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

Third Opinion on Bulgaria
adopted on 11 February 2014

EXECUTIVE SUMMARY

The Bulgarian authorities have taken some useful steps towards better protecting the rights of persons belonging to national minorities. They are currently engaged in a process of drawing up a national cultural strategy, including the promotion of cultural diversity as a specific objective. The Commission for Protection against Discrimination and the Ombudsman have for their part continued to deal with complaints submitted by persons belonging to national minorities, and the latter have turned more frequently to these bodies in recent years concerning breaches of their rights.

A number of programmes, strategies and action plans have been adopted in recent years in order to improve the situation of the Roma. The number of Roma achieving better education outcomes has increased in recent years and initiatives such as the employment of health and labour mediators have proved positive. However, the relevant action plans, including the National Roma Integration Strategy of the Republic of Bulgaria (2012-2020), are not currently funded and many Roma in Bulgaria remain in a situation of significant socio-economic disadvantage, including as regards education, employment, health and housing.

The overall climate as regards interethnic tolerance in Bulgaria has deteriorated. Racism has become increasingly widespread in political discourse and the media and extremist political parties have proliferated. There has also been a worrying rise of physical attacks against refugees and asylum-seekers, as well as attacks against Roma and on places of worship used by persons belonging to national minorities, notably mosques. Legal remedies in cases of hate speech and hate crimes are reportedly ineffective in practice.

A variety of minority languages are taught in schools. However, the number of pupils studying their minority language is low and there is a general downward trend in this area. There has also been no progress towards assessing the needs of persons belonging to national minorities regarding the use of minority languages in public life. More active initiatives by the authorities in these fields would constitute a significant step towards promoting the climate of tolerance and mutual understanding that is at the heart of the provisions of the Framework Convention.

Persons belonging to some national minorities continue to be represented in Parliament, and, in regions where minorities live in substantial numbers, they are also mayors and members of locally elected bodies. However, the Roma minority remains largely sidelined from the legislative and executive spheres. The National Council for Cooperation on Ethnic and Integration Issues also suffers from a lack of clear powers and of broad legitimacy amongst minorities, which weaken the capacity of this consultative body to achieve results in practice and limit the participation of persons belonging to national minorities in decision-making.

Issues for immediate action

- **make specific budgetary provision for the implementation of the current national, regional and municipal strategies and action plans for the integration of Roma, and regularly evaluate and review the implementation of the various strategies and action plans, in close consultation with representatives of the Roma;**

- **systematically condemn hate crimes and hate speech and step up efforts to ensure that all racially motivated offences are effectively identified, investigated, prosecuted and sanctioned;**

- **adopt active measures to affirm and protect the right of persons belonging to national minorities to learn their minority language and undertake a detailed examination of existing demands for such teaching, including an analysis of any factors currently discouraging minority parents and children from requesting it;**

- **ensure that persons belonging to national minorities are able to participate effectively in decision-making, inter alia through clarifying the powers and strengthening the role of the National Council for Cooperation on Ethnic and Integration Issues;**

- **pursue and intensify efforts to address the socio-economic problems confronting persons belonging to minorities, particularly Roma, in fields such as housing, employment and health care.**

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THIRD OPINION ON BULGARIA

1. The Advisory Committee adopted the present Opinion on Bulgaria 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 Comments of the government of Bulgaria on the Advisory Committee's second Opinion, received on 3 January 2011, the State Report received on 23 November 2012 (hereinafter the State Report) and other written sources, and on information obtained by the Advisory Committee from governmental and non-governmental contacts during its visit to Sofia and Kardzhali, conducted jointly with the European Commission against Racism and Intolerance (ECRI), from 11 to 15 November 2013.

2. Section I below contains the Advisory Committee's main findings on key issues pertaining to the implementation of the Framework Convention in Bulgaria. These findings reflect the more detailed article-by-article findings contained in Section II, which covers those provisions of the Framework Convention on which the Advisory Committee has substantive issues to raise.

3. Both sections make extensive reference to the follow-up given to the findings of the monitoring of the Framework Convention, contained in the Advisory Committee's first and second Opinions on Bulgaria, adopted on 27 May 2004 and 18 March 2010 respectively, and in the Committee of Ministers' corresponding Resolutions, adopted on 5 April 2006 and 1 February 2012.

4. The concluding remarks, contained in Section III, could serve as the basis for the Committee of Ministers' forthcoming conclusions and recommendations on Bulgaria.

5. The Advisory Committee looks forward to continuing its dialogue with the authorities of Bulgaria 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. The Advisory Committee would also like to bring to the attention of States Parties that on 16 April 2009, the Committee of Ministers adopted new rules for the publication of the Advisory Committee's Opinion and other monitoring documents, aiming at increasing transparency and at sharing the information on the monitoring findings and conclusions with all the parties involved at an early stage (see Resolution CM/Res(2009)3 amending Resolution (97) 10 on the monitoring arrangements under Articles 24-26 of the Framework Convention for the Protection of National Minorities).

I. MAIN FINDINGS

Monitoring process

6. The Advisory Committee welcomes the Bulgarian authorities' willingness to pursue the dialogue on the implementation of the Framework Convention in Bulgaria in the context of the third cycle of monitoring of this Convention. The Advisory Committee appreciates the considerable efforts made by the authorities to facilitate its joint visit with ECRI in November 2013. It regrets, however, that the State Report was submitted two years late and that it is not currently available in Bulgarian.

7. The Advisory Committee deeply regrets that its second Opinion was not translated into Bulgarian, nor into minority languages, and that no follow-up seminar was organised to discuss the findings. It notes with concern that representatives of national minorities and Bulgarian civil society were again able to acquaint themselves only with great difficulty with the findings of the previous monitoring cycle, as well as with the contents of the third State Report. Furthermore, it is of deep concern that few of the recommendations from the second cycle of monitoring appear to have been implemented. The Advisory Committee welcomes the commitment undertaken by senior officials during the visit to translate this third Opinion into Bulgarian in due course.

