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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 (4th 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 18 September 2017, the Advisory Committee on the Framework Convention for the Protection of National Minorities had adopted a total of 24 opinions, among which 20 opinions on Article 6, of which 20 are public.

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.

Armenia

Adopted on 26 May 2016

Article 6 of the Framework Convention

Interethnic and intercultural relations

The Advisory Committee notes with satisfaction that a climate of tolerance and respect generally prevails in Armenia, on which minority representatives themselves comment favourably. Interlocutors of the Advisory Committee have underlined that they experience no discrimination in access to employment or hostility of any kind, in particular anti-Semitism, on account of their nationality. Armenia commemorates Holocaust Day (27 January) and has recognised in 2015 the Assyrian genocide (*Sayfo*) of 1915.

The dominant discourse according to which Armenia is an ethnically homogenous and mono-religious country leads to intolerance and discrimination based primarily on sexual orientation. People practising other religions are also targeted, with particular odium directed at new religious movements which are considered as sects. The unresolved Nagorno Karabakh conflict and painful memories of the past suffering of the Armenian people exacerbate insularity, a sense of patriotic duty and nationalism which are exploited by some media. Although these reactions do not directly target persons belonging to national minorities, they have the regrettable consequence of limiting the space for voicing views that diverge from the dominant discourse.

The Advisory Committee further notes that, in recent years, over 20 000 ethnic Armenians and Assyrians, as well as some Kurds and Yezidis, from Syria have settled in the Republic of Armenia, after fleeing war and persecution in their country of origin. The arrival of such a large group of immigrants, constituting just under 1% of the population of the country, was not met with hostility or apprehension. On the contrary, a number of interlocutors informed the Advisory Committee of efforts by the authorities and civil society to facilitate their resettlement. In spite of the assistance and integration programmes developed by the authorities and material assistance provided by civil society organisations, such as the Armenian General Benevolent Union the world's largest Armenian non-profit organisation, many of the immigrants suffer from inadequate housing and unemployment.

A number of national minorities, in particular the Yezidis and Russian Molokans, perpetuate their ancestral lifestyles, which are based on animal husbandry and agriculture. Significant numbers of them live in isolated mountain villages where they on the one hand can maintain their identities, cultures and traditions more easily, and on the other hand where their interaction with the majority population and other minorities is very scant. The conditions of life in these settlements are very harsh and they are exacerbated by the very poor infrastructure, in particular roads, utilities and transport as well as health-care and other basic facilities.

In July 2012, Article 10 of the Armenian Family Code was amended to increase the legal age of marriage for women from 17 years to 18 years old, making it the same as for men. The authorities' rationale for the change was to eliminate gender inequality and to bring the country into compliance with the United Nations 1979 Convention on the Elimination of All Forms of Discrimination against Women, which it ratified in 1993. The move also aimed to facilitate the education of girls, following the transition to a 12-year education cycle, which Armenians complete at the age of 18. The Advisory Committee notes that representatives of the Yezidi minority protested against this change, arguing that it undermined their culture and traditions which call for women to be married early, leading to child-bearing at a very early age. As a result, a compromise was reached which provided for the possibility for 16-year-old women to

marry with permission from their parents or legal guardians. The Advisory Committee considers that, while the role that culture and tradition play is important, priority attention needs to be given to the opportunities which access to and completion of full-time education provide.

In general, the Advisory Committee notes that strict social codes of behaviour dictate the lives of Yezidi men and women alike. However, Yezidi girls and women tend to be held back by paternalistic attitudes and a lack of respect for gender equality within their community. Both young Yezidi men and women tend to drop out from school early and marriages prearranged by families are still the general practice. In this context, the Advisory Committee regrets to note that there is no specific legislation dealing with forced marriage.

The Advisory Committee notes that while respect for cultural traditions and customs is an important component of national identity, it cannot be at the expense of the enjoyment of human rights. The authorities must adopt necessary legislation and policies to ensure that rights are afforded to all irrespective of gender, age and other status.

Recommendations

The Advisory Committee calls on the authorities to review legislation in line with international human rights standards with a view to criminalising forced marriages as conducted without the valid consent of both spouses, and where pressure or abuse is used.

The authorities are invited to conduct an awareness-raising campaign on gender equality and the health risks associated with pregnancy at an early age, targeted in particular at vulnerable groups including national minorities.

The Advisory Committee urges the authorities to prioritise the economic development of marginalised areas where persons belonging to national minorities reside in terms of basic infrastructure, utilities and transport. Regular access to health care and other basic facilities must be provided.

Ethnically motivated crime and hate speech

The Advisory Committee notes that currently there are no reliable crimes statistics broken down by the motives of the perpetrator. According to the data reported by the authorities to the Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OCSE/ODIHR), no hate crimes have been recorded in the period since the adoption of the previous opinion on Armenia. In this context, the Advisory Committee notes that both the authorities and the human rights NGOs concur that the number of racially or ethnically motivated incidents remains very low.

Article 226 of the Criminal Code outlaws public incitement to hatred on national, racial or religious grounds and penalises claims of racial superiority or humiliation of national dignity. It stipulates higher penalties should such an offence be committed through the mass media, by abuse of official position or by an organised group. Furthermore, the Criminal Code includes the motive of racial, national or religious hate as an aggravating circumstance in case of murder (Article 104 CC), inflicting grave or medium bodily harm (Articles 112-113 CC), torture (Article 119 CC) and premeditated damage to property (Art 185 CC) and outrageous treatment of a dead body or a burial place (Article 265 CC). In this context, the Advisory Committee regrets to note that the above-mentioned aggravating circumstances are narrowly defined and do not include, *inter alia* skin colour, ethnic origin or belonging to a national minority. Furthermore, they apply exclusively to the enumerated serious crimes but not to all (including kidnapping (Article 131), rape (Article 138), violent sexual actions (Article 139) and banditry (Article 179)).

The Advisory Committee notes that Armenia ratified in 2006 the Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (ETS No. 189). Regrettably, in breach of the protocol's provisions, no legislation was adopted to criminalise the distributing, or otherwise making available, of racist and xenophobic material to the public through a computer system, threatening, or insulting publicly, through a computer system persons or group of persons on account of their belonging to a group, distinguished by race, colour, descent or national or ethnic origin, as well as religion.

In this context, the Advisory Committee further notes that no public authority monitors the Internet for offensive content and no dedicated reporting mechanism of offensive content, where complaints could be lodged (such as an Internet hate-speech hotline) has been set up.

Recommendations

The authorities should review the criminal law provisions with a view to making racist and other hate motives aggravating circumstances for all crimes.

The Advisory Committee calls on the authorities to adopt legislative provisions with a view to combating acts of a racist and xenophobic nature committed through computer systems. The authorities should consider setting up dedicated monitoring and reporting mechanisms.

Austria

Adopted on 13 October 2016

Article 6 of the Framework Convention

Tolerance and intercommunity relations

Present situation

In spring 2011, the State Secretary in the Federal Chancellery facilitated negotiations between regional and local authorities in Carinthia and representatives of the Slovene minority regarding the long-standing question as to the locations where minority languages should be permitted in official use. As a result of the ensuing compromise, which was used as the basis for the amendment of the National Minorities Act in July 2011 (see also Articles 10 and 11), the overall situation in Carinthia is considered to have improved. According to minority representatives, bilingualism as such and the presence of the Slovene minority have become more accepted, and are acknowledged as part of daily life. According to most observers, the creation of the "Dialogue Forum" within the Carinthian Parliament has been particularly significant in this positive development, in particular following the elections in March 2013, as it offers a possibility for national minority representatives to address the legislature directly (see also Article 15). While welcoming these developments, the Advisory Committee notes with concern that, in particular, younger national minority representatives point to an overall superficiality of this dialogue and express doubts as to whether the recent decrease in tension is not mainly a result of the current deflection of public hostility towards refugees as new targets. According to them, there is a widely shared perception among representatives that interethnic tensions could easily erupt again as persons belonging to the Slovene minority are still "viewed as second class citizens" by an important proportion of the Carinthian population.

The Advisory Committee further notes that the solution to preserve *Glasbena šola*, the formerly privately run Slovene music school in Carinthia, through its integration into the network of Carinthian

music schools in 2015, is considered unsatisfactory by national minority representatives. According to them, the scope of the school's activities had to be reduced considerably in a process that overall demonstrated an uncertain commitment on the part of the authorities towards their rights and concerns, and at times even showed disrespect. The Advisory Committee reiterates its concern regarding the mounting sense of frustration and disappointment among national minority representatives, which is not conducive to the formation of a cohesive and integrated society. It further notes that particular attention is paid by the authorities to underlining the special status accorded to the autochthonous groups in constitutional provisions and various bilateral treaties. A careful distinction is drawn between these groups and the "newer minorities", as there are fears that the number of minority rights holders could increase. Given the fact that the actual exercise of minority rights is rather complex, the Advisory Committee considers it unlikely that the number of groups requesting the status of a recognised ethnic group (*Volksgruppe*) in Austria will increase significantly.

The Advisory Committee welcomes the immense efforts made by governmental and non-governmental actors alike in coping with the sudden arrival of unprecedented numbers of refugees and migrants in 2015. It further notes that the plight of refugees and migrants continues to occupy a large share of public discourse, while their reception and treatment – in keeping with the strict distribution of competences between federal and *Länder* levels - varies from one Land to another. The Advisory Committee is pleased to note the exemplary initiatives for instance in the City of Vienna, which has invested significant expertise and resources in supporting the speedy access of refugees to education (see also Article 14) and in awareness-raising activities and campaigns that are aimed at furthering the integration of society through dialogue and deconstruction of prejudice. However, the arrival and presence of refugees has resulted in a rise in societal tension in other regions, where parts of the political spectrum, aided by some media, appear to be instrumentalising latent fears amongst the population for their political gain. According to some national minority representatives, mounting xenophobia and the increasing rejection of diversity as such in some regions have resulted in a climate where some persons belonging to national minorities are reluctant to use their minority languages in public or to reveal their identity through other means, as they fear a hostile response. The Advisory Committee welcomes the fact that a variety of community media initiatives have been developed, often with public funding, to enable migrants and refugees themselves to participate actively in the media, thereby helping to overcome prejudice and stereotypes.

Following the adoption of the National Action Plan on Integration in January 2010 and the creation of the State Secretariat as part of the federal government in April 2011, increased attention has been paid to promoting the integration of Austrian society. Responsibilities at federal level were transferred in 2014 to the Ministry of Europe, Integration and Foreign Affairs. An Expert Council on Integration has been established, which has been active not only in developing priority areas of implementation of the Action Plan, but also in regularly evaluating the relevant policies and activities. According to civil society representatives, most activities are still organised by way of small-scale projects that are aimed at a variety of meaningful causes such as in the field of education or labour market participation. Yet, few strategic initiatives have been launched to address society as a whole including persuasive messages regarding the values of societal integration. The Advisory Committee notes the significant increase in scepticism towards integration found in recent years amongst the majority population, while 75% of migrants themselves consider that their level of inclusion and overall situation have either remained stable or improved.

Recommendations

The Advisory Committee calls on the authorities to demonstrate a firm commitment to dialogue and respect in all efforts aimed at the protection and promotion of the specific rights of persons belonging to national minorities as integral and valued members of diverse Austrian society.

The Advisory Committee calls on the authorities to increase their efforts towards fostering a public debate on societal integration that is based on mutual respect and tolerance, and to ensure that all segments of society are adequately informed, included and consulted with respect to the goals and activities at federal, regional and local levels with a view to promoting an overall positive attitude towards diversity and societal integration.

Combating racism and the protection from hate crime

Present situation

Following several rounds of amendments of the Criminal Code in 2011 and 2015, relevant provisions for the prosecution of hate crime have been tightened further. As of January 2016, incitement to hatred against protected groups or individuals belonging to those groups can be punishable, according to Article 283, when accessible to a “simple public”, or to “many persons”, as opposed to the previous “broad public”. It is further welcomed that the dissemination of propaganda of violence and/or any form of racist hatred is now punishable according to Article 283(4) of the Criminal Code. The relevant provisions regarding insults based on racist grounds, as well as Article 33 of the Criminal Code on aggravating circumstances of any offence, have also been amended in order to enhance the effectiveness and rigour of protection under criminal law against racism and racial violence. The Advisory Committee is pleased to note these developments and understands that the number of prosecutions in line with the amended provisions is increasing. It further understands that a comprehensive system for the recording of all cases of alleged hate crime from the investigation through to the prosecution and sanctioning stage is yet to be established in order to provide a better overview of the prevalence and nature of hate crime in Austria.

The Advisory Committee notes with concern that incidents of hate crime and racially motivated violence, often directed against refugees and migrants, have continued to rise in recent years. Governmental and non-governmental sources point towards a negative trend, with a particular focus in terms of numbers and gravity of the incidents reported on the internet. Anti-gypsyism and Islamophobia are reported to be growing in particular on social media, and the negative public debate fed by stereotypes and the construction of enemy images has also led to more frequent violent attacks. While, according to the Forum Against Anti-Semitism, physical attacks against members or assets of the Jewish community have decreased in recent years, the community is equally affected by an increase in hate speech on the internet. According to many observers, there are still substantial numbers of cases of anti-Semitism, anti-gypsyism and Islamophobia that remain unreported due to ignorance, hesitation or fear on the part of the affected individuals.

Given the particular prevalence of hate crime and incitement to hatred in the media, the active engagement of the Press Council is highly welcome. This independent self-regulating body which oversees adherence to the Journalist Code of Ethics has, since its reconstitution in 2010, dealt with an increasing number of cases. According to its representatives, a majority of their current cases relate to the damaging portrayal of refugees or migrants. The Press Council acts in response to complaints received by readers and can also initiate proceedings *ex officio*. However, online media, including also

social media, are not covered by the mandate of the Press Council. This extends only to print media that are members of the Council, including their websites. The Advisory Committee welcomes the intention of this body to seek an extension of its mandate to cover all online media in its monitoring work and establish a mechanism to block hateful messages and promote adherence to the Code of Ethics also online. In addition, the Council makes efforts to increase professionalism amongst journalists and to promote media literacy in the broader public in order to raise awareness of the ethical standards and of the redress mechanisms available in cases of apparent violation. The Advisory Committee is pleased to note the perception shared by civil society organisations that the activities of the Press Council have already resulted in an improvement of standards in large print media.

It remains of deep concern to the Advisory Committee, however, that certain political actors themselves continue to instigate hostile attitudes towards refugees, migrants, and sometimes, persons belonging to national minorities. Given their particular influence as senior political figures and the immediate amplification of their actions via the media, the impact of such statements on public debate and on the level of awareness in terms of which language is acceptable and which is not, is immense. While welcoming the investment of efforts and resources in a more effective combat of hate speech, the Advisory Committee regrets that there appears to be no comprehensive response mechanism to ensure that all hate speech in political discourse is immediately and unambiguously condemned and countered at the highest level. It also regrets that hate speech in parliament is neither systematically monitored nor expressly prohibited.

Recommendations

The Advisory Committee encourages the authorities to pursue their efforts to combat more effectively all forms of racism and hate crime by ensuring that all such alleged offences are promptly and effectively investigated, prosecuted and sanctioned, in accordance with the law.

The Advisory Committee calls on the authorities to condemn systematically and promptly all instances of hate speech in public discourse, particularly as part of political discourse, and to increase their efforts to promote professionalism and ethical behaviour in the media, including by promoting training and awareness-raising activities for journalists and media professionals.

Croatia

Adopted on 18 November 2016

Article 6 of the Framework Convention

Tolerance and inter-cultural dialogue

Present situation

The Advisory Committee welcomes the formation of a network of civil society organisations that promote inter-ethnic respect and tolerance as well as the numerous non-governmental initiatives to bring representatives of different groups together in an atmosphere of solidarity and peace-building. It regrets, however, the apparent lack of such efforts on the government side, and the absence of a systematic strategy to promote reconciliation and dialogue. It notes with deep concern that the public debate surrounding national minorities remains dominated by terms such as “aggressors” and “guilt”, a rhetoric that obstructs a balanced and rights-based approach (see Article 4). It further notes with deep

concern the unanimous reports of representatives of the various national minorities that the atmosphere has been deteriorating in recent years and that Croatian society is experiencing growing nationalism and radicalisation. According to governmental and non-governmental interlocutors, instances of hate speech have been increasing and have become more acceptable in public. As a result, persons belonging to national minorities are increasingly afraid of revealing their identity and rather forfeit the enjoyment of their rights than risk hostility or violence (see also comments on Article 11). It is in particular of concern to the Advisory Committee that some public figures, including senior members of some political parties, have themselves engaged in statements and rhetoric that is offensive to parts of the population and may stir inter-ethnic tension, while such statements are not always promptly and publicly condemned at the highest level. Nationalist rhetoric was present also in the campaigning that led up to the November 2015 Parliamentary Elections.

The Advisory Committee further notes with deep concern the increasing appearance of swastikas and other manifestations of nostalgia for the collaborationist Ustasha regime during World War II in various regions of Croatia, which cannot but serve as a gruesome warning to persons belonging to national minorities. While acknowledging that far-right extremism is present not only in Croatia, it considers that a comprehensive government policy to promote remembrance and steer an informed discussion among the public of the many crimes against minorities committed under the Ustasha regime may contribute to the promotion of inter-ethnic dialogue and respect in line with Article 6 of the Framework Convention. The Advisory Committee is further deeply concerned by the ambiguous position taken by parts of the Croatian Catholic Church in this regard, which enjoys large influence amongst Croatian society.

Civil society and national minority representatives are further increasingly concerned by the role of the media in diffusing hate speech against some minorities, in particular the Serb and the Roma minorities but also Albanians, Montenegrins, Slovenians and Bosniaks. According to the interlocutors of the Advisory Committee, the situation is particularly worrying when it comes to regional print media where coverage is reportedly often negative and based on stereotypes. The Journalists' Code of Ethics, which obliges journalists to respect human rights and dignity in all of their work, is reportedly not widely known or enforced. Most observers agree that significantly more ethical training is required for journalists and other media professionals to appreciate the serious role media can play in escalating or appeasing inter-ethnic relations. It is regrettable in this context that the International Centre for the Education of Journalists in Opatija no longer functions, as its courses and other training initiatives were widely appreciated by relevant professionals and civil society organisations. The Council of the Agency for Electronic Media continues to function as an independent regulatory body to oversee compliance with the Law on Electronic Media, which prohibits instigating hatred via the media. Its seven members are elected by Parliament upon the proposal of the Government, and there is no current member representing national minorities. The Council can take action on the basis of complaints or on its own initiative. According to its Office, it receives between 10 and 15 complaints related to ethnically-based offences per year, which appears low given the numerous accounts of hate speech in the media received by the Advisory Committee. According to civil society observers, the Agency intervenes only rarely and is not viewed as an independent and effective player in the fight against the propagation of hate speech.

The Advisory Committee is pleased to note demonstrations of tolerance and empathy towards refugees and asylum-seekers shown amongst the public. Overall, the number of persons seeking asylum in Croatia has been small and further decreased following Croatia's accession to the EU due to the implementation of the Dublin regulations. Croatian language and integration classes were taken up in

June 2015 in order to promote the beneficiaries' integration. In the second half of 2015, confronted with a large number of refugees wishing to cross the country from the Serbian border towards Hungary, Austria and Germany, Croatia temporarily closed its border and deployed riot police after over 10,000 persons had entered the country in one day. By the middle of November 2015, over 400,000 individuals had entered Croatia, of whom ten had expressed an intention to apply for asylum in the country. The Advisory Committee recalls Croatia's international obligations towards human rights and refugees in line with international and regional instruments.

Recommendations

The Advisory Committee urges the authorities to systematically and promptly condemn all instances of anti-minority rhetoric in public discourse, particularly when stemming from public figures and voiced as part of the political discourse. Journalists and media professionals must further be trained to ensure more professionalism and ethical behaviour in the media.

It further calls on the authorities to intensify their efforts to promote respect and intercultural understanding among the different groups in society overall, including through comprehensive measures in the spheres of education and media to enhance the majority population's openness towards diversity with a view to furthering integration of society as a whole.

Protection from hate crime

Present situation

The Advisory Committee welcomes the adoption of the new Criminal Code in 2011, with entry into force on 1 January 2013, which contains three provisions related to hate crime. In addition, the Government adopted a "Hate Crime Protocol" in April 2011 and developed a track record system to monitor all offences that could be considered as hate crime. The Advisory Committee was informed that this record system still functions and that all acts are registered, even those that later prove not to have been based on hatred. It was equally informed that only seven such cases had been registered in the first six months of 2015, four of which were committed by the same person. This number appears surprisingly low to the Advisory Committee given the many accounts of hate crime throughout Croatia. The Advisory Committee equally notes that the Ministry of Justice's records of criminal proceedings related to hate crime in 2014 only show eleven unresolved cases from previous years and ten more cases being registered in 2014. Of twelve completed cases in 2014, the majority ended in either an acquittal or a conditional sentence. The Advisory Committee is concerned that the very low official numbers of hate crime do not demonstrate an absence of hate crime in Croatia but rather reflect an insufficient application of the available legal framework. Indeed, the Advisory Committee gained the impression that acts are too often classified as misdemeanors by responsible law enforcement agencies.

