

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



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Working document

Compilation of Opinions of the Advisory Committee relating to Article 6 of the  
Framework Convention for the Protection of National Minorities (3<sup>rd</sup> cycle)

"Article 6

1. The Parties shall encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory, irrespective of those persons' ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media.
2. The Parties undertake to take appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity."

Note: this document was produced as a working document only and does not contain footnotes. For publication purposes, please refer to the original opinions.

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As of 13 May 2016, the Advisory Committee on the Framework Convention for the Protection of National Minorities had a total of 36 opinions, of which 36 opinions on Article 6.

\* All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

NOTE

Based on the information currently at its disposal, the Advisory Committee considers that implementation of certain articles does not give rise to any specific observations.

This statement is not to be understood as signalling that adequate measures have now been taken and that efforts in this respect may be diminished or even halted. On the contrary, the nature of the obligations of the Framework Convention requires a sustained and continued effort by the authorities to respect the principles and achieve the goals of the Framework Convention. Furthermore, a certain state of affairs may be considered acceptable at one stage but that need not necessarily be so in further cycles of monitoring. It may also be the case that issues that appear at one stage of the monitoring to be of relatively minor concern prove over time to have been underestimated.

1. Albania

*Opinion adopted on 23 November 2011*

Article 6 of the Framework Convention

Tolerance and intercultural dialogue

*Recommendation from the two previous cycles of monitoring*

In the previous cycles of monitoring, the Advisory Committee called on the authorities to take additional measures to tackle incidents of intolerance and hostility, in particular against the Roma, by raising awareness of the needs of these communities, in particular among professional groups, such as law enforcement officers, the judiciary and the media.

*Present situation*

The Advisory Committee notes that a climate of respect and tolerance generally prevails in Albania and that the representatives of national minorities reported that incidents of racist or ethnic intolerance were rare.

The Advisory Committee notes with deep concern the arson attack against Roma dwellings inhabited by some 40 families in central Tirana in February 2011 which resulted in some serious injuries and the displacement of large numbers of people, including many children (see also the comment under Article 4 above). The victims were made homeless by the attack and have not yet been provided with appropriate housing. At the time of the visit of the Advisory Committee, they were living in tents, in spite of repeated promises that they would be given appropriate housing before the onset of winter. The situation of the arson victims was exacerbated by the fact that they were settled temporarily in the outskirts of the city, without adequate access to schools and employment.

It is of particular concern to the Advisory Committee that law enforcement bodies did not take the necessary steps to protect the victims of this attack. For example, at the time of the Advisory Committee's visit, their complaints had not been properly registered, investigations of the crimes committed had not been carried out and the court's final verdict was still pending. Such an attitude on the part of the police indicates their apparent lack of awareness of anti-discrimination issues and even racial prejudice.

The Advisory Committee is also concerned by information provided by the Roma representatives that, in the tests they had conducted, Roma had been victims of discrimination due to refusal of admission to some public places, whereas non-Roma had faced no such difficulties.

In this context, the Advisory Committee notes that, in the absence of comprehensive statistics on crimes motivated by racial hatred, it is difficult for the authorities to take effective preventive measures and to devise strategies for combating offences committed through racial or xenophobic motives.

### *Recommendations*

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

The authorities should intensify their efforts to adopt awareness-raising measures on tolerance and anti-discrimination issues, aimed at training law enforcement officials, the media, the judiciary and informing the public.

### Relations with the police

#### *Recommendations from the two previous cycles of monitoring*

In the previous cycles of monitoring, the Advisory Committee urged the authorities to step up their monitoring of police conduct by setting up an independent review process and to apply adequate sanctions in the event of proven ill-treatment or discrimination on the part of the police.

The Advisory Committee also invited the authorities to step up their police training programmes in relation to the prohibition on discrimination and the standards of the Framework Convention, and to promote the recruitment of persons belonging to minorities, particularly Roma and Egyptians, into the police force, *inter alia* by offering training courses enabling them to compete for available posts.

#### *Present situation*

The Advisory Committee notes that a number of initiatives, taken by the authorities in the last four years to combat discrimination, have increased human rights awareness and raised professional standards among police officers.

Since 2008, according to the State Report, all police officers have undergone a basic police training during a period of 22 weeks which, among other issues, covered human rights and the rights of persons deprived of freedom. The Professional Standards Directorate in the General Directorate of State Police has been mandated with monitoring and sanctioning inappropriate police conduct, in particular during escorting, detention, arrest, custody and treatment on police premises.

In addition, the Advisory Committee notes that, under the authority of the Professional Standards Directorate, a Sector of Complaints and Discipline was established in 2008 tasked with enforcing the Discipline Rules and Regulations of the State Police and with taking appropriate action in case of any breach.

The Advisory Committee also welcomes the adoption by the State police of the Action Plan "For prevention and the fight against racism and racial discrimination". This Action Plan lays down measures and tasks, which are to be carried out by central and local authorities of the State Police, in particular by raising the awareness of the police of

human rights, by establishing contacts with representatives of minorities to facilitate identification of cases of breaches of their legal and constitutional rights, by preventing and combating discriminatory acts, by combating trafficking and by involving police officers belonging to national minorities in patrolling areas where persons belonging to national minorities live in substantial numbers and by promoting the recruitment of persons belonging to national minorities. The Advisory Committee notes that, in order for all the above-mentioned measures to be effective, they must be observed and monitored strictly at all times by all levels of the law enforcement bodies.

The Advisory Committee also notes the establishment in 2008 of a National Mechanism on Prevention of Torture, Inhuman or Degrading Punishment or Treatment, as a special authority within the structure of the Office of the People's Advocate, which is directly responsible for monitoring the treatment of persons deprived of freedom and their protection from torture, cruel, inhuman or degrading punishment.

The Advisory Committee shares the conclusions of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) which established that these measures have already started to bear fruit and that a number of improvements in this field have already been observed.

#### *Recommendations*

The Advisory Committee invites the authorities to continue monitoring the behaviour and attitudes of the police and prison personnel, through the existing supervisory mechanisms, in order to ensure respect for European standards and to enforce the appropriate sanctions in established cases of human rights violations.

The Advisory Committee calls for increased efforts to recruit persons belonging to the Roma minority into the police force and other law enforcement agencies.

#### Trafficking of persons belonging to the Roma and Egyptian communities

##### *Recommendations from the two previous cycles of monitoring*

In the previous cycles of monitoring, the Advisory Committee invited the authorities to collect data on trafficking and to step up their efforts to create a climate of trust and co-operation with the vulnerable communities in order to tackle the problem of trafficking.

The Advisory Committee also invited the authorities to step up measures in the area of protection for victims and witnesses in trafficking proceedings, to do more to rehabilitate victims and to play a greater role alongside non-governmental agencies in preventing trafficking.

##### *Present situation*

The Advisory Committee notes that Albania ratified the Council of Europe's Convention on Action against Trafficking in Human Beings in 2007 and the authorities have taken a number of important steps to combat trafficking in human beings. In particular, it is to be

welcomed that the Office for the National Co-ordinator for the Fight against Trafficking in Human Beings, the National Anti-Trafficking Task Force and a national referral mechanism have all been established.

The Advisory Committee also notes that the Convention on Action against Trafficking in Human Beings entered into force for Albania in February 2008, that a Group of Experts on Action against Trafficking in Human Beings (GRETA) carried out a monitoring visit to Albania at the beginning of 2011 and that its report and recommendations will be published shortly.

The Advisory Committee further notes that the National Reception Centre for Victims of Trafficking, established under the auspices of the Ministry of Labour, Social Affairs and Equal Opportunities, as well as three other shelters in Elbasan, Tirana and Vlora, provide free-of-charge assistance to victims of trafficking. In 2010, the existing facilities accommodated 97 persons, providing them with medical assistance, counselling and personal reintegration programmes.

The Advisory Committee notes that the authorities acknowledge that Roma children are particularly vulnerable to trafficking, in particular to neighbouring Greece, and thus need special protection and care. The authorities of both countries concluded an Agreement in 2006 on the Protection and Assistance to Victims of Trafficking in order to create a legal framework for protection, assistance, repatriation and rehabilitation of victims of trafficking. A similar document was signed with "the former Yugoslav Republic of Macedonia" and with Kosovo.

The Advisory Committee further notes that the State police figures show that the number of known alleged cases of child trafficking has significantly decreased in the last few years, with four cases investigated in 2009 and one case in 2010.

#### *Recommendation*

The Advisory Committee invites the authorities, in addition to addressing all detailed recommendations made by the Group of Experts on Action against Trafficking in Human Beings, to tackle in particular the root causes of trafficking, such as marginalisation within society, poverty and school drop-out, which disproportionately affect the Roma community.

## 2. Armenia

*Opinion adopted on 14 October 2010*

## Article 6 of the Framework Convention

### Interethnic and intercultural relations

#### *Recommendations from the two previous cycles of monitoring*

In the previous cycles of monitoring, the Advisory Committee invited the authorities to pay particular attention to allegations of discrimination against persons belonging to national minorities and to investigate carefully possible cases. It also recommended careful monitoring of possible cases of incitement to ethnic hatred in the media.

#### *Present situation*

On a general level, the Advisory Committee is pleased to note that a general climate of tolerance and understanding between national minorities and the majority prevails in Armenia and that the representatives of national minorities did not report intolerance towards members of their communities.

The Advisory Committee notes that, according to the authorities, no crime on the grounds of national/ethnic origin or racial hatred has been recorded in the period 2002–2008.

However, information brought to the attention of the Advisory Committee from different sources indicates that the Yezidi minority continues to be victim of stereotyping and intolerance.

The Advisory Committee has also received information about repeated acts of vandalism committed in 2005, 2006 and 2007 against the Holocaust memorial in one of the parks in central Yerevan. It commends the immediate and adequate reaction of the authorities.

The Advisory Committee is concerned that anti-Semitic statements, which were voiced in some media outlets, including the printed press and the privately-owned ALM TV channel, have not prompted an adequate reaction from the authorities, in spite of complaints from representatives of the Jewish minority.

The Advisory Committee notes that the authorities have recognised the persisting intolerance between some representatives of the Kurdish and Yezidi national minorities, and have taken a number of steps, such as the publication of school textbooks in Yezidi and in Kurdish, aimed at diminishing ethnic tensions between the two groups.

#### *Recommendations*

The authorities must take more resolute measures to combat all forms of intolerance and promote understanding and mutual respect amongst the various ethnic and religious groups in Armenia, including respect for religious diversity.

The authorities should intensify their efforts to adopt awareness-raising measures on tolerance and anti-discrimination issues, aimed at law enforcement officials, the media, the judiciary and the public.



The Advisory Committee encourages the authorities to ensure that more vigorous action is taken to prevent, investigate and prosecute perpetrators of offences committed with a racial, anti-Semitic or xenophobic motive and to provide for constant monitoring of this phenomenon within society.

The Advisory Committee urges the authorities to adopt further legislative measures and policies in order to combat racist manifestations in the media, in the spirit of the Committee of Ministers' Recommendation N° R(97)20 on "Hate Speech".

### 3. Austria

*Opinion adopted on 28 June 2011*

Article 6 of the Framework Convention

#### Inter-ethnic relations in Carinthia

*Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee expressed deep concern at the tense situation prevailing in Carinthia connected with the non-implementation of relevant rulings of the Constitutional Court with regard to bilingual signposts and the official use of languages and urged the authorities to do their utmost to maintain and further develop the prevailing climate of tolerance in Carinthia.

#### *Present situation*

The Advisory Committee is pleased to note that tensions appear to have decreased in Carinthia, despite the fact that relevant rulings of the Constitutional Court remain non-implemented. It notes in particular the substantial efforts by the federal authorities to instigate dialogue with all stakeholders, including regional and local authorities as well as relevant minority representatives throughout Spring 2011. The Advisory Committee understands that a compromise between the Carinthian Government and Slovene minority representatives was found to put up bilingual topographical signs in those municipalities where, according to the 2001 census, 17,5 % of the population use Slovenian as their main language. A federal constitutional law will need to be adopted to enact this compromise.

The Advisory Committee welcomes the fact that an issue that has created tension and debate for decades seems finally close to a solution and appreciates the difficulties involved in this process based on the very different perceptions of history on both sides and the symbolism that the issue of bilingual signs carries for the local population of Carinthia. It was, however, deeply concerned during its visit by the level of conditionality attached to the compromise negotiations. References were repeatedly made by the Carinthian authorities as well as members of the *Länder* Parliament to a 'package' being agreed upon with regard to minority education, cultural support, and the issue of signposting. The Advisory Committee underlines that the protection of the rights of persons belonging to national minorities stems from Austria's international obligations as

well as its constitutional provisions and relevant Court rulings and must not be the subject of political 'deal-making'.

In addition, the Advisory Committee notes with concern that repeated reference is being made in this context to the insufficient implementation of minority rights by neighbouring states. The Advisory Committee reiterates that the rights protected under the Framework Convention are not conditional to progress recorded on similar issues in neighbouring countries and cautions that this type of discourse distorts the debate related to the protection of individual rights and can have a negative impact on the public perception of persons belonging to national minorities.

The Advisory Committee is pleased to note the extensive private and academic initiatives to bridge the remaining separation between majority and minority in Carinthia, caused among others by the still prevailing differences in perception of local history. It finds however, that apart from the cultural support provided to minority organisations by the National Minorities Office in Klagenfurt, too little is done by the *Länder* authorities to promote tolerance and mutual respect within broader society. On the contrary, the Advisory Committee is concerned by reports that some parts of the local government continue to instigate hostility against the Slovene minority.

The Advisory Committee notes with interest the role of the Catholic Church in Carinthia which has, for years, offered bilingual services in municipalities with a mixed population and has thereby contributed to inter-ethnic harmony and understanding in the region.

#### *Recommendations*

The Advisory Committee urges the Austrian authorities to engage in further efforts to promote a climate of tolerance in Carinthia and to condemn all attempts, including from within the political spectrum, to instigate hostility against the Slovene minority in Carinthia.

The Advisory Committee further urges the Carinthian authorities to contribute to improved inter-ethnic relations and trust based on unconditional respect for relevant international and national minority rights guarantees.

#### Combating racism and intolerance

##### *Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee called on the authorities to continue their efforts to tackle racism and racially-motivated violence. In particular, it urged the authorities to take measures to better monitor and sanction all racially-motivated violence and invited them to condemn all manifestations of intolerance and racism, including in the political sphere.

*Present situation*

Noting that the State Report argues that racism and xenophobia do not fall within the scope of the Framework Convention as persons belonging to national minorities are not foreigners and are not perceived as such, the Advisory Committee stresses that Article 6 of the Framework Convention applies to *all persons* living on the territory of the State party.

The Advisory Committee welcomes the sustained efforts made by the authorities to fight intolerance, racism, xenophobia and anti-Semitism, including through human rights training of law enforcement personnel and the judiciary, as well as the continued work of the Human Rights Advisory Council within the Ministry of the Interior. It notes with concern, that instances of excessive use of force by the police, especially in relation to persons of African or Roma origin, and discrimination in the criminal justice system continue to be reported with some regularity, as are cases of xenophobic statements against minorities in the political sphere and the media. In addition, there still appears to be no institutional and systematic condemnation of the exploitation of racism in politics, despite the fact that some incidents of xenophobic incitement within far-right parties have been appropriately sanctioned.

The Advisory Committee further regrets the fact that the practice of 'ethnic profiling' among the police forces continues to be reported and is even openly called for by certain political parties. In this regard, it welcomes the police initiative 'Vienna needs you' (*Wien braucht Dich*) which is aimed at attracting suitable candidates with minority background into the police forces. The Advisory Committee notes, however, that the recruitment procedures were not adjusted accordingly.

The Advisory Committee welcomes that § 283 of the Criminal Code has been amended in order to improve the effectiveness of criminal law protection against racism and xenophobia in line with the relevant European Council Framework Decision of 2008. However, it regrets that the provision still criminalises incitement against a specific group of persons only if it occurs "in a manner that is suited to jeopardise public order" or "perceivable by the broad public". In addition, the Advisory Committee notes that § 283 as well as § 33 (5), according to which racist or xenophobic motivation constitutes an aggravating circumstances to any offence, are only rarely applied and lead to a verdict even more seldom. There appears to be still no systematic monitoring of all racially motivated incidents and their follow-up within the police forces and judiciary, which would be essential for a comprehensive assessment of the adequacy and efficiency of the criminal law provisions at issue.

*Recommendation*

The Advisory Committee urges the Austrian authorities to redouble their efforts to resolutely combat all forms of racism and xenophobia and, in particular, to strongly condemn all manifestations of intolerance in the political sphere. Measures must be increased to systematically monitor and appropriately sanction all racially-motivated

violence and to raise further awareness on the different manifestations of discrimination and racism among the public at large.

### Media portrayal of minorities

#### *Recommendations from the two previous cycles of monitoring*

In previous monitoring cycles, the Advisory Committee invited the authorities to pursue their efforts to ensure that the media live up to its responsibility to promote tolerance and avoid stereotyping and negative portrayal of persons belonging to different ethnic and religious groups. It recommended further awareness-raising on these issues amongst journalists and the establishment of effective complaint mechanisms while fully respecting the freedom of expression and editorial independence of the media.

#### *Present situation*

The Advisory Committee welcomes that the Press Council, which was inactive since 2002, reconstituted itself in March 2010 to promote self-regulation and quality of standards within Austrian print media. Reportedly, however, the Council has thus far failed to play an active role in promoting ethical standards concerning minority rights among journalists, as negative portrayals and stereotyping of minorities in the Austrian media still appear with some regularity. The Advisory Committee points out in this regard that self-regulation through responsible and independent bodies can be a very efficient tool in the promotion of qualitative and principled reporting, particularly if they are also engaged in relevant training and awareness-raising activities for journalists.

The Advisory Committee is pleased to note the initiatives of 'M-Media', an organisation of migrants that creates its own media and seeks to influence their portrayal in the mainstream media, among others through the organisation of relevant conferences, studies and seminars, aiming to create a generation of journalists that is trained and equipped to adequately reflect on multiculturalism and diversity in society. The Advisory Committee further welcomes the individual contributions of various media providers in the areas of integration and cultural diversity in Austria, including on the Internet.

#### *Recommendation*

The Advisory Committee calls on the Austrian authorities to combat by all available means the use of stereotypes and xenophobic language in all media, including through the application of sanctions where appropriate, while continuing to respect the principle of freedom of expression. It is essential that the media respect their own codes of conduct, which must be revised or expanded as necessary to include the new media.

### Integration and community relations

#### *Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee invited the Austrian authorities to continue to develop their integration policies and to take resolute measures to further promote equal opportunities for immigrants.

*Present situation*

The Advisory Committee welcomes the adoption of the National Action Plan on Integration in January 2010 which constitutes the framework for the federal integration objectives while the actual implementation of integration policies remains a local competence. The Plan entails commitments related to a wide range of relevant fields such as language, education, access to employment, the rule of law, social services, housing and health, and intercultural dialogue, and aims at the effective and equal participation of immigrants in economic, social and cultural affairs in Austria. The Advisory Committee is further pleased to note that the long-standing demand of non-governmental groups for the creation of a separate government entity on the issue of integration finally led to the establishment of a State Secretariat for Integration in April 2011. The Advisory Committee expresses its concern, however, that the State Secretary forms part of the Interior Ministry which appears to link integration matters to security concerns.

The Advisory Committee equally welcomes the continued and successful activities of the Municipal Department for Intercultural and Integration Affairs of the City of Vienna and the range of its activities to value diversity and promote equal opportunities for persons of immigrant and minority background, including Roma. The Advisory Committee learned, however, from minority representatives that the various programmes would gain from closer consultation with minority representatives and their direct involvement in the implementation, monitoring and evaluation of the various activities.

The Advisory Committee is concerned that the on-going debate on amendments to the alien and asylum legislation could have a negative effect on the levels of tolerance and understanding in community relations. The amendments appear to further restrict the rights of foreigners and include controversial proposals related to the detention of minors and accelerated deportation procedures, which have been criticised widely, including by the Human Rights Advisory Council within the Ministry of the Interior. As regards the integration of foreigners, the Advisory Committee notes that the new Settlement and Residence Act of 2006 retains the system of the 'integration contract', which requires foreigners to attend German-language and civic education classes as a condition for long-term or permanent residence. While acknowledging the importance of language as a tool for integration, the Advisory Committee would like to stress that integration involves both the majority and minority communities and should not rely disproportionately on the efforts to be made by foreigners. In addition, the Advisory Committee considers coercion an inappropriate measure to promote integration.

*Recommendation*

The Advisory Committee strongly encourages the Austrian authorities to ensure that all efforts to promote social cohesion and integration of persons of minority and immigrant background are implemented, monitored and evaluated in close coordination with minority representatives to ensure maximum efficiency.

4. Azerbaijan

*Opinion adopted on 10 October 2012*

Article 6 of the Framework Convention

Intolerance against persons belonging to national minorities and hate speech

*Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee urged the authorities to combat all manifestations of intolerance against persons belonging to national minorities, in particular those of Armenian origin, and to monitor closely the dissemination of hate speech, prejudice and stigmatisation through the media. The authorities were further invited to promote efforts made by civil society to maintain a climate of inter-ethnic and inter-religious tolerance and mutual dialogue and to promote relevant human rights standards throughout the country.

*Present situation*

The Advisory Committee notes again the general sense of tolerance and understanding prevailing in Azerbaijani society, as well as the attention paid by the authorities to multi-ethnicity and diversity. At the same time, the Advisory Committee notes a very persistent public narrative surrounding the Nagorno Karabakh conflict that identifies variably 'Armenia' or 'Armenians' as "the enemy" and openly promulgates hate messages, in particular on the Internet. While aware of the extent to which the conflict and the related loss of life and livelihoods has traumatised society, the Advisory Committee is deeply concerned by the levels of official involvement in endorsing and disseminating such views, as they are often directed also against Azerbaijani citizens of ethnic Armenian origin as well as anybody else who may be seen as affiliated with Armenia. The term 'Armenian' indeed appears to be used and understood as an insult, which may contribute to the fact that very few ethnic Armenians identify themselves as such by, for instance, registering their ethnicity in the census (see comments on Article 3 above). The Advisory Committee deplores the impact this public discourse has on parts of the population, as it reportedly continues to give rise to widespread discriminatory behaviour against persons of Armenian origin. Given the difficult relations that Azerbaijan holds also with other neighbouring states, the Advisory Committee fears that official and media identification of ethnic minorities as "traitors" and "enemies" could spread to other groups as well.

In view of the above and based on its discussions with various interlocutors, the Advisory Committee is disconcerted by the perception that individuals may be insulted or even charged with criminal offences based on their belonging to a certain minority group or their engagement in advocating for the rights of such groups. In this context, the Advisory Committee considers it of particular importance that international and national human rights and fair trial standards are not only well-understood among society at large and relevant officials, but also scrupulously applied. It notes with deep concern that there continue to exist significant gaps as regards the due process guarantees of the accused,

especially related to the presumption of innocence, effective legal representation, and the right to an impartial and independent tribunal, which appears to particularly affect persons engaged in human rights related work, including minority rights (see comments on Article 7 below).

*Recommendation*

The Advisory Committee strongly urges the authorities to abstain from all manifestations of intolerance and prejudice against persons belonging to some minority groups, including in official discourse. No one must be suspected or accused of disloyalty to the state based on his or her affiliation with a national minority and all efforts must be made to ensure that the justice system adequately guarantees due process of law.

Relations with the police

*Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee urged the authorities to raise the awareness and accountability of law enforcement agencies in their treatment of individuals, including persons belonging to national minorities, to ensure that they feel free to report possible cases of discrimination and other abuses to the police. It noted that minority rights standards should be enhanced, among others, through their inclusion in the training curriculum of the Police Academy.

*Present situation*

The Advisory Committee welcomes increased efforts by the Ministry of the Interior to provide initial and ongoing training to the police forces in international and national human rights protection standards, including within the context of international exchanges of best practices. An internal review commission has been created to monitor complaints regarding police misbehaviour and has received over 600 such complaints, 136 of which resulted in disciplinary action taken against the officer concerned. The Advisory Committee refers with deep concern however, to the persistent reports of ill-treatment and police brutality, which appear to occur with particular frequency in the investigative and pre-trial phases and are directed especially against human rights defenders and political detainees (see comments on Article 7 below). While noting efforts by the Office of the Ombudsperson regarding the conditions in the penitentiary system as well as the creation of a national preventive mechanism on Torture or other Cruel, Inhuman or Degrading Treatment or Punishment at the end of 2010, the Advisory Committee remains alarmed by the situation which, reportedly, is deteriorating. It further understands that the above conditions give rise to a marked distrust of the population, including persons belonging to national minorities, in the independence and professionalism of the police and national security services.

*Recommendation*

The Advisory Committee again urges the authorities to ensure without delay that all law enforcement agents are trained and instructed to abide by the law and that they refrain

from any cruel, degrading or inhuman treatment against persons under arrest or detention, irrespective of the type of accusation. Particular efforts must be made to restore the trust of the population in the professionalism of its law enforcement agents, among others by ensuring that any misconduct is swiftly investigated and appropriately sanctioned.

#### Situation of refugees and asylum-seekers

##### *Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee called on the authorities to increase their efforts towards the protection of asylum seekers and refugees in co-operation with the United Nations High Commissioner for Refugees (UNHCR), and to consider ways of ensuring equal access of these groups to fundamental rights, including education.

##### *Present situation*

The Advisory Committee notes that thus far only two cases have been recognised as refugees out of 327 applications pending with the State Migration Service since it started functioning in 2007. Altogether, the refugee and asylum seeker population comprises 1756 persons; roughly half are UNHCR mandate refugees from Chechnya who are protected against deportation and tolerated on the territory but who do not receive any support from the authorities aside from the continued access to schools for Chechen refugee children. Recognised refugees have no right to seek employment and are, thus, entirely reliant on UNHCR support. Overall, the majority of refugees are reported to live in dire economic and housing conditions, with widespread malnutrition and poor hygiene leading to multiple health complications. In addition, Chechens continue to face prejudice and discrimination from parts of the local population as well as more frequent checks and abuse from law enforcement officers. An additional concern regards the civil rights of refugees and asylum seekers, as they reportedly face obstacles and delays in the issuance of legal documents, including as regards the registration of marriage or birth of children.

##### *Recommendation*

The Advisory Committee reiterates its call on the authorities to urgently increase their efforts to protect the rights of refugees and asylum seekers in line with their international and national commitments and in close co-operation with UNHCR.

5. Bosnia and Herzegovina  
*Opinion adopted on 7 March 2013*



## Article 6 of the Framework Convention

### Tolerance and community relations

#### *Recommendations from the two previous cycles of monitoring*

In previous monitoring cycles, the Advisory Committee urged the authorities at all levels to take more resolute measures to promote intercultural dialogue and mutual understanding between the different ethnic and religious groups. It also invited the authorities to ensure that the public had easy access to media supervisory bodies and complaints systems and that the Communications Regulatory Agency was in a position to continue its independent monitoring of the media.

#### *Present situation*

The Advisory Committee observes with deep regret that political debates in Bosnia and Herzegovina generally continue to be dominated by questions concerning relations between the three constituent peoples. Politicians frequently take divisive stances, emphasising the differences between constituent peoples and portraying those belonging to a group other than their own as a threat. These positions are taken up and amplified by mainstream media. As a result, ethnic tensions between constituent peoples are fuelled rather than defused, and dividing lines accentuated rather than bridges built. The Advisory Committee is deeply concerned at this situation, which has clearly not improved in recent years. It stresses that, as part of implementing the Framework Convention, States Parties should promote mutual respect, understanding and co-operation amongst all persons living on their territory.

As a result of this situation, persons classified as “Others” in the terminology of the constitution – including persons belonging to national minorities – remain sidelined from political debates and largely absent from the mainstream media. This sidelining of national minorities is also reflected in the continued lack of visibility of their history, cultural heritage and languages in school curricula and textbooks (see further below, Article 12). Moreover, discrimination against “Others”, including persons belonging to national minorities, as regards access to political posts is not only a reflection of the lack of weight given to them in the construction of the State: it also means that they are not in a position to significantly influence debates or to bring pressure to bear themselves to improve the situation of persons who do not belong to one of the constituent peoples in Bosnian society (see further below, Article 15).

The Advisory Committee also notes that religious education in schools is treated as part of the “national” group of subjects and is thus closely associated with ethnic belonging. Moreover, although religious education is theoretically optional, only Sarajevo Canton provides an alternative course (“Culture of religion”), and children who opt out of religious education are in most cases simply left without supervision. This creates strong pressure on parents to enrol their children in the religious education classes associated with the

relevant “national” group of subjects, regardless of their religious beliefs. The Advisory Committee also notes with concern that the decision of Sarajevo Canton – aimed at preventing discrimination against pupils who do not follow religious education – to provide that marks received by students for religious education would not count towards their average grade was surrounded by public controversy. The Advisory Committee is concerned that this situation, in which religion is conflated with ethnic affiliation and instrumentalised in public debates, again serves to perpetuate divisions in Bosnian society. It is moreover deeply concerned that children are the primary victims of this state of affairs.

The Advisory Committee is also concerned that the independence of the Communications Regulatory Agency has been threatened by proposals to introduce ethnic and political appointments criteria. It stresses the importance of ensuring that the broadcast regulator is independent and impartial and that complaints systems are fair and accessible to all citizens.

#### *Recommendations*

The Advisory Committee strongly urges the authorities at all levels to take resolute measures to promote intercultural dialogue and mutual understanding between the different ethnic and religious groups in Bosnia and Herzegovina. It invites them in particular to condemn all manifestations of intolerance and ethnically motivated hostility in the political sphere and actively to promote a sense of belonging to a shared country, in line with the spirit of promoting mutual respect, tolerance and understanding amongst all persons living on the territory of the State that is central to the provisions of the Framework Convention.

It also urges the authorities to ensure that the manner in which religion is taught in schools does not serve to perpetuate divisions in Bosnian society.

The Advisory Committee again invites the authorities to ensure that the public has easy access to media supervisory bodies and complaints systems and that the Communications Regulatory Agency remains in a position to continue its independent monitoring of the media.

#### Return process and hostility directed against minority returnees

##### *Recommendations from the two previous cycles of monitoring*

In its previous monitoring cycles, the Advisory Committee urged the authorities to combat all forms of hostility directed at minority returnees, to undertake systematic monitoring of hate crimes and ensure that the police were adequately trained in this field.

*Present situation*

The Advisory Committee welcomes the fact that the process of returns of property to persons displaced by the war, carried out under Annex 7 to the Dayton Agreement, is largely completed. However, it observes that the return of property has not been accompanied by a concomitant number of returns of people, as many of those who recovered property under Annex 7 have never returned to live permanently in it. Moreover, while there have been a series of welcome developments towards the removal of ethnically exclusive flags and coats of arms, the Advisory Committee regrets that such symbols are still instrumentalised to send a message of exclusion and that the intervention of the courts has frequently been necessary to achieve change in practice. Strong nationalist rhetoric of politicians as well as ethnic discrimination in access to the labour market and access to other social rights also continue to act as barriers to returns of people, and the passage of time makes returns increasingly unlikely.

The Advisory Committee notes that reports of ethnically motivated violence against returnees have diminished in the past few years. Nonetheless, there have been numerous attacks against religious properties and sites, mostly targeting mosques, Catholic and Serbian Orthodox churches and cemeteries (i.e. religious sites closely associated with the respective constituent peoples). Persons belonging to the constituent peoples thus continue to be targeted by hate-motivated attacks, in particular where they are in a minority situation. Other racist and xenophobic incidents also continue to be reported. Despite the fact that a number of institutions are reportedly engaged in collecting figures on hate-motivated crimes, it also appears that there is still no systematic monitoring of such offences in Bosnia and Herzegovina and racist motivations are not expressly recognised as an aggravating circumstance in the Criminal Code. Moreover, low numbers of complaints of hate crimes by Roma (three reported to the OSCE in 2011) may in part be due to lack of trust in the police, as police abuse of Roma is reportedly not uncommon.

*Recommendations*

The Advisory Committee urges the authorities to intensify their efforts to combat all forms of hostility directed at minority groups, whether these are minority returnees, constituent people in a minority situation more generally or persons belonging to national minorities.

It also calls on the authorities to strengthen their efforts to monitor hate crimes systematically. A unified method of recording complaints, accusations and convictions for hate crimes should be established and the police need to be trained to identify all forms of hate crimes and record them accurately. Racist motivations should also be expressly recognised as aggravating circumstances in the Criminal Code.

## 6. Bulgaria

*Opinion adopted on 11 February 2014*

## Article 6 of the Framework Convention

### Tolerance and intercultural dialogue

#### *Recommendations from the two previous cycles of monitoring*

In its previous monitoring cycles, the Advisory Committee called on the authorities to take further legislative and policy measures to combat manifestations of racism in the media, and to take the necessary steps to prosecute incitement to ethnic or religious hatred in the media. It called on the authorities to combat intolerance and hate speech in politics and to promote respect for ethnic diversity. It further recommended that the authorities adopt specific measures to foster a social climate more receptive to diversity and intercultural dialogue, including through reviewing the compulsory curriculum and existing school textbooks, with a view to ensuring a better reflection of the history, culture and traditions of national minorities.

#### *Present situation*

While many of its interlocutors pointed to long-standing traditions of interethnic tolerance in Bulgaria, the Advisory Committee notes with regret that the overall climate appears nonetheless to have become less receptive to diversity since its second Opinion. There has been an increase in racist discourse and attacks (see further below), which both reflects and feeds into this negative trend. Racism has become increasingly widespread in political discourse and in the media. The Advisory Committee expresses its concern at the proliferation of extremist political parties, some of which have close links to private television stations; an additional such party was moreover formed in November 2013, and applied for registration in January 2014. Certain far right-wing political parties actively instrumentalise anti-immigrant and anti-Roma sentiments present amongst the population, and the failure by mainstream parties to effectively counter their messages risks normalising a climate of intolerance against these groups.

Anti-Roma and anti-immigrant rhetoric have become an increasingly regular part of the political scene. In the latter case, the government's policy responses to the influx of approximately 12 000 asylum-seekers in 2013 – including proposing the building of a fence along part of its border with Turkey – have tended to aggravate rather than attenuate these messages. Minorities have also pointed to Decree No. 2/2009 of the Ministry of Education, which bans schoolteachers from talking to pupils in minority languages outside minority language classes, as stigmatising and creating a sense of guilt around expressing oneself in one's mother tongue, without creating any positive feelings about speaking Bulgarian. Pomaks have also reported that many politicians tend to use them, together with Turks and Roma, as scapegoats to be blamed for the country's socio-economic situation, instead of taking measures to address the real causes of socio-economic difficulties. The Advisory Committee is worried that the overall effect is to create an atmosphere of hostility towards and at times fear amongst persons belonging to the above groups.

While legal remedies do exist in cases of hate speech, it appears that they are not very effective in practice. The Advisory Committee notes with concern that the case-law of the Supreme Administrative Court in this field appears to be inconsistent, making the parameters of the prohibition on hate speech hard to grasp and weakening the overall impact of the relevant criminal law provisions. The Advisory Committee regrets for example that no action appears to have been taken against the leader of one far right-wing party that, inter alia, distributed anti-Roma leaflets during the Katunitsa events of 2011 (see further below) – although, following an incident in which he was alleged to have assaulted a foreign diplomat, the Prosecutor General requested the lifting of his parliamentary immunity.

As discussed elsewhere in this Opinion (see above, comments under Article 5), the exclusive focus by mainstream political parties on the socio-economic integration of Roma, while aiming at resolving crucial problems for many of them, at the same time perpetuates stereotypes of Roma as poor and welfare-dependent, while ignoring both their status as a national minority with a distinct cultural heritage and the success stories of many Roma – aspects which could be built upon to help overcome persistent prejudice against them. Moreover, while Pomaks indicate that they generally have good relationships with the rest of the population on an individual level, many report being advised that if they wish to have successful careers, particularly in politics or the civil service, they should refrain from mentioning their belonging to this group.

Anti-Roma, anti-Turkish, anti-Macedonian and anti-immigrant discourse are reportedly also frequent in the media, notably (but not only) on the stations with links to far right-wing parties. Roma representatives report that some media openly target Roma families, women and children, manipulating data about birth rates in their communities and depicting them inter alia as a demographic threat to Bulgaria. The Council for Electronic Media has indicated that since 2010, it has issued a total of 25 administrative findings of breaches of Article 8 or 10 of the Law on Radio and Television, which prohibit instigating hatred via the media. While this is welcome, the number appears low given the close links to extreme-right parties of certain electronic media and the numerous accounts of hate speech in the media received by the Advisory Committee.

The Advisory Committee is concerned that the overall climate as regards racism and intolerance in Bulgaria has deteriorated since its previous Opinion. It recalls that the Framework Convention requires States Parties to encourage tolerance and intercultural dialogue amongst all persons living on their territory. It stresses the need to promote these attitudes amongst the population from the youngest ages, and refers in this respect to its findings under Article 12 below.

#### *Recommendations*

The Advisory Committee urges the authorities to take the lead in systematically condemning hate crimes and hate speech. Allegations of incitement to ethnic or racial

hatred under the relevant provisions of Bulgarian criminal law should also be systematically investigated, prosecuted and punished where appropriate, and adequate training provided to the police, prosecution authorities and judiciary at all levels to ensure that the law is consistently and coherently applied.

The Advisory Committee also calls on the authorities, while fully respecting the independence of the media, to intensify their efforts to find effective ways to combat manifestations of racism and intolerance in the media.

The Advisory Committee urges the authorities to intensify their efforts to promote tolerance, understanding and intercultural dialogue among the population as a whole.

### Hate crimes

#### *Recommendations from the two previous cycles of monitoring*

In its previous monitoring cycles, the Advisory Committee recommended that the Criminal Code expressly provide that racist motivations for any ordinary offence constitute an aggravating circumstance and that all racially motivated acts be effectively identified, investigated, prosecuted and sanctioned as necessary. It further considered that systematic monitoring of these acts should be carried out by the authorities.