General overview of the implementation of the Framework Convention after three monitoring cycles

8. The Advisory Committee is concerned that the authorities' overall approach to the implementation of minority rights is often passive and restrictive, with a tendency to rely on guarantees of formal equality rather than to make active efforts to promote full and effective equality. Such an approach to the implementation of the Framework Convention misses the opportunity that it provides to promote the peaceful co-existence of different groups while still enabling them to express publicly their different cultural and linguistic identities. Taking more active initiatives to accommodate the needs and identity of persons belonging to national minorities would moreover constitute a significant step on the part of the authorities towards promoting the climate of tolerance and mutual understanding that is at the heart of the provisions of the Framework Convention. The authorities also need to engage in a genuine, open and constructive dialogue with representatives of persons who identify as Macedonians and Pomaks, and to work together with them to find ways to remedy outstanding issues.

Personal scope of application of the Framework Convention

9. The Bulgarian authorities maintain the position that they will not recognise the existence of the Pomak and Macedonian minorities as such, although these groups have repeatedly expressed their wish to benefit from the protection of the Framework Convention. The authorities have not organised any consultations or discussions on the protection offered by the Framework Convention with these groups. This is regrettable as the Framework Convention was conceived as a pragmatic and flexible instrument that can be implemented in diverse situations. Moreover, its application with respect to a group of persons does not necessarily require the formal recognition of the latter as a national minority, a definition of this concept or the existence of a specific legal status for such groups of persons.

Census and self-identification

10. Optional questions on ethnic affiliation, mother tongue and religious belief and denomination were included in the 2011 census, following consultations held with the National Council for Cooperation on Ethnic and Integration Issues (NCCEII) and the minority groups represented in it regarding the definition of the relevant concepts. However, only three pre-defined ethnic groups (Bulgarians, Turks and Roma) were listed in the final census questionnaire, and persons who wished to declare a Macedonian or Pomak identity were reportedly actively discouraged or even prevented from declaring these affiliations during the census. As a result, many Macedonian organisations took the position that the census figure regarding Macedonians must be rejected as a matter of principle. The number of persons having declared themselves as Pomaks was not published with the overall census results, and the number having declared a Roma ethnic affiliation is much lower than unofficial estimates. There was also a sharp and as yet unexplained increase in the number of persons preferring not to disclose their ethnic affiliation. The long-term effect of difficulties experienced regarding the freedom of assembly and association by persons who consider themselves as Macedonians is moreover to create a climate of intimidation and harassment that runs counter to the provisions of the Framework Convention and in which it is unsurprising that the numbers of people willing to self-identify as Macedonian have dropped.

Legislative and institutional framework

11. There is no comprehensive legislation governing the rights of persons belonging to national minorities in Bulgaria. The Commission for Protection against Discrimination has however continued to deal with individual complaints of racial and ethnic discrimination under the Antidiscrimination Act and has expanded its network of regional representatives. The approval of an increase in the Commission's annual budget for 2014 is welcome. Issues faced by persons belonging to national minorities do not appear to be high on its agenda, however, and the Commission does not appear to be closely attuned to the need to take adequate measures to promote their full and effective equality. As an independent institution responsible for handling complaints of violations of individuals' rights and freedoms by public authorities, the Ombudsman has also received rising numbers of complaints in recent years, and has dealt with a number of complaints since 2010 from persons belonging to national minorities, notably Roma.

12. Despite the existence of a range of provisions relevant to the protection of the cultural rights of persons belonging to national minorities, the lack of a clearly defined and easily accessible government policy in this field may hamper the exercise in practice of these rights. The authorities are currently engaged in a welcome process of drawing up a national cultural strategy, including the promotion of cultural diversity as a specific operational objective, and have issued an open invitation to all non-governmental organisations (NGOs) that wish to participate in this process.

Tolerance and intercultural dialogue

13. While many interlocutors point to long-standing traditions of interethnic tolerance in Bulgaria, the overall climate appears to have deteriorated. Racism, including anti-Roma and anti-immigrant rhetoric, has become increasingly widespread in political discourse and the media and there has been a proliferation of extremist political parties, some of which have close links to private television stations. Certain far right parties actively instrumentalise anti-immigrant and anti-Roma sentiments present amongst the population, and mainstream parties

have failed to effectively counter their messages. Some government policy – including proposals to respond to a sudden influx of asylum-seekers by building a fence along part of its border with Turkey – has indeed tended to aggravate rather than attenuate these messages. Moreover, legal remedies in cases of hate speech do not appear to be very effective in practice.

14. There has been a worrying rise of physical attacks against refugees, asylum-seekers and persons perceived as belonging to one of these groups since the Advisory Committee's previous Opinion, as well as many attacks on places of worship used by persons belonging to national minorities, notably mosques. A wave of anti-Roma protests and attacks of particular intensity occurred throughout numerous Bulgarian towns and villages in September 2011, creating a climate of intolerance and fear in the Roma community, and numerous physical attacks against Roma have since occurred. While racist and xenophobic motives have been included in the Criminal Code since 2011 as specific aggravating circumstances in cases of murder and bodily harm, there is still no general provision on racist motivations as an aggravating circumstance. It is reported that possible racist motivations are rarely taken into account and that offences for which charges could be brought under the criminal law provisions expressly prohibiting specific racist acts are rarely prosecuted as such.

Support for minority cultures and use of minority languages in the public sphere

15. Certain tensions surrounding state support to minority cultures have been observed and no progress has been made in the area of broadcasting in minority languages. An increased offer of audiovisual programming in Turkish as well as in other minority languages, produced in Bulgaria and covering issues relevant to life in Bulgaria, is necessary to cover the needs of persons belonging to national minorities. The presence of minorities in the media also appears to be limited, and media coverage of minority issues is reported to be often negative.

16. The authorities have apparently made no attempt to assess the needs of persons belonging to national minorities regarding the use of minority languages in contacts with administrative authorities or the display of topographical indications in minority languages, or to legislate so as to ensure that minority languages can be used in these fields in accordance with the provisions of the Framework Convention and on the basis of clear and transparent regulations. Minority representatives also report continuing difficulties in having non-Slavic names officially recognised and experiencing negative consequences when they choose to use their non-Slavic name.

Teaching of minority languages

17. The number of pupils studying their minority language is very low compared with the corresponding census figures, and the number of pupils studying Turkish has in particular fallen dramatically in the last twenty years. No pupils are currently studying the Romani language as a mother tongue. Minority-language teaching is not included in the compulsory general curriculum but only offered as an element of the elective chapters of the school curriculum, and the only option is teaching *of* the minority language; no provision is made for bilingual teaching or for other subjects to be taught in the minority language. There is a shortage of up-to-date textbooks for the teaching of Turkish and Romani and since 2010 no universities have offered a course for primary school teachers who will be using the Romani language. The Advisory Committee has not been informed of any measures taken by the authorities to assess the level of demand in this field since its last Opinion and considers that the passive approach taken by the authorities in the field of education in minority languages is not sufficient.

