



**Fourth Opinion on Ukraine - adopted on 10 March 2017
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Summary

Overall, Ukrainian society continues to be tolerant and open, respectful of multiple identities. The impact of the conflict in Eastern Ukraine, and the illegal annexation by the Russian Federation of the Autonomous Republic of Crimea and the city of Sevastopol on the political climate and economic and social life in the country, cannot be overstated. In particular, the conflict has created an atmosphere in which persons who hitherto felt comfortable with complex, layered and multiple identities, feel the obligation to choose sides by showing loyalty to the state. The persons most impacted in this regard are those who identify as ethnic Russians or those who identify with the Ukrainian majority but communicate in the Russian language.

In the aftermath of the Euromaidan demonstrations of 2013-14, a thorough modernisation programme was launched in Ukraine, including territorial administrative reform aiming at the decentralisation of competences and the creation of larger territorial units capable of delivering adequate services to the population. However, both the future territorial structure and the set-up of local administration could potentially affect - both positively and negatively - access to rights by persons belonging to national minorities. Concerns have been raised about, inter alia, the provision of education in languages of national minorities, support for national minority cultural institutions, and the ability to influence decision making at local level.

Ukraine lacks a clear legislative framework on the protection of national minorities. The Law "On the Principles of the State Language Policy" was referred to the Constitutional Court of Ukraine in 2014 and its examination is pending. Other laws adopted in recent years, or currently considered by the Verkhovna Rada, do not provide adequate access to rights protected under the Framework Convention. For instance, the Law "On State Service" contains no provision on the use of national minority languages in relations between persons belonging to national minorities and the administrative authorities. Furthermore, legislation was adopted in 2016 introducing a quota for songs in the Ukrainian language in all radio stations, both public and private. In addition, a recently tabled bill "On State Language", if adopted in its current form, would establish a National Commission on State Language Standards with investigative and sanctioning powers and introduce criminal liability for public disrespect of the Ukrainian language.

The Roma continue to face numerous social challenges in Ukraine. The authorities have continued their efforts to combat discrimination and implement policies for Roma inclusion. The “Strategy for Protection and Integration of the Roma National Minority into Ukrainian Society for the period up to 2020”, adopted in 2013, has already yielded some positive results, in particular as regards the provision of identity documents for the Roma. In other areas, progress has been negligible, and Roma continue to suffer systemic discrimination in access to education, adequate housing, health services and employment. Police misconduct and harassment against some groups, including the Roma and suspected illegal migrants, have been reported. Mob violence against Roma in Loshchynivka and the alleged collusion of the local authorities have not been effectively investigated and sanctioned.

Recommendations for immediate action:

- **Adopt without delay and in close consultation with the groups concerned, an adequate and comprehensive legal framework for the protection of national minorities with effective implementation mechanisms;**
- **Promote respect and intercultural understanding among different groups in society as a whole, including through comprehensive measures that target the majority population; combat stereotypes and prejudice in political discourse and promote tolerance and intercultural dialogue throughout society as a whole;**
- **Continue efforts to develop, in consultation with all relevant groups, a clear and coherent legislative and policy framework regarding the use of languages, in order to provide solid legal guarantees for the protection and use of all minority languages, including the numerically smaller ones;**
- **Take all necessary measures to end, without further delay, practices that lead to the continued segregation of Roma children in schools and to redouble efforts to remedy other shortcomings faced by Roma children;**
- **Ensure that, when redrawing administrative boundaries, the rights and freedoms which flow from the Framework Convention are not restricted and that effective participation of persons belonging to national minorities in discussions at local level is guaranteed.**

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I. Key findings

Monitoring process

1. This fourth cycle opinion on the implementation of the Framework Convention by Ukraine 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 30 May 2016, other written sources and on information obtained by the Advisory Committee from governmental and non-governmental contacts during its visit to Kyiv, Odesa, Kharkiv and Uzhhorod from 21 to 29 November 2016. Because of the ongoing conflict, the delegation was constrained to visit only areas under effective control of the Ukrainian authorities and which were safe enough to travel to.
2. This report does not take into account the situation in the territories which are currently not under the effective control of the Ukrainian authorities to whom the present report is addressed and which, because of the ongoing conflict, the Advisory Committee's delegation could not visit during its mission. Owing to the fact that the Autonomous Republic of Crimea and the city of Sevastopol and parts of the Donbass region remain outside the effective control of the Ukrainian authorities, the Advisory Committee cannot address any recommendations to them with regard to a more effective implementation of the Framework Convention in those regions.
3. In its findings on the relevant articles, it underlines nevertheless important issues of concern regarding the access to rights of persons falling under the protection of the Framework Convention who have moved from the Autonomous Republic of Crimea and the city of Sevastopol to other regions of Ukraine and reside there as internally-displaced persons (IDPs). The Advisory Committee deeply regrets not being in a position to address recommendations with regard to the situation of national minorities residing in territories outside the effective control of the Ukrainian authorities and remains at the disposal of the Committee of Ministers to visit these areas once the questions of access, security and freedom of movement are resolved.
4. The Advisory Committee welcomes the authorities' overall constructive and co-operative approach towards the monitoring process and the considerable assistance provided by them before, during and after the fourth cycle visit, which was carried out concurrently (and partially in parallel) with delegations of the European Commission against Racism and Intolerance (ECRI) and the Committee of Experts of the European Charter for Regional or Minority Languages (ECRML). The Fourth State Report containing comprehensive and relevant information was submitted with a delay of over two years. In addition, the Advisory Committee received written information from civil society, including national minority representatives.
5. The Advisory Committee notes with regret that no follow-up seminar was organised in Ukraine after the conclusion of the last monitoring cycle. Such an event would have been a useful opportunity for discussion of the opinion and the Committee of Ministers' recommendations, as well as more generally of developments affecting national minorities and policies implemented to address their concerns. Moreover, the Advisory Committee regrets that its last opinion and the resolution of the Committee of Ministers on Ukraine were not

translated into Ukrainian and national minority languages, limiting their dissemination within society.

6. The Advisory Committee recalls that on 1 April 2014, it adopted an ad hoc report in response to the decision of 14 March 2014 of the Committee of Ministers, instructing the Advisory Committee “in accordance with paragraph 36 of Resolution Res(97)10 of the Committee of Ministers on the monitoring arrangements under Articles 24 to 26 of the Framework Convention for the Protection of National Minorities, [...] to review the situation of national minorities in Ukraine and to report back on its findings as soon as possible” (CM/Del/Dec(2014)1194/1.7). In line with this decision, a delegation of the Advisory Committee travelled to Ukraine in March 2014, and the subsequent report was discussed by the Committee of Ministers on 2 April 2014. The Advisory Committee notes with satisfaction that the report was translated into the Ukrainian language.

7. Not being part of the regular monitoring cycles, the ad hoc report was not a comprehensive assessment of the implementation of the Framework Convention in Ukraine. Furthermore, it did not address specific recommendations to the authorities of Ukraine and, moreover, did not serve as a basis for any specific recommendations of the Committee of Ministers. Therefore, the current opinion assesses implementation by the authorities of the recommendations made under the third monitoring cycle.

8. The Advisory Committee looks forward to continuing its dialogue with the authorities of Ukraine as well as with representatives of national minorities and others involved in the implementation of the Framework Convention. In order to promote an inclusive and transparent process, the Advisory Committee strongly encourages the authorities to make the present opinion public upon its receipt. It also invites the authorities to translate the present opinion and the forthcoming Committee of Ministers’ resolution into Ukrainian and minority languages, and to disseminate it widely among all relevant actors. The Advisory Committee considers that, given the multitude and depth of changes to the institutional environment, a follow-up dialogue to review the observations and recommendations made in the current opinion would be particularly beneficial to all.

General overview of the current situation

9. The impact of the conflict in Eastern Ukraine, and the illegal annexation by the Russian Federation of the Autonomous Republic of Crimea and the city of Sevastopol on the political climate and economic and social life of the country is considerable, and cannot be overstated. Its human cost has been substantial with the number of casualties since the beginning of hostilities in April 2014 until 15 November 2016, reaching 9 733 people killed and 22 720 injured among Ukrainian armed forces, civilians and members of armed groups.¹ The number of IDPs fleeing the conflict exceeds 1.7 million persons, according to data collected by the Ministry of Social Policy.²

¹ See Office of the United Nations High Commissioner for Human Rights “Report on the human rights situation in Ukraine” 16 August to 15 November 2016, available at http://www.ohchr.org/Documents/Countries/UA/UAReport16th_EN.pdf.

² See “Report by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe, following his visit to Ukraine from 21 to 25 March 2016”, p. 20, available at <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2928475&SecMode=1&DocId=2379824&Usage=2>.

10. Notwithstanding this crisis, Ukrainian society continues in the main, to be tolerant and open, respectful of multiple identities of persons making up its population. Nonetheless, the Advisory Committee observed that the conflict has had a catalysing effect on society as a whole, in particular by creating an atmosphere in which persons who hitherto felt comfortable with complex, layered and multiple identities, feel the obligation to choose sides and to show loyalty to the state. The persons most impacted in this regard are those who identify as ethnic Russians or those who identify with the Ukrainian majority but communicate in the Russian language. A perception that the conflict in the east of the country has been exacerbated, artificially or not, by issues of culture and language, has prompted the promotion of the Ukrainian language in all fields of life and to reduce the role of the Russian language in the public sphere. Political radicalisation and a rise in national fervour are detrimental to harmonious community relations in the country and endanger its perspectives for peaceful coexistence and prosperity. Persons belonging to other minorities are also affected, as they for the most part, feel the compulsion to demonstrate solidarity with the state and the Ukrainian majority, at a time of need. In short, the space for individuals to self-identify freely and to express publicly their ethnicity has been significantly affected by the conflict.

11. Alongside that, a thorough reform of the territorial structure and local administration has been undertaken with the aim to strengthen the local administrative units (*hromadas*) by decentralising power and creating larger local communities capable of delivering basic services to the population. In order to achieve this, legislation was adopted in 2014 and 2015, including laws on state regional policy, fiscal decentralisation as well as on co-operation and amalgamation of local communities (*hromadas* at the lower level and *rayons* at the intermediate level of local self-government). These reforms are part of the wider reform package which also includes reform of the judiciary and the public prosecution service, reform of public administration, the media, electoral reform, fight against corruption, reform of the education system, fiscal reform and finally a thorough economic reform.

12. As a first step, the authorities have initiated a process of voluntary amalgamation of *hromadas* to reduce their number from more than 12 000 to approximately 1 200-1 500. Once the process of amalgamation of *hromadas* is complete, there are plans to reduce the number of *rayons* from 490 to around 100-120. The future territorial structure and local administration reforms, which are currently in their initial stages, have the potential to affect - both positively and negatively - the access to rights by persons belonging to national minorities. However, national minority and civil society representatives mentioned several procedural shortcomings: the (voluntary) amalgamation of *hromadas* was not preceded by adequate awareness-raising campaigns; the procedure and consequences of amalgamation of *hromadas* are not sufficiently clear to all stakeholders; there are no clear provisions to rectify any shortcomings which may become apparent after the new system is in place. In a number of cases, the authorities did not authorise amalgamation of adjacent *hromadas* inhabited by a substantial number of persons belonging to national minorities, apparently to prevent establishment of strong local self-governing territorial units capable of voicing political demands. This seems to contradict provisions³ of the Law “On Voluntary Association of Territorial Communities”, which expressly provides that historical, natural, ethnic, cultural and other factors affecting the socio-economic development of a merged municipality shall be taken into consideration for decision making in respect of the voluntary merger of municipalities. Under-resourcing and insufficient training of

³ Article 4 of the Law No. 157-VIII “On Voluntary Association of Territorial Communities”, adopted on 5 February 2015, available (in Ukrainian) at <http://zakon0.rada.gov.ua/laws/show/157-viii>.

local councillors and administrative staff in advance of the reform, may seriously undermine their ability to deliver expected results, and, as a consequence, undermine public trust in the process.

13. The Advisory Committee was informed that, on the whole, the public overwhelmingly supports decentralisation, but also that it has voiced concerns about amalgamation of *hromadas*. Furthermore, in areas inhabited by a substantial number of persons belonging to national minorities visited by the Advisory Committee, there are concerns about the provision of education in languages of national minorities, support for national minority cultural institutions and ability to influence decision making at local level. The Advisory Committee shares concerns of national minority representatives with regard to the lack of consultation on matters affecting them and insufficient insight into the implications for access to rights on the part of decision makers at the planning stage.

Assessment of measures taken to implement the recommendations for immediate action

14. Measures undertaken to implement recommendations for immediate action made in the Advisory Committee's third opinion and the corresponding Committee of Ministers' resolution have not been particularly successful in the period marked by political upheaval during the Euromaidan demonstrations,⁴ the conflict in Eastern Ukraine and the illegal annexation by the Russian Federation of the Autonomous Republic of Crimea and the city of Sevastopol. On 3 July 2012, following extensive political consultation, and elaborated with the help of the Venice Commission,⁵ the Verkhovna Rada adopted the Law "On the Principles of the State Language Policy". This law, while confirming the status of Ukrainian as the sole state language, recognised the Russian language, together with other national minority languages, as a regional language to be protected as such in line with international obligations of Ukraine, most notably the European Charter for Regional or Minority Languages, ratified by Ukraine in 2005. In addition to the Russian language, the law created conditions for better protection of other national minority languages spoken in Ukraine in regions where the number of speakers of a minority language exceeds 10% according to the data collected during the census of 2001.

15. The Advisory Committee recalls its view on the law expressed in the "Ad hoc Report on the situation of national minorities in Ukraine adopted on 1 April 2014".⁶ In particular, it recalls its criticism as regards the polarising effect of the law on Ukrainian society and its call for significantly more comprehensive consultation with representatives of all minorities. It further notes that, following the vote in the Verkhovna Rada to abrogate the law, at the culminating point of the Euromaidan demonstrations on 23 February 2014, and the subsequent decision of the acting president on 27 February 2014 to veto its abrogation, the matter was referred to the Constitutional Court by 57 deputies of the Verkhovna Rada on 10 July 2014. The Constitutional Court of Ukraine is yet to deliver its ruling on the constitutionality of the law. The uncertainty as to the outcome of this review is contributing to perceptible tensions, and political

⁴ Euromaidan refers to public protests which began in the *Maidan Nezalezhnosti* (Independence Square) in Kyiv on 21 November 2013 and ended on 21 February 2014 after the "Agreement on Settlement of Political Crisis in Ukraine" was signed.

⁵ "Opinion on the Draft Law on the Principles of the State Language Policy of Ukraine" adopted by the Venice Commission on 16-17 December 2011, doc. ref.: CDL-AD(2011)047, available at [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2011\)047-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2011)047-e).

⁶ "Ad hoc Report on the situation of national minorities in Ukraine adopted on 1 April 2014", available at <https://rm.coe.int/16800c5d6f>.

instrumentalisation of the issue of the status of minority languages in particular, and the policy towards national minorities in general.

16. Apart from the Law "On the Principles of the State Language Policy", there have been no other changes in legislation aiming to create a comprehensive and consistent legislative framework pertaining to national minority protection. The Advisory Committee notes, however, that work on a comprehensive law on the rights of national minorities is ongoing and that a draft or drafts are expected to be tabled at the Verkhovna Rada in the near future. Regrettably, representatives of national minorities have not been effectively consulted at any stage of the proceedings.

17. The authorities have taken steps to address the situation of persons belonging to disadvantaged minorities, such as the Roma. The "Strategy for Protection and Integration of the Romani National Minority into Ukrainian Society for the Period until 2020" was approved by Decree No. 201 of the President of Ukraine, adopted on 8 April 2013. It was followed by an enabling action plan approved on 11 September 2013 by the Cabinet of Ministers.⁷ According to the Fourth State Report, the Action Plan achieved some quantifiable success in particular as regards provision of identity documents for the Roma. In other areas, progress has been negligible, and Roma continue to suffer systemic discrimination in access to adequate education, housing, health services and employment.

18. In the absence of a comprehensive law on national minorities which would define responsibilities and competencies in various policy areas, as well as structures and methods of co-ordinating state policy on national minorities, the authorities introduced a co-ordinative body in 2014 by establishing the post of the Government Plenipotentiary on Interethnic Issues. The post was short-lived and abolished in 2015, without consultation with minorities and without an alternative being proposed. Currently, the Division for National Minorities and Ukrainian Expatriate Community of the Department for Religions and Nationalities⁸ at the Ministry of Culture remains the principal state body responsible for co-ordination and implementation of state projects addressed to national minorities. Regrettably, this structure, which is inadequately resourced and financed, cannot develop a fully-fledged action for the benefit of persons belonging to national minorities. The fact that the division, in addition to national minorities, is also responsible for the Ukrainian expatriate community (with the overwhelming part of its budget being devoted to the latter) seriously hampers the authorities' scope for conducting a coherent, co-ordinated and long-term policy towards national minorities.

19. Recommendations with regard to the Crimean Tatars, in particular in respect of their social rights and the restoration of rights of formerly deported persons, including access to land, were never comprehensively addressed during the entire time when the Autonomous Republic of Crimea and the city of Sevastopol were under effective government control. Measures undertaken after the illegal annexation by the Russian Federation of the Autonomous Republic of Crimea and the city of Sevastopol remain unenforceable as these

⁷ Decree No. 701 of the Cabinet of Ministers of Ukraine "On Approving the Action Plan as to Implementation of the Strategy for Protection and Integration of the Romani National Minority into the Ukrainian Society for the Period until 2020".

⁸ Religious Information Service of Ukraine "Ministry of Culture of Ukraine Establishes Department on Religions and Nationalities", 17 October 2011, available at http://risu.org.ua/en/index/all_news/state/authorities_religious_affairs/44908/.

territories lie outside the effective control of the Ukrainian Government. These measures include: the “Resolution of the Verkhovna Rada of Ukraine on Guaranteeing the Rights of the Crimean Tatars within the Ukrainian State”⁹ adopted on 20 March 2014, which recognised the Mejlis of the Crimean Tatar People to be “the executive body of the Assembly of the Crimean Tatar People”, the adoption on 17 April 2014 of the Law “On Restitution of the Rights of People Deported on the National Grounds”¹⁰ (which aims to provide state guarantees to the deported persons as to their settlement within those administrative units where they or their close relatives resided as of the time of the deportation) and the establishment of an office of the Commissioner of the President of Ukraine for the Affairs of Crimean Tatars.¹¹ Moreover, the delay in transmitting funding necessary for the functioning of the Mejlis and of the office of the commissioner, as well as a delay formalising their status and responsibilities, seriously hampers the ability of these bodies to fulfil their statutory roles.