#### *Present situation*

Following amendments made to the Criminal Code in 2011, racist and xenophobic motives are now included as specific aggravating circumstances for the offences of murder and bodily harm. However, there is still no general provision requiring racist motivations to be taken into account as an aggravating circumstance for all criminal offences, and civil society organisations report that possible racist motivations are rarely investigated or taken into account. Moreover, they also report that offences for which charges could be brought under the criminal law provisions that expressly prohibit specific racist acts are rarely prosecuted as such. In this context, the authorities have acknowledged that the definitions of racist offences and hooliganism used in the Criminal Code are very close and that the decision as to the offence to be prosecuted in any given case will be based on the evidence available. The Advisory Committee notes that the European Commission against Racism and Intolerance (ECRI) will be examining the contents of the criminal legislation applicable to hate-motivated offences in depth in drawing up its fifth report on Bulgaria and has already addressed this question in the past. It refers to ECRI's detailed findings and recommendations in this regard. As regards the application of the criminal law, however, the Advisory Committee wishes to draw the authorities' attention to the importance of rapidly identifying cases where racist motivations may have been at play and thoroughly investigating this aspect of such cases, in order to ensure not only that offences committed with racist motivations are punished as such but also that the relevant provisions are able to play their preventive function to the full.

The Advisory Committee is deeply concerned that there have been a number of serious racist attacks against individuals and groups since its previous Opinion. Since early 2013, when a significantly higher number of asylum-seekers than usual began arriving in Bulgaria, notably from Syria, there has been a worrying rise of physical attacks against refugees, asylum-seekers and persons perceived as belonging to one of these groups. In early November 2013 alone, a Malian teenager was reportedly stabbed close to a mosque in Sofia, a man of Turkish origin was beaten to a coma – according to some reports, because he was mistaken for a refugee –, and a Syrian teenager was also attacked. Villages have organised protests against the creation of reception centres for asylum-seekers in their vicinity, and far right-wing groups created “civilian patrols”, which the authorities took some weeks to declare problematic, after issuing an ultimatum to the authorities to “clean” the streets of illegal immigrants. In parallel, there have been numerous attacks on places of worship used by persons belonging to national minorities, notably mosques. A particularly violent attack was carried out in May 2011 against the Banya Bashi mosque in Sofia during Friday prayers, and injured several persons.

The Advisory Committee is also particularly concerned that, following events in Katunitsa, near Plovdiv, in September 2011, a wave of anti-Roma protests and attacks of particular intensity occurred throughout numerous Bulgarian towns and villages, lasting several days. An estimated 2 200 people participated in these protests, in which slogans inciting violence against Roma were displayed, and tens of thousands of persons registered on Facebook pages created following these events and relaying anti-Roma messages. Roma representatives have reported that as a result of these events – in which Roma persons who had no link to the initial incident were physically attacked as they went about their ordinary business in places as far away from Katunitsa as Burgas and Blagoevgrad – many Roma parents stopped sending their children to school, and in some neighbourhoods, they began organising their own defence groups, as they lacked confidence that they would be adequately protected by the police. While the protests appear to have died down after approximately a week, numerous physical attacks against Roma continued to be reported in the following weeks and months.

The Advisory Committee is deeply worried by this situation and recalls that it is an obligation of States Parties to undertake appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity. The Advisory Committee underlines the especially damaging nature of attacks against persons that are based on their inalienable characteristics or profoundly held beliefs and emphasises that leading politicians, as well as the authorities more generally, have a particular responsibility to condemn all hate-motivated offences and systematically and effectively promote a society based on tolerance and mutual respect.

*Recommendation*

The Advisory Committee reiterates its recommendation that the Bulgarian authorities amend the Criminal Code so that it expressly provides that racist motivations constitute an aggravating circumstance for all criminal offences. It urges the authorities to step up their efforts without delay to ensure that all racially motivated offences are effectively identified, investigated, prosecuted and sanctioned as such. In this respect, intensified training for the police, prosecution authorities and judiciary would be particularly valuable. Such offences should also be systematically monitored.

7. Croatia

*Opinion adopted on 27 May 2010*

Article 6 of the Framework Convention

Promotion of tolerance

*Recommendations from the two previous cycles of monitoring*

In the two previous cycles of monitoring, the Advisory Committee urged the authorities to further their efforts to promote tolerance and intercultural dialogue, particularly at regional and local level, and to include local minority councils and their coordination bodies in this process.

*Present situation*

The Advisory Committee notes with interest that the Council for National Minorities organises regularly in co-operation with national minority organisations joint activities under the heading "Cultural Creativity of National Minorities in Croatia" for all national minorities, which aim at the recognition of minority cultures. It also notes that, in connection with the European Union's European Year of Intercultural Dialogue 2008, numerous events were organised by local authorities and civil society in order to promote and highlight the cultural, linguistic and religious diversity of Croatian society. Projects which were supported included the annual Jewish cultural festival "*Bejihad*", promoting intercultural and inter-religious dialogue, as well as a literary seminar "The Days of Vladan Desnica", named after a famous Croatian writer of Serbian origin.

The Advisory Committee notes, however, that according to some national minority representatives, minority culture is not being promoted as an integral part of the mainstream culture but rather presented as "marginal" within Croatian society. This undermines intercultural dialogue between persons belonging to national minorities and the majority and leads to isolation of minority cultures and the assimilation of persons belonging to national minorities into the majority culture which is perceived as more advanced.



*Recommendation*

The Advisory Committee invites the authorities to promote intercultural dialogue between minority and majority cultures and to include minority cultures as an integral part of Croatian culture with due regard to their specific characteristics and contribution to Croatian society.

## Stereotyping in the media

*Recommendations from the two previous cycles of monitoring*

In the previous cycles of monitoring, the Advisory Committee concluded that many media still report in a manner that strengthens negative stereotyping of certain national minorities. It recommended that the proposals to create a self-regulatory scheme, dealing also with complaints regarding reporting on minority issues and independent monitoring of media's portrayal of minority issues be supported.

*Present situation*

The Advisory Committee notes that, according to the information available from a variety of sources, including international organisations and Croatian human rights NGOs, the level of negative stereotyping of national minorities in the media has decreased in recent years. However, NGOs engaged in monitoring Croatian media for cases of hate speech reported that such cases, while identified occasionally in all kinds of media, are in particular still present on internet websites, blogs and discussion forums.

The Advisory Committee notes that the Council for Electronic Media, established under the Law on Electronic Media as an independent regulatory body, has been given the task of supervising the activities of radio and television broadcasters for compliance with this law and has been given the right to revoke a license or to start judicial procedures in cases of alleged breaches of impartiality or hate speech.

The Advisory Committee also notes that the Croatian Journalists' Association adopted a Code of Ethics which obliges journalists to defend human rights, dignity and freedom and to respect pluralism of ideas and attitudes. The Code also stresses the need to respect the ethics of public expression and the culture of dialogue and to respect human dignity and the integrity of the person. The Advisory Committee notes that the enforcement of the Code of Ethics has been delegated to individual editors. However, only one newspaper (*Jutarnji list*) has adopted rules for sanctioning journalists for breaking the Code.

*Recommendations*

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

While fully respecting the editorial independence of the media, the authorities, as well as the Council for Electronic Media, must take the necessary steps to combat cases of ethnic hatred, so as to prevent such violations in the future. Increased attention must be paid by all those concerned to the implementation of the existing journalists' code of ethics.

#### Judiciary and war crimes trials

##### *Recommendations from the two previous cycles of monitoring*

In its two previous cycles of monitoring, the Advisory Committee strongly encouraged the authorities to further prevent and eliminate any ethnic bias in the judiciary, including through comprehensive training, and to increase generally their efforts to improve the effectiveness and capacity of the judicial system to protect the rights contained in the Framework Convention.

##### *Present situation*

The Advisory Committee notes with satisfaction that a mechanism has been introduced that enables persons belonging to the Serbian minority who have not yet returned to Croatia to request from outside Croatia a review of *in absentia* trials which marks a positive step. As foreseen by this mechanism, all cases in which final judgments were passed *in absentia* due to the inaccessibility of the defendants were reviewed by January 2009.

The Advisory Committee notes with deep concern that ethnic bias is reportedly still widespread in the ongoing war crimes trials. As also pointed out by other international bodies, courts often take the accused person's role in the 'defence of the homeland' as a mitigating factor, creating a clear ethnic bias in sentencing comparable crimes.

##### *Recommendation*

The Advisory Committee strongly urges the authorities to ensure that all war crimes trials are carried out in accordance with the rule of law and in a strictly non-discriminatory manner and to redouble their efforts to guarantee that all cases of war crimes are effectively prosecuted by fair trial, irrespective of the ethnicity of the victim and the presumed perpetrators involved.

#### Ethnically-motivated incidents

##### *Recommendations from the two previous cycles of monitoring*

In the previous cycles of monitoring, the Advisory Committee called on the authorities to combat attacks on religious buildings and cemeteries and to combat, generally, ethnically-motivated crime.

##### *Present situation*

Ethnically-motivated incidents against persons belonging to national minorities, in particular the Serbs and Roma, are of deep concern to the Advisory Committee. According to credible reports received by the Advisory Committee, a significant number of these

incidents, ranging from damage to property and threats to attacks with explosive devices occurred in the territory of Vukovar-Srijem, inhabited by many persons belonging to the Serbian minority.

The Advisory Committee notes that following the ECHR judgment in the case *Šečić v. Croatia* delivered in May 2007, in which the Court found that Croatia failed to investigate thoroughly and expeditiously a racially-motivated attack on a Roma man (which occurred in 1999), the authorities have undertaken measures to improve police investigations and the prosecution of such incidents.

However, the Advisory Committee also received reports that many cases of attacks against the Roma and persons belonging to the Serbian minority remain unreported due to basic lack of trust in the police and the judicial system. Various sources indicated to the Advisory Committee that high levels of discrimination and violence, in particular against Roma, remain a serious problem in Croatia, while the response from the law enforcement officials is inadequate. It is against this background that the Advisory Committee considers that any officially reported figures concerning racially-motivated crime must be treated with the utmost caution as they may well be lower than the reality.

The Advisory Committee is concerned by reports indicating that racism and anti-Semitism continue to plague Croatian football stadiums and their surroundings. According to reliable media reports, racist and anti-Semitic chants, slogans and gestures such as nazi salutes are not appropriately sanctioned or rebuffed by the players, referees, the football federation or the law enforcement bodies. The Advisory Committee notes with concern that measures to combat racist acts advocated by the European Commission against Racism and Intolerance (ECRI) and already spelled out in CM Recommendation Rec(2001)6 on the prevention of racism, xenophobia and racial intolerance in sport, have not been adequately applied in Croatia, in spite of recent amendments to the Act on Preventing Disorderly Behaviour at Sporting Events.

The Advisory Committee welcomes that in 2006, the Penal Code was amended to make discrimination relating to race, skin colour, gender, sexual orientation, ethnic origin, religion or other particularities an aggravating circumstance of any offence. The definition of an aggravated murder was also expanded to include motivation through racial hatred.

#### *Recommendations*

The Advisory Committee urges the authorities to prevent, identify, investigate, prosecute and sanction effectively all racially and ethnically-motivated or anti-Semitic acts. Systematic monitoring of these acts must be carried out by the authorities. The authorities must intensify awareness-raising measures and training programmes for law enforcement officials and the judiciary on tolerance and anti-discrimination issues.

The Advisory Committee strongly encourages the authorities to ensure that more vigorous action is taken to prevent, investigate and prosecute perpetrators of offences committed

with racial, anti-Semitic or xenophobic motives and to provide for constant monitoring of this phenomenon within the society.

The authorities should take decisive action against racist and anti-Semitic acts perpetrated prior, during and after football matches in the spirit of the Committee of Ministers Recommendation R(2001)6 on the prevention of racism, xenophobia and racial intolerance in sport. The Advisory Committee also encourages the authorities to increase public awareness of the problem and encourage sports professionals and fans to condemn racist attitudes and behaviour.

## 8. Cyprus

*Opinion adopted on 19 March 2010*

Article 6 of the Framework Convention

### Tolerance and intercultural dialogue

#### *Recommendations from the two previous monitoring cycles*

In the previous monitoring cycles, the Advisory Committee encouraged the authorities to make the majority population more aware of minority cultures as well as tolerance and intercultural dialogue and stressed the key role of education and the media in this respect. It also urged them to step up their efforts to raise awareness of the problems of racism and discrimination based on race, ethnic origin or religion among all the relevant stakeholders, including the police and the judiciary.

The authorities were urged to adopt more effective measures for the protection of non-nationals and to make available appropriate human, technical and financial resources to deal better with the many problems encountered in this field. The Advisory Committee thought it essential that a comprehensive and coordinated integration strategy should be drawn up and implemented without delay.

#### *Present situation*

The Advisory Committee welcomes the efforts made in history teaching to reflect the culture, traditions and history of the various groups, including the three "religious groups", and properly present their contribution to the cultural wealth of Cypriot society. Efforts to train teachers to work in a multicultural environment have been reported. Similarly, new curricula and teaching methods have been developed for human rights. Various awareness-raising activities on tolerance and mutual respect have been carried out in connection with the European Year of Intercultural Dialogue (2008), including by the police in co-operation with associations representing the various ethnic groups.

The Advisory Committee takes positive note of the fact that the Cypriot press is devoting increasing attention to the growing diversity of Cypriot society and the problems encountered by some people in their efforts to integrate, including violations of their fundamental rights.

Nevertheless, the Advisory Committee notes with regret that, despite the general climate of tolerance and respect for different identities, including those of the “religious groups” protected under the Framework Convention, Cypriot society is still marked by the divide between the two Communities - the Greek Cypriot Community and the Turkish Cypriot Community - and by the absence, at this stage, of a solution to the Cyprus conflict. Unsolved property-related problems also have a negative effect on relations between the two Communities.

Whilst welcoming the positive developments recorded over the past few years, the Advisory Committee notes with concern a number of disturbing developments. Indeed, according to various sources, instances of hostility to persons belonging to certain groups still persist in Cypriot society. Although attitudes to the “religious groups” are generally positive, these instances sometimes also affect members of these groups, especially the Maronites.

For example, the past few years have seen a worrying rise in xenophobic tendencies, racially-motivated attacks, and tension between parts of the local population and migrants. These hostile attitudes, especially with regard to illegal workers, have been compounded by the current recession and are often stirred up by inappropriate media treatment.

A particularly disturbing tendency has been reported in the field of education, with a proliferation of racist attitudes in schools, going so far as violent incidents. Whilst noting the Government’s commitment to combating this phenomenon, the Advisory Committee believes that firm and immediate action is essential. Such action includes adequate investigation and sanctioning of the perpetrators of such acts as well as specific measures to prevent repetition of such incidents in future. Insufficient steps have been taken to ensure effective integration of migrant children in the Cypriot education system and more sustained efforts are needed to meet their needs, including as regards the teaching of Greek.

The Advisory Committee notes with interest that the Office of the Ombudsperson has expressed concern, through several recent interventions and propositions, over difficulties facing non-nationals in different sectors, including the manifestation of hostility and discrimination towards them. It notes that, in this context, the Office of the Ombudsperson has addressed a number of general recommendations to the authorities. The latter has been urged to develop and implement a coherent migration policy, to address comprehensively the reception, living conditions and integration of migrant workers within Cypriot society. The Advisory Committee stresses that, as stated in the above-mentioned general recommendations, the migration policy should be coordinated with a more comprehensive policy aimed at ensuring social cohesion and solidarity within Cypriot society, while respecting the identity and fundamental rights of all without discrimination, irrespective of their legal status. Such an approach would contribute towards a more satisfactory implementation of the principles enshrined in Article 6 of the Framework Convention.

In the light of the above developments, the Advisory Committee is concerned that, while the adoption of a comprehensive Government integration strategy was planned several years ago, this has still not materialised. It believes that such a strategy, combined with an implementation plan with consistent and coordinated measures with a clear timetable and earmarked resources, are essential to tackle the above-mentioned problems effectively and are instrumental for a more adequate implementation of Article 6 of the Framework Convention. Moreover, given the major demographic changes that have occurred over the past few years and the frequent movements of a certain part of the population both within and outside government-controlled territory, it believes it crucial for the authorities to try to obtain up-to-date information on the make-up of the population and its situation in various fields (see also the comments on Article 3 above).

The Advisory Committee notes with concern that, while part of the press is making an obvious effort to help maintain a climate of tolerance and dialogue, some media continue to reflect expressions of intolerance and sentiments of hostility and fear towards immigrants (including the large number of irregular migrants). It finds it unfortunate that such media is not more constructive in portraying the challenges raised by the complex political and demographic changes that Cypriot society is undergoing. It nevertheless takes note with interest, in this connection, of the fact that a Code of Ethics for journalists is being developed by the journalists' association.

#### *Recommendations*

The authorities should step up their efforts to ensure that the population is informed and more aware about tolerance and respect for diversity. Efforts should be increased to prepare teachers and the education system more effectively for multicultural and intercultural education.

Resolute measures should be taken, in the spirit of the Committee of Ministers' Recommendation N° R(97)20 on "Hate Speech", to combat the dissemination of stereotypes or intolerant speech by the media, with due respect to their editorial independence. While increasing awareness-raising measures for journalists, the authorities should also encourage the media to develop and strengthen their own regulatory and monitoring mechanisms, so that the latter can play an increased role in promoting tolerance and intercultural dialogue.

Targeted measures should be taken to combat and sanction effectively instances of discrimination and intolerance towards persons belonging to vulnerable groups, including asylum-seekers and migrant workers.

The authorities should adopt without further delay an integration strategy and implement it in society. Special measures should be adopted to support persons belonging to vulnerable groups in the various sectors of concern.

## Police and human rights

### *Recommendations from the two previous monitoring cycles*

In the previous monitoring cycles, the authorities were encouraged to be resolute in developing further measures to raise awareness in the police force of the need for respect for human rights as well as to ensure that the newly introduced mechanisms for supervising the work of the police were being applied effectively.

### *Present situation*

The Advisory Committee notes that, over the past few years, increased attention has been paid within the police force to issues relating to racially-motivated crimes. Among the measures adopted in this domain, it observed the introduction of an electronic database on racially-motivated crimes, the establishment of a central office to handle cases of racism and xenophobia, and investigation of better ways and means of making potential victims aware of available remedies and means of defence and protection mechanisms.

As regards respect for human rights and the principles of equality and non-discrimination in policing, non-governmental sources continue to report cases of racially motivated abusive or discriminatory behaviour by police officers, including abuses in relations between the police and migrants, ethnic profiling and violations of the human rights against irregular migrant workers. The Advisory Committee notes, however, that very few of these cases are referred to the Ombudsperson or the courts and that racist motivation is seldom proved. At the same time, more generally, it is not clear whether racially-motivated crimes are always investigated as such or how the Cypriot courts treat racist motivation. The Advisory Committee notes with interest that the introduction of a racist or xenophobic motivation as an aggravating circumstance is reportedly under consideration. It observes however that the criminal law provisions in force only include protection against incitement to discrimination, hatred or ethnic and racial violence.

The Advisory Committee notes with interest that an independent authority was set up in 2006 with the power to handle complaints concerning possible policing failures, including human rights violations. It notes that, when further investigation is needed, the cases are taken over, upon decision by the above-mentioned authority, either by the Attorney General where a criminal dimension is found or by the police investigation board where disciplinary action is needed. It is thus particularly important to ensure effective investigation of the cases in question by the police board and, where appropriate, proper action by the disciplinary board in charge of imposing penalties.

### *Recommendations*

The Advisory Committee encourages the authorities to continue and step up training and awareness-raising for police officers on problems relating to racism and discrimination and to prepare them to work in a multicultural environment. All cases of human rights violations by police members must be urgently and adequately investigated and sanctioned and any possible racist or ethnic motivation of such acts should be explicitly addressed as a matter of priority.

The Advisory Committee encourages the authorities to review the legislation in force in order to ensure that it contains effective guarantees against hate crime, including by introducing racist or xenophobic motivation as an aggravating circumstance of any crime.

More attention should be paid to monitoring police work, in particular by ensuring that appropriate follow-up is given by the police investigation board and its disciplinary board to decisions taken by the independent authority in charge of handling complaints against police misconduct.

#### Situation of Turkish Cypriots living in the government-controlled territory

##### *Recommendations from the two previous monitoring cycles*

In the previous monitoring cycles, the Advisory Committee recommended adoption of effective measures to facilitate participation in the various sectors of public life by Turkish Cypriots living in government-controlled territory and to combat any instances of discrimination or hostility towards them. It called on the authorities to remove the legal obstacles preventing these persons from exercising their right to vote in parliamentary and presidential elections.

##### *Present situation*

The Advisory Committee takes note of the authorities' efforts to improve the situation of Turkish Cypriots in various sectors and create more favourable conditions for their effective participation in the social, economic and cultural life of Cypriot society (see State Report for details).

Thus, following the decision of the European Court of Human Rights in the case *Aziz V.* the Republic of Cyprus, a special law was passed in 2009 to allow Turkish Cypriots living in government-controlled territory to participate (vote and stand for election) in municipal, parliamentary and presidential elections. In the field of education, special measures and programmes have been developed to offer them easier access and provide classes in Turkish language and culture in the schools they attend. The Advisory Committee welcomes information in the State Report on, amongst other measures, the recruitment of Turkish Cypriot teachers to teach Turkish, the publication of bilingual material for the pupils concerned, the use of Greek-Turkish interpreters in schools with more Turkish Cypriots, the provision of free meals for Turkish Cypriot pupils in state schools, financial assistance with school fees for poor families (especially Roma), and free Greek and Turkish language courses for Turkish Cypriot children and their families in adult education centres.

Efforts are also being made to preserve and protect Turkish Cypriots' cultural heritage as well as to support cultural and arts events for all the communities living in Cyprus, including the Turkish Cypriots.

The public broadcasting corporation has made some efforts to promote intercultural understanding and relations between the Greek Cypriot community and the Turkish Cypriot community as well as with the other groups and has symbolically designated 2009



as the year of cohabitation ('Living Together'). State television broadcasts a monthly one-hour programme in Turkish devoted mainly to issues of interest to Turkish Cypriots but also to wider social and cultural problems, aimed at promoting interaction amongst the various groups in Cypriot society.

Despite these efforts, it appears that Turkish Cypriots are still at times facing hostile attitudes and difficulties, for instance in accessing social services and in education. The very limited use of Turkish, in spite of its status as an official language, complicates access to various public services for Turkish Cypriots, notwithstanding the measures taken by the authorities to provide information.

The Advisory Committee notes with deep concern that, while specific steps have been taken to promote multicultural education, many teachers are reportedly proving unresponsive to this policy and hostile attitudes to Turkish Cypriots continue to be reported in schools. It appears that a circular issued by the primary school teachers' union was urging its members, in particular with regard to planned visits by Turkish Cypriot teachers and pupils to Greek Cypriot schools, to refuse to implement targets set by the Ministry of Education for the development of a culture of peaceful coexistence with the Turkish Cypriots.

#### *Recommendations*

The authorities should continue and strengthen their efforts to provide the necessary conditions for Turkish Cypriots to be able to exercise their rights effectively and have full and equal access to public services.

Special attention should be paid to the linguistic problems encountered by these persons in access to services and enjoyment of rights and, more generally, to the implementation of constitutional provisions on the use of official languages in Cyprus. In addition, there should be more awareness-raising among the population and in the public sector with regard to tolerance and mutual respect.

#### Situation of the Roma living in the government-controlled territory

##### *Recommendations from the two previous monitoring cycles*

In the previous monitoring cycles, the Advisory Committee recommended a wider range of measures to support the Roma in the various fields concerned - housing, education, employment and social services - as well as more determined efforts to address the prejudices and difficulties that they faced.

##### *Present situation*

The Advisory Committee notes with interest the authorities' efforts over the past few years with respect to the Roma living in government-controlled territories. In the district of Limassol, where part of the Roma population is concentrated, steps have been taken by the local authorities in co-operation with the Government to provide the Roma with accommodation - whether in recently built or prefabricated housing units, renovated

houses or houses belonging to Turkish Cypriots who have left the Government-controlled territory in the course of the conflict. Other measures aim to facilitate access to social services, employment, health care and education for the Roma (see State Report for whole range of measures).

Commendable efforts have been made by the Bi-communal Multifunctional Centre in Limassol, which provides social services for both Greek Cypriots and Turkish Cypriots living in Limassol, including the Roma. While the emphasis is on programmes for young people, the Centre also endeavours to cater for families and older people, offering advice and support and trying to help them cope with the difficulties that they face in terms of employment, housing, health, education and access to other public services. It is nevertheless difficult to find reliable information on the situation of these persons in the above-mentioned fields. The Advisory Committee is pleased to note that the opening of this centre offers a framework for dialogue between the authorities and the Roma.

The Advisory Committee welcomes the steps taken to promote the educational integration of Roma children and notes that most of these children are enrolled at school and have good attendance records. They are taught in Turkish at primary level and attend Turkish language classes at secondary level. Authorities have reportedly paid increased attention to the Roma's identity and linguistic needs over the past few years. The Advisory Committee is pleased to learn that research is being undertaken into their spoken language and encourages the authorities to pursue such initiatives in order to tailor their support measures more closely to the needs of this population.

Despite these positive developments, the Advisory Committee notes with concern that most Roma are still facing serious difficulties in a number of sectors and remain vulnerable to discrimination. Their living standards are considerably lower than those of the rest of the population and their situation remains problematic in terms of access to housing and services and employment. The Advisory Committee realizes that their frequent movements pose some challenges for the authorities' regular and comprehensive communication with them, as well as the implementation of stable support measures. However, it believes that a more sustained effort is needed on the government's part, also involving an assessment of needs based on up-to-date information as to the number and actual situation of the Roma (see comments on Article 3 above).

The Advisory Committee notes that the Cypriot Roma do not at present have associations able to formulate and represent their interests in an organised way. The Advisory Committee considers however important to develop a real and effective dialogue with this population group and is of the opinion that the authorities could use the Bi-communal Multifunctional Center of Limassol as a framework for dialogue with the Roma, and as a good practice for implementation in other relevant geographical areas as well.

#### *Recommendations*

The Advisory Committee encourages the authorities - both at the local level and the central level - to continue supporting the Limassol Bi-communal Multifunctional Centre

with all the human, financial and other resources needed to enable it to provide effective support to persons belonging to the most vulnerable groups, including the Roma.

Systematic and sustainable measures of support for the Roma population, in co-operation with the latter and based on an assessment of existing needs, should be adopted in sectors where this population is still encountering difficulties. Efforts should be made to promote a structured dialogue with this population, including by encouraging the development of Roma associations.

9. Czech Republic

*Opinion adopted on 1 July 2011*

Article 6 of the Framework Convention

Tolerance and intercultural dialogue

*Recommendations from the two previous cycles of monitoring*

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

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

*Present situation*

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

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

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

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

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

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

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

### *Recommendations*

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

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

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

*Recommendations from the two previous cycles of monitoring*

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

*Present situation*

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

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

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

*Recommendations*

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

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

10. Denmark

*Opinion adopted on 31 March 2011*

Article 6 of the Framework Convention

Tolerance and diversity

*Recommendations of the two previous monitoring cycles*

In the previous monitoring cycles, the Advisory Committee encouraged the authorities to take the necessary measures to deal with manifestations of intolerance or xenophobia, including by fostering more systematic application of the provisions of Article 266b of the Criminal Code, which prohibits incitement to racial hatred. The Advisory Committee also considered that the Government should conduct a dialogue on the sensitive matter of immigration and integration.

The Advisory Committee also encouraged the authorities to examine ways of providing support, including financial assistance, for the Roma organisations and to give consideration to strengthening the mechanism for consulting other ethnic and religious groups in Denmark.

The Advisory Committee also encouraged the authorities to find a solution to the issue of the construction of Denmark's first mosque.

*Present situation*

The Advisory Committee is pleased to note that the authorities have continued to implement various schemes aimed at promoting integration and intercultural dialogue and at embracing cultural diversity. In this context, the Advisory Committee welcomes the creation of a Department for Democratic Cohesion and the Prevention of Radicalisation at the Ministry of Refugee, Immigration and Integration Affairs. One task of this new department is to co-ordinate the implementation of a programme to alert young persons to the dangers of radicalisation and extremism.

The Advisory Committee also notes with interest the adoption in July 2010 of the Action Plan for Ethnic Equal Treatment and Respect for the Individual. This updates the activities carried out in this area since 2003 and engages all actors involved in multidisciplinary joint action. The Advisory Committee considers that these measures should have a positive impact on inter-ethnic relations, tolerance and mutual understanding throughout society and thus contribute to the effective implementation of the principles guaranteed by Article 6 of the Framework Convention. The Advisory Committee reminds the authorities

that the scope of application of Article 6 is very wide and that the State Parties to the Framework Convention undertake under this provision to promote mutual respect and understanding and co-operation among all persons living in their territory, irrespective of their ethnic, cultural, linguistic or religious identity or nationality.

The Advisory Committee notes the improvements to the system for recording racist incidents used by the Danish security service (PET) and the efforts made to encourage the reporting of hate crimes through the development of guidelines on dealing with cases under Article 266b of the Criminal Code. Some sources nonetheless pointed out to the Advisory Committee that, although racist motivation was an aggravating circumstance for any criminal offence, the police sometimes failed to take into account the racist character of acts of violence, thus potentially discouraging victims from lodging complaints.

The Advisory Committee notes the authorities' intention to recruit young persons from different ethnic backgrounds into the police force in order to raise police officers' awareness of cultural diversity.

With regard to the Roma organisations, the authorities have stated that the organisations representing the Roma are treated differently from other associations and that all have access under the same terms and conditions to sources of public funding for their projects.

The Advisory Committee also notes that contacts have taken place between the authorities and a Roma association in order to discuss the matter of the historical presence of Roma in Denmark. The authorities consider that sufficient evidence confirming this presence has not yet been provided but say that they are prepared to review the matter if new elements are made available.

In this connection, the Advisory Committee was informed during its visit of the existence of various documents, bibliographies and academic research on the presence of Roma in Denmark in recent decades. Some sources indicated to the Advisory Committee that opinions differed as to the relevance and reliability of these documents.

As far as the other ethnic and religious groups are concerned, the Advisory Committee notes that the Ministry of Integration is legally required to consult the Council of Ethnic Minorities every three months. This body is financed by the Government, which also provides it with secretarial support. The Council's members are elected by the local integration councils, which represent the local associations of refugees and immigrants. These local councils are able to make recommendations on municipal programmes relating to the various ethnic groups. The Advisory Committee also notes the authorities' intention to encourage the ethnic groups' participation in the democratic process. For example, the Government action plan for the promotion of equal treatment and diversity is designed to encourage public debate and dialogue between the various ethnic groups.

Concerning the construction of a mosque, the Advisory Committee was informed after the visit that the project has been approved by the Technical and Environment Committee of the Copenhagen Municipality and that the final decision will be taken by the City Council.

*Recommendations*

The Advisory Committee urges the authorities to continue the programmes and policies for promoting integration, diversity and tolerance in Danish society and to monitor them on a regular basis.

Additional training should be made available to police officers to raise their awareness of the diverse dimensions and manifestations of racism so as to enable them to assess better whether incidents reported to them are of a racist nature.

The Advisory Committee calls on the authorities to pursue their approach of consulting the ethnic and religious groups in order to improve their participation in public affairs that concern them.

The media

*Recommendations of the two previous monitoring cycles*

In the previous monitoring cycles, the Advisory Committee encouraged the authorities to raise media awareness of manifestations of intolerance or xenophobia and promote access to the media professions for members of the various ethnic and religious groups.

*Present situation*

The Advisory Committee is concerned about information it has received that some media continue to spread an often distorted and discriminatory image of groups such as the Roma and the Muslims, despite the existence of ethical guidelines and a supervisory mechanism implemented by the Press Council. Hostile and racist statements are increasingly present in political discourse made by certain political leaders and have apparently also been disseminated by some media and on the Internet. Such conduct perpetuates prejudice against some specific groups. The Advisory Committee was also informed that there is often confusion in the Danish media between the members of the local Roma community and other Roma temporarily present in the country. The Advisory Committee notes that Danish Roma are concerned about possible unfair criminalisation of innocent persons, which may result from this confusion.

The Advisory Committee regrets that the media regulators are not taking more active measures to combat these phenomena. It also notes that, although the Danish School of Media and Journalism indicates it wishes to recruit students from different backgrounds, the percentage of persons of non-Danish ethnic origin applying for admission has risen by only 3% since 2002. The Advisory Committee considers that the recruitment of young persons from different ethnic backgrounds would make the media more aware of cultural diversity and help them understand this principle better and carry out their role in the promotion of tolerance.



### *Recommendations*

The Advisory Committee urges the authorities to take the necessary measures to ensure that the media fully complies with the rules of professional conduct, while showing full respect for media independence.

The Advisory Committee also calls on the authorities to take more effective measures to encourage the recruitment of persons of non-Danish ethnic origin into the media in order to promote diversity and to further the dissemination of a more accurate image of persons belonging to minority groups.

### Roma education

#### *Recommendations of the two previous monitoring cycles*

In the two previous monitoring cycles, the Advisory Committee encouraged the municipality of Elsinore (*Helsingør*) to find a solution to reintegrate children from the classes reserved for Roma pupils into mainstream education and, if necessary, adopt special assistance measures to meet these children's specific needs.

#### *Present situation*

The Advisory Committee notes with satisfaction that, following its second Opinion, the last special class for Roma children was closed and all children are now integrated into mainstream education.

It is also pleased to note that, in the light of the information it gathered on its visit to Elsinore (*Helsingør*), the problems of absenteeism and dropping out of school have diminished, especially as a result of the day-to-day action taken by social workers in contact with the families concerned. In addition, educational support measures are provided for all children with specific needs, irrespective of their ethnic origin. The impact of these measures has been rated positively by the authorities, who note that a larger number of young Roma, especially girls, now successfully complete secondary education.

While welcoming the improvements that have taken place, the Advisory Committee considers it important that these initiatives continue and be the subject of an ongoing dialogue between the Roma and the authorities.

In addition, considering the importance of providing intercultural elements in education, the Advisory Committee believes that further initiatives, aimed at promoting knowledge of the Roma culture and history in schools, should be taken by the authorities.

#### *Recommendation*

The Advisory Committee encourages the authorities to ensure that measures aimed at guaranteeing equal access to quality education for Roma children, should continue and be the subject of an ongoing dialogue between the representatives of the Roma and the authorities. It also encourages the authorities to continue to offer specific educational

support measures where appropriate and to develop further initiatives aimed at promoting knowledge of the Roma culture and history in schools.

11. Estonia

*Opinion adopted on 1 April 2011*

Article 6 of the Framework Convention

Integration efforts

*Recommendations of the two previous monitoring cycles*

In the previous monitoring cycles, the Advisory Committee encouraged the authorities to continue the promotion of inter-cultural dialogue and concluded that further efforts were needed to counter the excessive division in the media environment between the media consumed by the majority population and that followed by the minority population.

*Present situation*

The Advisory Committee is pleased to note the considerable progress made by the Estonian authorities over the years with regards to their integration efforts. It welcomes the adoption of the new Estonian Integration Strategy 2008 - 2013 prepared by the government in consultation with the former Ministry for Population and Ethnic Affairs, civil society representatives, and experts. The Advisory Committee is pleased to note that the Strategy is overall based on the understanding that integration is a two-way process and affects society as a whole. The Strategy also addresses local authorities as a target audience who play an important role in its implementation given the fact that integration levels differ in Estonia from region to region. Another commendable development as compared to the Integration Strategy 2000-2007, is that issues related to social and economic integration of society are considered with the objective to reducing differences in employment and income levels between employees of different ethnic groups until 2013.

While welcoming the above developments, the Advisory Committee notes that the new Strategy still appears to centre around the Estonian language as the main symbol of common statehood and, consequently, seems to focus on the insufficient State language proficiency of persons belonging to national minorities as a main impediment of integration. The Advisory Committee acknowledges the great importance of a common State language and the significance that the Estonian language, as a result of historic events, has within the Estonian Constitution. At the same time, however, it notes that recent integration monitoring indicates that language barriers are no longer the main obstacle to integration and that persons with high levels of proficiency may still not enjoy a great level of integration in society (see comments on Article 15 below).

In this context, the Advisory Committee notes that the monitoring survey of 2008 confirms earlier results that Estonians pay indeed more attention to language requirements and citizenship while the Russian-speaking population attaches more

importance to social goals and mutual dialogue. The Advisory Committee therefore considers that more should be done to promote other symbols of common identity than citizenship and language, such as common history, traditions, and a shared society. In addition, the Advisory Committee considers that efforts should be increased to address the relatively negative attitude of Estonians towards integration. There should be more concrete measures targeting Estonians to promote their openness and willingness to accept an integrated society. It regrets that the Estonian Integration Strategy does not contain any steps in this direction.

The Advisory Committee further notes that despite some efforts by the authorities, there is still a large gap in social space inhabited by ethnic Estonians and non-Estonians which is reflected also in the persistent difference in the media consumed by both groups. Targeted measures are required to encourage joint activities and inter-ethnic dialogue, including in the workplace. The Advisory Committee welcomes in this context the proposals made by the Ministry for Social Affairs to create social networking opportunities and language groups and regrets that such initiatives were not incorporated into the Estonian Integration Strategy.

The Advisory Committee welcomes the creation of the Estonian Co-operation Assembly under the President as a civil society-based institution with an advisory capacity promoting co-operation and integration of society. It also notes the establishment of a Roundtable of Nationalities within this entity in May 2010, which has contributed to the mid-term evaluation of the Integration Strategy. The Advisory Committee cautions, however, that this initiative, while providing commendable contributions to the pool of ideas and efforts promoting integration of society, has no representative function for persons belonging to national minorities and does therefore not constitute an effective consultation with national minority representatives on the Integration Strategy (see further comments on Article 15 below).

Finally, the Advisory Committee welcomes efforts by the Estonian authorities aimed at improving the educational opportunities of Roma children by, among others, increasing tolerance within the majority population and breaking down prejudice against the small Roma community. Jointly with the North Estonian Roma Association, a film has been prepared by the Ministry of Education and Research to be shown in schools, which depicts the daily life of one large Roma family and describes their educational needs and opportunities.

#### *Recommendations*

The Advisory Committee encourages the authorities to step up their efforts to promote the integration of society, in particular by enhancing initiatives that create common social spaces and networking opportunities between Estonians and non-Estonians and by encouraging the Estonian majority population to be more receptive towards the idea of an integrated Estonian society with equal rights for all its members.

The Advisory Committee further calls on the authorities to include systematically national minority representatives in the design, implementation, monitoring and evaluation of the Estonian Integration Strategy to ensure that their concerns and suggestions are duly taken into account.

### Portrayal of minorities in the media

#### *Recommendations of the two previous monitoring cycles*

In the previous monitoring cycles, the Advisory Committee called on the Estonian authorities to continue to support initiatives aimed at promoting inter-cultural dialogue in and through the media.

