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*Fourth Opinion on Croatia
adopted on 18 November 2015*

SUMMARY

The legislative framework pertaining to national minorities in Croatia remains favourable and a number of steps have been taken in recent years to promote the access to rights of persons belonging to national minorities at central and local level. Overall, however, a surge in nationalism and political radicalisation is having a negative impact on the enjoyment of minority rights, in particular in those areas that were heavily affected by conflict. The number of persons belonging to national minorities employed in public service remains far too low and the right to use minority languages and scripts is not implemented in some localities. Incidents of hate speech are increasing and have become more acceptable in the media and in parts of political discourse. The public debate related to national minorities is dominated by anti-minority rhetoric and prejudice, resulting in many individuals refraining from accessing their rights for fear of negative repercussions. Strong government commitment is required to prioritise attention to minority rights as an integral part of Croatia's international and national human rights obligations to confront the revival of nationalist attitudes and actively promote openness and respect for diversity in society.

Recommendations for immediate action

- Prioritise attention to minority rights as an integral part of human rights in the government agenda and develop, in close consultation with minority representatives, effective mechanisms to ensure that persons belonging to national minorities can enjoy their rights without negative consequences resulting from that choice;
- Systematically and promptly condemn all instances of nationalist and anti-minority rhetoric in public and political discourse and the media, and ensure that all cases of hate crime and hate speech are effectively investigated and sanctioned;
- Prioritise the development and revitalisation of marginalised areas that are mainly inhabited by especially disadvantaged persons belonging to national minorities, in particular returnees and Roma, through targeted investments in infrastructure and employment opportunities.

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I. KEY FINDINGS

Monitoring process

1. This fourth cycle Opinion on the implementation of the Framework Convention by Croatia was adopted in accordance with Article 26(1) of the Framework Convention and Rule 23 of Resolution (97)10 of the Committee of Ministers. The findings are based on information contained in the fourth [State Report](#), submitted by the authorities on 11 September 2014, other written sources and on information obtained by the Advisory Committee from governmental and non-governmental sources during its visit to Gračac and Zagreb from 13-16 July 2015.

2. The Advisory Committee welcomes the authorities' overall constructive and co-operative approach towards the monitoring process and the assistance provided before, during and after the country visit. The third cycle Opinion was promptly published and translated into Croatian and a follow-up seminar was organised. The fourth State Report contains comprehensive information, incorporating comments made by various national minority associations in the form of annexes. In addition, national minority representatives were consulted during the drafting process.

General overview of the present situation

3. Following completion of accession negotiations in June 2011, Croatia signed the Treaty of Accession to the European Union six months later and became a member of the EU in July 2013.

4. According to national minority and civil society representatives, the overall environment for national minorities has deteriorated during the reporting period, as an increase in nationalism and political radicalisation negatively affects the enjoyment of minority rights at national, regional and local level. While the legislative framework pertaining to national minorities remains favourable, it is formulated in general terms and must be put into practice at local level through dialogue and political negotiation. This remains difficult in particular in areas that were heavily affected by conflict in the 1990s. In the absence of a government strategy to systematically promote inter-ethnic dialogue and reconciliation, incidents of hate speech are increasing and have become more acceptable as some highly ranked political leaders and members of local government themselves engage in rhetoric that is offensive to parts of the population. Most observers accredit this deterioration to a relaxation in external pressure following EU accession. The public debate related to national minorities remains dominated by terms of "aggression" and "guilt", a rhetoric that obstructs a balanced and rights-based approach. Nationalist sentiments were particularly prominent surrounding the 20th anniversary, in August 2015, of the military operation that ended the war, which was celebrated as a victory parade without acknowledging the civilian victims on all sides. Given the prejudice and stereotypes they are faced with, persons belonging to national minorities reportedly often refrain from invoking their rights as they fear negative repercussions. Government engagement to confront the revival of nationalism, to actively promote openness and respect for diversity in society, and to raise awareness for Croatia's

international and national obligations towards persons belonging to national minorities is insufficient.

Assessment of measures taken to implement the recommendations for immediate action from the third cycle

5. The resolution of the many pending applications for repossession and reconstruction of private property as well as for housing care had slowed down but has increased since early 2015. A State Office for Reconstruction and Housing Care was established in May 2013 and regional offices were opened at county level to promote accessibility. Beneficiaries of the housing care programme pay only symbolic rent but many returnees wish to purchase the allocated apartments. Given the steep rise in market prices, this has become difficult, particularly in the cities. Efforts made by the State Office to promote the adoption of a Government Decision to create favourable purchase conditions for housing care beneficiaries in cities have been unsuccessful so far.

6. A new Criminal Code entered into force in January 2013, containing three provisions related to hate crime. In addition, a track record system to monitor all offences that could be considered as hate crime was developed in 2011 and some training has been organised to raise the awareness of human and minority rights standards amongst the police force. Incidents of hate crime and hate speech are increasing, however, while only a few cases are brought to the attention of the authorities and even fewer appropriately sanctioned in line with the applicable legal framework. Overall awareness of and trust in the legal remedies available against hate crime remains limited.

7. The representation of persons belonging to national minorities in public administration and the judiciary remains low and consecutive recommendations of the Ombudsperson to more effectively promote and monitor minority recruitment at local level have not been followed. No further steps have been made to encourage the active participation of persons belonging to national minorities in local elections, particularly those for the national minority councils, or to advance the competencies and funding of the national minority councils.

Assessment of measures taken to implement the further recommendations from the third cycle

8. Access to citizenship or dual citizenship is still significantly more difficult for persons belonging to national minorities than persons considered ethnic Croats as different preconditions are set in the legal framework. Considerable efforts continue to be made to implement a variety of programmes and projects related to the improvement of the living conditions and access to rights of Roma. Significant efforts have been made in particular to improve access to pre-school for Roma children. According to an evaluation of the National Roma Integration Strategy by experts and Roma representatives, the Strategy requires adjustments which should also be reflected in the Action Plan 2016-2018 in order to increase the effectiveness of measures and promote sustainable results. Strong government commitment at central and local level and close consultation and co-ordination between the various stakeholders, in particular Roma representatives themselves, remain essential.

9. Minority languages and scripts are used in official contacts and in topography in a number of self-government units in line with the applicable legislative framework. Conditions are particularly favourable with respect to the Italian language in Istria. Resistance and violent protests against the implementation of the laws in the City of Vukovar, in particular with respect to the use of Cyrillic script on public buildings, exposed a serious lack of awareness of or consideration for human and minority rights amongst some parts of local government. It has further provoked tension and a rise in hate speech throughout the country, prompting fears in particular among the Serb minority. The Ministry for Public Administration has made considerable efforts to ensure the application of the domestic legal framework in terms of the use of minority languages and script by self-government units but the implementation of the Law on Use of Languages and Scripts of National Minorities remains suspended in some localities.

II. ARTICLE-BY-ARTICLE FINDINGS

Article 3 of the Framework Convention

Personal scope of application

Present situation

10. The Constitution of the Republic of Croatia was amended in July 2010 to the effect that its Preamble now lists all 22 national minorities.¹ This development was welcomed by representatives of national minorities as it promotes a sense of equality among them. According to Articles 4 and 5 of the Constitutional Act on the Rights of National Minorities, only citizens are entitled to enjoy the rights of national minorities. The Advisory Committee wishes to reiterate its viewpoint that such a general restriction should be avoided as it may have a discriminatory effect on persons belonging to national minorities, in particular given that statelessness among some national minority communities in Croatia is still a serious concern. The authorities should rather pursue an inclusive approach, reflecting for each right separately whether there are legitimate grounds to differentiate access based on citizenship.²

Recommendation

11. The Advisory Committee calls on the authorities to apply a flexible case-by-case approach to requests for the enjoyment of minority rights by non-citizens belonging to national minorities.

Census

Present situation

12. A population and housing census was conducted in April 2011. The Advisory Committee is pleased to note that questionnaires were translated into the main languages spoken by national minorities. It further welcomes that information on the importance of the principle of free self-identification was distributed through public meetings prior to the census and that enumerators were instructed not to exert any pressure during the interview process. The Advisory Committee notes with concern, however, estimates from representatives of various national minorities that their actual numbers are significantly higher than suggested by the census results.³ According to the interlocutors of the Advisory Committee, no specific information on the importance of the census enumeration for the enjoyment of some minority rights (see also Article 10) was provided to persons belonging to national minorities, and most of them were under the impression that they could only choose one ethnic affiliation. Indeed, a

¹ The Preamble establishes the Republic of Croatia as “the nation state of the Croatian nation and the state of the members of its national minorities: Serbs, Czechs, Slovaks, Italians, Hungarians, Jews, Germans, Austrians, Ukrainians, Rusyns, Bosniaks, Slovenians, Montenegrins, Macedonians, Russians, Bulgarians, Poles, Roma, Romanians, Turks, Vlachs, Albanians and others who are its citizens and who are guaranteed equality with citizens of Croatian nationality...”. The Preamble previously only listed 10 national minorities, while 12 others were included in the scope of application of the Law on the Election of the Deputies to the Croatian Parliament.

² See also Report on Non-Citizens and Minority Rights, adopted by the Venice Commission at its 69th session on 15-16 December 2006.

³ Representatives of the Slovak minority, for instance, estimate their actual number about three times higher than the official number of 4,753. Similar assessments were also provided by representatives from other minorities.

number of minority representatives suggested that the census results would have been different had individuals been made aware of the possibility to indicate multiple affiliations.

13. The Advisory Committee was assured by government representatives that there were no limits and that “anything” could be inserted in the census questionnaire, “including ‘Martian’ or hyphenated identities indicating two ethnicities”. Given the frequency of multiple identities in Croatia’s diverse society, the Advisory Committee considers it unhelpful that no specific explanation was provided to the public regarding the possibility of indicating multiple affiliations.⁴ It considers further that the formulation of questions 18 to 21 of the questionnaire, relating to citizenship, ethnicity, religion and language, suggested a certain preference for indicating “Croatian” or “Croat” or “Catholic” as only those responses (besides “not declared” or “atheist” in the case of religion) were spelled out and could be marked with a simple cross. In addition, an empty space was provided to specify “other”. The Advisory Committee finds that an open list containing the most common minority affiliations and languages, or a possibility to mark “multiple” and then specify, could have encouraged more individuals to freely indicate their affiliation, including by simply crossing various boxes. It notes with interest in this regard that over 27,000 individuals indicated a regional identity such as “Dalmatian” or “Istrian” as ethnic affiliation.

14. The Advisory Committee further notes with concern reports about irregularities in the actual census enumeration process that appear to have particularly affected persons belonging to the Serb and Roma minorities. Suggestions were reportedly made by some enumerators not to indicate a minority affiliation, and in some areas questionnaires in minority languages were not available in sufficient numbers. While it is pleased to note that the Bureau of Statistics appears to have reacted promptly and adequately to rectify such shortcomings,⁵ the Advisory Committee remains concerned by the impression shared by a number of national minority representatives that many individuals feared negative repercussions and therefore refrained from indicating their ethnic affiliation. In other cases, ethnic or religious affiliations were reportedly marked by the enumerator based on assumptions and without inquiring from the respondent. It further notes that representatives of local authorities raised reservations towards the accuracy of the census given the seasonal variations in the population experienced in some parts of Croatia.