The situation of the Roma

18. A number of programmes, strategies and action plans have been adopted in recent years in order to improve the situation of the Roma, most recently the National Roma Integration Strategy of the Republic of Bulgaria (2012-2020), which was followed by work with regions and municipalities to create strategies specific to each region of Bulgaria and action plans at the level of each municipality. However, these action plans are not currently funded. Moreover, the designation of the intended beneficiaries of these strategies raises issues from the point of view of the Framework Convention and needs clarification.

19. The number of Roma achieving better education outcomes, including completing university education, has increased in recent years and successful school desegregation projects have been carried out. Initiatives such as the employment of health and labour mediators have proved positive. Nonetheless, the overall situation of many Roma in Bulgaria remains one of significant socio-economic disadvantage. Many Roma continue to live in poor housing conditions, often in areas with poor infrastructures, and to be at risk of forced eviction. The overall health status of Roma is significantly lower than that of other citizens and there remain significant and persisting differences in the level of economic activity of Roma compared with ethnic Bulgarians. The proportion of Roma pupils who do not complete secondary school or who never complete any level of education also remains significantly higher than the overall figure for the Bulgarian population.

Participation in public affairs

20. Persons belonging to national minorities continue to be represented in Parliament, including following the most recent parliamentary elections in 2013, and, in regions where minorities live in substantial numbers, they are also mayors and members of locally elected bodies. However, the Roma minority remains largely sidelined from the legislative and executive spheres. The existing constitutional and legal restrictions on the formation of political parties on ethnic, racial or religious lines moreover raise serious problems of compatibility with Article 7 of the Framework Convention. Restrictive applications of the procedures for the registration of associations and political parties and of the rules governing the right of peaceful assembly are also of concern.

21. The National Council for Cooperation on Ethnic and Integration Issues (NCCEII) is the main mechanism for ensuring participation of minorities through consultation and coordination. NGOs representing the interests of a number of minorities are present in this body and the authorities have indicated that they are open to including additional NGOs. However, the NCCEII's focus on working exclusively with ethnic minorities means that there is apparently no will on the part of the authorities to include Macedonian or Pomak NGOs in its work, despite the potential of this body to promote integration. Moreover, the lack of clear powers of this body, including decision-making powers, as well as its small budget, weaken its capacity to achieve results in practice. These weaknesses prompted a number of Roma NGOs to leave the NCCEII in early 2013.

II. ARTICLE-BY-ARTICLE FINDINGS

Article 3 of the Framework Convention

Personal scope of application

Recommendations from the two previous cycles of monitoring

22. In its previous monitoring cycles, the Advisory Committee urged the authorities to engage in a dialogue with persons belonging to groups interested in the protection offered by the Framework Convention and to pursue an inclusive approach to the personal scope of application of the Framework Convention, in consultation with those concerned and in accordance with the provisions of the Framework Convention.

Present situation

23. The Advisory Committee notes that in accordance with Article 54 of the Bulgarian Constitution, "Everyone shall have the right to avail himself of the national and universal human cultural values and to develop his own culture in accordance with his ethnic self-identification, which shall be recognised and guaranteed by the law." Both objective criteria (the existence of distinctive identifying characteristics) and subjective criteria (self-identification as belonging to a national minority) need to be met in order for a person to be recognised as belonging to such a minority in Bulgaria.

24. The Advisory Committee notes that the Bulgarian authorities maintain the position that they will not recognise the existence of the Pomak and Macedonian minorities as such, based on the understanding that there are no objective criteria for distinguishing persons belonging to these communities from the majority population. The authorities have, however, indicated that groups other than those currently represented in the National Council for Cooperation on Ethnic and Integration Issues (NCCEII; see further below, comments under Article 15) – such as Russians or Chinese – may be eligible to participate in the work of this body, provided that they satisfy the relevant objective and subjective criteria.

25. The Advisory Committee held an exchange of views with representatives of the Macedonian community, who consider that some actions of the authorities aim at actively discouraging them from self-identifying as Macedonian, for whom the recognition of their ethnic identity is crucial, and who expressed their desire to benefit from the protection of the Framework Convention.

26. The Advisory Committee also held discussions with representatives of the Pomak community, who indicated that labels such as "Bulgarian Muslims" or "Bulgarian-speaking Muslims" that are usually attributed to them by the authorities do not adequately reflect their Pomak identity. They reaffirmed the identity of Pomaks as a distinct ethnic minority with its own cultural heritage and traditions and expressed the wish to benefit from the protection of the Framework Convention.

27. The Advisory Committee again acknowledges that States Parties have a margin of appreciation in determining the personal scope of application of the Framework Convention. However, it considers that it is part of its duty to examine the interpretation of the personal scope of application used by the authorities in implementing the Framework Convention, in order to ensure that no arbitrary or unjustified distinctions are made in practice.

28. The Advisory Committee recalls in this context that the right to self-identification is an essential element of Article 3 of the Framework Convention. As regards the application of objective criteria to the recognition of groups as beneficiaries of the protection of the Framework Convention, the Advisory Committee emphasises that these criteria must not be defined or construed in such a way as to limit arbitrarily the possibility of such recognition, and that the views of persons belonging to the group concerned should be taken into account by the authorities when conducting their own analysis as to the fulfilment of objective criteria. It underlines that the Framework Convention was conceived as a pragmatic instrument to be implemented in diverse and evolving situations, and its application with respect to a group of persons does not necessarily require the formal recognition of the latter as a national minority, a definition of this concept or the existence of a specific legal status for such groups of persons.

29. The Advisory Committee remains concerned that the authorities have not organised any consultations or discussions on the protection offered by the Framework Convention with groups potentially concerned and that have repeatedly expressed their interest in the extension of its application to them. It strongly regrets that numerous direct requests of Pomaks to meet the authorities in order to discuss inter alia the possibility of applying the provisions of the Framework Convention to them, including requests made to the Deputy Prime Minister chairing the NCCEII, have been to no avail.

