers in society”.³⁰

Recommendations

134. The Advisory Committee urges the authorities to continue strengthening measures to ensure that the implementation of the Roma Decade Action Plan results in substantial and lasting improvement in the participation of disadvantaged Roma in economic and social life, in close consultation with their representatives. These measures should be regularly monitored and their impact carefully evaluated.

135. Given the particular vulnerability and persistent exclusion from economic and social life of Roma in Hungary, the Hungarian authorities should review possibilities for additional positive measures enabling Roma to be employed and access effectively available health and social services.

²⁸ In 2008 3.5 billion HUF were spent on training people belonging to the Roma community to make them more “employable”. Employment agencies helped 15,000 Roma to find a job in 2004, 19,000 in 2005 and 17,000 in 2006 and 2007.

²⁹ Recommendation CM/Rec(2008)5 of the Committee of Ministers adopted on 20 February 2008 at the 1018th meeting of the Ministers’ Deputies.

³⁰ See also Advisory Committee on the Framework Convention for the Protection of National Minorities: second Thematic Commentary on the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs (2008) paragraph 127 and 128.

Representation of minorities in Parliament

Recommendations from the two previous cycles of monitoring

136. During the previous cycles of monitoring, the Advisory Committee recommended that the Hungarian authorities continue to work on establishing a mechanism for the representation of minorities in Parliament.

Present situation

137. The Advisory Committee strongly regrets that, since the adoption of its first Opinion, no notable progress has been made with regard to minorities' representation in Parliament. It is deeply concerned by the fact that, although the Hungarian Constitution and the Law on the Rights of National and Ethnic Minorities guarantee in general terms the possibility for minorities to be represented in Parliament, it has not yet been possible to reach a political consensus on this issue.

138. The Advisory Committee's attention has been drawn to the fact that this problem is closely linked to the more general issue of possibly reducing the size of the Hungarian Parliament, as some of the political parties have requested. In this context, it appears difficult to achieve the qualified majority of two-thirds of members of Parliament required to present draft legislation aimed at enabling representatives of minorities to be elected to Parliament. Moreover, there also seem to be some differences of opinion between the minority self-governments on this issue, which further hampers finding a lasting and rapid solution. While taking note of these considerations, the Advisory Committee believes that, in the absence of such representation and despite the existence of a highly developed system for the consultation of minorities in Hungary, persons belonging to national minorities do not have the opportunity to participate fully and effectively in relevant decision-making processes.³¹

Recommendations

139. The Advisory Committee strongly urges the Hungarian authorities to take resolute measures to enable persons belonging to national minorities to be represented as such in Parliament.

Functioning and reform of minority self-governments

Recommendations from the two previous cycles of monitoring

140. During the previous cycles of monitoring, the Advisory Committee recommended that the competence of minority self-governments and the legal provisions governing State aid and local authorities should be clarified. It recommended that Hungary continue its efforts to strengthen the functional and financial autonomy of minority self-governments as regards the acquisition, running and managing of public institutions and to clarify State and local authority funding and support to remedy problems between minority self-governments and local authorities.

³¹ See Advisory Committee on the Framework Convention for the Protection of National Minorities second Thematic Commentary on the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs (2008), paragraph 74)

Present situation

141. The Advisory Committee notes that coordination of all matters relating to minorities has been within the remit of the Secretariat of State for Minorities since 2007 and national policy has been placed under the direct responsibility of the Prime Minister.

142. The Advisory Committee notes with satisfaction that amendments to the Law on the Rights of National and Ethnic Minorities in 2005 have considerably extended the competences of minority self-governments which now have genuine operational and financial autonomy. Moreover, since 2007, minority self-governments have been represented not only at national and local but also at regional level. During the national and regional elections in March 2007, the thirteen national minorities elected their new national representatives and eleven³² of them were, for the first time, in a position to set up one or several regional self-governments to represent them.

143. The Advisory Committee welcomes these positive developments which reinforce effective participation of persons belonging to national minorities in the management of affairs concerning them, and notes the general satisfaction of its interlocutors with these new opportunities for participation despite some criticism at the general reduction in financial aid from the State.

144. The Advisory Committee notes with interest that discussions have begun between the Government and minority self-governments with a view to conducting an in-depth review of the existing legal provisions governing the rights of national and ethnic minorities. All the stakeholders agree that it is necessary to establish a new general legal framework covering all aspects of minority self-government in a single law to promote the effective participation of persons belonging to national minorities in cultural, social, and economic life, and in public affairs. The Advisory Committee welcomes this initiative, which is in keeping with its second thematic commentary, and encourages the Hungarian authorities to give its active support to this project.

Recommendation

145. The Advisory Committee encourages the authorities to continue to facilitate the full and active participation of persons belonging to national minorities in decision-making processes at national, regional and local level through the minority self-governments which represent them. It invites the authorities to continue, in consultation with the representatives of national minorities, the discussions aimed at developing the general legal framework on the rights of national minorities.

