

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



Strasbourg, 13 May 2016

Working document

Compilation of Opinions of the Advisory Committee relating to Article 8 of the Framework  
Convention for the Protection of National Minorities (3<sup>rd</sup> cycle)

"Article 8

The Parties undertake to recognise that every person belonging to a national minority has the right to manifest his or her religion or belief and to establish religious institutions, organisations and associations."

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 adopted a total of 36 opinions, of which 17 opinions on Article 8.

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.

\* 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.

1. Albania

*Opinion adopted on 23 November 2011*

Article 8 of the Framework Convention

Freedom of religion, religious organisations and restitution of property of religious organisations

*Recommendations from the two previous cycles of monitoring*

In the previous cycles of monitoring, the Advisory Committee encouraged the Albanian authorities to continue their work on drafting a law on freedom of religion.

The Advisory Committee also invited the authorities to ensure that the ongoing process of returning property belonging to religious communities and granting compensation was fair and equitable.

*Present situation*

The Advisory Committee notes with regret that there has been no change since the previous monitoring cycle as regards the adoption of a law on the freedom of religion. There has been no follow up to the recommendations made by the Venice Commission in 2007 and by the OSCE/ODIHR Advisory Council on Freedom of Religion or Belief in 2009 on the draft law "On freedom of religion, religious organisations and mutual relations with the State".

The Advisory Committee notes however that, based on Article 10 of the Constitution of Albania which calls for separate bilateral agreements to regulate relations between the government and religious communities, the authorities concluded, in 2002, an agreement with the Catholic Church and, in October 2008, with the Muslim, Orthodox, Protestant and Bektashi communities. The Advisory Committee further notes that, following the conclusion of the above-mentioned bilateral agreements, the State Agency for the Restitution and Compensation of Property was instructed to give priority to the return of properties owned by religious communities.

The authorities have agreed to the construction of a new Orthodox Cathedral in central Tirana, to be one of the largest in the Balkans, on land handed over to the Orthodox Church as compensation for land seized by the communist regime. It has to be noted also that the municipal authorities in Tirana have recently granted a building permit to the Islamic Community for the construction of a new mosque.

The Advisory Committee also notes that other property claims throughout the country, as well as requests for the return of religious icons and precious manuscripts, seized by the communist regime and which remain in the national archives, have not yet been settled.

Finally, the Advisory Committee notes that in the framework of the census of 2011, for the first time since 1930, an optional open-ended question on religion was asked. The Advisory Committee considers that data collected on the religious composition of the Albanian

population should allow the authorities to draw up more effective and appropriate policies in order to guarantee freedom of religion or belief.

*Recommendations*

The Advisory Committee reiterates its encouragement to the Albanian authorities to continue their work on the "draft law on freedom of religion", in full compliance with the applicable international standards.

The Advisory Committee also urges the authorities to intensify their efforts to return property belonging to religious communities and to grant fair and equitable compensation.

The Advisory Committee requests the authorities to use the information on the religious composition of the population, obtained during the 2011 census, as an indicator in drawing up policies and legislation on the effective protection of freedom of religion or belief, in conformity with international provisions and standards relating to data collection.

2. Azerbaijan

*Opinion adopted on 27 May 2010*

Article 8 of the Framework Convention

Manifestation of religious belief

*Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee invited the authorities to ensure that legislative provisions related to the freedom of religious beliefs and the importation of religious literature did not undermine the right of persons belonging to national minorities to manifest their religion. In addition, the Advisory Committee urged the authorities to ensure that persons belonging to national minorities could freely manifest their religious beliefs individually or in community with others, including as regards non-traditional religious communities.

*Present situation*

The Advisory Committee notes that, following amendments to the Law on Freedom of Religion in 2009, a number of further restrictions have been imposed on religious communities. Apart from a requirement for all communities to re-register in order to continue functioning, higher fines have been introduced for disseminating religious literature without prior authorisation or carrying out religious activities such as worship in places other than where registered. The authorities explain that the re-registration exercise is only a formality and does not alter the legal status of the community concerned. However, the Advisory Committee was officially informed during its visit that the authorities had the right to abolish all organisations that had not re-registered, although it had never used that right. The Advisory Committee is concerned by this lack of legal certainty for communities that have not been able to re-register, even following application to the courts. In addition, the Advisory Committee learned

of lengthy and unpredictable proceedings and the closure of mosques or churches by local authorities in cases where the re-registration had not been completed. According to the authorities, 576 communities had been re-registered in July of 2012, out of some 900 applications.

The Advisory Committee notes that Muslim communities have to go through a double-registration process, as, in addition to the procedure described above, their applications have to go first through the Caucasian Spiritual Board of Muslims. The process is reportedly particularly difficult for communities belonging to the Sunni faith, including those of persons belonging to national minorities such as the Lezgin and Avar, as approval of their applications appears to be selectively delayed or denied by the Board. While the Lezgin Mosque in Baku was de-registered and asked to re-register under a different name (see comments under Article 5 above), most of the mosques that were closed or since 2009 have reportedly been Sunni mosques, including the so-called Albanian mosque in Ganja.