Recommendation

30. The Advisory Committee strongly urges the authorities to engage in a direct and constructive dialogue with persons belonging to groups interested in the protection offered by the Framework Convention, in particular persons self-identifying as Macedonians or Pomaks. It recommends that the authorities pursue an inclusive approach to the personal scope of application of the Framework Convention, in consultation with those concerned and in accordance with the provisions of the Framework Convention, in particular Article 3.1.

Census

Recommendations from the two previous cycles of monitoring

31. In its previous monitoring cycles, the Advisory Committee recommended that, during preparations for the 2011 census, the authorities consult representatives of minorities about questions relating to individuals' affiliation with a national minority and mother tongue, include persons belonging to minorities and persons speaking minority languages among census officials, and undertake awareness-raising activities among persons belonging to national minorities well in advance of the census, in co-operation with minority representatives.

Present situation

32. A population and housing census, including optional questions on ethnic affiliation, mother tongue and religious belief and denomination, was held in 2011. The Advisory Committee notes with interest that during preparations for the census, consultations were held with the NCCEII and the minority groups represented in it regarding the definition of the concepts behind these questions. It also notes with satisfaction that census enumerators were issued with clear instructions to allow respondents to declare their ethnic affiliation, mother tongue and religious belief themselves, and, if a group other than a pre-defined group was chosen, to record precisely the answer given by the respondent.

33. The Advisory Committee notes, however, that as far as ethnic affiliation was concerned, only three pre-defined groups (Bulgarians, Turks and Roma) were listed in the final census

questionnaire; moreover, it finds highly regrettable that an initial proposal by the National Statistical Institute (NSI) to enumerate additional ethnic affiliations in the list, including Macedonian and Pomak, was met with violent criticism in both leading political circles and the media, and several NSI officials were dismissed following the pilot census.

34. The Advisory Committee takes note that according to the census results, more than 98% of persons who answered the question on ethnic affiliation declared themselves to belong to one of the three pre-defined groups[1] and that it was possible for respondents to declare any affiliation they wished under the "Other" category. It is, however, deeply concerned at reports from both Macedonians and Pomaks that persons belonging to these groups were actively discouraged or even prevented from declaring these affiliations. Numerous representatives of these groups conveyed reports to the Advisory Committee of cases in which census enumerators filled in individuals' ethnic affiliation as Bulgarian on their own initiative, skipped over ethnic affiliation and related questions in areas where Macedonians and Pomaks live, filled in census forms in pencil or sought to convince respondents, sometimes through threats, that the identity they wished to declare did not exist. The Advisory Committee also takes note in this context that – even though they were later reinstated – the above-mentioned, highly publicised dismissals of NSI officials were interpreted by representatives of both Macedonians and Pomaks as aimed inter alia at intimidating any persons who might wish for greater recognition of these identities. As a result of these factors, many Macedonian organisations took the position that the census figure regarding Macedonians would necessarily be much lower than reality and must be rejected as a matter of principle. The number of persons having declared themselves as Pomaks was moreover not published with the overall census results and does not appear to have reached the groups concerned.[2] This situation regrettably results in the invisibility of the identities concerned.

35. The Advisory Committee considers that denial of the right of self-identification in the census context is not only a serious irregularity in itself[3] but, in so far as the realisation of certain minority rights is linked to numbers, may also have far-reaching consequences in terms of the protection of such rights. It therefore considers it vital that the Bulgarian authorities engage in an open and constructive dialogue with representatives of the Macedonian and Pomak minorities in order to determine the full extent to which such irregularities occurred in practice during the 2011 census. It furthermore emphasises that by engaging in genuine dialogue, seeking to identify problems together with Macedonians and Pomaks and find ways to remedy them, the authorities could also help to build confidence amongst these groups that state policy towards them is not based on unjustified and arbitrary distinctions and that the state is willing to protect them on an equal footing with other minority groups.

36. Finally, the Advisory Committee notes that the number of persons having declared a Roma ethnic affiliation is much lower than unofficial estimates and moreover declined by more

[1] Out of a total of 7 364 570 persons counted in the census, 91% answered the optional question on ethnic affiliation. 5 664 624 persons declared their ethnic affiliation as Bulgarian, 588 318 as Turkish and 325 343 as Roma. The (slightly lower) figures given in the State Report for each of these affiliations correspond to the numbers of persons having answered *both* the question on ethnic affiliation and the question on mother tongue. See National Statistical Institute, 2011 Population Census – Main Results, pages 23 and 26, available at http://www.nsi.bg/census2011/PDOCS2/Census2011final_en.pdf (last visited on 1 January 2014).

[2] According to information forwarded by the authorities subsequent to the visit, a total of 6 910 persons self-identified in response to the census question on ethnic affiliation as Pomaks. 67 350 persons self-identified as belonging to the Bulgarian ethnic group and the Muslim religious denomination.

[3] See Thematic Commentary No. 3, The Language Rights of Persons Belonging to National Minorities under the Framework Convention, adopted on 24 May 2012, ACFC/44DOC(2012)001 rev, section II.1.1.

than 45 000 between the 2001 and 2011 censuses.[4] Roma representatives indicate that this is in contrast with expert assessments, and ascribe the low census figure essentially to Roma's fear of discrimination and harassment on ethnic grounds (see further below, comments with respect to Articles 4 and 6). The Advisory Committee also notes that nearly 10% of persons chose not to answer the optional question on ethnic affiliation in the 2011 census at all – compared with less than 1% of respondents in the previous census, in which the equivalent question was also optional. The Advisory Committee considers that the reasons behind such a sharp increase in the number of persons preferring not to disclose their ethnic affiliation should be carefully examined, in particular in so far as they may throw light on the overall climate of tolerance and situation of persons belonging to national minorities in Bulgaria.

Recommendations

37. The Advisory Committee recommends that the authorities carry out an in-depth analysis regarding the reasons underlying the increase in the number of persons who chose not to declare any ethnic affiliation in the 2011 population census.

38. It again strongly urges the authorities to engage in an open and constructive dialogue with representatives of the Macedonian and Pomak communities, with a view to identifying any irregularities that may have occurred during the 2011 census. The authorities should furthermore review census practices in order to guarantee the right to free self-identification, eliminate any unjustified and arbitrary distinctions in this regard and ensure that no negative consequences arise from this choice.