Recommendations

15. The Advisory Committee calls on the authorities to ensure that the rights to free self-identification, including as regards multiple affiliations, is firmly anchored and its application encouraged and monitored in all data collection exercises.

16. It further calls on them to closely engage with national minority representatives when analysing the results of the 2011 census, in particular where the enjoyment of minority rights is dependent on census-based thresholds.

⁴ According to information received by the Bureau of Statistics, less than 40 persons out of the 4,284,889 persons residing in Croatia declared dual-ethnicity.

⁵ See The Alternative Report on the Implementation of the Framework Convention for the Protection of National Minorities for the period 2009-2014, Serb National Council Zagreb, July 2015, page 4.

Article 4 of the Framework Convention

Legal and institutional framework for the promotion of equal access to rights of persons belonging to national minorities

Present situation

17. The 2002 Constitutional Act on the Rights of National Minorities remains the main piece of legislation in the field of minority rights. Most of its provisions are formulated in general terms and must be put into practice at local or regional (County) level. This continues to lead to significant variations in the level of enjoyment of minority rights in the regions of Croatia. The Advisory Committee observed significant differences in implementation, for instance, in Istria and in Dalmatia.⁶ While noting the argument put forward by the authorities that there are diverse levels of demand for access to minority rights across the country, the Advisory Committee is deeply concerned by reports that persons belonging to some minorities are reluctant to draw attention to their specific identity and seek the enjoyment of their rights, as they fear negative repercussions (see also comments on Articles 10, 11, 14 and 15). In addition, Roma continue to face significant inequalities in accessing rights in a number of spheres (see further comments on Articles 6, 12, and 15). Indeed, awareness of minority rights as part of human rights appears to be rather low in some regions where any discussion related to minorities remains dominated by a war narrative that collectively brands some minorities as “aggressors” who are tolerated at best rather than welcome as integral members of society. The Advisory Committee considers the resulting inequality in the enjoyment of minority rights across Croatia of serious concern and reiterates that the promotion of equal access to rights requires central co-ordination, guidance and strong political will. It cannot be left solely to the political and societal conditions at local level, particularly given that some areas and communities were profoundly affected by the 1991–1995 conflict.

18. The 2008 Anti-Discrimination Act, which entered into force in January 2009 transposing the EC Equality Directives, continues to provide the legal basis for the protection of persons belonging to national minorities against direct and indirect discrimination on a number of grounds, including racial, ethnic and religious. The Advisory Committee welcomes the continued engagement of the Ombudsperson in her functions as Equality Body. It notes that the Office is increasingly trusted across the country and outreach has been improved, including through the opening of some regional offices.⁷ The number of complaints received by the Office significantly increased in 2013 and 2014 which, according to the Office, is due to enhanced awareness among citizens as well as to the economic crisis and an increasingly difficult social situation. Discrimination-based complaints most frequently cite ethnic or national origin as an alleged ground and almost half relate to the employment field. Despite the increasing number of cases, underreporting remains a serious problem, with lack of rights awareness, lack of trust and fear of further victimisation referred to as main reasons.⁸ Insufficient access to free legal aid for the most disadvantaged members of society, including

⁶ By way of example, over 6,500 persons belonging to the Italian minority asked for bilingual identity cards to be issued in 2013, while the corresponding number of persons belonging to the Serb minority was only 114. See State Report, page 72. Significant differences in levels of enjoyment of rights can also be observed, for instance, between persons belonging to the Italian minority living in Istria and in Eastern Slavonia.

⁷ Regional offices have existed in Rijeka and Osijek, a third one was opened in Split in September 2015.

⁸ 18.6% of all discrimination complaints in 2014 related to race or ethnicity, down from 22.98% in 2013. See Annual Reports of the Ombudsman 2013 and 2014. As of 2013, a chapter in the Annual Human Rights Report is dedicated to the protection of persons belonging to national minorities.

many persons belonging to national minorities, also continues to substantially limit the willingness of affected individuals to address the courts,⁹ as does the fact that the costs of the other party have to be covered by the plaintiff in the event of a ruling against him or her.

19. The Advisory Committee notes further that the effectiveness of the Equality Body is limited by the fact that it can only establish that discrimination took place but cannot award damages nor impose penalties. Concerned individuals need to address the courts where they reportedly still face limited understanding of the new antidiscrimination standards, such as related to the reversal of the burden of proof.¹⁰ While welcoming the organisation of some training and awareness-raising activities for the judiciary, among others organised by the Ombudsman Office, the Advisory Committee regrets that not all courts have been co-operating with the Office in providing information on discrimination-related cases, in order to develop a comprehensive understanding of the application of the standards in the various jurisdictions.¹¹ The Advisory Committee further notes that the Ombudsman Office remains underfunded in terms of both human and financial resources and has repeatedly requested an increase of its budget in line with its various responsibilities.¹² Civil society representatives have criticised that the Equality Body Office is not able to act on all issues of concern and must prioritise those where it considers success most likely. The Advisory Committee welcomes efforts, among others by the Government Office for Human Rights and Rights of National Minorities (GOHRRNM), to more promptly evaluate the level of implementation by the various government structures of the recommendations made by the Ombudsperson in order to enhance their effectiveness and impact on society, including for persons belonging to national minorities.

Recommendations

20. The Advisory Committee urges the authorities to increase the support for the activities of the Ombudsman Office, in terms of adequate human and financial resources and by promptly implementing the recommendations made by the institution.

21. It further calls on them to proactively promote the awareness of the antidiscrimination standards through targeted training within the judiciary as well as amongst society at large to encourage affected individuals to apply the legal remedies available to them.

Stateless persons and returnees belonging to national minorities

Present situation

22. The Advisory Committee notes with concern that access to citizenship remains problematic for long-term residents belonging to national minorities, in particular for Roma but also for members of other national minorities who were displaced by the conflict. According to

⁹ See Report by the European Network of Legal Experts in the Non-discrimination Field, Country Report 2013 on Croatia, pointing to a number of inefficiencies in the legal aid system, page 61.

¹⁰ In 2014, 145 civil cases relating to discrimination were pending before courts. A final decision was adopted in only 22 cases, none of them in favour of the claimant. Judges reportedly remain reluctant to find discrimination when there are no indications of intent to discriminate. See European Network of Legal Experts in Gender Equality and Non-discrimination, News Report, 8 May 2015.

¹¹ An order to that effect had been issued by the Supreme Court to all lower courts. Co-operation is reportedly particularly lacking at the level of County courts.

¹² The Ombudsman Office also functions as the National Mechanism for the Prevention of Torture and, since 2008, has been accredited as a National Human Rights Institution with A status.

UNHCR figures of June 2015, there are 2,886 *de jure* and *de facto* stateless persons in Croatia, the majority belonging to Roma communities living mainly in Međimurje County. Lack of identity documents, including birth certificates, continues to block their access to a number of vital rights (see further comments on Articles 12 and 15). While it is welcome that the Ministry of Interior has employed mobile teams to facilitate the issuance of documentation to Roma, including in settlements, the success of these measures is reportedly limited by a lack of consultation with Roma representatives themselves and the fact that the mobile teams rarely have the required language skills or other assets to gain trust within the communities. The Advisory Committee is pleased to note the legal assistance provided by civil society and international organisations, leading to 33 Roma being issued documents in the first six months of 2015. Citizenship was granted in only two cases, however. For most of the undocumented Roma, only temporary residence on a humanitarian basis is accessible, as valid travel documents are required for the issuance of permanent residence or the acquisition of citizenship. It is welcome in this context that efforts are reportedly underway to establish a statelessness determination procedure. Concerned individuals with the status of stateless person may, according to Article 6 of the Foreigners Act, be issued with a valid travel document which may eventually enable them to obtain a long-term resolution of their legal status.

23. Amendments to the Citizenship Law, in force as of January 2012, have made it somewhat harder for foreigners to obtain citizenship, requiring eight years of uninterrupted residence (extended from five years) and introducing “familiarity with the Croatian culture and social arrangement” as an additional precondition for applicants below 60 years of age. The Advisory Committee notes in particular that persons considered ethnic Croats still enjoy significant advantages when applying for citizenship, having to fulfill only one of the five preconditions contained in Article 8 of the Citizenship Law. They may in particular keep another citizenship when acquiring Croatian nationality, constituting unequal treatment with regard to dual nationality which is not in line with Article 4 of the Framework Convention.¹³ As regards the restitution of citizenship for returnees, the Advisory Committee welcomes the fact that Article 94.2 of the amended Foreigners Act establishes access to permanent residence for returnees who can prove that they lived in Croatia on 8 October 1991, thus relieving them from the requirement of eight years of residence. It is concerned, however, by reports of bias in favour of Croats when it comes to the administrative handling of cases where documents were lost or destroyed as a result of the conflict. A significant number of elderly Serb returnees reportedly continue to face challenges when re-establishing their permanent residence because of unavailability of documents and records in municipal archives, situations which are reported to be easily and non-bureaucratically solved when concerning persons considered ethnic Croats.

24. Close to 134,000 persons belonging to the Serb minority had been registered as returnees by the end of December 2014. According to a 2012 study on the sustainability of return commissioned by UNHCR, only 48% of the returnees had remained in Croatia, with continued challenges in accessing rights and in particular housing issues indicated as main reasons for departure.¹⁴ The Advisory Committee notes with concern that the housing care programme had significantly slowed down in 2012 with only 177 families obtaining housing in

¹³ See also ECRI Report on Croatia (fourth monitoring cycle), adopted on 20 June 2012, para. 11.

¹⁴ Figures obtained by the UNHCR in June 2015. Among the beneficiaries of the housing care programme, 75% of the registered returnees had remained in the country.

2012 and only 81 in 2013.¹⁵ It welcomes reports that decision-making processes have accelerated in 2015, following the establishment of the State Office for Reconstruction and Housing Care in May 2013 and the opening of new offices at County level, but notes that approximately 3,900 applications of former Tenancy Rights Holders remain outstanding in July 2015.¹⁶ Beneficiaries obtain apartments at a symbolic rent and also have the right to inherit the tenancy. Despite the security of tenure, many returnees wish to purchase the allocated apartments which, given current market prices, is particularly difficult in the cities.¹⁷ Most persons belonging to national minorities returned only as of 2002/2003 and had access to the housing care programme only as of 2006. They thus feel disadvantaged in comparison to the majority of Croats who returned already in the late 1990s and encountered a much more favourable market. The Advisory Committee welcomes the efforts made by the State Office in co-operation with the UNHCR to facilitate the purchase of allocated apartments in cities at a favourable rate in early 2015, but notes with regret that a draft Government Decision to this effect was not adopted, reportedly because of budgetary constraints. It further notes that approximately 2,500 unsolved reconstruction applications remain outstanding and welcomes assurances by the State Office that an adequate budget for the speedy resolution of these cases has already been made available.