The Advisory Committee also heard reports of persons being arrested for praying 'at unauthorised places', including in private homes, and of being forced to sign statements that they would not meet for joint prayers. Even cases of forced shaving of beards of certain Muslims by the police have been reported. In addition, the Advisory Committee is concerned by reports regarding difficulties experienced by members of the Georgian Orthodox Church seeking to import small amounts of religious literature for worship and educational purposes. In December 2010, women were banned from wearing headscarves in schools and universities which reportedly led to a considerable number of drop-outs. This development is reported to have affected in particular some of the more pious national minority communities.

While the Advisory Committee acknowledges widespread anxiety among the population towards non-traditional religious groups and possible extremist tendencies and appreciates the efforts of the authorities to monitor religious activities, it cautions that all registration procedures have to be implemented fairly and transparently and with due regard to the fundamental right to manifest one's religious belief, including in community with others. In this regard, it notes with regret reports that the study of Islam has been considerably reduced, which, according to some observers, has led to lack of understanding and tolerance towards the beliefs of some, including non-traditional, communities in society, and contributes to the creation of inter-religious tension as well as miscommunications between different branches of one faith.

#### *Recommendation*

The Advisory Committee calls on the authorities to take resolute steps to ensure that persons belonging to all national minorities can freely express and manifest their religious beliefs, individually or in community with others, and that the ongoing re-registration exercise is implemented fairly and transparently. All rejections must be open to swift and effective legal redress.

3. Bulgaria

*Opinion adopted on 11 February 2014*

Article 8 of the Framework Convention

The right to manifest religion or belief

*Recommendations from the two previous cycles of monitoring*

In its previous monitoring cycles, the Advisory Committee called upon the authorities to ensure that persons belonging to national minorities did not suffer discrimination in the exercise of their right to practise their religion.

*Present situation*

The Advisory Committee notes with interest that amendments to the 2002 Religious Denominations Act have been proposed in order inter alia to extend the period in which religious communities may seek the restitution of property and address certain questions related to the management of religions present in Bulgaria. These proposals are currently pending before the Parliament and were reported to be at the committee stage as of mid-November 2013. The Advisory Committee has been informed that these proposals were drawn up in response to issues raised by representatives of a number of faiths whose adherents in Bulgaria are mostly persons belonging to national minorities (such as the Muslim, Catholic, Armenian Apostolic and Jewish faiths) and in consultation with the leaders of these religions. However, following the withdrawal of the support of one political party (Ataka), the outcome of the parliamentary proceedings was difficult to predict.

Muslims have also referred to some difficulties experienced regarding the practice of their religion. There is a lack of space for worship in Sofia, with some worshippers at Friday prayers having to pray outside in the street. A request for the construction of a second mosque in Sofia has been awaiting approval for several years. Muslims from the Smolyan area have also complained that following the 2007 destruction of a Muslim cemetery for private development, their requests to continue to have access to the burial grounds of their ancestors have not been heard, despite their efforts. Muslims have moreover reported occasional interference by law enforcement officers in their activities, including one instance in which law enforcement officers questioned the teacher of a Qur'an course in front of the children in his class. The on-going prosecution in Pazardzhik of 13 imams, muftis and preachers for participating in or leading a group preaching "anti-democratic ideology" has created considerable disquiet amongst Muslims and is seen by many as at least partly directed at intimidating Muslims in Bulgaria.

*Recommendations*

The Advisory Committee encourages the authorities to pursue their constructive dialogue with religious leaders with a view to enabling the rapid enactment of legislative amendments extending the period for restitution of religious property and better guaranteeing that religions are able to operate without undue interference from the state.

It invites the authorities to take measures to resolve rapidly issues surrounding lack of space for worship and ensure that there is no interference in the practice of religion by persons belonging to national minorities except where it is prescribed by law, pursues a legitimate aim and is proportionate to that aim.

4. Croatia

*Opinion adopted on 27 May 2010*

Article 8 of the Framework Convention

Religious communities

*Recommendations from the two previous cycles of monitoring*

In the previous cycles of monitoring, the Advisory Committee urged the authorities to complete the process of the restitution of property to religious communities.

*Present situation*

According to the information available to the Advisory Committee the authorities generally respect the provision of Article 8 of the Framework Convention. Persons belonging to national minorities face no specific obstacles to manifest their religion or belief or to establish religious institutions, organisations or associations.

The Advisory Committee notes, however, that no significant progress has been achieved as regards the restitution of property to the Serbian Orthodox Church and the Jewish Community. According to a statement made by a representative of the Serbian Orthodox Church, the key problems are lengthy administrative procedures and a lack of political motivation to resolve the issue. The Advisory Committee considers that the process of the restitution of religious property should proceed swiftly and without discrimination.

*Recommendation*

The Advisory Committee urges the authorities to complete the process of restitution of property to religious communities without any further delay.