20. The establishment of the Crimean House (*Krymskyi Dim*)¹² in Kyiv, with the avowed purpose of protecting the rights and freedoms of IDPs and promoting their political, educational and cultural rights, is welcome, and may, if adequately resourced and funded, help the Crimean Tatars living in Kyiv to maintain their identity, language and culture. Crimean Tatar IDPs, like all other victims of the conflict, benefit from support provided by the authorities to all IDPs. Regrettably, the Crimean Tatar language is only taught in one village school in the Kherson region.

Assessment of measures taken to implement the further recommendations

21. Ukrainian legislation does not allow ethnic data collection other than that collected in the framework of the population census. Given that the last census was conducted in 2001, the available data is outdated and seriously hampers the authorities’ ability to develop adequate policy towards persons belonging to national minorities. However, the Ministry of Education and Science registers the number of children learning national minority languages. Such data can only be considered an indicator of the number of children learning minority languages. Regrettably, data disaggregated by ethnicity in other spheres of life is scarce.

22. Legislation imposing rigid language quotas in broadcast media has not only not been liberalised, but was also amended in 2016 to increase the use of Ukrainian and EU languages on Ukrainian television and radio. In accordance with the Law "On Amendments to Some Laws of Ukraine Concerning Share of Ukrainian Songs within Shows of Ukrainian Television and Radio Organizations", broadcasters operating in the country have to ensure at least 35% of Ukrainian language content daily, and within peak listening times. The law allows lowering the Ukrainian language content to 25% in cases where a radio station broadcasts at least 60% of songs in official EU languages within the said periods of time. The exclusion of Russian and of other languages of national minorities that are not EU languages from the list of languages included in the song quotas, indicates the wish to marginalise these languages within the public domain. The Advisory Committee considers that, whereas promotion of the state language in public media is a legitimate aim, provided that adequate provisions are made for broadcasting

⁹ “Resolution of the Verkhovna Rada of Ukraine” of 20 March 2014 No. 1140-VII, Fourth State Report, p. 69, available at <https://rm.coe.int/1680657b74>.

¹⁰ Law of Ukraine No. 1223 “On Restitution of the Rights of People Deported on the National Grounds”.

¹¹ Fourth State Report, p. 70, “Decree of the President of Ukraine No. 656 of 20 August 2014”, available at <https://rm.coe.int/1680657b74>.

¹² Decree of the Cabinet of Ministers of Ukraine No. 454 of 16 May 2014 on the State Enterprise “Krymskyi Dim”.

in national minority languages, the conditions set in the new legislation breach the Framework Convention since they overstep licensing requirements and unduly interfering with private broadcasters.

23. Important reforms are ongoing in the education sector. On 1 July 2014, the Verkhovna Rada adopted a law on higher education. This law defined minimum requirements for staffing and physical infrastructure at all higher education institutions. It also introduced democratic and collegial governing structures (academic councils, supervisory boards, working and advisory bodies and general assemblies) making all higher education institutions autonomous and self-governing.¹³ The principal aim of the reform has been to improve the quality of education, to eliminate corruption, and to offer more equal access to quality education. The Advisory Committee notes that the Law “On Higher Education” introduced a principle that the Ukrainian language is to be used in the teaching process, with permitted exceptions being the promotion of academic mobility and the teaching of foreign students.¹⁴ In practice, there are opportunities to study in the Russian language in many higher education institutions, starting with the Taras Shevchenko National University of Kyiv.¹⁵

24. National philologies are taught at the Institute of Philology of the Taras Shevchenko National University of Kyiv, the Lviv, Uzhhorod, Chernivtsi and Odesa National Universities, Izmail State Humanities University, and a number of pedagogical universities. Furthermore, the law recognises equality of all types of higher education institutions (public, communal and private) and allows private universities to choose the language of tuition on the condition that the state language is also studied as an individual discipline. In spite of the autonomous and self-governing nature of the higher education institutions, affirmed by the authorities, it has to be noted that, according to the Advisory Committee interlocutors, instances of interference from the Ministry of Education and Science occur, including as regards language practices and the conduct to be respected by academics and students alike. In particular, a circular of the Ministry of Education and Science (issued in October 2016), recalling the obligation to use the Ukrainian language during courses and in all other contexts on university premises has been brought to the attention of the Advisory Committee. The Advisory Committee deeply regrets the prohibition to use languages other than Ukrainian in private conversations, which contravenes the right protected under Article 10 of the Framework Convention. More generally, it is recalled that the use of a minority language in private or among members of a minority group, is protected by the right to freedom of expression guaranteed under Article 10 of the European Convention on Human Rights.

25. The authorities have also taken steps to reform primary and secondary education, referred to in Ukraine as “general secondary education”.¹⁶ A draft law on education¹⁷ was

¹³ Union of Rectors of Higher Education Institutions of Ukraine, “Education in Ukraine”, available at www.krasp.org.pl/pliki/fae3a7a99b7136802eda4b7f949aac6c.pdf.

¹⁴ Article 48 of the “Law on Education”, available (in Ukrainian) at <http://zakon3.rada.gov.ua/laws/show/1556-18/page4>.

¹⁵ Foreigners training in Kyiv National Taras Shevchenko, available at <http://www.univ.kiev.ua/en/abit/training>.

¹⁶ Ministry of Education and Science “Country Report – Ukraine” 2010, p. 5, “The Law on General Secondary Education adopted in 1999 envisaged significant changes in structure, duration and content of basic (low secondary) and senior (upper) secondary education. The implementation of the reform aimed at introducing 12-year secondary education compulsory for all pupils, was begun in 2001. In 2010 some changes were adopted with Ukrainian Parliament and signed with a President”, available at https://www.coe.int/t/dg4/linguistic/Source/Ukraine_CountryReport_rev10.doc.

¹⁷ Draft available at the web portal of the Verkhovna Rada available (in Ukrainian) at

submitted to the Verkhovna Rada on 4 April 2016 and is currently being examined there. Representatives of national minorities have expressed their strong apprehension about the change to the wording of Article 7 of the draft law, which in the course of parliamentary procedure, dropped reference to “the guaranteed right” of persons belonging to national minorities to education in their mother tongue or to study their mother tongue in state and community establishments, as it appeared in the first draft (which corresponded to Article 53¹⁸ of the Constitution of Ukraine) and replaced it with “the right to study in their mother tongue, alongside the Ukrainian language, in state and community preschool and general secondary establishments in areas of compact residence of the minorities”. The proposed changes do not seem to offer the same level of protection as the Constitutional provision and circumscribe teaching in national minority languages to be offered “alongside the Ukrainian language” at “preschool and general secondary establishments” and in “areas of compact residence of the minorities”. Moreover, the Advisory Committee notes that most of the amendments proposed to the draft law would further limit teaching of minority languages in Ukrainian schools. The most far-reaching proposals of amendment call for minority languages to be taught only as subjects.

26. The Advisory Committee shares these misgivings, in particular in the context of the ongoing reform of the territorial administrative structure and local administration, which may result in local authorities of amalgamated *hromadas* seeking to “rationalise” the educational establishments’ structure by establishing large hub schools, which would provide education to all children residing within the *hromadas*, at the expense of the small village schools, currently in existence, which use a minority language as the medium of instruction. In addition, the Advisory Committee shares the apprehension expressed by representatives of national minorities who are worried that financial considerations may carry more weight than effectively guaranteeing the right to education in the language of a national minority. It notes also that the term “area of compact residence” used in the proposed legislation is not compatible with the provisions of Article 14 of the Framework Convention which guarantee these rights for areas that are inhabited either traditionally or in substantial numbers by persons belonging to national minorities.¹⁹

27. There has been no change to the legal framework governing the restitution of religious property seized by the Soviet communist regime. Processing of civil claims by courts has slackened due to, inter alia, jurisdictional issues, administrative interference, overlaying claims by competing religious groups, prior privatisation and designation of some edifices as protected heritage sites. Nonetheless, some progress has been achieved with the return of religious property to minority communities. For example, the Saint Joseph Roman Catholic church in Dnipro was returned only in 2009 and opened for use after extensive renovations in 2012. However, restitution difficulties affect confiscated Jewish religious properties in Ternopil and Kyiv, Muslim historic religious buildings in Mykolayiv and Roman Catholic properties in the western regions of the country.

http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=58639.

¹⁸ Article 53 of the Constitution of Ukraine: “Citizens who belong to national minorities are guaranteed in accordance with the law the right to receive instruction in their native language, or to study their native language in state and communal educational establishments and through national cultural societies”, available at http://www.coe.int/t/dghl/cooperation/ccpe/profiles/ukraineConstitution_en.asp.

¹⁹ See also 4th Advisory Committee Commentary on the Scope of Application of the Framework Convention (May 2016), para. 34, available at <https://rm.coe.int/16806a4811>.

28. The Law “On Counteracting and Combating Discrimination” was adopted by the Verkhovna Rada in 2012 (see paragraph 48 below). Having met with wide-ranging criticism for lacking precise definitions of the discrimination and its forms, effective mechanisms of protection and redress as well as failure to cover all standard protected characteristics, the law was amended in November 2015 to bring it closer to compliance with international standards. The Advisory Committee regrets that national origin and descent are lacking as protected grounds against discrimination. Furthermore, the law lacks a clear mechanism for monitoring its implementation. Enforcement of its anti-discrimination provisions is in fact left to criminal law procedures.

II. Article-by-article findings

Article 3 of the Framework Convention

Personal scope of application of the Framework Convention

29. The authorities continue to pursue their inclusive approach²⁰ with regard to the scope of application of the Framework Convention²¹ and to include all citizens who have identified themselves in the census of 2001 as belonging to an ethnic group other than Ukrainian. Regrettably, the general application by Ukraine of the criterion of citizenship for access to the rights protected under the Framework Convention is not in line with the current efforts aimed at developing a more nuanced approach to the use of the citizenship criterion in the protection of national minorities.²² The Advisory Committee indeed considers that, while citizenship may be a legitimate requirement in fields such as representation in parliament and certain public offices, a general application of this criterion nevertheless acts as a constraint in relation to the guarantees associated with other important fields covered by the Framework Convention, such as non-discrimination and equality, as well as certain cultural and linguistic rights.

30. In more general terms, the Advisory Committee encourages the authorities to favour an inclusive approach to the scope of application of the Framework Convention, both in respect of practical measures and in the context of current debates and legislative processes in Ukraine. It notes the openness displayed in this regard by the authorities. The Advisory Committee considers it essential, in the complex context of Ukraine, to preserve the possibility for persons belonging to other groups, including non-citizens where appropriate, to be able to have access to rights in future domestic legislation on minorities and to be included in the scope of application of the Framework Convention (also see Articles 5 and 6 below).

31. The Advisory Committee notes that the Ruthenian (Rusyn) community continues to claim specific protection as a national minority. It notes with concern that, in spite of sustained efforts to maintain their self-identification and in spite of the significant number of persons declaring their Ruthenian ethnicity in the last census, this issue has not been examined by the central authorities since the first monitoring cycle. Ruthenians, along with the Boikos, Hutsuls and Lemkos, continue to be considered as a 'sub-ethnic' group of Ukrainian society. At the regional level in the Transcarpathian region, the Ruthenians (Rusyns) have been recognised as a minority group. The Advisory Committee wishes to recall that the application of the provisions of the Framework Convention with respect to a group of persons does not

²⁰ According to the State Report submitted by Ukraine on 2 November 1999, p. 11, available at <https://rm.coe.int/168008b196>, "all citizens of Ukraine of non-Ukrainian nationality got the right as they wish to determine as national minorities". The Third State Report submitted on 7 May 2009, p. 9, available at <https://rm.coe.int/168008b4ad>, stipulates further "In Ukraine there is no governmental body responsible for so-called official recognition of nationalities. Legislation of Ukraine does not envisage the formation of a list of nationalities and there is no legal act that would contain an official list of nationalities recognized in Ukraine".

²¹ According to the data collected during the census of 2001, there were more than 130 nationalities and ethnic groups living on the territory of Ukraine (in 2001). See State Statistics Committee of Ukraine "Main Points in Brief", available at <http://2001.ukrcensus.gov.ua/eng/>.

²² "Compilation of Venice Commission Opinions and reports Concerning the Protection of National Minorities", doc. ref.: CDL(2011)018, pp. 4-9, available at [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=cdl\(2011\)018-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=cdl(2011)018-e).

necessarily require its formal recognition as a national minority or its specific legal status as a group.²³

32. The Advisory Committee further notes that, in its declaration contained in the instrument of ratification of the European Charter for Regional or Minority Languages, deposited in 2006, Ukraine stated that the provisions of the Charter shall apply to fourteen languages of national minorities.²⁴ In this context, it regrets to note that, according to some representatives of the Moldovan minority, external pressure is exerted on its members to declare themselves as belonging to the Romanian minority and to declare their first language to be Romanian. While emphasising the fundamental right of every person to self-identify or not with a national minority group, the Advisory Committee underlines that such a choice is to be made freely, without any interference or pressure exercised by other members of the group, other persons or the authorities.

Recommendations

33. The Advisory Committee reiterates its recommendation to favour an inclusive approach concerning the scope of application of the Framework Convention. It considers that it should be possible to examine, in consultation with those concerned, the possibility of including in the application of the Framework Convention persons claiming specific protection as a national minority belonging to groups which currently are not afforded such rights, in particular as regards their linguistic and cultural interests.

34. The authorities are encouraged to open a dialogue with persons having expressed an interest in the protection afforded by the Framework Convention, such as the Ruthenians (Rusyns), on the possibility of including them in the scope of application of the Framework Convention. At the same time, the authorities should adopt measures to support the preservation of the culture and identity of those concerned.

35. The Advisory Committee calls on the authorities to take all necessary steps to protect the right of all persons to free self-identification with a national minority in accordance with the Framework Convention.

Population census

36. The Advisory Committee deeply regrets that, due to frequent elections and financial considerations, the population census originally scheduled for 2011, was postponed to 2013 and then to 2016. It is now scheduled to take place in 2020. This delay is very detrimental as accurate information on the diversity of Ukrainian society is of crucial importance to drafting a national minority policy.²⁵ Such information is also an essential condition for implementing effective policies and measures aimed at protecting minorities and helping them to preserve and assert their identity. Updated information on the population, including ethnicity and language, is particularly important in Ukraine, where questions surrounding the size of language groups in certain areas have polarised society for years.

²³ See also 4th Advisory Committee Commentary on the Scope of Application of the Framework Convention (May 2016), para. 28, available at <https://rm.coe.int/16806a4811>.

²⁴ Ukraine declared that “the provisions of the Charter shall apply to the languages of the following ethnic minorities of Ukraine: Byelorussian, Bulgarian, Gagauz, Greek, Jewish, Crimean Tatar, ‘Moldavian’ (Moldovan), German, Polish, Russian, Romanian, Slovak and Hungarian”.

²⁵ 2nd Advisory Committee Commentary on Participation (February 2008), para. 30, available at <https://rm.coe.int/16800bc7e8>.

37. In this context, the Advisory Committee regrets that the questionnaire prepared ahead of the cancelled 2013 census did not reflect the standards contained in the United Nations Economic Commission for Europe and the Statistical Office of the European Communities (EUROSTAT) Recommendations for 2010 Censuses of Population and Housing. In particular the questionnaire did not allow respondents to indicate more than one ethnic and more than one linguistic affiliation (mother tongue), while the other questions on language referred to knowledge of Ukrainian and other languages.²⁶

38. In this context, the Advisory Committee notes that there has been no progress regarding the collection of data on persons belonging to national minorities. The State Statistics Service of Ukraine justifies the absence of data collection on the situation of persons belonging to national minorities, by the restriction under Article 32 of the Constitution of Ukraine.²⁷ The Advisory Committee notes, however, that nothing precludes the State Statistics Service and other agencies from collecting data with the consent of respondents. Such a collection, in particular given the now outdated information collected during the census of 2001, would provide the authorities with indispensable information for the development of targeted policies to promote the effective equality of the most disadvantaged groups including, in particular, persons belonging to national minorities.

39. The Advisory Committee notes that preparations for the census of 2020 are already underway and that the authorities are aware of the necessity to prepare and inform the population correctly of the implications and methodology of the census, in order that a maximum number of persons may give an informed and free reply to the questions relating to their ethnic and linguistic affiliations. Close consultation with minority communities in the preparation of the census of 2020 is of crucial importance, given that some minority communities claim that their numbers were not accurately reflected in the previous census, held in 2001.

40. The Advisory Committee reminds the authorities that careful attention must be paid to ensure that enumerators, as well as the interviewees, are made aware of the right to free self-identification of persons belonging to national minorities, including by foreseeing the possibility to opt for none or multiple ethnic and/or linguistic affiliations. In this context, the Advisory Committee underlines that interviewees should not necessarily be encouraged to opt for a single affiliation and that efforts should be made to ensure that multiple affiliations can be processed and accurately reflected in the results of the census rather than being counted as 'other'.

²⁶ "Conference of European Statisticians Recommendations for the 2010 Censuses of Population and Housing, prepared in cooperation with the Statistical Office of the European Communities (EUROSTAT) and the United Nations Economic Commission for Europe", para. 426: "Respondents should be free to indicate more than one ethnic affiliation or a combination of ethnic affiliations if they wish so." and para. 430 ff regarding language.

²⁷ Article 32 of the Constitution of Ukraine reads: "The collection, storage, use and dissemination of confidential information about a person without his or her consent shall not be permitted, except in cases determined by law, and only in the interests of national security, economic welfare and human rights", available at http://www.coe.int/t/dghl/cooperation/ccpe/profiles/ukraineConstitution_en.asp.

Recommendations

41. The Advisory Committee calls on the authorities to ensure that a comprehensive population census is conducted as a matter of expediency. It further calls on the authorities to review, in close consultation with minority representatives, the methodology of the census, the wording of the questions asked and safeguards for voluntary and informed answers, including the possibility of multiple affiliations, in line with EUROSTAT recommendations. The Advisory Committee also calls on the authorities to use bilingual or multilingual forms during the forthcoming census in the municipalities inhabited by a substantial number of persons speaking minority languages.

42. The Advisory Committee reiterates its strong recommendation to the authorities to develop mechanisms for the regular collection of updated and reliable information on the number of persons belonging to national minorities, as well as on their situation as regards access to rights and resources. Ethnic data collection should be conducted in close co-operation with national minority representatives and with full respect for the safeguards, notably those related to international standards on the protection of personal data, the specific and limited use of such data by the authorities, and the free, informed and unambiguous consent of the persons concerned, as laid down in the Committee of Ministers' Recommendation(97)18 concerning the protection of personal data.

