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Working document

Compilation of Opinions of the Advisory Committee relating to Article 10 of the Framework
Convention for the Protection of National Minorities (4th cycle)

"Article 10

- 1 The Parties undertake to recognise that every person belonging to a national minority has the right to use freely and without interference his or her minority language, in private and in public, orally and in writing.
- 2 In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties shall endeavour to ensure, as far as possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities.
- 3 The Parties undertake to guarantee the right of every person belonging to a national minority to be informed promptly, in a language which he or she understands, of the reasons for his or her arrest, and of the nature and cause of any accusation against him or her, and to defend himself or herself in this language, if necessary with the free assistance of an interpreter."

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 16 opinions on Article 10, of which 16 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 10 of the Framework Convention

Use of minority languages in relations with administrative authorities

The Advisory Committee notes that in principle, in accordance with the Law on Fundamentals of Administrative Action and Administrative Proceedings, persons belonging to national minorities have the right to address local administrative authorities in their minority language provided that they provide translation of all documents in Armenian. This requirement places the financial burden exclusively on persons belonging to national minorities and dissuades potentially interested people from using this right.

Moreover, there are no legislative or administrative provisions requiring or encouraging the use of minority languages on the part of local officials, even in those municipalities which are inhabited by a substantial number of persons belonging to national minorities. As a consequence, the right to use minority languages in relations with administrative authorities remains a dead letter in the law. The Advisory Committee notes, however, that representatives of national minorities do not consider the situation to cause any practical problems as their good knowledge of the Armenian language allows them to communicate effectively with the authorities. In particular, older persons belonging to national minorities, some of whom might have been educated outside Armenia, are capable of communicating in the Russian language, which remains widely understood in Armenia.

Recommendation

The Advisory Committee reiterates its call on the authorities to ensure that the appropriate use of minority languages in relations with administrative authorities is effective and respected. Close consultations with representatives of national minorities should be maintained to regularly establish the existing demands and needs pertaining to the use of national minority languages in dealings with administrative authorities.

Austria

Adopted on 13 October 2016

Article 10 of the Framework Convention

Use of minority languages at local level

Present situation

The amendments of the 1976 National Minorities Act in July 2011 altered the legislative framework governing the use of minority languages in contacts with administrative authorities at local level based on the compromise that had been reached at political level between the federal government and the Land of Carinthia. Accordingly, minority languages may be used in those localities that are included in a closed list of administrative districts, municipalities, and sometimes individual villages, for which an agreement was found in April 2011. This list was included as an attachment to the National Minorities Act in July 2011. Yet, unlike other provisions of this Act, the list of localities was adopted as a constitutional provision. As a result, denial of the right to use one's minority language in official contacts in localities not included in the list cannot be questioned in any court. According to the authorities, this

amendment has provided legal clarity as well as an actual increase in the number of localities where minority languages may be used in official contacts. However, the Advisory Committee questions the overall approach taken towards the implementation of minority rights, which is not in line with the general principle of equality before the law (see also Article 4). In the view of the Advisory Committee, as the list is not based on coherent criteria, it does not contribute to legal predictability or consistency.

Article 10(2) of the Framework Convention provides for the use of minority languages in official contacts 'either' in areas traditionally settled by national minorities 'or' where they reside in substantial numbers. The consideration of the size of the population is therefore irrelevant from the international law point of view, as the 'traditional' settlement in the case of all three minority languages in point is undisputed. According to the State Report, all localities are included where the minority population according to the census amounts to at least 17.5%, plus those where the Constitutional Court had previously considered that the threshold of a "mixed population" for purposes of minority language rights was met. Consequently, the use of minority languages is admitted in localities with quite varying populations, made up by persons belonging to national minorities sometimes by over 17.5%, and sometimes by only 10.1%. As national minority representatives stated, there are over a hundred villages where a convincing legal argument for their inclusion in the list could be made, based on equality considerations and based on the argumentation provided in the consecutive Constitutional Court decisions. Furthermore, not all localities for which the Constitutional Court had confirmed a "mixed population", are included in the list. In its decision of October 2000, for instance, the Constitutional Court held that a resident of the village of Eberndorf/Dobrla vas should have the right to use Slovenian as an official language at local level. Nevertheless, the village of Eberndorf/Dobrla vas is not included in the list. This right, as established by the Constitutional Court decision, has thus been withdrawn through a legislative amendment that can no longer be challenged in court.

The Advisory Committee further notes that there was no consultation on the above "consensus" with the representatives of the Hungarian and Croat minorities in Burgenland, despite the fact that the list also exhaustively establishes the localities where these minority languages are admitted for official use (27 municipalities in the case of Croatian and four in the case of Hungarian). Overall, there is much less controversy in this region as persons belonging to the two minorities typically live there in substantial numbers and thus fulfil the criteria of a "mixed population", at least on paper. In spite of this, Croatian and Hungarian are according to both national minority and government representatives, used mainly in oral communications, and very few individuals request written procedures to be conducted in minority languages. In their view, the use of minority languages in daily life would need to be actively encouraged in order to reverse the already quite advanced linguistic assimilation of these communities. However, as extra expenses for supporting bilingualism have to be covered by the municipalities, they depend on the commitment of the respective municipal council and mayor.

The Advisory Committee notes that overall the amended legislative framework has not led to more clarity and consistency in the implementation of language rights. This situation, as also agreed by the authorities, varies from location to location. Some villages and municipalities encourage the direct communication in the minority language and also make bilingual forms available, including online. Such efforts are very welcome because they promote the active use of minority languages in daily life. In other localities, officials reportedly react surprised and unprepared to guarantee communication in minority languages. Translation services must thus be requested separately which leads to significant delays and discourages the implementation of the law. Moreover, legal aspects also remain unclear. For instance, a contract may be valid in the minority language in front of a bilingual court, yet it is not considered a valid document in front of the responsible notary. Moreover, no provision has been made

to clarify access to district and higher level courts in the minority languages when appealing decisions rendered by the so-called bilingual courts. The Advisory Committee reiterates its concern about the highly complex and yet incomplete legislative framework, which is based on political-level negotiations rather than on firm and rights-based considerations. Such an approach appears to contradict the constitutional-level “targeted objective” of safeguarding, respecting and promoting minority rights (see also Article 4) and increasingly causes frustration and disappointment amongst the affected national minority communities.

Recommendation

The Advisory Committee urges the authorities to ensure that the rights contained in Article 10(2) of the Framework Convention are consistently implemented at local level on the basis of firm legal grounds and in line with targeted objectives enshrined in the constitution. Persons belonging to national minorities must have the opportunity to challenge the denial of the right to use one’s language in official contacts through an effective legal remedy.

Croatia

Adopted on 18 November 2015

Article 10 of the Framework Convention

Use of minority languages at local level

Present situation

According to Article 12 of the Constitutional Act on the Rights of National Minorities, the official use of minority languages shall be exercised in areas where the minority constitutes one third of the population, where agreed in international treaties, or when stipulated in local self-government statutes in line with the Law on Use of Languages and Scripts of National Minorities. As a result, there is great variety in the implementation of Article 10.2 of the Framework Convention. In some counties and local self-government units, minority languages such as Italian are spoken and used in official contacts as well as in courts, even where the minority population is far below 33%. On the other hand, national minority languages are not used in official contacts in some regions, despite their historic presence there. Hungarian, for instance, is no longer used as an official language in Beli Manastir, as the percentage of the Hungarian minority in the population lies below 10%. According to minority representatives, this is contrary to the Constitutional Act on the Rights of National Minorities and its notion of acquired rights. The Advisory Committee recalls its general view that numerical thresholds should not be relied on too strictly and that flexibility and caution should be applied in particular when using statistical data for the application of minority rights. It further points out that Article 10.2 of the Framework Convention is applicable in areas with a substantial number *or* historical presence of national minorities.