The Serb National Council registered 82 cases of ethnically based violence against persons belonging to the Serb minority in 2014. A call for a boycott in April 2014 against 35 shops and small businesses owned by ethnic Serbs in Vukovar was published by a national web portal without any legal action being taken by the authorities, apart from a warning issued by the Agency for Electronic Media. An incident of hate speech against persons belonging to the Hungarian minority in Vardarac in January 2014 was reportedly classified as "vandalism", and therefore went to a misdemeanor court rather than use being made of the relevant Criminal Code provisions. It is further of concern to the Advisory Committee that instances of destruction of property, including religious buildings and cemeteries pertaining to the Serb and Jewish minorities are increasing. According to its interlocutors, persons belonging to national minorities, as a

result, often remain reluctant to address the police when confronted with hate crime as their trust in the ability and willingness of officers to bring effect to their rights is limited. This is in particular the case in Međimurje County where ethnic profiling practices by the police in areas surrounding Roma settlements are reportedly increasing. The Advisory Committee considers it essential that police and prosecution services are appropriately trained and instructed to ensure that investigations are effectively conducted and the available legal framework applied.

It is finally a concern to the Advisory Committee that the number of police officers with national minority background is still very limited (see also comments on Article 15). Despite the fact that a network of Roma specialists has been created, reportedly only two police officers with Roma background have been recruited as Roma appear to be viewed by law enforcement authorities as potential perpetrators rather than victims of crimes. As a result, it is difficult for the police in areas where Roma reside in substantial numbers to engage in trustful dialogue with the communities.

Recommendations

The Advisory Committee urges the authorities to intensify their efforts to raise public awareness of the legal remedies available against hate crime and to ensure that relevant law enforcement authorities are adequately trained so that all cases brought to their attention are effectively investigated and appropriately sanctioned in line with the applicable legal framework.

It further calls on them to prioritise the active recruitment of persons belonging to national minorities into the police force in order to address the increasing fears among minority communities, and increase their trust in the ability and willingness of the police to protect them.

Cyprus

Adopted on 18 March 2015

Article 6 of the Framework Convention

Tolerance and inter-cultural dialogue

Present situation

While a general climate of tolerance still prevails in Cyprus and respect for diversity is shown in particular towards members of the Armenian, Maronite and Latin communities, the Advisory Committee is concerned by reports of a deterioration since 2010, coinciding with the onset of the economic crisis, which culminated in 2013. While acknowledging the heavy burden imposed on all parts of society by the economic situation, it regrets the effect this has had on the broader sense of cohesion and solidarity among Cypriot society and the apparent lack of measures taken by the authorities to promote integration of society. As a result, radical political parties have gained support and the division between the two Communities, the Greek Cypriots and the Turkish Cypriots, has been accentuated, in particular in periods leading up to elections. Amid the continued influx of migrants to Cyprus, incidents of hostilities against migrants and asylum-seekers as well as Turkish Cypriots and Roma are reportedly increasing. The Advisory Committee notes with concern that certain political parties, amplified by some media outlets, have been nurturing and instrumentalising xenophobic sentiments in the population by publicly blaming migrants for the economic situation and high unemployment in Cyprus. This has reportedly resulted in an increasing sense of a shift towards a three-pronged society where members of

the predominant Greek Cypriot linguistic and religious community are viewed as “first class citizens”, EU citizens and wealthy immigrants are regarded as coming second, and Turkish Cypriots, Roma, refugees and asylum-seekers are considered as falling into a third category, a possible perception that has direct implications for the lives of and attitudes amongst residents of Cyprus on a daily basis.

The Advisory Committee appreciates that the development of intercultural understanding and trust depends to a large extent on the status of the settlement negotiations which are currently on hold. It is particularly welcome in the current context that the joint initiative of the religious leaders of Cyprus to emphasise the particular and constructive role of interreligious communication and dialogue for fostering understanding and preventing or overcoming mistrust between different groups has continued and is thriving, despite the temporary halt in political negotiations. The Advisory Committee also notes with interest a joint declaration by the Cyprus Chamber of Commerce and the Turkish Cypriot Chamber of Commerce of September 2014, which proposes to transform the buffer zone into a zone of unity, including initiatives to support young entrepreneurs from both sides. It further welcomes in this context the efforts of the Cyprus Community Media Centre as well as the NGO Resource Centre which operate in the buffer zone and are thus freely accessible to Cypriots from both sides to meet, participate in training and capacity building events, and engage in debates on issues of mutual interest. It considers these developments very positive from a reconciliation perspective and finds that such efforts, including in the field of education and language policy (see also comments on Articles 10 and 12) could create additional platforms for intercultural dialogue and thereby promote capacity in society to overcome ethnic divisions.

Recommendation

The Advisory Committee calls on the authorities to enhance their efforts to overcome the ethnic divide that still marks society, among others, by establishing more dialogue platforms for the various parts of society, including youth, to interact and develop tolerance and mutual understanding.

Protection from hate crime

Present situation

The Advisory Committee welcomes the adoption of legislation in October 2011, transposing the EU Council Framework Decision on combating certain forms and expressions of racism and xenophobia by means of criminal law, following which racial motivation is considered as an aggravating circumstance of any offence. It regrets, however, continued reports of a general upsurge in racially motivated violence and hate crime in Cyprus, directed in particular against migrants and refugees but also against Turkish Cypriots and Roma. Moreover, according to most observers and as acknowledged by some government officials, there is significant under-reporting of such incidents. Police and law enforcement officers are reportedly still insufficiently aware of their role in the initial recording and investigation of complaints to ensure that hate crime is appropriately identified from the beginning. While welcoming the work of the special unit within the Crimes Investigations Department of the Cyprus Police that deals with combatting discrimination, gathering information on racially motivated crimes and providing guidance to the police force on the issue, the Advisory Committee notes reports pointing to inconsistencies in the recording of cases by the department as well as a lack of clarity prevailing among police officers what criteria they should apply to classify an offence as racially motivated. According to its interlocutors, most victims of racially motivated offences are still hesitant to turn to the police as they lack trust in the officers' capacity or willingness to investigate properly the case, or worse, are afraid that the involvement of the police may exacerbate their situation. Indeed, there are recurrent reports of discriminatory behaviour

and excessive use of force by the police, reports of alleged racial profiling, or cases where the police failed to intervene appropriately.

According to the Independent Authority for the Investigation of Complaints and Allegations Against the Police (IAIACAP), the number of complaints received is rising, which is interpreted as a sign of increasing trust in its work. The Advisory Committee notes, however, the very low number of complaints directed against the Independent Authority that resulted in criminal proceedings being launched against the police officers in question. It welcomes in this context reports of decisive intervention of the Minister of Justice and Public Order in early 2014, who publicly committed himself to eradicating racism in the Cyprus Police, following which investigations have reportedly been followed up more promptly. It further notes efforts by the Equality Body in 2013 to formulate, in collaboration with the police, a policy for addressing and preventing hate crime, which however, does not appear to entail specific obligations for police officers, nor sanctions in the event of contraventions.

Recommendations

The Advisory Committee urges the authorities to intensify their efforts to raise awareness of human rights norms and antidiscrimination standards among the police force through targeted training activities and to ensure that all cases, in particular those related to hate crime, brought to the attention of the law enforcement authorities are effectively investigated and appropriately sanctioned.

The Advisory Committee further calls on the authorities to engage in dialogue with civil society representatives of migrant groups in order to increase awareness of and trust in the legal remedies available against hate crime amongst those parts of society most exposed to such offences and ensure due reporting of such cases.

Czech Republic

Adopted on 16 November 2016

Article 6 of the Framework Convention

Tolerance and intercultural dialogue

Present situation

Representatives of most national minority associations report an overall respectful attitude prevailing between the majority and minority. The authorities at central, regional and municipal level strive to promote inter-ethnic tolerance and understanding in society through a variety of measures and programmes. Notwithstanding these efforts, there is a general perception of an increase in xenophobia and intolerance within Czech society. It is of deep concern to the Advisory Committee, that a strong anti-Roma and anti-immigrant discourse persists in some parts of society, frequently referring to persons belonging to Roma communities as “inadaptable”, “asocial” and “abusers of social benefits”. The Advisory Committee is particularly concerned that such intolerant language, which used to be restricted to the extreme right-wing political parties, has over the years become commonplace and entered the mainstream political discourse. Regrettably it has to be noted that negative stereotypical portrayal of Roma brings a measure of electoral success to right-wing political parties, and even more respectable political organisations resort to using anti-Roma rhetoric. The Advisory Committee finds this trend very alarming, as instead of seeking to build a cohesive and tolerant society, politicians perpetuate divisions

which are detrimental to finding solutions to real problems affecting society. The fact that anti-Roma marches organised by the Workers' Party of Social Justice (DSSS) are attracting not an insignificant number of demonstrators from different fragments of society is particularly worrisome (see also related comment under Article 4).

The Advisory Committee further notes that, although the population in the Czech Republic who are foreign nationals is very small, with very limited presence of Muslims, there has been a marked rise in anti-immigrant and particularly in anti-Islamic discourse on the part of populist parties, such as the Dawn of Direct Democracy accompanied by a growth of a wide-spread sentiment of threat to Czech identity and values. Inflammatory language, mass signing of petitions and demonstrations against Muslim immigrants attest to the climate of xenophobia and intolerance. In particular, the Advisory Committee notes with regret the growth of xenophobia and rejection of even the voluntary reception of refugees and asylum-seekers arriving in the Czech Republic with the consent of the Czech authorities. Against this alarming background, the Advisory Committee is pleased to note that the authorities acknowledge the seriousness of the problem and are taking measures to counteract it. In particular the authorities' efforts to educate young persons about democracy and multicultural coexistence, in the framework of the *Democratic Citizenship* programme which is part of the high school curriculum, with the view to eliminating extremism and preventing radicalisation of young persons, are welcome. Also, the Advisory Committee welcomes the information on the Recommendation on teaching the history of the 20th century adopted by the Ministry of Education, Youth and Sports in 2013 to respond to the increase in extremist and undemocratic tendencies developing within the Czech society.

Recommendations

The Advisory Committee urges the authorities to condemn systematically and in a timely fashion all instances of anti-Roma and anti-immigrant rhetoric in public discourse, particularly in the political arena and in the media, in the spirit of Recommendation N° R (97) 20 of the Committee of Ministers to member states on "Hate Speech".

The Advisory Committee further calls on the authorities to intensify their efforts to promote respect and intercultural understanding among the different groups in society overall, including through comprehensive measures that target the majority population.

Urgent steps need to be taken by the authorities to combat stereotypes and prejudice in political discourse and to promote tolerance and inter-cultural dialogue throughout society as a whole. It is essential that specific targeted measures such as awareness-raising campaigns involving, among others, the media, be implemented without delay to counteract the mounting anti-Gypsyism and xenophobia in society which has a direct negative impact on the access to rights.

Memorial site in Lety

The Advisory Committee recalls that it acknowledged in its last Opinion the establishment of a memorial site in Lety to commemorate victims of the Roma genocide at the Nazi concentration camp. It also deplored that the site of the concentration camp at Lety has been in a large part occupied by a pig farm established there in 1970s. Given the symbolism and significance for the Roma, and the Czech society at large, the Advisory Committee strongly urged the authorities to relocate the pig farm as a matter of priority from the site of the concentration camp at Lety. Despite a long campaign by Roma organisations and international institutions no progress has been made to date towards the removal of the pig farm. The Advisory Committee notes, however, that the removal of the pig farm is an objective of the new Roma Integration Strategy which was adopted by the Czech authorities in February 2015.

Recommendation

The Advisory Committee reiterates its call on the authorities to remove the pig farm as a matter of priority from the site of the former concentration camp at Lety.

Efforts to combat hostility or violence on ethnic or racial grounds

Present situation

The Advisory Committee recalls that Section 356 of the Criminal Code (incitement to hatred) punishes with up to two years imprisonment anyone who publicly incites hatred against any “nation, race, ethnicity, religion, class or other group of persons”, while Section 352 (violence against a group of persons or an individual) punishes with six months to three years imprisonment anyone who uses violence against a group of persons or individuals, or threatens them, on account inter alia of their actual or perceived race, ethnicity, nationality or religion. Furthermore Section 42 (b) of the Criminal Code specifically refers to “racist, ethnic, religious, or other similar hatred” as aggravating circumstances that judges are required to take into account when sentencing offenders. Defamation of any nation, its language, any race or ethnic group or any group of persons on account inter alia of their actual or perceived race, ethnicity, nationality or religion, described in Section 355 of the Criminal Code is punishable with up to two years imprisonment.

The police collect statistics on all crimes committed, including those with racist or other motives involving intolerance. Data for 2013 shows that 37,4% (79 offences) of total crimes of an extremist nature were committed under Section 403 (establishment, support and promotion of a movement aimed at suppressing human rights and freedoms), Section 404 (manifestation of sympathy to a movement aimed at suppressing human rights and freedoms) and Section 405 (denial, questioning, approval, justifying of genocide) of the Criminal Code. Crimes under Section 355 (defamation of a nation, race, ethnic or other group of people) represented the second most numerous group. The proportion of the total of all crime categories was 17,5% (37 offences, of which 29 cases were solved and 41 offenders prosecuted). Crimes under Section 352 (violence against a group of people or an individual) represented 9% (19 offences) out of the total. There were 12 solved cases that fell under Section 352 and 22 perpetrators were prosecuted. Although no detailed statistics are available for 2014, according to the data collected by the Police Presidium, there have been no significant changes in the composition of offences in comparison with the previous year.

The police recorded 53 criminal offences in 2014, motivated by hatred against Roma (26,3% of total crimes of extremist nature). These figures show an increase from 42 such criminal offences recorded in 2013. Most offenses were committed in the Usti Region (17 crimes) and Moravia-Silesia (10 crimes).

The Advisory Committee notes that these numbers seem to be quite low, given the increase in extremist and undemocratic tendencies developing within the Czech society, which is acknowledged by the authorities. Interlocutors of the Advisory Committee claimed that such low numbers are due to the fact that victims of hate crimes, including Roma, remain highly reluctant to approach the police, as they do not trust that their rights and concerns will be adequately considered and protected.

Complaints against police officers are governed by Section 175 of the Administrative Code, according to which everyone has the right to file a complaint against the procedure or the conduct of a public official when their rights are affected. Data on complaints against misconduct of police officers is collected by the General Inspection of Security Forces. In 2014, the General Inspection of Security Forces investigated two cases in connection with alleged misconduct motivated by racism or intolerance on ethnic grounds. These cases involved one member of the Prison Service and one member of the Police. The Advisory Committee notes, also in this context, that these figures seem to be extremely low and probably do not

reflect reality, in particular as regards the trust in the impartiality of the complaints mechanism, in particular on the part of the Roma.

Recommendations

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

The Advisory Committee further asks the authorities to investigate promptly and in a transparent manner all cases of alleged police abuse and misconduct, so as to ensure that the public, including the Roma, have confidence in the impartiality and effectiveness of the complaints mechanism in cases regarding police abuse.

Denmark

Adopted on 20 May 2014

Article 6 of the Framework Convention

Efforts to combat hostility or violence on ethnic grounds

The Advisory Committee notes that a general climate of tolerance prevails in Denmark. It further notes with satisfaction that the authorities continue to support programmes and initiatives, in particular of the Danish Institute for Human Rights, aimed at better understanding the problem of intolerance and discrimination among persons belonging to different minority groups, as well as campaigns valuing diversity and encouraging citizens to report any form of discrimination.

The Advisory Committee notes that, according to the recent 2011 survey of crime victims, conducted by the research division of the Ministry of Justice in co-operation with the University of Copenhagen, 8% of the victims of violence were quite sure that the perpetrator had racist motivations, while another 8% considered that this might have been the case. It is regrettable therefore that there are no statistics on the number of indictments and convictions in which Section 81 N° 6 of the Criminal Code was invoked and influenced the sentencing.

In this context, the Advisory Committee welcomes Instruction N°2/2011 of the Director of Public Prosecutions, which requires the police to make specific enquiries at the investigation stage as to a possible hate motive in order to enable the prosecution to present the evidence so as to provide requisite proof of aggravating circumstances.

In this context the Advisory Committee wishes to recall that in its third Opinion on Denmark it recommended that additional training 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 notes that indeed there has been an increasing number of charges brought, albeit not followed by a higher number of convictions, under Section 266.b of the Criminal Code. Whereas in 2009, the prosecutors laid charges against 15 suspects, leading to four convictions, in 2012 there were 26 charges brought, leading also to four convictions. Finally, two convictions were reported

in the period 2009-2012 in cases concerning violations of the Prohibition of Discrimination due to Race Act.

The increased number of charges laid by the prosecutors attests, in the opinion of the Advisory Committee, to the due attention paid by the law enforcement bodies to the Instruction of the Director of Public Prosecutions and to the success of the seminars on hate crime initiated since 2011 in all police districts in Denmark in co-operation between the Danish Security and Intelligence Service and the Danish Institute for Human Rights.

However, the Advisory Committee notes with concern the proposed amendment to Section 266.b of the Criminal Code, which would decriminalise insulting and degrading speech and criminalise only statements leading to disturbance of the public order. It wishes to convey the sentiment of representatives of different ethnic communities that further weakening Section 266.b of the Criminal Code, which already does not offer sufficient and effective protection against hate speech, runs contrary to the Committee of Ministers' Recommendation N° R(97)20 on Hate Speech. The proposed amendment would therefore inevitably lead to the worsening of the climate of the public debate in Denmark and increased polarisation of society.

The Advisory Committee notes further that the Danish Institute for Human Rights recommended in its Status Report for 2013 that the authorities draft a national action plan against hate crimes and initiate a broad effort to promote victims' courage, willingness and ability to report hate crime.

Recommendations

The Advisory Committee calls on the authorities to ensure that there is a sufficient and effective legal basis for addressing cases of hate speech as well as for tackling the racist motives of crimes.

The authorities should continue and further develop the programmes and policies for promoting integration, diversity and tolerance in Danish society and monitor them on a regular basis.

Further efforts should be undertaken to raise the awareness of all law enforcement agencies on the question of hate crime.

Preventing ethnic discrimination and promoting tolerance

The Advisory Committee notes that since 2005, the authorities have established, as a target, that a minimum 4% of the workers within the public administration should have an ethnic background other than Danish. As no data on ethnicity is collected in Denmark, the authorities rely in assessing the situation on the place of birth of employees or of their parents. The Advisory Committee welcomes the information, that according to the data collected by the Agency for the Modernisation of Public Administration, the percentage of persons with an ethnic background other than Danish employed within the state administration increased from 2005 to 2012 from 2 to 3.2% and that persons with an ethnic background other than Danish constituted 6% of newly employed public servants in 2012.

Additionally, the Danish Police have made efforts to recruit persons of different ethnic backgrounds into the police force. One recent initiative was the publication of the leaflet "Police job – a future for your children" in eight different languages. According to the data provided by the National Police College, applicants with an ethnic background other than Danish constituted each year no less than 5,5% of the

applicants between 2009 and 2012. Although persons of non-Danish origin were on average less successful in passing admission tests, the number of persons recruited by the Danish police has been no less than 2.1% of the total in the same period. The Advisory Committee notes with satisfaction that similar initiatives have been undertaken by the prison service (preparatory school courses for prospective applicants of non-Danish background), the military (adoption of the Diversity Policy by the Ministry of Defence in 2011) and the Court Administration (awareness-raising about the guidelines of the Agency for the Modernisation of Public Administration).

The Advisory Committee is concerned it worrying however, that unemployment among non-ethnic Danes and their descendants, which stood at 15,3% in 2012, remains almost three times higher than that of persons of Danish origin.

Recommendation

The Advisory Committee invites the authorities to introduce targeted and effective policies and measures to combat unemployment among persons with an ethnic background other than Danish and to pursue efforts to recruit such persons into state institutions.

Discrimination against Roma

The Advisory Committee learns that the authorities adopted in 2011 the National Action Plan for Roma Inclusion, developed as part of the EU Framework for National Roma Integration Strategies up to 2020, whose principal aims have been determined to be the inclusion of Roma in the mainstream society, combating poverty and social exclusion and disseminating knowledge on best practices and agreed principles for Roma inclusion to the municipal level. It is particularly welcome that a specific budgetary allocation of €2,7 million accompanied the adoption of the National Action Plan. It is also welcome that specific Roma classes in primary school in Elsinore and a Roma office in the Job Centre have been discontinued to avoid stigmatisation and to help the Roma towards better inclusion. However, the Advisory Committee finds it disturbing that some media and politicians single out Roma and stereotype them as a group engaging in criminal activity. Roma also face discrimination in access to camping sites and there are instances of their being denied access to public places as well as allegations of ethnic profiling by the police. According to Roma representatives, the majority population's attitude is negative, due to persistent negative media coverage and police reporting of ethnicity of Roma suspects, unlike that of other suspects.

Recommendation

The Advisory Committee calls on the authorities to pursue and develop without delay measures to combat discrimination against the Roma and introduce targeted policies promoting their full and effective equality in all areas.

Media reporting and political discourse

The Advisory Committee recalls that in its third Opinion it noted with concern reports that some media spread distorted and discriminatory image of groups such as the Roma and Muslims and that additional measures needed to be taken to ensure that the media fully comply with the rules of professional conduct, with the view to dissemination of a more accurate image of persons belonging to national minorities.