43. The Advisory Committee encourages the authorities to include, among the census officials, persons belonging to national minorities and persons speaking minority languages.

44. The authorities should undertake awareness-raising activities among persons belonging to national minorities well in advance of the next census, in co-operation with minority representatives. These activities should relate to the importance and usefulness of the collection of information about the ethnic and linguistic composition of the population, as well as to the national safeguards and international standards for the protection of personal data.

Article 4 of the Framework Convention

Legislative and institutional framework protecting national minorities

45. The Advisory Committee notes with deep concern that the situation has not changed in relation to the lack of legislative framework on the protection of national minorities since the 2nd monitoring cycle. The now-outdated 1992 Law "On National Minorities"²⁸ is widely considered badly focused and too vague to regulate complex issues connected to the protection of national minorities in contemporary Ukraine,²⁹ and the existing legislation is disjointed, contradictory and piecemeal. A coherent policy on national minorities is still lacking at the state level. National minority concerns are not given adequate consideration and the possible effects of changing legislation on access to rights by persons belonging to national minorities are not taken into account. The provisions on national minorities, contained in the Action Plan on Implementation of the National Human Rights Strategy, cannot be considered

²⁸ Law "On National Minorities" of Ukraine of 25 June 1992, available at http://www.minelres.lv/NationalLegislation/Ukraine/Ukraine_Minorities_English.htm.

²⁹ Second Advisory Committee Opinion on Ukraine, adopted on 30 May 2008, para. 61, available at <https://rm.coe.int/168008c384>; Third Advisory Committee Opinion on Ukraine, adopted on 22 March 2012, para. 35, available at <https://rm.coe.int/168008c6c0>.

adequate due to the lack of an implementation mechanism and quantifiable indicators³⁰ (see further below). Taken together, these factors justify the claim made by many representatives of national minorities and other interlocutors of the Advisory Committee that Ukraine currently does not have a comprehensive policy on national minorities.

46. Nonetheless, it seems that the Euromaidan demonstrations of 2013-14 have given an impetus to the efforts to both elaborate a new concept for state ethnic policy and to amend substantially the Law “On National Minorities”. On 25 November 2015, Verkhovna Rada organised parliamentary hearings on the “Role, Importance and Impact of the Civil Society on Development of the Ethnic National Policy of Unity in Ukraine” and, subsequently, adopted recommendations. The hearings confirmed the conclusion that “the current state ethnic and national policy is inefficient without the conceptual substantiation of directions, priorities, tasks and purposes” and recommended that “the concept of the ethnic and national policy shall be based on achievements of Ukrainian scientists”.³¹ The Verkhovna Rada asked the government to submit two bills: “On the concept of the state ethnic and national policy of Ukraine” and “On the national and cultural autonomy”.³² It recommended further the abolition of the Governmental Plenipotentiary on the Issues of Ethno-National Policy and the establishment of a specialised governmental agency to oversee the implementation of national minority policies (see also Article 15).

47. The Advisory Committee notes that a draft Act “On Amending the Law on National Minorities” was submitted for consideration by the Verkhovna Rada on 28 November 2014, but that regrettably, progress as regards examination of this draft has been negligible. According to national minority representatives, they were neither involved in any adequate consultation on this bill nor informed about the discussions and proposed amendments discussed in the Verkhovna Rada.

Recommendation

48. The Advisory Committee calls on the Ukrainian authorities to adopt without delay and in close consultation with representatives of the groups concerned, an adequate and comprehensive legal framework for the protection of national minorities, including effective implementation mechanisms. Any future legislation affecting directly or indirectly access to rights protected under the Framework Convention should be adequately scrutinised in consultation with representatives of national minorities to ensure that the interests of persons belonging to national minorities are duly taken into account.

Legislative and institutional framework for protection against discrimination

49. The Advisory Committee notes that, on 6 September 2012, Verkhovna Rada adopted the Law “On Counteracting and Combating Discrimination”.³³ This law, which was rushed through the parliamentary proceedings without consultation with the main stakeholders and without waiting for the requested comments of the European Commission against Racism and

³⁰ Decree of the President of Ukraine N° 501/2015 “On Approval of the National Human Rights Strategy of Ukraine” and Action Plan on Implementation of the National Strategy in the Area of Human Rights for the Period until 2020”, pp. 143-151.

³¹ Fourth State Report, p. 64, available at <https://rm.coe.int/1680657b74>.

³² *ibid.*, p. 65.

³³ Law 5207 “On the Fundamentals of Prevention and Counteraction to Discrimination in Ukraine”, Fourth State Report, p. 13, available at <https://rm.coe.int/1680657b74>.

Intolerance (ECRI), was widely criticised for lacking precise definitions of discrimination and forms thereof, for the absence of an effective mechanism of protection and redress, and for the failure to cover all protected grounds.³⁴ Following advice from the European Union, the law was amended in November 2015, in order to introduce definitions of discrimination, indirect discrimination, incitement to discrimination, aiding in discrimination and positive actions. In its current wording, the law is aligned with Article 161 of the Criminal Code of Ukraine, according to which “direct or indirect restriction of rights, or granting direct or indirect privileges to citizens based on race, color of skin, political, religious and other convictions, sex, ethnic and social origin, property status, place of residence, linguistic or other characteristics” is considered a crime and punishable with up to five years of imprisonment.³⁵ The Advisory Committee regrets that national origin and descent are lacking as protected grounds against discrimination.³⁶ Furthermore, the law lacks a clear implementation mechanism. Enforcement of anti-discrimination provisions is being left to criminal law procedures.

50. In parallel with the legislative measures mentioned above, the authorities adopted on 25 August 2015 a National Human Rights Strategy³⁷ which listed the establishment of an “efficient system of preventing and combating discrimination” among its 24 objectives. The strategy was followed by an “Action Plan on the Implementation of the National Strategy in the Area of Human Rights for the Period until 2020”, approved by the Cabinet of Ministers on

³⁴ The Equal Rights Trust Law of Ukraine “On Principles of Prevention and Combating Discrimination in Ukraine”, Legal Analysis, October 2013, available at

[www.equalrightstrust.org/ertdocumentbank/ERT%20Legal%20Analysis%20of%20Anti-Discrimination%20Legislation%20in%20Ukraine%20\(English\).pdf](http://www.equalrightstrust.org/ertdocumentbank/ERT%20Legal%20Analysis%20of%20Anti-Discrimination%20Legislation%20in%20Ukraine%20(English).pdf) and “Anti-discrimination developments and shortcuts in Ukraine - statement on behalf of the Coalition for combating discrimination in Ukraine” submitted at

the OSCE Human Dimension Implementation Meeting in Warsaw, 3 October 2012, doc. ref.: www.osce.org/odihr/94820?download=true.

³⁵ Article 161 of the Criminal Code of Ukraine as amended by Law No. 1707-VI (1707-17) on 5 November 2009: “Article 161. Violation of citizens' equality based on their race, nationality or religious preferences

1. Wilful actions inciting national, racial or religious enmity and hatred, humiliation of national honor and dignity, or the insult of citizens' feelings in respect to their religious convictions, and also any direct or indirect restriction of rights, or granting direct or indirect privileges to citizens based on race, color of skin, political, religious and other convictions, sex, ethnic and social origin, property status, place of residence, linguistic or other characteristics,

- shall be punished by a fine of up to 50 tax-free minimum incomes, or correctional labour for a term up to two years, or restraint of liberty for a term up to five years, with or without the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.

2. The same actions accompanied with violence, deception or threats, and also committed by an official,

- shall be punishable by correctional labor for a term up to two years or imprisonment for a term up to five years.

3. Any such actions as provided for by paragraph 1 or 2 of this Article, if committed by an organized group of persons, or where they caused death of people or other grave consequences,

- shall be punishable by imprisonment for a term of two to five years”, available at

www.refworld.org/docid/4c4573142.html.

³⁶ According to ECRI's General Policy Recommendation No. 15 on combating hate speech, “hate speech” shall mean “the advocacy, promotion or incitement of the denigration, hatred or vilification of a person or group of persons, as well any harassment, insult, negative stereotyping, stigmatization or threat of such person or persons and any justification of all these forms of expression – that is based on a non-exhaustive list of personal characteristics or status that includes “race”, colour, language, religion or belief, nationality or national or ethnic origin, as well as descent, age, disability, sex, gender, gender identity and sexual orientation”.

³⁷ Decree of the President of Ukraine No. 501/2015 “On Approval of the National Human Rights Strategy of Ukraine”, available at <http://www.coe.int/t/commissioner/source/NAP/Ukraine-National-Action-Plan-on-Human-Rights.pdf>.

23 November 2015.³⁸ On 9 March 2016, the Ukrainian Parliamentary Commissioner for Human Rights (Ombudsperson) endorsed the action plan and signed an executive order on its continuous proactive monitoring.³⁹

51. Concrete achievements of the Human Rights Strategy include the establishment of the National Point of Contact on Combating Hate Crimes, and the creation of the Unit for Combating Radical Groups and Criminal Organisations within the police to counter intolerance and racial discrimination. In addition, the police have engaged with the leaders and participants of extremist youth organisations to prevent radicalisation. While welcoming these initiatives, the Advisory Committee notes with regret that overall progress with the implementation of the strategy has been slow, mainly due to a lack of adequate funding and poor awareness.

52. The Advisory Committee notes that, in the framework of the Action Plan implementing the Human Rights Strategy, the Parliamentary Commissioner for Human Rights carried out several awareness-raising campaigns in co-operation with the relevant ministries. Significant progress was made on delivering training on anti-discrimination to law enforcement officials, prosecutors and judges, which was carried out to a large extent by the regional branches of the Parliamentary Commissioner's Institution. In addition, publications on anti-discrimination legislation and the relevant good practices were prepared and distributed by the Parliamentary Commissioner. The implementation of the action plan and the strategy are monitored by the Ukrainian Helsinki Human Rights Union in co-operation with the Ukrainian Parliamentary Commissioner for Human Rights and other civil society organisations.⁴⁰ According to the assessment of the Parliamentary Commissioner of Ukraine, 21% of the action plan targets were achieved by the end of 2016.⁴¹

53. In addition, the Ombudsperson, on her own initiative, developed in November 2013 a "Strategy of the Ukrainian Parliamentary Commissioner for Human Rights for Preventing and Combating Discrimination in Ukraine, 2014-2017"⁴² with five key objectives, notably ensuring the conformity of national legislation with international and European standards, monitoring the public and private sectors' compliance with equality and non-discrimination legal standards, proactive response to incidents of individual and systemic discrimination and due redress, awareness raising on equality and non-discrimination issues and networking with relevant national and international stakeholders to promote equality and non-discrimination.

54. The Advisory Committee notes that the Parliamentary Commissioner's Institution for Human Rights receives, according to the annual reports, a significant number of written

³⁸ "Order of the Cabinet of Ministers of Ukraine No. 1393-r", 23 November 2015, available at <http://unhcr.org.ua/attachments/article/1299/2016%2011%20UNHCR%20UKRAINE%20Freedom%20of%20Movement%20briefing%20note%20FINAL.pdf>.

³⁹ "Ombudsman approves a 5-Year Activity Plan to implement the National Human Rights Strategy", available at <http://dhrp.org.ua/en/news/1082-20160309-en>.

⁴⁰ Digest No. 13 (25) by Ukrainian Helsinki Human Rights Union, USAID Human Rights in Action Program, December 2016, available at http://helsinki.org.ua/wp-content/uploads/2016/12/UHHRU_Digest_Dec-2016_EN.pdf.

⁴¹ *ibid.*, p. 3.

⁴² Ordinance No. 23/02-14, establishing the strategy for preventing and combating racial discrimination for the period 2014-2017.

complaints. According to the annual report for 2014⁴³ it received 35 125 complaints, of which relatively few (439) concerned an alleged breach of the principle of equality.⁴⁴ According to information provided by the Parliamentary Commissioner, only three complaints were lodged by Roma. The reason for such a low number of complaints from the Roma community should be analysed by the Parliamentary Commissioner, as it could indicate either a low awareness, or a lack of trust in, the effectiveness of the ombudsperson by persons belonging to the Roma community.

55. The Advisory Committee regrets to note that the Verkhovna Rada, which every year receives the annual report of the Parliamentary Commissioner, has abandoned the practice of holding a hearing on the report.⁴⁵ This suggests diminishing interest in human rights' issues on the part of legislators, which sends the wrong signal. An opportunity to discuss human rights issues of relevance to society is therefore missed.

Recommendations

56. The Advisory Committee urges the authorities to intensify their efforts to implement the Human Rights Strategy, including by dedicating more funding and monitoring progress at regular intervals, in close consultation with the key stakeholders, including national minority representatives.

57. The Advisory Committee calls on the authorities to continue to support and to co-operate with the Parliamentary Commissioner for Human Rights including by raising the awareness of her work at the level of the Verkhovna Rada and elsewhere. The authorities should regularly review, in close co-operation with the Parliamentary Commissioner and other key stakeholders, progress in the overall implementation of the Action Plan and the Human Rights Strategy.

Efforts to ensure full and effective equality

58. Persons displaced by the conflict in Eastern Ukraine or those who moved from the Autonomous Republic of Crimea and the city of Sevastopol, many of whom are Crimean Tatars, face multiple difficulties in accessing rights in their new places of residence. The Advisory Committee notes that, according to numerous interlocutors, the influx of 1.7 million IDPs and the challenges it brought in some areas with regard to social services, local schools, and other infrastructures created fears and apprehension among some local residents. The Advisory Committee takes note of information that IDPs living in the part of Ukraine remaining under the control of the Ukrainian authorities are entitled to pensions and other social benefits.⁴⁶ It notes however the difficulties experienced by persons living in the areas outside the control of the Ukrainian authorities, many of whom belong to national minorities, in accessing their

⁴³ The last available annual report of the Parliamentary Commissioner for Human Rights for 2014, published in 2015, available (in Ukrainian) available at https://www.ombudsman.gov.ua/files/Dopovidi/Dopovid_2015_10b.pdf.

⁴⁴ *ibid.*, p. 543.

⁴⁵ The last time the Verkhovna Rada debated the Annual Report of the Parliamentary Commissioner was in 2013.

⁴⁶ "Report by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe, following his visit to Ukraine from 21 to 25 March 2016", p. 20, available at <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2928475&SecMode=1&DocId=2379824&Usage=2>.

pensions.⁴⁷ This situation may have an impact on prospects of future integration of Ukrainian society.

59. The Advisory Committee regrets to note that the Crimean Tatar IDPs face particular difficulties in access to national minority rights, even in those areas such as Kherson region, where they have settled in significant numbers.⁴⁸ For example, the Crimean Tatar language is only taught in one village school in the whole of the Kherson region (Novooleksiivka General Educational Secondary School). Clearly, given the size of the Crimean Tatar population currently residing in the region, the provision of education does not meet the expectations of the Crimean Tatars with regard to support for maintaining the knowledge of their language and culture. This would appear to indicate that the authorities have not yet taken adequate steps to protect the rights of the Crimean Tatars.

60. The situation of the Roma minority remains one of the most pressing social problems in Ukraine. The Advisory Committee notes that the authorities have continued their efforts to combat discrimination and implement policies for Roma inclusion. The “Strategy for Protection and Integration of the Roma National Minority into Ukrainian Society for the period until 2020” was adopted on 8 April 2013.⁴⁹ In the months that followed, an action plan for the implementation of the strategy was enacted by the government.⁵⁰ The co-ordination of the implementation of the strategy and the action plan has been entrusted to the Ministry of Culture, which reports on an annual basis to the government.

61. The Advisory Committee regrets that, apparently, the Roma were neither consulted in the drafting of the strategy, nor in the discussions on the action plan. Furthermore, neither document provides strategic objectives, a specific dedicated budget or an implementation and evaluation mechanism. A mechanism to ensure the effective participation of Roma in social and economic life, including a gender dimension are also lacking, in spite of the fact that Roma women are affected by multiple structural inequalities and discrimination that impede the enjoyment of basic rights. The Advisory Committee further notes that these shortcomings have been criticised from the outset by international organisations such as the OSCE,⁵¹ the European Roma Rights Centre and local Roma NGOs such as *Chiricli*.⁵² Regrettably, the identified shortcomings have not been addressed by the authorities.

62. The situation of Roma has not improved since the last monitoring cycle. The Advisory Committee is deeply concerned about the living conditions in Roma settlements some of which the delegation of the Advisory Committee visited and observed in the municipality of Uzhhorod, in the Transcarpathian region, and which, according to interlocutors, are in no way different from settlements in other regions of Ukraine. The inhabitants of many of these

⁴⁷ *ibid.*, p. 22.

⁴⁸ According to the “Participatory Assessment Report (Kherson, Ukraine)” of the UNHCR, available at <http://unhcr.org.ua/attachments/article/1526/PA%20report%20Kherson%20FINAL%20ENG.pdf>, “there are about 10,500 Crimean Tatars permanently residing in Kherson oblast with majority in Genichenks region – 8,500 persons”.

⁴⁹ Decree of the President of Ukraine No. 201.

⁵⁰ See footnote 7.

⁵¹ OSCE/ODIHR “Situation Assessment Report on Roma in Ukraine and the Impact of the Current Crisis”, August 2014, p. 5, available at www.osce.org/odihr/124494?download=true.

⁵² “Written Comments of the European Roma Rights Centre and Chiricli, Concerning Ukraine For Consideration by the UN Committee on Economic, Social and Cultural Rights at the 52nd Session (28 April to 23 May 2014)”, available at www.errc.org/cms/upload/file/ukraine-cescr-march-2014.pdf.

settlements face deplorable substandard living conditions. Although some progress has been achieved in a number of settlements in providing running water, sewage treatment, and access to roads, concerted efforts are required to remedy shortcomings in many others. The Advisory Committee further notes that the provision of social housing is deeply inadequate.

63. Roma continue to face deep-seated difficulties in particular as regards access to education, housing, health services, and employment. Furthermore, Roma suffer from school segregation, widespread anti-Gypsyism, including hate speech (see also under Articles 6, 12 and 15). In addition, many Roma are still not in possession of personal documents which prevents them from accessing a range of services. The lack of significant progress on the specific issue of identity documents is particularly disappointing given the recommendations made by the Advisory Committee in its third opinion of 22 March 2012. The Advisory Committee notes that progress in this area largely depends on active involvement of civil society organisations. In this context, the Advisory Committee particularly welcomes information provided by the Roma NGO *Chiricli* according to which, in 2012-13, it assisted 6 783 Roma to be registered, 2 052 to receive birth certificates, and 1 246 to receive their national identity document. In addition, some 102 individuals were also assisted to receive a pension and 82 to receive an invalidity allowance.⁵³ The Advisory Committee further notes that similar numbers of Roma received identity documents in 2014 and 2015, according to the Fourth State Report.⁵⁴

Recommendations

64. The Advisory Committee urges the authorities to review the relevant regulatory framework affecting access to rights of persons who were forced to resettle as a result of the conflict in Eastern Ukraine and the illegal annexation by the Russian Federation of the Autonomous Republic of Crimea and the city of Sevastopol, including persons belonging to national minorities who have been displaced.