5. Cyprus

*Opinion adopted on 19 March 2010*

Article 8 of the Framework Convention

Military service and the right to manifest one's religion

*Recommendations from the two previous monitoring cycles*

In the previous monitoring cycles, the Advisory Committee took note of plans to extend compulsory military service to persons belonging to the three "religious groups". It invited the authorities, in consultation with these groups' representatives, to seek ways and means of

guaranteeing the effective exercise of these groups' right to manifest their own religions and to opt out of any practices or activities specific to another faith.

*Present situation*

Pursuant to a decision adopted in 2007 by the Council of Ministers, persons from the three "religious groups" are required to do military service in the national army just like any other citizens of Cyprus. The Advisory Committee welcomes the fact that the authorities have accepted the three groups' request that these persons should be able to do their service in army units located near their communities' places of worship and practice their religions unhindered. The State Report also points to the Government's undertaking to protect the right of the persons concerned to opt out of the religious activities of other religious groups.

Despite this positive information, problems are still being reported, especially by members of the Maronite community. Another source of concern brought to the Advisory Committee's attention is the religious (Greek Orthodox) aspect of the oath taken by soldiers, which poses a problem for those not sharing the faith concerned.

The Advisory Committee further notes that the brochure called 'Serving my Country' which is given to young recruits and contains awareness-raising material about the country's basic values and symbols, its history and culture, has no information about the "religious groups" living in Cyprus and their contribution to those values. It finds this regrettable and expects that the authorities will remedy the situation given the special symbolic value attached by the three "religious groups" to recognition of their contribution to the richness of Cypriot society.

*Recommendation*

The Advisory Committee encourages the authorities to take all necessary steps to enable the Armenians, Latins and Maronites to exercise their right to religious freedom unhampered throughout their military service. It also invites the authorities to review the information material for young soldiers to ensure that it properly reflects the diversity of Cypriot society properly.

### Religious education

*Recommendations from the two previous monitoring cycles*

In its previous monitoring cycles, the Advisory Committee welcomed the Government's effort to help preserve the religious identity of persons belonging to the "religious groups" by paying the salaries of their priests, including those providing religious instruction to children belonging to these groups.

*Present situation*

The Advisory Committee welcomes the fact that the authorities are continuing to fund religious education for the Armenians, Latins and Maronites. It notes that the schools attended by members of these three groups work closely with their respective churches and that religious instruction and practicing of their own religious beliefs and convictions are an integral part of these schools' activities.



The Advisory Committee has been informed, however, that, at the St Maron school, the majority of whose pupils are Maronites, the educational environment includes elements of the Greek Orthodox religion, as in all public schools in Cyprus. At the same time, the elements of religious education specific to Maronite culture are optional and can only be taught outside the mandatory curriculum. This being so, representatives of the Maronite community have expressed preference for secular instruction, which they feel has the advantage of not imposing an environment influenced by a specific religion where the mandatory curriculum is concerned and leaves parents free to opt for the religious education of their choice as an extracurricular activity.

*Recommendation*

The Advisory Committee invites the authorities to review the situation at the St Maron School in the light of the specific religious identity of the pupils enrolled there and attempt to find, in co-operation with the parents, means of accommodating their specific needs including secular instruction if appropriate.

6. Denmark

*Opinion adopted on 31 March 2011*

Article 8 of the Framework Convention

Funding of the Danish National Church

*Recommendations of the two previous monitoring cycles*

In the previous monitoring cycles the Advisory Committee recommended that the authorities review the issue of the privileged funding of the Danish National Church, especially with regard to persons who did not belong to this church, who could be exempted from payments upon request.

*Present situation*

The Advisory Committee notes that the specific tax for the Danish National Church is only collected from its members and that non-members are automatically exempted from paying it without having to submit an exemption request.

The Advisory Committee welcomes the fact that, on this particular point, the earlier recommendation of the Committee of Ministers has been implemented.

*Recommendation*

The Advisory Committee encourages the authorities to continue ensuring that the system of funding the Danish National Church does not interfere with the freedom of conscience and religion of persons who do not belong to this church.

## Registration of names through the Danish National Church

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

In the previous monitoring cycles, the Advisory Committee considered that changes should be made to the system for registering the names of newborn children in order to enable persons who did not belong to the Danish National Church to register their children's names with authorities independent of this church.

### *Present situation*

The Advisory Committee notes with interest that an electronic system of registration has been in place since 2003 and that the Danish National Church is no longer mentioned on certificates issued to persons who do not belong to this church.

The Advisory Committee also notes with satisfaction that all persons with whom it discussed the advisability of changing the present system considered that the current arrangements worked well and that freedom of conscience and religion was respected.

### *Recommendation*

The Advisory Committee encourages the authorities to continue ensuring that the system of registering names does not interfere with the freedom of conscience and religion of persons who are not members of the Danish National Church.