The Advisory Committee is therefore concerned that instances of racist and stigmatising speech in the media and in the political discourse in particular against the Muslims and Roma continue to be reported. The assessment of the Advisory Committee on this issue concurs with that of the Commissioner on Human Rights and the European Commission against Racism and Intolerance.:

Independent studies, such as the “Analysis of Danish Media setting and framing of Muslims, Islam and racism” published in March 2012 by the Danish National Centre for Social Research also suggest that the media coverage of issues concerning dealing with Muslims is predominantly negative and hostile towards them. The study asserted that that about 58% of the articles dealing with Muslims were negatively portrayed and contributed to shaping hostility towards Muslims. In contrast, the tone of only about a third of the news stories was neutral, while about 8% of the articles positively portrayed and identified Muslims as inclusive.

The Advisory Committee finds it particularly disturbing that the media analysis indicated that most news stories were restricted to topics such as extremism, terror, sharia, freedom of speech, democracy versus Islam, and women’s rights, which contribute to negative stereotyping of Muslims. More positive topics such as the general contribution of Muslims to Danish society, the everyday life of the vast majority of Muslims, the value of ethnic, religious and cultural diversity, and discrimination against Muslims appeared in newspapers less frequently.

The Advisory Committee has often recalled that xenophobic and intolerant speech in public life has negative consequences for the society’s understanding of minority identities and issues and is likely to prevent the development of genuine inter-cultural dialogue.

Recommendation

The Advisory Committee strongly urges the authorities to combat effectively 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.

Estonia

Adopted on 19 March 2015

Article 6 of the Framework Convention

Integration efforts

Present situation

The Advisory Committee is pleased to note that the Estonian authorities have continued their efforts to promote integration of society, based on the understanding that it is a two-way process and affects society as a whole. Significant financial resources were allocated for the implementation of the Estonian Integration Strategy 2008-2013. Representatives of national minorities and of civil society indicated however that the main, if not exclusive, focus of the successive strategies remained the promotion of proficiency in the Estonian language as the main tool for integration and the symbol of common statehood and loyalty to the state. While reaffirming its acknowledgement of the importance of a

common state language and the necessity of support for it, the Advisory Committee notes that as a result of greatly increased proficiency in the state language among persons whose first language is not Estonian, language no longer constitutes the main obstacle to integration as applicable to national minorities. In this context, the Committee notes that Russianspeaking persons belonging to national minorities successfully participate in many areas such as education and social life of the country, although it has to be noted that the unemployment rate among them is still significantly higher than the average (see also under Article 15). One major area where the integration process has been slow is the participation on equal footing in democratic life of the State. This view has been shared by the representatives of national minorities, during the visit of the delegation.

The Integration Strategy 2008-2013 has been implemented only partially. The Estonian authorities' own assessment of the Strategy's achievements is that while objectives in the areas of culture and political integration have been achieved, those pertaining to social and economic integration and educational integration were achieved only in part. The Advisory Committee notes that this strategy, which was adopted in 2008 to address the falling number of persons belonging to national minorities seeking naturalisation, sought essentially to increase the Estonian language proficiency of Russian speakers. There has been significant progress towards the achievement of this goal. However, other aspects of integration of society in particular as regards participation of all in public life, require further efforts.

The Advisory Committee notes with satisfaction that the new strategy "Integrating Estonia 2020", adopted in December 2014, and prepared on the basis of wide consultations with the target group representatives, integration specialists and the representatives of public authorities, is focused to a greater degree on supporting initiatives to encourage active participation of all segments within society and aims to develop a more tolerant and open society. The integration strategy focuses on more equal access to work, education and culture, as well as intercultural contacts with other members of society, regardless of their linguistic or cultural background. The implementation plan to a greater degree than under the previous strategies targets the education system and youth work, and includes measures to assist with the development of civil society targeting also employment issues. The Advisory Committee notes that, although acquisition and proficiency in the Estonian language including immersion courses will be continued, the Strategy will equally support cultural institutions such as museums, theatres and music institutions with the aim of enabling them to offer their programme in a bilingual format or in different language versions.

Last, but not least, the Advisory Committee notes that a budget of over 42 million euros, of which 10 million to be allocated by the European Social Fund, has been approved for the implementation of the activities covered by the Strategy.

Recommendations

The Advisory Committee encourages the authorities to continue with their efforts to promote the integration of society as a two way process, in particular encouraging active participation of all segments within society in all relevant fields, such as equal employment, education and culture, and promote intercultural contacts with other members of society, beyond the promotion of proficiency in the Estonian language.

The Advisory Committee asks the authorities to monitor the implementation of the Strategy "Integrating Estonia 2020", in close consultation with national minority representatives to ensure that the objectives

are successively attained and the Strategy adapted to meet the evolving concerns and priorities. Ensure that initiatives carried out under the integration Strategy will be carried out in a manner that will promote and protect minority cultures as an essential part of the Estonian society.

Ethnically motivated crime and hate speech

Present situation

The Advisory Committee notes that currently there are no reliable statistics on crimes according to the motives of the perpetrator. Although the database used by the police for registering criminal incidents allows for classifying motives of a crime, there is no obligation for the police officers to use this classification system. In this context, the Advisory Committee notes that both the authorities and the human rights NGOs concur that the number of racially or ethnically motivated incidents remains low.

There have been no changes to Article 151 of the Penal Code as regards limits to criminal liability to cases of incitement to hatred on various grounds, to acts that result in danger to the life, health or property of a person. This limitation excludes the investigation into hate speech in the media or the Internet, unless serious consequences have ensued. Furthermore, the Advisory Committee notes with deep concern that although Article 58.1 of the Criminal Code, which enumerates the aggravating factors in the perpetration of any crime, was amended on 26 February 2014 and new grounds have been added, racist or ethnically based motivations were not among them. Although the authorities maintain that “other base motives” included in the list of aggravating factors cover racist or ethnically based motivation, the Advisory Committee notes that according to information at its disposal there have been no cases where racist or ethnically based motivations were invoked in court and impacted on sentencing.

Recommendations

The Advisory Committee reiterates its call on the authorities to reconsider the limitation of the applicability of Article 151 of the Penal Code, which curtails the investigation and prosecution of hate crimes in Estonia, and strongly recommends to incriminate and punish expressly racist and ethnically-based motivation as an aggravating circumstance in any offence.

The Advisory Committee also encourages the authorities again to establish a data collection system which would record the number of racist or ethnically motivated crimes and incidences of hate speech.

Promotion of full and effective equality of Roma

Present situation

The progress achieved under the National Action Plan for Roma Inclusion, which was adopted in 2011 within the EU Framework for National Roma Integration Strategies up to 2020, has been evaluated in 2014 by the European Commission. Although some progress has been achieved in all the four key areas of education, employment, healthcare and housing, as well as in the fight against discrimination, the Commission pointed out that in every area measures needed to be reinforced within a systematic approach. It further noted that a constructive dialogue with Roma organisations, civil society and close co-operation with local and regional authorities needed to be ensured to guarantee the achievement of the goals of the Strategy.

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The authorities have taken concrete steps to increase awareness and acceptance of the Roma within the majority population and to combat prejudice against the small Roma community in Estonia. Following the unveiling of the Memorial of the Estonian Roma Holocaust at Kalevi Liiva in May 2007, the topic of the genocide of the Roma, together with the Holocaust has been given a more prominent place in history textbooks in the context of World War II and the wartime crimes against Humanity and in the national basic school and secondary school curricula, effective as of 2014 (see also under Article 12).

Recommendation

The Advisory Committee invites the authorities to intensify, in consultation with representatives of the Roma communities, the implementation of measures to combat discrimination against the Roma and promote their full and effective equality in all areas.

Finland

Adopted on 24 February 2016

Article 6 of the Framework Convention

Tolerance and inter-cultural dialogue

Present situation

The Advisory Committee welcomes the broad efforts undertaken during the reporting period by the authorities at central and local levels to promote interethnic tolerance and openness in society through legislative and policy measures addressing national minorities and migrants. The authorities' answer to the increasing diversity in society includes the adoption in 2010 of the Act on the Promotion of Immigrants (1386/2010) and in June 2012 of the first national Programme for the Integration of Immigrants 2012-2015. The Advisory Board for Ethnic Relations (ETNO) was extensively involved in the preparation of the programme, which is now implemented by specific bodies at local level involving the migrants themselves. Anti-racism awareness programmes and campaigns were also carried out to foster tolerance and respect of diversity.

The Advisory Committee also appreciates the authorities' reaction to increasing manifestations of racial discrimination and anti-immigrant rhetoric on the Internet, which both targeted established national minorities, such as the Sámi, Roma, and Russians, as well as migrant groups such as the Somali and other communities. The Somali felt particularly targeted not only in their daily life, but also as regards their educational and employment achievements where they experienced strong prejudice. Part of the response included introducing Internet monitoring mechanisms, soliciting citizens' participation, and the increased presence of police in the social media. Statements carrying anti-immigrant rhetoric and hate speech made by several populist politicians ended up in judicial proceedings, which provided the occasion to the judiciary to define better the demarcation line between freedom of expression and hate speech.

The Advisory Committee notes with serious concern that, notwithstanding the measures mentioned above, the overall climate as regards interethnic tolerance has recently deteriorated in Finland and the society has become more polarised on this issue. In the context of recent migration flows, racism and anti-immigrant rhetoric increased in the social media and in the political arena. The Advisory Committee

considers that any racist discourse by politicians and public figures must be immediately and strongly condemned by senior government officials to ensure that a clear message is sent to the public that this is not acceptable. In this context, it observes that, while politicians appeared to react slowly to previous episodes of racist hostility by some fellow politicians, the government and local authorities reacted swiftly to recent incidents condemning them firmly and reaffirming that Finland is an open and tolerant country where there is no place for hate and racist speech, and where applicable, the perpetrators are prosecuted.

The Advisory Committee regrets that interethnic prejudice and tension, and hate speech have become more visible in political discourse and social media which included national minorities, such as Sámi, Roma, and Russians. Sámi interlocutors noted they experienced growing pressure in the social media, including within the Sámi people, and from certain quarters of the political class on the occasion of the Parliamentary debates and the 2015 Sámi Parliament elections. Also, representatives of Swedish speakers indicated a worsening climate on the Internet and in the political arena, prone to undermine anything which is Swedish in Finland. Finally, several of the Advisory Committee interlocutors resent the mobilisation of the government and public empathy towards the new migrants as compared to the support traditionally received by national minorities.

Since the promotion of societal integration and respect for diversity is one of the objectives of the Framework Convention, the Advisory Committee understands the government plans to proactively enhance respect and appreciation for diversity by being more strategic in the provision of information to the public through nationwide campaigns and empowering civil society as the information provider. It also welcomes the signature of the Charter of European Parties for a Non-Racist Society by all parties in the new Parliament. Through this initiative by the Finnish League for Human Rights, the Non-Discrimination Ombudsman and the Advisory Board for Ethnic Relations, the political parties commit to defend basic human rights, to reject all forms of racist violence and incitement to racial hatred. Nonetheless, the Advisory Committee was also informed by some interlocutors, such as ETNO, that certain mechanisms put in place by the authorities, such as police monitoring of hate speech online, are only partially effective due to the minimal resources allocated to them. Legislation is also argued to lag behind different forms on hate manifested through the Internet.

The Advisory Committee observes that prejudice and ethnic diversity continue also to be at the origin of bullying of children and adolescents, in particular at schools. Data gathered by the government show that children being called “names” is a relatively common experience for 65% of them with immigrant background, in particular for Roma children. The authorities have reacted with targeted projects in schools, such as the *KiVa Koulu* anti-bullying programme, and each school has an anti-bullying plan. However, they are also aware that observance of human rights shall become an objective in the education and training environment, as well as in national and local curricula. The Human Rights Delegation recommended enhancing human rights education and training, including for teachers. The new curricula to enter into force in 2016 are held better to reflect this need and have now to be properly implemented.

Recommendations

The authorities are encouraged to defuse the increasing climate of interethnic prejudice and tension by stepping up efforts to combat all forms of intolerance, racism, xenophobia and hate speech, in particular in social media, through appropriate measures that target the entire population such as awareness-

raising and tailored information campaigns, strengthening the provision of advisory services on hate speech, and enhancing human rights education at school, including to tackle bullying.

The Advisory Committee invites the authorities to continue to condemn systematically and promptly all instances of racism and ethnic hostility in public discourse, particularly in the political arena, targeting particularly persons belonging to national minorities.

Protection from hate crime

Present situation

The Advisory Committee welcomes the 2011 amendment of the Criminal Code which provides additional powers to prosecutors and police to intervene in racist and hate crimes. Public display or dissemination of opinions or other messages that threaten, slander, or insult any group on the grounds of race, skin colour, national or ethnic origin, religion or conviction, are now punishable and constitute aggravating circumstances in other bias-related crimes. In 2011, Finland also ratified the Additional Protocol of the Council of Europe Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.

According to the annual Report on Racist Crimes published by the police, in 2014 the police filed 822 reports (1.3% decrease in comparison with 2013) of which the majority (678 reports or 82.5%) related to racist incidents. These acts were carried out mainly outside against members of an ethnic or national minority, most frequently against the Somali. According to the authorities, hate crimes on the Internet represent about 10% of the total. The Advisory Committee notes that overall, the authorities and civil society actors concur that data gathering has been improved and the police is better trained on human rights, racist crimes and multiculturalism in particular in initial training to detect and follow up on hate crimes. Nonetheless, it observes that there is also awareness by the authorities that the limited number of cases prosecuted so far under the criminal provisions is the result, on the one hand, of the difficulty to ascertain the applicability of the criminal code provisions and, on the other hand, the phenomenon of under-reporting. If awareness measures as regards the scope of the new provisions are under consideration, the fact that hate-related behaviour often occurs on the Internet makes it difficult for it to reach a threshold to apply the criminal code. As a consequence, the authorities seem to consider that a perceived leniency of the legislation affects the rate of reporting along with a sense of mistrust in the police from the part of individuals belonging to minorities.

The Advisory Committee appreciates the government's efforts to further improve training, including by starting a hate crime-related training as from 2017. It also acknowledges the dialogue engaged between the National Police Board and minorities and welcomes plans for increasing the recruitment of persons belonging to minorities in the police as a measure to improve trust. It is concerned nonetheless, that opinions were expressed by some police officers that diversity within law enforcement was certainly important but not currently a number one priority as a result of cuts in resources and funding. Minorities also shared with the Advisory Committee during its visit that it is often among longer serving police officers that a certain reticence with reporting is perceived and where training would be most appropriate. ETNO also indicated that more focus on the scope of the criminal provision when training the judiciary would be useful.

Recommendation

The Advisory Committee encourages the authorities to intensify their efforts to raise public awareness of the legal remedies available against hate crime to further improve training of law enforcement agents to detect, investigate and sanction hate speech and hate-motivated offences, and to enhance trust of persons belonging to minorities in the police and judicial systems for reporting and bringing cases to justice, including via increasing the presence of persons belonging to minorities in the police.

Germany

Adopted on 19 March 2015

Article 6 of the Framework Convention

Tolerance and intercultural dialogue

Present situation

The Advisory Committee welcomes the continued, wide-reaching efforts made by the authorities to promote tolerance in German society, notably through school programmes for tolerance as well as for the prevention of right-wing extremism. It notes however that according to some of its interlocutors, while considerable attention is given in schools to studying past expressions of organised right-wing extremism during the National Socialist period, there is often insufficient attention paid to the ways in which racism, xenophobia, antisemitism and related forms of intolerance are expressed today, which may include hostile or discriminatory acts or statements made by individuals not clearly affiliated with any organised group.

The Advisory Committee notes with concern that worrying attitudes remain present in German society towards a variety of ethnic and religious groups. A recent, comprehensive study conducted by the Federal Anti-Discrimination Agency on the attitude of the general population towards Sinti and Roma found ignorance about these groups to be widespread and the prevailing attitudes towards them to range from indifference to rejection. Despite awareness, particularly among older age groups, of the Nazi crimes committed against Sinti and Roma, the study revealed that stereotypes of Sinti and Roma as foreigners, beggars and undesirable neighbours are strong, and social rejection of Sinti and Roma far higher than for any other group in German society. The Advisory Committee notes with deep concern that certain political parties have instrumentalised such sentiments in election campaigns, with one non-parliamentary party in the 2013 federal elections directly scapegoating Sinti and Roma through the slogan “Money for Grandma, not for Sinti and Roma”, which moreover was found not to be in breach of the law. This raises questions as to the adequacy of the law to protect against incitement to hatred. The Advisory Committee also notes with regret that the term “poverty migration” has been increasingly used to refer implicitly to the migration to Germany, perceived as undesirable by those using the expression, by Sinti and Roma from other countries in Europe.

The Advisory Committee notes that a decision of the Cologne regional court in June 2012 that a doctor who had circumcised a boy for religious reasons could be accused of committing bodily injury, as well as ensuing, highly charged public debates about the legality of circumcision, led many Muslims and Jews to question the extent to which it would remain possible to observe their religious practices in Germany, and more generally, the extent to which their faiths were accepted within German society. The Advisory

Committee welcomes the authorities' rapid moves to amend the Civil Code to ensure legal clarity in this field and that the circumcision of boys would remain possible in accordance with the law. However, it notes with concern that there is a strong perception amongst the Jewish community that antisemitism has risen in recent years, with antisemitism on the internet, expressions of hostility towards Jews in the street or other public places and desecration of Jewish cemeteries being considered the three biggest problems in Germany. Reporting of antisemitic harassment and discrimination however remain low. The Advisory Committee also notes with concern a series of anti-Israel demonstrations held in various cities in Germany in mid-2014, at which overtly antisemitic slogans were displayed and chanted; in one case, protestors attempted to attack a synagogue.

The Advisory Committee is concerned that anti-Muslim sentiment has grown, as have negative attitudes towards immigrants and asylum-seekers. It is alarmed at the holding in recent months of regular marches in Dresden, attended by thousands of persons, under the banner "Patriotic Europeans against the Islamisation of the West" ("Pegida", in its German acronym). It moreover notes with concern that similarly xenophobic marches have been held in a number of other cities in Germany, with discourse revolving around the exclusion of those having a different religious or ethnic origin. These demonstrations stigmatise immigrants, asylum-seekers and Muslims, feeding on and further fuelling prejudices against these groups. The demonstrations also create a climate in which Muslims and persons with a migration or minority background feel unsafe. The heinous fatal stabbing of an Eritrean man in Dresden on the evening of one such demonstration, just three days after the door of his flat had had a swastika painted on it, is particularly disturbing in this context.

The Advisory Committee welcomes the fact that some leading politicians, including the Federal Chancellor, have condemned these demonstrations. It is also pleased to note that counter-demonstrations in support of diversity and tolerance, organised in Dresden and other cities, have frequently brought together more people than those of the "Pegida" movement. Some important symbolic stances against them have also been taken: a number of Land, city and church administrations have switched off their lights, as well as the lighting of prominent landmarks, to signal their disagreement when such demonstrations were held in their cities.

The Advisory Committee notes that open support for far right-wing political parties appears to have declined to some extent in recent years, in so far as some far right parties have lost seats in recent elections. However, this does not mean that xenophobic ideas pose less of a risk than previously, as such ideas have in many cases simply been repackaged and resold by other parties under less obvious colours. Moreover, electoral results in some seats tend to show that the latter parties have at the same time gained support from voters who previously gave their support to mainstream parties.

The Advisory Committee observes that the above-mentioned demonstrations and counter-demonstrations have prompted debate in German society about what it means to promote and defend a tolerant and open society. It emphasises in this context that the necessary fight against right-wing extremism must not be allowed to overshadow the need also to combat everyday xenophobic attitudes and actions. It also stresses the importance of building a society that goes beyond mere tolerance and that is accepting of different ethnic, religious and cultural backgrounds.

Recommendations

The Advisory Committee strongly recommends that the authorities continue their programmes both in schools and vis-à-vis the general public to combat racism and intolerance and prevent right-wing

extremism. It urges the authorities to ensure that such programmes do not focus exclusively on right-wing extremism but serve to equip their targets with the knowledge and understanding to identify and combat intolerance and prejudice, whatever the level at which they occur.

The Advisory Committee invites the authorities to review the adequacy of the legal provisions prohibiting incitement to hatred, in particular in the context of election campaigns.

It calls on political leaders to denounce racism and intolerance in all their forms and to take a proactive stance embracing the diversity of German society.

Media, Internet and social media networks

Present situation

The Advisory Committee observes that media reporting on questions relating to Islam, asylum-seekers and so-called “poverty migration” has frequently amplified discriminatory discourse and reinforced prejudice. Muslims are often stereotyped in the media, portrayed as poorly integrated and associated with terrorism. A detailed 2014 study on anti-Gypsyism in the media also found that the media’s portrayal of Sinti and Roma frequently served to perpetuate stereotypes, inter alia through the choice of images used to illustrate stories on Roma and frequent associations made between Roma and poverty and/or crime. These trends are mirrored on internet and social media networks; moreover, as noted above, antisemitism on the internet is considered by Jews to be one of the main problems they currently face in Germany.

The Advisory Committee notes that in a 2013 opinion in a case involving the publication by a cultural magazine of an interview with a politician, the United Nations Committee on the Elimination of Racial Discrimination found that Germany had failed to investigate effectively the dissemination of ideas based on racial superiority and recommended that it review its policy and procedures concerning the prosecution of such cases. It regrets that, according to information provided to the Advisory Committee, no such review has been carried out.