65. The authorities should seek solutions, in close consultation with the Crimean Tatar representatives, to provide teaching of the Crimean Tatar language to internally displaced children from Crimea, residing in other parts of Ukraine.

66. In addition, the Advisory Committee urges the authorities to exert more efforts to prevent, combat and sanction inequality and discrimination suffered consistently by the Roma. The authorities must step up their efforts, in particular at local level, to improve the living conditions of Roma and to promote their integration in society as a whole.

Article 5 of the Framework Convention

Support for minority cultures

67. The Advisory Committee notes that the ongoing process of amalgamation of local *hromadas* can affect the existence and functioning of national minority cultural associations and libraries at local level. It has to be noted that the consequences of the administrative reform on local cultural institutions have not been part of deeper reflection among the reform proponents. Representatives of national minorities fear loss of influence in municipal councils,

⁵³ *ibid.*, p. 5.

⁵⁴ Fourth State Report, p. 78, available at <https://rm.coe.int/1680657b74>.

in particular in those *hromadas* where the proportion of persons belonging to national minorities will diminish, as well as the consequent ability to influence the way local budgets are spent. In addition, the pressure to “rationalise” the existing network of libraries and other cultural institutions may have negative effects for persons belonging to national minorities (see also under Article 16).

68. The Advisory Committee notes that the authorities continue to provide modest assistance to persons belonging to national minorities, such as support for cultural centres, art exhibitions, libraries, amateur cultural productions, music and drama festivals, and other artistic events.⁵⁵ National minority organisations are eligible to receive funds for cultural events from different sources, such as the Ministry of Culture and the regional and municipal (*hromada*) authorities.

69. The Advisory Committee notes with regret that not only have the allocations disbursed in the framework of the principal budgetary line “Measures for restoration of national minorities' culture” diminished significantly in the last four years,⁵⁶ but also they encompass funding for measures of the “Ukrainian World Coordination Council”, measures for establishment of cultural ties with the Ukrainian expatriate community, and measures for improvement of ties between Ukrainians residing abroad. In fact, funding for national minority cultural projects constitutes only about a quarter of the expenditure under the cited budgetary line. According to representatives of national minorities, the support they receive from the state is insufficient and does not correspond to their actual needs, forcing cultural associations of national minorities to rely heavily on financial and material assistance from neighbouring states and private donors without whose involvement, their very existence in many cases would not be possible. Smaller national minority organisations, unable to rely on neighbouring state support, are therefore at a disadvantage and are heavily dependent on individual private donors.

70. In this context, the Advisory Committee further notes that criteria for receiving financial support are not clear and decisions on the allocation of funding are made without adequate involvement of representatives of national minorities. The procedures lack transparency and foreseeability. In addition, subsidies are often paid out with significant delay, which creates major financial problems, in particular for smaller organisations.

71. At regional level, the authorities support no less than 86 cultural centres. In Odesa, for example, seven national minority cultural centres continue to operate with financial support provided by the regional and city authorities. In Lviv, there are cultural organisations of, among others, Czech, German and Polish national minorities.

72. Cultural organisations of the Russian national minority meet obstructions to operate in the current climate of heightened tensions caused by the conflict in Eastern Ukraine. Occasionally, their existence is put into question. This was the case of the Pushkin Society in Lviv which, after more than 20 years of existence, was evicted in October 2016 from the

⁵⁵ According to the Fourth State Report, p. 18, available at <https://rm.coe.int/1680657b74>, there were 1 248 amateur national minority theatres, music and dance ensembles in 2015.

⁵⁶ Fourth State Report, p. 17, available at <https://rm.coe.int/1680657b74>: (2012 – 2 007 000 UAH, 2013 – 1 343 000 UAH, 2014 – 900 000 UAH, 2015 – 900 000 UAH). The exchange rate at the time of adoption of this opinion is 1€ = 29.12 UAH.

premises which it rented for a symbolic fee from the regional authorities.⁵⁷ This clearly politically motivated move (no other national minority cultural association which benefits from subsidized rent was affected) is detrimental to peaceful coexistence of different ethnic groups and, in the long run, will affect negatively intercultural understanding, as well as the process of reconciliation of Ukrainian society .

Recommendations

73. The Advisory Committee renews its call on the authorities to establish clear criteria and procedures for the allocation of financial support for minority cultural activities, and to consult closely and comprehensively with the groups concerned, ensuring that representatives of minority communities can have an impact on decisions relating to budgetary allocation. The Advisory Committee further invites the authorities to ensure that all minority communities, particularly the numerically smaller ones, are encouraged to develop cultural initiatives and have equal access to available funding.

74. The Advisory Committee urges the authorities to take into consideration, when amalgamating municipalities into larger *hromadas*, their capacity to maintain the libraries and cultural institutions of national minorities.

Article 6 of the Framework Convention

Efforts to combat intolerance and racism

75. The Advisory Committee notes that most representatives of national minorities report an overall respectful attitude prevailing between and within majority and minority populations. Tolerance, acceptance of diversity and inclusiveness have been a unifying factor which has contributed to the strength of an independent Ukraine since 1991⁵⁸ and, when interethnic and interreligious hostility manifested itself, it was to the detriment of the society as a whole.⁵⁹ The authorities' approach was non-intrusive, at times passive, leaving enough space for different ethnic groups to coexist peacefully in diversity. Regrettably, in today's political context, the Advisory Committee observed that the space for publicly expressing diversity has declined. The use of incendiary language on the part of politicians,⁶⁰ where emotions run high on the conflict in Eastern Ukraine has a detrimental effect on interethnic relations and on integration of Ukrainian society as a whole. Occasionally, political pressure in the Verkhovna Rada has prompted taking regressive steps in the field of national minority rights. The most pronounced example of such tendencies was the attempt to abrogate the language law at the height of the Euromaidan demonstrations.

76. As a result, society in Ukraine is becoming increasingly polarised and national minority issues are often seen through a prism of security concerns. The conflicts over Eastern Ukraine

⁵⁷ *Deutsche Welle* "Lviv regional authorities in Ukraine evict Russian cultural center" 27 October 2016, available at <https://www.dw.com/en/lviv-regional-authorities-in-ukraine-evict-russian-cultural-center/a-36179097>.

⁵⁸ Advisory Committee Opinion on Ukraine, adopted on 1 March 2002, para. 36, available at <https://rm.coe.int/168008bb6c>; Second Advisory Committee Opinion on Ukraine, adopted on 30 May 2008, para. 16, available at <https://rm.coe.int/168008c384>.

⁵⁹ Third Advisory Committee Opinion on Ukraine, adopted on 22 March 2012, para. 70-71, available at <https://rm.coe.int/168008c6c0>.

⁶⁰ See for example "How Low Can You Go? Ukrainian MP Calls Russian Ambassador's Murderer a 'Hero'" available at <https://sputniknews.com/politics/201612201048781434-ukrainian-lawmaker-disgrace/>.

and the illegal annexation by the Russian Federation of the Autonomous Republic of Crimea and the city of Sevastopol serve as a catalyst for nation-building along ethnic and linguistic lines, and no longer on the basis of a concept of civic belonging to Ukraine. There is a perceptible sense of diminishing respect for “others” and the risk of a loss of the value of diversity within society.

77. In 2015, the Law “On the Condemnation of the communist and national socialist (Nazi) regimes and Prohibition of Propaganda of their Symbols”, as well as three other “decommunisation” laws,⁶¹ were adopted by the Verkhovna Rada. Under this legislation, numerous street and city names associated with communist figures were renamed. The introduced changes resulted not only in renaming Dnipropetrovsk as Dnipro and Kirovohrad as Kropyvnytskyi, which meet the objectives of the legislation, but also in replacing in Kyiv, by a decision of the City Council, Suvorov Street with the name of General Almazov Street (a general in the Ukrainian People's Army), Kutuzov Street with that of Omelyanovich-Pavlenka Street (a supreme commander of the Ukrainian Galician Army) and Moscow Street with that of Stepan Bandera Street (a leader of the Organisation of Ukrainian Nationalists (OUN)).⁶² The Advisory Committee notes the renaming of locations is seen by many within Ukrainian society (within national minorities and also within the majority) as having a different objective from the one underpinning the law. It notes also that the Law “On the condemnation of the communist and national socialist (Nazi) regimes, and prohibition of propaganda of their symbols” was examined by the Venice Commission and OSCE/ODIHR, which on the one hand, recognised “the right of Ukraine to ban or even criminalise the use of certain symbols of and propaganda for totalitarian regimes” and, on the other hand, encouraged the authorities “to follow a “multiperspective” approach to Ukraine’s history, that allows a shared vision of its past in order to promote social cohesion, peace and democracy”.⁶³

78. The review and renaming of towns, villages and streets following the adoption of the law on the prohibition of communist symbolism has contributed to the marginalisation of the Russian legacy in Ukraine. Furthermore, in particular the choice of name of Stepan Bandera Street met with resistance from inside and outside Ukraine, including condemnation by the European Parliament,⁶⁴ the Simon Wiesenthal Centre,⁶⁵ the Jewish Forum of Ukraine, the Anti-Fascist Committee of Ukraine and the Center for Minority Rights. The Advisory Committee

⁶¹ Law “On granting access to the archives of the repressive organs of the Communist totalitarian regime in the years 1917–1991”; Law “On the legal status and commemoration of Ukrainian independence fighters in the twentieth century”; Law “On the Immortalisation of the victory over Nazism in the Second World War, 1939–1945”, came into force on 21 May 2015.

⁶² Radio Free Europe/Radio Liberty report “Kyiv Renames 'Moscow Avenue' After Contentious Nationalist Hero”, 7 July 2016, available at <https://www.rferl.org/a/ukraine-kyiv-avenue-renamed-moscow-to-bandera/27844918.html>. Altogether, Stepan Bandera has been honoured with 34 streets in Ukraine, including Lviv, Lutsk, Rivne, Ivano-Frankivsk, Drohobych, Stryi, Volodymyr-Volynskyi, Kolomyia, and Ternopil.

⁶³ Venice Commission and OSCE/ODIHR “Joint Interim Opinion on the Law of Ukraine On the condemnation of the communist and national socialist (Nazi) regimes, and prohibition of propaganda of their symbols”, adopted by the Venice Commission at its 105th Plenary Session Venice (18-19 December 2015) p. 4, doc. ref. : CDL-AD(2015) 041, available at [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2015\)041-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2015)041-e).

⁶⁴ “European Parliament resolution of 25 February 2010 on the situation in Ukraine”, available at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2010-0035+0+DOC+XML+V0//EN>.

⁶⁵ “Wiesenthal Center Blasts Ukrainian Honor For Nazi Collaborator”, available at <https://www.wiesenthal.com/site/apps/nlnet/content2.aspx?c=IsKWlBpJLnF&b=4441467&ct=7922775>; *Haaretz* “Ukraine's Honoring of War Criminals Leaves Its Jews Uneasy - and Divided” available at <https://www.haaretz.com/jewish/news/1.737239>.

reminds the Ukrainian authorities of the relevance of reflecting the diversity present in the country when making choices on street names, town names and other topographical indications. Politically controversial historical figures whose historical role raises issues with certain minorities should be avoided. In this context, the Advisory Committee wishes to recall the High Commissioner on National Minorities (HCNM) “Ljubljana Guidelines on Integration of Diverse Societies”, which recommended that “States should promote integration by respecting the claims and sensitivities of both minority and majority groups regarding the display and use of symbols in shared public space. While being mindful of freedom of expression, States should avoid the divisive use of symbols and discourage such displays by non-State actors. Where appropriate, opportunities to promote inclusive symbols should be sought”.⁶⁶

Recommendations

79. The Advisory Committee calls on the authorities to intensify their efforts to promote respect and intercultural understanding among different groups in society as a whole, including through comprehensive measures which target, in particular, the majority population.

80. Urgent steps need to be taken by the authorities to combat stereotypes and prejudice in political discourse and to promote tolerance and intercultural dialogue throughout society as a whole. It is essential that specific targeted measures, such as awareness-raising campaigns, be implemented without delay to counteract the mounting xenophobia in society which has a direct negative impact on the access to rights of persons belonging to national minorities.

81. The Advisory Committee calls on the authorities to deal with the renaming of streets, towns and other toponyms by promoting a continuing dialogue, including consultation with representatives of the national minorities concerned, and in a spirit of tolerance and intercultural dialogue, and taking into account local sensitivities.

Interethnic and interreligious hostility

82. As regards criminal legislation, in addition to Article 161 of the Criminal Code which penalises “violation of citizens' equality based on their race, nationality or religious preferences [...] national, racial or religious enmity”, motivation when committing certain offences, such as murder, physical assault or threat to kill,⁶⁷ constitutes an aggravating circumstance.⁶⁸

83. The Advisory Committee notes that the General Prosecutor's Office, the Ministry of Internal Affairs, the State Department on Sentence Execution and the State Statistics Service all collect data on the number of hate crimes committed and prosecuted on an annual basis.⁶⁹ This information concerns principally crimes committed under Article 161 of the Criminal Code

⁶⁶ “The Ljubljana Guidelines on Integration of Diverse Societies”, p. 64, November 2012, para. 50, available at <https://www.osce.org/hcnm/96883?download=true>.

⁶⁷ Criminal Code Article 115 (murder), Article 121 (intended grievous bodily injury), Article 122, (intended bodily injury of medium gravity), Article 126, (battery and torture), Article 127, (torture), Article 129, (threat to kill), available at <https://www.refworld.org/docid/4c4573142.html>.

⁶⁸ Article 67(1)(3) of the Criminal Code available at www.refworld.org/docid/4c4573142.html.

⁶⁹ According to the latest available official figures, the number of hate crimes recorded by the police was 179 in 2015, including 5 homicides (2 motivated by bias against Roma, 1 motivated by racism and xenophobia, 1 by Anti-Semitism and 1 by “bias against Christians and members of other religions”). In 2015, the most common types of crimes committed with a bias motive were: incitement to violence – 45, damage to property – 32, physical assault – 30, attacks against places of worship – 16, arson – 13. Altogether, the police recorded 157 hate crimes committed in 2015. See “OSCE/ODIHR Hate Crime reporting” concerning Ukraine, available at <http://hatecrime.osce.org/ukraine>.

in the territory controlled by the legitimate authorities. However, figures recorded by civil society organisations indicate a higher number of hate crimes, which may demonstrate the degree of under-reporting of crimes by the victims.

84. The Advisory Committee notes the efforts undertaken by the authorities to combat hate crimes. In particular, information on assigning specialised police investigators at the regional level to supervise the investigation of hate crimes, obliging them to report to the main investigation department on the results of their investigations, is welcome. Special training sessions on anti-discrimination for law enforcement officials, prosecutors and judges have been organised by the Office of the Ombudsperson (see related comment in paragraph 52).

85. These efforts have already led to an increase in the number of registered hate crimes from three in 2012 to 33 in 2014 and to 157 in 2015. These initiatives, undertaken by the national police, are commendable. The Advisory Committee further notes that the number of prosecutions has also risen in recent years (two in 2012, 33 in 2014, 79 in 2015). However, the number of convictions in which the hate motive was proven remains low (two in 2014, three in 2015) attesting to the difficulties in invoking Article 161 of the Criminal Code in practice.

86. Representatives of Jewish organisations, civil society representatives and the Ombudsperson concur that anti-Semitic incidents in Ukraine are rare and their number has not increased. According to figures provided by the Jewish Forum of Ukraine, the Anti-Fascist Committee of Ukraine and the Center for Minority Rights, there were two physical attacks motivated by anti-semitism and hatred and 11 cases of anti-Semitic vandalism (damage to buildings, desecration of cemeteries, graffiti) in the period from January to November 2016.⁷⁰ At rallies, marches and other events organised by the far right and some mainstream right political movements, openly anti-Semitic slogans, chants and banners have been clearly voiced and displayed, prompting no reaction on the part of the authorities.

87. As regards anti-Roma hostility, the Advisory Committee notes that harassment and various forms of violence are a common occurrence for many persons belonging to this minority. Cases of attacks carried out by mobs seeking collective punishment for alleged crimes committed by an individual Roma have been reported. For example, on 27 February 2014 a Roma man was attacked in Pereyaslav-Khmelnytsky, in the Kyiv region. The following day, in a separate incident, a number of men attacked Roma houses in Korsten. On 29 April 2014, in Slaviansk, a Roma man was shot and seriously injured apparently while trying to defend his house from a mob attack.⁷¹

88. In the latest of such violent incidents, on 29 August 2016, a number of Roma families were forced to leave the village of Loshchynivka, near Odesa, by an angry mob who, having burnt down one Roma house, threatened further reprisals against other Roma residents. This incident followed the murder of a nine-year-old girl in the village and happened after the suspect had been apprehended by the police.⁷² The event is shocking in itself but the Advisory

⁷⁰ Report “Manifestations of Anti-Semitism in Ukraine and attempts of glorification of Nazi criminals and their collaborators” for the period January – November 2016 prepared by the Jewish Forum of Ukraine, the Anti-Fascist Committee of Ukraine and the Center for Minority Rights.

⁷¹ European Roma Rights Centre, “Joint Statement on Violence Against Roma in Ukraine”, 30 April 2014, available at <https://www.errc.org/article/joint-statement-on-violence-against-roma-in-ukraine/4278>.

⁷² “Roma Flee Ukrainian Village After Mob Attack Over Killing Of 9-Year-Old Girl”, 29 August 2016, available at <https://www.rferl.org/a/ukraine-romany-roma-killing-loshchynivka/27952958.html>.

Committee is also alarmed about the alleged collusion of the local authorities in Loshchynivka who, according to the interlocutors of the Advisory Committee, at the height of the tensions apparently affirmed to the mob their agreement that all Roma residents should be expelled from the settlement. The Advisory Committee considers that the central authorities should investigate this incident fully.

Recommendations

89. The Advisory Committee urges the authorities to prevent, identify, investigate, prosecute and sanction effectively all racially and ethnically motivated acts, including anti-Semitic and anti-Roma acts. In particular, the Advisory Committee calls on the authorities to investigate effectively the mob violence and serious crimes committed in Loshchynivka and bring to justice those responsible without further delay, in accordance with applicable legal provisions.