Recommendations

25. The Advisory Committee calls on the authorities to prioritise the resolution of the legal status of the continuously high number of stateless persons in close consultation with the UNHCR and representatives of affected communities and to ensure that persons belonging to national minorities wishing to acquire Croatian citizenship are not discriminated against based on their ethnicity.

26. It further calls on them to pursue their efforts to swiftly and completely resolve the remaining applications for housing care and reconstruction assistance, and to ensure that beneficiaries of the housing care programme in cities are provided with a realistic and fair opportunity to purchase the allocated apartments.

Equal access to justice for persons belonging to national minorities

Present situation

27. Another serious concern with regard to the effective equality of persons belonging to national minorities relates to their access to justice. The Advisory Committee notes in this context that the highest number of complaints received by the Ombudsperson every year concern the judiciary.¹⁸ The concerns of persons belonging to national minorities continue to be linked mainly to objectivity and fairness, in particular as regards the treatment of war crimes committed on both sides. While efforts have been undertaken by the authorities to

¹⁵ See Ombudsman Report 2013, page 42.

¹⁶ Of the 17,819 applications for housing care submitted by former Tenancy Rights Holders, 9,402 had been positively decided in January 2014, over 80% in the so-called Areas of Special State Concern, i.e., rural and particularly war-affected areas, and 1,800 in cities. Of the 3,820 negative decisions, the majority related to apartments in cities.

¹⁷ Some 1,500 requests for purchase had been received by the State Office in June 2015.

¹⁸ See Summary, Report of the Ombudsman for 2014, www.ombudsman.hr/index.php/en/documents-3/ombudsman-s-reports/finish/15-ombudsman-s-reports/648-summary-annual-report-for-2014, page 3.

counter previous perceptions of ethnic bias in the delivery of judgments,¹⁹ service in the “defense of the homeland” is reportedly still considered a mitigating circumstance for war crimes allegedly committed by members of Croatian military formations. The Advisory Committee notes the information provided by government officials that criminal proceedings have been initiated in 119 cases against members of the Croatian Armed Forces. Yet, it appears that thus far only four criminal proceedings have been initiated with respect to crimes committed during and immediately after Operation Storm in August 1995, despite the fact that the Office of the State Attorney confirmed the number of 167 civilian victims of war.²⁰ In fact, only in one case was one person convicted at final instance, after twelve years of proceedings, receiving the minimum sentence prescribed by law and benefitting from the merger of two sentences for separate crimes, while defendants were acquitted in another case for lack of evidence.²¹ Overall, the handling of war crimes cases is progressing slowly with less than 25% of the 490 crimes recorded by the State Attorney’s Office having been resolved fully by June 2013.²²

28. The Advisory Committee is particularly concerned by the continued impression among persons belonging to national minorities that their role as victims of war crimes is not adequately acknowledged. It notes with deep concern that during the official commemoration of Operation Storm in August 2015, the celebration of victory was prioritised over the remembrance of the many civilian victims, despite the fact that the International Criminal Tribunal for the former Yugoslavia clearly ruled that “the Croatian military forces and the Special Police committed acts of murder, cruel treatment, inhumane acts, destruction, plunder, persecution, and deportation ... in a widespread and systematic attack against (the) Serb civilian population” of the Krajina region.²³ It is further of concern that most civilian victims of war are still awaiting official recognition of their suffering or any form of compensation. In fact, the majority of civil proceedings initiated before Croatian courts with requests for non-pecuniary damages relating to the killing of family members, were reportedly refused for procedural reasons (often linked to the status of limitations), upon which plaintiffs had to partially cover the sometimes high litigation costs themselves.²⁴ The Advisory Committee notes

¹⁹ All domestic war crimes cases were transferred from local courts to four designated county courts (Zagreb, Osijek, Split, and Rijeka) by the end of 2012. Following the transfer, the specialised courts suspended several cases, particularly those affecting Serbs that had been conducted in absentia. The practice is considered to have been brought to an end. See also Submission to the UN Human Rights Committee submitted by Human Rights Watch in March 2015.

²⁰ Civil society data following extensive research point to 677 civilian victims and almost 20,000 destroyed units of private property.

²¹ See the information on crimes committed in Prokljan and Mandići, as well as in Grubori available at www.documenta.hr/en/crime-in-prokljan-and-mandi%C4%87i.html, and www.documenta.hr/en/crime-in-grubori.html.

²² Monitoring War Crimes Trials: Report for 2013, prepared by Documenta, Center for Peace, Non-violence and Human Rights Osijek and Civic Committee for Human Rights, Zagreb 2014. No action appears to have been taken by the State Attorney’s Office, for instance, regarding the acts allegedly committed by the 123rd brigade of the Croatian Army in 26 settlements belonging to the municipality of Slavonska Požega in October 1991, leading to the death of 44 civilians and the destruction of over 1,000 residential and commercial premises.

²³ See Summary of the Judgment Verdict of the ICTY in Gotovina and others (IT-06-90), 15 April 2011 www.icty.org/x/cases/gotovina/tjug/en/110415_summary.pdf.

²⁴ Upon the exhaustion of domestic remedies, 17 applications were reportedly filed in the European Court of Human Rights in respect of the right to life (Article 2) and the prohibition of torture (Article 3) due to ineffective investigation of the crimes committed. The Croatian Government signed unilateral declarations acknowledging the violation of the right to life due to ineffective investigation in four cases, four cases were declared inadmissible due to the six months rule, and the Court affirmed a violation in two cases.

a deep sense of inequality experienced by many persons belonging to national minorities given that a special Ministry of Veterans' Affairs was established in 1997, overseeing the implementation of the various laws governing the status and rights of the veterans of the war of 1991-1995, including the provision of a pension, housing and scholarships for the veterans' children. It welcomes in this context the reported intention of the Ministry to prepare a draft Law on the Rights of all Civilian Victims of War, following the recognition in early 2014 of the rights of the victims of sexual violence during the war.²⁵

29. The deep sense of inequality experienced by many persons belonging to national minorities is exacerbated by the persistent underrepresentation of national minorities in the judiciary (see also comments on Article 15).²⁶ The Advisory Committee considers the disproportionately low numbers of judges belonging to national minorities particularly consequential in terms of equal access to rights and the willingness of persons belonging to national minorities to address the courts. In this context, it notes that 14 cases remain pending in court after many years, entailing disputed claims over unauthorised investments by temporary users and thereby preventing the restitution of property to the rightful owners.

Recommendations

30. The Advisory Committee urges the authorities to proactively address the inequalities experienced by persons belonging to national minorities with respect to their access to justice. In particular, the recognition of the status and rights of *all* civilian war victims must be accelerated through appropriate legislative steps and based on the principle of equality.

31. It further calls on them to ensure that the persistent and disproportionate underrepresentation of national minorities in the judiciary is addressed as a matter of priority to ensure that persons belonging to national minorities regain trust in the judiciary and are encouraged to address the courts when experiencing unequal treatment.

Measures to promote the full and effective equality of persons belonging to national minorities

Present situation

32. Positive measures to improve the status and access to rights of persons belonging to minorities who suffer discrimination are explicitly listed in Article 9(2)2 of the Anti-Discrimination Act as an acceptable exception to the prohibition of discrimination. This is welcome given the significant challenges to the enjoyment of effective equality by persons belonging to national minorities. The Advisory Committee is concerned, however, by the absence of a comprehensive system of collecting disaggregated equality data, in particular at central level. References to the Act on Personal Data Protection still result in important information on the access to rights of persons belonging to disadvantaged groups, which is locally available, to be disregarded at central level, despite the fact that the law explicitly allows for data disaggregation if this is in the public interest, if the individual consents and if

²⁵ The "Law on the Rights of victims of sexual violence during armed aggression against the Republic of Croatia in the Homeland war" entered into force in June 2015. It removes previously existing deadlines, extends free legal aid to victims, and foresees a monthly allowance as well as the payment of a one-off compensation in grave cases. Civil society representatives consider that similar provisions should be made for all civilian victims of war.

²⁶ For exact statistics, see State Report, pages 92 ff.

the individual is not identifiable.²⁷ The Advisory Committee considers that a profound understanding of the specific challenges faced by the members of the various groups, based on disaggregated equality data gathered in close co-ordination and consultation with representatives of the groups themselves, is indispensable for positive measures to be effective. A detailed assessment is equally essential to properly evaluate the effectiveness of measures that have already been taken and may require adjustments. The Advisory Committee welcomes in this context that a door-to-door gathering of disaggregated data regarding the living conditions of Roma, both quantitative and qualitative, was conducted in twelve settlements in Međimurje County and that a similar endeavour is expected to be completed by the end of 2015 for four other counties.²⁸

33. The Advisory Committee further notes the National Roma Inclusion Strategy (NRIS) 2013-2020 of 2012,²⁹ which defines the national priorities towards the socio-economic integration of Roma, in particular related to education (see comments on Article 12), employment, health and housing (see further Article 15). While welcoming the fact that the Strategy refers to the importance of data collection and close monitoring for its effective implementation, as well as the fact that a special Strategy Implementation Monitoring Commission was established in 2013,³⁰ the Advisory Committee regrets reports from minority representatives and international observers that the Commission has not demonstrated an adequate capacity to monitor and evaluate progress on the ground and that, overall, too little attention has been paid to the actual implementation of measures at local level. According to most observers, it is problematic that central level co-ordination lies with the GOHRRNM which as a technical-level body, and despite its efforts and determination, lacks the authority or the funds to demand co-operation from the various ministries. In addition, it appears that the implementation of EU-funded projects remains scattered among local authorities or civil society organisations that do not always appropriately consult with Roma organisations or promote project management capacity among the Roma communities themselves for more ownership and sustainability of results in the longer term. As regards the Action Plan 2013-2015, the Advisory Committee notes that it widely replicates the NRIS 2013-2020 without specifying in sufficient details how or by when the various measures are to be implemented (see also Article 15).³¹

Recommendations

34. The Advisory Committee encourages the authorities to clarify that the collection of disaggregated data is in line with international and national personal data protection standards, and to develop appropriate methods for obtaining a comprehensive assessment of the access to rights of persons belonging to national minorities, in consultation with their representatives.

²⁷ See Article 8 of the Act on Personal Data Protection at www.ceecprivacy.org/doc/law_croatia.pdf

²⁸ See for the results of the Međimurje County Atlas

www.hr.undp.org/content/dam/croatia/docs/Research%20and%20publications/socialinclusion/UNDP-HR-ATLAS-ROMA-MEDJIMURJE-2014.pdf.

²⁹ See Government of the Republic of Croatia, National Roma Inclusion Strategy from 2013 to 2020, Zagreb, November 2012, www.ec.europa.eu/justice/discrimination/files/roma_croatia_strategy_en.pdf.

³⁰ See State Report, page 21. It is noteworthy that Croatia's NRIS contains a special section focussed on statistical data collection.

³¹ Only 19 out of 128 measures contain concrete deadlines. See the Evaluation of Croatian National Roma Inclusion Strategy, Eben Friedman and Maja Horvat, March 2015.