## 7. Estonia

*Opinion adopted on 1 April 2011*

### Article 8 of the Framework Convention

#### Religious communities

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

In the previous monitoring cycles, the Advisory Committee encouraged the authorities to pursue the implementation of the protocol on the organisation of property relations between the state and the Orthodox Church under the Moscow Patriarchy, and to ensure that the relevant provisions of the law are interpreted so that religious associations can write their names in an alphabet of their choice except in cases where it is necessary, for a legitimate purpose, to require also the use of the Latin script.

### *Present situation*

The Advisory Committee welcomes the fact that the implementation of the above-mentioned protocol is completed as of 2009 and that the Ministry of the Interior has leased all relevant buildings for 50 years to the Estonian Orthodox Church under the Moscow Patriarchy. The Advisory Committee equally notes progress related to the use of non-Latin script in internal church matters.

*Recommendation*

The Advisory Committee encourages the Estonian authorities to continue their constructive dialogue with the Orthodox Church under the Moscow Patriarchy.

8. Finland

*Opinion adopted on 14 October 2010*

Article 8 of the Framework Convention

Status of religious communities

*Recommendations from the two previous cycles of monitoring*

In previous monitoring cycles, the Advisory Committee suggested that the Finnish authorities review the system of public financing of churches so as to ensure that it fully accommodated religious diversity in Finland, taking into account the needs of numerically-smaller, including non-Christian, religious communities.

*Present situation*

The Advisory Committee welcomes the fact that numerically-smaller religious communities with over 200 members have been able to apply for discretionary government grants for the organisation of their activities and that allocations in the total amount of EUR 200,000 were provided on this basis for the first time in 2008.

As regards funeral services, the Advisory Committee is pleased to note that, since January 2007, burial plots can be obtained in non-denominational burial grounds to ensure that those wishing not to be buried in an Evangelical Lutheran cemetery for religious or ideological reasons are still entitled to funeral services. In this regard, the Advisory Committee also welcomes the formation of the Burial Ground Board under the Islamic Council of Finland which seeks to promote the establishment and management of Islamic burial grounds.

*Recommendation*

The Advisory Community encourages the authorities to develop further the public support system for religious communities, taking into account the increasing diversity in society and religion, and to maintain an open dialogue with representatives of the various religious communities in Finland to ensure that they are able to practice freely their religion and religious traditions.

Circumcision of boys

*Recommendations from the two previous cycles of monitoring*

In previous monitoring cycles, the Advisory Committee encouraged the authorities, together with minority representatives and other parties concerned, to continue to search for pragmatic solutions to the controversies over the circumcision of boys performed by religious communities, and to ensure that concerns over the health of children did not unduly inconvenience the practice of religious traditions at issue.

*Present situation*

The Advisory Committee is pleased to note that the controversy surrounding the practice of circumcision of boys by religious communities has, notwithstanding some questions, been solved by a Supreme Court judgment in 2008, which held that circumcisions performed in a medically appropriate way and without causing unnecessary pain are not illegal or punishable.

*Recommendation*

The Advisory Committee encourages the authorities to maintain their open dialogue with minority representatives on this issue and to ensure that outstanding queries related, for instance, to the non-medical circumcision of boys are clarified in conformity with the relevant Supreme Court ruling.

9. Kosovo\*

*Opinion adopted on 6 March 2013*

Article 8 of the Framework Convention

Religious freedom

*Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee called on the authorities to address the existing obstacles to the exercise of the right of persons belonging to national minorities to manifest their religion or belief, by promoting tolerance and respect for religious diversity in society and by preventing any alterations regarding religious property or denominations against the will of the religious communities concerned.

*Present situation*

The Advisory Committee observes that authorities continue to pursue a secular approach in line with the 2006 Law on Religious Freedoms which provides for equal rights to all religious communities. It notes requests by a number of religious communities, though, to address the absence of a legal mechanism to register religious organisations and obtain legal status. It welcomes that the Orthodox Seminary, Bogoslovija Svetih Ćirila I Metodija in Prizren was reopened in September 2011 and that 20-25 students have enrolled in studies in the Serbian Orthodox Church of Sveti Đorđe in Prizren, reportedly without any obstacles or security concerns. It further welcomes the constructive interaction between the Serbian Orthodox Church and the local authorities in Pejë/Peć municipality and the organisation of several inter-faith academic and educational events that have taken place in the Peć Patriarchate. The Muslim community has repeatedly requested to be provided with a new mosque in the centre of Prishtinë/Priština, which has so far been rejected by authorities. The Advisory Committee further notes the request of the Muslim community to introduce religious education as a new subject in schools and points out that the multi-faceted study of religions in schools can play

an important role in the promotion of inter-ethnic understanding and tolerance towards the beliefs of all communities and is not, as such, contrary to the principle of secularity.