90. The authorities must intensify awareness-raising measures and training programmes on tolerance and anti-discrimination issues in respect of law enforcement officials and the judiciary.

91. The Advisory Committee reiterates its call on the authorities to ensure that public statements by politicians that incite racist or ethnic hatred are unequivocally condemned, promptly investigated and adequately sanctioned, to ensure that such discourse is not condoned in society.

Law enforcement bodies

92. The Advisory Committees notes with deep concern that allegations of police misconduct and harassment against some groups, including the Roma and suspected illegal migrants, continue to be reported. Police raids on Roma settlements, which the Advisory Committee commented on in its previous opinion, have continued during the current monitoring cycle. Notably, on 29 October 2015, police officers raided a settlement in Zolotonosha, Cherkasy Region⁷³ and indiscriminately beat, humiliated⁷⁴ and arrested Roma, who were only freed following an intervention by the Parliamentary Commissioner for Human Rights. On 18 April 2014, seven Roma households on the outskirts of Sloviansk in the Donetsk region⁷⁴ were searched and robbed by uniformed armed men. Law enforcement bodies reportedly are slow to intervene in cases of domestic violence within Roma families putting Roma women's lives further at risk.⁷⁵ Roma also continue to fall victim to racial or ethnic profiling by the police when conducting document checks, as well as arbitrary arrests, systematic fingerprinting and photographing. The Advisory Committee is deeply concerned by these practices, which constitute compounded gender-based discrimination, and are not compatible with Article 6 of the Framework Convention and require an urgent response by the authorities.

⁷³ "Unlawful actions of police officers in town Zolotonosha against Roma residents should undergo proper legal assessment", available at <https://www.chirikli.com.ua/index.php/en/news/item/145-unlawful-actions-of-police-officers-in-town-zolotonosha-against-roma-residents-should-undergo-proper-legal-assessment>.

⁷⁴ OSCE/ODIHR "Situation Assessment report on Roma in Ukraine and the Impact of the Current Crisis", August 2014, p. 28, available at <https://www.osce.org/odihr/124494>.

⁷⁵ "Written Comments of the European Roma Rights Centre and the International Charitable Organization Roma Women Fund "Chirikli" Concerning the Republic of Ukraine for Consideration by the Committee on the Elimination of All Forms of Discrimination against Women" at its 45th session (18 January - 5 February 2010), p. 5, available at <https://www.errc.org/cms/upload/media/04/3D/m0000043D.pdf>.

93. Other representatives of national minorities have also reported targeted raids by the police, allegedly sometimes accompanied by paramilitaries, such as the *Azov Civic Corps*, entering premises under the pretext of searching for illegal migrants, without finding any. Such incursions were conducted at the Mosque in Bila Tskerkva in the Kyiv Region on 25 January 2016.⁷⁶ The Advisory Committee is alarmed over the continued use of these units, which is not in line with the letter and spirit of Article 6, nor with the guarantees of all other international human rights instruments.

Recommendation

94. The Advisory Committee reiterates its call on the authorities to take resolute steps to prevent and combat the reported racially motivated misconduct among law enforcement officials. Any such allegations must be promptly and effectively investigated and appropriately sanctioned.

Article 8 of the Framework Convention

Manifestation of religious beliefs

95. The Advisory Committee notes that, for the most part, interdenominational relations in multi-confessional Ukraine have been fraught by rivalry since the independence of Ukraine, occasionally leading to an open conflict among the three separate Orthodox churches. In fact Orthodox believers in Ukraine are split among the Ukrainian Orthodox Church of the Kyiv Patriarchate, the Ukrainian Orthodox Church of the Moscow Patriarchate and the Ukrainian Autocephalous Orthodox Church. Only the Ukrainian Orthodox Church of the Moscow Patriarchate currently enjoys worldwide recognition among orthodox churches. Research suggests that the Ukrainian Orthodox Church of the Kyiv Patriarchate has the larger part of worshippers among orthodox believers.⁷⁷ However, numerous interlocutors of the Advisory Committee concur that the conflict in Eastern Ukraine has had an impact in the religious sphere with some Orthodox believers choosing to follow the Kyiv Patriarchate.⁷⁸

96. The Advisory Committee notes that, prior to the outbreak of the conflict in Eastern Ukraine, the authorities distanced themselves from interfering in confessional matters. Regrettably, this approach has been abandoned. In 2016, two draft laws were submitted and discussed in the Verkhovna Rada. On 6 October 2016, the Parliament examined a draft Law “On amendments to the Law on Freedom of Conscience”,⁷⁹ which aims to make it easier for

⁷⁶ “Ukraine’s police must not collaborate with Azov xenophobes”, 3 February 2016, available at <http://khpg.org/en/index.php?id=1454456536>.

⁷⁷ According to the results of the sociological survey conducted by the Razumkov Centre in 2006, 14.9% of believers identified themselves with the Ukrainian Orthodox Church - Kiev Patriarchate, 10.9% were adherents of the Ukrainian Orthodox Church Moscow Patriarchate, 5.3% belonged to the Ukrainian Greek Catholic Church (sometimes referred to as the Uniate or Eastern Rite Catholic Church), 1% belonged to the Ukrainian Autocephalous Orthodox Church, 0.9% identified themselves as Protestants (Pentecostal, Baptist, Lutheran, Mennonites, Adventists), 0.6% belonged to the Roman Catholic Church, 0.1% practiced Judaism, 3.2% belonged to “other denominations”. Some 62.5% of respondents stated they are not religious or did not clearly identify their church allegiance.

⁷⁸ “The Ukraine crisis is exacerbating tensions among Orthodox Christians”, 4 March 2015, available at <https://www.usnews.com/opinion/blogs/world-report/2015/03/04/ukraine-crisis-threatens-to-further-fracture-orthodox-faithful>.

⁷⁹ Draft Law on the Amendments to the Law of Ukraine on “Freedom of Conscience and Religious Organisations” tabled on 26 February 2016, available at

individual parishes to leave one canonical structure and join another. This proposed change aims to facilitate the move of parishes hitherto belonging to the Ukrainian Orthodox Church of the Moscow Patriarchate, to the Kyiv Patriarchate. Furthermore, on 5 October 2016, the Committee on Culture and Spirituality of the Verkhovna Rada recommended that the draft law “On the Special Status of Religious Organisations whose Administrative Centres are Located in a State that is Recognized by the Verkhovna Rada of Ukraine as a State-aggressor”⁸⁰ be considered by the parliament. The draft, which was criticised by the Committee on Prevention and Counteraction of Corruption of the Verkhovna Rada, would grant, if adopted, a special status to religious organisations whose administrative centres are located in a country considered to be an aggressor state. The draft also envisages a special procedure for registering the statutes of religious organisations and foresees the signing of contracts (agreements) between the government and the leaders of these religious organisations.

97. Moreover, the authorities, including the Verkhovna Rada Speaker, abandoned their non-interfering approach and started engaging in discussions with the Ecumenical Patriarch of Constantinople on the prospects of the single national Orthodox Church in Ukraine and recognising its self-government (the Tomos of Autocephaly). The Advisory Committee notes that this development follows some statements made by high representatives of the Moscow Patriarchate on the Orthodox Church in both Russia and Ukraine being one subject under international law.

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

Recommendation

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

Restitution of religious property and places of worship

100. Since 2012, Ukraine has made some progress with regard to the restitution of religious property confiscated during the communist regime. The process is proceeding slowly, largely on account of the inadequate legal framework governing the restitution of religious property seized by the Soviet communist regime. Processing of civil claims by courts has slackened due to jurisdictional issues, administrative interference, overlaying claims by competing religious groups, prior privatisation and designation of some edifices as protected heritage sites.

[https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL\(2006\)062-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL(2006)062-e).

⁸⁰ Draft Bill No. 4511 “On the special status of religious organisations whose administrative centres are located in a State that is recognized by the Verkhovna Rada of Ukraine as a State-aggressor”.

101. The Advisory Committee notes that some progress has nonetheless been achieved regarding the return of religious property to minority communities. For example, the Saint Joseph Roman Catholic church in Dnipro, confiscated by the Soviet authorities in 1949, was returned in 2009 and opened for use after extensive renovations in 2012. It has to be noted, however, that many religious organisations face seemingly insurmountable obstacles, which discourages other organisations from engaging in long and costly procedures. Such restitution difficulties currently affect confiscated Jewish religious properties in Ternopil and Kyiv, Muslim historic religious buildings in Mykolayiv and Roman Catholic properties in the western regions of the country. The Saint Mary Madeleine Church in Lviv, confiscated in 1962 and used hitherto by local Roman Catholics, many of whom belong to the Polish national minority, is just one of many such edifices.⁸¹

Recommendation

102. The Advisory Committee renews its calls on the authorities to increase their efforts to return religious properties and buildings to the communities concerned. Solutions should be found through continued dialogue in order to facilitate the return of buildings and monuments that are of crucial importance to the maintenance of the religious and cultural identities of the national minorities concerned.

Article 9 of the Framework Convention

Legislation on television and radio broadcasting in minority languages

103. Significant legislative changes have been adopted in recent years to modify the regulatory framework in which the broadcasting media operate. In one of the first legislative changes following the Euromaidan protests, the Verkhovna Rada adopted on 17 April 2014 a Law “On Public Television and Radio Broadcasting in Ukraine”.⁸² The Advisory Committee notes that one of the aims of the National Public Television and Radio Company of Ukraine, established by the law, is to meet “the informational, cultural, and educational needs of the Ukrainian people to the fullest extent, particularly through production and distribution of economic, history and documentary, arts and culture, educational, entertainment, and sports programming content, as well as programming content aimed at children and young people, people with physical disabilities, ethnic minorities, and other social groups”.⁸³ Furthermore, a Law “On Media Ownership”⁸⁴ was adopted in the autumn of 2015 aiming to provide transparency of the ownership of the media and limit its concentration. The law obliges each broadcasting company to publish information on its ownership and some companies have done so already.⁸⁵

104. The Advisory Committee understands that the authorities are currently developing legislation on local community media. When drafting such laws, the Verkhovna Rada should

⁸¹ US State Department “Ukraine 2015 International Religious Freedom Report”, available at <https://www.state.gov/documents/organization/256465.pdf>.

⁸² Law No. 1227 “On Public Television and Radio Broadcasting in Ukraine”, available at <http://cedem.org.ua/en/library/law-of-ukraine-on-public-television-and-radio-broadcasting-of-ukraine/>.

⁸³ *ibid.*, Article 4.

⁸⁴ Law No. 674-VIII “On Amending the Legislative Acts of Ukraine Concerning Transparency of Mass Media Ownership and Implementation of State Policy in the Field of Television and Radio Broadcasting”, available at <http://zakon5.rada.gov.ua/laws/show/674-19>.

⁸⁵ For example: “1+1” channel <http://1plus1.ua/files/structure.pdf>.

guarantee possibilities for persons belonging to national minorities to create or access independent community broadcasting. The Advisory Committee recalls in this context that private and community media play a significant role in the realisation of linguistic rights of persons belonging to national minorities, and make a positive contribution in the areas of integration and the general appreciation of cultural diversity in society.⁸⁶

105. The Advisory Committee notes overall a dynamic and diverse media environment in Ukraine. In addition to public channels broadcast by the National Public Television and Radio Company of Ukraine (NPTRU), there are numerous private television and radio channels. Two television channels *Ukraina* and *Inter* broadcast nationwide in Russian, capturing respectively 8.68% and 6.8% of the audience. A number of other channels present a news programme in Russian daily, while the rest of the programmes are broadcast in Ukrainian.⁸⁷ In addition, given the de facto bilingualism of most Ukrainians, interlocutors interviewed on television may speak in Russian in programmes which in principle are in Ukrainian. Furthermore, the Advisory Committee notes in this context, that the broadcasting regulator, the National Radio and TV Council (NTSC), has banned retransmission of at least 35 Russian channels on the grounds of infringing on national security and violating advertising regulations.⁸⁸

106. The Advisory Committee notes that weekly programmes in the Romanian and Hungarian languages continue to be broadcast by the Uzhhorod branch of public television. In addition, a large proportion of persons belonging to the Romanian and Hungarian national minorities, residing in border regions, have access to broadcasts from the neighbouring countries in their languages. The Ukrainian public radio transmits nationwide in Ukrainian only. It shares the airwaves with over 30 regional commercial radio companies and over 100 local radio stations, broadcasting for the most part in Ukrainian, Russian or bilingually.⁸⁹ Overall, the Advisory Committee notes that, according to representatives of national minorities, media broadcasting in national minority languages have not encountered difficulties with obtaining broadcasting licences.

107. The Advisory Committee notes with concern that, contrary to its recommendation contained in the third opinion⁹⁰ to “[R]econsider the imposition of rigid language quotas in broadcast media and promote the broadcasting of minority language programmes”, the authorities have recently adopted legislation⁹¹ obliging all radio stations, both public and

⁸⁶ 3rd Advisory Committee Thematic Commentary on Language Rights (May 2012), para. 45 available at <https://rm.coe.int/16800c108d>.

⁸⁷ Reporters Without Borders “Facing Reality after the Euromaidan: The Situation of Journalists and Media in Ukraine”, p. 7, June 2016, available at https://rsf.org/sites/default/files/journalists_and_media_in_ukraine_-_rsf_2016.pdf.

⁸⁸ Law “On Television and Radio Broadcasting”, Article 6, available (in Ukrainian) at <http://zakon4.rada.gov.ua/laws/show/3759-12>; Radio Free Europe/Radio Liberty “Ukraine Bans Broadcasts Of Independent Russian TV Station Dozhd”, 12 January 2017, available at <https://www.rferl.org/a/ukraine-bans-russia-tv-rain-dozhd/28228049.html>.

⁸⁹ Local radio stations continue to broadcast programmes in languages of less numerous minorities in a number of locations with varying frequency. In Uzhhorod, for example, there are broadcasts in Hungarian, Romanian, German, Rusyn and Romani, in Odesa - in Moldovan, Bulgarian and Gagauz, in Zhitomir - in Czech and Polish, in Lviv - in Polish.

⁹⁰ Third Advisory Committee Opinion on Ukraine, adopted on 22 March 2012, p. 42, available at <https://rm.coe.int/168008c6c0>.

⁹¹ Law “On Amendments to the Law of Ukraine “On Television and Radio Broadcasting” concerning the share of songs in the state language on musical radio programs and broadcasts”, adopted on 16 June 2016,

private to broadcast at least 60% of daily radio content (such as news and entertainment) in Ukrainian (within the law's first and second year – 50% and 55% respectively).⁹² In addition, the law imposes quotas for songs in the Ukrainian language on the radio during prime listening hours (from 7:00 a.m. to 2:00 p.m. and from 3:00 p.m. to 10:00 p.m.). In the course of the first year, the share of Ukrainian songs shall be at least 25% of the total volume of songs, during the second year – 30%, and during the third – 35%. A reduced quota at 25% is provided for radio organisations that, during the day, broadcast at least 60% (50% and 55% within the law's first and second years respectively) of their songs in the official languages of the EU. The exclusion of the Russian language and other languages of national minorities that are not EU languages from the list of languages included in the song quotas is contrary to the principle of equal treatment and indicates the wish to marginalise these languages within the public domain.

108. The law which established the above quotas for songs, entered into force on 8 November 2016. It provides an incentive in the form of an advantage in licensing competitions to these radio organisations that exceed their broadcasting quotas by five or more per cent than the legally defined rate, and imposes fines of 5% of the total amount of the licensing fee for not complying with these rates. The Advisory Committee is concerned that, by opting for a punitive approach, the authorities send a negative signal to speakers of languages not covered by the quotas. This indicates a lack of acceptance for the presence of some languages on the airways and, by extension, generally within public life in Ukraine. Such signals diminish the space available to persons belonging to national minorities to self-identify publicly.

109. The Advisory Committee considers that the imposition of the quotas on smaller broadcasters may result in a disproportionately heavy burden, given their limited resources, restricted funding and small audiences. By consequence, it may force them to discontinue their programmes. Generally, the Advisory Committee considers that, even though promotion of the state language in public media is a legitimate aim (provided that adequate provisions are made for broadcasting in national minority languages), the conditions laid down in the new legislation breach the Framework Convention by overstepping licensing requirements and unduly interfering with private broadcasters. Efforts to promote the state language should be pursued through incentive-based and voluntary methods rather than through the imposition of rigid quotas or sanctions, and flexibility must be applied to ensure that smaller minority languages are not disproportionately affected or excluded from the media.

Recommendations

110. The Advisory Committee once again calls upon the authorities to reconsider their rigid approach to the quota requirements in broadcasting media, and develop, in close consultation with minority representatives and media professionals, more appropriate means to ensure that Ukrainian and non- Ukrainian-speaking groups of society can benefit from a diverse but shared media space.

<http://cedem.org.ua/en/news/the-revised-draft-law-on-ukrainian-quotas-on-the-radio/>; text (in Ukrainian) available at http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=57737.

⁹² Official web portal of the Verkhovna Rada “Law increasing use of Ukrainian and official EU languages on Ukrainian television and radio takes effect”, 8 November 2016, available at <http://rada.gov.ua/en/news/News/136976.html>; *Ukrainska Pravda* “Poroshenko : Every Fourth Song on the Radio will be now in Ukrainian”, 8 November 2016, available at <https://www.pravda.com.ua/news/2016/11/8/7126097/>.

111. The Advisory Committee calls on the authorities to take appropriate measures to ensure that persons belonging to national minorities, particularly numerically smaller ones, have wider access to radio and television broadcasts available in their languages.

112. The authorities are asked to ensure that future legislation on community media facilitates access to and presence in the media especially of numerically smaller minorities and their languages.

Print media

113. On 24 November 2015, the Verkhovna Rada adopted legislation prohibiting the Ukrainian state authorities, including regional and municipal authorities, from being founders or co-founders of printed media,⁹³ aiming thus to limit political influence over the printed press in the country. The Advisory Committee notes that the printed media sector in Ukraine has been in decline for years. Between 6 000 and 8 000 titles continue to be published across the country with a circulation varying from 150 000 to just 600. The ongoing economic crisis and the rapid expansion of electronic media have reduced the proportion of Ukrainians reading newspapers to 12.5% of the population, according to a survey carried out in 2016 by the Gorshenin Institute. Russian-language newspapers and periodicals which continue to be published in Ukraine have followed the downward trend affecting the whole sector.⁹⁴

114. The Ministry of Culture has continued to financially support five minority language newspapers (Bulgarian, Yiddish, Romanian, Armenian and Polish).⁹⁵ The Advisory Committee regrets to note, however, that the procedure for the selection of minority language newspapers that receive public funding has not been made any more transparent in recent years. For example, it is conspicuous that no Hungarian-language newspaper receives any public support, in spite of the fact that over 156 000 persons declared speaking Hungarian as their first language in the 2001 census, which makes it the fifth most commonly spoken language of Ukraine. The prohibition on the cofounding and financing of the printed press by regional and municipal authorities has been most detrimental to the numerically smaller minorities, whose publications are not commercially viable and who struggle to survive without public support.