In line with the results of the 2011 census, the right to equal use of minority languages should be implemented in 27 municipalities and towns in Croatia: in 23 cases regarding the use of the Serbian language, and in one case each regarding the use of Czech, Hungarian, Italian and Slovakian. This right was brought to effect through appropriate provisions in the local statute in 22 of the 27 self-government units, the five outstanding cases concerning in four cases the Serbian language and in one case Slovakian (see Article 11). The Advisory Committee welcomes efforts by the Ministry for Public Administration to

promote the implementation of statutory obligations in all government units, including the adoption of action plans for the years 2012 and 2013.

The Advisory Committee further notes reports from national minority representatives that in a number of areas, a variety of minority languages are used in official contacts with local authorities without regulation but based on a mutual understanding that the minority language is known and may be spoken. While welcoming this flexibility, the Advisory Committee considers that in particular the lesser-used languages may require active encouragement to ensure that they are effectively used in daily life and do not disappear from the public sphere. It regrets in this context that Romani was excluded from the scope of application of the European Charter for Regional or Minority Languages (ECRML) with a reservation made to Article 7.5 concerning non-territorial languages. While welcoming the announcement of the authorities that this reservation will be lifted in the near future, it recalls that the protection offered by the ECRML also extends to Boyash Romanian as a territorial language spoken by the Roma in Croatia. It considers that more substantive efforts should be made to facilitate the use of such lesser-used languages in the public sphere, including through appropriate measures in the field of education (see Article 14) and by considering the proficiency in minority languages an advantage for the recruitment of public servants in municipalities where the languages are spoken.

Recommendations

The Advisory Committee calls on the authorities to implement more consistently the rights contained in Article 10.2 of the Framework Convention by ensuring that the relevant legislative framework is duly applied at local level and the use of minority languages and scripts in official contacts with local authorities in the relevant self-government units is facilitated.

It further encourages them to lift the reservation with respect to Article 7.5 of the European Charter for Regional or Minority Language and ensure that the use of minority languages, including those of numerically smaller minorities, is actively encouraged.

Cyprus

Adopted on 18 March 2015

Article 10 of the Framework Convention

Support and use of minority and official languages

Present situation

The Advisory Committee is pleased to note the absence of any restrictions applied to members of minority groups as regards speaking their language in private or in public. It considers, however, that more efforts could be made to promote the presence of traditional minority languages such as CMA and Armenian in the public sphere, in order to increase their visibility and prestige as integral parts of Cypriot society. While welcoming the fact that the name of the Armenian Nareg school is printed in Armenian script, for instance, the Advisory Committee regrets that there is otherwise little emblematic evidence of the Armenian language as part of Cypriot culture and heritage. As regards the efforts towards the revitalisation of CMA (see comments under Article 5), the Advisory Committee considers that they should also aim at strengthening CMA as a current means of communication that contains also modern elements, possibly with the help of material provided by Maronite communities in Lebanon,

which could serve to enhance the attractiveness of learning CMA as a living language rather than as an element of cultural heritage only. It reiterates that the promotion of languages of numerically smaller minorities may require active encouragement of their use and the creation of an overall environment that is conducive to the use of different languages in order to prevent the disappearance of lesser used languages from public life.

The Advisory Committee notes with regret that the second official language of Cyprus, Turkish, is entirely absent from the public sphere. Contrary to the relevant provisions in the Constitution, it is not used in official communications or in public documents or publications such as the Official Gazette. Successive Supreme Court decisions have ruled that the publication of official documents only in the Greek language is justified given that no actionable right follows from Article 3(1) of the Constitution as its effect have been suspended in line with the “doctrine of necessity”. The Advisory Committee understands that a number of related complaints, including against the fact that the application forms for student grants are not provided in Turkish language, have been turned down with reference to the Supreme Court. The Advisory Committee considers this situation problematic from the point of view of persons belonging to the Roma minority who speak mainly Turkish and who may be prevented from accessing certain rights due to language constraints. In addition, it shares the concern of some of its interlocutors that the current situation, in which the Turkish language is practically not used in an official capacity in the Republic, results in the marginalisation of a considerable part of its population. It emphasises that the promotion of bilingualism in Cyprus in line with its Constitution could assist in the broader formation of a cohesive society in which linguistic, ethnic or other diversity is welcome and encouraged rather than side-lined (see further comments on Article 14). The Advisory Committee welcomes in this context that the Ombudsman Office does respond in Turkish to all correspondence that is addressed to it in Turkish and is reportedly engaged in efforts to ensure that all basic texts providing general information and guidance to the public will be made available in Turkish.

Recommendations

The Advisory Committee calls on the authorities to promote the right to speak minority languages in private and in public by actively creating an environment that encourages the use of other languages, including Cypriot Maronite Arabic, in public life.

It further encourages the authorities to facilitate the increased use of Turkish in official communications and to promote the effective development of bilingualism in line with Article 3(1) of the Constitution.

Czech Republic

Adopted on 16 November 2015

Article 10 of the Framework Convention

The use of minority languages in dealings with administrative authorities

Present situation

The Advisory Committee notes that in principle persons belonging to national minorities have the right to address local administrative authorities in their minority language. It notes, however, with regret that in practice it is only in the municipalities where committees for national minorities have been established that this right is implemented, and in a very limited scope. In fact, in such municipalities, the municipal authority (mayor) is only obliged to publish regulations which affect the rights of persons

belonging to national minorities in the language of the national minority concerned (in addition to the Czech language). In this context, the Advisory Committee welcomes amendments to the Municipalities Act adopted in 2012 which simplified the procedure for establishing committees for national minorities and introduced the rule that the 10% threshold of the proportion of persons belonging to national minorities within the whole municipal population triggering the obligation to set up such a committee, needs to be attained by all national minorities cumulatively and not by one minority as before.

The Advisory Committee regrets that, according to information provided by the Government Council for National Minorities, following the release of the census data gathered in 2011, and given the general decrease in the number of persons declaring their ethnic affiliation, the number of municipalities required by law to establish committees for national minorities has decreased to 51 (as compared to 283 municipalities meeting the threshold prior to the census). This situation is particularly worrisome given that thresholds are only based on the census results. The Advisory Committee regrets again the lack of information on the practical implementation of the right to use minority languages in dealings with administrative authorities even in such municipalities where the committees for national minorities have been established.

Recommendations

The Advisory Committee asks the authorities again to review the legislation, policies and any other measure related to the practical situation of the use of minority languages in relations with administrative authorities.

The authorities are urged in particular to ensure that the right to use a minority language in relations with administrative authorities be respected in all municipalities where the law is applicable. In particular, the Advisory Committee encourages the authorities to pursue a flexible and pragmatic approach with regard to the application of the law and not to exclusively rely on the census. Close consultations with representatives of all national minorities should be maintained to regularly establish the existing demands and needs pertaining to the use of national minority languages in dealings with administrative authorities.