Article 4 of the Framework Convention

Legal and institutional protection against discrimination

Recommendations from the two previous cycles of monitoring

39. In its previous monitoring cycles, the Advisory Committee recommended that the Commission for Protection against Discrimination be given the appropriate resources to allow it to fulfil its duties effectively and independently and to intensify its monitoring of alleged cases of discrimination. It also recommended that the authorities investigate and adequately sanction perpetrators of such acts and tackle vigorously any discriminatory practices affecting minorities, including through public awareness-raising campaigns and training programmes.

Present situation

40. The Advisory Committee notes with interest that the Commission for Protection against Discrimination, which began its second term of office – after a significant delay in the appointment of its members – in 2012, has continued to deal with individual complaints of racial and ethnic discrimination and has carried out awareness-raising activities on discrimination at national and local levels. It has also expanded its network of regional representatives, with representatives now operating in approximately 20 of the 28 district capitals in Bulgaria. The number of complaints submitted annually to the Commission has risen to over 800 per year,[5] with the proportion of these complaints concerning allegations of discrimination on racial or

[4] In the 2001 census, 370 908 persons (4.7% of a total population that then stood at 7 932 984) declared themselves to be Roma. In the 2011 census, the figure of 325 343 Roma corresponded to 4.9% of those who answered the question on ethnic affiliation, but only 4.4% of the total population count.

[5] 714 complaints in 2008, 1 039 in 2009, 838 in 2010, 848 in 2011, 619 from 1 January to 8 October 2012 (at the time of drafting the present Opinion, complete figures for 2012 were not publicly available).

ethnic grounds varying from 2.5% in 2009 to 12% in 2012.[6] However, the Advisory Committee observes that issues faced by persons belonging to national minorities do not appear to be high on the agenda of the Commission. It notes with regret that the latter did not appear during its discussions with the Advisory Committee to be closely attuned to the specific vulnerabilities of persons belonging to national minorities or to the need to take adequate measures – going beyond merely guaranteeing formal equality – to promote the full and effective equality of persons belonging to national minorities, in accordance with Article 4.2 of the Framework Convention and Article 7(1)(14) of the Antidiscrimination Act.

41. The nine members of the Commission are appointed by Parliament (five members) and the President (four members). While the continuity achieved through the 2012 reappointment as members of the Commission of its former Chair and Deputy Chair is welcome, the Advisory Committee notes that concerns have been voiced about the lack of a sufficiently clear, transparent and participatory selection process for Commission members that would promote the independence of the Commission and public confidence therein.[7] The Commission's 2012 annual report has moreover still not been debated by the Parliament, in part due to the dissolution of the latter for early elections held in May 2013. At the time of adoption of the present Opinion (February 2014), the examination of the report was still pending before the Parliament and the report regrettably remained unpublished.

42. The Advisory Committee is concerned that the application of budget cuts to the Commission in the context of general austerity measures, combined with the introduction of a new and costly duty for the Commission to promote antidiscrimination standards through the mass media,[8] mean that it has become more difficult for the Commission to fulfil its tasks effectively in recent years. While the Advisory Committee recognises that in times of economic crisis governments may be under pressure to cut spending across the board, it also underlines that at such times, human rights bodies have an especially important role to play in protecting the rights of persons most at risk of social exclusion, many of whom may be persons belonging to national minorities. Against this background, it welcomes the information received during its visit that in its first reading of the 2014 budget on 14 November 2013, the Parliament decided to increase the Commission's annual budget from BGN 1.8 million (approximately EUR 900 000) to BGN 2 million (EUR 1 million).

43. The Advisory Committee observes that in order to ensure the effective implementation of antidiscrimination legislation in Bulgaria it is crucial at all times, and even more so at a time when the composition of the Commission has recently changed, that the quality of its decisions be of the highest standard, and that where these decisions are subject to scrutiny by the courts, the latters' judgments also meet the highest standards. It is therefore particularly important that the authorities continue to deliver training on antidiscrimination legislation to judges, prosecutors, investigators and other members of the legal profession, and indeed intensify their efforts in this respect.[9]

[6] 26 complaints of racial or ethnic discrimination in 2009, 33 in 2010, 47 in 2011, 74 (to 8 October) in 2012.

[7] Such concerns were amongst the reasons cited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights' Sub-Committee on Accreditation in recommending that the Commission be accredited with B status. See ICC Sub-Committee on Accreditation Report – Oct 2011, item 2.3, pages 8-9.

[8] Article 47(12) of the Law on Protection against Discrimination as amended with effect from 1 August 2012.

[9] For information on the efforts made to date, see State Report, ACFC/SR/III(2012)004, pages 31-32; see also ECRI, Conclusions on the implementation of the recommendations in respect of Bulgaria subject to interim follow-up, adopted on 7 December 2011, CRI(2012)7, page 5.

44. As an independent institution responsible for handling complaints of violations of individuals' rights and freedoms by public authorities, the Ombudsman has also received rising numbers of complaints in recent years, and expected to receive more than 6 500 complaints in 2013. In this context, the Ombudsman has dealt with a number of complaints since 2010 from persons belonging to national minorities, notably Roma, with respect inter alia to the issuance of identity papers, access to adequate education, access to adequate housing and hate speech in the media. The Advisory Committee notes that in 2012, the Ombudsman was designated as the national preventive mechanism under the Optional Protocol to the UN Convention against Torture; however, despite this expansion of its competences, the budget of the Ombudsman, like that of the Commission for Protection against Discrimination, was decreased in 2013. Concerns have also been voiced about the lack of a sufficiently clear, transparent and participatory selection process for the Ombudsman.[10]

Recommendations

45. The Advisory Committee calls on the authorities to strengthen the recruitment procedures for the members of the Commission for Protection against Discrimination and for the Ombudsman in order inter alia to increase the transparency of these procedures at all stages and widen the circle of potential candidates. It encourages the Commission for Protection against Discrimination and the Ombudsman to take effectively into account the concerns and rights of persons belonging to national minorities and calls on the authorities to ensure that these institutions have adequate resources for this purpose.

46. It further recommends that the authorities intensify the provision of initial and in-service training on antidiscrimination law to judges, prosecutors, investigators and other members of the legal profession, including those working for the Commission for Protection against Discrimination, in order to ensure that this legislation is properly and consistently applied throughout Bulgaria. Such training should also cover aspects of antidiscrimination related to adequate measures to promote the full and effective equality of persons belonging to national minorities.