Recommendations

The Advisory Committee calls on the authorities, whilst fully respecting the editorial independence of the media, to take initiatives to encourage both national and regional media outlets to promote more balanced and objective reporting on issues related to diversity within German society and to strengthen the training of journalists and other media professionals in this regard.

It calls on the authorities to review the policy and procedures in place concerning the investigation and prosecution of the dissemination of ideas based on racial superiority, with a view to increasing their effectiveness.

Combating racism and hate crimes

Present situation

The Advisory Committee has received reports of hate crimes committed against Sinti and Roma, including the sending of threatening letters, attacks against the premises of Sinti and Roma associations and memorials, and physical attacks against persons. A series of threats and attempts at intimidation targeting Sorbs was also reported in Saxony in late 2014.

The Advisory Committee notes that a total of 4 647 hate-motivated offences, including hate crimes, incitement to hatred and propaganda offences, were recorded by the police in 2013. 587 of these offences involved violence. In 2012, a comparable figure of 4 514 such crimes were recorded. The figures for these two years were however significantly higher than those for the preceding two years (4 040 offences recorded in 2011 and 3 770 in 2010). It is not clear whether the recent rise in the number of hate-motivated offences recorded by the police is due to a higher number of incidents occurring, increased reporting of such incidents by victims (on this point, however, see further below as regards confidence in the police), improved recording of such offences by the police, or a combination of such factors. NGOs also reported numerous cases of physical assaults against individuals with racist, xenophobic or anti-Semitic motivations, including some cases involving serious injuries, as well as many cases of damage to property, notably religious property. Victims included Jews, Muslims, Chinese, persons of African descent and persons of Turkish background; there were several arson attacks against houses for asylum seekers, as well as incidents of desecration of memorial sites and plaques.

The Advisory Committee notes with interest that amendments to § 46 of Germany's Criminal Code, expressly making racist or xenophobic motivations for an offence an aggravating circumstance to be taken into account in sentencing, are currently being examined by the federal parliament. The Advisory Committee emphasises the need also to ensure, in the light of the findings of the inquiry into the handling of the series of murders committed by an extreme right-wing German terrorist group (the so-called "National Socialist Underground" (NSU)), that adequate structural changes will be made within the criminal justice system to ensure that possible racist elements of offences are systematically taken into account.

Recommendation

The Advisory Committee strongly encourages the authorities to bring to completion as soon as possible the process of amending § 46 of the Criminal Code in order to mention expressly that racist motivations of an offence are to be taken into account as an aggravating circumstance in sentencing.

Conduct of law-enforcement officials

Present situation

In November 2011 it was revealed that a series of murders against persons with a migration background had been committed by the NSU (see also above) over several years without the possible racist motivations of the murderers ever having been investigated. These revelations exposed deep flaws in the handling of criminal cases in which the victims had a migration background: the police investigations in these cases, which were moreover for a long time widely referred to as the "kebab murders", stigmatised and were biased against the Turkish victims, focusing on the hypothesis that they may have been engaged in Turkish mafia dealings. In the linked case of the murder of a German policewoman, the police also rapidly indicated to the media that evidence pointed to the so-called "Gypsy/Traveller milieu", and failed to correct this information when it became clear that it was based on bungled DNA samples. The Advisory Committee notes with interest that a commission of inquiry was set up in the federal parliament in order to pinpoint the failings that had allowed this series of racist murders to remain unidentified for so long. It welcomes the fact that the recommendations made by this commission in its 2013 report on its inquiry addressed the wide-ranging changes needed to eliminate racism and discrimination within the criminal justice system, and were supported by all the parliamentary parties. As regards the police, these recommendations emphasised, for example, the need for any elements that may point to racist or political motivations of an offence to be taken

systematically into account; the need to review the application of the notion of “politically motivated criminality”, and the categories identified within that overall notion; the need for better co-ordination and co-operation among police departments; and greater diversity within the police.

The Advisory Committee notes with regret that police powers to conduct identity checks for migration control purposes in airports, railway stations, trains and up to 30km inside the German border, even in the absence of any suspicion of wrongdoing, and similar powers applicable in areas designated as high-crime areas, lead directly to ethnic profiling. Individuals who consider themselves victims of such profiling cannot complain of discrimination under the General Equal Treatment Act, however, since the police are a public authority and excluded from the remit of the Act (see above, Article 4). Despite a successful administrative complaint lodged in one case, in which the appeal court found in 2012 that using the skin colour of a person as the decisive factor in proceeding to carry out an identity check was clearly in breach of the equality and non-discrimination provisions of Article 3(3) of the Constitution, this practice reportedly continues unabated. A subsequent case in which the administrative court concerned again found against the federal police was moreover decided on other grounds, and the issue of ethnic profiling was not dealt with.

Many of the Advisory Committee’s interlocutors during its visit emphasised that as long as it remains possible for the federal or Land police to carry out identity checks in the absence of any suspicion of wrongdoing, efforts to eradicate ethnic profiling will prove fruitless. The Advisory Committee moreover underlines that beyond the individual harm caused to persons subjected to this practice, it tends to stigmatise the groups of persons targeted in the eyes of the general public, generates feelings of humiliation, injustice and resentment amongst these groups, and leads to a direct loss of trust in the police on their part. Crucially, minorities who lack confidence in the police due to ethnic profiling practices will be particularly reluctant to turn to the latter in cases where they have been victims of racist offences, meaning that such crimes may go unpunished. The Advisory Committee also observes that victims of police abuse generally lack confidence in internal police investigation mechanisms; it regrets in this context that there is no independent police complaints mechanism in Germany empowered to investigate allegations of misconduct by the police.

Awareness-raising measures have been implemented for police or trainee police officers in *Länder* such as Hamburg, Rhineland-Palatinate, Hesse and Schleswig-Holstein in order to help overcome institutional bias and strengthen police skills in handling diversity. Such training has for example been compulsory in Berlin since 2007. The Advisory Committee welcomes these steps, although it is not in a position to assess their impact in practice. It also welcomes steps taken to increase the recruitment of persons belonging to ethnic minorities in some police forces, for example in Berlin.

Recommendations

The Advisory Committee urges the authorities to follow up rapidly on the findings of the 2013 parliamentary commission of inquiry into the NSU murders as regards the functioning of the criminal justice system. It emphasises in particular in this context the need to ensure that all possible racist elements of criminal offences are systematically taken into account, from the earliest stage of investigations, and that the procedures and structures in place encourage this.

The Advisory Committee calls on the authorities to take definitive steps to eradicate ethnic profiling. The possibility of carrying out identity checks for migration control purposes in the absence of any suspicion

of wrongdoing should be eliminated and police trained to avoid the use of ethnic origin as a criterion in carrying out such checks.

It calls on the authorities to take active steps to build trust between persons belonging to minorities and the police. These could include pursuing efforts to increase diversity in the recruitment of police, intensifying the provision of training on cultural diversity and introducing an independent police complaints mechanism.

Hungary

Adopted on 25 February 2016

Article 6 of the Framework Convention

Interethnic and intercultural relations

Present situation

The Advisory Committee welcomes the efforts made by the authorities, including the Equal Treatment Authority and the Commissioner for Fundamental Rights, to promote tolerance and interethnic understanding in society. Most national minority representatives report an overall respectful attitude prevailing between the majority and most traditional well established minority groups and praise the positive climate. Efforts of the authorities to promote minority cultures, education and particular steps taken to strengthen representation of national minorities in parliament (with the possibilities offered by elections of “nationality advocates”) and through the national minority self-governments are widely recognised and appreciated. Nationalities’ Days have been celebrated in every county in Hungary since 2012.

Notwithstanding these efforts, there is a widely acknowledged perception of an increase in xenophobia and intolerance within Hungarian society directed in particular against the Roma and the Jewish community. Also, the uncompromising stance taken by the authorities during the current migration waves has fuelled xenophobic and intolerant attitudes against refugees, asylum seekers and migrants.

The Advisory Committee notes that, according to yearly research conducted by the Hungarian polling institute *Tárki*, openly admitted xenophobia reached a record high in April 2015, with 46% of the adult population stating that no asylum seekers should be allowed to enter the country. According to the same research, 45% of adult Hungarians considered that asylum seekers should be admitted or rejected depending on the merits of their case, while only 9% of the respondents said that all asylum seekers should be admitted unconditionally. Another study, conducted in the middle of the migrant crisis in the summer of 2015, found that 56% of respondents were of the view that immigrants posed a real threat to Hungary, while the opposite view was held by 16%. The proportion of the population holding anti-Semitic views is high. A survey conducted at the end of 2014 by the Hungarian polling institute *Medián*, at the request of the Action and Protection Foundation, found that around one-third of the population was characterised as anti-Semitic. At the same time, according to the poll, seven out of ten Hungarians did not hold anti-Semitic views.

The rhetoric used by *Jobbik*'s politicians and local councillors has been consistently anti-Roma and anti-Semitic. In March 2015, the deputy chairman of *Jobbik*'s Debrecen Hajdú-Bihar County organisation was

fined 750,000 HUF by the District Court of Debrecen for publicly denying, in a speech delivered at the commemoration events of the Hungarian soldiers who died in the Soviet Union, the existence of the crimes of the national socialist regimes and denying the Holocaust. The same month, it was revealed that *Jobbik's* candidate in the Tapolca by-election had praised on his Facebook page an article describing Roma as a “biological weapon of the Jews”.

Recommendation

The Advisory Committee urges authorities to take a firm stance against and condemn any racist, xenophobic and anti-Semitic language in the political discourse and in the media and to double their efforts to prevent and combat intolerance in society.

Anti-Gypsyism

Present situation

The policies advocated by *Jobbik* are openly directed against Roma, who are blamed for “Gypsy crime”, social welfare abuse, laziness, dirtiness, and unwillingness to learn and to integrate. At the local level, *Jobbik* mayors and *Jobbik*-dominated town councils introduced municipal security services (like the “Field Guard” in Ásotthalom), tightened the rules for social housing attribution, by demanding an impeccable extract from a judicial record, campaigning against any social inclusion measures and strict surveillance of anybody offered public work.

Intimidating marches and demonstrations organised by the extreme right-wing para-military organisations, such as the Association for a Better Future Civil Guard (NPFHCGA), have continued in the last five years. In 2011, para-military groups, unimpeded by local police, harassed and intimidated Roma communities of Gyöngyöspata and Hajduhadhaz, and in the following year similar demonstrations took place in Devecser, Cegléd and Miskolc.

As regards anti-Roma violence, the Advisory Committee notes that harassment and various forms of violence are an everyday occurrence for many of them. For example, on 4 March 2011, an eight-month pregnant Roma woman was assaulted by masked men dressed in black uniforms carrying whips and spitting on her. Subsequently, the woman delivered her baby one month ahead of term, according to some sources, possibly as a result of the psychological stress and fear brought on by the attack. Although an official complaint was filed, the police stated that they “did not find racial motivation in the attack”. A similar attack against a pregnant woman occurred on 7 September 2012 in Sárrétudvari, Hajdú-Bihar county. On 27 July 2012, a house of a Roma family in Nemesvid, Somogy county, was burnt down.

In this context, the Advisory Committee notes that Hungary has been recently found to be in breach of the ECHR by the European Court of Human Rights for failing to investigate a racist attack in Szeged in 2011 against a Roma man. The victim who was first attacked with his girlfriend in a night club by a group of three persons was subsequently verbally abused (by being called a “dirty Gypsy”) by a man identifying himself as a policeman.

The Advisory Committee is deeply concerned about information according to which the authorities, in 2013, awarded the prestigious *Táncsics Mihály* award to a journalist infamous for spreading Jewish conspiracy theories and describing Roma as “human monkeys” and honoured him as the “journalist of the year in Hungary”.

Recommendations

The Advisory Committee strongly urges the authorities to condemn systematically and promptly all instances of anti-Roma rhetoric in public discourse, particularly in the political arena and in the media.

The Advisory Committee calls on the authorities to ensure that more vigorous, speedy and effective action be taken to prevent, investigate and prosecute offences committed with racial or xenophobic motives, and to provide for constant monitoring of this phenomenon within society. The Advisory Committee further asks the authorities to investigate promptly and in a transparent manner all cases of alleged police abuse and misconduct, so as to ensure that the public, including the Roma, have confidence in the impartiality and effectiveness of the complaints' mechanism in cases regarding police abuse.

The Advisory Committee further calls on the authorities to intensify their efforts to promote respect and intercultural understanding among the different groups in society overall, including through comprehensive measures that target the majority population.

The authorities should do everything in their power to ensure that persons perpetrating hate speech and hate crimes against Roma are identified, investigated and charged accordingly with a proportional sentence.

Anti-Semitism

The Advisory Committee notes with regret that the interethnic climate has been strained, in particular between the Jewish community and the authorities, by a tendency to re-assess modern Hungarian history and to relativise the involvement of the Hungarian authorities in the crimes committed during World War II. The Jewish community has been particularly appalled by the trivialisation of events such as the rounding-up, upon orders from the Hungarian Authority for the Inspection of Foreigners, and the deportation of Jews to Eastern Galicia (Ukraine) where they were subsequently murdered in August 1941. This tragic event, in which between 13,000 and 18,000 Jews were handed over to the German occupation authorities in Ukraine, was described by the Director of the newly established Veritas Institute as "police action against aliens".

The erection in 2015 of a World War II memorial dedicated to all the victims of Hungary's German occupation in Budapest, which depicts Hungary as the Archangel Gabriel being attacked by a German imperial eagle, thus – according to its critics - symbolically absolving the Hungarian State and Hungarians of their role in sending some 450,000 Jews to their deaths during the occupation caused protests not only of Hungarian Jewish leaders, but also many political leaders, civil society representatives and ordinary Hungarians.

Another contentious issue, poisoning interethnic relations was the Budapest court rehabilitation in March 2015 and the plans for erection in Székesfehérvár of a statue of Bálint Homan, a minister in the government of Miklós Horthy responsible for anti-Semitic legislation of the 1930s and a proponent of deportation of Hungarian Jews in 1944. The Advisory Committee notes with concern that, although the plans for the erection of the statue in Székesfehérvár were abandoned in December 2015, other municipalities have come forward as possible candidates for its location.

Controversy continued to surround the new state-sponsored Budapest "House of Fates" Holocaust memorial museum and education centre focusing on child victims which, given the ongoing tensions,

the Jewish community leaders refused to endorse. Regrettably, in the context of reassessing modern Hungarian history, all these issues, indicative of serious differences of perceptions of Hungary's historical experience, led to the boycott by Jewish organisations of governmental commemorations of the 70th anniversary of the 1944 Holocaust of Hungarian Jews in 2014.

The number of anti-Semitic incidents varied in the last years from 95 in 2013 to 73 in 2014, with another 26 in the first half of 2015. There is a perceptible drop in the number of such incidents, which has been acknowledged by the Federation of Jewish Communities in Hungary (MAZSIHISZ). The vast majority of such incidents (over 70%) fall into categories of "vandalism" (knocking down tombstones, graffiti, smashing of commemorative plaques), "hate speech" (insults, social media postings) and "political anti-Semitism" (see paragraphs above). No physical attacks were recorded in the first half of 2015, and the number of such incidents (kicking, snatching a camera and damaging it, pouring beer over someone) in 2014 was low (under 10% of the total). More than half of such incidents were recorded in Budapest. Such acts are consistently condemned in the strongest terms by the authorities and criminal investigations are initiated, although, regrettably, in most of the cases involving vandalism the perpetrators are rarely found and prosecuted.

On the positive side, the Advisory Committee notes that the history curriculum was comprehensively reviewed in 2014 and 2015, identifying no less than 52 references to Jewish presence, interaction and contribution to Hungary's history. Furthermore, teaching about the Holocaust has become a compulsory element of education. Public denial, downplaying or justification of the Holocaust or of the crimes committed by Hungary's communist regime is punishable by up to three years in prison, and there have been cases of successful prosecutions resulting in fines. In 2015, a Hungarian man was fined 800,000 HUF for denying the Holocaust.

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.

The authorities are encouraged to continue improving dialogue with the Jewish community and to combat anti-Semitism in public spaces. Particular attention should be paid to identifying and prosecuting acts of vandalism and hate speech.

The Advisory Committee invites the authorities to engage in a wide consultation process with civil society and national minority organisations prior to making decisions about commemorations of historical events with a view to ensuring that multiple perspectives are duly taken into account.

Combatting hate speech and hate crime

The Advisory Committee notes that a new Criminal Code entered into force on 1 July 2013, replacing the old Criminal Code dating back to 1978. This new Act criminalises violence towards a member of a community (defined as anyone belonging to a national, ethnic, racial or religious group), or based on disability, gender identity or sexual orientation (Sections 216 (1)-(2)), and incitement to hatred against a community including a national, ethnic, racial or religious group (Section 332). The Advisory Committee shares the ECRI's assessment that omission of the ground of language should be rectified to make Articles 216 and 332 fully compatible with ECRI's General Policy Recommendation N° 7.

The range of hate crimes recognised by the Criminal Code include homicide (Section 160 (1) c)) and battery (Section 164) “committed with malice aforethought or with malicious motive”. When imposing a punishment, the courts should, according to the “sentencing principles” listed in Article 80 of the Criminal Code, take into account aggravating and mitigating circumstances. The Advisory Committee regrets to note that these aggravating circumstances are not enumerated and consequently there is no specific mention of racist motivation constituting an aggravating circumstance. It takes note, however, that according to the authorities, racist motivation would always qualify as a malicious motive. The Advisory Committee considers that the catalogue of crimes committed with “malice aforethought or malicious motive” (understood to include racist motivation) is too narrowly defined and should in principle cover all crimes.

The Advisory Committee regrets to note that crime statistics published by the prosecutor’s office and the police do not provide specifics on bias motivation. For this reason, it is not possible for the Advisory Committee to have an impression on racially motivated criminality. According to fragmentary information provided to the OSCE’s Office for Democratic Institutions and Human Rights the police recorded in 2013 (the last year for which figures are available) 43 hate crimes, of which 30 were prosecuted leading to 14 convictions. Civil society organisations estimate, according to the same source, the number of hate crimes to have been 72 (10 violent attacks, 4 threats and 58 attacks against property).

In 2012, the National Police established the Hungarian Hate Crime Special Network to tackle hate crimes in Hungary. In each of the 19 counties, a police officer was appointed to co-ordinate investigations whenever a hate motive for a crime was suspected. It has to be noted that the appointed officers had to assume co-ordination of hate crime investigations in addition to their primary duties, as an additional task without any extra resources being provided. The Advisory Committee also notes that no liaison officers tasked with ensuring contacts between the police and vulnerable groups have been appointed.

The National Media and Infocommunications Authority as well as the Media Council of this institution were established under the Act LXXXII of 2010 on the Amendment of Certain Acts on Media and Telecommunications. The Media Council acts on complaints against electronic media and is empowered to impose sanctions up to 200 million HUF. The Advisory Committee notes that the Media Council, whose members are independent and elected by a two-thirds majority of members of the National Assembly for a non-renewable nine-year term, receives a small number of complaints, ranging between one and five per year. It notes in this context that in 2015, the Media Council sanctioned three cases of hate speech on private television channels.

Furthermore, the Advisory Committee welcomes information on the Media Authority setting up an Internet Hate-speech Hotline. This mechanism has been used by the Authority on a number of occasions, in particular against sites hosting anti-Roma, anti-Semitic or white supremacist content, to ask a court to issue a temporary court injunction with immediate effect to take an offending site offline and to decide, following a due process of law, on permanent elimination of the site. Should the content be hosted on a server located outside Hungary, the court may decide to block access from Hungary to the offending content. It has to be noted however that the time required for a court decision, which is the only legal possibility of removing offending content, makes this measure ineffective, given the immediacy of access to the Internet.

Recommendation

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 so as to ensure full protection against racist crime. Racist motivation should be explicitly stated in the Criminal Code and should apply to all criminal offences.

Police

The Advisory Committee recalls that in its previous Opinion it observed with regret that racially motivated abuse by members of the police force continued to be reported. In particular, representatives of Roma and civil society were reportedly falling victim of racist attitudes and police brutality. Regrettably such occurrences continue to plague the law enforcement agencies. In this connection the Advisory Committee notes the recent rulings of the European Court of Human Rights in the cases of *Balazs v. Hungary* and *Kiss v. Hungary* in which Hungary was found to violate the ECHR by failing to investigate racist attacks against Roma applicants. In another case dating back to 2012, a 72-year-old Roma was beaten at the Gyomro police station at the time of his detention. The Advisory Committee is pleased to note that the Commissioner for Fundamental Rights together with the Deputy Commissioner for the Protection of the Rights of Nationalities investigated the case and recommended that the Prosecutor General institutes criminal proceedings against two police officers.

In this regard, the Advisory Committee further notes that an Independent Police Complaints Board (IPCB), established in 2008, is entitled to hear and investigate complaints about police misconduct involving breaches of police ethics and discipline. The Board, which is composed of five members appointed by the parliament, can make recommendations to the Head of the National Police General Directorate. Should the Board's recommendations not be accepted, the Board could refer the case to a court for a decision. The Advisory Committee notes that the Board may only act upon a complaint of an alleged victim, and does not have the power to initiate inquiries *ex officio*. The Advisory Committee notes that the complaints' procedure seems to be well known and used, as hundreds of complaints are lodged with the Board each year. According to the Advisory Committee's interlocutors, the Board's recommendations to the head of Police are followed in a minority of cases. The Advisory Committee regrets to note that such information is not available on the web page of the IPCB.