Denmark

Adopted on 20 May 2014

Article 10 of the Framework Convention

Use of minority language in local administration

The Advisory Committee notes with satisfaction that its previous positive assessment of the possibility for persons associating with the German minority to communicate in German with employees in Tønder, Aabenraa (Åbenrå), Sønderborg and Haderslev municipalities, has remained valid, as most officials in these local authorities are bilingual in Danish and German. Some of the webpages of these municipalities have also been translated into German and English. However, the procedures for the use of a minority language in written and oral communication with the local authorities by persons belonging to national minorities are not determined by any specific regulation and/or set of rules established at the local level and are not monitored.

The Advisory Committee notes that the public administration is undergoing a process of digitalisation, and some services, such as the Danish Tax and Customs Administration, now require that tax returns be

filed electronically. According to national minority representatives, this process, which has resulted in the closing down of local branches of the Tax and Customs Administration, has significantly impacted the possibility of some persons, in particular those lacking computer skills, such as among the elderly population, to address their concerns to an official who would be able to answer their queries in the language they understand best.

The Advisory Committee is aware that questions can be submitted over the phone to competent officials. It is, however, concerned about the fact that no clear information is available on how to contact officials who would be able to answer in German. For instance, the website of the Danish Tax Authorities does not offer any German pages let alone reference to a telephone number that allows the caller to speak German. This may have negative consequences for persons belonging to the German national minority (see further below comments with respect to Article 15).

Recommendation

The Advisory Committee calls on the authorities to ensure, when implementing the digitalisation strategy, that persons belonging to the German minority continue to be able to communicate fully in German, including electronically, with all bodies of administration concerned.

Estonia

Adopted on 19 March 2015

Article 10 of the Framework Convention

Use of minority languages in contacts with local administrative authorities

Present situation

Estonia has been at the forefront of the electronic communication and the websites of the public bodies provide information to the public in Estonian but also in English and Russian languages. Data collected during the census of 2011 indicates that Estonian is the most common first language, spoken by 68.5 percent of the population, followed by Russian spoken as a first language by 29.6 percent of the population. The Advisory Committee notes that strong legislative provisions and policies designed to protect the Estonian language and to guarantee its pre-eminence in all areas of public life, despite the multilingual makeup of Estonian society, remain cornerstones of public policy in Estonia. The Language Act adopted in February 2011 to replace and clarify an earlier Act of 1995 continues to define linguistic policies in all areas of public life.

The Advisory Committee notes that § 9 of the Act regulates the right to use a national minority language in contacts with local public administration, which in practice applies only to the Russian language. The Advisory Committee is disconcerted to note, again, that the threshold of 50 per cent of residents required to activate the clause is prohibitively high, does not correspond to the standards established in this area and is not compatible with the Framework Convention. The Advisory Committee notes however that in oral communication, “foreign languages”, including national minority languages may be used with the agreement of both parties of the conversation. This provision, which is a clear recognition by the legislator of the existing linguistic reality, is to be welcomed.

In practice, the use of the Russian language varies depending on the local authority. In municipalities located in the Harju County (Maardu) and Ida-Virumaa County inhabited by a large number of persons belonging to the Russian minority, municipal employees and officials, who often themselves are Russian speakers, communicate with persons belonging to national minorities in that language. The Advisory Committee regrets that the State report does not provide a more detailed account on the number of municipalities where the legal provision on the use of a national minority language in contacts with local public administration is applied and on the modalities used.

The enforcement of the Act has been delegated to the Language Inspectorate, which has been given broad competences including checking the level of language proficiency of employees, requiring that persons concerned take the Estonian language proficiency examination, recommending termination of employment contracts of employees or civil servants whose Estonian language proficiency does not meet the required standard, and issuing fines for breaches of the provisions of the Act. The Inspectorate identified 1,961 violations of the Language Act and fined 208 persons in 2011 and in 2012 found 2,171 violations and fined 176 persons. The average fine amounted to 56 Euro. The Advisory Committee reiterates its concern about this penalising approach, which is not conducive to creating a positive climate around learning Estonian; the authorities' efforts should rather focus on ensuring that sufficient, quality Estonian language classes are available and affordable.

The Advisory Committee reiterates its view expressed in the previous Opinions that, given that the State language has been securely established as a common language of communication in the public sector and in light of the fact that the number of persons not speaking Estonian has greatly diminished, the justification for the severity in approach to language matters as displayed by the Language Inspectorate is doubtful. Its actions may in fact be counterproductive by alienating those segments of population in Estonia which are mostly concerned by the goals promoted by the Integration Strategy. In this context the Advisory Committee also notes that Estonia has not signed the European Charter for Regional or Minority Languages, a specific legal instrument designed for the protection and promotion of the wealth and diversity of Europe's linguistic heritage.

Recommendations

The Advisory Committee reiterates its call on the authorities to ensure that persons belonging to national minorities, in areas where they reside traditionally or in substantial numbers, have the effective possibility to use their minority language in relations with local authorities, in writing and orally. It further strongly urges the authorities to lower the threshold of 50 percent of residents required to activate the legal clause on the use of minority language.

The Advisory Committee asks the authorities to ensure that the Language Act is implemented in a flexible way, taking into account the linguistic rights of persons belonging to national minorities. It repeats its call that the competent authorities refrain from imposing fines for violations of the Language Act and replace the penalising approach with a policy of positive incentives.

Finally, the Advisory Committee invites the authorities to consider signing and ratifying the European Charter for Regional or Minority Languages.

Finland

Adopted on 25 February 2016

Article 10 of the Framework Convention

Use of languages at local level

Present situation

Swedish speakers

The Advisory Committee welcomes the 2012 Strategy for the National Languages of Finland, which aims to ensure Finland continues to be a “viable bilingual Finnish-Swedish country”. The rationale for the Strategy was the authorities’ acknowledgment that, while still sufficient, the legislation in force (Article 17 of the Constitution and the 2003 Language Act) has not been adequately implemented. The Advisory Committee notes with deep concern that this is confirmed by the 2013 report on the application of language legislation. The 2012 Strategy provides for short- and long-term objectives revolving around maintaining and improving language knowledge, skills, and culture of and in both languages in education, the public sector, and for the population at large (see also Article 12). The *Folktinget* also alerted the Advisory Committee of the overall deteriorating situation as regards the linguistic rights of the Swedish-speaking population and this notwithstanding the strong legal guarantees in place. *Folktinget* pointed in particular to the fact that the 2013 government report, like the previous ones, underlines similar deficiencies in implementation, but that not enough has been done concretely to redress the situation.

The Advisory Committee notes with regret that the situation is unsatisfactory in particular as regards access to social welfare and health-care services in Swedish and that the state administration functions increasingly in Finnish only. The Strategy provided a set of tools that municipalities were encouraged to apply relating to the use of both languages in communication, publications, public procurement, and recruitment procedures. The Advisory Committee, however, understands that while more attention has been paid to linguistic rights in guidelines, this has not really been implemented in practice yet. The *Folktinget* also confirmed that the most serious concern, as expressed in the numerous complaints it receives, is scattered access at municipal level to social welfare and health-care services, day care services, state enterprises’ services provided in the Swedish language. The shortcoming in this municipal obligation to municipalities is considered to be the consequence of the lack of staff with adequate language proficiency, which is also linked to the decreasing presence of Swedish in education (see Article 14). Finally, widespread concern was expressed about the Public Social Welfare and Health care Service Structure Reform, the so-called SOTE, which will inevitably impact on linguistic rights (see Article 16).