Promotion of full and effective equality of Roma

Recommendations from the two previous cycles of monitoring

47. In its previous monitoring cycles, the Advisory Committee urged the authorities to increase efforts to develop and implement policies to address the problems confronting the Roma regarding access to social rights and allocate adequate resources to this effect.

Present situation

48. In 2010, the Bulgarian government approved a Framework Programme for Integration of Roma in Bulgarian Society 2010-2020 and a Strategy for Educational Integration of Children and Pupils from Ethnic Minorities. Following the 2011 EU initiative to strengthen national strategies for Roma inclusion, the National Roma Integration Strategy of the Republic of Bulgaria (2012-2020) was then developed, on the basis of the 2010 Framework Programme, by an inter-institutional working group of experts from the relevant government institutions and civil society organisations. A review of the implementation of action plans developed

[10] International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, Sub-Committee on Accreditation, Report – Oct 2011, item 2.2, pages 7-8.

previously, notably as part of the Decade for Roma Inclusion (2005-2015), was also carried out, with a view to using the results to improve the effectiveness of the relevant activities.[11]

49. The authorities have indicated that in 2012, the NCCEII began working with regions and municipalities to create strategies specific to each region of Bulgaria and action plans at the level of each municipality. The Advisory Committee notes with interest that as of mid-November 2013, regional strategies had been developed for 27 of the 28 regions in Bulgaria and action plans for 220 out of 264 municipalities. However, it is deeply concerned that according to the authorities, these action plans are not currently funded: the NCCEII's role is one of coordination and consultation, and it is up to each individual ministry to provide the budget necessary to achieve the results falling within its remit. The Advisory Committee observes that funding is evidently required in order to achieve improvements in access to housing, health and other social rights and promote the full and effective equality of Roma. There is furthermore a real risk of disenchantment and disengagement amongst both the authorities and Roma if the efforts invested in drawing up tailored strategies and action plans at national, regional and municipal levels lead to no amelioration in practice.

50. Attention also needs to be paid to the misgivings expressed by numerous Roma representatives as regards the designation of the intended beneficiaries of the above strategies and action plans. The Strategy document begins by stating that "the term Roma is used in this document as an umbrella, which includes both Bulgarian citizens in a vulnerable socio-economic condition who identify themselves as Roma, and citizens in a similar situation, defined by the majority as Roma, regardless of their self-identification".[12] As Roma representatives have pointed out, this is problematic for two main reasons: first, the opening part implies that there are no Roma who are in anything other than a vulnerable socio-economic situation, and the second part of the definition is in clear conflict with the requirement of voluntary self-identification. The Advisory Committee accepts that the intention of the second part of the definition was to ensure that Roma who (for whatever reason) do not choose to identify as such are not prevented from benefitting from the measures taken.[13] However, the formulation chosen to convey this – which allows the majority to define individuals' ethnic affiliation irrespective of the latters' wishes – raises clear problems from the point of view of the Framework Convention. As regards the first part of the definition, the Advisory Committee shares the view that, by implying that unless one is poor, one is not a Roma, it sends a highly damaging message to other members of Bulgarian society, which moreover risks being instrumentalised in harmful ways in political debates (see further below, comments under Article 6 with respect to discourse about Roma and under Article 15 with respect to the socio-economic situation of Roma). The Advisory Committee is convinced that neither of these results was intended by the authors of the Strategy. However, it considers that the negative impact of the messages sent is such that revision of this part of the document, or at the very least official clarification of its intended meaning, is needed.

[11] For more details, see State Report, pages 32-34; see also the Strategy as presented to the European Commission, http://ec.europa.eu/justice/discrimination/files/roma_bulgaria_strategy_en.pdf and its accompanying Action Plan http://ec.europa.eu/justice/discrimination/files/roma_bg_strategy_annex2_en.pdf.

[12] National Roma Integration Strategy of the Republic of Bulgaria (2012-2020), page 1.

[13] At the same time, the Advisory Committee notes that the supposition that not all Roma are comfortable declaring their ethnic affiliation would appear to confirm that the census figure regarding the number of Roma may be unrealistically low (see comments under Article 3 above).

Recommendations

51. The Advisory Committee strongly recommends that the authorities regularly evaluate and review the implementation of the various strategies and action plans for the integration of Roma, in close consultation with representatives of this community, with a view to assessing their impact in promoting the full and effective equality of Roma and strengthening them wherever necessary. It also urges the authorities at all levels rapidly to make specific budgetary provision for the implementation of the current national, regional and municipal strategies and action plans for the integration of Roma.

52. The Advisory Committee further calls on the authorities to revise the definition of the beneficiaries of the National Roma Integration Strategy of the Republic of Bulgaria (2012-2020) and all other strategies and action plans that have reproduced this definition, in order to make clear that the measures they include explicitly target Roma but are also accessible to other persons who need them although not expressly self-identifying as Roma.

Collection of equality data disaggregated by ethnicity

Recommendations from the two previous cycles of monitoring

53. In its previous monitoring cycles, the Advisory Committee called upon the authorities to identify further ways and means of obtaining and publishing reliable data disaggregated by ethnicity, gender and geographical location.

Present situation

54. The authorities have indicated that aside from the official data disaggregated by ethnicity collected during the census, there is no general practice of collecting data on the implementation of government policies broken down by ethnic affiliation. In view of the questions remaining as a result of the 2011 census (see comments under Article 3 above) it would be important to broaden available data on the needs and situation of persons belonging to minorities with the help of other forms of data collection such as surveys and studies from a variety of sources. The Advisory Committee received numerous accounts from representatives of the Turkish minority of difficulties in gaining access to adequately remunerated employment and of underrepresentation in public employment, even in areas where the Turkish minority constitutes a substantial proportion of the population. Similar discrimination in access to employment is also experienced by the Roma (see further below, comments under Article 15). The Advisory Committee observes that research carried out into the implementation of specific policies and measures – such as the employment of around 200 Roma labour mediators – may provide valuable and more comprehensive information as to the situation of different groups in different fields, which could be used to evaluate and increase the effectiveness of such policies and measures.