Recommendation

115. The Advisory Committee reiterates its call on the authorities to acknowledge the crucial importance of print media in national minority languages for the preservation of minority languages in the public sphere and to establish transparent procedures for the allocation of their regular support at national, regional and local levels.

⁹³ Interfax Ukraine “Ukrainian state authorities cannot be founders, cofounders of printed media from now on” available at <http://en.interfax.com.ua/news/general/306311.html>.

⁹⁴ The circulation of the leading Russian-language tabloid *Fakty i komentarii* has declined from over 1 million copies to 150 000 copies. Another Russian-language tabloid *Segodnia* has seen the number of sold copies drop from 700 000 to less than 100 000. See Reporters without Borders “Facing Reality after the Euromaidan: The Situation of Journalists and Media in Ukraine”, June 2016, p. 22, available at https://rsf.org/sites/default/files/journalists_and_media_in_ukraine_-_rsf_2016.pdf.

⁹⁵ Fourth State Report, p. 33, available at <https://rm.coe.int/1680657b74>.

Article 10 of the Framework Convention

Language policy

116. The Advisory Committee notes that issues related to the use of languages continue to polarise society and trigger heated public debates. On 3 July 2012, following extensive political consultation, and elaborated with the help of the Venice Commission,⁹⁶ the Law “On the Principles of the State Language Policy” was adopted by the Verkhovna Rada. This law, while confirming the status of Ukrainian as the sole state language, recognised the Russian language and other national minority languages, as languages to be protected as such in line with the international obligations of Ukraine, notably those of the European Charter for Regional or Minority Languages.⁹⁷ The law created conditions for better protection, not only of the Russian language, but also of other national minority languages spoken in Ukraine in regions where the number of speakers of a minority language exceeds 10%, according to census data.

117. The Advisory Committee recalls its views on the law expressed in the “Ad hoc Report on the situation of national minorities in Ukraine adopted on 1 April 2014”.⁹⁸ In particular, it recalls its criticism as regards the polarising effect of the law on Ukrainian society and its call for far more comprehensive consultation with representatives of all national minorities. It further notes that, following the vote in the Verkhovna Rada to abrogate the law, at the culminating point of the Euromaidan demonstrations on 23 February 2014, and the subsequent decision of the acting president on 27 February 2014 to veto its abrogation, the matter was referred to the Constitutional Court by 57 deputies of the Verkhovna Rada on 10 July 2014. The Constitutional Court of Ukraine is yet to deliver its ruling on the constitutionality of the law. The prolonged uncertainty as to the outcome of this review contributes to perceptible tensions, and political instrumentalisation of the issue of the status of minority languages in particular, and the policy towards national minorities in general. National minority interlocutors of the Advisory Committee expressed their strong concern regarding access to language rights, should the law be revoked. In this context, the Advisory Committee wishes to recall that the Council of Europe Parliamentary Assembly’s Resolution 2145 (2017) on the functioning of democratic institutions in Ukraine, adopted on 25 January 2017, also draws attention to the Assembly’s concern that some projects (concerning the status of minority languages) aim at narrowing the current rights of national minorities.⁹⁹

118. The Advisory Committee further notes that a draft Law “On State language”¹⁰⁰ was tabled on 19 January 2017 in the Verkhovna Rada. If adopted in its current form, the law would establish a National Commission on State Language Standards with investigative and sanctioning powers and introduce criminal liability for public disrespect of the Ukrainian

⁹⁶ “Opinion on the Draft Law on the Principles of the State Language Policy of Ukraine” adopted by the Venice Commission on 16-17 December 2011, doc. ref.: CDL-AD(2011)047, available at [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2011\)047-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2011)047-e).

⁹⁷ Upon ratification in 2005 of the European Charter for Regional or Minority Languages, Ukraine declared that its provisions shall apply to the Belarusian, Bulgarian, Crimean Tatar, Gagauz, German, Greek, Hungarian, Jewish, Moldovan, Polish, Romanian, Russian and Slovak languages.

⁹⁸ “Ad hoc Report on the situation of national minorities in Ukraine adopted on 1 April 2014”, available at <https://rm.coe.int/16800c5d6f>.

⁹⁹ Council of Europe Parliamentary Assembly Resolution 2145 (2017) “The functioning of democratic institutions in Ukraine”, available at <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=23453&lang=en>.

¹⁰⁰ Law No. 5670 “On State language”, available (in Ukrainian) at http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=60953.

language. The Advisory Committee recognises that protection of the state language is, in itself, a legitimate aim. It notes, however, that if the law is adopted, measures taken should not limit the right to use minority languages freely, as provided by the Framework Convention, and considers that the authorities should aim to strike a balance between the protection of the state language and the language-related rights of persons belonging to national minorities. In particular, the Advisory Committee considers that the authorities should adopt a flexible approach towards the monitoring system as called for under the proposed legislation. Moreover, in view of the complex socio-linguistic context in Ukraine, the Advisory Committee deems it important to give promotional measures preference over those of a punitive nature in order to pursue the legitimate objective of strengthening the knowledge and use of the state language by all members of the population in an effective manner.

119. Notwithstanding the uncertainty surrounding the status of the Law “On the principles of the State Language Policy” numerous local self-governments took decisions, based on Article 7 of the law,¹⁰¹ to recognise minority languages present within their territory as regional languages. According to information contained in the Fourth State Report,¹⁰² the Russian language has been recognised as a regional language in nine regions of Ukraine. Furthermore, the Bulgarian language has been recognised as a regional language by the Znamianka City Council and one village council in the *rayon* of Vilshanka (region of Kirovohrad), the Crimean Tatar language has been recognised in the rural settlement of Novooleksiivka in the region of Kherson, Polish by one village council of the *rayon* of Storozhynets in the region of Chernivtsi, Romanian by 10 village councils in the *rayon* of Hertsa, one village council in the *rayon* of Hlyboka, two village councils in the *rayon* of Novoselytsia, four village councils in the *rayon* of Storozhynets in the region of Chernivtsi, and by one rural settlement and three village councils in the *rayon* of Tiachiv and by two village councils in the *rayon* of Rakhiv in the Transcarpathian region. Finally, the Hungarian language has been recognised in the towns of Chop and Berehove, as well as in the *rayons* of Uzhhorod, Vynohradiv (decisions of nine village councils and one rural settlement council) and Berehove (decisions of 27 village councils) in the Transcarpathian region. Some *rayon* or village councils have recognised more than one minority language. The Bolhrad Rayon Council in the Odesa region recognised Bulgarian and Gagauz, whereas the village council of Nyzhni Petrivtsi in the *rayon* of Storozhynets in the

¹⁰¹ Full text of the law (in Ukrainian), available at <http://zakon5.rada.gov.ua/laws/show/5029-17>, abstract in English, available at <http://zakon3.rada.gov.ua/laws/annot/en/5029-17>: “Article 7 of the Law envisages that the principles of language policy are applied to all regional or minority languages used within the territory of Ukraine. Under the European Charter for Regional or Minority Languages, the regional and minority languages of Ukraine, to which the measures aimed at the use of regional or minority languages determined by this Law shall be applied are as follows: Russian, Belorussian, Bulgarian, Gagauz, Yiddish, Crimean Tatar, Moldavian, German, Modern Greek, Polish, Romani, Romanian, Slovakian, Hungarian, Rusyn, Karaim, and Krymchak. Measures aimed at the use of regional or minority languages envisaged by the Law shall be applied to each of the above language provided that the number of the regional language carriers living in the area where the language is spread is 10 or more percent of the population of that area. The right to raise the issue of applying the measures aimed at the use of regional or minority languages is also held by the residents of the area where the language is spread. In case the signatures of more than 10% of people living in that specific area are collected, the local council shall make an appropriate decision within 30 days after receiving the signature sheets. The headcount of the regional language group within a certain area is determined based on the data of the Ukrainian National Language Composition Census in terms of administrative territorial units. The regional or minority language(s) that satisfy the above conditions shall be used in the appropriate area of Ukraine in the work of state power bodies, power bodies of the Autonomous Republic of Crimea and bodies of local self-government, used and taught in state and municipal institutions, and used in other spheres of social life according to the scope and procedure determined by the Law”.

¹⁰² Fourth State Report, p. 36, available at <https://rm.coe.int/1680657b74>.

region of Chernivtsi has recognised Romanian and Polish.¹⁰³ The Advisory Committee notes with regret that neither Romani nor Rusyn languages have been recognised as a regional language anywhere in Ukraine.

120. The Advisory Committee welcomes these initiatives, which are indicative of the openness and interest shown at local level to promote and support national minority languages. It notes, however, that the outdated census data on the number of minority language speakers make it impossible to assess correctly the degree to which the opportunity offered by the law is used in practice. Furthermore, it notes that the ongoing reform of the territorial structure and local administration will have a direct impact on the recognition of minority languages at local level. It can be expected that resolutions concerning such recognition will have to be adopted anew in order for persons belonging to national minorities to be able to access rights afforded by Article 10 of the Framework Convention.

Recommendations

121. The Advisory Committee urges the authorities to continue their efforts to develop, in consultation with all relevant groups, a clear and coherent legislative and policy framework regarding the use of languages, in order to provide solid legal guarantees for the protection and use of all minority languages, including the numerically smaller ones.

122. The Advisory Committee urges the authorities, when considering their legislative and policy framework, to create a balance between the goal of promoting the official language and the language rights of persons belonging to national minorities. The methods of monitoring the implementation of the official language policy should favour a constructive and incentive-based approach over the system of inspections and sanctions.

Use of minority languages with administrative authorities and in public life

123. The Advisory Committee notes that recognition of a minority language as a regional language entails, in accordance with Article 7 of the Law "On the Principles of the State Language Policy", its use in the work of state bodies, local self-government bodies, and in state and municipal institutions and in other spheres of social life.

124. Problems have been encountered in practice with regard to access to this right. For example, representatives of the Hungarian national minority have reported¹⁰⁴ that it was possible to communicate orally in Hungarian in 51 out of 53 municipalities where the proportion of persons declaring Hungarian mother tongue was greater than 10% of the population, according to the census of 2001. Furthermore, in 40 out of 53 municipalities, it was possible to submit written communications in the Hungarian language. However, research has also shown that receiving a written response in the Hungarian language was problematic in all the municipalities which were surveyed, due to a lack of bilingual documents and forms. Furthermore, the ongoing reform of the territorial structure and local administration, in particular the amalgamation of *hromadas*, has caused apprehension among representatives of

¹⁰³ Fourth State Report, pp. 36-38, available at <https://rm.coe.int/1680657b74>.

¹⁰⁴ Research conducted between January and April 2015. See "Written Comments by Hungarian Researchers and NGOs in Transcarpathia (Ukraine) on the Fourth Periodic Report of Ukraine on the implementation of the Framework Convention for the Protection of National Minorities", 20 January 2017, paras. 29-32, available at http://kmksz.com.ua/wp-content/uploads/2017/01/Framework-Convention_Transcarpathia_Ukraine_Shadow-Report-KE.pdf.

national minorities. Concerns have been conveyed to the Advisory Committee that the right to use minority languages in relations with administrative authorities may be jeopardised should the number of persons inhabiting newly established amalgamated *hromadas* fall below the 10% threshold.

125. The possibility of using minority languages in relations with administrative authorities is further impacted by the Law "On State Service" adopted on 10 December 2015, which entered into force on 1 May 2016.¹⁰⁵ The Law contains no provision on the use of national minority languages in relations between persons belonging to national minorities and administrative authorities. On the contrary, Article 8 of the law provides for the exclusive use of the state language by public officials whilst carrying out their official duties. The Advisory Committee considers this provision to be inconsistent with the provisions of the language law and contrary to Article 10 of the Framework Convention.

126. The National Agency on Civil Service, which is in charge of implementing the Law "On State Service", has been elaborating, in collaboration with the Ministry of Education and Science of Ukraine, language tests designed to ensure that civil servants have the necessary skills to use the state language in carrying out their official duties. While acknowledging the importance of Ukrainian language skills for accessing the civil service, the Advisory Committee considers that language proficiency requirements constitute a barrier for access to employment of persons belonging to national minorities and must not be disproportionate. Where proficiency in the official language may indeed be a legitimate precondition for a number of positions, requirements must in each case be clearly defined, and must not go beyond what is necessary to achieve that aim.¹⁰⁶ The Advisory Committee considers that in order to guarantee fairness in access to the civil service posts, all applicants should undergo the same tests, adjusted in their degree of difficulty to the post in question, irrespective of the type of school attended and diploma obtained by an applicant. Moreover, the authorities should pay increased attention to Ukrainian language teaching in all schools, with a view to ensuring that graduates have the necessary skills to pass exams without the need to undergo additional tutorials. As regards persons currently in the state service, sufficient time and support should be granted for persons to improve their language skills.

Recommendations

127. The Advisory Committee renews its call on the Ukrainian authorities to facilitate and encourage the use of all minority languages in relations with administrative authorities by creating an environment conducive for their active use in public life in general.

128. The Advisory Committee strongly encourages the authorities to ensure that language proficiency requirements are applied fairly and proportionately to the intended aim, and do not place persons belonging to national minorities at a disadvantage. Measures aiming to strengthen the state language should not be to the detriment of national minority languages.

¹⁰⁵ Official web portal of the Verkhovna Rada "Verkhovna Rada of Ukraine adopts Law "On State Service" 10 December 2015", (in Ukrainian) available at <http://zakon5.rada.gov.ua/laws/show/889-19>.

¹⁰⁶ 3rd Advisory Committee Thematic Commentary on Language Rights (May 2012), para. 87, available at <https://rm.coe.int/16800c108d>.

129. The authorities are also invited to ensure that the right to use a minority language in relations with administrative authorities is not jeopardised as a result of the reform of the territorial structure and local administration.

Article 11 of the Framework Convention

Personal names

130. The Advisory Committee notes that Article 28 of the Law "On the Principles of the State Language Policy" establishes the right for all citizens of Ukraine to use and record their name in a recognised regional or minority language, taking into account the traditions of the given language.¹⁰⁷ The law gives the right to every person to give preliminary approval of the manner in which their first and last names, as well as patronymics in passports and other official documents, are to be recorded and transliterated into Latin script in documents used for foreign travel.

131. The Advisory Committee notes that in addition to the legal uncertainty surrounding the law, there is a lack of awareness of public officials of its content, and its provisions on personal names are not applied in practice. Transliteration of names of persons belonging to national minorities, recorded in the civil registry and identity documents in Ukrainian, into Latin script, for example in passports used for foreign travel, is - according to the Advisory Committee's interlocutors - carried out without consulting the persons concerned and often without due regard to the grammatical rules of the language in question and the language-specific diacritical marks.

132. The Advisory Committee recalls its viewpoint that the script is an integral part of a minority language and must not be subjected to separate rules.¹⁰⁸ Moreover, there are reportedly no efforts made to ensure that the transliteration of Russian-language names into Latin script are carried out consistently and in line with international unified standards. As a result, the same names are reportedly spelled differently by the various authorities that issue documents, which has significant practical repercussions for the document holders, such as when a property title must be proven or in the context of inheritance proceedings.

133. Finally, the Advisory Committee notes, with regret, that reportedly, the practice of imposing Ukrainian versions of names of persons belonging to national minorities in identity documents, or inserting them into birth certificates without the explicit prior approval of the persons concerned, has continued in the period covered by the current monitoring cycle. The Advisory Committee considers that this practice is not in line with Article 11 of the Framework Convention and raises serious issues with regards to the right to use one's personal name in a minority language and have it officially recognised, which is widely viewed as a core linguistic right that is closely linked to personal identity and dignity.¹⁰⁹

Recommendation

134. The Advisory Committee urges the authorities to take all necessary measures, including through the development of a coherent legislative framework, to ensure that persons

¹⁰⁷ See footnote 82 as regards the scope of application of the law.

¹⁰⁸ 3rd Advisory Committee Thematic Commentary on Language Rights, (May 2012), para. 60 available at <https://rm.coe.int/16800c108d>.

¹⁰⁹ *ibid.*, para. 61.

belonging to national minorities have their personal names officially recognised in their minority language, including in their identity documents, in line with Article 11 of the Framework Convention. It specifically calls on them to ensure that international standards regarding the transliteration and transcription of names are respected, making full use of contemporary technological facilities in the use of diacritics.

Bilingual topographical indications and other inscriptions

135. Recognition of a minority language as a regional language entails, in accordance with Article 27 of the Law “On the Principles of the State Language Policy”, its use alongside the Ukrainian language for signage of toponyms such as names of municipalities, railway stations, street names, etc. in municipalities where the speakers of these languages constitute at least 10% of the local population. The Advisory Committee welcomes progress achieved in the introduction of bilingual topographical indications and other inscriptions in a number of regions of Ukraine. In particular it notes that in the Transcarpathian region, in most municipalities where persons belonging to the Hungarian and Romanian minorities reside in substantial numbers, the official signs displaying municipalities’ names are bilingual. Regrettably, this is generally not the case in municipalities inhabited by persons speaking Slovak, Russian, Romani and Rusyn.

136. The Advisory Committee further notes that in the Transcarpathian region, a bilingual sign (in Ukrainian and Hungarian languages) at a railway station is displayed only in Berehove. In the Odesa region, in a number of settlements which recognise Bulgarian, Gagauz and Russian as regional languages, topographical indications are displayed in the bilingual format (Ukrainian and a minority language). For example, in the town of Izmail and Bolhrad *rayon* signs are displayed in Russian, in the town of Bolhrad itself - in Bulgarian, Gagauz and Russian, in villages of Vynohradiv and Oleksandrivka in Gagauz, and in the village of Chervonoarmiisk in Gagauz and Bulgarian (in each case in addition to the Ukrainian language). In this context, the Advisory Committee notes with concern the decree of the Minister of Infrastructure on the exclusive use of the Ukrainian and English languages for electronic displays, signs, indicators and loud-speaker announcements at airports and railway stations.¹¹⁰

137. The Advisory Committee notes that due to financial considerations only very few municipalities, such as Berehove and Vynohradiv, opted for bilingual street signs. In fact, it is the local self-governments alone, which have to cover the cost of bilingual signage. This is often beyond their financial capacity. The Advisory Committee underlines in this context the importance of promoting bilingual signs, as this conveys the message that a given territory is shared in harmony by various population groups.¹¹¹ Moreover, it is concerned by the fact that the ongoing reform of the territorial structure and local administration will have a direct impact on the possibility to display bilingual topographical signage, jeopardising the progress achieved thus far (see also under Article 16).