The Advisory Committee understands that, if adequately funded, the 2012 Strategy is considered by stakeholders as a useful tool to strengthen the equal presence of Swedish and Finnish in education and access to services, and that its implementation will be further ensured by an Action Plan under elaboration. It considers nonetheless worrying that no specific funds seem to have been earmarked for this purpose.

The Åland authorities pointed out, in particular, that training for Åland law enforcement authorities and access to up-to-date information on pharmaceuticals (*Pharmafennica*) in Swedish remains problematic. While basic training for Åland police is available in Swedish, the Advisory Committee was informed that

further training as regards investigation and use of force is scanty, thereby putting police in the archipelagos lagging behind their mainland counterparts. Similarly, although the majority of doctors are Swedish-speaking, up-to-date information on pharmaceuticals is available only in Finnish.

Recommendations

The Advisory Committee urges the authorities to ensure that the Action Plan to implement the 2012 Strategy for the National Languages of Finland is swiftly adopted to enhance the effective implementation of the language-related legislation, encouraging in particular language skills and recruitment efforts. Proficiency in the Swedish language is to be considered an advantage for the recruitment of public servants in relevant municipalities, so as to reverse the negative trend affecting Swedish and guaranteeing a viable bilingualism including with respect to access to social welfare and health-care services. Adequate funding should be earmarked for this purpose so as to guarantee the Swedish language maintains its visibility and presence in the public domain.

The Advisory Committee encourages the authorities to ensure that adequate training for law enforcement personnel and updated information on pharmaceuticals are available in Swedish in Åland.

Use of minority languages at local level

In 2014, the government decided to pursue the Action Plan for the revival of the Sámi languages by 2025, which outlines measures to ensure the survival at national level of the three endangered Sámi languages: North, Inari, and Skolt Sámi. The Action Plan lays emphasis on language education starting from child day care in language nests, and training of qualified teachers (see Article 12 and 14 below). The Advisory Committee welcomes the authorities' initial efforts to implement the Action plan, but it has also been made aware by the Sámi representatives and organisations of the current difficulties to provide funds for continuing the planned activities, as well as of the specific challenges currently faced by Sámi residing outside the Homeland, in particular as regards support by municipalities for education in Sámi languages. While it understands that the government effort is concentrated in the Homeland, as well as the complexity of the situation local authorities are presented with elsewhere due to the small numbers of potential recipients, it also finds it particularly significant that, as acknowledged by the authorities themselves, more than a half of the Sámi population and 70% of children under the age of 10 live outside the Homeland. Hence, the more limited support generates a sentiment of "second-class" status among those Sámi residing elsewhere in the country. The Advisory Committee considers that, in order to guarantee an equal opportunity for individuals belonging to minorities to maintain and develop their cultural identity, specific and supplementary measures may be required for members of a dispersed national minority.

The Advisory Committee appreciates that the National Policy on Roma has provided the framework to launch activities for the revival of the Romani language through the financial support of the Ministry of Education and Culture. The implementation of language rights of Roma was the object of a report published in 2014 by the Ministry of Justice. The government concluded that Constitutional provisions and existing legislation sufficiently protect the linguistic rights of Roma. Rather than a new language act, what is needed is a revival programme to ensure its application in practice. From this perspective, the Advisory Committee notes in particular that progress has been accomplished during the reference period. In 2014, there were 14 language nests for Roma of all ages operating in different locations in Finland. Support available to teach the Romani language has increased (see Article 12 and 14). While these measures should lead to positive rippling effects, several interlocutors consider it to be far from

sufficient mainly due to the lack of resources for municipalities, the lack of qualified teachers, and sometimes the reticence of families themselves for fear of stigmatisation.

Recommendations

The Advisory Committee encourages the authorities to enhance their efforts to implement fully the revival of the Sámi languages Action Plan, in particular taking into consideration the need for additional specific measures targeting dispersed members of the Sámi minority thus enabling them to maintain and develop also their cultural identity.

The Advisory Committee also calls upon the authorities to ensure that sufficient resources are earmarked to continue the implementation of measures geared towards maintaining and reviving the Romani language.

Germany

Adopted on 19 March 2015

Article 10 of the Framework Convention

Use of minority languages in contacts with the authorities

Present situation

As noted in the Advisory Committee's previous opinion, the legal framework allowing for the use of the Sorbian language in dealings with local administrative authorities and courts in the traditional settlement areas of Sorbs is in place; however, this is not enough in itself to develop and support the use of this language. There are still too few public servants able to speak Sorbian, which means that in practice, the possibility of using this language in contacts with the authorities remains underused. The Advisory Committee welcomes the information that 120 public officials employed by the local authorities in Bautzen have in recent years declared their willingness to learn Sorbian and have attended Sorbian language courses, and that a positive climate has been generated around this process. It hopes that a similar operation can be launched in Brandenburg and reiterates the importance of enabling persons belonging to national minorities to use their language not only in private but also in the public sphere.

Representatives of North Frisians in Schleswig-Holstein similarly point to a lack of Frisian-speaking public officials, which hinders the use of their language in their contacts with the administrative authorities. The fact of speaking Frisian should in their view be considered an advantage when applying for public employment. The Advisory Committee observes that this would not only make it easier for Frisians to use their language in their contacts with the administrative authorities, but could also encourage more Frisians to seek employment in the region. This could contribute to reversing the tendency among the most highly educated Frisians to move away from their traditional settlement areas when they reach employment age, a trend that may moreover tend to accelerate the disappearance of Frisian as a living language in Schleswig-Holstein.

According to information provided by representatives of Sater Frisians, the low number of speakers of Sater Frisian makes it impracticable to insist on using their language in all contacts with the local authorities. However, they welcome the openness to using this language on the part of the local

administrative authorities, where speakers of Sater Frisian are always present at the Saterland town hall. The latter also displays a “We speak Sater Frisian” sign in order to encourage individuals to feel free to use this language.

Danish speakers also report difficulties in using Danish in contacts with administrative authorities, pointing, for example, to the heavy burden involved in translating into German the administrative documents of Danish minority schools for taxation purposes. The authorities of Schleswig-Holstein have indicated that they are currently exploring the possibility of inserting a new §82b in the *Land* Administrative Act to provide for Danes, Frisians and other minority groups to be able to present documents to local authorities in their minority language, with translation costs to be borne by the municipality concerned. This would in the *Land* authorities’ view have the added benefit of providing a strong incentive to local authorities to recruit staff who speak the minority languages concerned.

The Advisory Committee recalls generally in this context that in addition to amending the law where it acts as a barrier to the exercise of minority rights under the Framework Convention, maximum use should be made of the existing possibilities provided by law for the use of minority languages in contacts with administrative authorities at local level, for example by actively promoting the employment of speakers of minority languages. The authorities should moreover take and actively support measures that can create an environment conducive to the use of minority languages, including through the allocation of the necessary financial and human resources, as a means both of preserving the linguistic identity of minorities and raising the profile of their language among the majority population. The Advisory Committee also underlines in this context that e-administration and e-governance may provide additional possibilities for promoting the use of minority languages in contacts with local and regional administrative authorities.