The Advisory Committee notes with deep concern reports of intimidation experienced by persons belonging to minority communities, including in the capital. Persons belonging to Orthodox communities reported that they face frequent harassment and sometimes violence when manifesting their religious beliefs. The upsurge of security incidents directed against Orthodox cemeteries and other religious monuments in early 2013 (see above comments on Article 6), including in relation to the Supreme Court judgment that rejected property claims against Visoki Dečani Monastery, exacerbates this climate of fear and has a direct impact on the exercise of the right of persons belonging to minorities to manifest their religious beliefs in line with Article 8 of the Framework Convention.

*Recommendation*

The Advisory Committee calls on the authorities to continue to pursue a secular approach and intensify their efforts to ensure that the rights of persons belonging to all religious communities, including numerically smaller ones, to manifest their religions and beliefs are duly protected.

10. Lithuania

*Opinion adopted on 28 November 2013*

Article 8 of the Framework Convention

Restitution of property to religious communities and right to manifest one's belief

*Present situation*

According to applicable legislation, religious communities are categorised as traditional or non-traditional, with the former enjoying broader benefits, including government funding, the right to teach religion in schools, and the right to register marriages. According to minority representatives, however, there have not been any obstacles for persons belonging to national minorities with non-traditional religious backgrounds, such as Shia Islam. The Advisory Committee further notes that a location has reportedly been agreed between Vilnius Municipality and the Muslim community for the building of a new mosque in Vilnius. While in the outskirts of Vilnius and of considerably less value than the central site of the former mosque, which was destroyed in the Soviet era, the location has been considered acceptable by the community and building plans are being developed. According to minority representatives, the Muslim community must, however, identify sponsors to support the actual construction, which is likely to prove difficult. In the meantime, the community in Vilnius is using the Islamic Centre, opened in April 2012 with Turkish support, as a place of worship. The religious community outside Vilnius has access to two further mosques. The Advisory Committee notes in this context that there reportedly exists legal uncertainty with

regard to one of them, located in a village called "40 Tatars", as the community holds no legal title but is nevertheless held responsible for the maintenance of the building.

The Advisory Committee welcomes the adoption of the Law on Good Faith Compensation for the Property of Jewish Religious Communities in June 2011 which provides for the transfer within ten years of some €35 million for the immovable property of Jewish religious communities in Lithuania that were appropriated by the Nazi and Soviet regimes. A Board has been established representing twelve organisations of Lithuanian Jews active within and outside of Lithuania to oversee disbursements under the Law. Implementation commenced in early 2013 and, according to minority representatives, no obstacles have been encountered thus far.

*Recommendation*

The Advisory Committee calls on the authorities to actively support the planning and construction of the mosque in Vilnius to ensure the right of the Muslim community to practice their religion, and to clarify the legal status of the mosque in the village "40 Tatars". It further invites them to continue to facilitate the compensation process for the immovable property of the Jewish religious communities in line with the applicable legislation.

11. Moldova

*Opinion adopted on 26 June 2009*

Article 8 of the Framework Convention

The right to manifest religion

*Recommendations from the two previous cycles of monitoring*

In previous cycles of monitoring, the Advisory Committee expressed concerns with respect to the difficulties faced by Muslims in attempting to obtain the registration of Islam as an officially recognised religion in Moldova. Furthermore, they noted with concern the allegations of harassment, by the police, of Muslim believers in places where they practice their religion. It also regretted that the requests of the Tatar minority to be assigned separate burial places in Chisinau's cemetery were not met by the authorities.

*Present situation*

The Advisory Committee welcomes the fact that a specific plot was allocated in Chisinau's cemetery for Muslim burials and invites the authorities to maintain a dialogue with minority representatives to solve similar potential problems in the future.

The Advisory Committee notes that a new Law on religious denominations entered into force in August 2007. According to this Law, the task of registering religious organisations was transferred to the Ministry of Justice. Furthermore, it was expected that the new Law would alleviate some of the administrative requirements facing those willing to register a denomination.

At the same time, the Advisory Committee notes that Muslim organisations, and notably the Spiritual Board of Muslims, have repeatedly submitted requests for registration after the entry into force of the new law. All of these requests have been unsuccessful. The authorities have, on the one hand, explained to the Advisory Committee that these requests did not comply with the requirements of the Law on religious denominations. On the other hand, Muslim minority representatives complain that they are facing unjustified and disproportionate administrative obstacles in their attempts to have their confession registered and that the authorities refuse to engage in a dialogue with them on this issue.

Additionally, the Advisory Committee notes with concern that Muslim believers report continuous pressure from the police, consisting in frequent raids to their premises, notably on Fridays at the time of prayer, and disproportionate occurrences of controls, including fiscal. Muslims also stress the difficulty to find premises to practice their religion, due *inter alia* to the lack of official registration.

The Advisory Committee finds this situation worrying. It is of the opinion that the fact that the large majority of the Moldovan population is of Orthodox confession must not prevent persons of different confessions from enjoying the right to manifest their religion or belief and to establish religious institutions, organisations and associations, as guaranteed by Article 8 of the Framework Convention.