#### *Present situation*

The Advisory Committee notes that the media space of the ethnic Estonian and non-Estonian population is still sharply divided along ethnic lines with even the few bilingual options offering different news and perceptions in the different languages (see comments on Article 9 below). The Advisory Committee is particularly concerned at continued stereotyping in some media of persons belonging to national minorities and their portrayal as a threat to Estonian sovereignty with intentions to destabilise society.

#### *Recommendation*

The Advisory Committee urges the authorities to take all appropriate measures, within the limits of freedom of expression, to curtail stereotyping of minorities in the media which has a crucial negative impact on the sense of cohesion and integration in society.

### Ethnically-motivated crime

#### *Recommendations of the two previous monitoring cycles*

In the previous monitoring cycles, the Advisory Committee encouraged the Estonian authorities to ensure that ethnically-motivated crime is consistently categorised as such and prosecuted vigorously by law-enforcement bodies.

#### *Present situation*

The Advisory Committee notes that the number of ethnically-motivated incidents are still relatively low. At the same time, it notes with concern the amendments of the Criminal Code in 2006, limiting the applicability of Article 151, which covers cases of incitement to hatred on various grounds, to acts that result in danger to the life, health or property of a person. This development excludes the investigation into hate speech in the media or the Internet, unless serious consequences have ensued. Given the persistent use of the Internet as conveyor of ethnic agitation, the amendment risks placing acts of ethnically-motivated agitation beyond the reach of investigation and prosecution. It has, according to some observers, considerably affected the application of Article 151.

The Advisory Committee regrets that racist or ethnically-based motivation is not considered an aggravating factor in the perpetration of any crime. While the Estonian

authorities maintain that 'other base motives' listed in Article 58.1 of the Criminal Code as an aggravating circumstance may include racism or ethnically-motivated crime, the Advisory Committee notes that, according to information at its disposal, no cases where racist or ethnically-based motivation was considered an aggravating factor, have ever been brought to court, possibly due to the fact that law enforcement agents and judges are not sufficiently aware of their responsibility to identify such motivation as an aggravating circumstance. This should be remedied by explicitly including racist or ethnically-based motivation in the list of aggravating circumstances contained in Article 58 of the Criminal Code.

#### *Recommendations*

The Advisory Committee urges the authorities to reconsider the limitation of the applicability of Article 151 which curtails the investigation and prosecution of hate crimes in Estonia. It further strongly recommends to incriminate and punish expressly racist and ethnically-based motivation as an aggravating circumstance in any offence.

The Advisory Committee further encourages the authorities to engage in training activities for law enforcement agents and members of the judiciary in order to ensure that they are aware of their responsibility to identify and sentence racist or ethnically-based motivation as an aggravating circumstance.

## 12. Finland

*Opinion adopted on 14 October 2010*

Article 6 of the Framework Convention

### Integration efforts

#### *Recommendations from the two previous cycles of monitoring*

In previous cycles of monitoring, the Advisory Committee recognised the important steps taken by the Finnish authorities to accommodate the country's increased diversity and promote the integration of persons belonging to minorities. The Advisory Committee further encouraged the authorities to increase the provision of teaching of national languages and to ensure that the national language proficiency requirements contained in the Citizenship Law did not lead to undue obstacles for persons belonging to minorities.

#### *Present situation*

Finland has continued its efforts to improve further its legislative and administrative framework regarding the integration of persons belonging to minorities. Alongside the ongoing equality initiative (see comments on Article 4 above), commendable efforts have also been made to review the integration plans required to be developed in each municipality by the Integration Act and to assess their quality in terms of consultation with minorities as well as their impact on social cohesion. These efforts are essential given the increasing diversity of Finnish society, including in areas previously seen as homogenous, such as the province of Åland. The Advisory Committee is pleased to learn that the results

of the current review will be taken into account in the forthcoming amendments to the Integration Act that are intended to broaden its scope. This includes in particular the benefits of involving minority communities in the drafting of the plans and the necessity for close monitoring of the preparation and implementation of the plans by regional authorities.

The Advisory Committee further notes the important role of the Advisory Board on Ethnic Relations (ETNO), including that of its four regional offices, to advise the Ministry of Interior on issues related to minorities and immigrants and to ensure that their concerns are taken into account in all relevant policy decisions, particularly as regards social integration. While welcoming the representation of minority and immigrant organisations in ETNO, the Advisory Committee underlines that it remains important to promote their effective participation in the entire integration process.

Finally, efforts to promote integration into a pluri-cultural society, including at local level, must be complemented with parallel schemes to support minority groups in preserving their distinct cultural identity in order to ensure that they do not feel forced to assimilate into the majority population (see also comments on Article 5 above). In this context, the Advisory Committee welcomes the considerable funds invested by the Ministry of Education and Culture for the organisation of mother tongue classes for immigrant children in schools but also notes that due to logistical problems as well as difficulties in identifying suitable teachers, not all children are able to take advantage of the weekly two and a half hours' language instruction which are held outside the normal school curriculum.

While bullying of pupils of Russian background in Finnish schools appears to have decreased, the Advisory Committee is concerned at continued reports about pupils of other minority communities, including the Somali, who continue to face racist attitudes in schools and other public spaces, as general acceptance of the increasing diversity of Finnish society remains problematic, particularly in the capital region.

The Advisory Committee finally wishes to point out that initiatives, such as the recent working group proposal to amend the Public Order Act to ban begging on the streets, which was submitted to the Ministry of Interior, are in conflict with ongoing integration efforts. The Advisory Committee notes that the initiative met with strong opposition from within the Government as well as recognised experts in the field as it is generally perceived to be targeting one minority community in particular and is thus considered discriminatory.

#### *Recommendations*

The Advisory Committee encourages the Finnish authorities to continue efforts to advance their integration policy and framework, including improved monitoring and implementation of integration strategies at local level.

In addition, the authorities should engage in close consultations with representatives of the minority groups concerned to ensure that their views are effectively heard at all stages of the integration process. Attention should be paid in this regard to the concerns of all relevant groups, including those not currently members of ETNO, such as the large group of Estonians.

### Ethnically-motivated crime

#### *Recommendations from the two previous cycles of monitoring*

In previous cycles of monitoring, the Advisory Committee urged Finland to step up efforts to combat ethnically-motivated crime, among others through increased monitoring of prosecutors' actions in the area by the Prosecutor General coupled with adequate training efforts. The Committee further recommended developing new methods of data collection on ethnically-motivated crime, including as regards investigations and prosecutions.

#### *Present situation*

The Advisory Committee notes with deep concern reports about the recent increase in racism and xenophobia in sectors of Finnish society, directed in particular against Roma, Sami, Russian speakers and immigrant communities. Racist attitudes and instigation to hate crime are particularly frequent on the internet (see comments below). The Advisory Committee finds particularly worrying that cases of ethnic agitation committed by public officials, particularly in the context of election campaigns, still occur and are, reportedly, not always followed up with the appropriate action.

According to governmental and non-governmental sources, convictions of racist crimes remain very rare. The Advisory Committee is pleased to note, however, that the Office of the Prosecutor General has paid particular attention to complaints related to police conduct in cases involving racist motivation and is regularly executing its supervisory functions over the prosecution services.

The Advisory Committee is further concerned by the information received from a number of its interlocutors that an overall hardening in attitude and language towards persons belonging to national and other minorities is detectable throughout Finnish society, but particularly in the Southern capital region. The Advisory Committee regrets that the security concerns of the Jewish Association in Helsinki after a number of threats appear not to have been duly taken into account by the relevant police authorities.

#### *Recommendations*

The Advisory Committee urges the authorities to step up their efforts to combat racism and xenophobia in Finland, in particular through more stringent monitoring of the actions of prosecutors and the police force whilst implementing the relevant criminal law provisions in order to ensure that racially-motivated crimes are promptly detected, investigated, and appropriately sanctioned.

The Advisory Committee further reiterates its recommendation to establish adequate measures to collect data on ethnically-motivated crimes and their subsequent investigation and to ensure that all persons involved in the criminal justice system, in particular those working in the police force and the prosecution services, are adequately trained.

### Attitudes within the police

#### *Recommendations from the two previous cycles of monitoring*

In previous cycles of monitoring, the Advisory Committee regretted negative attitudes towards certain minority groups amongst the police force and called for further efforts to promote tolerance, including through the promotion of a deeper dialogue between the police and representatives of national minorities on issues of common concern. The Advisory Committee further encouraged the authorities to ensure that all manifestations of intolerance be adequately dealt with and to consider the obstacles that language proficiency requirements constitute in efforts to train and recruit police officers with a minority background.

#### *Present situation*

The Advisory Committee welcomes the fact that efforts have continued within the Ministry of the Interior to counter negative attitudes within the police force towards certain minority groups, in particular as regards the training of police officers and their sensitisation towards minority concerns. However, it notes with regret that there has been no notable progress as regards the recruitment of persons belonging to minorities into the police force despite repeated acknowledgement by the authorities that this would be instrumental in improving dialogue with minority groups. The knowledge of a minority language, for instance, is still not considered an advantage when applying for a position within the force and the entrance test of the police academy has not been adjusted in this regard. In addition, the Advisory Committee was made aware of one case where the temporary contract of a police officer was apparently not made permanent despite excellent performance records and the fact that the individual in question was the only member in the country belonging to that particular minority group and working in the police force.

While welcoming the comprehensiveness of Finland's legislative framework regarding crimes involving discrimination and racism, the Advisory Committee wishes to draw attention to the fact that its implementation in terms of thorough investigation and follow-up depends on high levels of trust among potential victims of discrimination towards the police force. It therefore notes with concern the continuing perception among minority and immigrant groups that the police do not seriously investigate racist crimes and that they are reluctant to identify possible racist motivation behind offences.

#### *Recommendation*

The Advisory Committee urges the authorities to promote the trust of minority and immigrant communities in the police force by maintaining an open dialogue with



representatives of minority groups and ensuring that the recruitment of police officers belonging to national minorities is actively pursued at central and local level. In addition, the knowledge of minority languages should be considered an advantage in the recruitment process of law enforcement officers.

### Separation of Roma in prisons

#### *Recommendations from the two previous cycles of monitoring*

In previous cycles of monitoring, the Advisory Committee urged the authorities to address decisively the problem of Roma prisoners seeking segregation for their own protection, not only by improving their condition but also by tackling the root causes. The Advisory Committee strongly encouraged the authorities to ensure that prison staff react rapidly to any sign of inter-ethnic hostility or manifestations of racism and to pursue training and other proposals contained in a report on the status of Roma detainees, issued in 2003.

#### *Present situation*

While the Advisory Committee has not obtained detailed information on the current situation of Roma detainees in prisons, the State Report points to a potential deterioration of their circumstances in the last few years. In this regard, the Advisory Committee is pleased to note efforts by the Prison Service to provide more training to prison staff as well as more counselling to detainees, including through the nomination of Roma liaison officers in some prisons. According to Roma representatives met by the Advisory Committee during its country visit, one of the main problems facing Roma prisoners at present is their lack of education and vocational training which makes their reintegration into society after having served their sentence particularly difficult.

#### *Recommendation*

The Advisory Committee encourages the authorities to maintain an open dialogue with representatives of the Roma community in order to ensure that the specific concerns of Roma detainees in Finnish prisons are adequately addressed and sufficient funds allocated for this purpose, including as regards their reintegration into society after the end of a prison sentence.

### Portrayal of minorities in the media and Internet

#### *Recommendations from the two previous cycles of monitoring*

In its previous cycles of monitoring, the Advisory Committee regretted defamatory reports about minorities in some media and called for increased training of journalists and similar efforts to address the negative stereotyping of minorities. The Advisory Committee further recommended that self-regulatory bodies of the media be encouraged to pursue further initiatives to stamp out derogatory terminology and reporting and that efforts to spread good practices amongst Internet operators be expanded further.

#### *Present situation*

In Finland, as in other States party to the Framework Convention, the increase in racism and discriminatory language against persons belonging to minority groups is particularly acute on the Internet. In this context, the recent creation of a special “tip-off” site created by the Ministry of the Interior, where citizens may leave indications concerning racist or hate crimes detected on the Internet, is highly commendable. Three months after its inception in May 2010, already over 1500 “tips” had been received through the site. The Advisory Committee expects that the site will prove a useful tool not only in the detection of racist crime on the Internet but also in the prompt investigation and sanctioning of such offences.

While ethnic agitation and negative stereotyping of minorities is particularly widespread on open blogs and chat-rooms, the Advisory Committee notes with concern that also reputable print media outlets have offered Internet sites where citizens can post comments that would otherwise not go through the stricter censorship of the print media. The Council of Mass Media, a self-regulatory body established by publishers and journalists, has called for the creation of an Internet monitoring authority, so far without success. The Advisory Committee recalls that the Internet media can indeed and should be used as a positive tool to encourage the integration of minority and immigrant groups into Finnish society.

*Recommendation*

The Advisory Committee calls on the Finnish authorities to combat by all available means the increase of racist or xenophobic language and incitement to racial hatred on the Internet, including through the application of sanctions where appropriate, while continuing to respect the principle of freedom of expression. It is essential that the media respect fully their own codes of conduct, which must be revised or expanded as necessary to include the modern media.

13. Germany

*Opinion adopted on 27 May 2010*

Article 6 of the Framework Convention

Promotion of tolerance and intercultural dialogue

*Recommendations of the two previous monitoring cycles*

During the previous monitoring cycles, the Advisory Committee encouraged the German authorities to ensure effective monitoring of the implementation of the new integration policy launched in 2005, in order to be able to evaluate its impact as promptly as possible and, where necessary, make the appropriate adjustments.

It also encouraged them to take a more flexible approach with regard to the Roma residing in Germany but not holding German citizenship and consider, whenever relevant, allowing them to benefit from measures taken in respect of Roma and Sinti who do hold German citizenship.

*Present situation*

The Advisory Committee notes with satisfaction that the authorities have continued to implement a range of programmes aimed at promoting integration and intercultural dialogue and valuing the diversity which is increasingly a feature of German society. These measures should have a positive effect on relations between ethnic groups and on mutual understanding within society as a whole, contributing to secure genuine implementation of the principles enshrined in Article 6 of the Framework Convention. The Advisory Committee wishes to remind the authorities that the scope of Article 6 is wide and that the State parties to the Framework Convention undertake, in pursuance of this article, to promote respect and mutual understanding among all persons living on their territory, irrespective of their ethnic, cultural, linguistic or religious identity, or their citizenship. The Advisory Committee further notes that the debate surrounding the concept of 'Leitkultur' with its connotation of cultural assimilation policies is gradually shifting towards a more inclusive approach.

The Advisory Committee notes in particular the launch of a National Integration Plan in 2007, the establishment of a Federal Agency for Civic Education (*BpB*) which seeks to promote respect for diversity and tolerance, and the "Diversity does everyone good" programme which supports projects targeting young people. It also notes the many initiatives by the *Länder* in this field. However, according to information received, shortcomings persist in the current implementation of the integration policy and this situation has triggered a broad debate within society. The Advisory Committee hopes that this debate will lead to an improvement and a stepping up of the policy begun in 2005.

The representatives of national minorities informed the Advisory Committee that, despite the many efforts made to introduce information on the various groups living in Germany into the school curriculum and to promote tolerance and fight against racism, the information available on national minorities remains very limited, especially outside their areas of traditional settlement (see also remarks in respect of Article 5 above).

The Advisory Committee notes the measures taken in a number of *Länder* to make people more familiar with the culture of the Roma and Sinti and above all their history, including their persecution under the Nazi regime (see also remarks in respect of Article 12). It especially welcomes the forthcoming completion of a memorial to the genocide of the Roma and Sinti situated in the very heart of Berlin.

The Advisory Committee further notes that use is increasingly being made of mediators from the Roma and Sinti communities to assist with relations between this group and educational authorities, and between the Roma and Sinti and health professionals and institutions. It also understands, however, that the representatives of these communities would like more to be done in this area in order to combat racism and discrimination more effectively.

The Advisory Committee notes that several *Länder*, in particular Hessen and Rhineland-Palatinate, are implementing a number of projects to improve the integration of Roma who do not have German citizenship, especially in the field of education. The Advisory Committee welcomes these developments that, as the authorities concerned pointed out, can only assist in the fight against racism and discrimination against the Roma and Sinti generally and promote tolerance and respect in the population as a whole. However, according to information available to the Committee, support for local projects aimed at Roma who do not have German citizenship is often inadequate.

The Advisory Committee also notes with concern the difficult situation of many Roma who are non-citizens and, despite having resided for numerous years in Germany or having been born there, are currently threatened with expulsion to Kosovo.

#### *Recommendations*

The Advisory Committee encourages the authorities to pursue programmes and policies to encourage integration as well as the promotion of diversity and tolerance. It is important for the impact of these programmes to be regularly monitored.

The Advisory Committee calls on the authorities to take new measures to improve public awareness of the language and culture of persons belonging to national minorities, especially through the medium of school curricula. This should also be done outside areas in which national minorities are traditionally settled.

The Advisory Committee also calls on the authorities to continue and intensify measures to improve mutual understanding between persons belonging to the Roma and Sinti communities and the rest of the population and to improve public knowledge of the history and culture of the Roma and Sinti. It also encourages the authorities to pursue measures and projects that include Roma who do not hold German citizenship.

#### Fight against racism

##### *Recommendations of the two previous monitoring cycles*

During the previous monitoring cycles, the Advisory Committee encouraged the authorities to consider making it explicit in law that racist motivations constitute an aggravating circumstance of any offence.

It also called on them to pay special attention to manifestations of hostility towards Roma and Sinti and ways of combating such acts.

##### *Present situation*

The Advisory Committee notes with concern that the number of offences motivated by racism, xenophobia and anti-Semitism has not decreased in recent years. The Roma and Sinti seem to be most targeted by racist violence, whether verbal or physical. The Advisory Committee has also been informed by representatives of these communities that victims of such acts often feel they are not taken seriously enough or adequately protected by the

forces of law and order. Isolated cases of hostility towards persons belonging to the Sorbian minority have also been reported to the Committee.

The Advisory Committee, like other bodies such as ECRI, considers that the German authorities' view of what constitutes racism is too narrow. The authorities tend to concentrate on combating racism in the context of membership of extreme right-wing movements. It welcomes the fact that the authorities continue to implement numerous programmes aimed at preventing and combating violence by the extreme right. However, it believes that this approach should not prevent the need for action against "general" or institutionalised racism which exists in Germany as in most of the State parties to the Framework Convention and which often allows extremism to spread. It is therefore essential to increase awareness in society as a whole of all the dimensions and manifestations of racism and to take adequate steps to prevent all forms of racism.

The Advisory Committee further regrets that the bill put forward in 2007 by the *Bundesrat*, seeking clear and precise inclusion in the Criminal Code of the motivation of racial hatred as an aggravating factor of any offence was ultimately not adopted by the *Bundestag*. The authorities justify this by claiming that the Criminal Code and the system of penalties currently offer sufficient guarantees to the victims of racially-motivated offences. The Advisory Committee regrets the authorities' persistent refusal to consider making racist motivation an aggravating circumstance in criminal offences. It does not share the authorities' fear that a reform of this kind might limit the degree to which the courts take into consideration other possible motives for an offence. On the contrary it believes, like ECRI, that such a reform would go a long way towards improving the effectiveness of policies against racially-motivated violence. The Advisory Committee is also aware of a ruling of August 2009 by the Federal Court of Justice (*BGH*) that the use of Nazi slogans in languages other than German is not necessarily a criminal offence. It will closely observe the follow-up to this ruling, including any legislative action.

The Advisory Committee is deeply concerned by information suggesting that racism and incitement to racial hatred and violence seem to be increasingly frequent on the Internet. Once again, it is the Roma and Sinti, and other minorities, who are especially targeted. The Advisory Committee notes that the authorities too are concerned by this problem and that a conference on the subject was held in July 2009, attended by Internet service providers. It appreciates that it may be difficult for the authorities to control the growth of this phenomenon and at the same time respect freedom of expression. Nevertheless, it believes that resolute action is needed to halt the spread of racism and racially-motivated hatred on the Internet, in particular by drawing on the principles enshrined in the Additional Protocol to the Council of Europe's Convention on cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems. Lastly, information received by the Advisory Committee suggests that racial hatred is also apparent in sport, especially at football stadiums, and that the main targets of this violence are Roma and Sinti and other minorities, despite efforts by the German Football Association (*DFB*) and the authorities to counter this problem.

### *Recommendations*

The Advisory Committee calls on the authorities to continue doing everything possible to combat racism, xenophobia and anti-Semitism. Special attention should be given to raising awareness in society as a whole, and among the police and judiciary in particular, of the many dimensions and manifestations of racism. It also encourages them to take further measures to combat the spread of racism on the Internet and in sports stadiums.

The Advisory Committee strongly encourages the authorities to reconsider their position and adopt specific legislation which expressly punishes racist motivation as an aggravating circumstance in any offence. It also encourages them generally to punish any incitement to and manifestation of racial hatred as a means of combating these phenomena more effectively.

### The media and the fight against racism

#### *Recommendations of the two previous monitoring cycles*

During the previous monitoring cycles, the Advisory Committee called on the authorities to encourage the media to abide by their own codes of conduct banning the spread of prejudice against persons belonging to minorities. It also believed that greater support should be given to programmes to raise awareness amongst journalists.

#### *Present situation*

The Advisory Committee welcomes the fact that media regulators are increasingly attentive to the problem of racist or xenophobic stereotyping or prejudice being spread via the media, as witnessed by the holding of a national conference in 2009 at which government authorities, the leading public media and media regulators came together to examine this question. It also notes with interest that the German Press Council has begun talks with the Central Council of German Sinti and Roma on the disclosure of the ethnic or national background of persons suspected of an offence. It has also learned of further progress in radio and TV, since the public-service broadcaster *ZDF* allegedly plans to introduce guidelines for radio and TV channels that prohibit statements of a racist or discriminatory nature. The information made available to the Advisory Committee also shows that the number of complaints about racist or discriminatory statements about the Roma and Sinti in the print media has declined significantly in recent years.

Despite the marked progress described above, the Advisory Committee notes with concern that certain media continue frequently and unnecessarily to mention the ethnic or national background of persons suspected of an offence, thereby contributing to spread prejudice against persons belonging to certain minorities such as the Roma and Sinti and foreigners. It also appears that in so doing they are sometimes relying on information passed to them by the police (see also remarks in respect of Article 3 above).

#### *Recommendation*

The Advisory Committee calls on the authorities to encourage and support continued debate on the spread of racism and prejudice through the media. It is essential that the

media abide fully by their own codes of conduct, that must be revised or expanded as necessary.

#### 14. Hungary

*Opinion adopted on 18 March 2010*

Article 6 of the Framework Convention

#### Interethnic and intercultural relations

##### *Recommendations from the two previous cycles of monitoring*

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.

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*

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.

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

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. 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”.

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.

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.

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.

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 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*

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.

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.

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

### Police

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.

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.

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.

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

*Recommendations*

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.

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.

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.

15. Ireland

*Opinion adopted on 10 October 2012*

Article 6 of the Framework Convention

Manifestations of intolerance and racist crime

*Recommendations from the two previous cycles of monitoring*

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

The Advisory Committee recommended further that reform of the employment permit system be completed rapidly and in a manner that provided robust guarantees against abuse of migrant employees concerned.

The Advisory Committee also noted criticism expressed regarding the effectiveness of the legislation concerning incitement to hatred and lack of cases in which this legislation was invoked and encouraged the authorities to pursue their concrete follow-up measures, with a view to ensuring that there are effective legal tools to combat racist crime.

*Present situation*

The Advisory Committee notes with regret that the National Consultative Committee on Racism and Interculturalism (NCCRI), which was established in 1998 as an independent

expert body focusing on racism and interculturalism, ceased to operate in 2008 and its functions were subsumed under the Office of the Minister for Integration. During the time of its operation, NCCRI developed a commendable procedure for reporting racist incidents, engaged in research projects and provided trainings for key stakeholders, including government and local officials.

The Advisory Committee also notes that the National Action Plan against Racism, adopted in 2005, with the aim of developing reasonable and common sense measures to accommodate cultural diversity in Ireland, has not been renewed past its initial stage in 2008. Against this bleak background, the Advisory Committee notes commendable local initiatives taken by the Galway City Council, in co-operation with local community organisations, which in 2008 decided to continue its earlier programmes by adopting a "City of Equals" programme based on five pillars, namely promoting the city, living together, delivering services, rejecting racism and building an "intercultural economy".

The Advisory Committee further notes that according to the European Union Agency for Fundamental Rights (FRA), Ireland has a good system for registering racist criminal offences. According to the official statistics, 127 racist incidents were reported in 2010 and 114 were reported in 2011. These statistics further indicate that the most common types of racist incidents are minor assault, public order offences and assault causing harm. The Advisory Committee notes that in the years 2008-2010 (last available figures), 45 cases have been brought before the courts under the Prohibition of Incitement to Hatred Act 1989.

The Advisory Committee notes that racist acts may be prosecuted in Ireland under the Criminal Justice (Public Order) Act 1994, the Non-Fatal Offences against the Person Act 1997 and the Criminal Damage Act 1991. It has to be noted however that there is no provision in Irish criminal law which would provide for the racist motivation of a crime to be considered as an aggravating circumstance. Although the courts have the discretionary power to take any element, including racist motivation, into consideration when sentencing, according to various sources, the racist motivation was not consistently mentioned as a factor. The Advisory Committee notes the authorities' indication that they decided not to introduce racism as an aggravating circumstance considering that the determination of penalty in any individual case is largely a matter for the trial judge, which allows the courts to take all the circumstances of the offence and all the relevant aggravating and mitigating factors into account.

The Advisory Committee welcomes the review of the legislation on racist crime carried out in 2010 by the Department of Justice, Equality and Law Reform. This detailed examination of Irish legislation led the authorities to conclude that Ireland was in compliance with the Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law by virtue of the provisions in its existing criminal law - Prohibition of Incitement to Hatred Act 1989 and public order legislation.

The Advisory Committee further welcomes the mediation project established by the authorities, which focuses in particular on resolving conflicts between Travellers, but which can also deal with conflicts between the Travellers and the majority population.

*Recommendation*

The Advisory Committee urges the authorities to follow-up the work of the former NCCRI reporting on racism and multiculturalism and to ensure that addressing racism is an explicit focus of the Human Rights and Equality Commission, and of the various policies of the state.

The Advisory Committee invites the authorities to develop a further National Action Plan on Racism in line with the states' commitments in the follow-up to the 2001 UN World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

The Advisory Committee calls on the authorities to continue to keep under review the effectiveness of existing criminal law provisions against racism, and consider amending the law if necessary, including through amendments to the legislation to ensure full protection against racist crime.

*Police (An Garda Síochána)*

*Recommendation from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee concluded that despite improvements, there was a need to continue efforts to raise awareness of human rights and intercultural issues amongst Gardaí and supported swift implementation of the proposals contained in the Garda Human Rights Audit, including its call for recruitment and retention of a more diverse police service.

*Present situation*

The Advisory Committee welcomes the appointment in February 2006 of the Garda Síochána (Police) Ombudsman Commission (GSOC) which is competent to investigate directly and independently complaints against police officers and to carry out investigations *proprio motu*. Following GSOC investigations, 154 sanctions were applied by the Garda Commissioner in 2011. The Courts pronounced convictions against six Gardaí and one conviction against a civilian. Two of these Gardaí were given custodial sentences.

The Advisory Committee welcomes the recruitment of seven trainees and 28 reserve trainees from non-Irish background by the Garda in 2009. As from the start of 2011, there were 46 foreign nationals serving as members of the Irish police force. Also, the Advisory Committee welcomes the development of the Garda Síochána Diversity Strategy and Implementation Plan 2009-2012. The aim of the strategy is to improve employment

conditions, service delivery and police practice across the nine equality grounds – gender, ethnicity, marital status, family status, religion, sexual orientation, disability, age or membership of the Traveller community.

The Advisory Committee notes with satisfaction that as of November 2011 there were 349 members of the Irish police force serving as Ethnic Liaison Officers whose principal role is to liaise with the communities' representatives and to provide assistance to anyone reporting having been the victim of a racist incident. The Advisory Committee also welcomes information that training in human rights, focusing on the fight against all forms and manifestations of racial discrimination and xenophobia and on policing in a multicultural society, has now been made a compulsory part of initial and on-going training for all law enforcement officials.

### *Recommendations*

The Advisory Committee reiterates its encouragement to the authorities to continue their efforts to recruit and retain a more ethnically and culturally diverse police service.

The authorities are also asked to provide all necessary support to the Garda Síochána (Police) Ombudsman Commission to allow it to carry out its task efficiently and independently.

### Media reporting on minorities

#### *Recommendation from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee encouraged the authorities to establish a Press Council, which would provide an effective complaint mechanism that took into account the concerns related to minority reporting, while fully respecting freedom of expression and editorial independence of the media. The Advisory Committee also supported drawing up a press code of conduct.

#### *Present situation*

The Advisory Committee welcomes the establishment in 2007 of the 13-member Press Council, independent of the authorities and the media industry. It notes that the members of the Press Council have been appointed by an independent Appointments Committee composed of a former Provost of Trinity College in Dublin, the President of the Irish Human Rights Commission, the former Chairman of the Broadcasting Complaints Commission, the Commission on Taxation and the former Ombudsman and Information Commissioner.

The Advisory Committee further welcomes the appointment, also in 2007, of the Press Ombudsman, whose task is to address the complaints of the breach of the voluntary Code of Practice for Newspapers and Magazines. It notes that the Ombudsman may seek to

resolve the grievance by a conciliation procedure between the parties, making a decision or referral of more complicated matters to the Press Council. The Ombudsman's decisions can also be appealed to the Press Council.

The Advisory Committee notes that Principle 8 of the Code of Practice provides that: "Newspapers and magazines shall not publish material intended or likely to cause grave offence or stir up hatred against an individual or group on the basis of their race, religion, nationality, colour, ethnic origin, membership of the travelling community, gender, sexual orientation, marital status, disability, illness or age."

The Advisory Committee notes, however, that according to a number of interlocutors, notwithstanding the number of complaints lodged with the Ombudsman, Travellers continues to be subject of persisting negative stereotypes in some of the written press and some of the electronic media. In particular, such statements allude to Travellers and criminality, abuse of social benefits and nomadism.

### *Recommendations*

The Advisory Committee invites the authorities to continue to support the Press Ombudsman and the Press Council to allow them to function independently and effectively and pursue their efforts to combat negative stereotypes of some groups in the media.

## 16. Italy

*Opinion adopted on 15 October 2010*

Articles 4 and 6 of the Framework Convention

### Anti-discrimination legal and institutional framework

#### *Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee invited the authorities to provide all necessary support for the proper functioning of the newly established Office for the Promotion of Equal Treatment and the Fight against Racial Discrimination (UNAR).

It encouraged them to complete the anti-discrimination legislative framework in order to tackle discrimination in all areas of life and to develop anti-discrimination policies, in the light of findings from the UNAR and regional institutes for research into discrimination.

The authorities were also encouraged to consider improving procedural safeguards and legal remedies to make existing statutory provisions against discrimination more effective and ensure that they were more widely used in practice.

### *Present situation*

The Advisory Committee welcomes the fact that Italy has continued to take steps to improve its legislative and institutional framework for preventing and combating discrimination. It notes that, following criticism from the European Commission in 2007, Italian legislation was amended by Law No 101 of 6 June 2008 and the burden of proof now lies with the defendant, if the plaintiff is able to provide sufficient factual evidence to justify a presumption of direct or indirect discrimination.

The Advisory Committee recalls that the setting up of UNAR within the Department for Equal Opportunities of the Presidency of the Council of Ministers raised a series of questions about this institution's independence. The Advisory Committee noted with interest the clarifications provided by the representatives of UNAR, during its visit to Italy, with regard to this institution's functional and financial independence. In their view, the fact that UNAR comes under a governmental body has not affected its independence in its work of promoting equal treatment or its impartiality in assessing compliance with the principle of non-discrimination. The involvement of judges in its work, the fact that its funding is guaranteed by law and the fact that its current Director is an independent figure with extensive human rights experience are cited in support of these statements.

The Advisory Committee notes that, although more regional anti-discrimination observatories have been set up, they are still relatively few in number and more tangible progress is expected in this regard. The Advisory Committee however notes that some commendable initiatives have been taken in this area in the last few years, such as agreements signed with several regions and municipalities and with NGOs and trade unions in order to form a constructive partnership in the fight against discrimination. It was also informed that UNAR takes active steps to monitor the media, and expressions of discrimination, hostility, racism and xenophobia observed in media broadcasts or the press are systematically reported to the Journalists' Association.

The Advisory Committee notes that, in its first reports to Parliament, UNAR proposed *inter alia* the introduction of arrangements enabling it to bring legal proceedings to ensure more effective support for victims of discrimination. It notes, more generally, that UNAR is still faced with a shortage of appropriate human and financial resources, a relatively limited scope for action and the need to increase the impact of its work, particularly in cases of alleged discrimination by the central and/or local authorities. However, it notes with satisfaction that, in several cases, UNAR has succeeded through its work in putting an end to discriminatory measures or decisions taken by certain local authorities or having them set aside by the courts.

According to UNAR statistics, in the five years since it has been set up, the majority of the complaints submitted to it report discrimination in employment and housing, in public services, in the media, in education and in law enforcement. In general, the number of cases of discrimination reported to it has increased and more and more complaints have been lodged against discriminatory measures taken by the local authorities. The Advisory

Committee notes with regret that persons belonging to the Roma and Sinti and persons belonging to other vulnerable groups, such as migrants, refugees and asylum-seekers, largely predominate among the victims of discrimination.

The Advisory Committee also notes that the number of cases of ethnic or racial discrimination brought before the courts is still fairly small. The authorities attribute this to the lack of information about anti-discrimination legislation and the available remedies among both the population groups most exposed to discrimination and NGOs, notwithstanding the efforts made to disseminate this information more effectively. The Advisory Committee welcomes the support given by UNAR, including through training sessions, to organisations active in combating discrimination, particularly those empowered to litigate on behalf of victims of discrimination. The co-operation agreements signed by UNAR with lawyers' professional organisations, with a view to fostering more widespread use of the remedies available in this field, is also a positive development.

The Advisory Committee regrets that, despite its international commitments in the UN framework and under the Paris Principles and despite repeated calls from international institutions, Italy has still not set up an independent national body for the defence and protection of human rights. In this context, it wishes to voice its deep concern over recent reports of problems encountered by members of NGOs in carrying out their work on human rights protection, and in particular by human rights advocates involved in efforts to assist Roma in defending their rights.

#### *Recommendations*

The Advisory Committee urges the authorities to give their full support to UNAR and to ensure that all the necessary conditions, including adequate human and financial resources, are met to enable this institution to continue its work effectively and independently, including in the different regions of Italy. Adequate consideration should be given to increasing its scope for action, including legal action.

The authorities are also urged to set up without further delay a national institution for the protection of human rights and to make available all the resources needed for it to operate efficiently and independently, in accordance with the Paris Principles.

The Advisory Committee strongly encourages the authorities to continue and increase the provision of information to the public about existing legislative safeguards in the area of protection against discrimination and the available remedies. Steps should also be taken to increase awareness of these issues among the public authorities, including law enforcement agencies, the members of the judiciary and the media.



## Tolerance and intercultural dialogue. Fight against racism and xenophobia

### *Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee encouraged the authorities to continue paying particular attention to the problems faced by migrants, asylum-seekers and refugees and to tackle the negative climate surrounding these persons.

The Advisory Committee invited the authorities to make an increased effort to encourage the media, with due respect for their independence and freedom of expression, to present a fairer image of minorities. The authorities were also called to ensure that they themselves stopped contributing to negative perceptions in this field.

In addition, the Advisory Committee emphasised that the media had a responsibility – including through self-regulatory bodies – to promote tolerance, combat xenophobia and intolerance and avoid stereotyping and the negative portrayal of persons belonging to certain ethnic or religious groups.

The Advisory Committee encouraged the authorities to improve human rights training for police officers and ensure transparent and effective investigation in alleged cases of excessive use of force.

### *Present situation*

The Advisory Committee notes with satisfaction that relations between persons belonging to the recognized linguistic minorities and the majority are characterised, in general, by tolerance, understanding and mutual respect. It welcomes the efforts made by the regions to promote integration and intercultural dialogue. It notes, for example, the peaceful co-existence in Trieste of different religious communities, with their places of worship (the Catholic Church, the Serbian Orthodox Church, the German-speaking Catholic Church and, more recently, the Romanian Church), opened in some cases with the support of the authorities. It notes with interest the setting up, in Trieste, of a migrants' committee to enable migrants to discuss their problems and needs and participate in public debate.

The Advisory Committee also notes efforts made at the regional level to support projects and programmes that highlight the diversity characterising the regions concerned. For example, the Friuli Venezia Giulia region, like many other regions and/or provinces, has supported the production of documentaries on the different languages spoken in the region and the communities in question. Further commendable projects, such as "Year 2008 - The Occitan, Franco-Provençal and French mother tongues as added value of the mountain in the Province of Torino", have been implemented in areas inhabited by persons belonging to linguistic minorities, in order to strengthen mutual understanding, respect and intercultural dialogue.

However, the image of some minorities conveyed by the media is sometimes marked by negative prejudices. Isolated cases of expression of hostility towards persons belonging to the Slovenian minority have reportedly been noted in the media in the province of Udine.

It appears also that negative stereotypes persist about the Friulian-speaking community and its efforts to preserve and promote its language. Although these are very rare cases, it is important that the authorities take a firm position against such expressions of hostility.

The Advisory Committee was also informed that the majority population has little knowledge of, and a fairly limited interest in, minority culture and languages, particularly outside the areas where the groups concerned traditionally live.

The Advisory Committee acknowledges that a whole series of measures and programmes have been implemented in the last few years by Italy to increase tolerance, intercultural dialogue and respect for human rights and cultural diversity. These measures should have a positive impact on interethnic relations and mutual understanding throughout Italian society and thus contribute to effective implementation of the principles guaranteed in Article 6 of the Framework Convention. The Advisory Committee wishes to point out that the scope of Article 6 is broad and that the Parties to the Framework Convention undertake, by virtue of this provision, to promote mutual respect and understanding among all persons living on their territory, irrespective of their ethnic, cultural, linguistic or religious identity, or their nationality.