Article 18 of the Framework Convention

Transfrontier co-operation

Recommendations from the two previous cycles of monitoring

146. In the previous cycles of monitoring, the Advisory Committee welcomed the fact that Hungary was party to numerous bilateral treaties and cultural agreements covering the

³² The representatives of Slovenian and Romanian minorities have not set up a regional self-government.

protection of persons belonging to national minorities and recommended setting up the joint bodies envisaged in the bilateral treaty with Serbia.

Present situation

147. The Advisory Committee is pleased to note that the joint committees envisaged in the bilateral treaty with Serbia have been set up and have been meeting at regular intervals.

III. CONCLUSIONS

148. 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 Hungary.

Positive developments following two cycles of monitoring

149. Hungary has pursued a proactive approach towards the monitoring process and has taken useful steps to disseminate the results of the two first cycles of monitoring. The authorities have also maintained an inclusive approach in the communication with representatives of the national minorities.

150. Commendable efforts in various aspects have been made to increase the protection of national minorities. The Advisory Committee observes that Hungary has achieved significant progress in its sustained endeavour to protect national minorities.

151. The reform of the operating system of minority self-governments in 2005 enabled these bodies to be granted true financial and operational autonomy. The procedure for the election of representatives to minority self-governments has also been reviewed to prevent the repeated irregularities which occurred in the past.

152. In the field of protection against discrimination, some positive steps have been taken in order to improve the legislative framework to combat discrimination such as the setting up of the Equal Treatment Authority in 2005. Support has also been provided to the Anti-Discrimination Customer Service Network set up by the Ministry of Justice and Law Enforcement to help the Roma to bring legal proceedings in the event of discrimination.

153. The authorities have made efforts to curtail abuse by the police by increasing the recruitment of Roma police officers, providing training in human rights and setting up, in 2008, the Independent Police Complaint Committee (IPCC) responsible for receiving complaints against misbehaviour of the police.

154. The authorities have continued to provide support to activities to preserve and develop the cultural heritage of national minorities. The public television services continue to broadcast programmes in minority languages. The launch of a new Hungarian national radio station has made it possible to broadcast national minority programmes in their own languages for twelve hours a day.

155. An explicit ban on segregation at school was introduced in the Law on Equal Treatment and the Promotion of Equal Opportunities. The authorities have adopted legislative, financial and educational measures to improve the integration of disadvantaged children, many of them belonging to the Roma, into the school system.

156. Positive steps have been taken to implement the Roma Decade Action Plan. This plan comprises four priority objectives, i.e. to improve Roma access to education, employment, adequate housing conditions, and health care services.

Issues of concern following two cycles of monitoring

157. In recent years, the Roma have increasingly been victims of displays of intolerance, hostility and racially-motivated violence. Hate speech and racism in public statements, and in certain media, is also increasing, which is of deep concern. The fact that the current legislation makes it extremely difficult to punish hate speech may give the perpetrators of hate speech a general feeling of impunity.

158. Racially-motivated abuse allegedly committed by members of the police force continues to be reported. Discriminatory behaviour on the part of the police seems to be, in general, a problem.

159. As far as the system of allocation of support for the preservation and development of the cultural heritage of national minorities is concerned, minority representatives fear that the general cuts in public expenditure might affect the sustainability of activities to preserve minority culture and languages.

160. The programme slots for broadcasts intended for persons belonging to national minorities continue to be a source of concern as these programmes are still broadcast at off-peak times. Representatives of minorities are afraid that, for budgetary reasons, the public television authorities may cease the production of new programmes for national minorities and limit future broadcasting to repeats of old programmes.

161. It is of deep concern that segregation of Roma pupils at school, and their over-representation in special schools, persist despite the Hungarian authorities' commitment to put an end to this problem.

162. A specific mechanism for the representation of persons belonging to national minorities in the Parliament is still lacking.

163. Despite the adoption of various specific action plans to improve the situation of the Roma, their effective participation in social and economic life remains very limited.

Recommendations

164. 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 action³³

- **Take more resolute measures to combat all forms of intolerance, including in political discourse, and take further steps to promote mutual understanding and respect, especially with regard to Roma. These efforts should include measures at local level, both in respect of local authorities and the local population. The authorities must effectively prevent, investigate and sanction all forms of discrimination by members of the police force.**

³³ The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

- **Continue strengthening measures to ensure that the implementation of the Roma Decade Action Plan results in substantial and lasting improvement in the participation of disadvantaged Roma in economic and social life, in close consultation with their representatives. These measures should be regularly monitored and their impact carefully evaluated. Take resolute measures to put an end, without further delay, to the continuing segregation of Roma children at school.**
- **Take resolute measures to enable persons belonging to national minorities to be represented as such in Parliament.**

Further recommendations³⁴

- Take measures to combat the dissemination of stereotypes or hate speech by certain privately owned media, while fully respecting the editorial independence of the media;
- Encourage the media to play a more positive role in promoting mutual understanding and respect;
- Continue to support cultural activities of the national minorities' organisations and pay particular attention to the needs of the Roma regarding the preservation and the development of their identity and culture;
- Ensure that public television broadcasting complies with its legal obligations and continues to produce and disseminate minority language programmes in line with relevant legislation;
- Strengthen efforts to remedy the shortcomings faced by Roma children in the field of education.

³⁴ The recommendations below are listed in the order of the corresponding articles of the Framework Convention.