#### *Recommendation*

The Advisory Committee urges the Moldovan authorities to open a dialogue with representatives of the Muslim religion on the issue of registration of Islam in Moldova. The authorities should also ensure, in the light of the decision of the European Court of Human Rights in *Masaev v. Moldova*, that Muslim believers, and persons belonging to other religious denominations, can effectively enjoy the right to manifest their religion or belief and establish religious institutions, organisations and associations, without undue or excessive obstacles. This may require additional measures offering support and advice.

## 12. Poland

*Opinion adopted on 28 November 2013*

Article 8 of the Framework Convention

### The right to manifest one's religion or belief

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

In the previous cycles of monitoring, the Advisory Committee encouraged the authorities to continue the dialogue with representatives of churches and national minorities celebrating religious holidays on days which are not by law non-working days, in order to find appropriate solutions to offer persons belonging to national minorities equal opportunities to benefit from their right to manifest their religion or belief.

*Present situation*

The Advisory Committee notes that the law specifies that persons belonging to churches and other faith communities, who celebrate religious holidays on days which are not by law non-working days, may at their request be given time off work or study, on the condition that they work on an alternative day to compensate for the absence from work. The Advisory Committee has been informed by representatives of national minorities that, in practice, employers ask for a certificate from the representative of the faith community in question, such as a rabbi or an imam confirming the person's membership of that community.

The authorities continue to return religious property confiscated by the communist totalitarian regime prior to 1989. In 2011, the Commission on the Restitution of the Property of the Roman-Catholic Church, having settled over 90% of all claims, ceased to operate by mutual agreement between the government and the Roman-Catholic Church, and the remaining claims were transferred to the court system. Four other commissions handling property claims of the Orthodox Church, Lutheran Church, Union of Jewish Religious Communities and "other denominations" continue to operate, but the Advisory Committee notes that there are complaints of the slowness of the process. By the end of 2012, approximately 50% of claims filed by these communities had not been resolved. The difference in the speed of procedures raises questions as to the commitment of authorities to handle restitution cases of other religious denominations in a swift and resolute manner.

The Advisory Committee notes with regret that at the end of 2012, ritual slaughter of animals, in accordance with the kosher rules in Judaism and halal rules in Islam, became effectively illegal in Poland. The Advisory Committee recalls that the European Court of Human Rights ruled in 2000 that ritual slaughter, constitutes a rite, whose purpose is to provide Jews with meat from animals slaughtered in accordance with religious prescriptions, which is an essential aspect of practicing the Jewish religion, and that "ritual slaughter must be considered to be covered by a right guaranteed by the Convention, namely the right to manifest one's religion in observance, within the meaning of Article 9".

This development came about as a result of a protracted legal procedure which culminated in the Constitutional Court ruling in November 2012 that the Minister of Agriculture exceeded the powers of his office in 2004 by issuing a regulation to allow ritual slaughter of animals, thus creating an exemption to the Law on the Protection of Animals of 1997. The exemption provided that animals be stunned before slaughter except when a registered religious group carried out the slaughter according to traditional religious practices. Following the Constitutional Court ruling of 2012, a proposal to amend the law to re-establish the legality of ritual slaughter by religious groups was put before the *Sejm* in July 2013 but failed to gather the necessary majority.

The Advisory Committee notes that other legal challenges are on-going, including before the Constitutional Court. In particular, the Advisory Committee notes that the Union of Jewish Religious Communities in Poland applied to the Constitutional Court to examine the



compliance of the Law on the Protection of Animals of 1997 with the Constitution of Poland and with the European Convention on Human Rights.

*Recommendations*

The Advisory Committee calls on the authorities to complete the process of restitution of property to religious communities without further delay.

The Advisory Committee asks the authorities to adopt a religiously sensitive approach to the question of ritual slaughter of animals and consider, in consultation with those concerned, solutions which take into account religious freedom.

13. Russian Federation

*Opinion adopted on 24 November 2011*

Article 8 of the Framework Convention

Religious associations

*Recommendations from the two previous cycles of monitoring*

In the previous monitoring cycles, the Advisory Committee invited the authorities to ensure that procedures used at regional and local levels to register religious associations complied with federal norms governing freedom of religion and association.

It also regretted difficulties reported by some groups, particularly Muslims, as regards obtaining permission to build places of worship and repossessing such places.

*Present situation*

The Advisory Committee regrets that persons who belong to religions and beliefs other than the Russian Orthodox Church reportedly face a number of difficulties with regard to their right to manifest their religion or belief and to establish religious organisations. In particular, it is worried by allegations brought to its attention during the visit that persons belonging to national minorities and affiliated with "non-traditional" religious groups, such as Baptists and Pentecostals, have in some instances faced obstacles in the registration of their associations. This is particularly the case for persons belonging to indigenous peoples of the North and Far East who belong to these religious communities. Additionally, the Advisory Committee notes that an Expert Board was set up in February 2009 within the Ministry of Justice with a view to examining applications for registration of new religious groups, in particular to see whether they qualify as religious organisations and to check whether they could be accused of "extremism". The Advisory Committee finds it essential that this body carries out its tasks in a non-discriminatory manner, so that it does not discourage religious organisations from freely exercising their rights.