The Advisory Committee notes that, in the face of a massive influx of migrants and the persistent problems affecting them, an awareness-raising campaign was conducted in 2008-2009 and a national Plan for integration and security – “Identity and Encounter” was adopted by the Government in June 2010. In the field of education, it notes the incorporation of human rights education into school curricula and the drawing up of specific educational programmes with a strong intercultural component, as well as the inclusion of human rights and international humanitarian law in training for law enforcement personnel and judges.

The Advisory Committee notes that Italian legislation includes a series of provisions against racism and incitement to racial hatred. It welcomes the fact that, as stipulated by Law No 85/2006, racial discrimination is an aggravating circumstance which increases by half the sanctions applicable in case of crimes committed on the basis of the race, ethnic origin, nationality or religion. Under the same Law, the setting up of organisations or groups with the aim of inciting racial discrimination, and participation in such groups, are prohibited.

While welcoming these developments, the Advisory Committee notes with deep concern that Italian society is marked by a serious deterioration in intercultural dialogue and an increase in racist or xenophobic attitudes towards persons belonging to vulnerable groups such as Roma and Sinti, Muslims, migrants, especially undocumented workers, refugees and asylum-seekers.

Various sources concur that such hostile attitudes are also to be found on an institutional level. The Advisory Committee notes in this connection that the Government’s policy and certain measures taken by the authorities in the last few years with regard to the Roma

population and migrants have prompted severe criticism in terms of respect for human rights both at the national level and within international organisations and institutions.

Like these organisations, the Advisory Committee notes with deep concern that these policies and measures are underlined by an approach marked by rejection and hostility particularly towards the Roma and Sinti. It refers in particular to the legislative and administrative texts adopted since 2006 under the “security package”, the “nomad” emergency decrees issued from May 2008 onwards and the ensuing measures, including the census, that have been used in the ‘camps for nomads’. Cases of forced return of migrants, despite the recommendations of international organisations, are also problematic in terms of respect for human rights and compliance with existing standards and safeguards in this field. The Advisory Committee is particularly concerned that such cases also include opponents of the ruling regime in the country of origin and concern countries where such persons are exposed to serious risks of ill-treatment.

The Advisory Committee is also deeply concerned by the increase in the frequency and scale of racial hate speech and intolerance in public discourse in Italy over the last few years. Prejudice, intolerance and racist and xenophobic statements against Roma and Sinti, Muslims and migrants are increasingly common in the discourse of certain prominent political figures, and are systematically relayed by certain media outlets. It considers that this situation is not compatible with Article 6 of the Framework Convention and that a firm and effective response from the authorities is essential to combat such statements and the impact they have on Italian society.

In this context, the Advisory Committee regrets to note that Law No 85/2006, while strengthening some anti-discrimination provisions, has at the same time mitigated the sanctions applicable in case of propaganda advocating racial or ethnic superiority or hatred and instigation to commit, or the commission of, discriminatory or violent acts on racial, ethnic, national or religious grounds (the initial maximum term of three years’ imprisonment was reduced to either a fine of 6 000 Euros or 18 months’ imprisonment). The Advisory Committee considers this legislative amendment problematic and is of the opinion that a more balanced interpretation of freedom of expression would have been beneficial, in the light of the climate of growing intolerance and the increase of hate speech in public discourse.

The Advisory Committee further notes that aggressive xenophobic discourse and incitement to racial hatred have led to a significant increase in manifestations of intolerance in Italian society and to the stigmatisation and marginalisation of specific population groups. The repeated acts of hostility and sometimes extreme violence against such persons, particularly Roma and migrants, remain a matter of serious concern. Furthermore, various sources mention frequent cases of abuse and violence, committed against these persons by law enforcement officers, despite the measures taken by the authorities to prevent and combat this phenomenon.

The Advisory Committee notes with regret that the negative stereotypes associated with certain groups such as Roma and Sinti, Muslims, migrant workers and asylum-seekers are still very common in newspapers and media broadcasts, which has clearly contributed to reinforce the stereotypes associated with these groups. In particular, news reports often link these groups to the perpetration of certain crimes. The Advisory Committee welcomes the drawing up of a media code of ethics. It also expresses the hope that the media supervisory authorities will devote the requisite attention in their work to combating discourse that is racist, discriminatory and/or prejudicial to persons belonging to vulnerable groups.

Expressions of racial hostility and hatred and xenophobia have also become increasingly common on the Internet. The Advisory Committee realises what a difficult task it may be for the authorities to take action to limit the growth of this phenomenon while respecting freedom of expression. It considers it essential, however, to take resolute measures to limit the dissemination of racism and racial hatred through the Internet. Such measures should be guided in particular by the principles set forth in the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist or xenophobic nature committed through computer systems. Lastly, information received by the Advisory Committee points to the persistence of racist attitudes at sports events despite the efforts made by the authorities to tackle this problem.

#### *Recommendations*

The authorities must take firm and effective measures to prevent and combat all forms of intolerance, racism and xenophobia and to promote mutual understanding and respect, particularly towards persons belonging to vulnerable groups, such as Roma, Sinti, migrants, asylum-seekers and refugees.

Appropriate measures must be taken to combat and sanction effectively the expression of racist and xenophobic views within the context of political discourse.

The authorities should pay all the attention needed to the dissemination of racism and prejudice through the media, while fully respecting the editorial independence of media outlets. The efforts made in this field by the media and their own supervisory bodies should be encouraged and supported, and increased efforts should be made to raise awareness among journalists of human rights, respect for cultural diversity and tolerance.

The authorities should also step up measures to increase awareness not only of the population at large, but also of civil servants, members of the police force and of the judiciary, of human rights, tolerance and mutual respect. They must ensure that any violation of human rights by law enforcement officers is effectively investigated and, where needed, prosecuted and appropriately sanctioned.

Additional measures must be taken to combat vigorously the growth of racism on the Internet and in sports events.

## Situation of the Roma and Sinti

### *Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee invited the authorities to step up as a matter of priority local and national efforts to ensure that Roma and Sinti living in camps had decent living conditions.

The authorities were also urged to draw up a comprehensive strategy of integration for Roma and Sinti, in consultation with those concerned, to end their placing in 'camps for nomads' and to guarantee access to housing, employment, education and health care.

The Advisory Committee invited the authorities to pay special attention to the specific needs of the various groups concerned – on the one hand preserving and developing the identity of Roma and Sinti traditionally present in Italy and, on the other, improving the living conditions of Roma having recently settled in the country.

### *Present situation*

The Advisory Committee is deeply concerned about the fact that the living conditions of Roma and Sinti have continued to deteriorate and that their marginalisation and social exclusion have increased. It notes that, although only very few members of these communities share a nomadic lifestyle, these persons continue to live in camps for nomads and, in many cases, to move around in search of suitable accommodation and to experience forced evictions. Unfortunately, the policy pursued by the authorities favours the placement of these persons in 'camps for nomads', which perpetuates their segregation and marginalisation and opens the way to discrimination and hostility towards them.

The Advisory Committee is aware that the significant increase in the size of these communities following major influxes of Roma from the countries of Eastern Europe, particularly Romania and ex-Yugoslavia, including Kosovo, has made things more complicated for the authorities. They are currently faced with the difficulty of dealing with problems specific to heterogeneous groups, with a distinct legal status, within these communities: Roma and Sinti from Italy, non-nationals who are EU citizens and Roma from non-EU countries, persons with undetermined national status. It notes that some efforts have been made, in particular at the local level, to help these communities to overcome the many difficulties facing them and improve their living conditions.

The Advisory Committee remains deeply concerned that, despite efforts made by certain authorities and commendable support projects implemented by the NGOs, the conditions in which these persons live continue to deteriorate and they are faced with poverty, extreme hardship and discrimination in all fields: access to housing, employment, health care and the enjoyment of other social rights, such as education.

As regards housing, the Advisory Committee learnt that while the "authorised" camps enjoy more favourable living conditions and measures have been taken to improve the

available amenities and access for children to education, the situation in the “unauthorised” camps remains deplorable: they lack the essential conditions required for a decent standard of living - water, electricity, transport, refuse collection. The persons living there receive no assistance whatsoever from the authorities. They are also confronted with hostility and even, in some cases, violence on the part of members of the majority population living in the neighbouring municipalities.

Serious difficulties and systematic discrimination are reported regarding access to employment for Roma and Sinti. While some improvements are reported in this field and, in some “authorised” camps, many Roma hold a work permit and are gainfully employed, the situation regarding the vast majority of members of these communities continues to give cause for concern.

The Advisory Committee also notes that the fact of living without any income in camps away from the rest of the population and the many prejudices towards them in society seriously affect the Roma and Sinti enjoyment of other rights such as access to health care, welfare benefits and education. (Regarding the situation of Roma in the field of education, see also the observations under Articles 12-14 below).

This situation of hardship continues to make these communities particularly vulnerable to abuse, exploitation and violence and contributes to their rejection and stigmatisation by certain sectors of Italian society. The situation is only exacerbated when measures are taken by the authorities to expel these persons from the camps, depriving them, in many cases without prior information or consultation and without any viable rehousing options, of even the most basic living conditions. The Advisory Committee notes with deep concern that forced evictions and the dismantling of “unauthorised” camps are continuing and that, in many cases, these evictions involve violent police intervention. Recent reports indicating that several thousand Roma and Sinti, currently occupying several hundred camps on the outskirts of Rome, are to be grouped together in only 13 camps, are a source of great concern to the communities concerned.

The Advisory Committee regrets to note that, overall, very little progress has been recorded in all these fields and that, on the contrary, the inequalities and manifestations of discrimination towards Roma and Sinti have intensified. Above and beyond the social climate of increased intolerance and hostility towards these communities, the Advisory Committee is particularly concerned about the approach favoured by the authorities in addressing these difficulties. While recognising that sectoral measures have been taken to improve the situation, the Advisory Committee notes with deep concern that, under an emergency decree issued in 2008, more and more decisions are taken in this framework by means of emergency measures. It also finds it disturbing that the actions taken under these orders are more akin to punitive measures than to forms of support for the communities in question. Like the Commissioner for Human Rights, the Advisory Committee considers that adopting a state of emergency and providing greater powers to the “Special Commissioners” and the police is not an appropriate way to deal with the

needs of the Roma and Sinti populations. This is clearly not in line with the commitments undertaken by Italy under the Framework Convention.

The Advisory Committee is also concerned about the emphasis laid by certain representatives of the authorities, sometimes even in public statements, on the alleged danger posed to Italian society by “nomads” and about the fact that Roma and Sinti are lumped together and treated systematically as a nomadic population. It furthermore notes the harmful impact of such an approach on these persons and the intensification of discriminatory and hostile attitudes towards them in society (see also comments under Article 3 above).

The Advisory Committee is also concerned about the fact that the authorities have not taken appropriate measures to deal with the question of the lack of identity papers affecting many Roma, including those born in Italy, and affecting in particular their enjoyment of various social and economic rights.

As it has already done in previous monitoring cycles, the Advisory Committee considers that the situation described above is not compatible with Article 4 and Article 6 of the Framework Convention and calls for immediate and effective action on the part of the Italian authorities, at all levels. The Advisory Committee has noted with interest, in this context, the collective complaint against Italy under the European Social Charter (Collective Complaint No 58/2009) submitted to the European Committee of Social Rights by the Centre on Housing Rights and Evictions (COHRE). It notes that the European Committee on Social Rights has already forwarded to the Committee of Ministers of the Council of Europe its report and conclusions on this complaint and its merits.

#### *Recommendations*

The Advisory Committee urges the authorities to adopt more resolute and effective measures to combat discrimination against Roma and Sinti.

A comprehensive strategy for the integration and protection of these persons must be developed and implemented without further delay. Appropriate positive measures should be taken in the different sectors in order to reduce the disparities between these communities and the rest of the population. The authorities are strongly encouraged to put an end to using emergency decrees and measures in tackling such systemic issues.

Effective measures should be taken as a matter of urgency to find solutions, in consultation with Roma and Sinti representatives, to the serious housing problems facing Roma and Sinti and to enable them to enjoy decent living conditions.

Representatives of the different groups should be involved systematically in the search for solutions, the implementation and monitoring of appropriate measures, so that the specific needs of the relevant groups are duly taken into account.

The Advisory Committee also calls on the authorities to take appropriate measures to allow Roma and Sinti to have access to identity papers.

17. Kosovo\*

*Opinion adopted on 6 March 2013*

Article 6 of the Framework Convention

Inter-ethnic dialogue and tolerance

*Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee noted tense and fragile inter-ethnic relations and urged the authorities to elaborate and implement a comprehensive long-term strategy for reconciliation and dialogue in consultation with the various communities. In addition, it pointed to the important role played by the media in the promotion of inter-ethnic understanding in society and invited the authorities to ensure, in full respect of the editorial independence of the media, that the dissemination of stereotyping and intolerance was combated.

*Present situation*

The Advisory Committee notes with deep concern that there has been no progress regarding the relations between ethnic groups. On the contrary, levels of inter-ethnic understanding and tolerance seem to be decreasing, particularly in urban centres and particularly among young people. Persons belonging to the elderly minority population reported that their relations with members of the majority population are particularly difficult and tense when young people are involved who often don't speak minority community languages and who are reported to openly and quickly question the very presence of minority communities in 'their' Kosovo\* as soon as any argument, for instance between neighbours, arises. The few initiatives that exist to bring together representatives from different groups are mainly organised by committed individuals or by NGOs, often with international support. However, there is insufficient appreciation among central authorities for the importance of inter-ethnic trust and understanding for the creation of a stable and safe environment, as the engagement in comprehensive or concrete efforts to promote inter-ethnic communication and interaction appears not to be a priority among authorities. The Advisory Committee is deeply concerned by the situation which must, it considers, be urgently addressed, among others through appropriate cultural and educational reforms (see comments on Articles 5 and 12), and comprehensive efforts targeting society at large, including via the media.

The Advisory Committee notes with concern the recent reporting of Radio Television Kosovo\* (RTK) related to partially violent manifestations surrounding the monastery in Deçan/Dečani municipality, which appear biased towards the nationalist views of young protesters without providing sufficient background on the fact that the Supreme Court



held in favour of the Monastery. Similar concerns have also been voiced regarding RTK's coverage of the grave incidents of vandalism against Orthodox cemeteries which has partially been interpreted as inflammatory and containing hate speech. The Advisory Committee reminds the authorities of the significance of objective and independent media in promoting tolerance and inter-ethnic understanding in society and, conversely, of the dangerous effect that unprofessional reporting may have in terms of inciting hostility and tension (see further comments on Article 9). Furthermore, the Advisory Committee is deeply concerned by the lack of respect towards minority communities exhibited by some politicians, including during sessions in the Assembly. The expression of such intolerant attitudes by high-ranking officials towards minority communities and their established rights, which is moreover directly conveyed to the public by live broadcast, can but serve as a negative example and have a harmful influence on levels of tolerance towards persons belonging to different ethnic groups in society. In addition, it casts doubt over the declared aim of the authorities to develop a multi-ethnic entity with a unique civic identity that is shared by members of all communities. The Advisory Committee welcomes in this context again the establishment of the inter-ministerial working group on dealing with the past and reconciliation. It considers that this is a particularly noteworthy initiative towards the promotion of inter-ethnic trust and understanding and should receive all necessary political and financial support.

The Advisory Committee acknowledges that the lack of clarity surrounding the status and on-going negotiations related to the north continue to have a strong and immediate impact on inter-ethnic relations throughout Kosovo\*. It gained the impression during its monitoring visit that a number of officials view the enjoyment of minority rights to be conditioned upon status recognition. It reminds the authorities that international minority rights form an integral part of human rights. Their effective implementation can therefore not be made dependent on other factors. While acknowledging the hardening positions among the public on both sides, central and local authorities must break the negative cycle and actively and comprehensively engage in the promotion of inter-ethnic communication and tolerance. Concerted efforts must be made through immediate follow-up and sanctioning to ensure that political discourse does not abuse inter-ethnic relations. In addition, individuals that engage with the other group or try to promote tolerance and mutual understanding must be endorsed and publicly promoted as role models rather than degraded as "traitors" to their own community.

### *Recommendations*

The Advisory Committee urges the authorities again to devise, without further delay, a comprehensive strategy to promote inter-ethnic dialogue and understanding among different groups. All efforts must be made to closely involve representatives of communities in the development and implementation of such a strategy, which must be closely coordinated among all relevant ministries at central and local level.

The Advisory Committee further urges the authorities to condemn promptly and unequivocally all expressions of intolerance against minority communities in public discourse and to institute a good example to the public through consistent implementation of community rights, such as related to language rights, in public events.

### Ethnically motivated crime and hostility

#### *Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee urged the authorities to improve the system of data collection on the identification, investigation and prosecution of ethnically motivated offences in order to address more effectively the continued perceptions of impunity. It further encouraged the authorities to develop comprehensive hate crime legislation and to increase efforts to promote the population's trust in law-enforcement and the judiciary, among others by targeted awareness-raising and training activities.

#### *Present situation*

The Advisory Committee notes with concern that, after a drop from 2008 to 2009, the number of security incidents affecting minority communities is reported to have increased overall in the last years, particularly in some areas and particularly directed against the Serb population. Figures vary depending on the methods of reporting used by national and international entities. However, approximately 2 000 incidents were reported to UNMIK between January and October 2012, of which over 70% were directed against Serbs and the highest number in urban centres and Pejë/Peć region. The majority of the incidents relate to theft, woodcutting, and damage or usurpation of property. However, grave incidents involving the stoning of buses transporting school children and bodily harm continue to be equally reported and play an important role in maintaining an overall unfavourable perception of the security situation among minority communities. The number of incidents involving assault as well as vandalism against cemeteries and religious sites seemed, according to international and national observers, generally to have decreased in 2012. The Advisory Committee further notes with deep concern reports of a renewed upsurge of incidents in December 2012 and January 2013 connected to the celebration of Orthodox Christmas in Gračanica/Graçanicë and Gjakovë/Đjakovica, as well as the reported desecration of 58 tombstones at the local Orthodox cemetery of Fushë Kosovë/Kosovo Polje.

Given the generally low trust in the prosecution services and the lack of available legal advice, particularly in isolated regions, many victims still prefer not to lodge a case in court. In addition, the Advisory Committee heard that the fear of reprisals still prevents some victims from coming forward, particularly among isolated returnee communities. While the perception of the security situation among minority communities appears to vary depending on the age and social status of the individual, the overall assessment of the situation remains unfavourable and fearful, despite concerted efforts by the KPS (see

comments below). The Advisory Committee welcomes the commitment shown by some municipal authorities to break the climate of fear. In municipalities where community platforms to discuss and address security related incidents, such as the Municipal Community Safety Councils or Local Public Safety Committees, were established, such initiatives have been successful in raising awareness of the incidents and reassuring affected communities. It is equally important that municipal authorities take all security incidents seriously and swiftly follow up with public statements condemning inter-ethnic hostility and adequate measures to prevent such incidents in the future.

#### *Recommendations*

The Advisory Committee urges the authorities to fight inter-ethnic crime and hostility more consistently and ensure that any incidents against members of minority communities are taken seriously by relevant municipal leaders and promptly and adequately followed up and sanctioned. Municipal safety councils should be set up in all municipalities in line with relevant legislation and instructions and in close consultation with representatives of all communities.

The Advisory Committee further urges all relevant authorities to condemn publicly and promptly all incidents of vandalism against religious sites and graveyards of any minority community.

#### Law enforcement

##### *Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee urged the authorities to take vigorous measures to put an end to the targeting of cars with Serbian plates that persisted within the KPS road-control activities. In addition, it called for efforts to remove obstacles for persons belonging to minority communities to obtain driving licences.

##### *Present situation*

The Advisory Committee welcomes the efforts made by the KPS to increase human rights awareness and sensitivity towards minority community concerns among its agents. It is in particular pleased to note the adoption of the Community Policing Strategy and Action Plan 2012 – 2016 in autumn 2012, which testifies to the intention and commitment of the KPS to engage in partnerships with communities and help establish a safer environment for members of all communities. Independent observers agree that the performance of KPS and its responsiveness to security incidents has improved overall. Targeted efforts have been made in areas experiencing high numbers of security incidents involving minority communities, such as in Pejë/Peć region, to introduce regular patrols, establish surveillance equipment in particularly exposed locations, and establish community liaison officers who maintain regular contact with the communities. The Advisory Committee also notes that the KPS has made concerted efforts to provide security to religious sites which must, however, be attentively pursued further.

Overall, the Advisory Committee was pleased to note that most representatives of minority communities referred positively to the KPS and expressed that they trusted their efforts, evidenced also by more comprehensive reporting methods. The Advisory Committee commends the decision by the KPS to collect data on all incidents affecting minority communities and not only on those for which ethnically based motivation is proven during a subsequent police investigation. This increased attention paid by the KPS to the concerns and fears of persons belonging to minority communities helps to boost confidence among the population in the work of the police and thereby also contributes to decreasing ethnically motivated crime and hostility. It is imperative, however, that the investigations of the KPS are appropriately and swiftly followed up by prosecution and judiciary services to sustainably reinstall trust in the criminal justice sector overall. The latter, however, is still viewed with grave suspicion by members of minority communities, due to the tremendous backlog of cases and the apparent lack of interest in redressing the situation amongst the prosecution and judiciary services (see above comments on Article 4).

While continued efforts have also been made to ensure that minority communities are adequately represented among the KPS, numbers are reportedly still insufficient, particularly as regards staff with Ashkali, Egyptian and Roma background. In addition, efforts must be made to increase the deployment of officers with minority background to particular areas of concern. Out of 700 police officers in Pejë/Peć region, for instance, reportedly only nine are representatives of the Serb community, which reduces trust in the investigations among victims and also presents obstacles from a language point of view. The Advisory Committee further notes with concern reports of continued police brutality and excessive use of force by some officers during police operations, and reminds authorities that such incidents must be swiftly and comprehensively investigated and appropriately sanctioned. It notes in this regard reports of an increase in processed cases by the Police Inspectorate, which may enhance public confidence in the willingness of the KPS to address complaints.

#### *Recommendations*

The Advisory Committee encourages the authorities to pursue their efforts to reassure minority communities through proactively implementing the new community policing methodology and maintaining close dialogue with representatives of affected communities. Religious sites of minority communities must be appropriately protected to prevent incidents of vandalism.

The Advisory Committee further calls on the authorities to increase their efforts to recruit, retain, and promote law enforcement staff of minority origin and to ensure that officers with relevant language background are deployed to areas of concern. All misconduct or failure to act must be swiftly and effectively investigated and sanctioned.

18. Liechtenstein  
*Opinion adopted on 26 June 2009*

Article 6 of the Framework Convention

Tolerance and protection against discrimination

*Advisory Committee's recommendations following two cycles of monitoring*

In its first two Opinions on Liechtenstein, the Advisory Committee drew the attention of the authorities to the situation of more vulnerable groups, in particular women of immigrant origin and of Muslim religion. The authorities have been encouraged to constantly monitor the situation in this respect, including through the collection of statistical data on the extent of discrimination and on the situation of the different groups in various fields.

More generally, the Advisory Committee encouraged the authorities to fully implement the 2003 national action plan aiming at fighting against racism, discrimination and xenophobia and to promote better integration of immigrants. It stressed the importance of the promotion of tolerance and mutual respect between all persons living in Liechtenstein.

*Present situation*

The Advisory Committee welcomes the fact that the authorities have continued to take measures to improve integration of immigrants and prevent racism and discrimination against them. It considers as a positive step the fact that the integration of immigrants has been legally enshrined as a State objective and wishes to highlight in this respect that, according to official sources, at the end of 2007, foreigners represented a substantial part (33.6%) of the permanent population of Liechtenstein (33,356 persons).

The Advisory Committee notes that the new Foreigners Act, which entered into force on 1 January 2009, reflects the authorities clear willingness to implement a more efficient integration policy. A position paper adopted in 2007 contains the main principles underlying the Government's integration policy.

The Advisory Committee notes with interest that, as indicated in the State Report, "promoting and demanding" is the main principle guiding the authorities' action in this area, considered by the authorities as the most suitable way to ensure, on the basis of common values, peaceful coexistence of all persons in Liechtenstein. It also understands that, under the new legislation, Liechtenstein will conclude integration agreements with foreign-language immigrants, and that knowledge of the German language is an important commitment to be taken by immigrants under these agreements.

The Advisory Committee takes note of the authorities' commitment to foster integration and acknowledges the importance of language as a tool for integration. It notes that specific financial support has been allocated for the measures envisaged as part of this policy, in particular those aiming to foster the German language teaching. It would,

however, like to stress that integration involves both the majority and the minority communities and should not rely disproportionately on the efforts to be made by the immigrants. It welcomes the fact that the above-mentioned integration policy also includes measures intended to increase openness and improve attitudes towards new groups within the majority population and strongly encourages the authorities to be proactive in this regard. In particular, the Advisory Committee considers it essential that the authorities put emphasis, in their action, on combating and sanctioning racism and intolerance and on awareness-raising measures. The Advisory Committee would also like to stress that respect and support to the preservation of the identity and culture of persons of different ethnic origin are important pre-conditions to their successful integration.

The Advisory Committee notes the efforts that are being made to strengthen the legal framework pertaining to the protection against racism and discrimination, including through increased protection and support to the victims of such acts, as provided by the Victims Assistance Act adopted in April 2008. It also takes note of the establishment of the Violence Protection Commission and of its specific new functions in this sphere.

The Advisory Committee notes that, under Article 31 of the Constitution of Liechtenstein, the principle of equality before the law only applies to citizens and that the protection of the rights of foreigners is only ensured through international treaties and on the basis of reciprocity. The Advisory Committee is concerned that this situation does not provide a sufficient legal basis for the enjoyment of the rights of immigrants living in Liechtenstein, even though these persons represent a substantial part of the total population. It calls on the authorities to examine this situation and to identify the most appropriate ways to remedy it. In this context, it strongly welcomes the efforts made by the authorities of Liechtenstein in recent years to collect data with respect to discrimination in various areas, and to identify areas where the situation of persons belonging to vulnerable groups requires more resolute measures of support from the State.

At the institutional level, the Advisory Committee notes the establishment, in 2005, of the Office for Equal Opportunities as a key institution tasked to coordinate the implementation of the national action plan against racism and of the integration measures contained therein. The Office also serves as a contact point in the national administration for victims of discrimination. The Advisory Committee considers it particularly important that the authorities provide all the resources needed for the effective and independent operation of the Office.

The establishment of a Working Group on the Integration of Muslims as an institutional channel for dialogue between members of the Muslim communities and the authorities is also a positive step. According to the State Report, discussions are currently ongoing on issues of interest to the Muslim communities, such as the establishment of an umbrella association, the issue of cemeteries and places of worship, and access to public financial support. In 2007, religious instruction for Muslim children was introduced in primary

schools as a pilot project and, following evaluation, might be integrated in the regular curriculum.

A reform is currently under discussion with regard to existing arrangements pertaining to the relations between the State and the Church and public support to religious organisations. The Advisory Committee expects that an inclusive and non-discriminatory approach will be favoured in the definition of the State's new policy in this sphere. It notes in this context that, according to different sources, religious denominations do not always benefit from equal access to public funds. The Advisory Committee encourages the authorities to take duly into account the size and needs of the various religious communities in the current process of reform.

Specific projects have been implemented to support families and in particular women of immigrant background through the provision of German language courses, counselling services and information. Support has also been provided to multicultural projects, including NGO projects, aiming to facilitate the integration of families.

Further efforts have also been made in terms of education and awareness-raising about human rights and the principles of equality and non-discrimination, respect for diversity and intercultural dialogue. Multicultural and human-rights related contents have been included in the school curriculum and, at the same time, special courses have been provided to teachers, to better prepare them for working in a multicultural environment. Similar courses have been offered to the staff of public administration, including the police.

Notwithstanding these positive steps, the Advisory Committee however regrets to note that difficulties are still reported with regard to the situation of immigrants and their integration in society. Different sources report that persons of different ethnic origin, in particular asylum-seekers and women of immigrant background, continue to face difficulties in their efforts to rent accommodation or to find employment. With regard to employment, the Advisory Committee notes that the scope of the prohibition of discrimination on the basis of race, colour, descent, nationality or ethnic origin in the Employment Contracts Act is limited to the contracts' termination and that it does not cover aspects such as recruitment, remuneration and promotion.

It also appears that immigrant children, due *inter alia* to language barriers, face difficulties in adequately integrating education. According to different sources, these pupils have lower school performance, are likely to attend lower-standard secondary schools and are under-represented in higher levels of secondary education. To improve access and effective integration of these children in school, additional support measures are needed, such as intensive language classes, extra tuition and information and awareness-raising measures for families. In addition, the initiatives taken to improve the education system's ability to address the specific needs of these children should be pursued and developed further.

The Advisory Committee acknowledges the general climate of tolerance and mutual understanding in Liechtenstein. It notes that new steps have been taken in recent years to improve intercultural relations and to address shortcomings noted in this respect (see measures mentioned above as well as, for details, the State Report).

The Advisory Committee has however been informed that instances of xenophobia and intolerance continue to be reported against persons of different ethnic origin and religion, notably against Muslim and persons of Turkish origin. Moreover, a worrying increase in xenophobic and other extremist tendencies has been noted in recent years among youth and cases of violence due to such groups have been reported, including in schools. It commends the authorities' commitment to ensure constant monitoring of the situation as well as the efforts made to develop a comprehensive strategy to prevent, measure and combat the expansion of such manifestations, in particular among the youth. The Advisory Committee welcomes these efforts as it considers that such trends are a source of deep concern and require immediate action. More generally, it calls on the authorities to take more resolute steps to improve attitudes in society towards immigrants and to ensure full respect for their rights.

#### *Recommendations*

The Advisory Committee encourages the authorities to adopt a more comprehensive policy to ensure the implementation of the principles of equality and non-discrimination in respect of all persons living on the territory of Liechtenstein, including through the adoption of a more comprehensive anti-discrimination legislation. The initiatives taken to promote equal opportunities in various areas of life should be pursued and developed further.

More resolute measures should be taken to facilitate the effective integration of persons of a different ethnic origin, while supporting efforts to preserve their identity.

Further efforts should be made to ensure full implementation of the national action plan against racism. The authorities should continue to monitor closely manifestations of racism and xenophobia and take adequately measures to combat and sanction them. Particular attention should be paid to recent worrying tendencies in this respect.

#### 19. Lithuania

*Opinion adopted on 28 November 2013*

Article 6 of the Framework Convention

#### Tolerance and intercultural dialogue

##### *Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee called on the authorities to design and implement effective strategies to promote integration, including of Roma and immigrants, and to increase awareness-raising among the general public on the dangers of



racism and intolerance for society. In addition, it recommended more efforts to address biased media reporting on minority communities as well as asylum seekers, refugees and immigrants, including within the mandate of the Inspector of Journalists' Ethics.

*Present situation*

The Advisory Committees welcomes the variety of efforts made by the authorities, including the Ministries of Culture and Education as well as the Equal Treatment Ombudsperson, to promote tolerance and inter-ethnic understanding in society. It notes with concern, however, that the majority of its interlocutors referred to a deterioration in the overall environment, with open displays of intolerance and sometimes racism becoming more frequent. According to opinion polls carried out by the Institute for Ethnic Studies in October 2011, the attitudes towards different ethnic groups, such as Roma and Chechens, have hardened and perceptions of the Polish minority significantly worsened, possibly as a consequence of the prolonged public debate surrounding the amendment of the Law on Education. The Advisory Committee notes with deep concern that open displays of hostility are not always appropriately condemned by authorities. Consecutive Independence Day celebrations, for instance, have been disturbed by neo-Nazi manifestations, with a group of 3 000 youth chanting "Lithuania for Lithuanians" on 11 March 2013 afterwards referred to by the President as "young patriots". Minority representatives report that this statement was not only viewed as an expression of disregard and lack of respect for their presence in and contribution to Lithuanian society, but also, given the fact that it came from a most senior public figure, may constitute an excuse for broader society to replicate such attitudes in their daily life.

The Advisory Committee further notes with deep concern that persons belonging to the Roma communities continue to face exclusion in many spheres of public life. Numerous incidents have been reported where Roma are prevented from entering public places such as restaurants and bars, and their access to education and the labour market (see comments on Articles 12 and 15 below) remains restricted by discriminatory attitudes, despite some efforts having been made. The Advisory Committee notes in this context that the Action Plan for Roma Integration 2012–2014 contains measures to train Roma through vocational or "hygiene classes" but seems not to focus adequately on raising awareness in society on their specific culture and traditions, and promoting tolerance and respect towards Roma communities in the majority population. It underlines in this context its established view that integration is a two-way process that must equally engage minority and majority communities.

The Advisory Committee further notes that anti-Semitism continues to be an issue of concern as well, with cemeteries and the synagogue in Vilnius still being targeted. It welcomes, however, the fact that considerable awareness-raising has taken place, in close co-operation with representatives of the Jewish communities, and that the latter report an improvement in societal recognition of the Holocaust and its effects on the communities, including also through a more positive attitude taken by the media.

*Recommendations*

The Advisory Committee urges the authorities to promptly and unequivocally condemn all incidents of inter-ethnic intimidation, and to ensure that tolerance and intercultural understanding are systematically promoted and conveyed to the public, including by political figures.

The Advisory Committee further calls on the authorities to take appropriate steps, in close consultation with national minority representatives, to develop a comprehensive strategy for the promotion of social cohesion with respect for diversity, and to ensure that measures aimed at the integration of society are also targeting the majority population and are not limited to training or awareness-raising activities among minority communities.

Fight against discrimination, hostility or violence on ethnic grounds

*Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee called on the authorities to intensify their monitoring of discrimination, hostility and ethnically based hatred and to ensure that reported cases were promptly, impartially and effectively investigated and the perpetrators appropriately prosecuted and sanctioned. It also encouraged the authorities to pursue and intensify training and awareness-raising activities on tolerance and respect for human rights among the members of the law-enforcement authorities and to pay increased attention to the independent supervision of their work.

*Present situation*

The Advisory Committee notes with concern that the number of hate crimes and reported incidents of hostility are increasing, as in other member states in particular on the Internet. According to responsible officials, the majority of hate crimes recorded in 2012 relate to ethnic background. The Advisory Committee welcomes efforts to train law enforcement and prosecution services as well as the amendments to the Criminal Code in 2009, expressly considering racial motivation behind a crime as an aggravating circumstance and criminalising the production and distribution of items that incite hatred. It deeply regrets, however, that the Special Division in the Prosecutor's Office dealing with hate crime was abolished in early 2011 and has not been replaced. It considers that the still very low number of recorded cases involving hate crime point to a lack of awareness and expertise among law enforcement to appropriately identify and investigate such offences. It is further of concern to the Advisory Committee that, according to its interlocutors, only a small proportion of such investigations lead to court proceedings and sanctions while the majority is closed, including because the offence is qualified as misdemeanour by law enforcement. In addition, hate crimes are not investigated by the prosecution *ex officio* but require a formal request from the victim, who, according to minority representatives, is often apprehensive about taking legal action (see above comments on Article 4). The Advisory Committee finds that concerted efforts must be

made to increase awareness among law enforcement and prosecution services regarding hate crime and the applicable provisions and considers that a specialised division should be reinstated to ensure that adequate measures can be taken and relevant expertise effectively developed.

The Advisory Committee is pleased to note the continued engagement of the Inspector of Journalists Ethics who is mandated to monitor the application of the Law on the Provision of Information to the Public which prohibits any media reporting that may incite hatred or humiliation of persons based on particular features of their identity, including ethnic background. Since 2010, her mandate has been broadened to include the task of evaluating whether particular information in the media may be instigating hatred and whether a criminal investigation should be initiated or not. Despite these new functions, the Inspector has not received an increase in the budget. An increasing number of cases at pre-trial investigation stage have been submitted for expertise by the Prosecution Services. Given the limited resources, the Inspector's Office has not always been able to respond to all of these cases in time and some had to be placed on hold, thereby delaying investigations and adequate sanctioning in cases that demand prompt and effective responses from law enforcement in order to deter future offences. While the pending backlog has been significantly reduced, various interlocutors of the Advisory Committee have pointed out that the need to prioritise pre-trial investigations has prevented the Office from paying attention to other issues. A more frequent launch of *ex officio* investigations for instance, which also lie within the Inspector's competence, would in the opinion of interlocutors of the Advisory Committee constitute an important sign to the media environment that the increasingly nationalistic and often pejorative reporting on persons belonging to national minorities is no longer accepted.

While the Inspector has quasi-judicial functions and can issue warnings to publishers or institutions for disseminating hate speech, she cannot herself launch criminal investigations. Her evaluations on whether hatred was instigated or not are relayed back to the Prosecution Services which, however, provide no feedback as to whether hate crime investigations are being launched. Reportedly, this is often not the case due to high thresholds of evidence and the necessity to prove intent. In this context, the Advisory Committee regrets that administrative liability for hate crimes was abolished with amendments to the Code of Administrative Violations in 2009, which has reduced the possibility for sanctioning offenders. It further notes with concern reports that the co-operation between the Inspector of Journalists Ethics and the Ethics Commission of Journalists and Publishers, a self-regulatory body, has been problematic in past years, as the Ethics Commission appears not to have taken action in blatant cases of negative media reporting against Roma or persons belonging to other national minorities (see also comments under Article 9 below). The Advisory Committee welcomes, however, the engagement of the Inspector's Office despite its high workload, in additional training and awareness-raising activities for staff of the Broadcasting Council and at journalist schools.

*Recommendations*

The Advisory Committee urges the authorities to increase the capacity and expertise among its law enforcement and prosecution services to effectively address the growing number of cases involving hate crime, particularly on the Internet, including through targeted training activities and the reinstatement of a specialised body to deal comprehensively with the various manifestations of hate crime in Lithuania today.

The Advisory Committee further calls on the authorities to enhance the financial and political support to the Inspector of Journalists Ethics to promote its effective functioning, including by promptly investigating and sanctioning offences identified by the Inspector, and by considering revision of relevant legislation such as the Code of Administrative Violations to provide a more effective framework for sanctioning hate crime.

More efforts must further be made to ensure that journalists and publishers are adequately trained, made aware of their responsibilities towards the public in line with the Code of Ethics of Journalists and Publishers, and reprimanded accordingly in case of non-compliance.

20. Malta

*Opinion adopted on 11 October 2012*

Article 6 of the Framework Convention

Tolerance and protection against discrimination

*Recommendations from the two previous cycles of monitoring*

During the previous cycles of monitoring, the Advisory Committee invited the authorities to extend the legal and institutional framework to combat racial discrimination in order to provide both citizens and non-citizens with protection against any discriminatory treatment by the public authorities or private bodies, covering all fields.