35. It further calls on them to increase their attention to the effective implementation of the NRIS and corresponding Action Plans by enhancing the co-operation among the various ministries and by allocating the necessary resources to support concrete measures at all levels, in close consultation with Roma representatives.

Article 5 of the Framework Convention

Support for the preservation and development of national minority identities and cultures

Present situation

36. Cultural support continues to be provided mainly via the Council for National Minorities, an advisory body established in line with the Constitutional Act on the Rights of National Minorities (see further comments on Article 15) and tasked to distribute state budget funds on a yearly basis amongst the cultural associations of the various national minorities. Despite the economic crisis, a yearly budget of approximately 4.5 million EUR has been disbursed in favour of national minorities. National minority representatives consider overall, however, that the allocated funds are insufficient to allow for the preservation of the distinct features of their cultures.³² In addition, the Council is viewed by some minority representatives as having a tendency to favour the associations that co-operate with the elected representatives and that too little attention is paid to ensure that less well connected associations in remote parts of the country, who often have limited project management experience, or those representing youth or wishing to develop less traditional cultural activities, enjoy equal access to the funds. The availability of suitable premises where cultural activities may be organised continues to be problematic, in particular for representatives of numerically smaller minorities, as national minority libraries or cultural centres do not exist for all groups. It is noteworthy, however, that in addition to the allocations made by the Council for National Minorities, substantial sums are also made available at local level, particularly in urban centres, for various cultural projects that are organised by and with national minority associations.

37. The Advisory Committee is further concerned by the impression shared widely among national minority organisations that the general approach towards national minorities within the cultural policy is driven by a "folklore-orientation" where their cultures and traditions are portrayed as static without paying attention to the diversity within them and the evolution that has taken place over time. Minority representatives consider that many persons belonging to national minorities, in particular the younger generation, do not feel adequately represented in the reflections of their cultures, often through folk dances or other events that emphasise traditions over modern cultural expressions. In addition, national minority representatives report that their requests for cultural support according to the Law on Financing of Public Needs in Culture, which in principle is open to any organisation in Croatia, have been rejected by the Council for National Minorities with the argument that their cultural activities are considered separately. The Advisory Committee regrets that in this context priority is given to traditional preservation activities such as the printing of books, the publication of small-edition newsletters, or the organisation of festivals, which *de facto* results in the marginalisation of

³² See, among others, the report submitted by the Union of Albanians in the Republic of Croatia, State Report Appendices, page 114.

national minority cultures as separate and foreign. It considers the promotion of inter-cultural events that mark minority cultures as an integral part of Croatia's diverse society as a timely opportunity for Croatia to create dialogue platforms which also draw on cultural activities to promote a sense of cohesion in society.

38. As regards the Roma, the Advisory Committee welcomes the variety of support provided to their cultural activities,³³ both by the Office for Human Rights and the Rights of National Minorities and the Council for National Minorities. It notes, however, that the awareness of the distinct Roma identities and cultures, including the vast diversity within them, and their history in Croatia (see further on Article 12) is still very low amongst society. Indeed, the focus in public discourse surrounding Roma appears to be almost exclusively on socio-economic issues or security challenges, with few positive images being portrayed and disseminated to the public, including to Roma themselves. While efforts in 2012 towards the recognition and promotion of Roma traditions and languages spoken by Roma in Croatia, including the introduction of courses of Romani language, literature and culture at the Humanities and Social Sciences Department of the University of Zagreb are welcome, equal attention must be paid also to other languages and dialects used by the various Roma communities.

Recommendations

39. The Advisory Committee encourages the authorities to continue and expand the provision of financial support for the cultural activities of national minorities while ensuring that the diversity within minority communities is duly taken into account in the decision-making processes. Particular attention should be paid to enhance the visibility and prestige of Roma cultures and traditions in Croatia.

40. It further calls on them to integrate the promotion of minority cultures into the general cultural policy as an integral and valued part of Croatia's diverse heritage. National minority associations should not be excluded from accessing general funding opportunities in the field of culture because of the earmarked funds that are intended for the preservation of their distinct identities.

Article 6 of the Framework Convention

Tolerance and inter-cultural dialogue

Present situation

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

³³ For a comprehensive overview see State Report, pages 21 ff.

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

42. The Advisory Committee further notes with deep concern the increasing appearance of swastikas and other manifestations of nostalgia for the collaborationist Ustasha regime during World War II in various regions of Croatia, which cannot but serve as a gruesome warning to persons belonging to national minorities.³⁴ While acknowledging that far-right extremism is present not only in Croatia, it considers that a comprehensive government policy to promote remembrance and steer an informed discussion among the public of the many crimes against minorities committed under the Ustasha regime may contribute to the promotion of inter-ethnic dialogue and respect in line with Article 6 of the Framework Convention. The Advisory Committee is further deeply concerned by the ambiguous position taken by parts of the Croatian Catholic Church in this regard, which enjoys large influence amongst Croatian society.³⁵

43. Civil society and national minority representatives are further increasingly concerned by the role of the media in diffusing hate speech against some minorities, in particular the Serb and the Roma minorities but also Albanians, Montenegrins, Slovenians and Bosniaks.³⁶ According to the interlocutors of the Advisory Committee, the situation is particularly worrying when it comes to regional print media where coverage is reportedly often negative and based on stereotypes. The Journalists' Code of Ethics, which obliges journalists to respect human rights and dignity in all of their work, is reportedly not widely known or enforced. Most observers agree that significantly more ethical training is required for journalists and other media professionals to appreciate the serious role media can play in escalating or appeasing inter-ethnic relations. It is regrettable in this context that the International Centre for the Education of Journalists in Opatija no longer functions, as its courses and other training initiatives were widely appreciated by relevant professionals and civil society organisations. The Council of the Agency for Electronic Media continues to function as an independent regulatory body to oversee compliance with the Law on Electronic Media, which prohibits instigating hatred via the media. Its seven members are elected by Parliament upon the

³⁴ The Advisory Committee witnessed dated graffiti inviting physical violence against Serbs in a number of places such as "*Srbe na vrbe*" or "Hang the Serbs", without apparent efforts of slogans being removed or painted over. See also Violence and intolerance against Serbs in 2014, Serb National Council, May 2015, page 42.

³⁵ At the end August 2015, the Archbishop of Zadar proposed to hold a referendum regarding the official reintroduction of the controversial salute "*Za dom – spremni*" ("For the homeland – Forward") which was used widely during Ustasha times with the right arm raised, and which was used again during the Croatian "Homeland War" and since then during football matches and other occasions where nationalist sentiments are expressed. The Archbishop's proposal followed a rejection by the President of an initiative of conservative politicians to reintroduce the salute for the Croatian Army.

³⁶ See Summary, Report of the Ombudsman for 2014, page 8.

proposal of the Government, and there is no current member representing national minorities. The Council can take action on the basis of complaints or on its own initiative. According to its Office, it receives between 10 and 15 complaints related to ethnically-based offences per year, which appears low given the numerous accounts of hate speech in the media received by the Advisory Committee.³⁷ According to civil society observers, the Agency intervenes only rarely and is not viewed as an independent and effective player in the fight against the propagation of hate speech.

44. The Advisory Committee is pleased to note demonstrations of tolerance and empathy towards refugees and asylum-seekers shown amongst the public. Overall, the number of persons seeking asylum in Croatia has been small and further decreased following Croatia's accession to the EU due to the implementation of the Dublin regulations.³⁸ Croatian language and integration classes were taken up in June 2015 in order to promote the beneficiaries' integration. In the second half of 2015, confronted with a large number of refugees wishing to cross the country from the Serbian border towards Hungary, Austria and Germany, Croatia temporarily closed its border and deployed riot police after over 10,000 persons had entered the country in one day. By the middle of November 2015, over 400,000 individuals had entered Croatia,³⁹ of whom ten had expressed an intention to apply for asylum in the country. The Advisory Committee recalls Croatia's international obligations towards human rights and refugees in line with international and regional instruments.

Recommendations

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

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

Protection from hate crime

Present situation

47. The Advisory Committee welcomes the adoption of the new Criminal Code in 2011, with entry into force on 1 January 2013, which contains three provisions related to hate crime.⁴⁰ In

³⁷ The 2013 and 2014 reports of measures taken by the Council of the Agency for Electronic Media include information on three warnings issued against the HRT, Television 1 and Radio Zagreb in March 2013, two admonitions (without legal consequence) delivered to the online portal Dnevno.hr and Independent Television in December 2013. In April 2014, a warning was issued against Dnevno.hr in connection with the publication of a boycott of Serbian-owned shops in Vukovar (see also Article 9).

³⁸ According to figures received by UNHCR, 152 persons were granted protection between 2004 and May 2015. See Briefing Note Asylum and Migration in Croatia, UNHCR July 2015.

³⁹ See information provided by the Ministry of Interior, www.mup.hr/219696.aspx.

⁴⁰ Article 87 defines a hate crime as "a criminal offence committed on account of race, colour, religion, national or ethnic origin ... of another person". Citizenship is not mentioned as one of the grounds. Article 125 relates to

addition, the Government adopted a “Hate Crime Protocol” in April 2011 and developed a track record system to monitor all offences that could be considered as hate crime. The Advisory Committee was informed that this record system still functions and that all acts are registered, even those that later prove not to have been based on hatred. It was equally informed that only seven such cases had been registered in the first six months of 2015, four of which were committed by the same person. This number appears surprisingly low to the Advisory Committee given the many accounts of hate crime throughout Croatia. The Advisory Committee equally notes that the Ministry of Justice’s records of criminal proceedings related to hate crime in 2014 only show eleven unresolved cases from previous years and ten more cases being registered in 2014. Of twelve completed cases in 2014, the majority ended in either an acquittal or a conditional sentence. The Advisory Committee is concerned that the very low official numbers of hate crime do not demonstrate an absence of hate crime in Croatia but rather reflect an insufficient application of the available legal framework. Indeed, the Advisory Committee gained the impression that acts are too often classified as misdemeanors by responsible law enforcement agencies.⁴¹

48. The Serb National Council registered 82 cases of ethnically based violence against persons belonging to the Serb minority in 2014.⁴² A call for a boycott in April 2014 against 35 shops and small businesses owned by ethnic Serbs in Vukovar was published by a national web portal without any legal action being taken by the authorities, apart from a warning issued by the Agency for Electronic Media. An incident of hate speech against persons belonging to the Hungarian minority in Vardarac in January 2014 was reportedly classified as “vandalism”, and therefore went to a misdemeanor court rather than use being made of the relevant Criminal Code provisions.⁴³ It is further of concern to the Advisory Committee that instances of destruction of property, including religious buildings and cemeteries pertaining to the Serb and Jewish minorities are increasing.⁴⁴ According to its interlocutors, persons belonging to national minorities, as a result, often remain reluctant to address the police when confronted with hate crime as their trust in the ability and willingness of officers to bring effect to their rights is limited. This is in particular the case in Međimurje County where ethnic profiling practices by the police in areas surrounding Roma settlements are reportedly increasing.⁴⁵ The Advisory Committee considers it essential that police and prosecution services are appropriately trained

“violation of equality” and Article 325 prohibits “public incitement to violence and hatred”. See also ECRI Report on Croatia (fourth monitoring cycle), adopted on 20 June 2012.

