

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

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 18 September 2017

Working document

Compilation of Opinions of the Advisory Committee relating to Article 8 of the
Framework Convention for the Protection of National Minorities (4th cycle)

"Article 8

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

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

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As of 18 September 2017, the Advisory Committee on the Framework Convention for the Protection of National Minorities had adopted a total of 24 opinions, including 4 opinions on Article 8, of which 4 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.

Cyprus

Adopted on 18 March 2015

Article 8 of the Framework Convention

Religious education and the right to manifest one's belief

Present situation

According to its Constitution, Cyprus has no official religion. At the same time, the predominance of Greek-Orthodox Christianity manifests itself in the observation of Orthodox holidays, the presence of Orthodox icons in schools, as well as the practice of organising confessions to Orthodox priests in the course of religious education classes in some schools. The Advisory Committee welcomes the fact that the syllabus for religious education at all schools has been adjusted as of the school year 2011/2012, focussing less on the Greek Orthodox faith and including more elements aimed at familiarising students with other religious beliefs and broader ethical questions. While members of minority communities have welcomed this development and more students appear willing to attend public schools as a result, Greek Orthodoxy is still established as the predominant religion in practice, as most teachers of religious classes adhere themselves to that faith, and there is resistance in some schools to pursuing a genuine approach of embracing diversity that treats all cultures equally. Religious education still forms a mandatory part of the public school curriculum, including at the schools attended mainly by students of minority background, while additional classes with religious education specific to the minorities continue to be taught on an optional basis.

A circular from the Ministry of Education issued in October 2014 clarified that Maronite, Armenian and Latin pupils could be exempted from religious education in elementary schools, provided that a justification is given, indicating the students' differing religion. As the circular further indicated that in secondary schools, 'Non-Christians' may be exempted from religious education, students of Armenian, Maronite or Latin background at secondary schools have faced difficulties, as teachers have pointed out that the circular did not apply to them. The Ministry of Education is reportedly in the process of issuing a second, clarifying circular to ensure that students belonging to the Armenian, Maronite and Latin minorities may be excused from religious education at elementary and secondary school levels. According to its interlocutors, the Advisory Committee understands however that most parents prefer their children to take part in the religious classes as they do not wish them to be left without supervision during school hours or to feel like outsiders in the class. It considers in this context that all children who do actively attend religious education should be treated equally and evaluated based on merit, irrespective of their personal religious belief.

The Advisory Committee welcomes the government efforts to promote the right of persons belonging to the Armenian, Maronite and Latin groups to manifest their beliefs including by visiting places of worship in areas outside the government control. It notes with particular interest the efforts of the Grand Mufti of Cyprus and the Archbishop of the Greek Orthodox Church of Cyprus, as well as the Maronite Archbishop, the Armenian Archbishop and the Latin Catholic Priest, under the auspices of the Swedish Embassy, to promote the right of all persons to have full access to their places of worship, without restrictions, including by jointly declaring all cases of vandalism or looting as unacceptable. The Advisory Committee expects that these important developments (see also comments on Article 6) will benefit all

persons belonging to minorities in their right to manifest their religion, including the Roma, who, the Advisory Committee understands, mainly practice the Alevi faith.

With regard to the oath that military recruits need to take when joining the army, the Advisory Committee welcomes the information that members of the three communities, who, given their Christian creed take the oath, while Non-Christians are asked to sign a declaration, have been allowed since August 2014 to manifest their specific Christian belief during the oath ceremony.

Recommendation

The Advisory Committee encourages the authorities to pursue their approach of broadening the curriculum followed in religious education classes towards other religious and broader ethical questions and ensure that the new syllabus is appropriately applied in schools. It further encourages their efforts to promote the rights of all persons to manifest their distinct beliefs including by facilitating access to the various places of worship as far as possible.

Denmark

Adopted on 20 May 2014

Article 8 of the Framework Convention

The right to manifest one's religion or belief

The Advisory Committee notes that the names of new-born children are recorded in a registry administered by the Danish National Church. This system does not seem to interfere with the freedom of conscience and religion of persons who are not members of this Church as the documents delivered no longer carry its insignia or reference to the Church.

The Advisory Committee notes with regret however, that in September 2013, ritual slaughter of animals in accordance with the kosher rules in Judaism and halal rules in Islam, became illegal in Denmark. The Advisory Committee recalls that the European Court of Human Rights ruled in 2000 that "ritual slaughter must be considered to be covered by a right guaranteed by the Convention, namely the right to manifest one's religion in observance, within the meaning of Article 9". While this ban in practice seems to have little impact on the availability of meat from animals slaughtered according to the kosher rules, imported from abroad, it does send a negative signal to the Jews and Muslims indicating lack of respect for their rights to practice rites called for by Judaism and Islam respectively.