Finally, the Advisory Committee welcomes information it received during its visit to Hungary that a legislative amendment to increase the powers of the IPCB is being considered, although no draft has been tabled as yet.

Recommendations

The authorities should extend the powers of the Independent Police Complaints Board with a view to enabling it to initiate *ex officio* inquiries into cases of alleged police misconduct.

The authorities should provide the IPCB all necessary support so as to enable it to carry out its tasks independently, and effectively, in particular by bringing all cases of alleged mistreatment by the police to court.

Italy

Adopted on 19 November 2015

Article 6 of the Framework Convention

Tolerance and intercultural dialogue

Present situation

A climate of tolerance and respect for diversity prevails in Italy as demonstrated daily in particular towards members of linguistic groups covered by Law No.°482/1999. Notably, in autonomous regions, such as the Autonomous Region of Valle d’Aosta/Vallée d’Aoste, the Autonomous Region of Friuli Venezia Giulia, the Autonomous Region of Sardinia and the Autonomous Province of Bolzano/Bozen, inhabited by significant numbers of persons belonging to historical linguistic minorities, the relations between the authorities and various ethnic groups and within society can be characterised as constructive and open. The ongoing dialogue among the key stakeholders has over the years led to a significant improvement in the protection of rights guaranteed under the Framework Convention.

To increase accessibility and impact of measures to combat discrimination and racism at local level UNAR signed a number of co-operation agreements with local and regional authorities. Such agreements were signed, for example, with the Province of Florence and the Region of Liguria in April 2011, committing both entities to opening and financing anti-discrimination territorial Centres tasked with providing legal advice to potential alleged victims of discrimination, collecting data on discriminatory practices, and organising awareness campaigns.

The Advisory Committee notes with regret that, according to civil society representatives, UNAR has offered legal assistance to victims of racial discrimination only sporadically in spite of a provision in the legislation entitling it to do so. Apparently, the lack of such a pro-active approach has primarily been caused by insufficient specific funding earmarked for this purpose. In this context, the Advisory Committee welcomes the signing of a Memorandum of Understanding in January 2014 by UNAR and the National Bar Council on the management of a fund for the judicial protection of victims of discrimination, offering free legal assistance to such victims.

Recommendation

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 and Caminanti, migrants, asylum-seekers and refugees.

Fight against racism and xenophobia

The Advisory Committee is concerned to note that, amid the continued influx of migrants and refugees to Italy, the general discourse and societal attitudes towards foreigners have deteriorated significantly. Capitalising on fear and uncertainty felt by large fragments of the population in Italy, certain political parties, amplified by some media outlets, have been nurturing and instrumentalising xenophobic sentiments. While the rhetoric of an “alien invasion” is not restricted to Italy and regrettably is growing all over Europe, its permanent use in political discourse in recent electoral campaigns in Italy has led to a marked increase of xenophobia generally. Migrants and refugees have been made the scapegoats for all manner of problems affecting Italian society, from economic stagnation and austerity policies to public health and security. The Advisory Committee is particularly alarmed by physical attacks, for example in

July 2015 by a right-wing radical group *Casa Pound* in Rome and Quinto di Treviso against local reception centres for immigrants from the Middle East and Africa.

The Advisory Committee is deeply concerned about anti-Roma rhetoric used in political discourse by some high-ranking politicians, candidates for elections, Members of the European Parliament (MEP) 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 extremists feel emboldened to stage anti-Roma demonstrations and physical attacks. 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.

On the positive side, the Advisory Committee notes that the OSCAD has developed as of 2012 anti-discrimination training modules for both National Police staff and the Carabinieri Corps and organised workshops for officers and new police and carabinieri constables during general initial training and refresher courses for the serving staff belonging to various ranks. It is worth noting that OSCAD signed a Memorandum of Understanding in 2013 with the OSCE Office for Democratic Institutions and Human Rights (ODIHR) on the training programme “TAHCLE” (Training against Hate Crimes for Law Enforcement), aimed at training law enforcement staff in the field of prevention of and fight against hate crimes.

The Advisory Committee welcomes the information provided in the State Report on OSCAD’s active role in awareness-raising campaigns. These included a communication campaign “*Made in Italy*” launched in June 2012 in co-operation with UNAR against racial discrimination and portraying the important contribution of foreign nationals to the Italian economy. Also, in March, 2013, OSCAD initiated an awareness-raising campaign among football fans to eradicate racism from sports arenas, in particular football stadiums, in the framework of “The Week against Racial Discrimination”.

Recommendations

The authorities should take necessary measures to prevent, investigate and prosecute all racially motivated offences and to prevent and combat incidents of intolerance and xenophobia.

The Advisory Committee strongly urges the authorities to combat effectively all manifestations of intolerance, racism, and xenophobia. In particular, the Advisory Committee urges the authorities to take additional legislative measures and policies to combat racist manifestations in the media, including in the political arena, in the spirit of Recommendation No. R (97) 20 of the Committee of Ministers to member states on “Hate Speech”.

The authorities are encouraged to continue to take decisive action against racist acts perpetrated prior to, 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.

Targeted measures such as awareness-raising campaigns involving, among others, the media should be developed without delay to counteract the mounting anti-Gypsyism and xenophobia in society which has a direct negative impact on access to rights.

Liechtenstein
Adopted on 21 May 2014

Article 6 of the Framework Convention

Promotion of tolerance and inter-cultural dialogue

Liechtenstein society continues to be made up in substantial parts by foreigners, most of who originate from the EU and EEA states. Consecutive surveys conducted by the Liechtenstein Institute on attitudes and perceptions in society towards migrants in Liechtenstein reveal broadly positive opinions among the population with high proportions considering that foreigners add creativity and economic stimulus to the country. The authorities maintain a number of measures to further the integration of migrants, concentrating mainly on the promotion of German language skills as a tool to enhance attainment in the education and employment fields. A new integration concept was adopted in December 2010, based on the principle “Liechtenstein – Strength through Diversity”, which, according to the State Report, places emphasis on the benefits of diversity and multilingualism for society in Liechtenstein.

The Advisory Committee notes, however, the apparent absence of a broader policy to promote multilingualism in society, including as regards the languages of migrant communities. While the authorities pay considerable attention to the issue of education as a tool for integration and Liechtenstein enjoys excellent ratings in OECD comparative studies, children of migrant communities continue to be disproportionately represented in lower-level schools, which has a direct negative effect on their later achievement in the labour market. Although this phenomenon is not specific to Liechtenstein, the Advisory Committee considers that particular attention must be paid to ensuring that the effective equality of children with diverse language backgrounds in schools is enhanced through specific and targeted measures. It points in this regard to substantial research suggesting the benefits of mother tongue learning for broader academic achievement in life, including the proficient learning of second languages, among others through the promotion of bi- and multilingual education models. Opportunities for foreigners’ associations to apply for funding for Sunday schooling in native languages exist; however, these are reportedly insufficient to respond to the needs of communities and are often difficult to implement due to a shortage of adequately trained teachers who possess the required qualifications.

The Advisory Committee notes that the promotion of German language knowledge remains a precondition for the issuance of permanent residence permits to any foreigner. While acknowledging the importance of official language skills for the integration of society, the Advisory Committee reiterates its standpoint that pressure and conditionality are generally inappropriate tools for the promotion of integration, and that the relevant strategies must not rely disproportionately on efforts to be made by migrants. It encourages the authorities to strengthen measures aimed at promoting openness and tolerant attitudes among the majority population, in particular through the enhancement of inter-cultural and inter-religious content in the school curriculum and environment at all levels to raise awareness of and appreciation for Liechtenstein’s diversity.

The Advisory Committee is further concerned by amendments to the Law on Foreigners of March 2011 which establish non-reliance on social benefits as one of the eligibility criteria for permanent residence. This regulation may discourage entitled non-nationals from applying for social benefits. It also appears at odds with the overall aim contained in Article 6.1 of the Framework Convention of promoting mutual

respect and co-operation among all persons living on the territory, irrespective of their economic situation.

The Advisory Committee welcomes the promotion of dialogue and exchange through the organisation of conferences on integration matters in 2011 and 2012, providing an opportunity for foreigners' associations to voice their concerns and make suggestions for possible improvements, including as regards the availability of German language courses for migrant communities. It also welcomes in this context the plan for a possible transfer of the unit dealing with integration questions from the Migration and Passport Office to an entity dealing with human rights and equality issues. This move is meant to ensure the promotion of effective equality among migrant communities in a comprehensive manner and not solely through the angle of immigration legislation, and to address the lack of clarity regarding the distribution of competences and tasks between both entities.

The Advisory Committee finally welcomes the attention paid in a variety of cultural events and media programmes to the experiences of and particular contributions to society made by non-nationals. Theatre performances such as "BuntLounge" or "Colourful Lounge" in which the individual stories of migrants are told and discussed constitute good practice as they add to an overall openness towards and respect for foreigners in Liechtenstein.

Recommendations

The Advisory Committee encourages the authorities to further promote inter-cultural awareness and respect for diversity in society. In particular, they should focus on the promotion of equal opportunities in schools, including through appropriate measures in the field of mother-tongue learning.

The Advisory Committee further calls on the authorities to maintain an open and comprehensive approach towards the integration of migrants, including those in need of social assistance, and to strengthen tolerance-building measures directed towards the majority population.

Protection from discrimination and hate-motivated offences

The Advisory Committee notes that international human rights treaties are directly applicable in Liechtenstein, substantially broadening the discrimination-related protective framework provided for in the 1921 Constitution. Article 283 of the Criminal Code prohibits racist acts such as the incitement to hatred or discrimination based on the grounds of race, religion or ethnic origin, and Article 33-5 establishes racist or xenophobic motivation as an aggravating circumstance for any offence. Civil law provisions against discrimination exist in some sectors, such as the Employment Contract Act. However, there is no comprehensive civil and administrative legal framework against all forms of racial discrimination. The number of cases brought to the attention of the authorities alleging racial discrimination or hate crime remains negligible and efforts are being made to swiftly prosecute and sanction such incidents.

The Advisory Committee observes, however, that the scarcity of complaints related to racial discrimination brought forward to the authorities does not necessarily reflect the absence of any discrimination but may also point to a limited awareness among the public of available legal remedies, or the inapplicability of the legal framework to the actual context. Indeed, cases of discrimination in access to employment as well as remuneration and promotion continue to be reported, among others on the grounds of language – which is not included in the actionable grounds for discrimination. The Advisory Committee considers that given the high number of foreigners residing in Liechtenstein and the

particular focus placed on language abilities in the country's integration strategy, the legislative framework should be amended to comprehensively prohibit discrimination on grounds of colour, ethnic origin, citizenship, religion or language, in the public and private sectors, and in all areas, in line with ECRI's General Policy Recommendation No. 7.

The Advisory Committee further notes consistent criticism from international monitoring bodies regarding the lack of independence of the Equal Opportunities Office from the Government, and the fact that it does not have a comprehensive mandate. Its resources are widely considered insufficient for the implementation of the 2002 National Action Plan against Racism, which includes the raising of public awareness, the promotion of integration of the foreign population, improvement of the data situation, and documentation. The Advisory Committee welcomes the fact that an institutional reform is underway to establish an independent national human rights institution in line with the Paris Principles. The Advisory Committee understands that the Institution is to deal comprehensively with the protection of human rights, including the investigation of complaints involving racial discrimination and sanctioning of averred cases, while awareness-raising and training activities on non-discrimination standards are to remain in the government sphere, probably within the Ministry of Social Affairs. The Advisory Committee welcomes these plans and expects that they will be accompanied with an appropriate increase in resources to implement the National Action Plan against Racism effectively, including as regards adequate dissemination of information among the population to ensure that all persons are encouraged to bring cases of discrimination to the attention of the appropriate authority and seek prompt investigation and sanctioning.

Recommendations

The Advisory Committee strongly encourages the authorities to amend the current legislative framework relating to hate crime and racial discrimination in order to provide comprehensive protection from all forms of discrimination in line with ECRI standards.

The Advisory Committee encourages the authorities to pursue the ongoing institutional reforms and establish, without undue delay, an independent body that is comprehensively mandated with the investigation of and appropriate follow-up to all cases of discrimination through binding and enforceable decisions.

Malta

Adopted on 14 October 2016

Article 6 of the Framework Convention

Tolerance and protection against discrimination

The National Commission for the Promotion of Equality (NCPE), which was set up in 2004 and whose mandate extends to awareness raising on discrimination based on sex/gender and family responsibilities, sexual orientation, age, religion or belief, racial or ethnic origin, and gender identity, gender expression or sex characteristics in employment, provision of goods and services and education, continues to ensure the necessary co-ordination among government departments and other agencies in the implementation of equality and non-discrimination policy measures, services or initiatives. It has to be noted, however, that the Commissioner for the Promotion of Equality and six members of the

Commission are appointed by the government and that the Commission reports to the government. Furthermore, the Advisory Committee notes that, although the NCPE may receive and investigate complaints from individuals and mediate between the parties, its proposals are not binding or enforceable.

The authorities have undertaken a reflection on the broadening of the mandate of the NCPE by transforming it into a Human Rights and Equality Commission (HREC) that would meet the Paris Principles and Parliamentary Assembly Resolution 1959 (2013) establishing standards of a fully independent human rights institution. With this aim in mind, the Ministry for Social Dialogue, Consumer Affairs and Civil Liberties presented drafts of two legislative initiatives at a public seminar on 10 December 2015: a Bill towards an Equality Act and a Bill towards a Human Rights and Equality Commission Act. The Advisory Committee notes that these legislative initiatives are currently undergoing further consultations and have not been presented to the parliament.

Similarly, proposals aiming to strengthen the Parliamentary Ombudsman Institution, tabled by the ombudsperson in March 2014, have not been pursued. These proposals would have resulted in merging a number of autonomous or semi-autonomous institutions that had been set up by law to oversee specific areas of social, economic or other activities with the office of the Parliamentary Ombudsman. Furthermore, they would have allowed the office holder to enquire into alleged violations by a private stakeholder delivering a service previously administered by the government, and would have reinforced mechanisms for implementation of the ombudsperson's recommendations.

The authorities have continued their efforts to promote tolerance and facilitate integration of Maltese society as a whole. There appears to be a willingness on the part of the authorities to promote the welfare of third-country nationals and their integration. The Advisory Committee welcomes in particular the setting up of a Directorate for Human Rights and Integration within the Ministry for Social Dialogue, Consumer Affairs and Civil Liberties and a similar one within the Ministry for Education and Employment. A project entitled Mind D Gap: Together we can make a difference, implemented by the Ministry for Social Dialogue, Consumer Affairs and Civil Liberties supports civil society's efforts "to fulfil the conditions of residence and to facilitate their integration within Maltese society". The project is intended to serve as a pilot phase for the National Migrant Integration Strategy 2015-2020. The Framework Document for the project states that "The aim of the Strategy is to bring about real changes for third country nationals and other migrants within our society, and to build a strong community where everyone, regardless of race, colour, religious or political opinion, age, sex, gender, disability, sexual orientation, gender identity or any other status, can live, work and prosper in a context of fairness, equality, rights, responsibilities and respect". The Advisory Committee welcomes in particular the public consultations conducted by the authorities prior to the publication in June 2015 of the Framework Document: Towards a National Migrant Integration Strategy 2015-2020. It regrets, however, that in the year that followed, no further progress towards the adoption of the Strategy was achieved.

Recommendations

The Advisory Committee invites the authorities to continue their efforts to strengthen the independence and capacity of human rights institutions in line with the Paris Principles and Parliamentary Assembly Resolution 1959 (2013), in order to allow them to carry out their respective tasks effectively.

The Advisory Committee calls on the authorities to adopt the National Migrant Integration Strategy 2015-2020 without further delay.

Intercommunity relations

The authorities undertook efforts to address identified shortcomings relating to the reception of asylum seekers arriving in the country. The Agency for the Welfare of Asylum Seekers (AWAS) which, in 2009, replaced the Organisation for the Integration and Welfare of Asylum Seekers (OIWAS) was given the task of implementing national legislation and policy concerning the welfare of refugees, persons enjoying international protection and asylum seekers. In practice, the AWAS manages reception facilities, provides information programmes in the area of employment, housing, health, welfare and education, and promotes governmental schemes related to resettlement and voluntary returns.

According to the Migrant Integration Policy Index (MIPEX), Malta's integration policies are still underdeveloped and migrants in Malta do not yet benefit from a comprehensive policy for their integration into Maltese society. On the other hand, with a view to improving the services offered to migrants living in Malta, the authorities have undertaken commendable efforts to train public service providers on intercultural competence, organised orientation sessions for migrants on different areas of work, education and practical aspects of living in Malta. The Department of Quality and Standards in Education (DQSE) offers language support for migrant children in acquiring knowledge of English or Maltese and a number of schools have made efforts to support migrant children. The Advisory Committee welcomes, in particular, information provided by the Ministry for Education and Employment in the Country Report Language in Education Policy Profile according to which some schools organise activities aimed to promote multiculturalism through presentations on different cultures and inclusive projects relating to migrant children's backgrounds.

Recommendation

The Advisory Committee calls on the authorities to continue their efforts to promote integration of Maltese society as a whole.

Combating racism and intolerance

Racial, religious and xenophobic motivation for any offence constitutes an aggravating circumstance entailing the increase in the prescribed punishment for all crimes, by virtue of amendments already introduced to the Criminal Code of Malta in 2009. The definition of race in this context is broad and covers race, descent, colour and nationality (including citizenship) or ethnic or national origins. Furthermore, the Criminal Code criminalises intentional incitement to racial hatred and "in situations where the circumstances have the likely effect of stirring up hatred". The Advisory Committee welcomes these provisions, but regrets to note that no data is systematically collected on the prevalence of racially motivated crimes and on the number of cases relating to incitement to racial hatred. It notes in this context that regrettably Malta has never submitted any information on hate crimes to the Office for Democratic Institutions and Human Rights (ODIHR).

In the absence of official data, the Advisory Committee notes that circumstantial evidence indicates cases of racially motivated crimes, bullying in schools, treating persons with a different skin colour as perpetrators of a crime, rather than victims or innocent bystanders. According to NGOs, the internet and, in particular, social media in Malta are rife with offensive content and continue to produce racist messages. The authorities appear to have taken no steps to facilitate reporting on hate speech online.

Investigations carried out by the National Commission for the Promotion of Equality and other sources indicate cases of discrimination on the basis of race or ethnic origin in access to housing, employment

and access to health care, which in many cases depends on the discretion of health service providers. Women migrants from sub-Saharan African countries, who were previously denied access to education in their countries of origin, are the most disadvantaged.

Recommendations

The Advisory Committee calls on the authorities to establish a data collection system which would record the number of racist or ethnically motivated crimes and incidences of hate speech. The authorities should consider setting up specific monitoring and reporting mechanisms on hate speech online.

The Advisory Committee reiterates its call on the authorities to continue to assign high priority to combating all forms of racism, intolerance and discrimination and ensuring the respect of human rights of all those within the jurisdiction of Malta.

Moldova, Republic of
Adopted on 25 May 2016

Article 6 of the Framework Convention

The promotion of tolerance and intercultural dialogue

Present situation

The Advisory Committee is pleased to note that interethnic relations overall have remained friendly and respectful over recent years. However, a recent study on equality perceptions and attitudes in the Republic of Moldova reveals considerable hostility amongst the public towards Muslims, persons of African origin, and Roma (see also below). The study further indicates that the negative attitudes against the latter groups are fed by common stigmatisation and stereotyping, and significantly decrease when there is personal experience and contact with representatives. The Advisory Committee notes that according to the study, attitudes towards Russians and Russian speakers are generally very positive. Despite the absence of any enmity on a personal level towards speakers of Russian and other languages, which was also confirmed by the delegation during its visit, society remains divided along ethnic and linguistic lines. Successive governments appear to have been unsuccessful in the formulation of a convincing agenda towards the creation of a single Moldovan state identity that is independent from the influences of neighbouring countries and based on an inclusive narrative and the respect for diversity. As a result of this uncertainty with respect to Moldovan civic identity, ethnic and linguistic features appear to be conflated with a broader East-West polarisation in the political discourse, where speakers of Russian are generally depicted as aspiring to closer ties with Russia, while speakers of the state language are regarded as supporting a pro-European agenda for the country or even possible unification with Romania. It is of concern to the Advisory Committee that national minorities, including numerically smaller minorities and their specific concerns, remain marginalised in this environment, as they are, depending on their actual or assumed language abilities, affiliated with one of the two larger groups without being given space to develop their own identity and position (see also Article 5).

The Advisory Committee welcomes in this context the considerable efforts made by the authorities over recent years to develop a strategy for the integration of society. Substantial expertise and advice was provided by the Office of the OSCE High Commissioner on National Minorities and a draft “Integration Strategy of National Minorities of the Republic of Moldova for 2015-2020” was presented for public

consultation in April 2015. The Advisory Committee regrets, however, that the process appears to have stalled somewhat since then. Adoption of the strategy is still outstanding, despite the prolonged and thorough preparation process of the draft, which in its final version also takes account of comments received during several rounds of public consultations, including with national minority and civil society representatives, and the demonstrated commitment from successive directors of the Bureau for Interethnic Relations to proceed with adoption of the strategy. In addition, it remains uncertain as to what procedure is applicable for adoption, as the Advisory Committee received inconsistent explanations as to whether such a policy document requires adoption by government only or indeed must go through parliament.