⁴¹ The Advisory Committee was informed, for instance, that the widespread destruction of bilingual place signs in Vukovar committed by members of the Homeland Veteran Association in early 2014, and accompanying rhetoric that stirred inter-ethnic tension throughout the country (see further on Article 11) had been classified as misdemeanor offences.

⁴² See for more details The Alternative Report on the Implementation of the Framework Convention for the Protection of National Minorities for the period 2009-2014, Serb National Council, July 2015, pages 13 ff. According to Ministry of Interior figures, the percentage of criminal acts motivated by hatred committed against Serbs is overall increasing in recent years.

⁴³ There has reportedly not been any reaction from the State Attorney’s Office following the public statement in May 2015 by a Member of the European Parliament and Head of the Croatian Conservative Party implying that Croatia should be “cleansed of ethnic Serbs”. The Ombudsperson had criticised the statement and suggested that it was up to the Attorney General, and ultimately the courts, to establish whether it constituted a hate crime.

⁴⁴ For a comprehensive overview see Bulletin #3 Violence and intolerance against Serbs in 2014, Serb National Council, May 2015.

⁴⁵ See also UN Human Rights Committee Concluding Observations on the third periodic report on Croatia, 15 April 2015, para. 7.

and instructed to ensure that investigations are effectively conducted and the available legal framework applied.⁴⁶

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

Recommendations

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

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

Article 9 of the Framework Convention

Radio and television broadcasting in minority languages

Present situation

52. The Advisory Committee welcomes the continuation of some programming on public television and radio in national minority languages.⁴⁷ It notes, however, that national minority representatives unanimously consider these programmes too scarce, as the combined total length reportedly only constitutes 1.3% of all programming. While the two television programmes geared towards national minorities that are broadcasted by the Croatian Radio and Television Company (HRT) as part of its diversity programming, 'Prisma' and 'Mosaic', are appreciated amongst national minority communities, the number of viewers is decreasing. Given the 30-minute duration of 'Prisma', only slots of about three minutes are allocated per minority. Contributions are therefore necessarily very superficial. In addition, it remains challenging for the producers to identify skilled journalists who speak minority languages so that not all minorities can be covered equally. The Advisory Committee further learned that the closure of regional media centres of the HRT have had effects on the level of detail of reporting on local issues of interest to national minority communities in the regions of Croatia. In addition, plans to move 'Prisma' to a less favourable time slot on Saturday morning are not welcome by minority representatives. The Advisory Committee further notes a variety of local

⁴⁶ See also European Court of Human Rights, *Beganović v. Croatia* (Application no. 46423/06), Judgment of 25 June 2009, and *Đurđević v. Croatia* (Application no. 52442/09), Judgment of 19 July 2011, referring to the state's failure to carry out sufficiently thorough and effective investigations in relation to the right to protection from torture or inhuman or degrading treatment of Roma.

⁴⁷ See the State Report, pages 39 ff. for a detailed overview.

radio stations that continue to broadcast in minority languages such as Radio Osijek (in Hungarian), Radio Danube (in Serbian) and Radio Daruvar. The latter broadcasts a daily programme of 30 minutes in Czech, which however, reportedly only covers a radius of 50 km.

53. The Advisory Committee reiterates its concern that minority interests are not sufficiently integrated in the mainstream media. According to minority representatives, programmes feature information *about* minorities rather than information *for* minorities, with presentations of minority culture and folklore being prioritised over engagement in broader political discourse that is of interest to persons belonging to national minorities and the majority alike. The topic of national minorities appears to reach the mainstream media only in the case of a particular incident or event, often negative and often evoking international or regional news. This is regrettable as it provokes the false image of national minorities being somewhat separate from society.⁴⁸ The Advisory Committee considers it vital that media professionals and journalists obtain adequate training to ensure that their awareness and sensitivity towards the specific needs and concerns of diverse groups in society is promoted and they are able to portray minorities as an integral part of society. It further recalls the importance of a common and pluralist media space that is shared amongst all groups to promote a sense of inclusion.

54. The Advisory Committee notes in this context the continued functioning of the special fund to promote pluralism administered by the Agency for Electronic Media. According to civil society representatives, the criteria used by the Agency in issuing funds as well as licenses are not always clear. A tender for a radio frequency in Pakrac in early 2015 was reportedly annulled by the Agency when the only candidate, a minority association wishing to promote inter-ethnic dialogue through its programming, presented its application.⁴⁹ The Advisory Committee reiterates the important role of independent and small media outlets to contribute to a pluralist and open media environment that promotes outreach towards a diverse society. It further wishes to stress that the possibility to actively participate in social media and to receive and impart information of interest to persons belonging to national minorities presupposes access to high-speed Internet throughout the country, including in remote areas which are often inhabited by national minority communities.

Recommendations

55. The Advisory Committee calls on the authorities to enhance their support for independent and small media outlets, including in remote areas of the country and through electronic means, and to promote a pluralist media environment through the training and recruitment of persons belonging to national minorities in mainstream public service broadcasting, including at senior level.

56. It further encourages them to ensure that quality programmes of interest to national minority communities are effectively available in all public service broadcasting at all levels and to integrate issues of interest to national minorities in mainstream media.

⁴⁸ See also Report from the Bosniak National Community of Zagreb and the County of Zagreb, State Report Appendices, page 113.

⁴⁹ Following a complaint, a recommendation was issued by the Ombudsperson to the Council of the Agency requesting more transparency in proceedings and decision-making processes.

Article 10 of the Framework Convention

Use of minority languages at local level

Present situation

57. 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%.⁵⁰ 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.⁵¹ 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.⁵² 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.

58. 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).⁵³ 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.

59. 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

⁵⁰ This is so, for instance, in a number of towns, cities and municipalities in Istria County (see State Report, page 67), where the percentage of the Italian population is below 5% as well as in certain parts of the town of Daruvar with regard to the Czech language.

⁵¹ According to Article 4(6) of the Constitutional Act on the Rights of National Minorities, "it shall be possible to exercise certain rights and freedoms depending on the share of population which members of national minorities enjoy in the Republic of Croatia or one of its areas, the already acquired rights and the international treaties, which in accordance with the Constitution of the Republic of Croatia are part of the internal legal framework of the Republic of Croatia."

⁵² See ACFC Third Thematic Commentary on the Language Rights of Persons Belonging to National Minorities under the Framework Convention, para. 57.

⁵³ No statutory provision had been made by the end of 2014 in Vrbovsko, Vukovar, Plaški, Gračac and Punitovci. Punitovci adjusted its statute in line with the domestic legal framework in summer 2015.

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.⁵⁴ 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

60. 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.

61. 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.

Article 11 of the Framework Convention

Minority languages on topographical signs and in identity documents

Present situation

62. The Advisory Committee is pleased to note that bilingual and even trilingual signposts are visible in a number of regions of Croatia in recognition of the long-standing presence of national minorities.⁵⁵ Implementation of the legal provisions contained in the Law on Use of Languages and Scripts of National Minorities thus again varies (see Article 10) according to the level of societal cohesion and the extent to which national minorities are respected. The situation is again particularly favourable with regard to the use of Italian on topographical signs.⁵⁶ It is of deep concern to the Advisory Committee, however, that violent protests were organised in Vukovar in 2013 by the veteran association “Headquarters for the Defence of Croatian Vukovar” as soon as first steps had been made to implement the Law on Use of Languages and Scripts of National Minorities by displaying bilingual signs in Latin and Cyrillic script. Bilingual plaques that had been set up were repeatedly removed by force and destroyed. At the end of 2013, the association called for a referendum on increasing the threshold regulating the right to use minority languages from 30% to 50% of the population. While the call gathered sufficient signatures for the referendum to go ahead, the Constitutional Court ruled in August 2014 that the questions proposed to be put to the public were not in line

⁵⁴ See Report of the Committee of Experts on the Charter (fifth monitoring cycle), adopted on 24 September 2014, para. 14.

⁵⁵ In the municipality of Kneževi Vinogradi, for instance, trilingual signposts in Croatian, Serbian and Hungarian are used.

⁵⁶ See State Report, pages 62 ff.

with the Constitution.⁵⁷ It further held that the City of Vukovar should regulate the use of bilingual scripts in line with the legislative framework within one year and that the Government should not use coercive measures towards the implementation of the Law.⁵⁸ Within one year, however, the Government should propose a legal mechanism to regulate situations where representative bodies of local self-government units do not execute or obstruct the implementation of the obligations from the Law on Use of Languages and Scripts of National Minorities in Croatia.

63. The Advisory Committee notes that a draft law was prepared by the Ministry for Public Administration and duly submitted to Parliament in summer 2015.⁵⁹ It shares the concern of civil society and national minority representatives that no effort was made to consult the public and in particular national minority representatives in the preparation of the draft law.⁶⁰ The draft foresees a possibility for the central government to dissolve a local council that fails to carry out its obligations in line with the Law on Use of Languages and Scripts of National Minorities. On 17 August 2015, the City of Vukovar amended its statute to the effect that no Cyrillic script will be shown on any of the municipal institutions, official buildings or street names.⁶¹ The City Council further decided to consider on a yearly basis whether the “rights of members of the Serbian national minority who live in Vukovar may be expanded”, depending on the level of understanding and tolerance amongst citizens that has been achieved.⁶² The Advisory Committee understands that the Ministry for Public Administration requested further instructions from the Constitutional Court on how to order the direct application of the law without coercive means and was informed that the procedure established by the Law on Local and Regional Self-government should be followed. The latter Law, however, allows for enforcement measures such as the dissolution of the respective local councils only in case of *frequent* acts that are contrary to the legislative framework.⁶³ The Advisory Committee highly appreciates the efforts of the Ministry towards resolving the situation and is pleased to note that some progress appears to have been made already in some of the municipalities where there had been resistance before.⁶⁴ Indeed, it considers that dialogue and awareness-raising initiatives at local level may be the most appropriate tools for the promotion of cohesion and peaceful co-existence of different cultures and languages that constitute the spirit of Article 11 of the Framework Convention.

64. It is of deep concern to the Advisory Committee, however, that the above-mentioned violence and tensions in Vukovar since 2013 have prompted a country-wide campaign against the use of Cyrillic script that results in many persons belonging to national minorities who use the Cyrillic script, such as the Serb or the Ruthenian minorities, choosing not to invoke their

⁵⁷ See Croatian Constitutional Court decision U-VIII-R-4640/2014 of 12 August 2014.

⁵⁸ According to Article 24 of the Law on Use of Languages and Scripts of National Minorities, the Minister for Public Administration may order the direct application of the Law.

⁵⁹ See www.vlada.gov.hr/UserDocImages/Sjednice/2015/233%20sjednica%20Vlade/233%20-%205b.pdf.