Recommendation

55. The Advisory Committee recommends that the authorities expand existing practices and identify additional means of obtaining and publishing reliable data disaggregated by ethnicity, gender and geographical location, in order to increase the impact and efficacy of efforts to promote the full and effective equality of persons belonging to national minorities. Such data could include detailed information on discrimination against persons belonging to national minorities in the field of employment as well as on the impact of measures taken to address such issues.

Article 5 of the Framework Convention

Legal guarantees and support for the preservation of the culture of persons belonging to national minorities

Recommendations from the two previous cycles of monitoring

56. In its previous monitoring cycles, the Advisory Committee recommended that the Bulgarian authorities step up their efforts to support initiatives aimed at protecting, preserving and developing the cultural identity of minorities and invited them to pay more attention to the needs of all national minorities, including numerically smaller groups, in the field of the preservation and development of their culture and language.

Present situation

57. The Advisory Committee notes that the rights of persons belonging to national minorities go beyond mere formal equality before the law and cover a wide variety of fields such as culture, media, education and participation. While the authorities have referred to a range of provisions relevant to the protection of the cultural rights of persons belonging to national minorities,[14] the lack of a clearly defined and easily accessible government policy in this field may hamper the exercise in practice of these rights. The Advisory Committee notes with interest in this context that the authorities are in the process of drawing up a national cultural strategy, including the promotion of cultural diversity as a specific operational objective, and have issued an open invitation to all NGOs that wish to participate in this process. It emphasises that this process should be conducted in close consultation with representatives of all national minorities and should address the issue of how national minorities are involved in the process of allocation of funds.

58. As regards financial support currently allocated to the development and preservation of the culture, language and traditions of minorities, the authorities have indicated that the main sources of funding are the budgets of the NCCEII, the Ministry of Culture, the Ministry of Labour and Social Policy, other structures at central level and municipalities, and have referred to a number of cultural events that have received public support in recent years.[15] The Advisory Committee also notes that state support is allocated to approximately 3 640 community centres in Bulgaria. The authorities have indicated that these exist in almost every settlement and are frequently used for cultural activities by persons belonging to national minorities, including numerically smaller minorities such as Jews and Armenians. The amount allocated from the state budget for these community centres in 2014 is BGN 46 million (approximately EUR 23 million). The authorities have applied for UNESCO listing for these centres, the first of which was established more than 150 years ago.

59. At the same time, the Advisory Committee has observed certain tensions surrounding state support to minority cultures. It has received reports of some cases in which adults in positions of authority, such as schoolteachers, have questioned children belonging to the Turkish minority about their wish to participate in cultural events of their minority, or even placed pressure on children not to go. The 2010 amalgamation of the Turkish theatres in Kardzhali and Razgrad with bigger, generalist theatres, justified as a necessary part of reforms decided in the context of the economic crisis, was also negatively perceived by representatives of this minority. A number of representatives of minorities have also expressed regret that the focus of the work

[14] The authorities have notably referred in this context to Article 36, paragraph 2 of the Constitution, the Protection and Development of Culture Act and Article 6 of the Law on Radio and Television. See State Report, pages 34-35.
[15] See State Report, pages 16 and 35-36.

of the NCCEII is currently almost exclusively on the socio-economic integration of Roma, although the authorities have observed that this decision was initially supported by all national minorities represented in the NCCEII. In this context, non-Roma minority organisations have reported cases where funding for their activities (such as publication of newsletters in minority languages) was withdrawn or refused, apparently due to the priority currently placed by the NCCEII on the integration of Roma. In parallel, Roma representatives have emphasised that the exclusive focus on socio-economic integration – although the goal of achieving full and effective equality of Roma in daily life is essential – ignores the cultural aspects of Roma identity and their identity as a national minority, to the detriment of Roma. The Jewish community has also flagged up specific obstacles faced in obtaining sufficient funding for the restoration of two ruined synagogues in Vidin and Samokov that are important parts of both Jewish and Bulgarian cultural heritage. Overall, these accounts disclose that there is an urgent need for a coherent cultural strategy to address the needs of minorities.

Recommendations

60. The Advisory Committee recommends that the authorities work closely with representatives of national minorities in the process of drawing up a national cultural strategy, and that this process include consultations on how national minorities are involved in decision-making on the allocation of funds for cultural activities of interest to them. It also recommends that groups that have expressed the wish to benefit from the protection of the Framework Convention be invited to participate in this process.

61. The Advisory Committee reiterates its recommendation that the Bulgarian authorities step up their efforts to support initiatives aimed at protecting, preserving and developing the cultural identity of minorities and to remove any obstacles that may exist in this respect. This should include responding promptly to any incidents of harassment against individuals seeking to express their minority culture. The Advisory Committee invites the authorities to take account of the specific needs of all national minorities in the field of the preservation and development of their culture and language.

Article 6 of the Framework Convention

Tolerance and intercultural dialogue

Recommendations from the two previous cycles of monitoring

62. In its previous monitoring cycles, the Advisory Committee called on the authorities to take further legislative and policy measures to combat manifestations of racism in the media, and to take the necessary steps to prosecute incitement to ethnic or religious hatred in the media. It called on the authorities to combat intolerance and hate speech in politics and to promote respect for ethnic diversity. It further recommended that the authorities adopt specific measures to foster a social climate more receptive to diversity and intercultural dialogue, including through reviewing the compulsory curriculum and existing school textbooks, with a view to ensuring a better reflection of the history, culture and traditions of national minorities.

Present situation

63. While many of its interlocutors pointed to long-standing traditions of interethnic tolerance in Bulgaria, the Advisory Committee notes with regret that the overall climate appears nonetheless to have become less receptive to diversity since its second Opinion. There has been an increase in racist discourse and attacks (see further below), which both reflects and feeds into this negative trend. Racism has become increasingly widespread in political discourse and in the

media. The Advisory Committee expresses its concern at the proliferation of extremist political parties, some of which have close links to private television stations; an additional such party was moreover formed in November 2013, and applied for registration in January 2014. Certain far right-wing political parties actively instrumentalise anti-immigrant and anti-Roma sentiments present amongst the population, and the failure by mainstream parties to effectively counter their messages risks normalising a climate of intolerance against these groups.