The authorities were also invited to continue their efforts to alert the public to the importance of tolerance and dialogue, and also to improve the integration of refugees and asylum-seekers, inter alia by providing the Agency for the Organisation for the Integration and Welfare of Asylum Seekers (OIWAS) and other relevant entities with adequate resources to ensure they are able to meet the welfare needs of asylum-seekers and refugees.

*Present situation*

The Advisory Committee welcomes the fact that the Equal Treatment of Persons Order of 2007 covers the fields of employment, social welfare, health, education, housing, access to property and services and applies to the public and private sectors. It also notes that the National Commission for the Promotion of Equality (NCPE), set up in 2004, plays an important role in this field by investigating the cases of discrimination submitted to it and by raising public awareness about relevant legislation by means of brochures, surveys, information campaigns etc. In this context, the Advisory Committee notes that different initiatives have been taken, such as the new project *"I'm Not Racist, but..."* launched in May 2012 by NCPE. This project aims at combating and raising awareness on racial discrimination and involves training for African migrants in reporting discrimination. An anti-racism theme day is planned, in order to promote a multicultural atmosphere in favour of diversity.

The Office of the Ombudsman continued to investigate the cases of all persons who felt that they had been treated in a discriminatory manner by a public authority. Furthermore, the Advisory Committee welcomes that, following the 2009 amendments to the Penal Code, the racist nature of an offence is now an aggravating circumstance and a harsher penalty shall be imposed where a public official has perpetrated the offence.

The Advisory Committee acknowledges that the authorities have faced a particularly high level of migration flows. According to several sources, the authorities have taken various initiatives to promote tolerance and facilitate integration of third country nationals. For instance, specific measures for the integration of third country nationals were adopted under the 2008-2010 National Report on Strategies for Social Protection and Inclusion, such as language courses and vocational training programmes. The authorities have undertaken to set up a consultative body for refugees, responsible for helping them with access to the labour market. Measures have also been taken to step up the resources of the Organisation for the Integration and Welfare of Asylum Seekers (OIWAS), now known as the Agency for the Welfare of Asylum Seekers (AWAS).

Despite these developments, the Advisory Committee refers to a number of concurring sources indicating that asylum-seekers and refugees are discriminated against and treated unfairly in terms of access to employment, housing and healthcare. The Advisory Committee has also been informed of attitudes of intolerance against persons of different ethnic backgrounds and religions. In addition, reports indicate an increase in discriminatory attitudes, sometimes fuelled by media and by political debates. In this context, the Advisory Committee considers of particular importance that the authorities contribute to the public debate on immigration in a manner that fully reflects the importance of human rights and human dignity. However, according to a recent survey by the United Nations High Commissioner for Refugees (UNHCR) on public perception about refugees and migrants, a 54% majority of interviewees said that they did not consider migration to be a threat, and 78% considered that Malta should provide refugees and migrants with support programmes.

*Recommendations*

The Advisory Committee calls on the authorities to continue to assign high priority to combating intolerance and discrimination in all their forms and ensuring the respect of human rights of all those under the jurisdiction of Malta.

The Advisory Committee encourages the authorities to continue all their efforts to guarantee the full respect of human rights of third country nationals and to facilitate their integration; to adopt resolute measures to improve society's attitudes towards such persons through a commitment to a robust and long term information strategy.

21. Moldova

*Opinion adopted on 26 June 2010*

Article 6 of the Framework Convention

Interethnic and intercultural relations

*Recommendations from the two previous cycles of monitoring*

In previous cycles of monitoring, the Advisory Committee noted that, although harmonious interethnic relations prevailed in general in Moldovan society, the latter remained divided around the language-related issues and issues connected with Moldova's search for and affirmation of a national and state identity.

The Advisory Committee expressed concern at instances of intolerance against persons belonging to certain minority groups, notably Roma and non-European immigrants, as well as persons belonging to non-traditional religious groups.

*Present situation*

Although Moldovan society continues to be characterised by peaceful relations between persons belonging to different groups, divisions and tensions on language-related issues are resurface regularly. The Advisory Committee is concerned by the recent upsurge of tensions along these issues, following the elections of 5 April 2009. It is also concerned about human rights violations that occurred after the elections.

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

Information brought to the attention of the Advisory Committee from different sources also indicates that Roma and immigrants continue to often be victims of stereotyping, intolerance and sometimes racially-motivated insults and acts, even though very few

complaints are recorded. Existing legislation on racial hatred and racially-motivated acts is rarely applied. In addition, those following non-traditional religions are reportedly subject to widespread intolerance. Some isolated incidents of anti-Semitism have also been recorded, such as hate speech and desecration of Jewish monuments and cemeteries.

Immigrants' representatives informed the Advisory Committee of the obstacles they face in practising their religion (see remarks under Article 8 below) and the visa regime they are subjected to when they want to travel abroad. These make it difficult for them to feel as an integral part of Moldovan society, even though some of them have been living in the country for many years. Moreover, the Advisory Committee notes with concern that individuals seeking to acquire Moldovan citizenship have faced undue obstacles, due to incorrect interpretations of the Law on citizenship by those in charge of implementing it which have been accompanied by other administrative obstacles. The Advisory Committee stresses that it is important for the Moldovan authorities to develop an effective integration strategy, in order to strengthen social cohesion.

#### *Recommendations*

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

Furthermore, all racially-motivated or anti-Semitic acts should be effectively investigated and sanctioned as necessary. Systematic monitoring of these acts should be carried out by the authorities.

The Advisory Committee encourages the authorities to develop a policy to promote the integration of immigrants in Moldovan society, including measures to provide concrete solutions to specific problems facing immigrants in the field of acquisition of citizenship.

### Media

#### *Recommendations from the two previous cycles of monitoring*

In previous cycles of monitoring, the Advisory Committee expressed concern about intolerance being disseminated by some media and a general lack of pluralism in the Moldovan media.

#### *Present situation*

The Advisory Committee is deeply concerned by serious allegations, from numerous sources, indicating a worsening of the situation in the field of the media in Moldova. Numerous national and international reports brought to its attention stress a general lack of pluralism as well as excessive restrictions on the freedom of the media, particular recently.

The Advisory Committee also notes with deep concern that some media fuels intolerance, and sometimes hatred, notably with regard to the ongoing debate on linguistic affiliations. Furthermore, stereotypes, prejudices and sometimes hate speech against Roma, Jews and foreigners continue to be disseminated by the media, even though the supervisory organs of the media have not registered any complaints in this respect. The Advisory Committee has not been informed of any specific action being undertaken by the authorities to combat such phenomena. Furthermore, there appears to be no effective consultations with national minorities on these issues. It finds that this situation is not compatible with the principles of Article 6 of the Framework Convention.

The Advisory Committee welcomes the adoption in July 2006 of a Broadcasting Code of the Media, which *inter alia* prohibits any form of incitement to hatred on grounds of race, religion, nationality or sex. It also contains a number of provisions regarding broadcasting in minority languages (see remarks in respect of Article 9 below). The Advisory Committee notes that the Coordinating Council of Audiovisual is in charge of monitoring the respect of this code.

#### *Recommendations*

Resolute measures should be taken to combat the dissemination of stereotypes or intolerant speech by the media, although these measures should not impinge on editorial independence of the media. Cases of hate speech, in particular if the media incites hatred on grounds of ethnic or religious affiliation, should be prosecuted and sanctioned.

It is important to ensure that the agencies supervising the media and the complaint systems which exist for cases of racist speech or incitement to hatred are fully operational, known to the public and easily accessible and that they consult national minorities in their work.

Furthermore, public debates should be initiated, notably through the media, on issues of tolerance and intercultural dialogue and the need to combat intolerance and hatred, involving both persons belonging to the majority population and to minorities.

#### Police

##### *Recommendations from the two previous cycles of monitoring*

In previous cycles of monitoring, the Advisory Committee was concerned by instances of discrimination and ill-treatment committed by the police, affecting in particular Roma and immigrants.

##### *Present situation*

The Advisory Committee is deeply concerned about serious allegations, from different sources, of numerous instances of ill-treatment committed by the police following the events that took place on 7 April 2009. Such acts may have a negative impact on the climate of tolerance and mutual respect in society.



Moreover, the Advisory Committee has been informed that persons belonging to certain minorities, notably Roma, non-European immigrants and persons belonging to non-traditional religious groups, continue to be confronted on occasions with verbal and physical ill-treatment, excessive use of force, abusive stop and search on the street and other forms of intimidation and harassment by the police. Racially-motivated insults are allegedly not uncommon. Muslim believers complain about frequent and unjustified police raids at their places of worship. Yet cases of police misconduct do not seem to be systematically investigated and sanctioned as necessary and there is at present no independent body monitoring the conduct of the police and investigating complaints. The Advisory Committee is deeply concerned by this situation, which is not compatible with Article 6 of the Framework Convention.

Against this background, the Advisory Committee finds it encouraging that police training in the field of human and minority rights, as well as on policing in a multiethnic environment, has been carried out in recent years. Regular meetings between the police and the population have been organised in various localities, including those where national minorities live in substantial numbers. The Advisory Committee also notes with interest that the quotas for Roma to access higher education (see remarks in respect of Article 12 below) also apply to the police academy and that efforts have been made to recruit Roma in the police, even though to date the latter have allegedly not made use of this opportunity. Moreover, a Code of Ethics and Deontology of the Police was adopted in 2006.

#### *Recommendations*

The Advisory Committee urges the Moldovan authorities to investigate effectively and sanction as necessary all forms of misbehaviour by the police. The authorities should take further, more resolute steps to put an end to police misconduct and abuses, including of a racist nature. They should set up an effective and independent body to monitor the conduct of the police and investigate complaints.

Further efforts should be made to promote the recruitment of persons belonging to national minorities, and notably Roma, in the police. Efforts undertaken to provide training of the police in the field of human and minority rights, as well as regular dialogue between the police and persons belonging to national minorities, should be pursued and expanded. Programmes to train the police for working in a multicultural environment should also be introduced.

## 22. Norway

*Opinion adopted on 30 June 2011*

## Article 6 of the Framework Convention

### Combating intolerance

#### *Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the authorities were invited to take additional measures to foster greater awareness of the history and culture of national minorities and of the various groups making up Norwegian society, and to ensure that the media performed an active role in this field.

The Advisory Committee also encouraged the authorities to train the law enforcement bodies in order to improve mutual trust between the Roma and the police.

#### *Present situation*

The Advisory Committee notes that Norway continues to be characterised by a general climate of tolerance. Moreover, given the increased diversity of Norwegian society, the authorities are endeavouring to develop initiatives for promoting knowledge of other cultures and the positive input of diversity to society. During the last few years, the authorities have produced several reports on Norway's general approach towards integration, migration and minorities issues, which could be used as materials for a thorough political analysis of the Norwegian policy in these fields. The Advisory Committee welcomes in particular the research conducted by the Centre for Studies of Holocaust and Religious Minorities. It takes note of the project to ascertain how Judaism and Islam are perceived by the Norwegian population and to understand the reasons that sometimes drive teenagers to intolerant behaviour towards certain minority groups. Consequently, debates are held with teachers to find tools to teach contemporary history, for example the Holocaust and the Israeli-Palestinian conflict, to classes comprising pupils of different ethnic and religious backgrounds. In this context, in view of the information received concerning some manifestations of intolerance, in particular from children and youngsters towards Jews, the Advisory Committee points out the importance of promoting mutual respect in schools.

Furthermore, in spite of the funds provided by the authorities since 2006 to ensure the safety of the places of worship of the Jewish community in Oslo and Trondheim, information received from the representatives of this minority indicated that the security of their community is often threatened.

The Advisory Committee observes an upsurge of expressions of racism and intolerance towards persons belonging to minority groups. The representatives of civil society state that the frequency of expressions of hostility towards immigrants in political and public debate has increased in the last few years. The principle of respect for freedom of expression often justifies the lack of sanctions of hate speech. The Advisory Committee is concerned by the apparent lack of appropriate reactions by the majority population, the media and the political leaders, who do not condemn these hostile attitudes firmly enough. For instance, the Advisory Committee has been informed that it is commonplace

at the beginning of summer to read warnings in the local press against the arrival in municipalities of the Roma and Romani/Taters due to their seasonal movements. This attitude contributes to reinforcing the negative prejudice against persons belonging to these groups.

Although the press' regulatory body seldom receives complaints regarding ethnic discrimination, the Advisory Committee is convinced that the repetition of intolerant conduct without sanction leads to acceptance and impunity of hate speech and encourages intolerance among the population. It considers that appropriate sanctions should be applied to the media which does not observe the rules of ethical conduct.

With regard to relations between members of national minorities and the police, the Advisory Committee notes with satisfaction the continuation of the existing measures to step up the recruitment of persons belonging to national minorities and to train as many police officers as possible about cultural diversity.

Nonetheless, the Advisory Committee remains concerned about the repeated discriminatory attitudes of the law enforcement authorities to Roma and Romani/Taters, who complain of not being able to rely on the support of the police when they encounter problems regarding access to encampment areas. The Advisory Committee considers that in order to combat prejudice against the Roma and Romani/Taters and facilitate their access to commercial camping sites, the authorities should inform the law enforcement bodies and the settled population, especially owners of camping grounds and holidaymakers staying in these places of the reasons why these people are travelling and the importance of travelling in order to preserve this essential component of the cultural identity of these groups. The Advisory Committee considers that efforts to further integration in a multicultural society should be accompanied by specific measures to support minority groups in preserving their own cultural identity.

### *Recommendations*

The Advisory Committee calls upon the authorities to take more resolute measures to promote tolerance, mutual respect and social cohesion in Norwegian society, and to ensure a regular inclusive review of such measures. The authorities should also encourage the media to comply fully with the rules of ethical conduct, with all due regard for media independence.

The Advisory Committee invites the authorities to place emphasis, in police training, on the specificity of the traditional lifestyle of the Roma and Romani/Taters communities as an essential component of their cultural identity and to promote the recruitment of persons with Roma background into the police force.

The Advisory Committee urges the authorities to ensure that Roma and Romani/Taters are not denied access to commercial camping sites on arbitrary grounds.

The Advisory Committee urges the authorities to ensure the security of all persons belonging to national minorities especially in and around their places of worship in consultation with representatives of these groups.

#### The Commission on the Romani/Tatars

##### *Present situation*

The Advisory Committee notes with interest the setting up in 2009 of a Commission on the Romani/Tatars. The Commission, comprising five independent experts and three representatives of Romani/Tatars organisations, has been instructed to investigate the way in which a policy of forced assimilation of the persons belonging to these minorities was implemented between 1930 and 1960, particularly the placement of approximately 2000 children in foster homes and the sterilisation of approximately 450 women. The findings of this wide-ranging investigation are expected to be available at the end of 2013, and should make it possible for all the victims to be identified and to be offered appropriate compensation.

The interlocutors of the Advisory Committee emphasised that it is sometimes difficult for victims to prove their identity and personal history due to the lack of judicial decisions on placement in foster families or other convincing evidence. They regretted that the procedure was too bureaucratic and that the local authorities, which are responsible for managing these matters, did not give them the full requisite priority. They also expressed concern about the absence of a national scheme for awarding financial compensation.

Whilst acknowledging the efforts made by the authorities, the Advisory Committee considers that, the deprivation of these persons of the possibility to identify with their culture constitutes an injustice on a large scale.

##### *Recommendations*

The Advisory Committee calls upon the authorities to take effective measures to enable persons belonging to the Roma and Romani/Tatars minorities who have been victims of the forced assimilation policy in the past to exercise their rights. It further encourages the authorities to take without delay all possible measures, including a more proactive attitude, such as using the public archives and other documentary evidence in order to enable all the persons concerned to be identified according to their own particular cultural origin. The authorities should also set up a national scheme for awarding appropriate financial compensation, in close consultation with the persons concerned.

23. Poland

*Opinion adopted on 28 November 2013*

## Article 6 of the Framework Convention

### Tolerance and intercultural dialogue

#### *Recommendation from the two previous cycles of monitoring*

In the previous cycles of monitoring, the Advisory Committee urged the authorities to increase their efforts to raise public awareness of the history and cultural heritage of the various ethnic and religious groups.

#### *Present situation*

The Advisory Committee is pleased to note that a climate of tolerance and respect generally prevails in Poland, on which minority representatives themselves comment favourably. The Advisory Committee received information about increased interest in the contribution of Jews to Polish culture, and to a lesser extent that of other national minorities. For instance, Jewish representatives informed the Advisory Committee of being solicited by local schools for presentations on Jewish history, traditions and customs. Generally, surveys indicate that xenophobic and anti-Semitic prejudices and stereotypes in society are becoming less widespread.

The Advisory Committee notes the creation of the Chassidic Route which joins 27 municipalities in the Lubelskie and Podkarpackie *voivodships*. Also, at the local level many initiatives are taken to mark anniversaries of the liquidations of local Jewish ghettos during World War II. In 2012 such commemorations, ranging from marches and prayer meetings, to exhibitions, concerts, and theatre performances were organised in no less than 10 cities and towns.

In October 2013 the *Sejm* adopted a resolution commemorating the 1150th anniversary of the mission of St. Cyril and Methodius, highlighting the historical presence in Poland of Orthodox Christianity practiced by many persons belonging to the Belarusian, Lemko, Russian and Ukrainian minorities.

Despite these commendable initiatives, the awareness among the majority population of Poland's rich multi-ethnic history, and of the contribution of various ethnic and religious groups to the cultural heritage of Poland remains low, according to numerous representatives of national minorities. This regrettable state of affairs is further aggravated by the limiting of teaching of history and discontinuation of some television and radio broadcasts aimed at national minorities and providing information about national minorities (for more details see under Articles 9 and 12 below).

The Advisory Committee further notes that the situation of immigrant Roma is a matter of concern. For example, the planned eviction by local authorities of 100 Roma of Romanian origin from an illegal settlement at Kamieńskiego Street in Wrocław is indicative of the lack of social integration strategies and discrimination.

Finally, it is with regret that the Advisory Committee notes that the public debate on the issue of ritual animal slaughter, including in the media and the political arena, has at times been characterised by intolerant attacks against persons defending this practice. Arguments of “medieval”, “primitive” and “barbaric” nature of ritual slaughter at times revealed anti-Semitic and anti-Muslim sentiment of some of the most vocal proponents of the ban. Such statements undermine the climate of intercultural dialogue and poison the public debate on national minority issues in general (see also under Article 8 below).

### *Recommendations*

The Advisory Committee reiterates its call on the authorities to intensify their efforts to raise public awareness of the history and cultural heritage of the various ethnic and religious groups in Polish society, including through appropriate and adequate teaching of history of national minorities.

The Advisory Committee calls on the authorities to prevent and condemn expressions of intolerant attitudes in political discourse and the media, including in the field of religion.

The authorities should step up development and implementation of social integration strategies and antidiscrimination measures in particular for immigrant Roma.

### Efforts to combat hostility or violence on ethnic grounds

#### *Recommendations from the two previous cycles of monitoring*

In the previous cycles of monitoring, the Advisory Committee urged the authorities to take all necessary measures to prevent, investigate and prosecute all racially motivated offences and to prevent and combat incidents of intolerance and xenophobia, including during sporting events. In this context, it asked the authorities to increase public-awareness of the problem and encourage fans to condemn racist attitudes and behaviour.

The Advisory Committee also urged the authorities to step up their efforts to combat all manifestations of intolerance, racism, anti-Semitism and xenophobia. Furthermore, the authorities were asked to take the necessary steps, while fully respecting the editorial independence of the media, to prosecute incitement to ethnic or religious hatred in the media.

Finally, the authorities were asked to intensify awareness-raising measures for law enforcement officials, the media, and the judiciary on tolerance and anti-discrimination issues.

#### *Present situation*

The Advisory Committee notes that the National Programme for the Prevention of Racial Discrimination, Xenophobia and Related Intolerance (2004-2009) was extended in October 2009 for the years 2010-2013. Under this Programme, a Council for the Prevention of Racial Discrimination, Xenophobia and Related Intolerance, composed of representatives

of the government and public institutions was established in 2011. The Council's role, in addition to coordination and evaluation of the authorities' activities, is to elaborate bi-annual action plans for combatting racial discrimination, xenophobia and related intolerance.

The Advisory Committee was pleased to learn during its visit about the work of the Group for Monitoring Racism and Xenophobia, which operates within the Ministry of Home Affairs. Data on crimes and incidents motivated by hate indicates that their number does not show significant variation in recent years. In 2011, 90 cases of racist or xenophobic crimes and incidents were recorded of which 85 were motivated by hate, and 46 were directed at rights of persons belonging to national minorities (the vast majority of such cases involved hate speech against Jews or Roma, destruction of tombstones, or destruction of bilingual road signs in Polish and the language of a national minority). In 2012 the number of registered cases was 89, of which 37 were directed at rights of persons belonging to national minorities. Jewish organisations, such as the Foundation for the Preservation of Jewish Heritage in Poland, corroborate this information. In 2010, it registered with the police 11 cases and in 2011 seven cases of incidents, mainly concerning anti-Semitic graffiti and destruction of tombstones at Jewish cemeteries. The Advisory Committee is deeply concerned, however, that all too often these cases are not investigated by the police and are not prosecuted and sanctioned by the courts. For example, according to the information published by the Foundation for the Preservation of Jewish Heritage in Poland, only one out of 11 cases reported to the law enforcement authorities in 2010 resulted in the conviction of the perpetrators. There were no convictions in any of the cases reported in 2011. This indicates a lack of commitment or capacity by the law enforcement officials to combat hostility on ethnic grounds.

In this context, the Advisory Committee notes that efforts undertaken to train law enforcement officials have not produced expected results. In fact, since 2006, 58 000 policemen and women (approximately 60% of the total police force) have been trained under the Law Enforcement Officer Programme (LEOP) run jointly by the Ministry of Home Affairs and the Office for Democratic Institutions and Human Rights (ODIHR). The explicitly stated aim of this programme is to improve police skills in recognising, understanding and investigating hate crimes. Building on the experience of the LEOP, a new revised training programme TAHCLE (Training Against Hate Crimes for Law Enforcement) was launched in 2012. The Advisory Committee notes with interest that state organs are accompanied in this area by non-governmental organizations, such as the Association "Never Again" which prepared a brochure "Hate Crimes. Auxiliary Material for the Trainer" explaining different symbols of racist or xenophobic nature.

The Advisory Committee notes with deep concern that some media permit openly racist and xenophobic language towards persons belonging to national minorities. In well-publicised incidents in May 2011 and October 2011, Radio ESKA presenters proffered racial insults against the press spokesman of the General Inspectorate of Road Transport (GIRT), of Indian origin. The same two presenters a year later insulted Ukrainian women's

dignity on multiple grounds including national identity. The Advisory Committee regrets that the radio station in question apparently continues to tolerate such behaviour, in spite of having substantial pecuniary sanctions imposed by the National Broadcasting Council and upheld on appeal by the Appellate Court in Warsaw (in the cases of the 2011 broadcasts insulting the GIRT press spokesman). It also notes that the criminal proceedings concerning the case of 2012 are on-going.

The Advisory Committee notes the reports of cases of discrimination against Roma, for example as regards denial of access to public places. The Advisory Committee finds it encouraging, however, that even prior to the entry into force of the Anti-Discrimination Act of 2010, Roma applicants were successful in litigating on the basis of the civil code. In a landmark judgment delivered by the Poznań Court of Appeal, the court ruled in favour of Roma men who were denied access to a club, and the perpetrator, in addition to an obligation to offer an apology, was obliged to pay 10 000 zloty (€2 380) to the account of the local Roma cultural association.

The Advisory Committee is also concerned about the continuing reports indicating that racism and anti-Semitism continue to plague Polish football stadiums and their surroundings in spite of a number of campaigns such as "Let's Kick Racism Out of Stadiums" and the declared clampdown by the authorities. According to reliable media reports, for example concerning an insulting and xenophobic banner displayed in August 2013 at a football match in Poznań where a local team hosted opponents from Lithuania, xenophobic and anti-Semitic banners, chants and slogans continue to be displayed. The Advisory Committee notes with deep concern that despite strong statements from the authorities, measures to combat racist acts advocated by the European Commission against Racism and Intolerance (ECRI) and already spelled out in CM Recommendation Rec(2001)6 on the prevention of racism, xenophobia and racial intolerance in sport, have not yielded expected results in Poland.

Some law enforcement officials show a surprising lack of sensitivity and awareness for the need to combat manifestations of intolerance, racism, anti-Semitism and xenophobia in society. The Advisory Committee is deeply concerned by an argument advanced by a prosecutor in Białystok who, in June 2013, classified criminal proceedings without filing charges in a case of swastika graffiti arguing that "in Asia it is a symbol commonly used to display happiness and satisfaction". Although, the prosecutor in question was forced to resign from his post in September 2013, the Advisory Committee considers that this incident testifies to a wider problem of lack of training and of discriminatory attitudes towards minorities permeating the law-enforcement structures in Poland.

#### *Recommendations*

The Advisory Committee urges the authorities to prevent, identify, investigate, prosecute and sanction effectively all racially and ethnically motivated or anti-Semitic acts. The authorities must intensify awareness-raising measures and training programmes for law enforcement officials and the judiciary on tolerance and anti-discrimination issues. It is also essential that there are independent bodies to supervise the work of the police.



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

The authorities should take decisive action against racist and anti-Semitic acts perpetrated prior, during and after football matches. The Advisory Committee also calls upon the authorities to increase public awareness of the problem and encourage sports professionals and fans to condemn racist attitudes and behaviour.

24. Portugal

*Opinion adopted on 4 December 2014*

Article 6 of the Framework Convention

Integration and tolerance

*Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee encouraged the authorities to pursue their ongoing efforts to combat racism and intolerance and to promote integration of all groups in society. It invited the authorities to pay particular attention to manifestations of hostility against Roma, asking that they be effectively investigated and sanctioned.

In addition, the Advisory Committee recommended that more resolute steps be taken to ensure the sustainability of projects of socio-cultural mediation and that the status of socio-cultural mediators be strengthened.

*Present situation*

The Advisory Committee is concerned by the information received indicating that expressions of racism and intolerance against Roma are frequent in society as a whole, and in particular in the media and occasionally in the political arena. In fact, Roma continue to face frequent manifestations of hostility in various spheres of life, including denial of access to public places, such as bars and shops. According to the Advisory Committee's interlocutors racist and intolerant statements have been made during TV programmes. The trend towards increasing intolerance and racism is worrying in particular on the Internet and in social media. Moreover, the Advisory Committee has been informed that the school curriculum does not adequately present the cultural heritage of the Roma or their contribution to the Portuguese society and culture. On the contrary, the textbooks present a stereotypical image of the Roma community.

As far as socio-cultural mediation is concerned, it has been brought to the attention of the Advisory Committee that at present there is no legal framework regulating the work of

social mediators. Nevertheless, ACIDI has launched a pilot project for training municipal Roma mediators, aimed at training and placing 15 Roma mediators in 18 municipalities. According to the National Roma Communities Integration Strategy, this project should be extended to at least 50 municipalities and at least 80 mediators should be trained by 2020. The Advisory Committee welcomes these steps.

Notwithstanding the positive measures referred to above, the Advisory Committee notes with regret that at present a high number of the existing mediators are not currently employed. It appears that mediators were able to carry out their activity only while the central authorities covered the related costs. Their employment contracts were not renewed, allegedly due to financial constraints, when the costs were completely transferred to the local authorities.

In recent years there has been substantial immigration to Portugal from its former colonies, but also from other European states. In this respect, the Advisory Committee considers that steps should be taken to increase general awareness about the growing diversity of Portuguese society.

#### *Recommendations*

The Advisory Committee urges the authorities to strengthen their efforts to combat all forms of racism and intolerance, to avoid marginalisation, stigmatisation and rejection and to promote integration of all groups in society. Inter alia, all expressions of racism or intolerance must be firmly condemned and effectively prosecuted and sanctioned.

The Advisory Committee encourages the authorities, in close consultation with the Roma community, to identify sustainable solutions ensuring long-term functioning of socio-cultural mediation. The Portuguese authorities should identify solutions, including financial support, to allow the mediators to continue their work.

#### Combating intolerance against Roma

##### *Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee urged the authorities to take, as a matter of priority, vigorous measures to put an end to the practice, carried out by some municipalities, of separating Roma from the majority population by means of walls or fences.

The Advisory Committee also urged the authorities to investigate without further delay the situation of those Roma who are compelled to move constantly from place to place, with a view to identifying measures to solve the problems facing these persons.

*Present situation*

The Advisory Committee notes with considerable regret that the practice of separating Roma from the majority population by means of walls or fences has not been fully eliminated. According to the available information, the wall surrounding the Roma settlement in the city of Beja, which the Advisory Committee already commented in its second Opinion, is still in place, although it has been lowered. The local authorities are apparently willing to remedy the situation and some steps, such as employing a mediator, have been taken. However, according to Roma representatives the difficult financial situation of the municipality has a negative impact on any foreseen measures.

The Advisory Committee reminds the authorities that constructing walls, irrespective of their height, results in segregation (both physical and symbolic) of the Roma population and is contrary to the principles of the Framework Convention. Increased efforts are needed on the part of the authorities to put an end to such practices immediately.

The Advisory Committee also underlines that prejudice and intolerance are also reflected and further fuelled by the continued practice of settling Roma in areas outside the towns, in inadequate housing conditions and without access to basic facilities (see Article 15 below). This in turn reinforces the stereotypes which are reflected in society as a whole and contribute to creating rather than solving the problem. The Advisory Committee is concerned by the discrimination in access to public services that continues to affect Roma, as many settlements are denied access to water or electricity.

It is with deep regret that the Committee notes that some Roma are compelled by the local authorities to move constantly from place to place. This unacceptable situation is primarily due to the fact that Portuguese legislation does not contain provisions concerning the obligation to provide stop-over facilities (halting sites), and municipalities evict Roma arriving in the area under their responsibility, using threats of legal action for trespassing and illegal parking.

*Recommendations*

The Advisory Committee strongly urges the authorities to take immediate measures to put an end to the practice, carried out by some municipalities, of separating Roma from the majority population by means of walls or fences and to effectively investigate and sanction as appropriate all allegations of discrimination in the provision of public services.

The Advisory Committee also strongly urges the authorities to take measures as a matter of urgency aimed at solving the situation of those Roma who are compelled to move constantly from place to place.

## Portrayal of minorities in the media

### *Recommendations from the two previous cycles of monitoring*

In previous monitoring cycles, the Advisory Committee called on the Portuguese authorities to pursue and step up their efforts to combat the dissemination of stereotypes and prejudices against persons belonging to ethnic minorities, and in particular asked that the supervisory organs of the media effectively monitor the situation in this field and work on preventing such practices.

The Advisory Committee also encouraged the authorities to find ways of promoting the dissemination by the media of unbiased and quality information on ethnic minorities and cultural diversity in general, in close co-operation with representatives of the groups concerned, and in particular the Roma.

### *Present situation*

The Advisory Committee notes that the Portuguese authorities organised in 2010-2012 seven training sessions for journalists on media, immigration and diversity and five training sessions on asylum and refugees, in the context of increased migratory flows. Guidelines on how to deal with the topic of immigration and ethnic minorities were discussed during a forum organised by the Reflection Group on Media and Migration (set up by the Office for Media and ACIDI), bringing together authorities, media representatives and civil society organisations. The Portuguese public television drafted a Code of Ethics on the basis of the Diversity Toolkit for factual programmes in public service television, produced by the EU Agency for Fundamental Rights. Further information on media and diversity and on the Council of Europe recommendations in this respect are available on the website of the Office for Media.

Nevertheless, the Advisory Committee has been informed that media continue to pursue a sensationalist approach and promote a negative image of, as well as stereotypes about, Roma and migrants.

### *Recommendation*

The Advisory Committee urges the Portuguese authorities to make more resolute efforts to combat the dissemination of racism and stereotypes in the media.

## Combating hate crime

### *Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee urged the authorities to take resolute measures to improve the relations between the police and Roma, in particular by promoting the role of socio-cultural mediators. It also asked that police training in the field of human rights and intercultural relations, including police relations with minority communities, be pursued on a regular basis and expanded substantially. Furthermore it

asked that all reported cases of police misconduct be effectively investigated and, if confirmed, sanctioned.

*Present situation*

The Advisory Committee notes that the National Republican Guard provides training on human rights and raises awareness on issues related to racism, non-discrimination or legislation regarding racist offences. The School of the Guard addresses these issues in training and promotion or specialisation courses, within topics such as “Fundamental Rights”. The Masters Course in Police Science of the Public Security Police and its training courses for agents include topics related to human rights. The Training Division of the Directorate General for the Administration of Justice also deals with issues related to the rights of persons belonging to minorities. The Advisory Committee is however not aware how many police agents and employees have in fact participated in such training.

Furthermore, the Advisory Committee notes that the National Republican Guard has continued its cooperation with the Centre for Study of Social Integration in training Roma mediators and pursued the project *Local Security Interlocutor*, while aiming to involve the Roma community in this project. The Public Security Police participates in the Local Safety Audits, at regional level, and in the Integrated Programme of Proximity Policing. The Foreign and Borders Service has also carried out awareness-raising activities.

As far as the proceedings in police misconduct cases on the grounds of discrimination are concerned, the General Inspectorate of Internal Administration instituted six proceedings in 2011 and 2012 and two in the first quarter of 2013. It is not clear, however, what proportion of all cases these eight cases of alleged discrimination constitute, nor what the outcome has been.

*Recommendation*

The Advisory Committee encourages the authorities to pursue and strengthen their efforts to improve relations between the police and Roma, and to promote the role of socio-cultural mediators. Police training in the field of human rights and intercultural relations, including police relations with minority communities, should be further pursued.

25. Romania

*Opinion adopted on 21 March 2012*

Article 6 of the Framework Convention

Tolerance and intercultural dialogue

*Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles the authorities were encouraged to strengthen the multicultural dimension of curricula and syllabuses in schools. They were urged, in

particular, to review textbooks in co-operation with representatives of minorities to give an appropriate reflection of the diversity of Romanian society.

The Advisory Committee also called on the central and local authorities to take the necessary measures to improve inter-ethnic dialogue and to strengthen mutual respect and understanding in the counties in which persons belonging to the majority are in a minority situation and to protect such persons against any discriminatory practices based on their ethnic origin.

#### *Present situation*

The Advisory Committee welcomes the multiple efforts made by the authorities to foster intercultural dialogue between the majority and the national minorities, and between various national minorities and the many ways the minorities representatives have been involved in this process. The Advisory Committee further notes the numerous campaigns, programs, seminars and initiatives to promote diversity and intercultural dialogue organised by the Department for Interethnic Relations, aimed at reaching the population, the media bodies and the authorities.

Against this generally positive background, the Advisory Committee notes that in some counties, like Harghita, the inter-cultural dialogue between persons belonging to the Hungarian minority and the Roma remains problematic. The Advisory Committee welcomes the measures and steps that have been taken by the authorities in this regard to prevent future conflicts, and to strengthen and maintain inter-cultural dialogue. However, the Advisory Committee notes with concern that, in some reported cases, measures to mediate in the conflict and to prevent further confrontations were strongly criticised by civil society representatives for having a negative impact on the rights of the Roma communities involved.

The Advisory Committee notes with satisfaction all the progress that has been achieved by the authorities to expand the education on the history of the Holocaust by including the Holocaust in history school curricula.

In spite of all the steps taken to strengthen intercultural dialogue, serious cases of hate speech of an anti-Roma and anti-Semitic character and discriminatory conduct continue to be reported. The Advisory Committee is deeply concerned that, in 2009, the mayor of Constanța, appeared in public dressed as a Nazi officer, and in spite of all the general condemnation and indignation his action caused, no charges were ever laid against him. The Advisory Committee further notes with regret that in 2007 and 2008 a substantial number of tombstones were desecrated in the Jewish cemetery in Bucharest. Instances of anti-Semitism have been also reported in both public and private broadcasting media, in the press and on the Internet. On the positive side, the Advisory Committee notes that, in 2011, the Romanian Academy changed the definition of the term "*Anti-Semitic*" in the dictionary thus replacing the old reference which was pejorative and insulting towards the Jewish community.

The Advisory Committee notes that the National Audiovisual Council, in collaboration with the National Council for Combating Discrimination, monitors radio and television broadcasts and is empowered to impose sanctions if cases of hate speech or intolerance are established. The Advisory Committee notes that, between 2008 and 30 July 2010, the National Audiovisual Council applied five sanctions amounting to 5,000 lei and issued four notices for breaching legal provisions in the audiovisual field referring to discrimination on grounds of nationality, race, religion, gender, sexual orientation or ethnic affiliation.

Cases where the Roma community is targeted by hate speech continue to be reported. In particular, the Advisory Committee is concerned about the fact that many statements denigrating Roma have been made by public officials. The Advisory Committee also finds disconcerting that, although the NCCD has imposed sanctions condemning discriminatory statements, including at the highest level of the state, the situation has hardly improved in recent years.

Numerous efforts have been undertaken by the authorities in order to increase the awareness of the whole population, including persons belonging to national minorities, politicians and the media of the need for tolerance and respect for diversity, and to combat prejudices against the Roma through campaigns, educational programmes, surveys and activities organised by the Department for Interethnic Relations. The Advisory Committee welcomes in particular the co-operation between the DIR and the National Agency for Roma in this respect. Such efforts should also be developed in co-operation with all major organisations representing national minorities.

#### *Recommendations*

The Advisory Committee calls upon the authorities to make further efforts to combat the continuing manifestations of intolerance, racism, anti-Semitism and xenophobia in society. They should take all the measures necessary to promote and to intensify inter-cultural dialogue throughout the country, with particular emphasis on municipalities where tensions have arisen.

Furthermore, all racially-motivated or anti-Semitic acts should be effectively investigated, prosecuted and sanctioned. Systematic monitoring of these acts should be carried out by the authorities. In particular, the Advisory Committee urges the authorities to adopt further legislative measures and policies to combat racist manifestations in the media, in the spirit of the Committee of Ministers' Recommendation N° R(97)20 on "Hate Speech".

#### Police conduct

##### *Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee stressed that serious problems subsisted with regard to relations between the police and Roma, and expressed its concern about the cases of ill-treatment of members of the Roma Community by the police. The Advisory Committee urged the authorities to take more resolute measures to improve the effectiveness and the impartiality of investigations in such cases.

The Advisory Committee further encouraged the authorities to increase their efforts to include more Roma within the police force.