⁶⁰ See www.sabor.hr/izvjescje-odbora-za-ljudska-prava-i-prava-nacio0049.

⁶¹ Local branches of the state administration use signs with inscriptions in both Latin and Cyrillic script. See also Report of the Committee of Experts on the Charter (fifth monitoring cycle), adopted on 24 September 2014, para. 83.

⁶² The adopted amendments to the Vukovar Statute enter into force on 1 January 2016.

⁶³ According to Article 84.3 of the Law, the Government shall dissolve the representative body at the proposal of the central body of state administration if “it is frequently adopting general acts contrary to the Constitution, law or another regulation or because of frequent, serious violations of the law and other regulations”.

⁶⁴ Bilingual signs have, for instance, been set up in Gračac and Plaški and careful negotiations, facilitated by the Ministry of Public Administration, are ongoing in other localities.

rights rather than risking new hostilities. It learned from minority representatives in some regions that their fears concerned less the local population than outsiders who could come from other parts of the country to inflict inter-ethnic discord and tension in an effort to discourage any use of Cyrillic script in Croatia (see also Article 6).

65. The Advisory Committee further notes with concern that the use of minority languages in identity cards is also highly uneven. According to the State Report, 6,524 Croatian-Italian bilingual identity cards were issued in 2013 while there were only 114 Croatian-Serbian bilingual identity cards, using Latin and Cyrillic script, issued in the same year.⁶⁵ In view of the particular personal significance of seeing the minority language recognised in identity documents, the Advisory Committee notes with deep concern reports from representatives of national minorities who use the Cyrillic script that persons belonging to those minorities often refrain consciously from requesting a bilingual identity document. According to the representatives, the repercussions of having to provide an identity card in Cyrillic script during a regular traffic control by the police or other daily occurrences are far too negative.

Recommendations

66. The Advisory Committee urges the authorities to raise awareness amongst the public of Croatia's international and national legal obligations towards national minorities, and to promote close consultations among local authorities with representatives of minorities and the majority regarding the display of bilingual or trilingual signposts as a demonstration of the diverse character of the region, traditionally and at present.

67. It further urges them to ensure that persons belonging to national minorities throughout Croatia are enabled and encouraged to enjoy their rights according to the national legislative framework without any negative consequences resulting from that choice.

Article 12 of the Framework Convention

Equal access to education

Present situation

68. Equal access to education remains a concern in particular for persons belonging to the Roma minority. According to a UNDP Survey in 2014, only 25% of Roma children complete elementary education and only 10% complete secondary school.⁶⁶ While most Roma children enrol in primary school, irregular school attendance and early drop-outs remain very common. For many children, in particular those living in settlements, no transport is organised and the distribution of responsibilities regarding the provision of bus services between the Ministry of Education and the local authorities remains unclear. Significant efforts have been made by the authorities and civil society organisations, with substantial help from international organisations, to promote the enrolment of Roma children in pre-schools.⁶⁷ The NRIS foresees that Roma children shall attend pre-school free of charge for two years in order to promote

⁶⁵ See State Report page 72. According to the 2011 census, 4.36% of the Croatian population declared Serb ethnicity, while 0.43% of the population declared themselves as Italians, www.dzs.hr/default_e.htm.

⁶⁶ See www.hr.undp.org/content/croatia/en/home/operations/projects/poverty_reduction/roma.html.

⁶⁷ According to figures provided by the Ministry of Education, 769 Roma children attended pre-school in the school-year 2013/2014 and 873 in 2014/2015.

their integration and academic achievement in school.⁶⁸ A variety of interlocutors report, however, that the presence of Roma children in pre-school is still very low. While the payment of pre-school fees for Roma children by the Ministry of Education is welcome, transport to the facility from remote settlements is problematic and often impossible to manage by the parents. In addition, the number of classes where only Roma are educated has increased, despite the 2010 *Oršuš* judgment of the European Court of Human Rights that bans segregation of Roma in schools.⁶⁹ According to minority representatives, this phenomenon is not sufficiently addressed by the authorities. Reportedly, classes are recorded as mixed even when only one child or two children are non-Roma. There has also been no official response to the increasing occurrence of parents of non-Roma children deregistering their children from schools that are considered to be attended by a majority of Roma children.

69. It is in addition of deep concern to the Advisory Committee that Roma children are reportedly often not encouraged by teachers to do their homework or apply themselves academically, even to the extent that a reduced curriculum is applied to them, or they are placed in special classes where teachers are reportedly less well-qualified. While noting the recruitment of 23 assistants in primary schools in Međimurje County to address in particular the linguistic needs of Roma children, the Advisory Committee is concerned by reports that many Roma children are still placed in a lower class with the argument that their language skills are inadequate. No efforts are made subsequently, however, to provide them with additional language training or otherwise promote their integration into regular school. The Advisory Committee notes with concern reports that Roma children have been rejected by a kindergarten in Rijeka. Overall, the approach towards Roma children and parents depends very much on the specific school, with some teachers making considerable efforts to accommodate diversity in the classrooms and promote inter-cultural understanding despite sometimes limited encouragement and support from higher level.⁷⁰

70. As a result of high drop-out rates in particular from secondary schools,⁷¹ a very large proportion of the young adult Roma population has no secondary education certificate and correspondingly small prospects on the labour market (see also Article 15), where they often still face discriminatory attitudes (see Article 4). Adult education and vocational training thus remains an urgent concern for Roma representatives and is, in their view, not sufficiently addressed in the NRIS.

Recommendations

71. The Advisory Committee urges the authorities to develop a comprehensive strategy to ensure that Roma children have effective and equal access to education, through close co-ordination between the relevant central and local authorities and through the allocation of

⁶⁸ One year of pre-school is obligatory for all children in Croatia as of the school year 2013/2014.

⁶⁹ See European Court of Human Rights, *Oršuš and others v. Croatia* (Application No. 15766/03) Judgment of 16 March 2010, where the Court held that the education of Roma children in separate classes based on their linguistic differences amounted to discriminatory treatment if it was not merely temporary and not accompanied by targeted measures to prepare the transfer to mixed classes.

⁷⁰ Staff working in the kindergarten in Mursko Središće, for instance, is reportedly making considerable efforts to equally integrate all registered children on an equal basis.

⁷¹ Despite an increase of Roma students enrolled in secondary schools from 480 in 2012/2013 to 682 in 2014/2015, only 30 students of Roma origin completed secondary education in 2015.

adequate resources, both human and financial. The active enrolment of all Roma children in pre-schools and their integration in mixed classes should be viewed as a priority in this regard.

72. The Advisory Committee further urges the authorities to comprehensively address the disproportionately frequent drop-outs experienced among Roma children. More efforts should be made to use the first languages spoken by Roma in schools in order to promote their understanding and development, and enhance their academic achievement and inclusion.

Textbooks, teacher training and inter-cultural education

Present situation

73. The Advisory Committee is pleased to note that textbooks in minority languages, which are mainly based on translations of Croatian textbooks and produced in-country, continue to be provided to schools teaching in Czech, Hungarian, Serbian and Italian. Difficulties are reported, however, regarding the provision of appropriate minority language textbooks for use in so-called Model C schools (see Article 14), where the majority of classes are taught in Croatian and the so-called "heritage canon" (literature, language and culture) is taught in the minority languages. While consultations on a curriculum for such schools were concluded in 2014, it has not yet been adopted, as a result of which no adequate textbooks are available. While teachers reportedly manage by using a variety of education materials, including those received from neighbouring countries, the absence of an agreed curriculum still carries disadvantages for students, such as regarding the monitoring of education standards and the organisation of exams (see Article 14). In addition, minority representatives point out that textbooks for use in minority language education are not always provided in sufficient numbers, especially at secondary level, and are updated less frequently than regular school books. As regards the content of textbooks, the Advisory Committee observes that information about the life and history of national minorities in Croatia is reportedly scarcely addressed, with only inadequate and rather folkloric notions of their traditions as distinct from Croat history and culture. It is further deeply concerned by reports of tendencies of revisionism in history teaching, particularly when it comes to events during World War II and in the 1990s, or with regard to the ethnic background of well-known individuals who lived in Croatia. The Advisory Committee underlines the importance of introducing critical thinking in history teaching, based on the appreciation of multiple perspectives and the promotion of inter-cultural understanding and respect throughout the education system.

74. The Advisory Committee is pleased to note that the Education and Teacher Training Agency organises conferences and training events for teachers in the various minority languages and also provides some support for teachers traveling abroad to increase their knowledge. It further welcomes the introduction, in 2012, of courses of Romani language, literature and culture at the Humanities and Social Sciences Department of the University of Zagreb and expects that this will result in an increase in the education in and of the languages spoken by Roma in Croatian schools. The Advisory Committee further welcomes the organisation of a number of awareness-raising and training events related to inclusive education and diversity management in classrooms, in particular in Međimurje County. It reiterates the importance of such efforts country-wide to promote better understanding and mutual respect among youth generally. In this context, it notes with regret that most students of Serb origin from the Gračac region face resentment when entering high school in Zadar and rather choose Rijeka or the Orthodox school in Zagreb as a result, despite being farther away

from their families. Training initiatives to build capacity among primary and secondary school teachers to promote intercultural tolerance and inter-ethnic dialogue should be expanded and attention paid also to the organisation of extracurricular activities that can promote inter-ethnic contacts and help overcome existing stereotypes (see also Article 6).

Recommendations

75. The Advisory Committee calls on the authorities to raise awareness of minority rights in general education as an integral part of human rights, and to ensure that curricula and textbooks adequately reflect the diversity of Croatian society, including with respect to the appreciation of multiple perspectives in history.

76. It further calls on them to ensure that teachers and school staff are effectively trained to accommodate diversity in the classroom and promote intercultural respect and understanding throughout the education system.

Article 14 of the Framework Convention

Instruction in and of minority languages

Present situation

77. Education in and of minority language continues to be arranged through three models of education, Model A and Model C being most common. Model A schools offer all tuition in minority languages (with obligatory classes of Croatian), Model B schools offer bilingual education, and Model C schools follow the regular Croatian curriculum with additional classes in or of a minority language, literature and culture. The Advisory Committee notes that national minority representatives are generally satisfied with the education offered in Model A schools as graduates gain adequate proficiency in the minority language as well as in Croatian. It notes, however, concerns amongst the Italian community regarding the decreasing number of pupils in such schools and the possible necessity of school closures as a result. It further regrets that no solution has been found regarding the long-standing application for six elementary schools to be registered as Model A Serbian language schools in Vukovar-Srijem County.⁷² Despite the acknowledgement by the Ministry of Education that the conditions for the re-registration of the present-day Model C schools are met, the community has met with resistance at county and municipality level, neither of whom reportedly consider themselves responsible for the decision. It is regrettable that the continued absence of a constructive dialogue in this county appears to have led to a "stalemate", where new initiatives that are supported by parents, such as the opening of a mixed school in Vukovar where both Latin and Cyrillic script are used, are met with apprehension on both sides.