Recommendation

The Advisory Committee again calls on the authorities to implement fully the legislation in place to promote the use of minority languages in contacts with local administrative authorities and adopt effective measures to create an environment conducive to the use and promotion of the use of the Sorbian, Danish and Frisian languages in dealings with local administrative authorities. It encourages the authorities in Schleswig-Holstein to pursue, in full consultation with representatives of minorities, the process of amending legislation at the level of the *Land* in order to facilitate the use of minority languages in contacts with the relevant administrative authorities.

Hungary

Adopted on 25 February 2016

Article 10 of the Framework Convention

Use of minority languages in relations with administrative authorities

Present situation

The Advisory Committee in its previous Opinions acknowledged that the legislative framework in Hungary was compatible with the Framework Convention and requested that the authorities continue their efforts to encourage the use of minority languages in relations with administrative authorities.

The new Fundamental Law of Hungary, in Article XXIX, guarantees to all persons belonging to national minorities the right “to use their mother tongue, to use names in their own languages individually and collectively, to nurture their own cultures, and to receive education in their mother tongues.” Expanding on this general provision, the Act on the Rights of Nationalities of 2011 confirms the provisions that existed in the earlier legislation and provides for the right to use minority languages in civil and criminal proceedings as well as in public administration proceedings (Article 5 § 2). The Act further stipulates that in municipalities where persons belonging to a national minority constitute, according to the last census, no less than 20% of the inhabitants, the minutes and decisions of the municipal council shall be kept, should the local nationality self-government so request, in the language of the national minority concerned, in addition to Hungarian (Article 5 § 5). In addition, nationality self-government members may use their minority languages during the meetings of municipal councils (Article 5 § 4). The Advisory Committee notes, however, that in practice these rights are rarely used due to fluency in the Hungarian language of persons belonging to national minorities.

The Advisory Committee further notes that in municipalities where persons belonging to a national minority constitute, according to the last census, no less than 10% of the inhabitants, the municipal decrees and announcements shall be promulgated and published, in addition to the Hungarian language, in the language of the national minority concerned and the forms used in public administration proceedings shall be available in that language (Article 6 § 1 (a) and (b)). The Advisory Committee notes that according to its interlocutors, in practice this opportunity is seldom (if ever) used, as it would impose an additional administrative burden on all concerned.

National minority languages may also be used in the National Assembly by Members of Parliament belonging to a national minority and the nationality advocates. The Advisory Committee welcomes the information shared by the nationality advocates that the Rules of Procedure of the National Assembly authorise them to address the plenary sittings and committees in their minority language, provided they request interpretation a day in advance. This possibility is warmly welcomed as it demonstrates the positive and inclusive attitude towards national minorities and their languages in the public domain. It has to be noted however, that this right is rarely, if ever, used on account of fluency of all concerned in the Hungarian language, and on account of the administrative and financial burden it would entail.

Recommendation

The Advisory Committee reiterates its call on the authorities to encourage persons belonging to national minorities to use minority languages when dealing with administrative authorities, by creating an environment, which is not obstructive to such a possibility in practice.

Italy

Adopted on 19 November 2015

Article 10 of the Framework Convention

The use of minority languages in dealings with administrative authorities

Present situation

The Advisory Committee notes with satisfaction that the authorities actively continue to promote public use of the languages of recognised linguistic minorities in the municipalities where they live. The fund which has been set up by the Regional Affairs Department, pursuant to Law No. 482/1999, continues to

disburse grants to projects submitted by local authorities and local state administrations which aim to guarantee the availability of personnel speaking minority languages at linguistic help desks (*Sportelli linguistici*). The grants are most often used to finance the employment of translators and/or interpreters, training courses for serving personnel or to employ on temporary contracts (lasting a maximum of one year) outsourced personnel capable of communicating in minority languages. The Advisory Committee notes that according to the State Report the funding for this type of project has not been affected by budget cuts and has even seen a noticeable increase from 1,807,260 Euros in 2012 to 1,995,068 Euros in 2014.

The right to use minority languages in communication with administrative authorities is most thoroughly respected in the Autonomous Region of Valle d'Aosta/Vallée d'Aoste, and the Autonomous Province of Bolzano/Bozen (Trentino–Alto Adige/Südtirol Region) where respectively French and German languages are used on an equal footing with Italian. Furthermore, the Ladin language is used in the two valleys in the South Tyrol region inhabited predominantly by Ladins. In both regions, minority languages are used in public meetings, for publication of official documents and in administrative communication with individuals. The Advisory Committee notes in particular the well-developed bi-lingual e-administration in the Trentino–Alto Adige/Südtirol Region.

In a number of regions, such as Sardinia and Friuli Venezia Giulia, additional funding for linguistic help desks has been provided by regional authorities. In Sardinia, according to the State Report, a number of municipal linguistic help desks have been set-up to facilitate communication in the Sardinian language and, in the case of Alghero, in Catalan. The Advisory Committee notes with regret that the lack of information on the number of such help desks and on the funding makes it impossible to create an impression on whether such undertakings are adequate to meet the needs of over one million Sardinian-language speakers.

In Friuli Venezia Giulia, the Slovenian language is supported with funding provided both by the central and regional authorities. The Advisory Committee notes that, according to the State Report, around 59 linguistic help desks have been in operation assisting persons using this language. Furthermore, a “One-Stop-Shop” has been set up at the Government Commissioner’s Office at the Prefecture of Trieste, enabling Slovenian-language speakers to exercise their right to use their own language in communication with all public administrations thus implementing the relevant provision of the regional Law No. 38/2001. Finally, the meeting rooms in the Municipality of Gorizia have been provided with simultaneous interpretation equipment and the debates are now conducted bilingually. It has to be noted, however, that according to Slovene representatives the progress has been slowed down somewhat by the lack of appropriate linguistic tools, such as the official terminology in the Slovenian language. As a consequence, the e-administration, which has been vastly developed throughout the different administrations, has not kept up the pace as regards minority languages.

Regrettably, the Advisory Committee notes that in areas inhabited by numerically smaller linguistic minorities, such as the Albanians, Croats or Greeks, no linguistic help desks have been put in place.

Recommendations

The Advisory Committee encourages the authorities to continue their efforts to promote the use of minority languages by persons belonging to minorities in dealings with the local authorities, as required by domestic legislation and the provisions of Article 10 of the Framework Convention. Adequate steps should be taken to ensure that linguistic help desks are opened in all the municipalities concerned and that these help desks are given the human and financial resources they need to operate effectively.

The Advisory Committee calls on the authorities to ensure, when implementing the digitalisation strategy, that persons belonging to the Slovene minority continue to be able to communicate fully in Slovenian including electronically, with all administrative bodies concerned.