*Present situation*

The Advisory Committee notes that a number of initiatives taken by the authorities to combat discrimination have increased human rights awareness and raised professional standards among police officers. The Advisory Committee welcomes, in particular, the collaboration between the General Inspectorate of the Romanian Police and the National Agency for Roma, to carry out programs to prevent discrimination, in particular against Roma.

The Advisory Committee notes that, according to the State Report, the Police Academy in Bucharest reserves a number of seats for candidates of Roma origin per year. According to police statistics, in January 2009, 1,1% of the 59,195 total police force represented members of the national and ethnic minorities. There are currently 557 police officers belonging to national minorities in the police force, of whom 96 identify themselves with the Roma community. One of the reasons pointed out by some representatives of the civil society to explain the disproportionately low number of Roma in the police force is that the access to such positions is conditioned by at least a baccalaureate diploma which due to the high drop out rate of Roma from high school, prevents them from pursuing a law enforcement career.

The Advisory Committee notes with concern that, despite all the measures taken, cases of ill-treatment of Roma by the police force continue to be reported. Due to the fact that complaints against the police are not classified on the basis of the ethnicity of the person who lodged the complaint it is impossible to establish what percentage of such complaints were lodged by the Roma. The Advisory Committee notes with concern, however, the reports from non-governmental organizations and the media concerning ill-treatment of Roma by the police, primarily through excessive force and beatings. Such cases concerned for example the beating of Mr Emil Baboi by police in January 2009, and the use of tear gas by police following an intervention in a Roma neighbourhood in Piatra Neamt in July 2009.

*Recommendations*

The Advisory Committee urges the Romanian authorities to investigate effectively, prosecute and sanction as necessary all forms of misconduct by the police. The authorities should take further, more resolute steps to put an end to police misconduct and abuse, including of a racist nature.

Further efforts should be made to promote the recruitment into the police force of persons belonging to national minorities, in particular Roma. Efforts undertaken to provide training of the police in the field of human and minority rights, as well as regular



dialogue between the police and persons belonging to national minorities, should be pursued and expanded.

26. Russian Federation

*Opinion adopted on 24 November 2011*

Article 6 of the Framework Convention

Combating racism and hate crime

*Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee expressed concern at the increasing number of racially-motivated offences, targeting in particular Roma and persons from Central Asia and the Caucasus.

It invited the authorities to step up efforts to conduct investigations into racially or religiously motivated offences and to ensure that the police adequately acted in reported cases of racially-motivated violence or threats of violence.

The authorities were also invited to ensure that there was no discriminatory application of the law aimed at countering extremist activities.

*Present situation*

The Advisory Committee welcomes the fact that the authorities have taken action to prevent racist crime, both at federal and regional level, notably amongst young people. An inter-agency commission to counteract extremism was established in 2011 under the auspices of the federal Ministry of the Interior with a view to better coordinating actions to counter intolerance. Additionally, a task force on inter-ethnic relations was set up under the auspices of the Deputy-Prime Minister. Other examples of concrete measures taken in this field include various actions launched by the City of Moscow entitled “many peoples, one country” as well as a comprehensive information campaign supported by the federal authorities. A number of regions, including Perm *Krai*, have also adopted regional plans to prevent and counter extremism. In 2011, Moscow City adopted a strategy for dealing with inter-ethnic relations.

The Advisory Committee also welcomes the fact that, according to official and non-governmental sources, the number of racially-motivated crimes started to decrease in 2011, following a peak in 2008. Moreover, it notes with satisfaction that the Criminal Code was amended in 2007 so as to enlarge the list of criminal offences for which ethnic, racial or religious motivation is an aggravating circumstance (see also remarks on Article 4 above). It also commends that law enforcement officials appear to acknowledge more frequently the racist or hate motivation of offences. In this context, more resolute measures have been taken to investigate and prosecute offences committed by far-right and neo-Nazi groups, and a number of openly racist organisations have been closed down.

However, the number of racially-motivated offences, including numerous instances of physical violence and murders, remains very high and persisting manifestations of hostility against persons belonging to some groups continue to be frequently reported, which is of deep concern to the Advisory Committee. Persons originating from Central Asia, the Caucasus, Africa or Asia, as well as Roma are particularly targeted by racist violence. No less than 16 persons were killed between January and September 2011 and 90 injured as a result of racist violence in 25 regions of the Russian Federation.

Frequent expressions of hostility against Muslims have also been reported to the Advisory Committee; they appear to have increased since the bombings in the Moscow metro in 2010, particularly against women wearing a *hijab* (see also remarks below). The Advisory Committee was also informed of manifestations of anti-Semitism and instances of threats against local Jewish communities, although to a lesser extent than hostility against Muslims. Moreover, acts of vandalism against Jewish and Muslim cemeteries, as well as against mosques and synagogues continue to be frequently reported.

Despite the higher rates of prosecution of racially-motivated crime, the Advisory Committee is further informed that courts often tend to give suspended sentences in cases of racially-motivated offences, which can generate a feeling of impunity among neo-Nazi and other violent groups. The Advisory Committee also learned that there is substantial under-reporting of hate crime by the victims. According to interlocutors of the Advisory Committee, this is due to a combination of lack of awareness of existing remedies, lack of confidence in the law enforcement and fear of retaliation by the perpetrators. Furthermore, non-governmental organisations reported to the Advisory Committee that the legislation on countering and prosecuting extremism continues to be sometimes used against human rights defenders, persons or organisations engaged in minority protection and non-traditional Muslim groups (see also remarks under Article 7 below). It also notes that the federal lists of extremist materials and of extremist organisations, despite recent updates, continue to be in need of further review so as to eliminate inconsistencies and outdated entries that make the lists difficult to use effectively in combating intolerance. Attention must also be paid to ensure appropriate judicial overview concerning these lists.

Finally, the Advisory Committee notes with concern that tension between various ethnic groups has sometimes led to violent interethnic conflicts, as was the case in 2006 in Kondopoga or more recently in Karagai, in the Perm *Krai*. The Advisory Committee finds it worrying that in a number of such instances, the local authorities and the police have reportedly not reacted adequately to restore the rule of law and a climate of mutual respect in the population (see also remarks below).

#### *Recommendations*

The Advisory Committee urges the authorities to take far more resolute measures to combat intolerance and racism. All allegations of racially-motivated offences must be effectively investigated, prosecuted and adequately sanctioned. Efforts to improve adequate prosecution of racially-motivated offences should be pursued, including through

further training and awareness-raising among the judiciary on the legislation on racism and discrimination.

Efforts to combat the dissemination of racist ideologies in the population, particularly among young people, must be intensified. In cases of violence committed by racist groups, as well as of inter-ethnic tensions, it is essential that the law-enforcement authorities react swiftly and ensure effective implementation of the law.

#### Combating hate speech in the media and political life

##### *Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee expressed concern at the frequent mentioning of the ethnic origin of alleged perpetrators by the media, as well as at the spreading of stereotypes on certain groups, such as Roma, Tajiks and persons from the Caucasus.

It called upon the authorities to combat hate speech more effectively in the media and in the political arena and to provide training to media professionals on ways of promoting a culture of tolerance.

##### *Present situation*

The Advisory Committee finds it particularly worrying that extreme-right and neo-Nazi groups, expressing openly racist and xenophobic views and committing acts of violence, including murder of persons belonging to minorities, have become increasingly active and visible in public life. The violent demonstrations by far-right movements that took place on Manej Square in Moscow in December 2010 illustrate this trend, that was reported to the Advisory Committee by various interlocutors. The Advisory Committee is concerned that, despite the fact that a number of persons involved in these violent demonstrations have been arrested and prosecuted, some authorities and politicians have reportedly associated these violent events with "migrant criminality", thus putting the blame on migrants rather than on far-right activists. The Advisory Committee finds that the frequent emphasis placed by the authorities on the alleged connection between crime and irregular migration can but contribute to increasing hostility and negative attitudes against migrants in the population and to increasing risks for migrants of harassment and abuses by the police (see also remarks below).

The Advisory Committee is also deeply concerned by the increasing use of xenophobic and racist rhetoric by politicians, particularly as part of the campaign for the legislative elections in December 2011. It finds it worrying that the slogan "Russia for Russians" seemed to be high on the agenda of a number of candidates involved in the 2011 electoral campaign. Information brought to the attention of the Advisory Committee also indicates that local politicians have proposed to carry out finger-printing of persons originating from the Caucasus.

Moreover, some politicians have in the last few years deliberately fuelled hostility against Roma, "illegal" migrants and persons originating from the Caucasus in order to gain support of the majority population. The Advisory Committee is particularly alarmed by reports indicating that the question of whether Roma should be expelled from a city became a major issue in the local electoral campaign of 2005 in Arkhangelsk. Consequently, the Roma were forced to leave the city in 2006. Roma are in fact very frequently equated by politicians and the media with drug traffickers and thieves, and therefore often perceived as such by the majority population.

Although the authorities have in some cases publicly condemned racist statements made by politicians and officials, the Advisory Committee learned with concern during its visit that this is not always the case and some instances of hate speech have remained without an official reaction. The Advisory Committee is of the opinion that impunity in case of hate speech encourages further and more aggressive manifestations of hostility.

While racist statements by politicians may not be so frequent, they appear to be widely echoed in the media, which, in doing so, disseminates further prejudices on some minority groups and therefore triggers intolerance against them. The spreading of prejudices and hate speech against Roma is, in particular, frequently reported in TV programmes as well as on Internet portals. The Advisory Committee is also concerned by reported widespread expressions of Islamophobia and anti-Chechen feelings in the media.

Therefore, the Advisory Committee welcomes efforts that have been made, for instance by the Ombudsperson's office of Perm *Krai*, to remind media about their ethical commitments as well as campaigns that have been supported by the federal authorities for media to promote tolerance and respect for diversity. It finds, however, that in view of the current situation, far more resolute efforts are needed to combat the dissemination of hate speech in the media, including by means of firm public condemnation as well as relevant training and awareness-raising among media professionals of their ethical duties.

The Advisory Committee also notes that the organisation in charge of monitoring the media (ROSKOMNADZOR) can issue warnings to media outlets that violate the law on countering extremist activities and disseminate hate speech or incite hatred. It was informed by the authorities that between 2004 and 2011, ROSKOMNADZOR and its predecessor issued 18 sanctions against electronic media outlets, while 383 sanctions were issued against print media in the same period. Although it welcomes the contribution of this institution to the fight against racism, as well as the work of the Public Collegium of Russian Union of Journalists in this respect, it finds that the number of warnings issued against electronic media appears limited, given the extent to which prejudice and hate speech against minorities are spread through this media, in many European countries, including in the Russian Federation.

The Advisory Committee further notes that, as in other States Parties, an increasing amount of hate speech is spread through the Internet, which has triggered an ongoing debate in Russia on means to prevent the dissemination of hatred through electronic

media. In this regard, a decision was taken by the Supreme Court in 2010 so as to enable ROSKOMNADZOR to request from media organisations that they remove from their websites extremist, slanderous material or material inciting hatred within 24 hours or be closed down. In this context, the Advisory Committee believes that it is important to ensure that this possibility is implemented strictly with a view to preventing and sanctioning incitement to ethnic hatred, with full respect for the freedom of expression.

#### *Recommendations*

The Advisory Committee urges the authorities to condemn systematically, firmly and unequivocally all expressions of intolerance, racism and xenophobia in political life. Adequate sanctions must be taken against politicians fuelling intolerance or inciting hatred.

Far more resolute measures must be taken to combat the dissemination of prejudices, and sometimes hatred, through the media, including through a more effective implementation of existing self-regulation mechanism of the media. Programmes to raise awareness of media professionals on anti-discrimination legal standards and their responsibility in combating racism and promoting respect for diversity must be expanded.

#### Police

##### *Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee called upon the authorities to raise awareness and provide training to law enforcement and police staff on legal provisions on racially-motivated offences. It urged them to ensure that inaction by law-enforcement officials in the face of threats or acts of violence is punished in accordance with the law.

##### *Present situation*

The Advisory Committee is deeply concerned by the state of relations between the police and persons belonging to minorities. It is informed by representatives of various minority groups that ethnic profiling, harassment, bribery and other forms of mistreatment by the police are one of their main issues of concern. Persons from the Caucasus, Central Asia, Africa and Asia, as well as Roma are reportedly subject to utterly disproportionate stop-and-searches in public places, such as the metro. Moreover, according to information provided by numerous sources, they often face mistreatment by the police, on the occasion of such stops, including racist statements. Worrying allegations of violence and forced labour in police stations have also been reported to the Advisory Committee. This situation is not in line with the principles of Article 6 of the Framework Convention.

Additionally, the Advisory Committee is informed that, while bribery and corruption of the police have a detrimental effect on the rule of law in general, they have a particularly negative impact on persons belonging to disadvantaged groups of society, including some national minorities and migrants. They limit their access to justice in cases of discrimination and racist abuse.

The Advisory Committee also deeply regrets that Roma continue to experience police raids during which their properties are destroyed and disproportionate use of force is applied. They are sometimes followed by violent evictions from their settlements (see also remarks under Article 4 above). The Advisory Committee was for example informed that police raids were carried out in Smolensk in August 2010 in Roma settlements and on markets, with a view to collect fingerprints and pictures of all Roma.

According to interlocutors of the Advisory Committee, the police has, in various situations, not acted timely and effectively to protect persons belonging to some minorities and human rights defenders from threats of violence or actual violence, notably from extreme-right groups. In some cases, the Advisory Committee notes with deep concern that the alleged victims of racist violence have in fact been detained and sometimes mistreated by the police whereas their aggressors were released. It also understands that many victims of police mistreatment prefer not to report abuse for fear of retaliation. The lack of adequate action has also been reported in cases of inter-ethnic tension, such as those which occurred in Karagai in the Perm *Krai* (see remarks above). There seems to be an overall lack of awareness in the police of legal provisions on racism and discrimination.

Moreover, the Advisory Committee finds it of particular concern that persons originating from Georgia have had to face police harassment and other practical difficulties following the tensions in the relations between Georgia and the Russian Federation in 2006 (see also remarks under Article 18 below). Measures taken against persons belonging to the Georgian minority, in particular in 2006, including measures against their businesses, repeated police checks, including in schools, and even deportations under simplified procedures to Georgia, are not compatible with the provisions of Article 6. The Advisory Committee is deeply worried by reports indicating that Tajiks have in the autumn of 2011 been selectively subjected to increased harassment, following the eruption of tension between the Russian Federation and Tajikistan.

Against this background, the Advisory Committee understands that the authorities are aware of the problems of human rights abuse by the police, as well as corruption, and that they have started to take measures to tackle these problems. It notes that a law reforming the police was adopted in 2010 which includes provisions for further human rights training of the police and a requirement for all policemen to undergo re-certification. It also welcomes the opening by the Public Chamber in February 2011 of a 24 hour phone line for reporting of police abuse as well as initiatives, such as the one undertaken by the Ombudsperson's Office in Perm *Krai*, to provide human rights training to the police and training on fighting racism and discrimination. Nonetheless, it takes the view that far more resolute measures should be taken to combat mistreatment of migrants and persons belonging to some minority groups by the police, as the situation described above is incompatible with the principles of Article 6 of the Framework Convention.

#### *Recommendations*

The Advisory Committee urges the authorities to prosecute effectively and sanction adequately all instances of police misconduct, abuse and violations of human rights. The

lack of effective action in cases of violence or threats of violence must also be effectively investigated and sanctioned.

Far more resolute measures should be taken to increase awareness and training of the police on racism and discrimination and on human rights in general. Actions undertaken to combat corruption should be pursued and intensified.

### Situation in the North Caucasus

#### *Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee observed that violence and human rights violation in Chechnya and other areas in North Caucasus had hampered efforts to implement various articles of the Framework Convention both in North Caucasus and other parts of the Russian Federation. It urged the authorities to ensure effective and swift investigation of human rights violations, so as to put an end to the feeling of impunity prevailing in Chechnya.

#### *Present situation*

The Advisory Committee is pleased to note that substantial progress has been achieved since the adoption of its second Opinion in terms of reconstruction of houses and infrastructure destroyed during the conflicts in Chechnya. It also welcomes the recent adoption of a socio-economic development programme for the North Caucasus, which aims at improving living conditions and employment opportunities in the entire region.

Additionally, it also notes that steps have been taken to investigate and sanction human rights violations committed in the context of the conflict, including through the setting up of the Federal Investigative Committee in September 2010. The Advisory Committee expects that this new body will be given all support required to implement its mandate effectively and independently, in particular as concerns human rights abuse allegedly committed by law-enforcement officials. It also hopes that this body will contribute to restoring justice with a view to overcoming the effects of past conflicts and support sustainable peace.

However, reports brought to the attention of the Advisory Committee indicate that the overall climate in the North Caucasus (including Dagestan, Ingushetia, North-Ossetia-Alania, Chechnya and Kabardino-Balkaria) continues to suffer from serious human rights violations. These include terrorist attacks, and counter-terrorist measures that result in further human rights violations, abductions, disappearances and ill-treatment, including as a result of action of law enforcement and security forces, relative impunity of the latter and a generally difficult and unsafe climate for the work of human rights defenders, local community leaders and other NGOs. This situation is not in line with the principles of Article 6 of the Framework Convention and can but have a negative impact on the implementation of the provisions of the Framework Convention in this region, as well as elsewhere in the Russian Federation.

Additionally, the Advisory Committee notes with deep concern that, as part of counter-terrorist measures, persons belonging to non-traditional Muslim groups and their relatives are reportedly frequently harassed and mistreated by law enforcement officials, irrespective of their actual involvement in extremist groups or unlawful actions. There have also been convictions under the 2002 Law on Countering Extremist Activities (see also remarks on Article 7 below). The equation made by the authorities between “non-traditional” Muslim groups (so-called “Wahabites”) and terrorism contributes, according to many interlocutors of the Advisory Committee, to reinforcing a feeling among the local population of lawlessness and impunity of the police and it is allegedly leading a number of persons towards adopting more radical attitudes. Such an attitude of the law enforcement authorities is not conducive to promoting mutual respect, understanding and co-operation among different groups in the population. The connection frequently made between “non-traditional” Muslims and terrorism can also reinforce prejudices and hostility against persons from the North Caucasus living in other parts of the Russian Federation.

The Advisory Committee also learned with concern that increased pressure is reportedly exerted in Chechnya on all persons to conform to strict “customary practices”, among others in the field of clothing and worship (see also remarks on Article 8 below). The Advisory Committee considers such measures as an infringement on individual freedom in Chechnya. It regrets that the apparent acceptance of such measures by the federal authorities can but undermine the respect for cultural diversity in Chechnya but also elsewhere in the Federation. In addition, it constitutes an obstacle to the return of non-Chechen forcibly displaced persons to the region (see also comments on Article 16 below).

#### *Recommendations*

The Advisory Committee urges the authorities to step up efforts to prevent, investigate, prosecute and sanction human rights violations in North Caucasus and to put an end to the impunity of perpetrators of human rights violations, so as to restore a climate of security, trust and mutual respect in this region.

Stigmatisation of specific groups of the population must be eliminated, so as to prevent further human rights violations and tensions between various groups from arising. The authorities must also take more resolute measures to combat religious intolerance and promote respect for diversity.

#### Situation of migrant workers

##### *Present situation*

The Advisory Committee is aware that, since the adoption of its second Opinion, the Russian Federation has experienced a large influx of migrant workers, many of them belonging to minority communities that have been present in Russia for a long time, such as Kirghiz, Tajik, Uzbeks, Kazakhs, Armenians, Azerbaijani and Georgians. Following its visits to the Perm and Tyumen regions and to Moscow, the Advisory Committee understands that this large influx of migrant workers raises a number of new challenges



for the authorities, particularly in terms of integration policy, education and interethnic relations.

The Advisory Committee welcomes the changes introduced in 2007 to the legislation on migration, which simplifies the system of residency registration for migrants and application for a work permit. In spite of these important legislative improvements, the Advisory Committee learned during its visit that migrant workers, particularly those from Central Asia and the Caucasus, continue to face important difficulties in a number of areas. In general, the Advisory Committee understands that the limitations of the current quotas system, the tight link between residency registration and work permit, as well as various bureaucratic stages, make it easy for migrant workers to fall in a situation of illegality. Once in an irregular situation, they are very vulnerable to corruption, as well as to exploitation in the work place and often face non-payment or partial payment of wages, physical and other abuse, including confiscation of passports, and lack of access to health care. It appears that most of the migrant workers in an irregular situation prefer not to address courts or official institutions for fear of expulsion or retaliation from employers or intermediaries. Many of them prefer to address NGOs and other non-state actors, such as in some cases reported to the Advisory Committee, national-cultural autonomies, that are not able to deal with these situations. In addition, the Advisory Committee understands that Federal Migration Service reception centres only provide advice to legally-residing migrant workers but do not cater for the needs of those who have become illegal. The Advisory Committee finds that such initiatives should be accessible also to persons who need to regularise their situation.

Furthermore, as already stated above, the Advisory Committee is deeply concerned by the frequency of anti-migrant, xenophobic and racist rhetoric, targeting mainly persons from the Caucasus and Central Asia, but also other minorities. It finds that the frequent association made by politicians and the media between irregular migration and criminality is going against the goal of promoting effective integration of migrants and harmonious interethnic relations. It increases stereotypes and prejudice in society, which then form the basis for the frequent attacks against immigrants that have been reported in the last years. Such an approach supports ethnic profiling by the police among certain minority groups, such as persons originating from Central Asia or the Caucasus.

In this context, the Advisory Committee welcomes the commitment of the authorities to develop further its integration policy and to combat hostile attitudes against migrant workers. It is particularly pleased by the fact that the problem of denial of registration in schools of children of migrant workers in an irregular situation seems to have been effectively tackled by the authorities since the adoption of its second Opinion and that consequently, such denials occur less frequently and are usually adequately remedied by the responsible authorities. It also notes with satisfaction that increasing emphasis is placed on the need to provide adequate teaching of Russian as a foreign language, in and out of school. However, information gathered during the visit of the Advisory Committee indicates a comprehensive integration policy, at federal and regional level is still lacking. It

learned for instance that where local authorities with a large migrant population have adopted an integration strategy, they were able to solve ethnic tension in a more effective way than in those with no such strategy.

*Recommendations*

The Advisory Committee calls on the authorities to step up measures to promote effective integration of migrants in all areas of life. Such policies should include campaigns to combat more vigorously anti-migrant and racist stereotypes and racist violence.

Additional steps should be taken to simplify the system of registration and access to labour in the Russian Federation, so as to avoid migrant workers from falling out of the legal framework. It is important to ensure that abuse, exploitation of migrant workers and violations of labour and other laws by employers and other private actors are duly investigated, prosecuted and sanctioned by the authorities, irrespective of the legal status of migrant workers. Additional possibilities for migrant workers to access legal and other advice and supporting services should be made available.

27. San Marino

*Opinion adopted on 26 June 2009*

Article 6 of the Framework Convention

Tolerance and protection against discrimination

*Advisory Committee's recommendations following two cycles of monitoring*

In previous cycles of monitoring, the Advisory Committee welcomed the fact that the general climate of society in San Marino is one of dialogue and tolerance. It has noted at the same time that there was an increased number of non-citizens living and working in San Marino and it invited the authorities to provide more specific information on the composition of the population in their dialogue with the Advisory Committee.

Although no overt forms of discrimination or intolerance had been reported, the Advisory Committee, in view of information relating to the existence of latent prejudice within the San Marinese society, expressed the wish that the authorities reinforce existing measures to prevent and provide protection against discrimination and intolerance as well as to raise awareness of the population with respect to human rights and diversity.

*Present situation*

The Advisory Committee notes that, on 31 December 2008, over 16% of the total population of San Marino - 5,805 persons out of 32,578 - was composed of non-citizens with residence and stay permits. Approximately 82% of these are Italians (4756 persons), while the remainder was made up of citizens of Ukraine (220 persons), Romania (189 persons), Argentina (83 persons), Moldova (50 persons), Albanian (49 persons), Poland (42 persons), Croatia (38 persons) and smaller numbers of citizens from other countries.

The Advisory Committee notes with interest that a number of initiatives have been carried out both by public institutions and civil society to facilitate immigrants' integration into society. Efforts have been made to establish a closer relationship between people of different cultures and to encourage cultural exchanges for a mutual enrichment.

The authorities of San Marino have informed the Advisory Committee that no case of racism or racial discrimination has been recorded. The Advisory Committee welcomes the adoption, on 28 April 2008, of the Law N°66 on "Provisions against Racial, Ethnic, Religious and Sexual Discrimination". The aim is to face adequately the increasing diversity of society and the existence of "latent prejudice" toward persons who are not San Marino citizens. Supplementing the provisions enshrined in the current Criminal Code, this law criminalises racial discrimination and punishes the dissemination, by any means, of racist ideas. Committing an offence for the purpose of discrimination is considered to be an aggravating circumstance. According to the authorities, this Act translates the Government's willingness to implement the principle of non-discrimination embodied in Protocol n°12 to the European Convention on Human Rights and the UN Convention on the Elimination of all Forms of Racial Discrimination ratified by San Marino.

The Advisory Committee welcomes these important developments and expects that the authorities of San Marino will give all the attention due to the full and effective implementation of the new Law.

The Advisory Committee notes that ECRI's third report on San Marino highlights the fact that racial discrimination in San Marino is still understood as encompassing solely the most blatant forms of these phenomena, such as those connected with the activities of extreme-right groups resorting to violence.

Even if there is a widely-accepted view that racism and racial discrimination are in general not problems with which San Marino is faced, the Advisory Committee is of the opinion that attention should also be paid to racism in all its forms. It therefore encourages the authorities to continue to give a high priority to this question.

The Advisory Committee regrets that there is no independent institution in place to monitor racism and discrimination and to provide assistance to victims of discrimination.

#### *Recommendations*

The Advisory Committee encourages the authorities to continue to give priority to protection against discrimination and make efforts to facilitate integration of immigrants including by supporting private initiatives in this area.

The Advisory Committee encourages the authorities to pay particular attention to the full and effective implementation of the recent Law N°66 on "Provisions against Racial, Ethnic, Religious and Sexual Discrimination".

The Advisory Committee calls upon the authorities to set up an independent institution to monitor racism and discrimination. In doing so, they should guarantee that its competences and resources are sufficient to ensure its independence and its capacity to provide adequate assistance to persons who have been victims of discrimination.

28. Serbia

*Opinion adopted on 28 November 2013*

Article 6 of the Framework Convention

#### Inter-ethnic relations

##### *Recommendations from the two previous cycles of monitoring*

In its previous monitoring cycles, the Advisory Committee recommended that the Serbian authorities devote particular attention to measures aimed at developing contacts and interactions between the various communities living in Serbia, including in the school context. It also observed that the Serbian authorities should ensure that where Roma living in informal settlements were resettled to other areas, these measures were carried out transparently and in consultation with both the inhabitants of the areas concerned by the relocation and the Roma population to be resettled.

##### *Present situation*

The overall system of protection of minority rights in Serbia is well developed and there are relatively high levels of sympathy amongst the population for protecting the language rights of persons belonging to national minorities. However, representatives of civil society indicate that for the central authorities not specifically involved in the promotion and protection of minority rights, the concerns of minorities in the outlying parts of Serbia are not particularly visible or important. Minorities are correspondingly described as feeling a stronger sense of connection with their "kin-State", where one exists, than with Serbia. This situation is at times aggravated by the manner in which bilateral relations are conducted between the relevant states and/or by government policies towards specific national minorities.

It is moreover striking that in areas where minorities live compactly – particularly those farthest from the capital and that are in an unfavourable socio-economic situation, such as the Preševo valley and the Sandžak region – minorities express a lack of trust in, and a sense of abandonment by, the central authorities. This is heightened by government policies that are perceived by minorities as inhibiting their expression of their identities, such as the destruction in early 2013 of (illegally built) monuments to Albanian "war heroes" in the Preševo area, prosecutions of persons displaying the national symbols of Albania (even when the Serbian flag was flown alongside), a certain tendency in some circles to portray the Bosniac national minority as "only" a religious community with no other specific identifying characteristics, or the authorities' intervention as regards the

National Council of the Bosniac National Minority (see further below, comments under Article 15).

Inter-ethnic relations between individuals in Serbia also remain a significant source of concern to the Advisory Committee; the aftermath of the break-up of Yugoslavia and the bloody conflicts this occasioned have created a strong and regrettably persistent sense of ethnic distance between different national groups. The Advisory Committee notes with concern that xenophobia and religious intolerance remain relatively prevalent; the greatest degrees of ethnic distance are expressed with respect to ethnic Albanians, followed by Croats, Roma and Bosniacs. It is also striking – and worrying – that more than one in five young people reportedly find it acceptable that, in some circumstances, the human rights of certain persons could be denied on the grounds of personal characteristics such as their national affiliation or religion.

The Advisory Committee notes that, although they did not constitute a warring side in the conflicts surrounding the break-up of Yugoslavia, prejudice against Roma remains high. More than 60% of racist physical assaults are directed against Roma, and plans to relocate Roma evicted from informal settlements have been met with violent protests (see further below). Roma frequently live separately from the majority society and experience high levels of discrimination in access to employment and other social rights, creating a vicious cycle that can only be broken if measures are taken both to improve access to rights (see above, Article 4) and to change attitudes in society.

The Advisory Committee regrets that at local level, Councils for inter-ethnic relations – which could provide a useful forum in which to develop policies designed to improve inter-ethnic relations with mixed communities – remain underused (see further below, Article 15). However, it notes that these alone cannot overcome the underlying problems related to the sense of distance between minority communities and the State.

### *Recommendations*

The Advisory Committee recommends that the Serbian authorities intensify their efforts to develop and implement measures aimed at increasing and strengthening contacts and interactions between the various communities living in Serbia. Specific efforts in this regard should be made with respect to the Sandžak and South Serbian regions. Measures to enhance mutual interest in and respect and understanding for each other's culture amongst young people are of particular importance. Better use could also be made of councils for inter-ethnic relations in this context.

The Advisory Committee also recommends that the authorities strengthen their efforts to combat prejudice against the Roma in all fields of daily life. It reiterates its call on the authorities to pay particular attention to ensuring that where Roma living in informal settlements are relocated to other areas, this is done in a transparent manner and in

consultation with both the Roma population to be resettled and the inhabitants of the areas concerned by the relocation, using mediation wherever necessary.

#### Hate crimes and the role of law-enforcement bodies

##### *Recommendations from the two previous cycles of monitoring*

In its previous monitoring cycles, the Advisory Committee urged Serbia to ensure that its criminal justice system adequately addressed hate crimes targeting persons belonging to national minorities, and to introduce the racist motivation of an offence as an aggravating factor in the criminal law. It also recommended that the Serbian authorities increase their efforts to train the police and the judiciary on discrimination issues and tolerance, ensure that these bodies adequately reflect the ethnic diversity of the population in the region where they operate, and ensure the effective and independent investigation and punishment of police misdemeanours.

##### *Present situation*

The Advisory Committee observes that while the numbers of hate-motivated incidents reported appear overall to have dropped in the last few years (from 354 in 2007 to 242 in 2011), racist attacks against persons belonging to national minorities and their property (including religious property) continue to occur, with Roma frequently the target. Monuments of or honouring individuals belonging to national minorities, such as the monument to Roma singer Šaban Bajramović in Niš, as well as Jewish, Bosniac and Albanian monuments, have also been repeatedly defaced with racist graffiti.

The Advisory Committee is deeply concerned that, after a lull of several years, a series of inter-ethnic incidents between Serbian and Hungarian youths, involving physical and verbal assaults, nationalist graffiti and posters and the destruction of religious property, occurred in Temerin in late 2011 and early 2012. It also remains deeply worrying that Roma families who have been resettled following eviction have again been the subject of sustained and violent racist attacks. These attacks follow on from sometimes violent protests against the decision to settle the families in their new location.

Despite the broad arsenal available in the Criminal Code for prosecuting hate-motivated offences, the Advisory Committee is concerned that few prosecutions are brought in practice and, when investigations are carried out, minorities and their representatives indicate that they are frequently slow and ineffective, failing to identify the perpetrators, or that when the latter are found, the offences are prosecuted as minor or less serious offences that expose the perpetrators to less severe sanctions.

The Advisory Committee notes with interest that the newly enacted Article 54a of the Criminal Code has recently introduced hate motivations as a mandatory specific aggravating circumstance for all ordinary criminal offences. It notes that, as with the provisions of the Criminal Code that were already in place, it is crucial that this provision

be strictly applied in practice in order to ensure that the perpetrators of hate crimes are identified and properly punished. It observes in this context that the Commissioner for the Protection of Equality has repeatedly highlighted the need to strengthen the training on the prosecution of hate-motivated offences provided to judges, prosecutors, the police and other relevant actors in the criminal justice system, and hopes that her recommendations in this regard will be rapidly followed up.

Welcome initiatives have been taken to train the police and judiciary on discrimination issues and tolerance, to promote the learning of minority languages by police officers in some multilingual areas in Vojvodina and to improve communication between the police and particularly marginalised groups. Police officers are also supposed to be familiar with the OSCE Recommendations on Policing in Multi-Ethnic Societies. The Advisory Committee is concerned, however, that there continue to be occasional reports of police brutality against persons belonging to national minorities, which moreover are not adequately followed up through disciplinary procedures or in the courts. Such acts are not only clearly in breach of the human rights of the victims but also feed distrust of minorities towards the police, which is compounded by the continued under-representation of national minorities in the police force. While the Advisory Committee has been informed of promising results from specific projects conducted to increase the representation of national minorities in the police forces in South Serbia as well as, in 2012, in Novi Pazar and Prijepolje, efforts in this field need to be both sustained in time and expanded in scope.

#### *Recommendations*

The Advisory Committee strongly urges the Serbian authorities to ensure that the criminal justice system adequately addresses hate crimes, by preventing, thoroughly investigating and prosecuting acts of violence targeting persons belonging to national minorities. It recommends that the Serbian authorities intensify their efforts to raise the awareness of the police, prosecutors and the judiciary as to the importance of prosecuting hate-motivated offences as such and that they strengthen the measures in place to train all relevant actors of the criminal justice system so as to ensure that this is done in practice.

The Advisory Committee strongly encourages the authorities to pursue and expand their efforts aimed at ensuring that police forces adequately reflect the ethnic diversity of the population in the region where they operate.

It recommends that an effective and independent supervisory mechanism be established to handle complaints of police misconduct and to ensure that established cases of misconduct and human rights abuse by the police against persons belonging to national minorities are adequately punished.

Media coverage of persons belonging to national minorities and issues relevant to them

*Recommendations from the two previous cycles of monitoring*

In its previous monitoring cycles, the Advisory Committee recommended that the Serbian authorities pay increased attention to initiatives promoting balanced and objective reporting on minority issues. It also recommended that the authorities strengthen both the composition and the monitoring work of the Council of the Republic Broadcasting Agency.

*Present situation*

It is consistently reported by civil society that the media are largely under the control of, or at best are strongly influenced by, political parties, which is a significant impediment to balanced and objective reporting on all subjects, including issues related to national minorities. The latter report that it is difficult to interest mainstream media in the day-to-day concerns of persons belonging to national minorities, and that only sensational events such as anti-Semitic acts or offences committed against persons belonging to national minorities tend to be reported, and then in a less than satisfactory manner. It is also reported that there is an overall tendency in the media to portray minorities as mere folklore. While some welcome examples of multicultural programming exist, notably in Vojvodina, examples of negative media stereotyping against Roma have also been cited, and the Advisory Committee has received reports of misleading media coverage of events in the Sandžak that fuels intolerance between the majority and minority communities.

The Advisory Committee notes that in accordance with the Broadcasting Law, one of the nine members of the Council of the Republic Broadcasting Agency (RBA Council) – which is responsible for all decision-making of the Agency – is designated, by mutual agreement, by NGOs and civil society organisations focusing on protection of freedom of expression and/or of the rights of national and ethnic minorities and/or of the rights of the child. Although the interests of these groups represented do not necessarily coincide, no mechanisms are specified in the Law for selecting the organisations expected to reach agreement on this appointment or the manner in which they are expected to do this. The authorities have indicated that such a member was elected on 11 December 2009 for a term of six years, and the Advisory Committee has received no complaints regarding the functioning of the Agency or the RBA Council in the field of preventing or sanctioning programmes inciting discrimination, hatred or violence on ethnic or related grounds. The Advisory Committee also notes that the Council has reportedly observed no violations relating to inciting discrimination or hate speech against persons belonging to national minorities in the programmes of national and regional broadcasters that it has supervised. However, this contrasts strongly with the experience of the media as described by representatives of national minorities and creates doubts as to the Council's effectiveness as a mechanism for preventing and punishing hate speech through the media.



*Recommendations*

The Advisory Committee again calls on the authorities, whilst fully respecting and actively promoting the editorial independence of the media, to take measures to encourage both national and provincial/regional media outlets to develop programmes aimed at promoting tolerance and inter-cultural understanding.

Vocational training of journalists and other media professionals should receive greater attention, in particular so as to improve media reporting on minority issues. The authorities should support initiatives designed to encourage balanced and objective reporting. The monitoring work of the RBA Council should be strengthened and the authorities should review the manner in which its members are designated with a view to ensuring that national minority perspectives are adequately represented.

## Displaced persons

*Recommendations from the two previous cycles of monitoring*

In its previous monitoring cycles, the Advisory Committee called on the Serbian authorities to adopt a comprehensive strategy for dealing with refugees and internally displaced persons and ensure that adequate means were allocated to its implementation. It indicated that such a strategy should aim at finding durable solutions for these persons, including local integration, and address their lack of personal documentation as a matter of priority.

*Present situation*

The Advisory Committee notes that around 210 000 internally displaced persons having fled Kosovo\* in 1999 are still living in Serbia, of whom more than 10% are Roma; overall, approximately one in five displaced persons is reported to belong to a minority. An estimated additional 15 000 to 20 000 Roma have been unable to register as displaced persons due to a lack of documentation and/or lack of access to the relevant procedures, and are thus in an even more vulnerable position. Against this background, the Advisory Committee welcomes the adoption in early 2011 of the National Strategy on Resolving Issues of Refugees and Internally Displaced Persons for the period 2011-2014, and notes that it has a particular focus on resolving the housing needs of the most vulnerable categories. It also notes that the Commissioner for Refugees continues to work with international organisations, the Ministry of Labour and Social Policy and local self-governments to provide housing solutions for displaced persons and to promote the adoption of local action plans for the improvement of the status of refugees and displaced persons.