Recommendation

138. The Advisory Committee asks the authorities to take more proactive measures in order to ensure that the provisions of Article 11.3 of the Framework Convention are effectively

¹¹⁰ *Pravda.ru* “Ukraine to get rid of Russian language at airports”, 17 October 2016, available at https://www.pravdareport.com/news/world/ussr/ukraine/17-10-2016/135897-ukraine_russia_language-0/.

¹¹¹ 3rd Advisory Committee Thematic Commentary on Language Rights, (May 2012), para. 67 available at <https://rm.coe.int/16800c108d>.

implemented in all municipalities inhabited by a substantial number of persons belonging to national minorities. It also encourages the authorities to take a flexible approach over the financing of the cost of introducing signs displaying street names in languages of national minorities in the municipalities where persons belonging to national minorities reside in substantial numbers. The authorities are also invited to ensure that the right to use a minority language for bilingual topographical indications and other inscriptions is not jeopardised as a result of the reform of the territorial structure and local administration.

Article 12 of the Framework Convention

Teaching materials, teacher training and intercultural education

139. The Advisory Committee welcomes the measures taken by the authorities to educate young persons on multicultural coexistence, in the framework of the Programme “Main Objectives in Awareness Raising among Pupils of Grades 1-11 of General Educational Establishments of Ukraine”. The programme, which is adapted to children of different age groups, focuses on the culture of interethnic relations, tolerant attitudes to history, language, culture and beliefs of other nationalities. In addition, the Advisory Committee takes note that the introduction of teaching about the Holocaust and the deportation of Crimean Tatars into the history curriculum. Finally, the Advisory Committee takes note that initiatives such as the project “Ukrainian Peace-building School”, involving 12 000 children in 475 schools, (in the school year 2015/16) in the regions of Donetsk, Zaporizhzhia and Luhansk.

140. It is, however, of concern that education materials used in all schools reportedly still reflect inadequately the historical presence of, and positive contributions made by, national minorities in Ukraine. The Advisory Committee regrets to note that, although educational programmes and textbooks foster cultural competence by familiarising children with cultural and spiritual values and standards governing social and communicative relations among generations and nations, they do not necessarily promote actively the contribution to society of national minority cultures and traditions present in Ukraine. As a consequence, children may learn about cultures and traditions of other continents but have no knowledge about the culture of other Ukrainian citizens living in another region of the country. Furthermore, the Advisory Committee regrets to note that some textbooks, for example those in the Crimean Tatar language, lack any gender dimension in their content.

141. The Advisory Committee considers it essential for the promotion of intercultural understanding and respect, that all pupils learn about the wealth of different cultures, languages, traditions and identities present in Ukraine, including those of the numerically smaller minorities, and that positive images of these different cultures are portrayed in teaching materials, school curricula and in teacher training. Close consultation of national minorities in the preparation of history textbooks is especially important in this regard to encourage the accommodation of multiple perspectives in historic research. In this context, the Advisory Committee notes with concern the demoting of the status of teaching of Russian literature, first subsumed into “World Literature” - a subject later renamed as “Foreign Literature”.

Recommendations

142. The Advisory Committee calls on the authorities to engage, in close consultation with minority representatives, in a comprehensive review of teaching materials and curricula to

ensure that the presence of national minorities as well as their culture and history, are adequately reflected. Attention should be paid to introducing a multiple perspective into history teaching, including through adequate textbooks.

143. The Advisory Committee urges the authorities to ensure a more comprehensive account of the history, culture and traditions of national minorities in the school curricula at all levels of education, including by increasing the opportunities to learn about the country's history and cultural diversity.

Equal access to education

144. The Advisory Committee notes with deep concern that Roma children continue to face multiple obstacles in accessing education. Segregated and sub-standard schools for Roma children still exist, such as schools Nos. 13 and 14 in Uzhhorod, which the delegation of the Advisory Committee visited, or school No. 14 in Mukhachevo. Furthermore, Roma children are overrepresented in so-called 'special education' schools where teaching follows curricula adapted for children with special needs. Roma representatives report, for example, the existence of a 'special education' school in the Odesa region, where Roma children constitute 36% of the school intake, even though the Roma population of the area is fewer than 5%. Although enrolment into 'special education' schools follows in each case an examination by an expert committee which assesses whether a child requires an adapted curriculum or has particular education needs, it is most surprising that according to information provided by Roma representatives, entire families of Roma children have been officially diagnosed as having special education needs and have all been enrolled in this school.¹¹²

145. It is equally worryingly that some integrated schools refuse admission to Roma children, and those which admit Roma pupils operate a quota system of no more than two Roma children per class. For example, as school No. 14 in Uzhhorod teaches only up to the 4th grade, upon completion children should continue their education in another local school No. 20. It is of grave concern that approximately 30% of children are refused enrolment, effectively depriving them of the possibility to progress beyond the 4th grade. The Advisory Committee finds this highly disturbing and incompatible with Article 12.3 of the Framework Convention.

146. The Advisory Committee notes with regret that, instead of trying to facilitate Roma children's access to education, school directors place multiple obstacles to prevent enrolment. Children are not admitted due to a lack of original birth certificates (even if a copy of such is produced), or the inability to pay an informal fee demanded of all parents to cover some running expenses of the school or transportation costs. Reportedly, directors and teachers frequently display open prejudice against the Roma and voice prejudicial views.¹¹³

147. Those Roma children who are allowed to attend schools often do not receive quality education, given the deplorable material condition of the schools which the Advisory Committee visited, including overcrowded conditions and lack of teaching materials. The problems faced by Roma children are compounded often by the abject material conditions in which these children live. Research by Roma organisations has found that, in Uzhhorod and

¹¹² "Written Comments of the European Roma Rights Centre and Chiricli, Concerning Ukraine For Consideration by the UN Committee on Economic, Social and Cultural Rights at the 52nd Session (28 April to 23 May 2014)", p.6, available at <https://www.errc.org/cms/upload/file/ukraine-cescr-march-2014.pdf>

¹¹³ *ibid.*, p. 9.

Mukhachevo, the majority of 4th grade students (aged between nine and ten approximately) attending segregated schools overall could not achieve an adequate level of literacy.¹¹⁴ Moreover, given the high rate of repetition of classes and the lack of an entrenched culture of school attendance among Roma children, in particular young Roma girls, many of them will have left school by the age of 16 without completing secondary education. This will impact very significantly on their employment prospects.

148. Against this bleak background, the Advisory Committee further notes the low attendance of preschools by Roma children which creates a disadvantage already at the outset of their education. The lack of a targeted government plan to better prepare Roma children for school, thus increasing their chances of success, is most regrettable. Moreover, the Advisory Committee observed that it is primarily charitable foreign donors who make long-term, but narrowly-targeted efforts to improve conditions in which Roma children are schooled.

Recommendations

149. The Advisory Committee urges the authorities to take all necessary measures to end, without further delay, practices that lead to the continued segregation of Roma children at school and to redouble their efforts to remedy other shortcomings faced by Roma children in accessing education, in line with the guarantees of the Framework Convention and those of Article 2 of the Protocol to the European Convention on Human Rights.

150. The authorities must ensure that Roma children have equal opportunities for access to all levels of regular education. Measures should be taken to prevent children from being wrongfully placed in special schools. Placement in regular schools should be the rule. Special schooling should be reserved for exceptional cases only following diagnostic examinations based on appropriate testing methods that have been introduced with a view to securing objectivity and non-discrimination. Targeted awareness-raising measures should be developed to improve the inclusion and schooling of Roma children, in particular Roma girls, and to devise and implement, as a matter of urgency, in co-operation with those concerned, including Roma organisations, new measures and solutions to the persisting problems.

151. The Advisory Committee calls on the authorities to promote access to appropriate, non-segregated, adequately staffed and equipped preschool facilities for all Roma children and guarantee that the curriculum in such kindergartens corresponds to the diverse needs and multilingual composition of the groups concerned.

Article 14 of the Framework Convention

Teaching and learning in and of minority languages

152. The Advisory Committee notes the continued support for minority language education in Ukrainian schools. Pupils may either attend schools where all subjects are taught in the minority language, with obligatory classes of Ukrainian language and literature, or they may study the minority language and literature as an elective subject in classes organised at schools teaching in Ukrainian. In addition, numerous bilingual (Ukrainian and a national minority language), and trilingual (Ukrainian, Russian and another minority language) schools continue to provide education to children. Altogether, there were 614 schools with the Russian language

¹¹⁴ *ibid.*, p. 6.

as the language of education, during the school year 2015/16, providing education to 351 948 children. The number of schools (621) with Russian as the language of education has remained similar to the previous academic year, with the decrease less pronounced than that of the schools teaching in the Ukrainian language.¹¹⁵ In addition, there were, in the 2015/16 academic year, 75 schools with Romanian, 69 with Hungarian, five with Polish and three with Moldovan as languages of instruction. The Advisory Committee notes that the number of children attending schools using a minority language as the language of education has remained stable during the last few years.¹¹⁶

153. The Russian language was the second most commonly chosen elective modern language (after English) in the school year 2015/16 and was taught as a subject to 960 425 children. Other modern languages widely studied at primary schools include Polish (34 624), Bulgarian (8 154), Romanian (3 940), Hebrew (3 905), Moldovan (2 436), Greek (2 138) and Gagauz (1 009). The Advisory Committee further notes that 318 children studied the Crimean Tatar language. It regrets that Romani and Rusyn languages are not taught at all as a subject in Ukraine. It notes, however, that a large number of additional educational initiatives have been taken, including Sunday schools, language clubs, and extracurricular courses have been taken to respond to the existing demand for national minority language teaching, including in languages of numerically smaller minorities, such as Gagauz, Azeri, Yiddish, Greek, Karaim, or Krimchak. These undertakings continue to be supported by local authorities and are appreciated by minority representatives.

154. Efforts to support university and post-graduate training of teachers at minority language schools continue, both for minority languages and literature and for subjects taught in minority languages, notably Russian, Hungarian, Romanian, Bulgarian, Polish, and Slovakian, as well as the Crimean Tatar language, Gagauz and Hebrew. It is encouraging that teachers for Russian language schools are trained at higher educational establishments located throughout Ukraine. Concerns have been raised however about the limited number of places available at smaller philology departments, such the Romanian philology department at the University of Chernivtsi, which do not train enough qualified teachers in general and teachers capable of teaching subjects other than Romanian philology in particular.

155. In this context, the Advisory Committee welcomes the fact that a number of universities established exchange programmes with universities in neighbouring countries to raise the linguistic competency of prospective teachers in minority language schools and developed programmes to train teachers to acquire multicultural and intercultural skills. It is essential, however, that the attainment of quality standards by teachers in minority language schools is regularly monitored by specialised experts. In this context, the Advisory Committee notes the absence of a higher pedagogical institute which would specialise in the Romani language and train teachers capable of teaching in that language. While the establishment in 2015 of an interdisciplinary Romology Programme at the Uzhhorod National University, aiming to train qualified teachers, is warmly welcome, it does not fill the gap as regards specialists in the Romani language.

156. While there are continued efforts related to the preparation and printing of textbooks in minority languages, national minority representatives still consider that the available

¹¹⁵ There were 15 476 primary schools in Ukraine with the Ukrainian language of instruction in 2015/16 academic year, down from 15 696 in 2014/15, see Fourth State Report, p. 49, available at <https://rm.coe.int/1680657b74>.

¹¹⁶ *Ibid.*, p. 49, available at <https://rm.coe.int/1680657b74>.

material is often of low quality, for instance, containing inaccurate translations, and is only available in insufficient quantities. It is of further concern that the education materials used in schools reportedly reach students with several months delay, long after the start of the school year. Furthermore, according to national minority representatives, schools teaching in regional and minority languages are also not supplied sufficiently with other teaching materials, such as maps, atlases, workbooks and supplementary materials in the language of instruction. For example, in the 2015/16 and 2016/17 academic years, schools teaching in Hungarian and Romanian languages in the Transcarpathian region were all using geographical and historical maps in the Ukrainian language for geography and history classes.

157. The Advisory Committee notes with concern reports from minority representatives relating to the lack of qualified Ukrainian language teachers in schools using a minority language as medium of education. In some schools in the Odesa and Transcarpathian regions, Ukrainian language and literature are taught by Russian-language teachers who have only followed a brief retraining course. For example, in the town of Berehove, in the 2014/15 academic year, seven out of the 15 tutors teaching Ukrainian in the schools (with Hungarian as the language of teaching) were qualified teachers of Russian and only eight were qualified Ukrainian-language teachers. Coupled with persistent shortcomings in minority language schools regarding the adequate supply of education materials for learning Ukrainian as a second language (see Article 12), this negatively impacts on the quality of education offered to minority children in general.¹¹⁷

158. The Advisory Committee recalls that, in 2005, Ukraine joined the Bologna Process¹¹⁸ and, since 2007, has been operating an “external independent testing” (EIT) procedure intended to combat corruption in the university admission process. The admission procedure, administered by the Ukrainian Centre for Education Quality Assessment (UCEQA), is credited with some success, as it has significantly reduced fraudulent admissions. Since 2010, graduates of minority language schools have been given a choice of taking their exams either in Ukrainian or in their language of schooling. In 2015, a standardised EIT in Ukrainian language and literature was made compulsory for all graduates, irrespective of either the type of school attended or the area of future study, and regardless of whether they wished to pursue tertiary education or not.

159. It has to be noted, however, that during the 11 years of education (from the 1st grade to the 11th), students attending schools with education in a minority language have a total of almost 500 hours less allocated to the Ukrainian language and literature lessons than those attending schools with education in Ukrainian. This fact, compounded by difficulties encountered in providing qualified Ukrainian-language teachers in minority-language schools, puts national minority children at a clear disadvantage not only in accessing tertiary education, but also, as the test is compulsory for all school graduates, in obtaining a high-school

¹¹⁷ See also the Advisory Committee’s “Ad hoc Report on the situation of national minorities in Ukraine adopted on 1 April 2014”, p. 6, available at <https://rm.coe.int/16800c5d6f>.

¹¹⁸ World Education News and Reviews “Barriers to progress: Documentation challenges in Ukraine and Crimea”, 4 April 2014, available at <http://wenr.wes.org/2016/04/barriers-progress-documentation-challenges-ukraine-crimea>; Eduard Klein “Post-Soviet anti-corruption reforms in higher education: Explaining the success of external independent testing in Ukraine” published in *Employment and Economy in Central and Eastern Europe*, available at https://www.academia.edu/8292189/Post-Soviet_anti-corruption_reforms_in_higher_education_Explaining_the_success_of_external_independent_testing_in_Ukraine?auto=download.

graduation diploma. For example, according to information provided by Hungarian minority representatives, in 2015, 63% of graduates of schools with the Hungarian language of education in the Transcarpathian region failed the “Ukrainian language and literature” EIT exam, compared with 8% of graduates nationwide. Given the high proportion of children attending schools with a minority language of education in the Transcarpathian region, it is not surprising that, in 2016, this region had the worst EIT score in Ukraine with 27.3% of graduates failing the “Ukrainian language and literature” exam and 29.2% failing the Ukrainian history exam.¹¹⁹

160. Recent initiatives to reform primary and secondary education raise concerns as regards availability of minority language education in the future. In the course of the examination of the draft Law on Education, which was submitted to the Verkhovna Rada on 4 April 2016, the wording of Article 7 was amended and a reference to “the guaranteed right” of persons belonging to national minorities to education in their mother tongue or to study their mother tongue in state and community establishments, as it appeared in the first draft (which corresponded to Article 53¹²⁰ of the Constitution of Ukraine) was replaced with “the right to study in their mother tongue, alongside the Ukrainian language, in state and community preschool and general secondary establishments in areas of compact residence of the minorities”.¹²¹ The Advisory Committee shares the national minority representatives apprehension about the proposed changes which seem not to offer the same level of protection as the constitutional provision and circumscribe teaching in national minority languages to be offered “alongside the Ukrainian language” at “preschool and general secondary establishments” and in “areas of compact residence of the minorities”. It notes that the term “area of compact residence”, used in the proposed legislation, is not compatible with the provisions of Article 14 of the Framework Convention which guarantees these rights for areas that are inhabited either traditionally or in substantial numbers by persons belonging to national minorities.

161. These amendments give particular cause for concern in the context of the ongoing territorial administrative reform, which may result in local authorities of amalgamated *hromadas* seeking to “rationalise” the educational establishments’ structure by establishing large hub schools which will provide education to all children residing within the *hromadas*, at the expense of the small village schools currently in existence. Representatives of national minorities fear that financial considerations will carry more weight than guaranteeing the right to education in the language of a national minority.

¹¹⁹ Sputnik International News “Students From Western Ukraine Failing Ukrainian Language Exams”, 23 August 2016, available at <https://sputniknews.com/europe/201608231044559730-ukrainian-language-instruction-problems-analysis/>.

¹²⁰ Article 53 of the Constitution of Ukraine “Citizens who belong to national minorities are guaranteed in accordance with the law the right to receive instruction in their native language, or to study their native language in state and communal educational establishments and through national cultural societies”, available at https://www.coe.int/t/dghl/cooperation/ccpe/profiles/ukraineConstitution_en.asp.

¹²¹ “Written Comments by Hungarian Researchers and NGOs in Transcarpathia (Ukraine) on the Fourth Periodic Report of Ukraine on the implementation of the Framework Convention for the Protection of National Minorities”, 20 January 2017, paras. 75-88, available at http://kmsz.com.ua/wp-content/uploads/2017/01/Framework-Convention_Transcarpathia_Ukraine_Shadow-Report-KE.pdf.

Recommendations

162. The Advisory Committee recommends that the authorities introduce flexibility in the implementation of the territorial administrative reform and ensure that the availability and quality of education at minority language schools do not suffer as a result of the establishment of large hub schools and a disproportionate focus on financial efficiency. Changes to education in minority language schools should be implemented only after effective consultation with national minority representatives.

163. The Advisory Committee strongly recommends that the authorities introduce more flexibility when carrying out exams in “Ukrainian language and literature” at schools using national minority languages as the medium of education, to ensure that the level at which the exam is administered, corresponds to the curriculum used to teach the subject.

164. The Advisory Committee further calls on the authorities to design comprehensive and long-term measures to enhance the availability and quality of state language teaching in the public education system through a balanced approach that contains parallel measures to protect and promote adequately the languages of national minorities, including through the introduction of multilingual teaching methodology.