78. Lesser-used minority languages, such as Albanian, German, Russian, Slovak, Slovenian or Ukrainian continue to be taught in a number of Model C schools throughout the country, which is highly appreciated by representatives of those numerically smaller minorities.⁷³ Czech, Hungarian and Serbian are also taught at Model C schools in some areas where these minorities reside in non-substantial numbers. As a result of the lack of an adopted curriculum

⁷² There are 17 elementary schools according to Model A and six high schools in other parts of Croatia, teaching in Serbian language and using the Cyrillic script.

⁷³ There is no Bosnian minority language education however, despite the fact that 16,856 persons declared Bosnian as their first language in the 2011 census. See State Report, Appendix 5.

and appropriate textbooks, however, there is concern about the quality of minority education in those schools. Some children belonging to the Hungarian minority reportedly attend school across the border in Hungary as they consider the education in Model C schools as inadequate. The lack of an adopted curriculum for the teaching of some subjects at minority language schools is also problematic in that it prevents the comprehensive monitoring of education standards at Model C schools.

79. The Advisory Committee further notes the unanimous regret among minority communities that the Directorate for National Minorities within the Ministry of Education was discontinued and co-ordination of issues related to national minority education taken over by the Department for National Minorities and Children with Special Needs. According to most representatives, access to information has become significantly more difficult and time-consuming since.

Recommendations

80. The Advisory Committee calls on the authorities to closely consult with national minority representatives on all questions related to the administration and organisation of minority language schooling, and to ensure that the rights of persons belonging to national minorities to be taught in their own language and script are evenly implemented throughout the country, including for languages spoken by the Roma.

81. It further encourages them to consider the introduction of modern bi- and multilingual teaching methodologies to improve the quality of language teaching at all schools and to facilitate the accommodation of high-quality learning of different languages in integrated education environments, in particular in areas where lower numbers of students may prompt mergers.

Article 15 of the Framework Convention

Representation in elected bodies and participation in decision-making

Present situation

82. The Advisory Committee notes that eight Parliamentary seats remain reserved for representatives of national minorities, three of which are to be filled by representatives of minorities who represent more than 1.5% of the population, i.e., by the Serb minority, and five to be elected in a special suffrage by persons who are registered as belonging to a national minority.⁷⁴ Most interlocutors of the Advisory Committee indicated their satisfaction on the whole with the system of guaranteed representation and appreciate that the elected MPs attempt to reach out to their constituencies even when they live in remoter parts of the country. Some representatives of the numerically smaller minorities, however, consider that each minority should have its own representative in Parliament, or at least that the seat that represents several minorities should rotate among them on a yearly basis in order to promote their effective participation based on equality.⁷⁵ In addition, there is wide regret among minority representatives about the fact that the dual voting rights for national minorities (one

⁷⁴ Seven men and one woman were elected as representatives of national minorities in the November 2015 Parliamentary elections.

⁷⁵ See Report of the Union of Slovenian Associations in the Republic of Croatia and the Report of the Community of Macedonians in the Republic of Croatia, State Report Appendices, pages 113 and 115.

to elect their minority representative and one to take part in the general elections) that had been introduced by amendments to the Constitutional Act on the Rights of National Minorities in 2010 were abolished by decision of the Constitutional Court in July 2011.⁷⁶ As a result, persons belonging to national minorities who wish to take part in Parliamentary elections must choose whether to take part in the general election as a regular citizen or whether they wish to vote as a registered member of a national minority from a special voting register. While many individuals wish to vote as persons belonging to national minorities, the Advisory Committee regrets reports that persons belonging to national minorities who do express their choice to vote from the minority list have faced resentment at polling stations and allegations that they “require special treatment”. It reiterates its view that persons belonging to national minorities, including women and young persons, should be encouraged to effectively participate at all levels to ensure that their concerns are integrated in mainstream politics rather than dealt with in exclusive minority-related domains only.⁷⁷

83. The interests and views of national minorities are further represented through the Council for National Minorities (see Article 5), an advisory body established in line with the Constitutional Act on the Rights of National Minorities and composed of 20 members who are appointed by the Government, including the eight Members of Parliament as well as representatives of national minority associations “of some distinction”.⁷⁸ While the Council functions well and pronounces itself on a number of issues, beyond the allocation of cultural support, the body lacks broader competencies and is considered not to have meaningful decision-making powers. Its position as advisory body to the GOHRRNM, which itself is an “expert service” without political co-ordination authority, may be one reason for this. The Advisory Committee notes as a result that access for persons belonging to national minorities to senior government decision-making is predominantly assured via personal contacts rather than institutionalised channels such as the Council for National Minorities.

84. Participation of national minorities is further promoted at local level through their representation in local councils and executive bodies. Where the national minority constitutes between 5 and 15% of the population, national minorities have the right to one seat in the local council; if their proportion exceeds 15%, that number is increased and they also have the right to an executive position, usually that of Deputy Mayor.⁷⁹ The minority Deputy Mayors play a symbolic role, however, with some representational functions on issues related to national minorities only, rather than actively taking part in local policy- or decision-making. National minority representatives are furthermore entitled to elect their representatives in the councils of national minorities. These are consultative bodies that advise the regional or local authorities and make proposals on how to improve the situation of national minorities. However, turn-out at elections for these councils has been very low, on average around 10%. Persons belonging to national minorities point to a variety of reasons for that: firstly, the low interest stems from the fact that the elected representatives have very few competencies and their budget is limited. This is reportedly particularly the case if the minority councils voice any

⁷⁶ The Constitutional Court held that the new electoral rules were unconstitutional as they had not been regulated in an Act of constitutional force and infringed disproportionately on the general principle of equality of suffrage. See Decision U-I-3597-2010-CC, para. 61.

⁷⁷ See also ACFC Second Thematic Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs, para. 73.

⁷⁸ See Article 36 of the Constitutional Act on the Rights of National Minorities.

⁷⁹ Following elections in May 2015, there are 61 minority Deputy Mayors in Croatia: 39 Serb, seven Italian, four Hungarian, four Czech, two Bosniak, two Roma, two Ruthenian, and one Slovak. Nine of them are women.

form of disagreement with the executive authorities. In addition, it is often paid out late in the year, making disbursement in meaningful projects during the financial year difficult. Secondly, the elections are organised separately from the general local elections and candidates receive very little campaign support. As a result and due also to the reduced number of polling stations, it is problematic for elderly persons belonging to national minorities to effectively cast their vote. The Advisory Committee further notes that the fourth such elections in May 2015 were technically conducted without legal basis, as the new Law on Local Elections of December 2012 does not regulate the election of national minority councils. This has prompted fears among some minorities that the elections could retroactively be considered invalid.

85. As regards the preparation of the NRIS and Action Plan, the Advisory Committee is pleased to note a variety of efforts towards the involvement of Roma representatives at civil society and government level.⁸⁰ Overall however, there is agreement among Roma and civil society representatives that there has been insufficient consultation and co-ordination with the communities themselves at central and local level in the implementation of the NRIS 2013-2020. According to a recent evaluation of the strategy, a revision is required to make it more effective, which must be taken into account also in the preparation of the Action Plan 2016-2018.⁸¹ The latter must contain clear and realistic commitments that are built on comprehensive baseline data, which itself must be established according to a standardised methodology. The Advisory Committee considers it essential that Roma representatives at local and central level are systematically consulted and effectively included in the preparation of the documents. It notes with concern reports that Roma are often not viewed as equal partners in policy making and are rather considered objects than subjects of the Action Plan. A certain lack of rights awareness and appropriate understanding of the legal and political context, including as regards access to funding, has been acknowledged by Roma representatives. This should, however, be addressed through targeted training and capacity-building efforts rather than by bypassing the right of Roma to participate effectively in line with Article 15 of the Framework Convention.

Recommendations

86. The Advisory Committee calls on the authorities to ensure that all persons belonging to national minorities have an effective opportunity and are encouraged to participate in overall political decision-making processes as integral members of Croatian society. In addition, consultative bodies established to ensure that the specific interest and concerns of national minorities are taken into account must be equipped with sufficient competencies to effectively influence relevant decision making, not limited to cultural affairs.

87. It further calls on them to enhance the participation of persons belonging to national minorities, including women and young voters, at local level by ensuring that their active participation in local elections is encouraged. An appropriate legislative framework for the elections of councils and representatives of national minorities in self-government units should be adopted, ensuring that they result in the effective participation of elected representatives in all local decision-making processes.

⁸⁰ One-day workshops have been organised, for instance, by the UNDP and the GOHRRNM in Kuršanec and other municipalities to discuss the development of the Međimurje County Action Plan, which was considered a first step by Roma representatives to jointly identify key issues and solutions.

⁸¹ See Footnote 31, page 75.

88. It further encourages the authorities to revise the NRIS in line with the results of the evaluation and ensure that Roma representatives at central and local level are closely involved in all steps, including the preparation and implementation of the corresponding 2016-2018 Action Plan.

Representation in civil service and administration

Present situation

89. Article 22 of the Constitutional Act on the Rights of National Minorities regulates that national minorities shall be represented in public administration and courts by taking into account the overall number of national minorities in the population at local level. The Advisory Committee welcomes efforts by the Ministry of Public Administration to establish a system of monitoring the implementation of this provision throughout the country, as well as the adoption of the Plan for the Recruitment of National Minority Members to State Administration Bodies 2011-2014. Despite successive recommendations by the Ombudsperson, however, no mechanism has been put in place to oversee implementation of the Plan, nor has it been renewed.⁸² The overall number of national minorities stood at approximately 3.6% at the end of 2014.⁸³ While national minority representatives express understanding for the fact that many public positions were filled in the 1990s when mainly Croats were returning, as well as for the economic situation that places certain limitations on civil service recruitment, there is a widespread and clear sense of selective processes and ethnic bias in public recruitment. Interlocutors resent in particular the need for candidates to indicate in their application that they wish to make use of their right to preferential consideration in line with Article 22.4,⁸⁴ which reportedly not only places them in an uncomfortable position but also has usually the opposite effect, as their minority background in fact works against them. Given the stereotypes and prejudice that dominate the public rhetoric on national minorities (see also Article 6), many persons belonging to national minorities prefer to abstain from enjoying their rights rather than going through a process that is considered to be not only pointless but also humiliating. In addition, the preferential treatment provision is reportedly sometimes invoked by persons who do not belong to national minorities, which results in some self-government units claiming to have fulfilled Article 22, without the aim of the legislature actually being met.

90. It is further of concern to the Advisory Committee that representation of national minorities in the courts and in the police force is particularly low (see Article 4), which impacts on the willingness of persons belonging to national minorities to address law enforcement authorities when they require assistance. Comprehensive research conducted during the reporting period suggests that the representation of national minorities in the police force has substantially decreased, in particular regarding the Serb minority and in return areas,⁸⁵ while the number of Roma in the police force remains negligible without noticeable efforts being made by the Ministry of Interior to promote the recruitment of Roma, particularly in areas where Roma live in substantial numbers. In addition, very few civil servants belonging to national minorities hold higher positions or take part in senior decision making. As a result,

⁸² See Summary, Report of the Ombudsman for 2014 and 2013.