Moldova, Republic of
Adopted on 25 May 2016

Article 10 of the Framework Convention

Use of minority languages at central and local level

Present situation

The 1989 Law on Languages, which, though widely considered to be outdated, remains in force, and establishes the state language in the Latin alphabet as the only official language, and Russian as “language of interethnic communication”, which is meant to guarantee the “fulfilment of real national-Russian and Russian-national bilingualism”. While Gagauz has co-official language status in Gagauzia, other minority languages are much less protected. Article 6 of the law provides citizens with a choice of using either Russian or the state language (or Gagauz in Gagauzia) when approaching central administrative authorities. Overall, however, the Advisory Committee observes that implementation of these provisions remains inconsistent throughout the country. The Equality Council has found discrimination on the basis of language, in particular with respect to access to justice, citing a number of cases where courts refused to respond to complaints submitted in the Russian language, referring to Article 24(2) of the Code of Civil Procedure, and the possible use of interpretation services. The Gagauz language, despite its special status in Gagauzia, is reportedly used only very rarely in official communications and even less in written correspondence.

The Advisory Committee acknowledges the practical difficulties encountered by the various institutions in ensuring implementation of the individual’s right to choose the language of communication with central authorities, in particular as it has reportedly become an increasing challenge to identify suitable staff who are proficient in both languages. It further notes with concern that the services of interpreters, which are often necessary to implement the law and constitute a heavy financial commitment, are not foreseen in the respective budget allocation processes by administrations at all levels. The lack of consistency with respect to the implementation of the language legislation by public institutions is further demonstrated by the different practices applied to the respective bodies’ websites. The Ministry of Culture site is available in the state language and in English (see Article 5), while the Ministry of Interior maintains its site only in the state language, thus raising issues of access to information for persons belonging to national minorities. The Equality Council and the ombudsman office both run their websites in the state language and in Russian (in addition to English), which is highly welcome.

The legislative framework further provides that in localities where persons belonging to the Bulgarian, Russian and Ukrainian minorities constitute the majority of the population, “the native or other convenient language is used”. The level of implementation of this provision, however, also varies significantly. In some areas, such as Taraclia and Balti, mainly Russian is spoken in contacts with local administrative authorities, even to the point that issues of language discrimination towards speakers of the state language arise. As regards Ukrainian, minority representatives report that there is very little use of Ukrainian in official communications in their villages. The Advisory Committee further regrets that Romani is reportedly not used in any official contacts, not even in Otaci and other localities where Roma

constitute the majority of the population. Rather, it notes with concern that the aim of “real bilingualism” appears to have led to a situation where speakers of lesser-used languages are mainly assimilating into either one of the two larger language groups, in effect becoming monolingual as a result. Since, in addition, the number of speakers overall who are fully bilingual in the state language and in Russian is decreasing (see also Article 14), the Advisory Committee considers that the aim of “real bilingualism” has not been achieved. In practice, it has rather contributed to the formation of two parallel and mutually exclusive public spheres that rely on either the state language or on Russian as main language of communication, thereby cementing and enhancing existing divisions.

The Advisory Committee further notes that a number of efforts have been made towards the ratification of the 1992 European Charter for Regional or Minority Languages, which was signed by the Republic of Moldova in 2002 and remains due for ratification in line with Moldova’s pre-accession commitments towards the Council of Europe. A co-ordinated list of commitments foreseen in charter provisions was developed in relation to eight languages. The Advisory Committee understands that following a number of feasibility studies, a review of the resulting financial implications is currently ongoing. It regrets that there have been no tangible results thus far as it considers the ratification of the charter in particular beneficial for the sustained protection and preservation of the lesser-used minority languages, including Gagauz, Yiddish, Tatar and Romani, as part of Moldova’s unique cultural heritage.

Recommendations

The Advisory Committee calls on the authorities to implement more consistently the rights contained in Article 10(2) of the Framework Convention by ensuring that the use of minority languages in official contacts with local authorities is actively facilitated in an effort to accommodate the linguistic diversity in the country through the effective promotion of multilingualism.

It further calls on the authorities to prioritise the recruitment at local level of civil servants with appropriate language skills over the employment of interpreters, in order to ensure that the active use of all relevant minority languages is encouraged in the public sphere and in official communication with municipal employees where applicable.

Norway

Adopted on 13 October 2016

Article 10 of the Framework Convention

Use of languages at local level

Present situation

The authorities informed the Advisory Committee about their intention to develop a strategic plan for the revitalisation of the Kven language. This plan aims to build on the activities carried out so far concerning, *inter alia* early childhood education and culture and language development. Kven organisations stressed that although officially recognised as a minority language in 2005, Kven is critically endangered with at present only approximately 400 fluent speakers. In the opinion of the Advisory Committee’s interlocutors, past assimilation policies make the revitalisation of the language essential. The Language Council, which is the state’s consultative body on language issues working to strengthen the Norwegian language and language diversity in Norway, has established a special advisory service on the Kven language. The Advisory Committee welcomes various civil society initiatives to

promote the use of Kven such as the ‘mentors programme’ which consists of creating informal local language groups headed by a mother tongue speaker, often an elderly person. Finally, the Advisory Committee notes with regret that only one county out of six in the North of the country has a language centre, the *Storfjord Språksenter*, which promotes the Kven (and Sami) languages.

The authorities consider the standardisation of the Kven language as one relevant aspect of the revitalisation process. The Kven Institute completed the work paying attention to respect, to a maximum extent, the differences among the various dialects in order to accommodate the largest number of speakers. A grammar book is available and an online dictionary is being developed. However, the Advisory Committee understands that the standardisation process is causing some concern among certain organisations representing the Kven minority who wish to continue writing in Finnish, as it was the case for the Kvens before a written language was developed. Other Kven speakers consider Kven as a language in its own right and support its standardisation.

The Advisory Committee was not made aware of measures taken to improve the presence of Romani languages in public life, although such opportunities would be welcomed by parts of this community.

Recommendations

The Advisory Committee recommends that the authorities should develop and implement a comprehensive plan to revitalise and promote the Kven language including through developing further language nests, language centres and promoting adult education. It also calls on the authorities to earmark sufficient resources for this purpose, and to monitor regularly the results of such measures in order to ensure that persons belonging to the Kven minority can maintain and develop their cultural identities and actively use their minority languages in the public sphere.

The authorities should support the process of standardisation of Kven that takes into account a broad range of variants, whilst reinforcing confidence that Finnish will continue to be promoted.

Slovak Republic

Adopted on 3 December 2014

Article 10 of the Framework Convention

Legislative framework for the use of languages

Present situation

The Advisory Committee welcomes the amendments made to the legislative framework pertaining to the use of minority languages, i.e., the State Language Act and the Minority Language Act, in 2011 and 2012. Accordingly, minority languages may be used in private without limitations, while official use of minority languages in contacts with local authorities is regulated according to set thresholds. Article 1(2) of the Minority Language Act defines a minority language as a “codified or standardized language, which is traditionally used (...) by citizens who belong to a national minority and is different from the state language; minority languages include Bulgarian, Czech, Croatian, Hungarian, German, Polish, Roma, Ruthenian and Ukrainian”. The Advisory Committee welcomes that the list of languages is thereby kept open-ended but reiterates its view that the enjoyment of rights to use one’s language should not be

limited to citizens only. It understands, however, that the limitation is irrelevant in practice as there are very few non-citizens belonging to national minorities living in Slovakia and if they should be addressing their local authorities, no proof of citizenship is usually required for the processing of their requests. The possibility of imposing fines for not appropriately using the state language, according to Article 9a of the State Language Act, only applies to public administration bodies when issuing information intended for the general public or alerting to danger.