The Advisory Committee was further informed that a draft strategy, entitled “Strategy for Interethnic Relations Consolidation in the Republic of Moldova for 2016-2023” has been submitted to the Council of Europe Secretariat for an additional expert opinion with respect to its compliance with the Framework Convention. In view of the Advisory Committee, the adoption of an integration strategy, which has been regarded a high priority by successive governments and has received substantial international contributions and encouragement, is a significant step that affirms the government’s determination to take appropriate measures towards the implementation of minority rights in an integrated and multilingual society, based on respect for diversity. It considers that a further delay in the adoption process should be avoided and could even be counterproductive, as it may raise doubts as to the continued political will to follow through with the commitment at the level of a strategic vision for society. Concrete implementation measures must indeed be developed at a later stage and in close consultation with national minority representatives to ensure that their views and needs are closely taken into account in the actual realisation of the strategy. The Advisory Committee reminds the authorities that the implementation of the strategy must be carefully monitored and regularly evaluated to ensure that it constructively builds on the existing absence of tension in society, while contributing towards a deeper cohesiveness of society across ethnic and linguistic lines.

The Advisory Committee further considers that the strategy that is finally adopted must address society as a whole and must not appear to leave the task of integration to national minority communities alone. A comprehensive vision is required in particular to address the existing discrepancy with respect to the use of languages. While persons belonging to national minorities are often regarded as unwilling to learn the state language and as hostile towards the development of an independent and unified Moldovan society, insufficient opportunities are made available to them to effectively obtain proficiency in the state language without either giving up their distinct identity or the ability to communicate in the Russian language (see also Article 14). In addition, it appears essential to the Advisory Committee that the negative public discourse, which at times has involved the use of “enemy” images by some politicians for the further polarisation of society and has been aided by the continued propagation of stereotypes by some media (see Article 9), is actively discouraged and steered by public officials towards the consistent promotion of an inclusive society, based on a unified civic identity that accommodates and values diversity as an integral part of Moldovan society.

Recommendation

The Advisory Committee calls on the authorities to finalise and adopt without further delay a strategy for the formation of an integrated society that is based on respect for diversity. Further efforts must then be made and an adequate budget allocated to ensure that targeted measures are designed, implemented and regularly evaluated at expert level and in close consultation with national minority and civil society representatives, in particular in the fields of education and media.

Protection from hate crime

Present situation

The Advisory Committee notes with interest that some amendments to the Criminal Code were adopted in December 2012 with the aim of remedying the ineffectiveness of the criminal legislative framework in combating racism and racial discrimination. While aligning some of the provisions regarding racial violence and incitement to hatred with international standards, the amendments did not address all of the identified shortcomings. Racial hatred is still not considered to be a criminal offence in itself but only serves as an aggravating circumstance according to Article 77(1)(d) of the Criminal Code or as a qualifying element in some provisions. Moreover, it is of particular concern to the Advisory Committee that the available legal remedies against racial offences are still not systematically applied, and criminal law investigations into alleged racial offences remain exceedingly rare. According to interlocutors of the Advisory Committee, there have been very few cases of hate crime before the courts, despite the continued anecdotal reports of hostilities and violence exhibited in particular against Roma, but also against persons of African origin.

While welcoming the official recognition of the Holocaust Memorial Day in 2015 and noting reports by representatives of the Jewish community regarding a certain decrease in instances of anti-Semitism during the monitoring cycle, the Advisory Committee remains concerned by the generally inadequate response to such hate crime by law enforcement. In addition, it notes with concern that incidents of violence against Jewish cultural and religious sites, including cemeteries, have been observed more frequently, such as the spraying of a swastika on the wall of the Jewish school in Chisinau in October 2015 and the vandalism of the Jewish cemeteries in Soroca and Chadir Lunga in Gagauzia in May 2016. It is essential that all incidents of hate crime are promptly and adequately investigated, prosecuted and sanctioned as such in line with the Criminal Code to prevent the emergence of a climate of impunity.

Members of the Islamic League report reduced levels of discrimination against Muslims, yet incidents continue to occur, such as situations where access to public transport is impeded to members of the Muslim community, without receiving an adequate official response. It is welcome that a contact point for hate crime exists within the National Institute of Justice, which collects information on all criminal cases invoking racial discrimination and incitement to hatred, to ensure that awareness is raised and special expertise developed.

The Advisory Committee further welcomes reports of a series of training and awareness-raising activities to promote understanding amongst the judiciary, prosecution services and the police about the available legal remedies against hate crime and appropriate techniques for special investigations, including as part of the implementation of the 2011-2014 Human Rights Action Plan. At the same time, it notes continued concerns by national minority and civil society representatives that the capacity of the police to adequately deal with alleged cases of racial discrimination remains very low. According to information received from relevant Ministry of Interior officials, out of the 126 cases of alleged hostile behaviour against Roma reported to the police, not a single one was confirmed during the following investigations. It appears to the Advisory Committee that such a striking outcome may rather attest to flawed investigation techniques or a lack of appropriate methodology in the treatment of witnesses than to the absence of racial behaviour in Moldova. In addition, it remains concerned by the continued reports regarding abuse of power or racially motivated hostilities against Roma and members of the Muslim community exhibited by members of the law enforcement authorities themselves. While an internal mechanism has reportedly been established within the Ministry of Interior to fight corruption and abuse, the Advisory Committee reiterates its view that any entity that is mandated to investigate complaints of racial behaviour and misconduct of law enforcement agents must be fully independent in order to carry out its function effectively.

Recommendations

The Advisory Committee urges the authorities to ensure that the available legal remedies against hate crime and racial violence are widely known amongst the public, in particular amongst groups that are most exposed to such behaviour, and that relevant public officials engaged in law enforcement are adequately trained and instructed to effectively investigate, sanction and monitor all related complaints.

It further calls on the authorities to promote trust in the police amongst minority communities by increasing their outreach activities, including through the employment of minority representatives in law enforcement authorities, and by ensuring that all alleged instances of misconduct and abuse of power by police officers are scrupulously and independently investigated and promptly sanctioned.

Norway

Adopted on 13 October 2016

Article 6 of the Framework Convention

Tolerance and intercultural dialogue

Present situation

During the period under examination there is evidence of an increase in hate speech and xenophobic discourse by politicians, the media, and society at large, in particular in social media, directed against immigrants, ethnic and national minorities, and indigenous people. The Equality and Anti-Discrimination Ombudsperson and civil society organisations reported examples of online newspapers, social media and websites disseminating hate rhetoric against Muslims, Tater/Romani, Roma, Jews, Sami, as well as widespread prejudice towards these groups. In 2012-2013, the so-called 'new Roma', that is Roma coming from other EEA countries, were the target of strong intolerant and discriminatory attitudes, fuelled by a political and public debate with the objective of prohibiting begging in the streets.

Although thinking about how to combat this surge in hate speech, which contributes to inciting intolerance and prejudice, started in the wake of the Breivik attack, the Advisory Committee notes and appreciates the recently intensified initiatives by the government. The 2014 Action Plan against radicalisation and violent extremism introduced measures to counter hate speech on the internet, to reinforce the presence of the police online and to strengthen the role of civil society to prevent hate speech. The 2015 Equality and Anti-Discrimination Ombudsperson Report on Hate Speech prompted several measures included in the 2016 LGBT Action Plan to strengthen investigation and prosecution of hate crimes in general (see below). Finally, a strategy to prevent and combat hate speech is under preparation. It is intended to be a tool to raise awareness and promote public debate on hate speech in the public sphere, including for children, in the working place, in the media and in research.

A Jewish minority organisation informed the Advisory Committee that the government had taken responsibility to fight anti-Semitism through measures with the aim of improving dialogue and acceptance of diversity. One such measure is the three-year long Pathfinders programme, providing training to two young people belonging to the minority who participate in school events around the country promoting dialogue and understanding of Norway's religious diversity. Moreover, the Jewish minority representatives were widely consulted on the forthcoming Action Plan on Anti-Semitism, which is intended to increase knowledge and awareness of anti-Semitism and to provide for the gathering of data on anti-Semitic incidents. Finally, the Norwegian government provides funds for targeted research,

activities in schools, as well as for spreading information and carrying out physical security measures for the Mosaic Faith Community.

The post-Breivik debate and the campaign against ‘new Roma’ also highlighted the impact of the attitudes of some politicians and journalists. A general consensus was forged that there was a need to stop using derogatory language and mitigate the anti-immigrant rhetoric. In November 2015, the government made a political declaration, which has since been signed online by politicians, representatives of labour unions and organisations, to underscore a commitment to take a strong stance against hate speech including in political discourse. The Advisory Committee recalls that it is important to ensure that public debates are held in a responsible manner, respecting those belonging to minority groups.

The Advisory Committee appreciates both initiatives, but notes that the press did not adhere to the declaration as it was perceived as impinging on the right to freedom of expression. Although the press self-regulation of ethical conduct was held by the government to be effective, the media took additional responsibility in fighting against intolerant and racially hostile narratives by adopting, in 2015, a new Code of Ethics (see Article 9). The media is also committed to moderating the comment section in social media connected to the press outlets, as these have become a preferred vehicle for the expression of anti-immigrants and anti-minority sentiment.

Recommendation

The Advisory Committee urges the authorities to ensure without delay implementation of the initiatives in place to counter hate speech and to promote tolerance and intercultural dialogue, in particular the strategy to prevent and combat hate speech, and continue firmly to condemn derogatory and intolerant language in public discourse. Trust-building measures between persons belonging to national minorities and the institutions and the society at large, including spreading knowledge and awareness of national minorities, should be an integral part of the strategy.

Protection against hate crime

Present situation

The Advisory Committee notes that hate crime is covered by Section 185 of the 2005 Criminal Code, which prohibits public statements which threaten or insult people or incite hatred, persecution or contempt for people due to, *inter alia* their skin colour or their national or ethnic origin. Since 2012, expressions published on the internet have also been included under the scope of the prohibition. Under Section 77(1), racial and xenophobic motivation is recognised as an aggravating circumstance. The Advisory Committee understands that there has only been a limited number of prosecutions under Section 185, which may be partially due to the strict interpretation of that provision by courts giving priority to freedom of expression and in consequence the high threshold required for a crime to fall under the definition. Furthermore, under-reporting due to fear of reactions from the perpetrator or the environment, the lack of confidence in the police, the perception of not being taken seriously, widely shared by the Roma, coupled with discrepancies in recording incidents are among other factors which can explain the low numbers of prosecution.

According to data collected by the National Police Directorate in 2014 there is serious under-reporting of hate crimes to the police. In total, out of 228 cases of alleged violation of Section 185, 156 cases were registered as relating to race or ethnicity in general. This represents a decrease as compared with 2010-

2012. Currently, no statistics are available on the number of prosecuted cases but according to the authorities there are only a few cases which concern persons belonging to national minorities, including Jews. Finally, the Advisory Committee is particularly concerned by the alleged discriminatory behaviour of the police towards the Romani/Taters and the Roma. Interlocutors from these organisations indicated to the Advisory Committee that discrimination generates further mistrust in the police and a higher level of under-reporting based on the perception that their complaints are not taken seriously.

The Advisory Committee notes that several of the concerns expressed by the Equality and Anti-Discrimination Ombudsperson with respect to the weaknesses of the measures in place to fight against hate crime have been addressed in the 2016 Action Plan on LGTB persons. The Action Plan foresees, amongst others, providing a common definition and registration procedures for hate crime in all police districts, producing a guide for police to know how to recognise and deal with hate crime, extending the best practice of the Oslo Police specialised unit on hate crime to the other eleven police districts in the country, improving statistics and data collection, including on prosecution decisions by courts. The authorities were of the opinion that these measures, which will apply to everyone and not only to LGBT persons, will improve recording and investigation procedures so as to make more effective the prosecution of hate crimes. While staff in the Norwegian Police Service already receives training in cultural understanding and diversity, training on hate crime will soon be provided.

Recommendations

The Advisory Committee calls on the authorities to ensure that the measures foreseen concerning hate crime are effectively implemented so as to guarantee that hate crimes against persons belonging to national minorities are more efficiently recorded and investigated by the police, and the alleged culprits duly prosecuted.

The authorities should intensify efforts to raise public trust in the police by both improving the knowledge of law enforcement officials about minorities in close consultation with them, in particular about the Tater/Romani and the Roma minorities, and by sanctioning discriminatory attitudes. The authorities should take appropriate steps to raise awareness about the legal remedies available and to build trust among persons belonging to national minorities regarding the effectiveness of such remedies.

San Marino

Adopted on 20 November 2015

Article 6 of the Framework Convention

Promotion of tolerance and inter-cultural dialogue

San Marino's cultural diversity is gradually increasing. Its foreign population represents 17.6% or 5,966 persons out of 33,738. Italians continue to be the main group (79.3% or 4,731), while the remainder of the non-citizen population is made up of Ukrainians (324 persons), Romanians (244 persons), Argentinians (67 persons), Russians (56 persons), Moldovans (54), and smaller numbers of citizens of other countries.

The authorities reiterated in their report that several legal measures were taken and cultural activities implemented to enhance tolerance, intercultural and interfaith dialogue and to tackle racism. However, the report does not provide an updated overview of these additional steps, which are particularly relevant in view of the growing number of migrants. Although no specific racist episode has been recorded by the authorities, they observed that a sense of latent prejudice towards foreigners persists in the society. Other international monitoring bodies, for example, noted prejudice against non-citizen workers, as well as sporadic episodes of hostilities concerning the Roma population which was depicted pejoratively in the media.

The Advisory Committee welcomes the legal, administrative and cultural initiatives in place addressing migrants' specific needs, as well as the improvements concerning the 'stay permits', which also benefit female migrant workers from Central and Eastern European countries who generally find employment as private carers. It observes, nonetheless, that some of these initiatives address cultural integration rather than raise awareness about potential discrimination and remedies available.

The authorities indicated in the context of other international monitoring bodies that policies have been adopted to extend language learning both through education at all levels, and through the organisation of evening classes for adults. To this purpose, a Decree promoting multilingualism in schools has been adopted. The Advisory Committee considers the promotion of an open and diverse language environment where a variety of languages, including the first language, and human rights are taught to be particularly relevant towards integration and encourage the authorities to enhance them in school curricula.

Recommendations

The Advisory Committee encourages the authorities to enhance an open and comprehensive approach towards the inclusion of migrants and integration of society and to strengthen awareness-building measures on tolerance and discrimination amongst the majority population to avert potential racial discrimination and intolerance.

The Advisory Committee calls on the authorities to further promote in schools and in other contexts inter-cultural awareness and respect for diversity in society.

Protection from discrimination

The Advisory Committee notes that the authorities consider the existing legal framework to combat all forms of discrimination well structured. In their view, protection against discrimination is ensured by the combination of Article 4 of the Declaration on the Citizens' Rights and Fundamental Principles of San Marino legal order and of the constitutional value recognised in international instruments, in particular to the European Convention for the Protection of Human Rights and Fundamental Freedoms. The amendment of the Criminal Code in 2008 to include provisions against discrimination based on 'racial, ethnic, religious and sexual orientation grounds and making it an aggravated offence (Law No.66/2008) contributes, in the authorities' view, to guarantee full protection. Accordingly, the calls from international monitoring bodies to substantiate Article 4 with the specific mention of 'colour and language' as additional discrimination grounds appear not to have been followed-up. Nonetheless, the Advisory Committee considers that, alongside ECRI's General Policy Recommendation No. 7, these grounds, which were not covered by Law No. 66/2008, must also be provided by a comprehensive anti-discrimination legislation. Similarly, San Marino's anti-discrimination legislation must be completed with the addition of provisions of civil and administrative remedies.

According to the information provided by the authorities in the report, no case of racism or racial discrimination has been recorded, which, in the opinion of the Advisory Committee, would explain why no information on the implementation of Law No. 66/2008 amending the Criminal Code was provided in the report. While acknowledging the measures put in place to promote tolerance and prevent the emergence of any form of racism, the Advisory Committee observes that the absence of complaints related to racial discrimination brought forward to the authorities does not necessarily reflect the absence of any discrimination, but may also point to a limited awareness among the public of available legal remedies, the inapplicability of the legal framework to the actual context, or the potential usefulness of training of those involved with its implementation.

The Advisory Committee welcomes Law No.118/2010. This law, as last amended in 2015, reformed the provisions on naturalisation by reducing the length of residence, and 'stay permits' for work which have been extended from 10 to 12 months, renewable for three consecutive years. According to Article 3 of this Law, non-citizens present in the territory of the Republic of San Marino 'shall enjoy the fundamental human rights granted by the national legislation, the international conventions in force and the generally recognised principles of international law' and 'shall be treated in the same way as San Marinese citizens with regard to the judicial protection of rights and legitimate interests'. This provision appears to comprehensively prohibit discrimination of non-citizens. The Advisory Committee also observes that the legislation ensures the relevant communications to be made available to foreigners in a language other than Italian that they may understand. Status and employment conditions of non-citizens, however, appear in particular to be possible sources of discrimination due to the different types of working contracts and the nature of the residence and 'stay permits', as also underlined by other monitoring bodies.

The Advisory Committee regrets that no follow-up was given to its previous recommendation concerning the establishment of an independent institution to monitor racism and discrimination, empowered with sufficient competences and resources, and making it capable of offering adequate assistance to persons who have been victims of discrimination. In this perspective it further notes that the recommendations from other international monitoring bodies to expand the mandate of the Equal Opportunities Commission, which currently deals only with gender equality, to include racism and racial discrimination, while ensuring its independence and adequate resourcing, were also not satisfied so far.

Recommendations

The Advisory Committee calls on the authorities to amend the current legal framework in order to provide comprehensive protection from all forms of discrimination, as well as ensuring administrative and civil remedies.

In view of a thorough implementation of Law No. 66/2008 on 'provisions against Racial, Ethnic, Religious and Sexual Discrimination' amending the Criminal Code, as well as other regulatory framework guaranteeing the respect of human rights of non-citizens (Law No. 118/2010), the Advisory Committee recommends the authorities to take appropriate measures, so that the public at large and in particular potential victims of discrimination, are fully informed of rights and remedies provided by the Law, and if needed to provide adequate training to those involved with their implementation.

The Advisory Committee reiterates its call to the authorities to establish an independent body, in the most appropriate format and in line with the Paris Principles, with sufficient competences and resources

to monitor racism and discrimination, so as to be capable of offering adequate assistance to persons who had been victims of discrimination, including as regards gender equality.

Slovak Republic

Adopted on 3 December 2014

Article 6 of the Framework Convention

Tolerance and inter-cultural dialogue

Present situation

The Advisory Committee welcomes the numerous efforts engaged by the authorities at central, regional and local level to promote inter-ethnic tolerance and understanding in society. Most national minorities report an overall respectful attitude prevailing between and within representatives of majority and minority populations. Some incidents of harassment based on the use of minority languages, mainly Hungarian, in public have been reported and tensions are observed in some localities in southern Slovakia also regarding minority language sign-posts (see further comments under Articles 10 and 11). It is of deep concern to the Advisory Committee, however, that a strong anti-Roma discourse persists in society overall, frequently referring to persons belonging to Roma communities as “lazy” and “criminal” and “a burden” to the social benefit scheme. The Advisory Committee notes with deep concern that the use of such damaging language appears to have gradually become accepted as normal, including by some officials. While acknowledging the many encouraging initiatives run by public officials or civil society in many parts of Slovakia to promote inter-ethnic understanding and deconstruct prejudice, the Advisory Committee shares the concern of many of its interlocutors that the public is increasingly impatient with the lack of progress in effectively promoting the socio-economic integration of Roma communities, and expresses its frustration by progressively blaming Roma themselves. The subordination of the Plenipotentiary for Roma Communities under the Ministry of Interior is particularly regrettable in this context as it appears to reflect and perpetuate the image of Roma as security challenge (see also above comments under Article 4).

The Advisory Committee observes with concern that the use of anti-Roma and anti-minority rhetoric has been politically beneficial for some politicians and parties from the far-right spectrum in local and regional elections, as they actively instrumentalise the presence of such sentiment amongst the population. It considers that any racist, anti-Roma or anti-Semitic discourse by politicians and public figures must be immediately and strongly condemned by senior government officials to ensure that a clear message is sent to the public that this is not acceptable. In this context, it is deeply concerned by campaign material being used during the run-up to the local elections in November 2014 by a regional party, proposing one-way flights to Brussels for Roma, and advocating for voluntary sterilisation of Roma women for EUR 10,000. The Advisory Committee further observes that some, mainly private, media also contribute to the propagation of prejudice against minorities, in particular Roma. While public media outlets may not openly refer to Roma and therefore not formally violate ethical codes, the implications of many articles is evident to the reader and perpetuates stereotypes, seemingly without paying attention to the impact this may have on inter-ethnic relations. The Broadcasting Council informed the Advisory Committee that it has not received any complaints concerning racial language being used in public broadcasts. According to interlocutors of the Advisory Committee, however, it is not viewed as a powerful player to steer the media debate, which may account as reason for it not being addressed.