⁸³ The target representation of national minorities in public administration is 5.5%.

⁸⁴ In filling the vacancies specified in paragraphs (2) and (3) of this Article, preference under the same conditions shall be accorded to representatives of national minorities.

⁸⁵ In Lika-Senj County, for instance, there are 13.65% of Serb in the population, whereas their representation in the police force stands at 1.27%. See the Alternative Report on the Implementation of the Framework Convention for the Protection of National Minorities, Serb National Council Zagreb, July 2015.

members of national minorities lack the kind of networking opportunities that traditionally play a large role in the pursuit of employment even where no obvious ethnic bias is present.

Recommendation

91. The Advisory Committee urges the authorities to prioritise the recruitment of persons belonging to national minorities, including women, into public service at central and local level by providing effective incentives for qualified candidates to apply and to be promoted, and by sending a clear political message that diversity is an integral and appreciated feature of Croatian society.

Effective participation in socio-economic life

Present situation

92. The economic integration of returnees overall remains a source of deep concern. The Advisory Committee visited Serb return areas where the provision with basic public services such as electricity, gas and water is intermittent and where no investment into the severely damaged infrastructure appears to have been made since the end of the 1991-1995 conflict. Moreover, some villages lack any form of public transport which is problematic for persons without private cars, in particular the elderly. There is no bus connection, for instance, that links the village of Srb with Gračac and the proposal of a local transport provider to establish such a service was reportedly rejected without reasonable explanation.⁸⁶ The Advisory Committee heard accounts of similar deficits of infrastructure and basic amenities also from representatives of other national minorities, such as the Italian community living in the area of Pakrac. It is deeply concerned by this situation where part of the population is physically marginalised from public life. Moreover, some of the remote villages in question are only irregularly visited by doctors or other medical staff. The engagement of civil society organisations to assist the elderly population in accessing basic services is highly appreciated in this regard.⁸⁷ While acknowledging that other parts of the country such as some islands may be in a similar situation, the Advisory Committee points out that these parts have traditionally been remote and suitable coping mechanisms have been developed by the population over decades. Some of the areas inhabited mainly by persons belonging to national minorities, however, have undergone significant and traumatic change in the last decades, often losing important sources of employment and infrastructure, without the reduced population receiving noticeable support to address the situation and recreate economic incentives. The Advisory Committee notes with interest that some areas are exploring opportunities within the EU Regional Development Fund.

93. Access to adequate housing remains a major concern for persons belonging to the Roma communities as the large majority continues to live in illegal settlements that are often spatially segregated. A recent UNDP survey points to a widening gap in poverty between Roma and non-Roma with 92.3% of Roma living in relative poverty compared to 42% of non-Roma, and 65% of the Roma labour force being unemployed compared to 24% of the non-Roma

⁸⁶ The Advisory Committee understands from an official letter that the line could not be served for want of an authorised bus stop.

⁸⁷ Organisations providing such services receive some funds from the Ministry for Social Policy. Yet there is reportedly only very little support from some entities, such as Zadar County.

population.⁸⁸ While six of the twelve settlements in Međimurje County have been connected to electricity, many individual dwellings do not benefit as electricity companies do not trust that bills will be paid. In addition, while investments into the basic amenities in Roma settlements do improve their material living conditions, they may also serve to cement the spatial segregation of Roma which inhibits their broader socio-economic integration.⁸⁹ Noting that the NRIS recommends addressing the housing situation of Roma in a more comprehensive manner, the Advisory Committee welcomes current plans of preparing draft legislation on Social Housing that would extend housing care also to Roma. As regards access to social benefits, it notes that following repeated amendments to the legislative framework, ownership of a private car constitutes an exclusion ground for potential beneficiaries. While being assured by representatives of the authorities that exemptions were being made for Roma who live in remote settlements and therefore depend on private transportation to access schools or other public services, the Advisory Committee regrets to have received consistent reports of cases where Roma are stopped right outside the settlements and their allowances discontinued, depriving them of their only means of subsistence.

94. According to the interlocutors of the Advisory Committee, persons belonging to the Serb minority face difficulties in accessing the labour market also in the private sector due to discriminatory attitudes,⁹⁰ while persons belonging to other national minorities do not report particular obstacles in their access to employment. They refer nevertheless to a sense of nationalism that is perceptible in a number of private sector companies and employment providers who want to be seen as loyal to Croatia and do not want to be reproached of “doing ethno-business” by hiring persons belonging to national minorities.

Recommendations

95. The Advisory Committee urges the authorities to prioritise the revitalisation of marginalised areas where persons belonging to national minorities reside in terms of basic infrastructure, utilities, transport, and employment opportunities. Regular access to health and other basic facilities must be provided, in particular to areas where the population is predominantly elderly.

96. It further calls on them to prioritise the identification of prompt and suitable solutions to the dire housing conditions of the many Roma living in illegal settlements through comprehensive approaches aimed at overcoming existing patterns of marginalisation and exclusion.

⁸⁸ See description of the project “Better together for Roma in Croatia”, implemented by the UNDP, www.hr.undp.org/content/croatia/en/home/operations/projects/poverty_reduction/roma.html.

⁸⁹ See also Evaluation of Croatian National Roma Inclusion Strategy, 2015.

⁹⁰ Evidence of discrimination against ethnic Serb applicants is also found in a 2012 sociological study. See Vojislav Trifunović and Tomislav Lučić in Who will be easier to hire in Zagreb? Testing Ethnic and Age Discrimination through the Method of Field Experiment, in *Revija za sociologiju* 42 (2012), 1: 31–59.

Article 16 of the Framework Convention

Sustainability of return

Present situation

97. The Advisory Committee notes that a permanent population change has taken place in Croatia as a result of the 1991-1995 conflict, followed by the active settlement of Bosnian and other citizens considered as ethnic Croats in areas that had been depopulated. According to census data from 1991 and 2011, the percentage of the minority population has decreased from 24% to 9%. A study presented in 2012 (see Article 4) indicates that only 48% of registered returnees remain in Croatia. While the wish of individuals must be respected, the Advisory Committee considers that more efforts should be made to actively encourage returnees to remain in the country as integral members of society. This requires a consistent demonstration of political will to welcome and support the sustainable return of persons that were displaced by the conflict, including the prompt condemnation of any hate crimes against persons belonging to national minorities, the proactive promotion of their access to housing and reconstruction assistance, and the targeted support to infrastructure, transport facilities and other amenities in the returnee areas which in many cases lack basic access to public services (see Article 15).

Recommendation

98. The Advisory Committee calls on the authorities to actively and convincingly promote the sustainability of minority return by ensuring that returnees are enabled to re-establish a dignified life as integral members of Croatia's diverse society and by sending the appropriate political messages.

Articles 17 and 18 of the Framework Convention

Bilateral co-operation

Present situation

99. The Advisory Committee welcomes the existence of a number of bilateral agreements with other states that further co-operation in particular in the fields of culture and education.⁹¹ It notes with regret, however, that in the wake of the crossing of refugees through Croatia in the second half of 2015 (see comments on Article 6) disputes erupted with neighbouring states leading to the temporary closure of borders. The Advisory Committee is in particular concerned about the fact that the events were accompanied by nationalist rhetoric that could negatively affect inter-ethnic relations within Croatia.

Recommendation

100. The Advisory Committee calls on the authorities to maintain a spirit of good neighbourly relations and promote close co-operation within the region on a variety of issues pertaining to minority protection, not limited to education and culture.

⁹¹ See State Report, pages 107 and 108.

III. CONCLUSIONS

101. The Advisory Committee considers that the present concluding remarks and recommendations could serve as the basis for the resolution to be adopted by the Committee of Ministers with respect to the implementation of the Framework Convention by Croatia.

102. The authorities are invited to take account of the detailed observations and recommendations contained in Sections I and II of the Advisory Committee's Fourth Opinion.⁹² In particular, they should take the following measures to improve further the implementation of the Framework Convention:

Recommendations for immediate action⁹³

- Prioritise attention to minority rights as an integral part of human rights in the government agenda and develop, in close consultation with minority representatives, effective mechanisms to ensure that persons belonging to national minorities can enjoy their rights without negative consequences resulting from that choice;
- Systematically and promptly condemn all instances of nationalist and anti-minority rhetoric in public and political discourse and the media, and ensure that all cases of hate crime and hate speech are effectively investigated and sanctioned;
- Prioritise the development and revitalisation of marginalised areas that are mainly inhabited by especially disadvantaged persons belonging to national minorities, in particular returnees and Roma, through targeted investments in infrastructure and employment opportunities.

Further recommendations⁹⁴

- Ensure that the right to free self-identification is understood and applied, including with respect to multiple affiliations, in all data collection exercises and closely consult with minority representatives when analysing the qualitative and quantitative results, in particular when relevant for the enjoyment of minority rights;
- Provide adequate political and financial support to the Office of the Ombudsman and proactively promote awareness of the antidiscrimination standards within the judiciary and amongst society, particularly amongst the most disadvantaged;
- Proactively address the inequalities experienced by persons belonging to national minorities, in particular Serb and Roma, when accessing their rights, including the justice system; develop a clear methodology for the collection of disaggregated data to obtain a comprehensive assessment of the access to rights situation and design effective measures for the promotion of equal opportunities;

⁹² A link to the Opinion is to be inserted in the draft resolution before submission to the GR-H.

⁹³ The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

⁹⁴ The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

- Increase available support for the promotion of cultural activities of national minority associations, including through the Council for National Minorities, while paying attention to their diversity, and ensure that the promotion of minority cultures is firmly integrated into the broader cultural policy as a valued element of Croatia's diversity;
- Develop a comprehensive strategy to promote inter-ethnic dialogue and reconciliation and intensify efforts to promote respect towards diversity in society generally, particularly through enhanced inter-cultural education and the work of the public broadcaster;
- Raise public awareness of the legal remedies available against hate crime and hate speech and promote professional journalism and ethical behaviour in the media through targeted training activities;
- Increase support to minority language media, including independent and small media outlets to promote a pluralist media environment and enhance the recruitment and training of persons belonging to national minorities in mainstream public broadcasting;
- Raise awareness in society of Croatia's international and national legal obligations towards national minorities, and promote close consultations among local authorities with representatives of minorities and the majority to effectively implement the right to use minority languages and scripts at local level in line with the domestic legal framework;
- Ensure that all school curricula and textbooks reflect the diversity of Croatia and that teachers are effectively trained in accommodating diversity and promoting intercultural respect in the classroom; consult closely with national minority representatives on all questions related to minority language education, including through modern bi- and multilingual methodologies and in integrated environments;
- Enhance opportunities for persons belonging to national minorities, including women, to effectively participate as integral members of Croatian society in decision-making processes at central and local level; prioritise the recruitment of persons belonging to national minorities into public services, including law enforcement and the judiciary;
- Revise the National Roma Inclusion Strategy in line with the conducted evaluation and pay increased attention to its implementation by enhancing the co-operation among all line ministries and allocating adequate resources; closely involve Roma representatives at all levels, including in the development and implementation of a new Action Plan.