The Advisory Committee further notes with interest that Article 2(1) reduces the threshold for the applicability of the right to use a minority language in official contacts to 15%, as shown in two consecutive population censuses. This reduction will thus become effective only as of 2021 at the earliest, when the next population census is scheduled. In the meantime, Article 7c(2) of the Act refers to a Government Regulation that lists all municipalities where citizens belonging to a national minority form at least 20% of the population, as per the results of the 2001 census. The Advisory Committee considers this system rather complicated in its application. While relying on the results of three different censuses, it places particular emphasis on the now outdated results of the 2001 census. This disadvantages those national minorities who registered a significant increase in the last census, among others the Ruthenians and Roma. Generally, the Advisory Committee considers that caution and flexibility must be exercised in the application of thresholds and that efforts must be made to maintain close consultations with national minority representatives to regularly establish demand and need, as stipulated in Article 10.2 of the Framework Convention. Representatives of the Croat minority, for instance, contend that their substantial residence in the former municipalities of Jarovce and Čunovo does not entitle them under the Minority Language Act, as these locations have become boroughs of the capital and are no longer included in the list of municipalities.

The Advisory Committee further points to the fact that the rights contained in Article 10.2 are triggered by one of the two main criteria (i.e., substantial number *or* area of traditional residence), particularly with regard to lesser used minority languages that may require protective arrangements as they may otherwise disappear from the public sphere. It regrets the fact that Article 4a of the Minority Language Act foresees the possibility of conducting local referenda on the change of designation of a municipality where minority languages may be used in official contacts, since it considers that any limitation of minority rights may not be decided through majority vote as this would contradict the very essence of minority protection.

Recommendation

The Advisory Committee encourages the authorities to pursue a flexible and pragmatic approach with regard to the application of the rights contained in the Minority Language Act and not to exclusively rely on statistics. Close consultations with representatives of all national minorities should be maintained to regularly establish the existing demands and needs pertaining to the use of national minority languages.

Use of minority languages in contacts with local authorities

Present situation

The Advisory Committee notes that the implementation of the above legislation reportedly remains problematic in a number of municipalities. While efforts are made by the authorities in designated municipalities to accommodate requests made by persons belonging to national minorities in minority languages, the number of staff with adequate language proficiency is still limited. This is particularly the case for Romani. Roma representatives informed the Advisory Committee that Romani is hardly ever

used in official communication, even in the municipalities where 20% of the population is Roma. The same is reportedly true for the internal discussions of public authorities, where, according to national minority representatives, almost exclusively Slovak language or sometimes Hungarian are used, but hardly ever any of the other minority languages. The Advisory Committee welcomes that some training has been organised to enable public servants to gain more proficiency in minority languages. It considers, however, that in particular the lesser used languages often require active encouragement to ensure that they are effectively used in the public sphere in daily life. It further considers that proficiency in the minority language should be considered an advantage for the recruitment of public servants in municipalities which have been designated as those where minority languages may be used in official communication. The Advisory Committee welcomes that the Office of the Ombudsperson replies to all requests in the language of communication, irrespective of the fact in which municipality the claimant resides, as one measure that actively encourages the use of minority languages in the public sphere.

Recommendation

The Advisory Committee calls on the authorities to intensify their efforts to ensure that a sufficient number of municipal employees is adequately trained and able to respond to requests in minority languages, in particular Romani, and that the use of minority languages is actively encouraged in official communication where applicable.

“The former Yugoslav Republic of Macedonia”

Adopted on 24 February 2016

Article 10 of the Framework Convention

Legislative framework for the use of languages

Present situation

The use of languages continues to be regulated by the amended Constitution and the 2008 Law on the Use of Languages. Accordingly, the Macedonian language in its Cyrillic script is the official language throughout the country while any other language spoken by at least 20% of the population is also an official language, in its script, as specified. In practice this provision applies to the Albanian language only, which accordingly is used as an official language in a variety of public spheres, such as in Parliament, in communication between citizens and central government institutions, in court proceedings, in administrative proceedings, and in election processes. The Advisory Committee notes, however, that the implementation of these provisions varies greatly. Albanian is used, for instance, by some ministries on equal terms with Macedonian (the official website of the Ministry of Justice, for instance, features information in Macedonian, Albanian and English), while other Ministries provide public information in Macedonian and English (such as the Ministry of Foreign Affairs) or in Macedonian only. Despite the fact that Article 54 of the Law on the Use of Languages specifies that open competitions for projects shall be published in both Macedonian and “the other official language(s)”, the Ministry of Culture’s website provides information on competitions only in Macedonian. The Advisory Committee regrets this lack of unified practice as it sends an ambiguous signal about the interpretation of the Constitutional and legislative provisions with respect to the use of languages, that is not conducive to transparency and legal clarity (see also Article 11).

In addition, the languages of communities that constitute more than 20% of the population at local level shall be used in official communication in those municipalities. Of altogether 80 municipalities, 30 have at least one minority community that accounts for 20% of the population. Altogether, 28 municipalities are obliged to provide for official use of Albanian, four municipalities should use Turkish in official communication and one each Serbian and Romani. The Advisory Committee was informed during its visit to Gostivar that the Turkish language is indeed used in official communications where possible, as two municipal employees speak Turkish. However, the municipality has not been able to afford the employment of an interpreter. Turkish is reportedly not used in any written procedures apart from the occasional requests for having identity documents issued also in the Turkish language (see Article 11). It is welcome that in some other municipalities where minority communities account for less than 20%, their languages have been anyway accepted for official use by a decision of the council of the respective self-government unit. As a result, there are a number of bilingual and trilingual municipalities, as well as one municipality, Dolneni, where four languages have been accepted for official use. Vlach is used in official communication in Kruševo, despite the fact that only some 11% of the population consider themselves as belonging to the Vlach minority. The Advisory Committee reiterates its opinion that where thresholds exist, these must not be applied rigidly. Flexibility and caution should be exercised in particular in situations where statistics are based on outdated and disputed figures (see Article 3). The Turkish community, for instance, accounts for just under 20% of the population in a number of municipalities according to the 2002 census, which – given the doubts generally expressed about its accuracy – constitutes an unconvincing argument for not accepting the Turkish language in official use.

In terms of implementation of the legislation at local level, the Advisory Committee again observes great variety, depending on the availability of resources and political will to find practical solutions. While particularly in almost mono-ethnic minority municipalities, the use of a minority language in official communication is ensured simply by the fact that public servants are themselves fluent, most municipalities which are multilingual in character function on the basis of interpretation services provided at the municipal office. Given budgetary restraints, however, the positions of interpreters are reportedly often not filled, resulting in ad hoc solutions with bilingual bystanders and, ultimately, in a situation where the use of minority languages, even if legally accepted for official use, becomes too cumbersome and lengthy a process to actually take place. As a result, many minority representatives report that they feel discouraged from using their language as it may be viewed negatively to ask for “special treatment”. The Advisory Committee regrets this situation as it may lead to the gradual disappearance of minority languages from the public sphere and may hinder the access of minority-language speakers to information and rights. While acknowledging the costs involved in the use of official interpreters, it considers that the use of minority languages should generally be encouraged and an overall atmosphere created that is conducive and welcoming, in particular through the targeted recruitment of public servants with relevant language skills in multi-ethnic and multilingual municipalities (see also Article 15).