The Advisory Committee also notes that there has been a wide debate in Denmark on the circumcision of boys. It further notes that the Ministry of Health asked the Danish Health and Medicines Authority to investigate the practice in November 2012. The study produced by this Authority found no reasons for banning the circumcision in general. Another report, by the National Agency for Patients' Rights and Complaints and the Patient Insurance Association is due in early 2016. In this context, the Advisory Committee considers that the outcome of the debate is likely to affect the right of persons belonging to certain groups, notably the Jews and the Muslims, to practice their religions. At the same time, the Advisory Committee agrees that certain conditions on the practice of circumcision of boys can be legitimately imposed by law in the interest of the health of children as long as they are proportionate in relation to this aim.

Recommendation

The Advisory Committee calls on the authorities to adopt a religiously sensitive approach to the question of ritual slaughter of animals and consider, in consultation with those concerned, solutions which take into account religious freedom. It also encourages the authorities to continue, together with the groups concerned, to search for pragmatic solutions to the issue of circumcision of boys, taking the health of children fully into account, while ensuring that the outcome does not unduly interfere with the practice of religious traditions at issue.

Moldova, Republic of
Adopted on 25 May 2016

Article 8 of the Framework Convention

The right to manifest one's religious belief

Present situation

The Advisory Committee notes with interest that the Islamic League of Moldova, which applied for registration with the Ministry of Justice in 2008, was registered as the first legally recognised Muslim association in March 2011. The registration was followed by public protests that were reinforced by some representatives of the Moldovan Orthodox Church. The Spiritual Gathering of Muslims of Moldova reportedly decided to register as a non-governmental organisation, as its repeated requests for registration as a religious group had failed. While representatives of the estimated 17 000 Muslims in Moldova, who include persons belonging to national minorities, continue to report low levels of public acceptance of their religious beliefs by the majority religious group and instances of discriminatory treatment still occur, the situation is generally considered to have improved in recent years. Furthermore, minority representatives still refer to a range of advantages that are extended to the Orthodox Church, including as regards the allocation of land and property for the building of suitable houses of worship and burial grounds, as well as to the continued predominance of Orthodoxy in religious teaching at schools (see also Article 12), which together constitute barriers to the free manifestation of religious beliefs by persons belonging to national minorities.

Recommendation

The Advisory Committee calls on the authorities to facilitate registration of the religious organisations of persons belonging to national minorities in consultation with representatives of the concerned communities, in order to ensure that persons belonging to national minorities can effectively enjoy the right to manifest their beliefs in appropriate places of worship.

“The former Yugoslav Republic of Macedonia”
Adopted on 24 February 2016

Article 8 of the Framework Convention

Right to manifest one’s belief and to establish religious organisations

Present situation

Persons belonging to national minorities continue to face difficulties in exercising their right to manifest their religions and officially register in accordance with the 2007 Law on Legal Status of a Church, Religious Community and Religious Group. Followers of small religious organisations continue to report that they are treated unfavourably by the government and are faced with bureaucratic obstacles when seeking construction permits for their places of worship. The Bektashi community in Tetovo has been attempting since November 2010 to register as “Bektashi religious community of the Republic of Macedonia”. Its various appeals lodged in domestic courts have all been dismissed. The Constitutional Court ruled in November 2012 that the community had not been discriminated against, as it could, despite not being formally registered under the 2007 Act, hold ceremonies in accordance with the Islamic religion and without pressure. It considered further that the non-registration was legitimate to prevent confusion in the public and among the believers, whose rights would otherwise be violated by the impression that the followers of the same religion could be divided in separate entities or communities. An application lodged at the European Court of Human Rights against the rejection remains pending. The Advisory Committee understands that the Bektashi Sufi community considers its spiritual doctrine to be substantially different from that of the Islamic Community of Macedonia. It further notes with concern that the community does not have access to its central place of worship, the Arabati Baba Teke in Tetovo, since armed members of the Islamic Community of Macedonia invaded the property in 2002 to convert it into a mosque. As a result of their inability to register as an official religious organisation, the Bektashi community has not been able to reclaim its property.

The Advisory Committee further notes that the repeated attempts of the Orthodox Ohrid Archdiocese to register as a separate religious group have also been dismissed by the domestic courts, finding that there was no substantiated difference between its name and symbols and those of the Macedonian Orthodox Church. The registration of four other Orthodox religious groups are similarly reported to have been rejected in 2014, based on a restrictive interpretation of the 2007 Law and the argumentation that the names and doctrines of religious organisations who wish to register must be different from the already existing ones. The Advisory Committee refers in this context to the jurisprudence of the European Court of Human Rights, according to which states shall not attempt to enforce unity within one religion.

Recommendation

The Advisory Committee calls on the authorities to facilitate the registration of the religious organisations in consultation with representatives of the concerned communities in order to ensure that persons belonging to national minorities can effectively enjoy the right to manifest their beliefs in appropriate places of worship, and are enabled to reclaim their property.