The Advisory Committee also notes that there is a lack of places of worship for persons belonging to some national minorities and to some religious groups in particular, such as Protestants and Muslims. It was informed during its visit in Tyumen and Moscow that tense discussions had taken place around the issue of building mosques in these cities and that, as a result of the opposition of some segments of the population, the planned mosques have not yet been built. Similar difficulties have been encountered in other cities, while agreements on the building of mosques were reached in a few places, such as Barda (Perm Krai), Syktyvkar and Vladivostok.

Moreover, minority representatives have informed the Advisory Committee that religious communities other than the Russian Orthodox Church sometimes face difficulties in the process of restitution of religious property currently under way. They report in particular delays in the restitution process of protected federal or municipal buildings. These difficulties can aggravate the shortage of places of worship. Moreover, the Advisory Committee is concerned that in some areas, such as the city of Kaliningrad, a large number of properties were transferred to the Russian Orthodox Church, even though they had never belonged to it before. These properties included places of worship of other religious organisations, such as Lutheran and Catholic churches.

The Advisory Committee is concerned by reports indicating a multiplication of racist insults and attacks against persons wearing Muslim clothes, in particular women wearing a *hijab* and men wearing a beard (see also remarks under Article 6 on Islamophobia above). These hostile manifestations infringe the freedom to manifest one's religion or belief, as protected by Article 8 of the Framework Convention.

#### *Recommendations*

The Advisory Committee urges the authorities to ensure that "non-traditional" religious organisations can register without undue obstacles as religious organisations and that federal norms governing freedom of religion and belief and association are fully respected.

The Advisory Committee invites the authorities to take further steps to ensure that persons belonging to minorities and practising Islam have adequate access to places of worship, especially in places where they live in substantial numbers. Decisions on the building or allocation of new places of worship should be taken in close and timely consultation with the representatives of the groups concerned.

The Advisory Committee calls on the authorities to ensure that the process of restitution of properties to religious communities is carried out in a non-discriminatory manner and to ensure that persons belonging to national minorities, and practising religions others than the Russian orthodoxy, are not at a disadvantage.

The authorities should take more resolute steps to ensure that all persons, including those belonging to a minority, are effectively protected against violations of the right to manifest one's religion or belief, as protected under Article 8 of the Framework Convention.

14. Serbia

*Opinion adopted on 28 November 2013*

Article 8 of the Framework Convention

#### Freedom of religion

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

In its previous monitoring cycles, the Advisory Committee urged the authorities to ensure that the right of persons belonging to a national minority to establish religious institutions, organisations and associations was fully guaranteed both in legislation and in its implementation. It also called on the Serbian authorities to ensure that there was no unjustified limitation on the right of persons belonging to national minorities to practice their religion.

##### *Present situation*

The Advisory Committee regrets that no changes have been made since its previous Opinion to the 2006 Law on Churches and Religious Communities, despite widespread criticism of certain of its provisions by both domestic and international actors. None of the recommendations of the Ombudsman aimed at improving the legal position of churches and religious communities as well as ensuring legal certainty have been followed up. Moreover, on 16 January 2013, the Constitutional Court rejected a request for the assessment of the constitutionality of a number of provisions of the above Law.

The Advisory Committee recalls the concerns already raised in its previous Opinion regarding the need for religious organisations that are not among the seven "traditional churches and religious communities" and that wish to benefit from certain rights, such as the right to acquire legal personality or to construct religious buildings, to re-register following a procedure requiring them to submit the names and signatures of at least 100 members of the organisation, and notes that there have been no significant developments in this regard. It remains concerned that this situation may raise issues of compatibility with the principle of free self-identification contained in Article 3 and the right to establish religious institutions enshrined in Article 8 of the Framework Convention.

It further observes that the Montenegrin Orthodox Church has still not been able to register, essentially on the grounds that, under Orthodox canon law, territorial overlapping between dioceses has to be avoided. It also notes that, again due to issues relating to the (absence of a) right of the Romanian Orthodox church to operate in certain parts of Serbian territory, persons belonging to the Vlach/Romanian minority/minorities do not always have access to

worship in the language of their choice. It further notes that members of the Bulgarian national minority have also requested access to worship in their mother tongue.

The Advisory Committee acknowledges that there are complex issues of Orthodox canon law at stake in this area and that the constitutional principle of separation between the State and religion makes interference by the authorities in such matters exceptionally sensitive. However, it notes that in practice, the absence of action by the state authorities in this field may ultimately give rise to issues of compatibility with international standards on freedom of religion. The Advisory Committee observes that pragmatic solutions could be found and could go a significant way towards meeting the demands of the national minorities concerned regarding adequate conditions for worship.