Recommendations

The Advisory Committee calls on the authorities at central and local level to ensure that the legislative framework pertaining to the use of languages is consistently implemented in line with the Constitution, and to refrain from relying exclusively on the available and outdated statistics when determining the access to linguistic rights. Close consultations with representatives of all communities must be maintained to establish regularly the existing needs pertaining to the use of languages.

It further calls on them to prioritise the recruitment at local level of public servants with appropriate language skills over the employment of interpreters, to ensure that the active use of all relevant minority languages is encouraged in the public sphere and in official communication with municipal employees where applicable.

United Kingdom

Adopted on 25 May 2016

Article 10 of the Framework Convention

Use of languages at local level

Present situation

Gaelic and Scots languages in Scotland and Welsh language in Wales

The Advisory Committee notes the Scottish Government's commitment to secure the presence of Gaelic in Scotland. According to the 2011 census, there are currently over 90 000 people in Scotland with some competence in Gaelic and almost 60 000 who speak it currently. In the last ten years the rate of decline has begun to slow down and, in particular, the number of young Gaelic speakers has risen. The Gaelic Language (Scotland) Act 2005, passed by the Scottish Parliament, seeks to secure the status of Gaelic as an official language of Scotland. The Bòrd na Gàidhlig, as the public body responsible for promoting, developing and supporting the Gaelic language, adopted the National Gaelic Language Plan 2012-2017, which sets out the main aims and actions under the key domains: home; education and learning; community; workplace; arts, media, heritage and tourism. A number of councils, public agencies and universities have adopted their own plan in line with the requirements.

The Advisory Committee also notes the Scottish Government's ambition for the Scots language to be recognised, valued and used in Scottish public and community life. The 2011 census showed that there are over 1.5 million people living in Scotland who are able to speak the Scots language, or some form of dialect. A further 400 000 identified themselves as having knowledge or abilities relating to Scots. Recent, positive developments since 2010 relating to the promotion of the Scots language include: the publication of recommendations by the Scots Language Ministerial Working Group in 2011; the production in 2015 of a Scots language policy by Creative Scotland which identifies why Scots is important to Scotland's cultural heritage and contains practical steps to preserve and promote the Scots language; and steps to develop its use in education (see Article 14).

The Advisory Committee notes the Welsh Language (Wales) Measure 2011 which confirmed the official status of the Welsh language in Wales and created a new legislative framework for the revival of the Welsh language. According to the 2011 census, 19% of the population in Wales were able to speak Welsh (around 562 000 people). The goal of policy documents, such as the Welsh Language Strategy 2012-17 and the 2014 First Minister policy statement, "Moving Forward", is to strengthen the use of the Welsh language in everyday life: at home, at school through Welsh-medium education, at work and when receiving services.

The 2011 language legislation also established the Welsh Language Commissioner, whose main aim is to promote and facilitate the use of the Welsh language. The Commissioner is currently surveying compliance with standards that have been imposed on the first 26 organisations, which include local authorities in Wales, national park authorities and the Welsh Government, in order to facilitate their implementation. Authorities indicated to the Advisory Committee that they were working with all

departments across the Welsh Government to ensure compliance, but that progress was slow, in particular in the field. While the adoption of the 2011 legislation opened a conversation, which was long needed on the language, it is now a question of a cultural change in people's behaviour to embrace the language, in particular through education (see Article 14).

Recommendation

The authorities should enhance their efforts to implement fully the Gaelic, Scots and Welsh language strategies and other policy documents, to earmark sufficient resources for this purpose and to monitor outcomes so as to ensure that persons belonging to national minorities maintain and develop their cultural identity and that the active use of minority languages is maintained in the public sphere.

Irish and Ulster Scots languages in Northern Ireland

The Advisory Committee regrets that there has been little progress on the Irish Language Bill or a strategy for the development and enhancement of the Irish language. Notwithstanding public support, the Northern Ireland Executive rejected the competent minister's proposal for the Irish Language Bill and strategy. The Advisory Committee understands that the main reason not to introduce the draft documents in the Assembly is the lack of political consensus, in particular among Unionist politicians who openly indicated that they would oppose the proposals. The implementation costs of the Bill and a strategy have been regularly mentioned by politicians as prohibitive in the current difficult financial climate. A separate strategy for 2015-2035 to enhance and develop Ulster-Scots language, heritage and culture appears to have followed the same fate. The financial constraints argument has been also applied to repeal of the 1737 Administration of Justice (Language) (Ireland) Act. This Act prohibits the use of any language other than English in the courts of Northern Ireland.

Interlocutors from civil society were vocal in stressing the high level of politicisation of the question of the use of languages in Northern Ireland and their view that the non-adoption of a Language Bill was a failure of the peace process on the part of the UK Government and the devolved institutions. Opposition from the Unionist party could in their view be bypassed if the UK Government used its parallel legislative competence in the matter. They also observed that, even if the issue of language has become less sensitive in the communities than previously, it continues to be perceived as an instrument with the potential to alter the balance between the two main communities, thereby becoming a hostage of sectarianism. The Advisory Committee recalls the benefits of multiculturalism and multilingualism in promoting tolerance and respect for diversity in society.

Recommendation

The Advisory Committee sees appropriate legislation by the Northern Ireland Assembly as a necessity to protect and promote the Irish language and calls on the UK Government to help create the political consensus needed for such adoption.

The Cornish language

The Advisory Committee welcomes the revitalisation of the Cornish language and the way it has yielded encouraging results as Cornish appears to be increasingly visible in cultural events, on social media, on bilingual street signs and in marketing material throughout Cornwall. It started with the publication in 2004 of the "Strategy for the Cornish language 2004-2014" by the Cornish Language Partnership, composed of Cornwall Council, the UK Government and various voluntary groups. Several policy documents cover further development, such as the 2013 Cornish language policy and the Cornish language partnership plan 2014-2017; the 2004-2014 Strategy is still under evaluation, which has delayed adoption of a new 2015-2025 Strategy.

Cornwall Council has adopted the “Cornish language plan 2016-2018”. The Plan sets out the way in which the Council will promote and incorporate the use of Cornish in its own policies, practices and services, and encourage other public bodies and government departments and partners to consider using it. The Advisory Committee welcomes the Plan, as well as what it understands to be an increased ceremonial use of Cornish by Cornwall’s public bodies and institutions. At the same time it emphasises how the use of the language is still limited and recalls that the promotion of different languages in public places, such as in local administration bodies, enhances their visibility and recognition in society at large.

The Cornish minority’s representatives and other interlocutors indicated to the Advisory Committee during its visit that the efforts to revitalise Cornish have always greatly depended on the voluntary efforts of committed individuals and key voluntary organisations. Despite the most welcome support of Cornwall Council and the UK Government’s Department of Communities and Local Government until this year, it was their opinion that further development will continue to rest, to a great extent, on the voluntary efforts of the Cornish people themselves and that a Cornish Language Act is necessary to strengthen the process. In the view of the Advisory Committee, the recent decision by the UK Government to cease funding will shift the burden onto voluntary efforts even more, with a risk of jeopardising what has been achieved so far (see Article 5).

Recommendation

The Advisory Committee calls on the authorities to take measures to improve the use and visibility of Cornish in public life, and it calls on the UK Government to reinstate immediately the previous level of funding and to consider the possibility of adopting a Cornish Language Act.