The Advisory Committee regrets the apparent absence of a comprehensive governmental strategy to counter the increasing anti-Roma and anti-minority rhetoric in public discourse and to proactively enhance respect and appreciation for diversity and for the contributions made by all national minorities to Slovakian society. It considers that urgent attention must be paid by senior government officials to combatting stereotypes and prejudice and promoting tolerance and inter-cultural dialogue throughout society as a whole. It is essential that targeted and concrete measures involving, among others, the media and the education system be applied without delay as the mounting anti-Gypsyism amongst society has a direct negative impact on the access to rights of persons belonging to the Roma minority (see also comments on Articles 4 and 12). The Advisory Committee regrets that apparently no follow-up was given to the plans for developing an action plan to combat Roma exclusion and discrimination by approaching also the majority population and creating a common pro-integration platform.

Recommendations

The Advisory Committee urges the authorities to systematically and promptly condemn all instances of anti-Roma rhetoric in public discourse, particularly in the political arena and in the media.

The Advisory Committee further calls on the authorities to intensify their efforts to promote respect and intercultural understanding among the different groups in society overall, including through comprehensive measures that target the majority population.

Protection from hate crime

Present situation

As regards the Criminal Code and its applicability to effectively sanction hate crime in Slovakia, the Advisory Committee refers to the recent assessment made by ECRI in its fifth monitoring cycle. It welcomes references made in the state report to plans to introduce new articles that punish racial violence against migrants and minorities as extremist offences. The Advisory Committee gained the impression during its visit, however, that the main challenge lies in the implementation of the legislation. In particular, it expresses deep concern about the fact that overall only very few cases reach the courts and that most prosecutions, if launched, appear to end with a suspended sanction. According to the interlocutors of the Advisory Committee, victims of hate crimes, including Roma, remain highly reluctant to approach the police in the first place, as they do not trust that their rights and concerns will be adequately considered and protected. While welcoming the organisation of some training of police officers, including on measures to combat new forms of extremism, the Advisory Committee considers that continued and targeted training is required to increase the ability of law enforcement to gather evidence and lead investigations, with the level of detail and protection of the victim that is required to facilitate conviction in the courtroom. In addition, it regrets that a comprehensive system to gather data on all cases involving hate crime from the investigation stage through completion does not exist to provide a basis for broader analysis and evaluation.

The Advisory Committee is further deeply concerned by continued reports about serious police violence and misconduct, often displayed in their contacts with persons belonging to national minorities. Despite evidence of regular misconduct by law enforcement targeting in particular Roma, the Advisory Committee notes that the Control and Inspection Section of the Ministry of Interior has consistently since 2010 rejected over 80% of complaints it received without initiating criminal proceedings. In cases where criminal proceedings are launched, however, these are often excessively long, thereby hampering the effectiveness of the investigation. The Advisory Committee expresses its deep concern about this

situation as inadequate police investigation and prosecution may prompt a climate of impunity which can encourage further violence against Roma. In this context, it notes with deep concern that the Inspection Service of the Ministry of Interior considered lawful without further investigation a police raid undertaken in June 2013 in the Roma settlement Moldava nad Bodvou, that involved 63 police officers and reportedly resulted in injuries to some 30 persons, including children. A thorough investigation of the event was ordered only in December 2013, and only following the intervention of the Prosecutor General, and was ongoing at the time of the visit. The Advisory Committee considers that this case demonstrates again the need for an independent mechanism to be established outside the structure of the Ministry of Interior, mandated to investigate all alleged cases of racial discrimination and abusive behaviour by law enforcement, including municipal police officers, whose possible wrongdoings do not seem to currently fall within the investigative competence of the Inspection Section but are handled directly by the police.

The Advisory Committee notes that a number of training seminars are being organised at the Police Academy for the members of the Police Corps, which includes special training for policemen "focused on performing their work in Roma communities". Since 2008, a total of 233 "Roma specialists" have been trained to deal with "the specifications of criminal acts committed by and on the Roma community," including tactics for interventions in Roma communities and emphasising respect for fundamental rights and freedoms. Reportedly, specialists have also been trained to liaise between Roma leaders and municipal authorities in case of necessary interventions. While welcoming an initiative that aims at promoting trust and dialogue between Roma representatives and the police, the Advisory Committee regrets to have learned that the number of specialists with Roma background or knowledge of the Romani language is very small. It considers that particular efforts must be made to ensure that the recruitment of Roma into the police force and in particular among the "Roma specialists" is prioritised as essential to promote trust in the police among Roma communities.

Recommendations

The Advisory Committee urges the authorities to intensify their efforts to raise public awareness of the legal remedies available against racial violence and to ensure that all cases brought to the attention of the law enforcement authorities are effectively investigated and appropriately sanctioned.

The Advisory Committee further urges the authorities to establish an independent and specialised body to investigate all cases of alleged police abuse and misconduct, and to inform the public about the available legal remedies in such cases, so as to ensure that trust in the police, in particular among Roma communities, is restored.

Spain

Adopted on 3 December 2014

Article 6 of the Framework Convention

Combating racism and intolerance

According to some of the Advisory Committee's interlocutors, in some parts of Spain, notably in parts of Andalusia, integration is such that it is impossible to distinguish between Roma and non-Roma. Indeed, on some levels, Roma are accepted as an integral part of Spanish society. However, this acceptance

generally remains superficial (for example, the cliché that flamenco culture is part of Spanish culture), and prejudices against and stereotypes about Roma still abound. The Advisory Committee notes with concern in this respect the inclusion – despite continuous protests by Roma representatives and the Ombudsman – in the 23rd edition of the Royal Language Academy's Dictionary of the Spanish Language, published in October 2014, of one definition of the word "gitano" (the word usually used for Roma in Spain) as "swindler", a definition denounced by Roma organisations as highly offensive. Positive images of Roma are mostly confined to those of musicians and dancers; otherwise, Roma are frequently identified in the public imagination with poverty and social exclusion. While the latter phenomena are a reality experienced by many Roma and that must be addressed (see comments with respect to Articles 4 and 15), their portrayal as synonymous with Roma identity is not merely wrong as a question of fact but also deeply harmful to all Roma.

Such prejudices and stereotypes can lead to persisting discrimination against Roma in all fields of daily life, including in private-law relations such as access to goods and services, employment or housing (see also comments with respect to Article 15). Roma representatives report that the concept of anti-Gypsyism is not widely understood in Spain, and the Advisory Committee notes with concern that, according to some Roma representatives, this means that large parts of Spanish society do not recognise as unacceptable the notion that individuals may be insulted or treated less well because of their Roma ethnic origin. It is therefore particularly welcome that the Council of Europe's *Dosta!* campaign encouraging the general public to overcome prejudice and meet the Roma was launched in Spain in April 2013.

The Advisory Committee expresses deep concern that, following the alarming events that occurred in Estepa and Castellar (Jaén) in July and August 2014 (see further below), the mayors of these towns appear to have responded by suggesting that targeting Roma did not amount to a racist act and that an appropriate solution would be for certain Roma families to leave their towns. The Advisory Committee observes that such responses send a message that Roma are troublemakers whom it is acceptable to treat as second-class citizens, and legitimise the prejudices and racist acts of those who take the law into their own hands. It underlines that, to the contrary, politicians should emphasise that racist acts are especially grave offences that by definition deny the equality of all human beings. In this context, it welcomes the call for calm and peaceful coexistence between residents made by the City Council of Bujalance, in response to similar confrontations there in October 2014.

Muslims report that the climate of tolerance towards Muslims, which had deteriorated significantly in the early 2000s, has slightly improved over the past years. Nonetheless, incomprehension of and intolerance against Muslims, and in particular against the manifestation of their religious beliefs, are expressed in a variety of ways, including in the persisting shortage of places of worship and continued opposition from other local inhabitants as well as some local politicians to the building of new mosques. At the same time, access to religious education about Islam remains very limited. In Catalonia, a parliamentary motion inviting the government to take action that would effectively ban the wearing of the burqa and the niqab in public places was reportedly enacted without consulting Muslim women and without knowing how many Muslim women living in the community would be affected. Moreover, police practices of ethnic profiling (see further below) affect Muslims and it appears that a disproportionate number of Muslims are placed in pre-trial detention.

The Advisory Committee also observes with concern that certain government policies – in particular health reforms defined at state level in September 2012 and applied in most Autonomous Communities,

according to which undocumented migrants no longer have access to free health services – have been directly harmful to the migrants targeted while at the same time reinforcing negative messages about migrants generally. Migrants moreover continue to be used as scapegoats in political discourse, with some politicians portraying migrants in general as responsible for the economic crisis. At a time when unemployment is high and the economic crisis as well as austerity measures are having a painful impact on broad swathes of Spanish society, the Advisory Committee notes that such messages are especially damaging. Depictions by some politicians of attempts by migrants in northern Africa to enter Spanish territory through Ceuta and Melilla as “attacks” on a massive scale convey the impression that migrants are somehow a threat to Spanish society, and increase the damage as regards community relations and attitudes towards migrants.

Despite the fact that the Jewish community in Spain is very small, anti-Semitism also persists and is expressed through a variety of channels. Although verbal and physical attacks against persons or property are reportedly rare, several cases of anti-Semitic graffiti were recorded in 2012 and anti-Semitic discourse is reportedly widespread on websites and in social media. The publication of thousands of anti-Semitic messages on Twitter in May 2014 following the victory of the Maccabi basketball team from Tel Aviv over Real Madrid is particularly striking in this regard. The Advisory Committee welcomes information received from the authorities according to which, in response to a complaint lodged by an NGO about these events, the prosecution authorities launched criminal investigations against two Twitter account holders, and proceedings in these cases are currently pending before the courts. In addition, the prosecution authorities referred the actions of a further four account holders, which were not considered to amount to possible criminal offences, to the State Commission against Violence, Racism and Xenophobia in Sport (see further below).

The Advisory Committee also notes with concern that some political parties whose platforms rely on overtly xenophobic/anti-immigrant policies have encountered increasing success in elections, especially at local level. This success reflects growing levels of intolerance in Spanish society, as well as increasing tolerance of intolerance. It emphasises that mainstream political parties must counter xenophobic discourse effectively; ignoring it or moving their own discourse closer to the rhetoric of exclusion allows intolerance to become increasingly the norm.

While it is too soon to analyse the extent to which the Comprehensive Strategy against Racism, Racial Discrimination, Xenophobia and related Intolerance (adopted by the Spanish authorities in November 2011) has had an impact in reducing the prevalence of these phenomena in Spanish society, the Advisory Committee notes that it was developed in recognition of the growing diversity of Spanish society, with the involvement of bodies such as the Council for the Promotion of Equal Treatment and the State Council of Roma People, and with the aim of better co-ordinating the actions being taken in this field. It includes 41 objectives and 129 measures covering fields such as combating racial discrimination in education and employment as well as actions to strengthen the fight against hate-motivated offences (see further below). In addition, following on from the first such plan covering the period 2007-2010, a second Strategic Plan for Citizenship and Integration 2011-2014 was approved by the Council of Ministers in September 2011. The Advisory Committee notes with interest that it is addressed to the entire population of Spain, that it highlights that integration is a two-way process and that education is considered in this context as a cornerstone in the creation of a cohesive society. It regrets, however, that no information is yet available as to the impact in practice of these strategies.

Advisory Committee welcomes the continued operation of Oberaxe, the Spanish Monitoring Centre on Racism and Xenophobia. This centre, which now operates within the Ministry of Health, Social Services and Equality, is entrusted with collecting, analysing and disseminating information on racism and xenophobia in Spain, promoting the principle of equal treatment and the fight against racism and xenophobia and co-operating with public and private actors at domestic and international level in this field. The centre publishes an annual report on the evolution of racism, xenophobia and related forms of intolerance in Spain, with particular reference to attitudes towards migrants, and makes available through its website a range of reports and other documentation related to racism and xenophobia. It also recently published a Guide to managing cultural diversity in small and medium-sized enterprises.

Recommendations

The Advisory Committee recommends that the authorities step up their efforts to combat all forms of racism and intolerance, including anti-Gypsyism, Islamophobia and anti-Semitism. The authorities should go beyond supporting research in this sector and take a leading role in both promoting tolerance and sending a strong message to society as a whole that racism is never acceptable.

It calls on the authorities to condemn all expressions of racism and intolerance, including those formulated by politicians, and to ensure that all alleged cases of hate speech are duly investigated, prosecuted and sanctioned.

It further invites the authorities to pursue their dialogue with representatives of the Muslim community in order to find solutions to the specific practical problems they face.

Media, Internet and social media networks

The Advisory Committee notes with regret that negative stereotypes about Roma are regularly relayed and amplified by the media. Roma representatives consistently report that the small amount of space given to Roma in the mass media, both audiovisual and the press, is most often devoted to covering news items in which Roma are portrayed in a negative light, and that in cases where a defendant in a criminal case is Roma, their ethnic origin is regularly revealed.

Some media have also reportedly adopted a somewhat hysterical tone regarding attempts by migrants over recent months to enter Spain by scaling the fences surrounding the territories of Ceuta and Melilla.

The Advisory Committee wishes to express particular concern at the television series *Palabra de Gitano*, broadcast recently on privately owned television station Cuatro. Although it purported to be about “getting to know the Roma”, this series was notorious for treating Roma as a group apart from the rest of Spanish society, exotic at best, and focusing on extremes and stereotypes in the interests of increasing its audience, while making no attempt to build a balanced or complete picture of the Roma minority in Spain today. While the programme is no longer on air in Spain, it has been sold to other countries and its website is still online. The Advisory Committee is concerned that the stereotypes and prejudices the programme fostered will likely long outlive its screen life in Spain, especially as few alternative, more positive images of Roma receive air-time (see also comments below, under Article 9). The Advisory Committee regrets in this context that the State Council for Audiovisual Media has never been established. The functions attributed by law to this body are currently exercised by the National Markets and Competition Commission, which does not appear to have been able to provide a remedy

against such programming. It notes with interest, however, that in a response to a request from the Institute of Roma Culture and 19 NGOs with seats on the State Council for the Roma People, the Audiovisual Council of Andalusia ordered the television station to remove from its website certain comments of a clearly xenophobic nature.

Comments sections under internet news articles as well as social media networks also provide increasingly fertile ground for the dissemination of racist, xenophobic and anti-Semitic messages (see also above). The Advisory Committee notes with concern the existence of pages on certain social media networks with specifically anti-Gypsy, anti-Semitic or islamophobic content. It welcomes the fact that prosecutors specialised in cybercrimes have been designated within each of the prosecution services in Spain, and notes with interest that amendments proposed to Article 507 of the Criminal Code (see further below) would provide expressly for the possibility for judges to order the withdrawal from websites of content found to be in breach of the prohibition of incitement to hatred and for the blocking of access to or the suspension of websites of which most or all of the content is in breach of such provisions. In the meantime, however, efforts to combat hate speech on the internet are frequently hampered inter alia by the low rate of reporting and difficulties in identifying the authors of such comments. This allows hate speech on the internet to proliferate, while its authors enjoy a sense of anonymity and impunity. The recent criminal proceedings launched following the spreading of anti-Semitic messages on Twitter (see above) are a welcome exception in this regard.

Recommendation

The Advisory Committee calls on the authorities to intensify their efforts to effectively combat hate speech on the internet and in the print and audiovisual media. It further calls on them to establish an independent council on audiovisual media at state level as provided for by law, with the powers and capacity to handle effectively complaints about the dissemination of discriminatory material in the audiovisual media.

Combating hate crime

Referring to concerns expressed in its Third Opinion as regards the difficulties encountered when seeking to prosecute and punish hate-motivated offences, due to the narrow wording of Article 510 of the Criminal Code, the Advisory Committee is pleased to note that the government has now proposed amendments to this provision and to Article 607 of the Criminal Code, aimed at significantly broadening the definition of crimes of incitement to hatred. These amendments are now pending before the Spanish Parliament as part of a series of broader proposed reforms to the Criminal Code.

The Advisory Committee also welcomes the creation in 2013, as a step in implementing the Comprehensive Strategy against Racism, Racial Discrimination, Xenophobia and related Intolerance, of a national network of hate crimes prosecutors, co-ordinated at state level and including prosecutors specialised in hate-motivated offences from each of the provinces in Spain. It notes with interest that this network is also co-operating with the police towards ensuring that hate motivations are taken into account at the earliest stages of investigations.

As regards the statistical monitoring of hate crimes, the Advisory Committee notes that the Ministry of the Interior now includes statistics on racist and xenophobic offences in its annual statistical reports and that the number of racist and xenophobic offences recorded increased from 261 in 2012³⁵ to 381 in

2013. It further notes with approval that the national network of hate crimes prosecutors is actively seeking to improve the gathering of such statistics and, pending an update to the computer programme used to register criminal offences, is running a manual register to record cases involving racist motivations as an aggravating circumstance, which may otherwise be missed. In parallel, the Ministry of Employment and Social Security and the Ministry of the Interior have developed a Handbook for training security forces in identifying and recording racist or xenophobic incidents, again with the aim of improving the recording of such incidents. The Advisory Committee observes that it is important that this tool now be widely distributed and that effective steps be taken to ensure that it fully serves its purpose in practice.

The Advisory Committee welcomes all of the above developments, which it sees as important steps towards improving the institutional response to individual hate crimes when they occur and towards building up a more accurate picture of the prevalence of such offences. It also welcomes indications received from civil society that there appears to have been a decrease in recent years in the number of physical attacks leading to serious injury or death committed against persons belonging to national minorities and immigrants. However, racist and xenophobic offences do continue to be committed³⁸ and, as the authorities have recognised, the number of such incidents that is reported to the authorities is undoubtedly significantly lower than the number that actually occurs.

In this context, it is encouraging to note that the national network of hate crimes prosecutors is working with NGOs, including through the newly created Council for Victims of Hate Crimes and Discrimination to help improve the reporting of racist or xenophobic incidents. The Advisory Committee observes that there are many barriers to such reporting, including shame felt by the victim, apprehension about contacts with the police (see further below) and a sense that reporting serves no purpose as the perpetrators will never be punished even if they are identified. The Advisory Committee wishes to emphasise that in the longer term, the success of efforts to raise awareness about and increase the reporting of racist offences will therefore also depend on the success of efforts to improve both the investigation and punishment of such offences and relations between law-enforcement officials and the groups most often targeted by hate crimes.

The Advisory Committee is deeply worried by the violent incidents that occurred in July 2014 in Estepa and in August 2014 in Castellar (Jaén), in which, following disputes involving Roma families, non-Roma inhabitants of these towns held public demonstrations against their Roma neighbours lasting several days and arson attacks were committed against the places of residence of a number of Roma families. Further worrying clashes between non-Roma and Roma also occurred in Bujalance in October 2014. It understands that criminal investigations have been opened regarding the events in Estepa and Castellar, and notes with interest that, following a complaint by twelve Roma NGOs and a subsequent referral by the prosecutor, preliminary proceedings concerning a possible offence of incitement to hatred under Article 510 of the Criminal Code have been opened with respect to the events in Castellar. In addition to addressing the alarming societal attitudes that these incidents reveal (see also above), the Advisory Committee stresses that it is vital that any racist and xenophobic motivations underlying the commission of these offences be adequately taken into account from the very earliest stage of investigation. Politicians should also systematically condemn violent physical attacks against individuals and their property as criminal offences that must be punished in accordance with the law, whoever their perpetrators and victims.

Recommendations

The Advisory Committee encourages the authorities promptly to enact amendments to Articles 510 and 607 of the Criminal Code in order to broaden the definition of incitement to hatred and enable such offences to be effectively sanctioned.

It strongly encourages the authorities to pursue their efforts to improve the reporting, recording, investigation, prosecution and punishment of hate-motivated offences.

It recommends that the authorities pursue, strengthen and expand their efforts to build the confidence of minorities in the police.

Conduct of law-enforcement officials

The authorities have taken a series of welcome steps towards eliminating the practice of ethnic profiling by the police and unjustified detentions of persons following identity checks, notably issuing a new circular specifying the criteria and procedures to be followed by members of the national police force in carrying out identity checks. The above-mentioned Handbook for training security forces in identifying and recording racist or xenophobic incidents also includes a section specifically addressing ethnic profiling. The Advisory Committee is moreover pleased to note that the practice of transferring foreign citizens to police stations even when they had produced the requisite identity papers now appears to have stopped.

Regrettably, however, the large numbers of complaints that continue to be submitted to the Ombudsman suggest that ethnic profiling still occurs in the form of excessive stops and searches. While some municipal police forces have introduced commendable practices in this respect, and the Ministry of the Interior also decided in April 2013 to make police identification numbers more visible, the Advisory Committee regrets that a number of recommendations addressed by the Ombudsman to the national police have so far not been followed. These included, for example, keeping a record of all stops and systematically reviewing all cases in which individuals complain that they have experienced ethnic profiling.

As regards police relations with minority groups, the Advisory Committee notes that the Handbook for training security forces in identifying and recording racist or xenophobic incidents also includes sections on improving support to minority communities, the need for collaboration between the police and civil society, victim assistance and interviews with victims and witnesses. 165 members of the security forces were trained as part of the project in which this handbook was produced and the authorities have indicated that these officers have gone on to train approximately 15 000 members of the various security forces in Spain. The Platform for Police Diversity Management, set up by police and civil society in 2010, has also prepared a Guide to Police Management of Diversity, which was published in June 2013. The Advisory Committee welcomes this initiative and notes that the guide sets out the issues faced by persons belonging to minorities as well as by police in a diverse society, and includes a wide range of good practices which it thus serves to disseminate.