#### *Recommendations*

The Advisory Committee again urges the authorities to ensure that the right of persons belonging to a national minority to establish religious institutions, organisations and associations is fully guaranteed in both legislation and its implementation. It recommends that they implement without further delay the recommendations of the Ombudsman and the Commissioner for the Protection of Equality in this regard.

It further recommends that the authorities take active steps – while respecting the principle of separation between the State and religion – to promote the finding of pragmatic solutions in all cases where these could help resolve difficulties in access of persons belonging to national minorities to worship in their mother tongue.

15. “the former Yugoslav Republic of Macedonia”  
*Opinion adopted on 30 March 2011*

Article 8 of the Framework Convention

The right to manifest religion or belief  
and to establish religious institutions, organisations and associations

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

In the previous cycles of monitoring, the Advisory Committee recommended that the authorities ensure that the right of persons belonging to national minorities to manifest their religion or belief, and to establish religious institutions, organisations and associations was fully respected both in law and in practice. It further called on them to ensure that the new legislation being drafted in this regard provides all the necessary conditions for exercising this right effectively, in line with Article 8 of the Framework Convention.

#### *Present situation*

The Advisory Committee notes that the Venice Commission in its Opinion on the draft Law on the Legal Status of a Church, Religious Community and a Religious Group, adopted in March 2007, recommended that the text be amended to avoid any discrimination or any unlawful

interference by the state in the rights of religious entities and their members. In particular, the Venice Commission recommended that “attention should be paid to reviewing the status and rights of non registered religious entities, the registration process and related issues, freedom of religion and of religious practice”.

The Advisory Committee notes with regret that the law, which was subsequently adopted and which entered into force on 1 May 2008, did not follow the above-mentioned recommendations and is perceived by persons belonging to the Serb national minority to be “designed to prevent the Serbian Orthodox Church ever being able to gain legal status.”

The status of the Serbian Orthodox Church whose followers are principally persons belonging to the Serb national minority remains unclear. The Church which has around 3000 followers is not allowed by the state to build or maintain any churches in the country.

*Recommendation*

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

16. Ukraine

*Opinion adopted on 22 March 2012*

Article 8 of the Framework Convention

Manifestation of religious beliefs and places of worship

*Present situation*

The Advisory Committee welcomes the fact that, due to continued efforts by the Crimean Tatar community, a decision was finally taken in 2011 by the City Council of Simferopol to approve the construction of a central mosque on land that was allocated for this purpose in 2004. Construction of the building had, however, not yet begun in Spring 2012, due, among others to the opposition of parts of the population. Generally, the Advisory Committee notes that a number of minority communities, particularly Muslims, report that there is little understanding and knowledge in society in general of their religion, which is sometimes aggravated by increased stereotyping in society of Muslims as extremists. These hostile attitudes can infringe the freedom to manifest one’s religion or belief, as protected by Article 8 of the Framework Convention. In addition, the Advisory Committee notes reports of a prioritisation of the religious concerns of Christians among many local authorities, in particular in relation to the allocation of burial sites and the restitution of religious property (see comments on Article 5 above), which can result in a shortage of suitable places of worship for minority communities. The Advisory Committee reminds the authorities of the crucial importance of places of worship for minority communities to manifest adequately their religious beliefs.

*Recommendation*

The Advisory Committee calls on the authorities to increase their efforts to ensure that the right of persons belonging to national minorities to manifest their religious beliefs is effectively protected.

17. United Kingdom

*Opinion adopted on 30 June 2011*

Article 8 of the Framework Convention

Religion

*Recommendations from the two previous cycles of monitoring*

In previous monitoring cycles, the Advisory Committee invited the authorities to provide alternative activities to students who do not attend the study of religion or acts of daily worship. It also invited them to give school teachers clearer guidance on the importance of covering non-Christian religions and/or other beliefs in the study of religion.

*Present situation*

The Advisory Committee welcomes the abolition in England and Wales, through the Criminal Justice and Immigration Act of 2008, of the offences of blasphemy and blasphemous libel.

It is also pleased to note that a Religious Education Action Plan was launched in 2007 to improve teaching and learning of religion in schools. It hopes that the new policy of giving schools more freedom to decide on their programmes will not lead to less consideration for the need to provide pupils with religious education that embraces all the major religions, including religions followed by persons belonging to minority ethnic communities.

The Advisory Committee is concerned, however, by the fact that in Northern Ireland, no major changes were brought to the curriculum of religious education and that it remains predominantly Christian-centred, despite the increasing participation of pupils from different faiths at school. Additionally, it is informed that a number of schools continue not to provide sufficient information to parents and pupils concerning the possibility to opt out from religious education. The Advisory Committee believes that non-confessional and multi-perspective religious education could be a powerful tool to increase mutual understanding and tolerance in the society of Northern Ireland.

*Recommendation*

The Advisory Committee calls on the authorities, in particular in Northern Ireland, to take further steps to develop curricula that cover the non-confessional and multi-perspective elements in religious education. Moreover, it invites them to ensure that existing practices concerning religious education do not result in imposing a religion on pupils from another faith group.