165. The Advisory Committee calls on the authorities to increase their efforts to ensure that an adequate supply of textbooks and/or other teaching and learning materials in minority languages is available at all levels of education.

166. The Advisory Committee considers that the authorities should support teacher training in the Romani and Rusyn languages and develop the necessary teaching materials, with a view to creating opportunities for the teaching of or in the Romani and Rusyn languages, where there is sufficient demand.

Article 15 of the Framework Convention

Minority representation in elected bodies

167. The Advisory Committee notes that the Law “On Election of People’s Deputies”,¹²² adopted in November 2011, was amended seven times between 2012 and 2014 without changing the fundamental provisions on the mixed electoral system according to which half of the members of the Verkhovna Rada (225 Members of Parliament) are elected from a party list with a 5% threshold, with the other half elected in single member constituencies. The Advisory Committee welcomes the fact that Article 18 of the law establishes that the boundaries of single-mandate districts are determined taking into consideration the boundaries of administrative territorial units, interests of the members of territorial communities and national minorities residing in the respective territory¹²³ (see also under Article 16).

¹²² Law “On Elections of People’s Deputies of Ukraine”, available at [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2016\)040-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2016)040-e).

¹²³ *ibid.*, Article 18 of the Law “On Elections of People’s Deputies of Ukraine” reads: “Election Districts
(1) [...],
(2) Single-mandate districts, where possible, shall meet the following requirements:
1) [...],

168. Regrettably, the Central Election Commission, when establishing electoral districts,¹²⁴ did not take the above provision into consideration. Whereas, for example, under a 2002 delimitation, the majority of the population inhabiting district No. 72 (Berehove) belonged to the Hungarian minority, changes introduced in 2012 split it, with parts of it being attached to districts No. 68 (Uzhhorod), No. 69 (Mukachevo), No. 71 (Khust) and No. 73 (Vynohradiv). Persons belonging to the Hungarian minority are not in the majority in any of these districts, with 33% being their highest concentration in district No. 73.¹²⁵ The boundaries of the electoral districts remained unchanged, with appeals of the Transcarpathian Hungarian Cultural Association rejected on formal grounds both by the Central Election Commission and the Kyiv Administrative Court.

169. Local elections were held in Ukraine on 25 October and 15 November 2015. The Advisory Committee notes that, according to observers,¹²⁶ “[N]ational minorities’ participation in these elections was affected by the crisis in the east and the temporary control of parts of the territory by illegal armed groups, and the illegal annexation of the Crimean peninsula. Representation of national minorities was further hindered by several aspects of the election legislation, especially the inability to self-nominate or run independently in local council races, as well as the increased 5% threshold for party lists”. Overall, the system of national minority protection in Ukraine lacks any guaranteed and effective participation of minorities in elected bodies and there are also concerns about further adverse effects from territorial reforms in this regard.

170. The requirement to run on a political party ticket precluded or significantly hindered representatives of smaller minorities, such as the Polish minority standing in proportional elections, given the conditions associated with the registration of a political party.¹²⁷ Other

2) a single-mandate district shall be determined by the territory, within the boundaries of which the election precincts belonging to it are located. The center of the single-mandate district is an administrative territorial unit where the district election commission is located;

3) the boundaries of single-mandate districts are determined taking into consideration the boundaries of administrative territorial units, interests of the members of territorial communities and national minorities residing in the respective territory.

Neighboring administrative territorial units with dense population of certain national minorities shall belong to the same election district. In the cases when in neighboring administrative territorial units the number of voters belonging to national minorities is higher than necessary for creation of one election district, districts are formed in such a way that in one of them the voters belonging to the national minority constitute the majority of voters in this election district.

The data on the density of population of national minorities in the respective territory shall be submitted to the Central Election Commission by a central executive body responsible for implementation of the state policy in the sphere of inter-ethnic relations and protection of the rights of national minorities in Ukraine”.

¹²⁴ Resolution of the Central Election Commission of 28 April 2012.

¹²⁵ “Written Comments by Hungarian Researchers and NGOs in Transcarpathia (Ukraine) on the Fourth Periodic Report of Ukraine on the implementation of the Framework Convention for the Protection of National Minorities”, 20 January 2017, available at <http://kmksz.com.ua/wp-content/uploads/2017/01/Framework-Convention-Transcarpathia-Ukraine-Shadow-Report-KE.pdf>.

¹²⁶ OSCE/ODIHR, the Congress of Local and Regional Authorities of the Council of Europe and the European Parliament, International Election Observation Mission (IEOM) “Statement of Preliminary Findings and Conclusions Ukraine — Local Elections”, 25 October 2015, available at <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2834833&SecMode=1&DocId=2322600&Usage=2>.

¹²⁷ Article 10 of the Law “Of Ukraine on Political Parties in Ukraine” (2001), available at <https://www.legislationline.org/documents/action/popup/id/7110>, requires that parties demonstrate a base of

national minorities, living compactly in substantial numbers, such as Hungarians in the Transcarpathian region, found it difficult to compete on account of the obligation to clear the 5% threshold for party lists at the regional level. Representatives of national minorities also raised concerns about the boundaries of electoral districts in some communities. Furthermore, the Law “On Local Elections”¹²⁸ did not provide for voting by IDPs. On the positive side, the Advisory Committee notes that national minority representatives, in particular those from the Roma community, were included in the lists of major parties running in their districts and that intolerant or xenophobic speech toward minorities was not observed during the campaign.

Recommendation

171. The Advisory Committee reiterates its call on the authorities to review comprehensively electoral laws and ensure that the legislative framework contains effective mechanisms for persons belonging to national minorities to be adequately represented in elected bodies at all levels so that they may participate fully in public affairs, in line with Article 15 of the Framework Convention. Efforts should be made to fully respect the legislative provisions on the boundaries of electoral districts.

Specialised governmental bodies and consultative mechanisms

172. The Advisory Committee notes with regret that the situation has not improved since the previous monitoring cycle and no steps have been taken to consolidate the governmental structures dealing with national minorities. Following the dissolution of the State Committee on Nationalities and Religions at the end of 2010, which ceased its functions after three years of operation, having replaced the former State Committee for Nationalities and Migration, the Office of Governmental Plenipotentiary on the Issues of Ethno-National Policy was created in 2014 only to be abolished one year later.¹²⁹ The Verkhovna Rada deputies considered that the Governmental Plenipotentiary duplicates certain functions of the Ministry of Culture and “is not engaged in the general procedure for development and adoption of governmental decisions in the respective area”. The deputies proposed in addition the creation of a “central executive authority in charge of this important sphere of social life alongside with territorial bodies in the regions”.¹³⁰ Regrettably, no steps have been taken towards enacting these proposals.

173. Currently, the responsibility for implementing state policies for national minorities resides with the Division for National Minorities and Ukrainian Expatriate Community within the Ministry of Culture. This division, with a staff of 24, only some of whom work on national minority issues, is unable to adequately respond to the concerns of national minorities or carry out any coherent long-term policy on national minorities. As its field of competence is limited to culture, it is also not in a position to be an interlocutor of minority communities in other fields.

support in two thirds of the country’s regions in order to register as a political party. It took the Party of Poles of Ukraine three years to register, given the onerous process of collecting signatures.

¹²⁸ Law “On Local Elections”, adopted by the Verkhovna Rada on 14 July 2015 and signed by the President on 6 August 2015, available at <http://cis-legislation.com/document.fwx?rgn=79114>.

¹²⁹ Recommendation of the Parliamentary Hearings on the “Role, Importance and Impact of the Civil Society on Development of the Ethnic National Policy of Unity in Ukraine” held on 25 November 2015, Fourth State Report, pp. 63-65, available at <https://rm.coe.int/1680657b74>.

¹³⁰ Fourth State Report, p. 65, available at <https://rm.coe.int/1680657b74>.

174. Given that no progress has been registered with the elaboration of a comprehensive law on national minorities, there have been no significant changes as regards institutional arrangements to ensure effective consultation of national minorities on matters concerning them. The Council of Representatives of All-Ukrainian Minority Associations, composed exclusively of men, thus offering no gender perspective on national minority issues, continues to exist under the auspices of the Ministry of Culture. A similar Council of Heads of Educational Programmes of All Ukrainian Public Organisations functions under the auspices of the Ministry of Education and Science. Both of these bodies, according to national minority representatives, meet at irregular intervals but do not constitute adequate consultation mechanisms. The Inter-Departmental Working Group for the implementation on the “Strategy for Protection and Integration of the Roma National Minority into Ukrainian Society for the period until 2020” also does not fulfil its role of a consultative body, lacking any impact on subsequent decisions, irregular meetings and due to the disinterest of higher level officials in its work.

175. The Advisory Committee welcomes the recognition by the Verkhovna Rada of the Mejlis of the Crimean Tatar People to be “the executive body of the Assembly of the Crimean Tatar People, and the Assembly to be the supreme representative authority of the Crimean Tatars”,¹³¹ and the establishment of an office of the Commissioner of the President of Ukraine for the Affairs of Crimean Tatars. It notes, however, that these long-required changes occurred only after the illegal annexation by the Russian federation of the Autonomous Republic of Crimea and the city of Sevastopol in 2014. In consequence, the decisions of both these bodies remain unenforceable due to the lack of effective control of the authorities over the Autonomous Republic of Crimea and the city of Sevastopol. Moreover, the delay in transmitting the funding necessary for the functioning of the Mejlis and of the office of the Commissioner, as well as a delay in formalising their status and responsibilities, seriously hamper their ability to fulfil their statutory roles.

Recommendations

176. The Advisory Committee renews its call on the authorities to re-establish a specialised and stable government body with sufficient financial and human resources to co-ordinate all issues relating to national minority protection, in order to ensure transparency and build confidence that adequate attention is paid by the state to minority protection issues.

177. The authorities should expand the consultation structures for minority representatives beyond the cultural and educational spheres and ensure effective opportunities for persons belonging to national minorities to participate in public affairs and play an active part in all decision-making processes affecting them.

Participation in socio-economic life

178. The “Strategy for the Protection and Integration of the Roma National Minority into Ukrainian Society for the period until 2020” continues to be the main operating tool for the implementation of governmental policies for Roma in the fields of culture, maintaining ethnic identity, improving living and health conditions, preventing racist offences and reducing unemployment. In addition, the regional programme of the Transcarpathian region for 2012-15 has been adopted. The Advisory Committee welcomes information contained in the Fourth State Report on the accommodation provided to Roma families and individuals registered in

¹³¹ Fourth State Report, p. 69, available at <https://rm.coe.int/1680657b74>.

the “Unified State Register of Citizens in Need of Improvement of their Living Conditions” in accordance with Article 42 of the Housing Code of the USSR, which is still in force in Ukraine. It notes infrastructural work on roads, water-pipes, sewers and electrical lines aimed at improving the living conditions of Roma. These projects have led to tangible improvements in this respect in some Roma settlements.

179. The Advisory Committee notes with concern, however, that Roma continue to suffer from multiple discrimination and in spite of successive programmes, remain the most socially vulnerable national minority. According to the evaluation of the implementation of the action plan of the strategy, conducted jointly by the International Renaissance Foundation in co-operation with the European Roma Rights Centre from October 2014 to January 2015, 63% of Roma remain unemployed. A further 22% of Roma work part-time and only 15% work full-time. Of those Roma in employment, more than half (57%) work in the informal economy (principally in trade or as service providers), without formalising their status as private entrepreneurs.¹³² The principal reasons causing the continued difficulties faced by Roma in access to employment are low level education (24% of Roma have no schooling), lack of identification documents (23% of Roma do not have passports) and isolation (many Roma live in isolated compact settlements with poor or no infrastructure).¹³³

180. Roma continue to experience problems in accessing health care. Main obstacles in this area are lack of identity and residence registration. In addition, many Roma find it difficult due to poverty to cover additional costs during treatment. According to Roma representatives, occurrences of refusal of treatment and lack of awareness of Roma specificities continue to be reported. Information on the development and support of the network of Roma social and health mediators in seven regions of Ukraine by the International Charitable Organization of “Roma Women Fund “Chiricli”, with the aim of ensuring adequate communication and timely contact of Roma with the medical system, is warmly welcome.¹³⁴ The Advisory Committee notes however that provision of health care is first and foremost a responsibility of the Ukrainian authorities who should be more proactive in this regard and not reliant on the involvement of civil society and international institutions.

Recommendation

181. The Advisory Committee urges the authorities to increase their efforts to implement comprehensive measures, in close consultation with the relevant community representatives, to promote effectively the participation of Roma in socio-economic life. Particular efforts must be made to ensure adequate access to housing, health services and employment, including through targeted vocational education and training.

¹³² “Implementation of State Policy towards Roma”, p. 9, available at https://issuu.com/irf_ua/docs/rpi-2015-2_engl.

¹³³ New Ukraine and the International Renaissance Foundation “Annual Report–2015”, p. 54, available at http://www.irf.ua/content/files/annual_report_2015_en.pdf.

¹³⁴ International Renaissance Foundation “Annual report 2014”, p. 93, available at http://www.irf.ua/content/files/annual_report_2014_en.pdf.

Article 16 of the Framework Convention

Administrative reform

182. The Advisory Committee notes that legislation was adopted on administrative territorial reform in 2014 and 2015 with the aim of including laws on state regional policy, fiscal decentralisation, as well as on co-operation and amalgamation of local communities (*hromadas* at the lower and *rayons* at the intermediary level of local self-government). The reform of the territorial structure and local administration has been undertaken with the aim of strengthening the local administrative units (*hromadas*) by decentralising power and creating larger local communities capable of delivering basic services to the population. Such mainstreaming of the administration by the creation of a smaller number of larger *hromadas* with increased competencies leading to empowerment of local communities is, in general, welcome. It has to be noted, however, that under-resourcing and insufficient training of local councillors and administrative staff, in advance of the reform, may seriously undermine the ability of these officials to fulfil their functions, and as a consequence undermine public trust in the process.

183. Moreover, while welcoming the efforts to provide better municipal services to all inhabitants of Ukraine, the Advisory Committee notes nonetheless that *hromadas* inhabited by substantial numbers of persons belonging to national minorities, which currently are self-governing, may find themselves merged with the surrounding villages inhabited by persons belonging to the majority or another national minority. Such a development could mean that the thresholds for access to certain minority rights provided for in Ukrainian law are difficult or impossible to meet and could furthermore lead to a weakening of the possibilities for persons belonging to national minorities to influence local affairs. According to various interlocutors of the Advisory Committee, national minority concerns were not given serious consideration at the planning stage and no consultation on the matter was held with representatives of national minorities (see also under Article 15).

Recommendation

184. The Advisory Committee urges the authorities to ensure that, when redrawing administrative boundaries, the rights and freedoms which flow from the Framework Convention are not restricted and that effective participation of persons belonging to national minorities in discussions at local level is guaranteed.

Articles 17 and 18 of the Framework Convention

Bilateral co-operation

185. The Advisory Committee notes that Ukraine has concluded bilateral agreements containing clauses aimed at protecting national minorities. Protection of national minority rights is addressed in interstate agreements between Ukraine and the following states: Germany, Hungary, Romania, the Russian Federation and the Slovak Republic.¹³⁵ In a number of cities across Ukraine, consulates of neighbouring countries play an active role in supporting projects of national minority organisations and facilitate cross-border contacts. Intergovernmental bilateral commissions have been established on the basis of bilateral agreements with Germany, Hungary, Romania and the Slovak Republic to act as fora for

¹³⁵ Fourth State Report, p. 60, available at <https://rm.coe.int/1680657b74>.

discussing issues affecting national minorities. The Advisory Committee wishes nonetheless to recall, in this respect, that the protection of national minority rights in any state is primarily the responsibility of that state and in no case should be dependent on the condition of bilateral relations.

Recommendation

186. The Advisory Committee encourages the authorities to implement existing bilateral agreements in the spirit of good neighbourliness, friendly relations and co-operation between states, whilst respecting the role of multilateral standards and procedures.

III. Conclusions

187. 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 Ukraine.

188. 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 on Ukraine¹³⁶ on the understanding that at present, the Autonomous Republic of Crimea and the city of Sevastopol and parts of the Donbass region remain outside the effective control of the Ukrainian authorities. In particular, they should take the following measures to improve further the implementation of the Framework Convention:

Recommendations for immediate action¹³⁷

- **Adopt without delay and in close consultation with the groups concerned, an adequate and comprehensive legal framework for the protection of national minorities with effective implementation mechanisms;**
- **Promote respect and intercultural understanding among different groups in society as a whole, including through comprehensive measures that target the majority population; combat stereotypes and prejudice in political discourse and promote tolerance and intercultural dialogue throughout society as a whole;**
- **Continue efforts to develop, in consultation with all relevant groups, a clear and coherent legislative and policy framework regarding the use of languages, in order to provide solid legal guarantees for the protection and use of all minority languages, including the numerically smaller ones;**
- **Take all necessary measures to end, without further delay, practices that lead to the continued segregation of Roma children in schools and to redouble efforts to remedy other shortcomings faced by Roma children;**
- **Ensure that, when redrawing administrative boundaries, the rights and freedoms which flow from the Framework Convention are not restricted and that effective participation of persons belonging to national minorities in discussions at local level is guaranteed.**

¹³⁶ A link to the opinion is to be inserted in the draft resolution before submission to the GR-H.

¹³⁷ The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

Further recommendations¹³⁸

- Make all efforts to ensure that a comprehensive population census is conducted as soon as possible; review, in close consultation with minority representatives, the methodology of the census, wording of questions asked and safeguards for voluntary and informed answers;
- Increase efforts to combat manifestations of intolerance, racism, xenophobia and hate speech present in Ukrainian society and investigate these incidents and apply adequate sanctions when necessary;
- Increase efforts to return religious properties and buildings to communities concerned, in particular those of crucial importance to the maintenance of religious and cultural identities;
- Facilitate and encourage the use of all minority languages in relations with administrative authorities by creating an environment conducive to their active use in public life in general; ensure that language proficiency requirements are applied fairly and proportionately to the pursued aim;
- Introduce flexibility in the implementation of territorial reform and ensure that the availability and quality of education in minority language schools does not suffer as a result of the establishment of large hub schools; design comprehensive and long-term measures to enhance the availability and quality of state language teaching in the public education system;
- Ensure that the legislative framework contains effective mechanisms for persons belonging to national minorities to be adequately represented in elected bodies at all levels; ensure that the interests of persons belonging to national minorities are not restricted when redrawing boundaries of electoral districts, in line with existing legislative provisions;
- Promote effectively the participation of Roma in socio-economic life; increase efforts to ensure adequate access to housing, health services and employment, including through targeted vocational education and training.

¹³⁸ The recommendations below are listed in the order of the corresponding articles of the Framework Convention