The Advisory Committee observes that many displaced persons still lack documentation, which severely impedes their access to social rights (see above, comments with respect to Article 4). Despite the commendable efforts of the authorities to improve the housing

situation of displaced persons, the Advisory Committee is concerned that many displaced persons, notably Roma, continue to live in substandard housing conditions, and that they remain vulnerable to forced evictions. The Advisory Committee stresses the importance of identifying and implementing durable solutions for displaced persons in Serbia, including beyond 2014, and notes that the very low rate of returns to Kosovo\* makes this all the more urgent.

*Recommendation*

The Advisory Committee strongly encourages the authorities to pursue the implementation of the National Strategy on Resolving Issues of Refugees and Internally Displaced Persons and to ensure that adequate means are allocated to its implementation, including beyond 2014. It emphasises the need to find durable solutions for these persons, including local integration, and to address their lack of personal documentation as a matter of priority.

29. Slovak Republic

*Opinion adopted on 28 May 2010*

Article 6 of the Framework Convention

Tolerance and intercultural dialogue

*Recommendations from the two previous cycles of monitoring*

In previous cycles of monitoring, the Advisory Committee recommended that the authorities pursue further their efforts to promote tolerance and intercultural dialogue in the field of education, the media and other fields. The Advisory Committee expressed concerns about instances of intolerance against persons belonging to certain minority groups, notably the Roma.

*Present situation*

The Advisory Committee notes that a climate of tolerance and dialogue generally prevails in the Slovak Republic, including in ethnically-mixed municipalities. Moreover, it has been informed of initiatives aimed at improving interethnic dialogue amongst young people. However, the Advisory Committee expresses its deep concern about persisting negative attitudes and prejudice against persons belonging to certain national minorities, in particular the Roma. An increase in hostile political discourse by certain politicians, targeting mainly the Hungarian and Roma minorities, is noticeable in the period under review. The Advisory Committee considers that, if this negative tendency persists, it may in the future be even more detrimental to interethnic relations in society.

The widespread and persistent negative attitudes and prejudices against persons belonging to the Roma minority are of particular concern to the Advisory Committee. Stereotyping and misperception of the Roma are attitudes deeply rooted in society, which make their inclusion difficult. The Advisory Committee notes that the authorities,

including the Plenipotentiary Office, are aware of the need to step up their efforts and take concrete action to improve attitudes towards the Roma within society (see also remarks under Articles 4 and 15).

The Advisory Committee also notes that the adoption of the 2009 State Language Law has contributed to an increase in tensions within society, which has in particular affected relations between the majority and persons belonging to the Hungarian minority. While acknowledging the legitimate aim of protecting and strengthening Slovak as the State language, the Advisory Committee considers as a matter of principle that, given the particular sensitivity of the issue, the authorities should have engaged in a dialogue with the public on the purpose and importance of the measures taken to strengthen the State language and on the guarantees put in place to ensure adequate protection of minority language rights. Prior information and awareness raising on such an important issue is essential for social cohesion and for the effective inclusion of persons belonging to national minorities. Adequate balance between these aims - cohesion and inclusion on the one hand, and preservation of the rights and identity of persons belonging to minorities on the other - is an important precondition for maintaining dialogue and a climate of co-operation and understanding between all persons living on the territory of the Slovak Republic (see also comments under Articles 5 and 10).

The Advisory Committee is concerned by the tendency towards imposing by legislation, such as the Law on patriotism, means and ways of expressing patriotism. In this context, the Advisory Committee notes with concern that the adoption of the Law on patriotism by the Parliament in March 2009, subsequently vetoed by the President, has resulted in tensions within society. The Advisory Committee considers it important to ensure that, on such issues, there is a constructive dialogue and effective consultation with representatives of national minorities to ensure that such initiatives are not detrimental to good interethnic relations. Such a dialogue should contribute to a more effective inclusion of persons belonging to national minorities into mainstream society.

In addition, according to non-governmental organisations, manifestations of verbal and/or physical intolerance, motivated by hatred towards immigrants and visible minorities, are on the rise. Information received by the Advisory Committee suggests that this phenomenon may partly be related to the economic crisis. Although efforts have been made by the authorities to integrate better immigrants into society, non-governmental organisations indicate that no tangible progress has yet been observed in practice in this respect.

While there is a general climate of tolerance towards the Jewish minority, isolated instances of anti-Semitism and acts of vandalism against Jewish properties have been reported. Representatives of the Jewish minority regret that the Government's condemnation of instances of vandalism of cemeteries was delayed. The Advisory Committee regrets that the Jewish representatives did not receive a positive response to their requests to participate in the Nation's Memory Institute (*Ústav pamäti národa*). Furthermore, according to representatives of the Jewish minority, recently issued history

textbooks do not adequately reflect the history of the Jewish minority living in the Slovak Republic. Moreover, there has reportedly not been any consultation of the Jewish minority as to the presentation of their history.

*Recommendations*

The Advisory Committee urges the authorities to combat vigorously prejudice and negative attitudes towards persons belonging to national minorities and immigrants, and to promote understanding, mutual respect and intercultural dialogue through more resolute measures.

The Advisory Committee calls on the authorities to promote tolerance, mutual understanding and to combat prejudice. Additional measures should be taken to promote the culture and history of the various communities living in the Slovak Republic.

When adopting measures that have an impact on persons belonging to national minorities, the authorities should ensure that adequate information is given to all the groups concerned and that a wide public debate on the drafts in question is initiated. Considering the impact that such measures may have on respect and mutual understanding between different groups in society, all awareness-raising measures must be carried out in a respectful, tolerant, and appropriate manner.

More resolute measures must be taken to tackle anti-Roma and anti-Hungarian attitudes, including those expressed in the political discourse. Concrete measures should be taken to promote interaction between the majority and persons belonging to minorities.

Police conduct and ethnically-motivated crime

*Recommendations from the two previous cycles of monitoring*

In previous cycles of monitoring, the Advisory Committee urged the authorities to step up their efforts to prosecute vigorously ethnically-motivated crime and to ensure that information about this phenomenon is consistently gathered. The authorities were also encouraged to set up an independent complaint system, able to investigate allegations of ill-treatment by the police.

*Present situation*

The Advisory Committee notes that the Penal Code, amended in June 2009, provides for a better protection against crime motivated by racial discrimination, by *inter alia* introducing aggravating circumstances for crimes committed on the grounds of national, ethnic or racial hatred or hatred based on skin colour. Moreover, the Slovak Government has adopted the Action Plan on the Prevention of Discrimination, Racism, Xenophobia, anti-Semitism and other forms of Intolerance for the years 2009-2011, containing proposals for improving the legislative and policy frameworks in this field. An Inter-Ministerial Task Force has been set up to monitor and evaluate regularly the plan's implementation.

The Advisory Committee notes with satisfaction that a multi-disciplinary group composed of governmental and non-governmental experts was set up to co-ordinate actions for combating racial discrimination. The Advisory Committee regrets, however, that this body does not meet on a regular basis and has not produced any tangible results so far.

There has been a worrying increase in recent years in the number of registered ethnically-motivated crime. According to government sources, 214 such crimes were registered in 2008, representing an increase of 43% compared to 2007. The Advisory Committee welcomes the fact that law-enforcement agencies are more willing to recognise these problems and investigate such cases, which may in part also account for the increase in the number of registered cases. The Advisory Committee, however, notes with concern that investigation into the high-profile case of *Hedviga Malinová* has not yet been completed. While welcoming efforts to investigate ethnically-motivated crime, the Advisory Committee considers that more should be done to bring the perpetrators of such crime to justice.

The Advisory Committee is concerned about reports according to which instances of verbal and physical abuses of Roma by the police and disproportionate numbers of stop-and-search incidents affecting Roma have continued to occur in the period under review. There is still widespread mistrust amongst Roma towards the police. The Advisory Committee, therefore, finds it commendable that police training on policing in a multiethnic environment, focusing on policing in areas inhabited by the Roma minority, has been carried out in recent years in order to build trust between the police and the Roma. 120 policemen have been trained so far. In addition, the authorities must ensure that misconduct by police officers is effectively investigated, prosecuted and sanctioned and that effective remedies are available for victims of such abuses.

#### *Recommendations*

Efforts should be stepped up to implement the 2009-2011 Action Plan against Discrimination and Racism. The Advisory Committee urges the authorities to ensure effective functioning of the expert coordination body against racism, with the full involvement of non-governmental actors in its work.

The Advisory Committee urges the authorities to redouble efforts to record, investigate promptly, thoroughly and effectively and prosecute ethnically-motivated crime.

The Advisory Committee strongly encourages the authorities to strengthen human rights training of the law-enforcement officials and the judiciary, particularly in the field of interaction with persons belonging to minority groups, such as the Roma.

#### Role of the media

##### *Present situation*

Information received from a number of interlocutors suggests that, although there are positive examples of media outlets reporting about the difficulties encountered by

persons belonging to national minorities, coverage of issues concerning national minorities, including their culture and religion, in the mainstream media is generally insufficient and when available, it often provides biased information. This particularly affects the Roma minority and contributes to persistent prejudice leading to their continuous social exclusion. To a lesser extent, persons belonging to other minorities such as the Hungarian, Jewish and Polish minorities, have been affected as well. In addition, according to representatives of some national minorities, particular emphasis is often placed on the Christian Catholic religion and rather limited information is provided on other religions. The Advisory Committee notes that the Broadcasting Council is empowered to receive complaints about negative portrayal and stereotyping of national minorities in the electronic media. According to the information received by the Advisory Committee, several complaints have been lodged for negative portrayal of the Roma and the Hungarian minorities in broadcasting media.

The Advisory Committee notes that the Press Council, a self-regulatory body for print media, is entitled to receive complaints for violations of the Code of Ethics of Journalists of 1990. However, the Code of Ethics does not contain any specific reference to minorities, nor does it incorporate any provision aimed at avoiding prejudice against persons belonging to minorities. Furthermore, no complaint on issues relating to national minorities was lodged before the Press Council. The Advisory Committee welcomes, however, the Press Council's decision to introduce in the revised Code of Ethics provisions on the portrayal of national minorities in print media.

The Advisory Committee is also informed that there is an increase in racism and hate speech on the Internet, including on Internet social networks. This particularly affects persons belonging to the Roma minority. The Advisory Committee considers that it is essential to use appropriate means to fight against racism and hate speech on the Internet.

#### *Recommendations*

The Advisory Committee considers that increased efforts are needed to strengthen self-regulations of the media and to improve the implementation of media ethical codes. Measures should also be taken to promote knowledge among the public on the relevant complaints procedures. Further measures should also be taken to encourage journalists better to promote tolerance and respect for diversity within society and to refrain from disseminating stereotypes and negative portrayal of persons belonging to minority groups in the media .

Resolute measures must be adopted, including by the media self-regulatory bodies, to fight against intolerance, xenophobia and hate speech against persons belonging to national minorities in the media, including on the Internet,. The authorities should consider signing and ratifying the Additional Protocol to the European Convention on Cybercrime of 2003, concerning the criminalisation of acts of a racist and xenophobic nature on the Internet.

## 30. Slovenia

*Opinion adopted on 31 March 2011*

## Article 6 of the Framework Convention

Legal status of persons deleted from the list of permanent residents

*Recommendations from the two previous cycles of monitoring*

In the previous cycles of monitoring, the Advisory Committee urged the authorities to find solutions to the problems faced by those persons referred to then as “non-Slovenes from former Yugoslav republics”, including many Roma, who were “erased” from the register of public residents in 1992 (the so-called “erased persons”). Additionally, it invited them to develop a strategy to help these persons overcome difficulties arising from this situation and to facilitate their integration in the Slovenian society.

*Present situation*

The Advisory Committee welcomes the adoption, on 8 March 2010, of the Act Amending the Act Regulating the Legal Status of Citizens of Other Successor States to the Former SFRY in the Republic of Slovenia. This new act grants permanent residence status retroactively to those who were “erased” from the residence registers in February 1992 and thereby ensures compliance with the decision of the Slovene Constitutional Court of 2003. The Advisory Committee is very pleased to note that this act puts an end to long-standing violations of the rights of many of the persons who were “erased” from registers in 1992. It should also substantially contribute to improving the social climate with regard to these persons.

The Advisory Committee was nonetheless informed that problems might still be faced by those persons who left Slovenia as a result of them having been “erased” and are currently residing abroad. On the one hand, they will have to prove that they were expelled or had to leave the country following their having been “erased” from the residence register, which might be difficult in many cases and result in discriminatory treatment. On the other hand, the current formulation of the law reportedly casts a doubt on whether those who have been residing abroad for more than 10 years can claim residence under this new act.

The Advisory Committee expects that the act will be interpreted so as to enable as many as possible of those currently living abroad to have their residence right restored retroactively. It is also important that the authorities do their utmost to disseminate as widely as possible information on the procedures for regularisation under this new act and to avoid unnecessary administrative obstacles. The Advisory Committee finds it essential that persons or families who have been in a very difficult situation for many years as a result of them having been “erased” have their legal status regularised as soon as possible and are able to integrate effectively into Slovenian society.

*Recommendation*

The Advisory Committee encourages the authorities to promote an inclusive interpretation of the new Act Amending the Act Regulating the Legal Status of Citizens of Former Yugoslavia living in the Republic of Slovenia with a view to giving retroactive access to permanent residence to as many persons as possible of those who were “erased” in 1992 and are consequently living abroad. Additional measures should be taken to help them integrate effectively in Slovenian society.

Combating intolerance and hate speech

*Recommendations from the two previous cycles of monitoring*

In the previous cycles of monitoring, the Advisory Committee invited the authorities to make further efforts to combat manifestations of intolerance and racism, affecting in particular Roma, the German-speaking population and non-Slovenes from former Yugoslavia.

The Advisory Committee also stated that the media should be encouraged to pay more attention to the country’s cultural and ethnic diversity and to refrain from disseminating stereotypes and prejudices against persons belonging to some minority groups.

*Present situation*

The Advisory Committee is pleased to note that measures have been taken recently by the authorities to improve the overall climate of tolerance and mutual understanding (see paragraph 30 and 63 above, concerning persons belonging to the “new national communities” ). Moreover, it found during its visit that the atmosphere prevailing in the region of Prekmurje, where a substantial part of the Hungarian and Roma minorities live, was particularly positive and supportive of intense inter-cultural exchanges. It also notes with satisfaction that programmes are regularly implemented by the authorities to value diversity in society and to promote more tolerance and understanding (see also remarks under Article 12 below). Specific training activities have been carried out for the police on combating discrimination and policing in multiethnic environment.

However, it notes with concern that, despite substantial measures taken in recent years to improve the situation of the Roma, expressions of hostility and racism against them persist, particularly in the region of Dolenjska. The Advisory Committee is particularly worried by reported instances of collective protests by the local population, leading in some cases to forced evictions of Roma and to events such as the recent opposition of the local population to the burial of a Roma woman in the cemetery of Dobruška vas in the Dolenjska region. It also deplores the multiplication of local initiatives on Roma issues, led by persons belonging to the majority population, sometimes resulting in increased tensions between Roma and the majority population. Additionally, it is informed that the lack of willingness of local authorities sometimes prevents the implementation of



programmes aimed at improving the living conditions of the Roma (see remarks under Article 4 above). The municipality of Grosuplje, where it has been difficult to elect a Roma councillor in accordance with the Local Self-Government Act, illustrates the lack of co-operation of certain local authorities in implementing legislation and programmes for the benefit of Roma.

The Advisory Committee is also concerned by the persistence in parts of society of negative stereotypes regarding persons belonging to the “new national communities” and their dissemination, through the media and in the political arena (see paragraph 74 below). Against this background, the Advisory Committee welcomes the provision of the new RTV Act laying down an obligation for public broadcasters to broadcast programmes on these (and other) communities as well as the adoption on 1 February 2011 by the National Assembly of a declaration acknowledging the need to provide more support for the preservation of the culture and languages of these persons (see also remarks under Article 3 above). Despite the fact that the RTV Act was rejected by referendum, these positive steps initiated at the highest political level represent a signal to society that the affirmation and promotion of the culture of persons belonging to the “new national communities” is an important and legitimate element of social cohesion.

Persons belonging to other communities, such as the German-speaking community, reported to the Advisory Committee that too often they are still subject to prejudice and stereotypes associated with the history of the Second World War, sometimes fuelled by the media. Persons belonging to the Italian minority also mention that they are sometimes perceived as still being associated with Italian fascism. In this context, the Advisory Committee is concerned that mainstream media seem to disseminate only very limited information on the national minorities, their language and culture.

The Advisory Committee is pleased to learn that the municipality of Ljubljana decided in 2008 to authorise the building of a mosque, despite virulent opposition by some political actors.

Although hate speech is a criminal offence (and the basis for prosecution was extended in 2007), the Advisory Committee notes with concern that hate speech continues to be expressed by certain politicians and to be disseminated through the media. It is affecting some minority groups in particular, such as the Roma and persons belonging to the “new national communities”. As in many countries in Europe, hate speech is on the rise on the Internet. Unfortunately, it appears that there is generally still a lack of awareness on the fact that hate speech is a crime. The prosecuting authorities are reportedly sometimes reluctant to identify and qualify hate speech as an offence. It is important that the judiciary and law-enforcement authorities be more proactive in fighting hate speech, without infringing on the editorial freedom of the media. Regular monitoring of this problem is also lacking.

The regulatory bodies of the media, such as the Broadcasting Council and the Agency for Post and Electronic Communication, can issue warnings and make declarations in cases of hate speech in the media. However, they cannot withdraw the broadcasting licences in cases of repeated breaches of the RTV Act. The Advisory Committee was consequently pleased to see that the new RTV Act foresaw more effective sanctioning of hate speech and it regrets that this Act was rejected by referendum. It is also to be welcomed that a new project to fight hate speech on the Internet ("Web Eye") was launched in 2010 by the Ombudsman Office. Moreover, it welcomes that the main media outlets signed in early 2011 a declaration in which they state their willingness jointly to combat hate speech, in particular on the Internet.

Lastly, interlocutors of the Advisory Committee have underlined that there is insufficient teaching about mutual understanding and respect for diversity in the educational system, despite efforts made in recent years, in particular during the European Year of Intercultural Dialogue in 2008. Moreover, according to minority representatives, there is not enough information on the history, culture and languages of national minorities in schools.

#### *Recommendations*

The Advisory Committee calls on the Slovenian authorities to make further efforts to combat all forms of intolerance and racism targeting persons belonging to minorities - especially Roma -, and other groups, including in the political life and the media. Public media should be encouraged to provide the general public with more unbiased information on the history, culture and languages of the national minorities. It is crucial to ensure that local authorities abide by the principles of the Framework Convention and implement minority rights.

The Advisory Committee calls on the authorities to redouble efforts to combat the spreading of hate speech through the media, including on the Internet. It is essential to ensure that the supervisory organs of the media can play an active role in preventing and effectively sanctioning hate speech.

Additional measures should also be taken to develop further teaching about mutual understanding and respect for diversity and to disseminate more information on the history and culture of national minorities in schools.

#### Support allocated to other groups

#### *Recommendations from the two previous cycles of monitoring*

In the previous cycles of monitoring, the Advisory Committee invited the authorities better to respond to the needs of non-Slovenes from former Yugoslavia and persons belonging to the German-speaking community as far as preservation and promotion of their identity, culture and languages are concerned.

*Present situation*

The Advisory Committee finds that progress has recently been made in acknowledging the needs of persons belonging to the “new national communities” (see comments above in paragraphs 63 and 69 as well as under Article 3 above). It is particularly pleased that the Declaration of the National Assembly on the policies of the Republic of Slovenia on new national communities foresees the creation of a consultative council of persons belonging to the “new national communities”, which should help the authorities to take better into account their needs. Against this background, it is informed by representatives of these groups that support for their activities remains insufficient and that persons whose “kin-State” does not have a co-operation agreement with Slovenia face particular difficulties in organising activities aimed at preserving their language and culture. In general, the Advisory Committee is of the opinion that the support provided from “kin-States” through international co-operation agreements cannot substitute assistance provided by the Slovenian authorities.

Therefore, the Advisory Committee welcomes that a programme was launched in 2009 by the Ministry of Culture to promote local integration of persons belonging to the “new national communities” and that funding for activities to promote their culture and languages was increased by 11% in 2010. It also understands that the authorities increasingly make use of the European Social Fund for projects aimed at supporting persons belonging to these groups. The Advisory Committee expects that the trend towards a better recognition of the needs of persons belonging to these groups and valuing their contribution to society will result in reducing the level of prejudice against them and improving their integration in society.

As far as persons belonging to the German-speaking community are concerned, the Advisory Committee understands that, in their view, the support provided in the framework of bilateral agreements with Austria is not sufficient to cater for their needs and to preserve and develop their language and culture.

*Recommendations*

The Advisory Committee calls on the authorities to pursue and develop further initiatives aiming at affirming and promoting the culture of persons belonging to the “new national communities”.

It also invites the authorities to evaluate regularly the needs of persons belonging to the “new national communities” and the German-speaking community, in close co-operation with representatives of these groups, so as to provide them with adequate support.

## 31. Spain

*Opinion adopted on 22 March 2012*

## Article 6 of the Framework Convention

### Combating racism and intolerance

#### *Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee urged the authorities to take resolute action to promote intercultural dialogue in order to help bolster tolerance and combat prejudice. It also encouraged the authorities to pursue further their policies of integration of immigrants, including in the education system.

#### *Present situation*

In a context marked by the economic crisis, the Advisory Committee is concerned by numerous reports indicating a rise in expressions of racism and intolerance against immigrants and Roma, as well as towards religious groups such as Muslims and Jews, in the society as a whole, but also in the media and in politics. Populist and intolerant rhetoric was reportedly used during the electoral campaign of autumn 2011, particularly in Catalonia, notably rhetoric aimed at criminalising the entire Roma community, despite recommendations made by the Council for Equal Treatment ahead of the electoral campaign. In fact, Roma continue to face frequently manifestations of hostility in various spheres of life, including denial of access to public places, such as bars and shops, and opposition to the resettlement of Roma families (see also remarks on Articles 4 and 15). The Advisory Committee is deeply concerned by reported demonstrations of neighbours' associations against the resettlement of Roma families, during which racist rhetoric is often used.

The trend towards increasing intolerance is also apparent in renewed activism among far-right movements, on the Internet and also through physical attacks against immigrants and threats against NGOs and persons dealing with immigrants. In this context, the Advisory Committee welcomes a series of court decisions of 2009 condemning far-right movements (see also remarks below).

Moreover, according to information brought to the attention of the Advisory Committee, there is a growing tendency, fuelled by some politicians, to scapegoat immigrants for some of the consequences of the economic crisis, particularly unemployment. Some municipalities have in particular refused, against the law, to register immigrants without a residency permit, which deprives them of access to health care and education. Immigrants also face, according to various surveys, increased discrimination on the housing market and are disproportionately affected by the crisis as far as employment is concerned (see also remarks under Article 4 above). These developments are of deep concern to the Advisory Committee. Therefore, it welcomes the implementation of innovative experiences to counteract these negative trends, such as the creation by the City of Barcelona of a "network of anti-rumours agents", trained to challenge stereotypes that are spread about immigrants.

The Advisory Committee notes with deep concern that foreign Roma are particularly affected by prejudices and racism. They are sometimes victims of assault by extreme-right movements and face, reportedly, very high levels of discrimination in all areas of daily life. They mostly live in isolated settlements, in very poor conditions and have limited access to health care, schools and adequate housing. For many of them, this results partly from a lack of registration with the local authorities which is a condition of access to health care, educational institutions and social housing. Moreover, the economic crisis has had a disproportionate effect on their access to employment, due to their generally low level of skills. The lack of knowledge of the Spanish language also represents a major obstacle to improving their living conditions. Against this background, the Advisory Committee welcomes the adoption by the Council for Equal Treatment of a recommendation to promote "equal treatment and fundamental rights of the Roma population from Eastern Europe in Spain". Moreover, it praises the flexible approach of the authorities that do not make a distinction based on citizenship concerning access to health care or education which are accessible to foreign Roma (see also remarks on Article 3 above). It also learnt with satisfaction during its visit to Andalusia that projects have been launched by NGOs, in co-operation with local authorities, such as the City of Cordoba, to find solutions to the most urgent problems facing the Roma immigrants, including access to adequate housing, education and health care. The Advisory Committee finds this initiative very commendable and expects that it will be duly evaluated and replicated in other cities of Spain.

The Advisory Committee shares the view of the ECRI that the Spanish authorities' management of the aftermaths of the terrorist attacks of 2004 was exemplary. However, it notes with concern that expressions of Islamophobia are persisting, targeting in particular Moroccan immigrants and the building of new mosques. Whereas there is a persisting shortage of places of worship for Muslims, repeated manifestations of hostility and "anti-mosques" demonstrations by the local population are reported, particularly in Catalonia, but also in other regions. The Advisory Committee deplores the fact that they are sometimes supported by local politicians and accompanied by racist discourse and aggressions. Public discourse around the issue of wearing a headscarf (*hijab*) in public places, notably in schools, has also contributed to singling out the Muslim community.

Representatives of the Muslim community also report a persisting shortage of Muslim cemeteries and a lack of opportunities to be taught Islam at school. The Advisory Committee notes that, whereas the authorities argue that this is largely due to a lack of adequately trained teachers, representatives of the Muslim community report that trained teachers are available but that the local school authorities are reluctant to employ them.

Against this background of increasing intolerance, the Advisory Committee notes with satisfaction that further steps have been taken by the authorities to combat racism and intolerance and promote mutual understanding. It welcomes in particular the adoption in November 2011 of the Comprehensive Strategy against Racism, Racial Discrimination,

Xenophobia and other Related Forms of Intolerance (see also remarks under Article 4 above). Moreover, it notes with satisfaction the continuous work of the Spanish Observatory of Racism and Xenophobia (referred to hereinafter as OBERAXE), consisting *inter alia* of regularly publishing research and analysis on racism and discrimination related problems in Spanish society, and therefore, contributing to raising awareness and offering informed knowledge on these problems.

The Advisory Committee also notes with satisfaction that the authorities have continued to develop and implement three-yearly integration strategies (Comprehensive strategies for citizenship and integration, 2007-2010 and 2011-2014), focusing on equal treatment of immigrants. It believes that it is of utmost importance for the Spanish authorities to maintain their policies to combat racism and promote integration and social cohesion, particularly in the current context of economic crisis. To this aim, it is essential to ensure that budgetary cuts do not affect disproportionately this sector of public policy (see also remarks under Article 4 above).

The Advisory Committee also notes with satisfaction that the authorities have undertaken substantial work to improve the management of the various challenges arising out of cultural and religious diversity, including the publication of school textbooks on the main religions present in Spain, training of teachers of religion, training courses for local authorities on religious diversity management, among other valuable initiatives. It praises in particular the launching of the website of the "Observatory of Religious Pluralism", which contains very useful information and guidance, in particular to local authorities, on how to deal concretely with issues such as cemeteries, food requirements, worship places, religions and beliefs in hospitals, and provides easy access to the legislation in force. It is essential to encourage local authorities to make full use of such instruments in order to find adequate solutions to concrete difficulties connected to cultural and religious diversity and to disseminate information on them among the population in general.

#### *Recommendations*

The Advisory Committee invites the authorities to pursue and strengthen their efforts to combat all forms of racism and intolerance, including Islamophobia, to promote the integration of immigrants and respect for cultural and religious diversity. It is important to ensure that budgetary restrictions do not affect disproportionately the effective implementation of policies that have been launched in this respect and the work of related institutions, such as OBERAXE and the Ombudsman.

All expressions of racism or intolerance, including by politicians must be firmly condemned and effectively prosecuted and sanctioned.

All efforts to improve the situation of Roma immigrants living in difficult conditions must be supported, so as to avoid their further marginalisation, stigmatisation and rejection and in order to promote their integration in society.

The Advisory Committee calls on the authorities to pursue the dialogue with representatives of the Muslim community so as to find solutions to problems connected with the teaching of religion at school, the lack of worship places and other issues. In general, it is important to ensure that local authorities comply with human rights standards, including the provisions of the Framework Convention.

### Media

#### *Recommendations from the two previous cycles of monitoring*

In previous monitoring cycles, the Advisory Committee recommended making further efforts to strengthen self-regulation within the media, including through the establishment of a state audiovisual body.

#### *Present situation*

The Advisory Committee strongly regrets that a number of audiovisual and print media continue to disseminate prejudices on immigrants and minorities, especially the Roma and irregular immigrants, and are fuelling Islamophobia and antisemitism. Some media for instance regularly reveal the ethnic origin of alleged perpetrators, which strengthens existing stereotypes (see also remarks under Article 9 below). Furthermore, there is a worrying increase in racism and hate speech on the Internet, like in other States Parties.

The Advisory Committee therefore notes with interest the creation by Law 7/2010 on Audiovisual Communication of a State Council for Audiovisual Media, which has been granted *inter alia* the competence to sanction programmes that would trigger "hatred, contempt or discrimination on grounds of race, birth, nationality, gender, religion, opinion or any other social or personal ground" and regrets, however, that this Council is not yet operational. It believes that it could contribute to improving self-regulation of the media as far as the dissemination of prejudices and biased and racist views, including Islamophobia, are concerned.

#### *Recommendation*

More resolute efforts must be made to combat the dissemination of racism and stereotypes in the media, including through the setting up of the State Council for Audiovisual Media. Effective mechanisms of self-regulation of the media should be put in place.

### Combating hate crime

#### *Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee urged the authorities to pursue efforts to collect data on racism and ethnically motivated violence. It also invited them to organise further training for prosecutors and judges concerning existing provisions on

racial motivation in criminal law, and raise their awareness of the problem of racism and racially-motivated violence and the need to counter it.

*Present situation*

The Advisory Committee regrets that both Article 22.4 of the Criminal Code, which makes the racist motivation of an offence an aggravating circumstance, and Article 510 of the Criminal Code which sanctions racially-motivated hatred or violence have been applied only in a very limited number of cases. It is worried by concurring information indicating that there continues to be a serious lack of awareness of anti-discrimination and anti-racism legislation in the judiciary (judges, prosecutors and lawyers) as well as among law enforcement officials. Discrimination cases are rarely recognised and qualified as such. Many cases are reportedly dealt with by courts as misdemeanours and therefore not adequately investigated and sanctioned. The Advisory Committee also regrets the persisting lack of data collection in the judiciary on racially- or religiously-motivated offences (see remarks on Article 4 above).

Furthermore, the Advisory Committee notes that the wording of Article 510 of the Criminal Code (criminalising the “provocation” of racially-motivated discrimination, hatred or violence) makes it very difficult to invoke this provision in courts. Therefore, it strongly supports the view expressed by many of its interlocutors that this provision would be more effective if it were to criminalise “incitement to racially-motivated hatred” instead of “provocation”. Additionally, interlocutors of the Advisory Committee have underlined that victims of racially-motivated offences would have easier access to justice, would they benefit from the simplified access to free legal aid available to victims of gender-based discrimination and terrorism.

Despite these limitations, the Advisory Committee notes with satisfaction that, as a result of landmark court cases since 2009, neo-Nazi organisations have been condemned for the dissemination of national-socialist ideas and promotion of discrimination, hatred and violence against persons or groups on the grounds of their racial origin, religion or sexual orientation. These court cases, which were widely reported in the media, should contribute to raising public awareness on the dangers of racism as well as on the remedies available according to the legislation on racism and hate crime.

Moreover, the Advisory Committee strongly welcomes the creation in November 2011 of a post of Public Prosecutor for Equal Treatment and Against Discrimination in the Supreme Court, as provided for in the draft anti-discrimination law, and based on the positive experience of the work carried out since 2009 by the Public Prosecutor for Hate Crime and Discrimination of the Province of Barcelona, as well as similar experiences in Madrid, Malaga and Valencia (see remarks under Article 6 above). It expects that the work of the new specialised prosecutors will contribute effectively to improving ways in which racially-motivated hatred and discrimination cases are dealt with in the justice system, including by raising awareness and training of the judiciary on these issues.



*Recommendations*

The Advisory Committee calls on the authorities to consider ways of promoting a wider implementation of the existing legislation against racism and racially-motivated discrimination. They should consider amending the Criminal Code in order to make the current provisions on hate crime more effective.

The authorities should also redouble efforts to improve substantially the training and awareness of the judiciary on these issues. They must develop a system of adequate registration of racially-motivated offences and, in general, of data collection in the justice system on issues related to racism and discrimination. Support to the work of the specialised prosecutors on racially-motivated hatred and discrimination should be pursued.

## Conduct of law-enforcement officials

*Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee called on the authorities to strengthen the human rights training received by police forces in Spain, especially in relation to the treatment of persons belonging to minority groups. It also urged the authorities to strengthen existing internal systems of control of police conduct by establishing an independent complaints mechanism.

*Present situation*

The Advisory Committee is deeply concerned by numerous reports indicating that "ethnic profiling" by the police continues to be a widespread practice and that persons belonging to some minority groups are disproportionately stopped and searched, especially in public transport, in particular in the metro, on the street, in public squares, and even in bars or internet and phone centres. This practice reportedly targets mainly persons belonging to certain groups, such as Roma and immigrants from Africa (especially Moroccans), certain regions of South-America and Asia. The Advisory Committee is particularly disturbed by information released in 2009 and 2010 indicating that quotas of detentions of irregular migrants were imposed on policemen, leading to massive and selective controls on the street. Therefore, it welcomes the statement made by the authorities in March 2012 condemning the existence of quotas of detention of irregular migrants as well as the subsequent practices of "ethnic profiling". The Advisory Committee expects that these statements will be followed by concrete measures to eliminate such practices without delay.

Additionally, it is concerned by the potentially harmful consequences of the interpretation of the Law on Foreigners given in Circular N°1/2010 of the General Directorate for the Police and Civil Guard. This Circular makes it possible for the police to place irregular migrants in "preventive detention" if they fail to provide proof of regular presence in

Spain when checked, even though the persons concerned show valid identity documents. However, under Spanish law, "preventive detention" can only be applied in cases of criminal offences and not for administrative offences, such as migrants being in an irregular situation. This interpretation, which leads to a disproportionate number of arrests based on "ethnic profiling" and therefore, violations of the rights of migrants, has been widely criticised, including by the State Ombudsman's Office. However, the Circular is still in force, which is a source of concern.

The Advisory Committee firmly believes that "ethnic profiling" is discriminatory, and therefore not in compliance with Article 6 of the Framework Convention. Moreover, it reinforces existing stereotypes which present immigrants as criminals, particularly immigrants in an irregular situation. It also jeopardises the relations between minorities and the police, thus creating tensions that are likely to have a harmful effect on the integration of immigrants.

Furthermore, numerous reports indicate that witnesses of "stop-and-search" operations carried out in public places, who observed police work or asked questions to policemen about their work were subsequently charged with obstructing the work of the police.

In general, the Advisory Committee is concerned by the reported general lack of training of the police on racism and discrimination. The Network of Assistance to Victims under the Council for Equal Treatment indicates that 22% of complaints that were addressed to the Network are connected to relations with the police. The Advisory Committee also received reports about police abuse, including racist insults. Although progress was made in recent years in the field of human rights training of the police, it remains reportedly of a too general nature. There seems to be a persistent lack of awareness of problems related to discrimination and a lack of capacity to handle adequately racially-motivated offences. Additionally, the Advisory Committee deplores that no independent mechanism has been established to deal with complaints of police misconduct, as recommended in its second Opinion as well as in reports of other international bodies.

Against this background, the Advisory Committee welcomes the measures taken to address the practice of "ethnic profiling", such as the pilot projects carried out in 2006 and 2007 in Girona and Fuenlabrada (see footnote N° 34) in order to promote a more efficient and responsible use of identity checks and their registration, notably through the use of registration forms. The new training programme on effective action against racism and xenophobia that was started in 2011 by the police of the Autonomous Community of Valencia is also a welcome development. The Advisory Committee believes that such projects should be replicated and disseminated widely in the country. It also welcomes the steps taken by the State Ombudsman's Office against the practice of "ethnic profiling". Furthermore, it expects that the agreement of November 2011 between the Ministry of the Interior and the Ministry of Labour and Immigration, aimed at improving police training on racism and discrimination issues and at improving recording by the police of

racially-motivated incidents, will bring about improvements in the near future (see remarks on Article 4 above). It is therefore important to ensure that this agreement is effectively implemented and that its impact is adequately evaluated.

*Recommendations*

The Advisory Committee urges the authorities to put an end without delay to the practice of “ethnic profiling” by the police, which is not compatible with the principles and the aims of the Framework Convention.

It also calls on the authorities to increase training of the police in order to combat racism and discrimination, on the basis of the good practices already developed in some regions. The authorities must ensure that all instances of police misconduct are effectively investigated, prosecuted and adequately sanctioned.

It is particularly urgent to develop a comprehensive system of data collection on discrimination in the justice system, so as to ensure a more effective implementation of the anti-discrimination legislation in force. Training of the police in recording discrimination-related offences must also be considerably improved.

32. Sweden

*Opinion adopted on 23 May 2012*

Article 6 of the Framework Convention

Attitudes towards minorities and hate crime

*Recommendations from the two previous cycles of monitoring*

In previous monitoring cycles, the Advisory Committee encouraged the Swedish authorities to pursue further its efforts aimed at raising awareness about minorities and increasing inter-ethnic tolerance. It noted that the monitoring of hate crime could be usefully complemented with more comprehensive tracking of cases that have been reported to the police.

*Present situation*

The Advisory Committee notes with satisfaction that there appears to be increasing awareness in Sweden of the diversity that exists within society, including as regards the importance of protecting and promoting the rights of persons belonging to national minorities.

It also notes with interest new initiatives taken, such as the special initiative to strengthen the position in society of national minority women (Government Bill 2007/08:1) and the launch in December 2011 by the Minister for Integration of a website aimed, *inter alia* at combating the most common myths and negative stereotypes about national minorities in

Sweden. In parallel, the Advisory Committee welcomes the government's continued support to the Living History Forum and the Sami Information Centre, as described in previous Opinions, as well as the opening of the Roma Information and Education Centre in Malmö. The latter employs five staff members, four of whom are Roma, as part of the city administration, and is entrusted with developing methods for promoting the social inclusion and participation in society of the Roma and with combating discrimination against Roma.

The Advisory Committee is concerned, however, about the rise in xenophobic discourse on the Internet and in the public and political spheres in recent years, targeting, *inter alia* persons belonging to national minorities. The Advisory Committee is particularly concerned at reports that one political party that has enjoyed increasing electoral success over the past few years has included as part of its campaign platform in recent elections proposals to abolish the Sami Parliament and reduce Sami land rights. Anti-Muslim discourse is also exploited by some political actors at national and local level. The Advisory Committee emphasises that negative discourse targeting specific groups on the basis of their ethnic origin or religion should be firmly and unambiguously condemned by political leaders. It welcomes the government's decision to appoint a special rapporteur on xenophobia and intolerance, entrusted with examining how to strengthen current efforts to combat xenophobia and intolerance and counter existing shortcomings. However, it notes with regret that there has been a loss of trust amongst some minorities in the rapporteur's capacity to examine these issues impartially since he publicly took the position that circumcision should be outlawed in Sweden.