The Advisory Committee invites the authorities to pursue their efforts to train all members of the police force to work more effectively in a diverse society, in order to improve relations between police and groups at the greatest risk of exposure to hate crimes.

It urges the authorities to take decisive steps to put an end to ethnic profiling, notably as regards excessive use of stop and search powers.

“The former Yugoslav Republic of Macedonia”

Adopted on 24 February 2016

Article 6 of the Framework Convention

Promotion of interethnic dialogue and tolerance

Present situation

The Advisory Committee commends the activism and professionalism of a network of civil society organisations that are engaged in the promotion of interethnic dialogue and respect, as well as the numerous non-governmental initiatives to bring representatives of different groups together in various areas of the public sphere, including in education, to enhance an environment of solidarity and trust. It notes with deep concern, however, that, despite these efforts, public life continues to be dominated by a pronounced sense of segregation between the two main ethnic groups, which is taking hold of an increasing number of public institutions, urban spaces and schools (see further Article 12). While serious interethnic incidents have successfully been averted in recent years, the Advisory Committee is deeply concerned by the widespread fears amongst its interlocutors of new eruptions of interethnic violence as a result of provocations or manipulation ahead of the June 2016 elections, intended to distract public attention from the ongoing political crisis.

The implementation of the OFA thus far appears to be resulting mainly in the development of parallel structures that are indifferent to each other and barely interact. The worthy aim of achieving equitable representation in public services has reportedly led to the creation of a pool of mainly Albanian minority representatives who – if actively working – often are placed in separate buildings or wings of Ministries with no actual tasks or competencies (see further Article 15). According to international and national interlocutors of the Advisory Committee, there have been no joint task forces, press conferences or any joint government action in almost a decade that could demonstrate to the public the values of intercultural co-operation or a firm commitment by the government towards good interethnic relations and trust between the communities. At the local level, the Commissions for Inter-Community Relations that are foreseen in the OFA to promote interethnic dialogue and trust appear not to function properly (see Article 15). It is further of deep concern to the Advisory Committee that, as a result of the profound societal division, bilingualism is disappearing, particularly among young people, which lastingly frustrates efforts towards interethnic dialogue and effective collaboration (see further Articles 10 and 14). In an atmosphere of strong ethno-nationalism, in particular young people are reported to identify increasingly as representatives of ethnic groups rather than as members of a diverse and united society.

The Advisory Committee welcomes in this context the ongoing evaluation of the role of the OFA in enhancing social cohesion. The Secretariat for the implementation of the OFA, with the support of the OSCE and the European Institute of Peace, has engaged in a review process focusing on six thematic areas: anti-discrimination, decentralisation, education, equitable representation, the use of languages, and the situation of numerically smaller communities. Six working groups with representatives of relevant Ministries and other governmental institutions have prepared analyses and policy recommendations that were presented to the government in February 2016 and await adoption. The

Advisory Committee notes the hopes placed by civil society and minority representatives in the outcome of this review process which is meant to trigger a new approach towards the formation of an integrated society based on the rule of law and respect for individual human rights. This is expected to become part of the agenda of the new government in line with the EU-related reform priorities.

Recommendations

The Advisory Committee urges the authorities to demonstrate their commitment to the development of an integrated society that is based on respect and trust between the various communities, by prioritising joint activities such as press conferences and public statements and by disengaging from ethno-nationalist policy making.

It further calls on them to proactively support the OFA implementation review process and to promote the effective implementation of the Agreement towards lasting interethnic co-operation and stability by establishing functioning dialogue platforms at central and local levels.

Protection from hate crime

Present situation

Following its amendment in February 2014, the Criminal Code contains several provisions that criminalise hate crime and hate speech, and racist motivation can be considered as an aggravating circumstance of any offence. A working group on hate crime was established by the Ministry of Justice in 2014. The Advisory Committee is concerned, however, by the unanimous observation of civil society and minority representatives that the existing provisions are insufficiently known or used by the relevant prosecution and law enforcement authorities. Despite an overall increase in racially motivated incidents and hate crime, little action has been taken by the prosecution in a number of well-reported cases. While the authorities do not maintain statistics on hate crime, an independent survey conducted in 2013 showed that only 14 cases of hate crime had been registered in courts throughout the country in three years, with most perpetrators freed on probation and the maximum sentence set at five months in jail. According to civil society representatives, hate crime is often still recorded as “violence” or “hooliganism”, thereby downplaying a situation that is increasingly problematic. An increase in racially motivated incidents and calls for violent interethnic clashes at sporting events has equally been reported with little or no action taken by the authorities in response. The Advisory Committee expresses its deep concern about this situation because inadequate police investigation and prosecution may prompt a climate of impunity which can encourage further racially motivated violence. It is not surprising in this context that minority representatives report little awareness of, and trust in, the available legal remedies against hate crime amongst their communities. According to them, affected individuals fear the police as a potential source of further victimisation rather than trust its ability or willingness to provide assistance.

The Advisory Committee is further deeply concerned by the recurrent reports, since the third monitoring cycle, of police brutality and excessive use of force demonstrated in particular against Roma, including Roma women and children. While some training of police officers has been conducted to promote their awareness of human rights standards and ensuing obligations when exercising police authority, ill-treatment reportedly continues to take place during random checks on the street, in the course of police raids, as well as at police stations where Roma are victimised when they intend to record a criminal offence directed against them. In 2013, there were 18 complaints filed with the Ombudsman’s Office concerning ill-treatment or excessive use of force by the police, while the Ministry

of the Interior's Sector for Internal Control and Professional Standards (SICPS) received 57 complaints concerning excessive use of force by the police (compared with 73 in 2012). Criminal charges, however, were launched only against one policeman, which raises serious concerns with respect to continued impunity relating to the actions of the security forces. The Advisory Committee reiterates its deep concern regarding the lack of fully independent oversight over the actions of law enforcement to ensure that police officers are fully accountable to investigate effectively and systematically all incidents of hate crime, including the ill-treatment and excessive use of force stemming from within the police forces.

Incidents of hate speech are equally reported to have significantly increased in recent years. It is of deep concern to the Advisory Committee that politically and ethnically motivated hate speech is regularly used in political circles, including by senior politicians in the government. Given the close relations between the main political parties and media providers, such views are uncritically amplified throughout the country in broadcast and electronic media, thereby spreading negative stereotypes and further deepening interethnic tensions. Despite efforts made towards self-regulation and training, notably through relevant civil society organisations, as well as the establishment of some independent oversight bodies, their effectiveness in addressing and curtailing the phenomenon thus far is limited. The Agency for Audio and Audiovisual Media Services, as the successor of the Broadcasting Council, is in charge of monitoring the media for content that could incite hatred. Yet it is not viewed by civil society as an independent body and has reportedly thus far refrained from imposing sanctions, relying instead on "informal warnings" with uncertain results. In addition, the Council of Media Ethics was established in December 2013. Its Complaints Review Commission, which is partially made up of citizens' representatives, took some action in 2015 to uphold the Code of Ethics of Journalists of Macedonia. The Advisory Committee emphasises the significant role of self-regulatory bodies, such as the Association of Journalists and the Council of Media Ethics, to promote ethical journalism and respect for diversity through their own codes of conduct, while fully respecting the principle of freedom of the media. For this purpose, it is indispensable to promote awareness amongst all journalists and media professionals of the existing ethical standards in order to enhance their professionalism and to ensure that negative stereotyping of certain groups in society and the promulgation of hate speech do not become accepted as normal behaviour amongst citizens.

Recommendations

The Advisory Committee urges the authorities to ensure that the available legal remedies against ethnically based violence and hate crime are applied in practice and that prosecution and law enforcement services are adequately trained to investigate effectively and promptly and sanction all relevant cases. Journalists and media professionals must further be trained to ensure that ethical standards are observed and the propagation of hate speech is prevented.

It further urges them again to put in place an effective and fully independent supervisory mechanism to ensure that the adherence to professional standards by the police and other law enforcement agents is effectively monitored and all alleged infringements are properly investigated and adequately sanctioned. More efforts must be made to inform the public about the available legal remedies in cases of misconduct, so as to ensure that trust in the police, in particular among Roma communities, is restored.

United Kingdom
Adopted on 25 May 2016

Article 6 of the Framework Convention

Tolerance and intercultural dialogue

Present situation

The Advisory Committee welcomes the UK Government's integration strategies and other sets of measures taken by the authorities at central and local levels, such as awareness campaigns, helplines, interfaith dialogue, all-party parliamentary committees and support for civil society activities that promote inter-ethnic tolerance and openness in society (see also Article 4). It notes that integration strategies opt to focus on disadvantage instead of race and ethnicity to avoid further separating people along community lines and to empower every citizen to actively participate in the process of fostering equality in society, regardless of their background.

Although national and ethnic minorities generally cohabit well in the UK, there has been some evidence and some reports suggesting an increase in hate-motivated incidents against ethnic minorities, which is in part due to specific, highly publicised trigger events rather than simply a result of improved reporting and recording of these crimes in recent years. Not only were anti-Semitic acts more frequent in 2014, in part triggered by political events in Israel (Israel–Gaza conflict), but anti-Muslim hate speech seemed to increase, particularly online, not the least fuelled by the current international context and domestic events. The Advisory Committee is also seriously concerned that, across the UK, Gypsies, Travellers and Roma are regularly subject to hostility, hate speech, physical attacks and hideous forms of prejudice and discrimination in political discourse, in the press, online and in society at large. There is seldom a public reaction to these vilifying comments in the press. It is common opinion among national and ethnic minorities' representatives that Gypsies and Travellers are often portrayed as perpetrators and a "criminal" group rather than as victims, and they are still not monitored by the police as a minority group. Finally, the European and domestic debate on migration has helped to foment episodes of intolerance against minorities as well as anti-immigrant rhetoric in social media, in the political arena, particularly by certain politicians, and in society at large.

In the view of the Advisory Committee, tolerance and intercultural dialogue are strained, and the protection of persons belonging to national and ethnic minorities is put at risk, when hate speech increases. The Advisory Committee acknowledges that political discourse that stirs intolerance and manifestations of racial discrimination is regularly countered by senior UK public figures, and the importance of diversity and the contribution of ethnic minorities to society is emphasised. However, it also recalls the importance of ensuring that these debates are conducted responsibly, respecting those belonging to minority groups, and that a clear message is sent to the public that these hate-speech attitudes are not acceptable. The Advisory Committee is also seriously concerned that sections of the media share responsibility in spreading intolerant and racially hostile narratives and behaviours to society at large by the way they sometimes portray incidents and events. Social media have become the preferred vehicle for the expression of anti-immigrant and anti-minority sentiments. While media should be promoting intercultural dialogue among different groups in society, the Advisory Committee's opinion is that this is not always the case in some sections of it. Existing mechanisms appear to be too weak to tone down derogatory and provocative language without encroaching on media independence, and little is being done to empower these mechanisms (see also Article 9).

Finally, the Advisory Committee points out that the work on integration appears to be jeopardised by certain aspects of counter-terrorism policy and anti-extremism/anti-radicalisation programmes, such as

Prevent and Channel, that risk fomenting fear and resentment among persons belonging to national and ethnic minorities, in particular in the Muslim community. In July 2015, a statutory duty was placed on schools, prisons, local authorities and hospitals to take measures to prevent non-violent extremism in England and Wales. According to government guidance, the day-to-day responsibilities of teachers, even at nursery-school level, now include identifying children at risk of radicalisation and referring them to the government's anti-radicalisation programme, Channel, run by counter-terrorist police officers. Between 2007 and 2013, 2 653 people were referred (547 from the education sector), about one third of them under 18, with the youngest being 3 years old. Of all those referred to the police for de-radicalisation since April 2012, 57.4% were Muslims. The Advisory Committee observes that under these programmes liability has been shifted to local authorities and in particular to teachers, to detect early radicalisation. In the opinion of some of its interlocutors, this has occurred without automatically providing teachers and lecturers with the necessary competence, and putting them at risk of over-reacting for fear of breaking the law. These measures are perceived by interlocutors as a general regression in the protection of individual rights, which may disproportionately affect children belonging to national and ethnic minorities.

The Advisory Committee observes that prejudice and ethnicity continue also to be at the origin of bullying of children and adolescents, in particular at school. It welcomes the information from the authorities that, in England, a reformed legal framework gives teachers and schools greater scope to tackle bullying, a clear remit for the Office of Standards in Education (Ofsted) to hold schools to account and funds for targeted initiatives. The engagement of authorities is similar across the country. However, the Advisory Committee understood from interlocutors that in Scotland, although some local authorities had excellent policies, there was large variation across local authorities in terms of prevention, action, monitoring, assessment, evaluation, staff training and enforcement. In Northern Ireland, ethnic minority students have admitted being bullied (called names or commented about their race or colour). It is reported that the most negative experiences in the education sector were encountered by Irish Traveller children. One barrier to addressing bullying in schools is that schools generally tend to lack knowledge of how to effectively confront the issue of racist bullying and may in some cases have difficulty acknowledging that a problem exists.

Recommendations

The authorities should intensify their efforts to counter the increasing climate of inter-ethnic prejudice and hate speech by stepping up efforts and initiatives to promote tolerance and intercultural dialogue, firmly condemning derogatory and racially hostile language in public discourse and calling on all political parties to refrain from using it. The Advisory Committee also calls on the authorities to engage with media outlets to promote a more nuanced understanding and reporting of facts to avoid fuelling intolerant and ethnically hostile behaviour while promoting the use of less derogatory language.

The Advisory Committee calls on the authorities to ensure that measures taken to prevent radicalisation do not have disproportionate consequences for persons belonging to ethnic minorities, in particular children.

Protection against hate crime

Present situation

The Advisory Committee notes an overall increase in hate crime across the country, except in Northern Ireland, where sectarian-based crime is still the most prevalent. In 2014-15 there were 52 528 hate-motivated criminal offences (hate speech and violence) recorded by the police; 42 930 (82%) of them belonged to the category of "race" hate crime. This was an overall increase of 18% compared with 2013-

14. However, the annual Crime Survey for England and Wales, which is a face-to-face victimisation survey, revealed that there are an estimated 222 000 hate-motivated criminal offences on average per year, of which 106 000 relate to race. The discrepancy (only one in four hate-motivated offences is recorded by the police) may be explained by under-reporting and shortcomings in the recording system.

The Advisory Committee welcomes the various policy measures adopted by the government and the police in the period under examination, in particular the hate-crime action plan, Challenge it, Report it, Stop it, aiming at preventing hate crime, increasing the reporting of hate crime and improving the criminal justice response to it. In 2014, the police developed their own National Policing Hate Crime Strategy and the College of Police's Hate Crime Operational Guidance aimed at improving prevention, understanding, investigation and recording of such crimes. Several steps have been taken to address the serious problem of under-reporting, such as third-party reporting and data sharing between the police and organisations such as Tell MAMA and the Community Security Trust for incidents involving anti-Muslim and anti-Semitic hate. Other initiatives included the True Vision website, a joint initiative between the police and the government to publish hate crime data and to enable victims and third party organisations to report hate crime online directly to the relevant police agency. In Wales the strategy "Tackling hate crimes and incidents: a framework for action" and the development of a National Hate Crime Reporting Centre through Victim Support marked other positive steps to tackle hate crime.

Legal provisions for racial hatred and racially aggravated offences with enhanced sentencing and remedies are available across the UK. However, the Advisory Committee understands from its interlocutors that the low level of prosecutions and judicial outcomes for incitement to racial hatred is a result of the high threshold for evidence and the fact that motivation or demonstration of intent is difficult to prove. Where aggravated offences are alleged, the prosecution often drops the element of racial motivation because it is difficult to prove. Several initiatives are being planned or implemented to improve understanding and trust in the judicial system, including communication with victims to make them aware of what can be prosecuted and to follow up the outcome of the case, and the introduction of an obligation for judges to indicate whether enhanced sentencing follows from hate crimes. In particular in Northern Ireland, the discrepancy between public perceptions of what is a hate crime and what is achieved in court as a final result is often at the origin of under-reporting and distrust of the police and judicial system by persons belonging to national and ethnic minorities. Regarding Gypsies, Travellers and Roma, heightened distrust of the police, high levels of under-reporting and the lack of evidence of crimes against these minorities, which are not monitored by the police as such, coupled with a loss of ability among the police to recognise prejudice, make their situation particularly worrisome.

Finally, the Advisory Committee appreciates that the 2013 reform measures for stop-and-search powers in England and Wales have improved the situation. These reforms were prompted by an ECHR investigation into the disproportionate use of these powers by five police forces, which had resulted in certain ethnic minorities being stopped and searched seven times more often than "White" people. The Advisory Committee understands, nonetheless, from the ECHR that training must be carried out regularly and for all police ranks because its impact is quickly "phased out" by time, officers' unconscious bias and rank. In Scotland, a substantial increase in non-statutory stop-and-search of young people in 2013-14 prompted thorough public scrutiny of the procedure and put in motion a reforming process which led to improvements. In Northern Ireland, the Advisory Committee notes that the 2013 Code of Practice for use of the stop-and-search powers provided by the Justice and Security (Northern Ireland) Act 2007 still does not include binding ethnic monitoring requirements, although it appears that there is no legal obstacle to do so. It also notes that the London Metropolitan Police continues to be under scrutiny for the allegations of 'institutional racism' following the 1999 Macpherson Report on the

Lawrence case and that specific measures to address misconduct and improve standards of professional behaviour have been put in place.

Recommendations

The authorities should intensify their efforts to raise public trust in the effectiveness of the legal remedies available against hate crime by increasing communication on cases, and recording and publicising the application of enhanced sentencing, where imposed.

The Advisory Committee also calls on them to further improve training of law enforcement to detect, investigate and bring to justice all hate speech and hate-motivated offences, and to monitor more closely hate crime against Gypsies, Travellers and Roma.

Community relations in Northern Ireland

In 2013, the Office of the First Minister and Deputy First Minister adopted the “Together building a united community” (TBUC) strategy, which reflects the Executive’s ongoing commitment to improve ‘good relations’, equality of opportunity and reconciliation between communities in Northern Ireland. As with the previous strategy, TBUC represents the framework for government actions to tackle sectarianism, racism and other forms of intolerance, thereby continuing to differentiate sectarianism from racism – which is dealt with by a separate strategy (see Article 4). The Advisory Committee understands from some of its interlocutors that, during the period under examination, the duty to promote ‘good relations’ principally between the two main communities, Catholics and Protestants, appeared on several occasions to take priority over wider equality and minority rights initiatives, which were blocked on grounds that they would lead to ‘community tensions’.

This would be due to the fact that, unlike the rest of the country, Northern Ireland does not interpret the ‘good relations’ duty as including a duty to tackle racism, including sectarianism. Instead, the lack of proper definition allows this notion to be used rather as a ‘tool’ to set aside politically contentious issues, such as legislating on the Irish language, and to justify a “do-nothing” attitude, eventually based on ‘perceptions’ rather than objective criteria. The Advisory Committee reiterates its opinion that the concept of ‘good relations’ apparently continues to be substituted for the concept of intercultural dialogue and integration of society, which would include other national and ethnic minorities present in the region, and regrets that this is used to prevent access to rights by persons belonging to these minorities.

In its previous opinion, the Advisory Committee also drew the attention of the authorities to the fact that to treat sectarianism as a distinct issue rather than a form of racism is problematic, as it allows it to fall outside the scope of accepted anti-discrimination and human rights protection standards. The fact that there is no legal definition of sectarianism and that it is taken rather to indicate discriminatory attitudes and opposition between the two main political/religious communities has insulated the terms from the broader equality framework. However, during its visit the Advisory Committee was informed by the authorities that no progress on the definition of sectarianism is expected in the short term.

Interlocutors expressed serious concerns to the Advisory Committee about the “institutionalisation” of sectarianism and its entanglement with the notion of ‘good relations’, which are causing gridlock in the political debate. Sectarian-motivated crimes predominate among hate crimes, but there is no aggravated sentencing; and, though sectarian crimes may be prosecuted through the notion of race, the high threshold for evidence generally prevents this happening. The authorities also indicated that

sectarian crime is highly unreported and that communities have started to pay less attention to the issue.

The Advisory Committee notes with regret that the effects of the prevalence of sectarianism in Northern Ireland society are also visible in many other issues, with a direct impact on other national and ethnic minorities, whose needs remain unmet. The process, launched by TUBC, of tearing down the peace walls by 2023 has started, but progress is slow, even hampered by the construction of new walls, and it relies heavily on communities' willingness to overcome fear. Housing segregation along sectarian lines is still very common and it impacts on housing solutions for other ethnic minorities, who are easy victims of harassment on the basis of the perceived reception of their presence in the community. Schools follow the same fate, with education still highly segregated along religious lines and only 6% of schools being integrated (see also Article 14).

Recommendations

The authorities should begin to implement the 'good relations' duty as provided for under the Northern Ireland Act 1998 in a manner that does not run counter to the equality duty and that does not prevent access to rights by persons belonging to all national and ethnic minorities.

It also calls on the authorities to introduce definitions of 'good relations' and 'sectarianism' in legislation, drawing on international standards relating to racism and human rights in general; and to ensure that sectarian crimes are dealt with in the criminal justice system in a way equivalent to other forms of hate crime.