It has been reported to the Advisory Committee that little attention is paid to the concerns of national minorities in the mainstream media, and that articles concerning national minorities that do appear in these media tend to reinforce rather than combat negative stereotypes. The Advisory Committee notes that this situation may also fuel intolerance against these groups. It observes that self-regulation through responsible, independent bodies can serve as a useful tool in promoting ethical and high quality reporting and notes that the Swedish Press Council and Press Ombudsman are responsible for examining complaints of violations of good journalistic practices.

As regards hate crime, the Advisory Committee notes with interest that the National Council for Crime Prevention has continued its work to improve the reporting and monitoring of hate-motivated offences. Since 2008, a broader definition of racist and xenophobic offences has been applied, ensuring that more such offences are duly identified. The National Police Board has conducted training for police on handling hate crimes and the Prosecution Authority has issued guidelines for prosecutors on combating hate crimes. The Advisory Committee welcomes these ongoing efforts to raise awareness within the police and prosecution authorities regarding how to identify and handle cases of hate-motivated offences and encourage persons who believe they have been victims of

such offences to report the relevant incidents to the police. It considers such efforts essential to the effective combating of hate-motivated offences.

Nonetheless, the Advisory Committee expresses its concern at the security situation of the Jewish community, notably in Malmö, where some of its members, including the rabbi and other persons wearing visible signs of their faith, have experienced antisemitic harassment as well as physical attacks. The Advisory Committee is especially concerned that, according to Jewish representatives, some members of the Jewish community in Sweden feel that it is not safe to express their Jewish identity and some families have left Malmö as they do not feel confident that sufficient steps will be taken to protect them there. It welcomes the fact that the authorities have taken a number of steps to combat antisemitism and promote mutual understanding and ethnic tolerance in Malmö, including through setting up a Forum for Dialogue, establishing a police working party on hate-motivated offences, and setting aside 4M SEK (450 000 EUR) for security measures for the Jewish community in 2012.

#### *Recommendations*

The Advisory Committee recommends that the Swedish authorities step up their efforts to raise awareness about persons belonging to national minorities and increase inter-ethnic tolerance. They should continue in particular to support structures designed to make information about national minorities available over the long-term. Projects aimed at raising awareness on specific issues of relevance to national minorities, promoting understanding of national minorities and increasing inter-ethnic tolerance should also be supported.

The Advisory Committee invites the authorities to take appropriate steps to combat manifestations of racism and xenophobia in the media, in the spirit of the Committee of Ministers' Recommendation N° R(97)20 on "Hate Speech", with all due regard for media independence. It is also essential that the media respect their own codes of conduct, which must be revised or expanded as necessary to include the new media, in order to combat the use of stereotypes and xenophobic language in all media.

The Advisory Committee encourages the Swedish authorities to continue their efforts to strengthen the prevention, investigation, prosecution, sanctioning and monitoring of hate crimes based on ethnic origin and religious beliefs.

The Advisory Committee calls upon the Swedish authorities to step up their efforts to combat antisemitism. They should in particular evaluate as early as possible the adequacy of the additional means provided to ensure the security of members of the Jewish community and allocate further funds to this end if necessary.

33. Switzerland

*Opinion adopted on 5 March 2013*

Article 6 of the Framework Convention

Promoting tolerance and intercultural dialogue

*Recommendations from the previous two monitoring cycles*

During the previous monitoring cycles, the authorities were invited to endeavour to raise public awareness of Traveller culture in order to combat stereotypes and intensify work for tolerance and mutual understanding.

The authorities were also encouraged to react more vigorously against intolerance and xenophobia in political discourse.

The authorities were also invited, where applications for naturalisation were concerned, to ask the relevant cantons to provide reasons for their decisions in order to prevent discriminatory decisions.

*Present situation*

The Advisory Committee once again welcomes the general climate of tolerance and mutual understanding in Swiss society, particularly among the linguistic minorities, and the attention paid by the authorities to cultural and ethnic diversity.

At the same time, the Advisory Committee notes with concern the persistence of prejudices against Travellers, resulting from deep-seated ignorance of their origin, culture and lifestyle despite the increased efforts made by the federal and cantonal authorities and the Foundation to improve understanding of the culture and traditions of Travellers.

The Advisory Committee regrets the persistence of stereotypes and other clichés, which hamper discussions in some municipalities on installing stopping sites. According to several of the Advisory Committee's interlocutors, such attitudes often lead to a refusal to install such sites because the local population apparently could be against them. The numerous refusals to authorise spontaneous stops often have the same basic reasons. The Advisory Committee observed that the majority population often has a negative image of Travellers. Such attitudes have an impact on the difficulties encountered by the authorities in resolving the problem of the shortage of stopping places. The Advisory Committee considers that the need to take positive action against these prejudices should be prioritised. Consequently, it is vital that the authorities take on an active role in raising the awareness of the majority population and convincing them of the legitimacy of the needs of Travellers who have retained an itinerant lifestyle.

Moreover, the Advisory Committee notes with concern that in 2009, 57.5% of the Swiss population approved the popular initiative to introduce into the Federal Constitution an article prohibiting the construction of new minarets. It seems that the frequency of intolerant speech by some political parties considerably increased following the results of

this popular initiative. During their talks with the Advisory Committee, the representatives of Muslim associations stressed that since the referendum, anti-Islamic verbal violence had been frequent in Switzerland, particularly on the Internet. It is encouraging to note that the media has since adopted a series of self-regulating measures, such as prohibiting anonymity on the Internet and automatic closure of the accounts of individuals making racist statements. For instance, the Advisory Committee was appalled to learn that in June 2012, a member of the Swiss People's Party (SVP) posted on Twitter a declaration referring to a "Kristallnacht" for Muslims. The Advisory Committee notes with satisfaction that this individual was immediately removed from political office by his party and is currently facing criminal investigations under Article 261bis of the Criminal Code which punishes racial discrimination and hate speech.

According to the authorities, these events simultaneously prompted a new awareness among a section of the Swiss population, making them less inclined than previously to trivialise racist incidents. Furthermore, during public debates following the vote on the popular initiative, many people voiced a need for a better understanding of Islam. In this context, dialogue was initiated in September 2009 between the federal administration and the Muslims of Switzerland in order to address the fears and prejudices against Islam among the majority population. These discussions also examined the governmental position which, before the vote, urged people to reject the initiative.

Even though Switzerland is characterized by a system of direct democracy which the government considers as essential for open public debates on issues of public concern, the Advisory Committee considers that the popular initiative practice might in certain circumstances be problematic with regard to its compatibility with human rights. The Advisory Committee welcomes the fact that the authorities demonstrated a clear determination to tackle these challenges of balancing the freedom of expression and effective citizen participation in public affairs with the protection of fundamental rights of everyone in the territory of Switzerland. The Advisory Committee acknowledges the importance of open political debate on questions of public interest, but recalls the responsibility incumbent on the authorities, at all levels, to react promptly to any manifestation of intolerance and to condemn it publicly without delay.

Concerning naturalisation, the Advisory Committee is pleased to learn that the situation has improved since its previous Opinion. It takes note of the amendments to the Federal Law on the Acquisition and Loss of Swiss Nationality (LN) with regard to the cantonal procedure and the appeal system before a cantonal court, which entered into force in January 2009. From now on, all rejections of applications for naturalisation must be motivated. These new requirements have forced the cantons to adapt cantonal legislation to ensure that any negative decision on an application is duly supported by adequate reasons for refusal. The Advisory Committee notes with interest that the new provisions have generally been correctly applied.

### *Recommendations*

The Advisory Committee recommends that the authorities intensify their efforts to raise the population's awareness of the traditional way of life of the Travellers and to promote intercultural dialogue in order to increase mutual understanding, trust and acceptance of the different traditions, culture and way of life of this community.

Furthermore, the Advisory Committee calls on the authorities to adopt adequate measures to combat all manifestations of racism and islamophobia, condemn publicly and without delay all forms of intolerance and prejudices and to intensify efforts to promote diversity and tolerance within Swiss society.

The Advisory Committee also invites the authorities to ensure that the 26 cantons adapt their legislation on naturalisation in full compliance with the new provisions of the Federal Law on Nationality.

### Protection against anti-Semitism

#### *Recommendations from the previous two monitoring cycles*

During the previous monitoring cycles, the authorities were invited to continue their efforts to combat racial discrimination and to consider new supervisory methods in connection with anti-Semitic acts.

#### *Present situation*

The Advisory Committee notes from the reports by the organisations monitoring cases of racism, including anti-Semitic incidents, that Switzerland still registers a low level of anti-Semitic acts. Such incidents have further decreased in frequency since 2010, although anti-semitism still occurs on the Internet. At the present time, according to the Inter-Community Co-ordination against Anti-Semitism and Defamation (CICAD) and the Swiss Federation of Jewish Communities (FSCI), anti-Semitic incidents in Switzerland are related to tensions in the Middle East and the consequent escalations of violence between Palestinians and Israelis.

The Advisory Committee also notes the continuation of several awareness-raising campaigns against anti-Semitism and Holocaust denial, conducted with the support of the Service for Combating Racism (SLR), in the educational field.

#### *Recommendation*

The Advisory Committee invites the authorities to continue to ensure that persons belonging to the Jewish community are not subjected to racial discrimination or acts of intolerance.

34. "the former Yugoslav Republic of Macedonia"  
*Opinion adopted on 30 March 2011*



## Article 6 of the Framework Convention

### Tolerance and intercultural dialogue

#### *Recommendations from the two previous cycles of monitoring*

In the previous cycles of monitoring, the Advisory Committee urged the authorities to strengthen their efforts to promote tolerance and interethnic relations and to intensify awareness-raising measures in all relevant environments, such as schools, local authorities, media and the judicial system.

The Advisory Committee further called on the authorities to safeguard, including by monitoring the media coverage of minority issues, neutral and objective coverage of interethnic issues in the media and to avoid pressure of political parties on the media.

#### *Present situation*

The Advisory Committee notes that an institutional framework for tolerance and dialogue generally has been established in “the former Yugoslav Republic of Macedonia”, including in ethnically-mixed municipalities. The legal basis established to implement the Ohrid Framework Agreement of 2001 (OFA) generates continued inter-ethnic co-operation and remains vital for political stability of the country. The Advisory Committee notes with satisfaction that legislation implementing the OFA has been largely put in place. It notes, however, that there have been calls for more vigorous implementation and monitoring of the laws adopted to implement the agreement.

The Advisory Committee notes however with concern that society in “the former Yugoslav Republic of Macedonia” remains deeply polarised along ethnic lines, with the principal national groups – the Macedonian majority and the Albanian minority – living a parallel existence alongside each other, but without significant interaction with each other. This phenomenon is particularly visible in the education system, the media, political parties and as regards living areas.

The Advisory Committee further notes with concern that the deep politicisation along party lines (the parties themselves being established along ethnic lines) in all walks of public life, in particular employment, introduces additional divisions in society. In addition to creating obstacles to interethnic dialogue among the main ethnic groups in the country, i.e. the Macedonians and Albanians, this situation also puts persons belonging to smaller minorities, such as the Turks, Roma, Bosniaks, Serbs and Vlachs, at a disadvantage, as they do not have strong political entities at their disposal to convey their concerns and to represent them in public.

The Advisory Committee welcomes the adoption in August 2008 of the Law on the Use of Languages and the progress achieved since then as regards its implementation. This law, which has been under consideration since the conclusion of the OFA, gives a clear legal status to the Albanian language and regulates its use in parliament, government ministries, court proceedings, administrative proceedings, etc. (see for details comments

under Article 10). The Advisory Committee notes in particular that the adoption of the law was followed by the recruitment by the parliament of more skilled translators and interpreters. It notes further that interpretation between Albanian and Macedonian languages is ensured in plenary and committee sessions of parliament and the parliamentary TV Channel.

The Advisory Committee notes with interest the authorities undertaking to implement the program on the UN Millennium Development Goals and various activities to implement the national Action Plan Towards EU Integration. These programmes which are intended to strengthen the dialogue and co-operation among ethnic communities in the country and to increase the capacity of central and local bodies to engage in consensual and inclusive decision making processes will also involve civil society and the media in a constructive dialogue, in order to advance intercultural awareness and peaceful co-existence.

The Advisory Committee notes with regret instances of inter-ethnic tension caused by lack of dialogue, stereotyping and prejudice. The portrayal of Albanians as “mountain people” in the first national encyclopaedia published by the Macedonian Academy of Sciences and Arts caused interethnic misunderstandings followed by protests by persons belonging to the Albanian national minority. Although the encyclopaedia was withdrawn from use, its publication was detrimental to interethnic relations in the country.

The Advisory Committee also notes that the decision to introduce Macedonian language teaching from the first year of schooling of children belonging to national minorities led to protests by parents, which resulted in the decision being withdrawn (see also under Article 14 below). This occurrence demonstrates the lack of dialogue among the key stakeholders regarding an important issue with significant consequences for the whole education process.

#### *Recommendations*

The Advisory Committee calls on the authorities to undertake further measures to promote tolerance, mutual understanding, respect and intercultural dialogue, as well as to combat prejudice towards persons belonging to national minorities, including through the effective implementation and monitoring of the laws adopted to implement the Ohrid Framework Agreement.

The authorities should seek to create opportunities for interethnic dialogue in all spheres of life, in particular aimed at involving children and young people living in ethnically mixed areas in joint activities.

When adopting measures affecting persons belonging to national minorities, the authorities should ensure that adequate information is given to all the groups concerned and that a wide public consultation on the drafts in question is initiated. Considering the impact that such measures may have on respect and mutual understanding between

different ethnic groups in society, all awareness-raising measures must be carried out in a respectful, tolerant, and appropriate manner.

### Police action and respect for human rights

#### *Recommendations from the two previous cycles of monitoring*

In the previous cycles of monitoring, the Advisory Committee noted disturbing cases of violence and ill-treatment inflicted by members of the police directed at persons belonging to minorities, especially the Roma and Albanian, and invited the authorities to examine the situation and carry out an inquiry into police handling of complaints relating to such acts. It also called on the authorities to raise awareness among members of the police force regarding respect for diversity and human rights and step up their efforts to recruit Roma into the police force.

The Advisory Committee also recommended that an effective and independent supervisory mechanisms to monitor police behaviour be put in place and that appropriate penalties be applied in established cases of human rights violations by the police.

#### *Present situation*

According to information obtained from non-governmental organisations, the number of cases of ill-treatment by the police has diminished in recent years. However, such cases continue to be reported and, according to non-governmental sources, persons belonging to national minorities, especially the Roma and persons belonging to the Albanian minority, are disproportionately targeted.

The Advisory Committee notes with concern that the lack of proper investigation of cases alleging discriminatory treatment of Roma have been repeatedly confirmed in the judgments of the European Court of Human Rights. In this context the Advisory Committee notes with deep concern the violent clash of 15 April 2010 between 200 riot police and Roma vendors in the market place of Suto Orizari municipality. The Advisory Committee notes that some police units have also been cited in other alleged cases of ill-treatment.

The Advisory Committee shares the conclusions of the report of the European Committee for the Prevention of Torture, published on 4 November 2008, which states that the Sector for Internal Control and Professional Standards (SICPS) within the Ministry of Interior, which is in charge of scrutinising police behaviour, cannot be considered an independent body which is able to carry out prompt, thorough and effective investigations when investigating allegations of ill-treatment by law enforcement officials.

#### *Recommendations*

The Advisory Committee strongly urges the authorities to put in place effective and independent supervisory mechanisms to monitor police behaviour, in line with European standards, and to apply the appropriate sanctions in established cases of human rights violations by the police.

Reiterating its recommendation in the previous Opinions, the Advisory Committee calls for renewed efforts to recruit Roma to the police and other law enforcement agencies.

35. Ukraine

*Opinion adopted on 22 March 2012*

Article 6 of the Framework Convention

Efforts to combat intolerance and racism

*Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee urged the authorities to reinforce their efforts to combat racist behaviour, including through vigorous investigation and prosecution of all manifestations of racism, as well as the adequate recording of all racially-motivated incidents for monitoring and training purposes. The Advisory Committee further encouraged the authorities to raise awareness among the general population of the importance of tolerance and respect for diversity.

*Present situation*

The Advisory Committee notes a number of efforts made in 2008, under the auspices of the former SCNR, to work more effectively against racial discrimination and intolerance, such as the creation of an Inter-Agency Working Group against racism and the subsequent adoption of a Plan of Action to Combat Xenophobia and Racial and Ethnic Discrimination in Ukraine. However, it shares the concerns expressed by ECRI and other international monitoring bodies that, following the dissolution of the SCNR, no further action has been taken and the Working Group has ceased to function. This is of deep concern to the Advisory Committee as representatives of a number of minority communities have referred to a general increase in hostile attitudes and acts of intolerance in recent months against persons belonging to national minorities. The Advisory Committee understands that the economic crisis, coupled with the perception of democratic regression, have prompted general anxiety and a sense of pessimism in society, that expresses itself in increased xenophobia and less tolerance towards persons belonging to minorities. This situation requires an urgent and coordinated response by the authorities in order to prevent further deterioration.

The Advisory Committee further notes with concern that, despite some amendments made to the Criminal Code to increase its applicability and effectiveness in sanctioning racially-motivated offences (see comments on Article 4 above), only very few cases appear to have been investigated, which contradicts the unanimous views expressed by minority and civil society representatives of an actual increase in racially-motivated crime. The Advisory Committee is concerned by reports that the racist motivation of such offences is often not acknowledged by the prosecution services, and notes further that it obtained during its country visit differing statistics on the application of the relevant articles of the Criminal Code in past years. It therefore fears that there is still no unified understanding of

racism and racially-motivated crime within the relevant authorities (law enforcement agencies, prosecution services, and the judiciary) nor the general public, which, however, is a crucial condition to ensuring the effective identification, registration and sanctioning of such crimes. Comprehensive training and awareness-raising is indispensable within these bodies to ensure that such crimes are swiftly and adequately investigated and sanctioned, as well as comprehensively recorded.

#### *Recommendations*

The Advisory Committee urges the authorities to increase their efforts with regard to the fight against racism and intolerance. A coordinating body should be established without delay to perform the role of the former SCNR in the development and implementation of a comprehensive government strategy against racism at all levels.

The Advisory Committee further urges the authorities to engage in comprehensive training and awareness-raising activities among the relevant public services, in particular prosecution services and law enforcement agencies, as well as in society in general, to ensure that acts of racism and racially-motivated crime are appropriately identified, recorded, investigated and sanctioned.

### Inter-ethnic and inter-religious hostility

#### *Present findings*

The Advisory Committee notes with concern that the number of inter-ethnic and inter-religious incidents, including vandalism against religious and cultural sites, appears to be increasing throughout Ukraine, but particularly in Western regions and the Crimea. Lviv region continues to serve as an attractive venue for meetings and parades of nationalists, fuelled by the 'Ukraine for Ukrainians' slogans used by some politicians, who gained considerable support in the 2010 local elections. The Advisory Committee notes with deep concern the continued reports of anti-Semitic rhetoric and public statements which, in addition, prompt an increase in inter-ethnic hostilities between pro-Russian activists and supporters of the Freedom Party. It welcomes in this regard efforts by the authorities to promote awareness and commemoration of Ukrainian history during and immediately after World War II, including as regards persons belonging to national minorities in Western Ukraine.

The Advisory Committee further notes with deep concern reports from minority representatives, as well as from persons belonging to the Ukrainian population, that inter-ethnic hostility in the Crimea is generally considered to be rising. Some violent clashes occurred in Summer 2011 in the Eastern Crimean town of Feodosiya, where regional "Russian Cossack" organisations placed a large, wooden cross at the entrance to the town to commemorate the victims of World War II. While the cross was dismantled by Ukrainian special forces, the move is widely seen as an effort to provoke the Crimean Tatars. More such crosses have been erected, including in the village of Koktebel in January 2012, and have been partially dismantled by Crimean Tatars. The Advisory Committee is deeply concerned by this situation which, according to representatives of

various minority communities, has resulted in a notable increase in inter-ethnic and inter-religious hostility and requires urgent intervention by the authorities, in order to restore and promote inter-ethnic understanding and dialogue.

*Recommendation*

The Advisory Committee urges the authorities to take all necessary measures to prevent, condemn unanimously and appropriately sanction any provocation of inter-ethnic or inter-religious hostility, and to promote a climate of mutual dialogue and understanding between the various communities.

Countering hate speech in the media and in politics

*Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee called on the Ukrainian authorities to take further measures, with full respect for the freedom of the media, to diminish stereotyping and negative portrayal of persons belonging to different national minorities, immigrants, asylum seekers, refugees and foreigners, in the media. Ethical training had to be provided to journalists and the creation of self-regulatory body, including an effective complaints mechanism, considered.

*Present situation*

The Advisory Committee notes with regret that, despite some efforts by the authorities to curtail the use of language that may incite inter-ethnic hatred in the media, the situation does not appear to have improved since the second cycle of monitoring. The Advisory Committee is, in particular, concerned about continued practices of stereotyping Roma and Muslims, particularly by the local print media, while not presenting any objective information on issues of concern to the particular groups. While some non-binding self-regulatory steps were taken by TV broadcasters as well as by the national union of journalists, which reportedly set up a commission on journalists' ethics, the overall awareness among journalists of the impact of the media on inter-ethnic relations in society still appears low, which facilitates the use of the media by some politicians against particular groups. A marked increase of nationalistic and xenophobic political statements was observed in the run-up of the election campaigns in 2009 and 2010 and minority representatives feel that these - widely published and often unpunished - remarks or speeches by high-ranking politicians have further fuelled hostile attitudes in the general public. This is of deep concern to the Advisory Committee, particularly given the upcoming Parliamentary Elections in October 2012.

In addition, the Advisory Committee notes that overall media coverage of issues concerning minority protection continues to focus mainly on the situation of the Russian minority and language issues. According to governmental and non-governmental interlocutors, public and media concentration on these topics is increasing, thereby deflecting attention and interest in issues of concern to other minority communities. The Advisory Committee is concerned by this unbalanced involvement of the media in minority protection issues, which results in an increased polarisation of society that is not

conducive to inter-ethnic tolerance and social cohesion. The Advisory Committee notes with concern reports from representatives of all communities that inter-ethnic hostilities in the Crimea are rising and are further fuelled by the local media. It is concerned in this regard by the views expressed by some regional authorities it met that the press and its sometimes hostile views should not be interfered with.

Like in other European countries, Ukraine has also seen an increase of racist and nationalistic discourse on the Internet. The Advisory Committee is pleased to note that a special department for the fight against cybercrime has been created within the Ministry of the Interior and expects that this step will prove useful not only in the detection of racist crime on the Internet but also in the prompt investigation and sanctioning of such offences.

#### *Recommendations*

The Advisory Committee urges the authorities to take more resolute steps to prevent negative stereotyping of minority communities in the media, while fully respecting the freedom of the press. Efforts to train journalists and media professionals must be increased, including by further promoting the visibility and effectiveness of the work of the national union of journalists in this regard.

The Advisory Committee further urges the authorities to ensure that public statements of politicians that incite racist or ethnic hatred are unequivocally condemned, promptly investigated and adequately sanctioned, to ensure that such discourse is not condoned in society.

### Law enforcement bodies

#### *Present situation*

The Advisory Committee notes with deep concern continued and widespread allegations of police misconduct and harassment against some groups, especially refugees, asylum seekers and the Roma. It is in particular concerned by repeated raids conducted on Roma settlements, such as those carried out on 30 December 2011 and 11 January 2012 in Uzhgorod, where tear gas and rubber batons were reportedly used indiscriminately against residents of all ages. Law enforcement bodies reportedly still engage in systematic fingerprinting and photographing of Roma males, who are also, along with other persons that may appear 'non-Slavic', victims of targeted identity checks in public places, as well as arbitrary arrests. The Advisory Committee is deeply concerned by these practices which are not compatible with Article 6 of the Framework Convention and require an urgent response by the authorities. While the Ministry of the Interior appears to be aware of the situation and has continued the work of its 'Human Rights Monitoring Department', the Advisory Committee agrees with other monitoring bodies as regards the urgent need for regular human rights training of law enforcement officials as well as the necessity to establish an independent complaint mechanism to investigate police misconduct.

The Advisory Committee is further concerned by reports that acts of vandalism against religious or cultural sites of national minorities continue to occur in all parts of Ukraine, that these incidents are not adequately investigated by law enforcement officials, that they are often referred to as 'hooliganism' and that bribes are extorted by officials in some cases as a condition for investigating such incidents (see comments on Article 4 above). The situation is further exacerbated by the fact that only very few persons belonging to national minorities have been recruited into law enforcement bodies. The Advisory Committee fears that such a situation undermines the trust of minority communities in the police and in the rule of law in general, which is seriously detrimental to inter-ethnic tolerance and mutual understanding in society.

The Advisory Committee further received disconcerting reports that regional "Russian Cossack" squads were still being used by law enforcement agencies in the Crimea for specific tasks, such as forced evictions. The Advisory Committee notes with deep concern that the continued use of these units raises serious questions of compatibility with Article 6 of the Framework Convention.

#### *Recommendations*

The Advisory Committee urges the authorities to take resolute steps to prevent and combat the reported racially-motivated misconduct among law enforcement officials. Any such allegations must be promptly and effectively investigated and appropriately sanctioned. All law enforcement personnel must receive initial and ongoing training on their rights and duties during service, including relevant human rights standards.

The Advisory Committee further urges the authorities to put an end immediately and unequivocally to any use of "Russian Cossack" squads in law enforcement operations.

### 36. United Kingdom

*Opinion adopted on 30 June 2011*

#### Article 6 of the Framework Convention

##### Fighting racism and intolerance

#### *Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee recommended that the authorities ensure that any references to community cohesion are clearly explained in order to highlight that an integrated society is one that is based on mutual respect, equality and diversity.

#### *Present situation*

The Advisory Committee notes with satisfaction that the authorities have continued to implement measures to fight against intolerance, promote mutual respect and value diversity in society. In Scotland, the "One Scotland Campaign" has been implemented as a result of the Race Equality Statement for 2008-2011, outlining the priorities of the Scottish



Executive in this field. In Wales, the programme “Getting on together” launched by the Welsh Assembly Government aims at improving dialogue between Muslims and non-Muslims and the authorities adopted the ‘One Wales’ commitment to cultural diversity, pluralism and inclusion. A cross-Government task force was set up in 2008 to combat anti-Semitism, based on an All-Party Parliamentary Enquiry on anti-Semitism and subsequent evaluations have indicated that it had a positive impact on the fight against anti-Semitism. The Advisory Committee is of the view that this could be used as a model to tackle other forms of racism, such as Islamophobia (see remarks below). The Advisory Committee particularly values programmes directed at youth, including various projects to tackle bullying against pupils belonging to minority ethnic communities at school that are being implemented, in particular in Wales (see also remarks under Article 12 below).

Despite these commendable efforts, and the repeated commitments of the authorities to fight all forms of racism and intolerance, the Advisory Committee notes with concern that extreme-right parties, such as the British National Party, are increasingly frequently expressing hatred towards foreigners, including Eastern European migrants and Roma, and minority ethnic communities. According to representatives of minority ethnic communities, Islamophobia also continues to spread in society, sometimes triggered by politicians and disseminated through the media.

The Advisory Committee welcomes initiatives undertaken by the authorities in some areas such as Aberdeen (see paragraph 92 above) to defuse tensions between Gypsies and Travellers and the majority population. It deplures, despite such measures, the reported level of hostility against Gypsies and Travellers in all the regions it visited. For instance, it learned during its visit to Dale Farm that Travellers are sometimes denied access to public places such as pubs; that local politicians have fuelled public opposition against their relocation to an alternative site; and that pupils belonging to the majority population reportedly withdrew from the local school when Traveller children first registered in this school. It also notes with concern an increasing number of conflicts around Gypsy and Travellers’ sites in Scotland.

It is also concerned by the rise in incidents of anti-Irish racism reported in Scotland. In particular, the Advisory Committee is deeply concerned by the recent parcel bombing campaign targeting prominent persons and associations connected with an Irish background, and of the continued chanting of anti-Irish songs at football games. In this context, the Advisory Committee welcomes the proposals currently before the Scottish government to make “sectarian” conduct at football matches a criminal offence punishable with up to five years in prison.

Moreover, the Advisory Committee observes that there is an ongoing public debate in the United Kingdom, as in other States Party, on the merits of integration policies and the promotion of multiculturalism in recent decades. While acknowledging that it is important to evaluate these policies regularly, the Advisory Committee believes that the authorities should ensure that this debate does not lead to the abandonment of policies promoting intercultural dialogue, respect for minority rights and cultural diversity.

### *Recommendations*

The Advisory Committee calls on the authorities to continue and step up measures to combat racism and intolerance in society, including in the political sphere, in the media and in sport. Additional, more vigorous and comprehensive measures, including possibly a cross-government task force, should be taken to combat the rise in Islamophobia and anti-Muslim discourse by politicians and through the media.

Existing programmes to combat racism among youth and racist bullying at school should be supported and replicated as appropriate (see also remarks under Article 12 below).

Particular efforts should be made to combat hostility against Gypsies, Travellers and Roma, especially at the local level and in close cooperation with representatives of these groups. The authorities should encourage dialogue between Gypsies and Travellers and the majority population at the local level (see also remarks under Article 5 above).

### Role of the media

#### *Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee highlighted that further resources needed to be directed at raising awareness about, and tackling inaccurate media reporting on, minority ethnic communities, focusing on groups such as Gypsies, Travellers, asylum-seekers and Muslims.

#### *Present situation*

The Advisory Committee deplores the fact that some media (newspapers as well as electronic media) in the United Kingdom regularly disseminate prejudices and biased or ill-founded information on persons belonging to groups such as Gypsies and Travellers, Muslims and migrants, such as Eastern European and Roma migrants, and asylum-seekers. They contribute to strengthening stereotypes and inciting racist views. Information brought to the attention of the Committee indicates that media has in some instances played an active role in stirring up hostility against local authorities' plans to deliver sites for Gypsies and Travellers.

Incitement to hatred, particularly against Gypsies and Travellers, seems also to be widespread on the Internet, and particularly on Facebook. Therefore, the Advisory Committee welcomes the authorities' efforts to combat racism on the Internet, for instance through programmes on moderation of blogs and comments' sites on the Internet and support to local authorities in engaging in dialogue with local media.

The Advisory Committee acknowledges with satisfaction the work of and results achieved by the Press Complaints Commission in raising awareness of the media on the dissemination of racism and intolerance, including through training sessions involving the participation of persons belonging to minorities. However, it is regrettable that in the Editors Code of Practice, the press agrees to avoid prejudicial or pejorative reference only insofar as this relates to a specific individual and not when it is directed at groups. This

limitation prevents a wider use of the Editor's Code to combat the dissemination of racist bias through the media. Although the Advisory Committee understands that the Commission has made use of the accuracy clause in the Editor's Code. The latter obliges newspapers not to publish inaccurate facts, in order to condemn discriminatory statements directed at groups.

#### *Recommendations*

More resolute efforts should be made to tackle the instigation and dissemination of prejudices and racism through the media, while fully respecting editorial freedom.

Particular attention should be paid to combating the dissemination of racism and intolerance on the internet. Such measures should be guided in particular by the principles set forth in the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist or xenophobic nature committed through computer systems.

### Hate Crime

#### *Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee called on the authorities in Northern Ireland and Scotland to devote further resources to identifying and prosecuting hate crime. It also invited them to give more attention to religiously motivated incidents including by disaggregating the data for racist and religiously aggravated crime.

It also recommended that more efforts be made throughout the United Kingdom to provide police with robust on the job training and support in dealing with hate crime.

#### *Present situation*

The Advisory Committee is deeply concerned by the attacks against Roma families that took place in Belfast in 2009, and led to 115 of these persons returning to their home country as well as hostile demonstrations against Eastern European migrants in a district of Belfast. In general, it finds it worrying that according to various reports, hostile acts and attacks against migrants and minorities are on the rise in Northern Ireland and are reportedly often caused by paramilitary groups. Official figures indicate a slight decrease in hate crimes committed in 2010-2011, following stark increases since 2007. It is to be hoped that the Unite Against Hate campaign will help raise awareness of hate crime and contribute to changing people's attitudes towards hate and prejudice.

Furthermore, the Advisory Committee is concerned by reports that a steady rise in hate crimes against Muslims in the United Kingdom, most notably in London, is being fuelled by a negative discourse being held in the media and by some politicians (see remarks in paragraph 109 above). Information and testimonies made available to the Advisory Committee show that these crimes are often motivated by a negative view of Muslims acquired from reports and commentaries in the media. It notes, in general, that reported

instances of racially and religiously motivated crime in Scotland, England and Wales has remained steady over a number of years.

In this context, the Advisory Committee strongly supports the determination of the authorities to encourage reporting of hate crime and commends the high rate of prosecution of and comprehensive and disaggregated data collection on hate crime. It also appreciates that the authorities acknowledge that a significant number of victims remain unwilling to report hate crimes due to a complex combination of issues such as fear, suspicion and alienation and that further efforts need to be made to increase reporting. Therefore, the Advisory Committee finds it important that the Government has implemented a number of programmes aimed at tackling hate crime such as the Cross-Government Hate-Crime Action Plan, Race for Justice and the All Party Inquiry into anti-Semitism and that, since 2008, the Crown Prosecution Service has published an Annual Hate Crime Report. Laudable measures have also been taken in Wales and Scotland to combat hate crime and tackle under-reporting.

#### *Recommendation*

The Advisory Committee urges the authorities to take further resolute measures to prevent hate crime and provide adequate remedies to victims of hate crime. Measures to encourage and facilitate reporting of hate crime by victims should also be continued.

### Stop and Search

#### *Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee urged the authorities to review the use of stop and search under the Terrorism Act 2000 and to give additional training to police officers on circumstances in which use of stop and search would be discriminatory.

#### *Present situation*

The authorities continue to acknowledge that people from minority ethnic communities are in general subject to significantly higher rates of stop and search than the majority population. The continued disproportionate use of stop and search provisions of the Terrorism Act 2000 on persons belonging to minority ethnic communities is of particular concern to the Advisory Committee. Therefore, it notes with satisfaction the amendments adopted by the authorities of the United Kingdom to Section 44(2) following the judgement of the European Court of Human Rights in *Gillan and Quinton v. United Kingdom*. It is also pleased to learn that the National Policing Improvement Agency has recently launched a pilot programme, *Next Steps*, with a view to improving data collection relating to stop and search and helping the police to ensure stop and search is used in a non-discriminatory manner.

#### *Recommendation*

The Advisory Committee calls on the authorities to monitor closely the use of stop and search powers under the current laws adopted in the fight against terrorism to ensure

that these powers are exercised in a reasonable and non-discriminatory manner. The authorities should also continue and step up programmes such as *Next Steps*.

### Community relations in Northern Ireland

#### *Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee welcomed the resumption of power-sharing in the Northern Ireland Assembly and noted positive developments such as the preparation of a *Shared Future* strategy. Nevertheless, concerns were expressed regarding highly segregated housing and schooling in Northern Ireland.

#### *Present situation*

The Advisory Committee welcomes the fact that the Northern Ireland Assembly recently completed a full mandate following the resumption of power-sharing between nationalist and unionist parties in May 2007. Furthermore, the devolution of policing and justice powers to the executive, the final piece of the devolution jigsaw, was completed in February 2010. The ongoing cooperation and continuously improving relations between the representatives of the two main communities in the executive offers hope that further important steps can be taken to overcome the divisions of the past. In this context, the Advisory Committee deplores the recent outburst of inter-community violence which took place in Belfast in June 2011. It expects that the authorities will take all the necessary measures to investigate these incidents and prosecute and sanction those responsible for fuelling violence, as well as to prevent re-occurrences.

The Advisory Committee notes with interest the initiative launched by the Northern Ireland Assembly to update the *Shared Future* strategy for good relations by launching a consultation paper on a *Programme for Cohesion, Sharing and Integration (CSI)* in July 2010. While the *Shared Future* strategy dealt only with "sectarianism", the proposed new programme will also provide aspects for delivery of the *Race Equality Strategy*. CSI, along with a proposed new *Racial Equality Strategy*, will likely form the key policy initiative for promoting tolerance and intercultural dialogue in Northern Ireland. Nevertheless, a number of interlocutors have raised serious concerns about the CSI, including that its aspirations are limited to mutual accommodation rather than mutual respect and understanding and that it does not adequately address the concerns of minority ethnic communities.

In the absence of a Single Equality Act, and without any progress towards the adoption of a Bill of Rights for Northern Ireland (see remarks under Article 4 above), the Advisory Committee regrets that the CSI Strategy fails to draw on existing human rights standards. Additionally, the Advisory Committee finds the approach in the CSI Strategy to treat sectarianism as a distinct issue rather than as a form of racism problematic, as it allows sectarianism to fall outside the scope of accepted anti-discrimination and human rights protection standards. Similarly, the CSI Strategy has developed the concept of "good relations" apparently to substitute the concept of intercultural dialogue and integration of society. The Advisory Committee has been informed that, in some instances, the need for

keeping good relations has been used as justification for not implementing provisions in favour of persons belonging to minorities, such as the erection of bilingual signs (see remarks under Article 11 below).

Additionally, interlocutors of the Advisory Committee deplore the lack of a long-term integration strategy for persons belonging to minority ethnic communities, who remain on the fringe of mainstream society mainly as a result of the ongoing division of society between the two main communities.

#### *Recommendations*

The Advisory Committee calls on the authorities to promote the *Cohesion, Sharing and Integration* strategy in a way that encourages interaction and mutual understanding between all communities in Northern Ireland, including persons belonging to minority ethnic communities, in order to ensure progress towards reconciliation and social cohesion across society in Northern Ireland. The authorities responsible for the implementation of the Belfast (Good Friday) Agreement and the St Andrews Agreement should also step up efforts to adopt a Single Equality Act and a Bill of Rights for Northern Ireland.

The Advisory Committee urges the authorities to investigate effectively any form of community violence or incitement to violence and to prosecute and sanction adequately those responsible for it, as well as to take measures to prevent such events from re-occurring.