64. Anti-Roma and anti-immigrant rhetoric have become an increasingly regular part of the political scene. In the latter case, the government's policy responses to the influx of approximately 12 000 asylum-seekers in 2013 – including proposing the building of a fence along part of its border with Turkey – have tended to aggravate rather than attenuate these messages. Minorities have also pointed to Decree No. 2/2009 of the Ministry of Education, which bans schoolteachers from talking to pupils in minority languages outside minority language classes, as stigmatising and creating a sense of guilt around expressing oneself in one's mother tongue, without creating any positive feelings about speaking Bulgarian. Pomaks have also reported that many politicians tend to use them, together with Turks and Roma, as scapegoats to be blamed for the country's socio-economic situation, instead of taking measures to address the real causes of socio-economic difficulties. The Advisory Committee is worried that the overall effect is to create an atmosphere of hostility towards and at times fear amongst persons belonging to the above groups.

65. While legal remedies do exist in cases of hate speech, it appears that they are not very effective in practice. The Advisory Committee notes with concern that the case-law of the Supreme Administrative Court in this field appears to be inconsistent,[16] making the parameters of the prohibition on hate speech hard to grasp and weakening the overall impact of the relevant criminal law provisions. The Advisory Committee regrets for example that no action appears to have been taken against the leader of one far right-wing party that, inter alia, distributed anti-Roma leaflets during the Katunitsa events of 2011 (see further below) – although, following an incident in which he was alleged to have assaulted a foreign diplomat, the Prosecutor General requested the lifting of his parliamentary immunity.

66. As discussed elsewhere in this Opinion (see above, comments under Article 5), the exclusive focus by mainstream political parties on the socio-economic integration of Roma, while aiming at resolving crucial problems for many of them, at the same time perpetuates stereotypes of Roma as poor and welfare-dependent, while ignoring both their status as a national minority with a distinct cultural heritage and the success stories of many Roma – aspects which could be built upon to help overcome persistent prejudice against them. Moreover, while Pomaks indicate that they generally have good relationships with the rest of the population on an individual level, many report being advised that if they wish to have successful careers, particularly in politics or the civil service, they should refrain from mentioning their belonging to this group.

67. Anti-Roma, anti-Turkish, anti-Macedonian and anti-immigrant discourse are reportedly also frequent in the media, notably (but not only) on the stations with links to far right-wing parties. Roma representatives report that some media openly target Roma families, women and children, manipulating data about birth rates in their communities and depicting them inter alia as a demographic threat to Bulgaria. The Council for Electronic Media has indicated that since 2010, it has issued a total of 25 administrative findings of breaches of Article 8 or 10 of the Law on Radio and Television, which prohibit instigating hatred via the media. While this is welcome,

[16] See notably Bulgarian Helsinki Committee, 2012 Annual Report, page 36.

the number appears low given the close links to extreme-right parties of certain electronic media and the numerous accounts of hate speech in the media received by the Advisory Committee.

68. The Advisory Committee is concerned that the overall climate as regards racism and intolerance in Bulgaria has deteriorated since its previous Opinion. It recalls that the Framework Convention requires States Parties to encourage tolerance and intercultural dialogue amongst all persons living on their territory. It stresses the need to promote these attitudes amongst the population from the youngest ages, and refers in this respect to its findings under Article 12 below.

Recommendations

69. The Advisory Committee urges the authorities to take the lead in systematically condemning hate crimes and hate speech. Allegations of incitement to ethnic or racial hatred under the relevant provisions of Bulgarian criminal law should also be systematically investigated, prosecuted and punished where appropriate, and adequate training provided to the police, prosecution authorities and judiciary at all levels to ensure that the law is consistently and coherently applied.

70. The Advisory Committee also calls on the authorities, while fully respecting the independence of the media, to intensify their efforts to find effective ways to combat manifestations of racism and intolerance in the media.

71. The Advisory Committee urges the authorities to intensify their efforts to promote tolerance, understanding and intercultural dialogue among the population as a whole.

Hate crimes

Recommendations from the two previous cycles of monitoring

72. In its previous monitoring cycles, the Advisory Committee recommended that the Criminal Code expressly provide that racist motivations for any ordinary offence constitute an aggravating circumstance and that all racially motivated acts be effectively identified, investigated, prosecuted and sanctioned as necessary. It further considered that systematic monitoring of these acts should be carried out by the authorities.

Present situation

73. Following amendments made to the Criminal Code in 2011, racist and xenophobic motives are now included as specific aggravating circumstances for the offences of murder and bodily harm. However, there is still no general provision requiring racist motivations to be taken into account as an aggravating circumstance for all criminal offences, and civil society organisations report that possible racist motivations are rarely investigated or taken into account. Moreover, they also report that offences for which charges could be brought under the criminal law provisions that expressly prohibit specific racist acts[17] are rarely prosecuted as such. In this context, the authorities have acknowledged that the definitions of racist offences and hooliganism used in the Criminal Code are very close and that the decision as to the offence to be prosecuted in any given case will be based on the evidence available. The Advisory Committee notes that the European Commission against Racism and Intolerance (ECRI) will be examining the contents of the criminal legislation applicable to hate-motivated offences in depth in drawing up its fifth report on Bulgaria and has already addressed this question in the past. It

[17] Articles 162 and 163 of the Criminal Code prohibit "crimes against national and racial equality" and Articles 164 to 166 prohibit "crimes against religious denominations".

refers to ECRI's detailed findings and recommendations in this regard.[18] As regards the application of the criminal law, however, the Advisory Committee wishes to draw the authorities' attention to the importance of rapidly identifying cases where racist motivations may have been at play and thoroughly investigating this aspect of such cases, in order to ensure not only that offences committed with racist motivations are punished as such but also that the relevant provisions are able to play their preventive function to the full.

74. The Advisory Committee is deeply concerned that there have been a number of serious racist attacks against individuals and groups since its previous Opinion. Since early 2013, when a significantly higher number of asylum-seekers than usual began arriving in Bulgaria, notably from Syria, there has been a worrying rise of physical attacks against refugees, asylum-seekers and persons perceived as belonging to one of these groups. In early November 2013 alone, a Malian teenager was reportedly stabbed close to a mosque in Sofia, a man of Turkish origin was beaten to a coma – according to some reports, because he was mistaken for a refugee –, and a Syrian teenager was also attacked. Villages have organised protests against the creation of reception centres for asylum-seekers in their vicinity, and far right-wing groups created "civilian patrols", which the authorities took some weeks to declare problematic, after issuing an ultimatum to the authorities to "clean" the streets of illegal immigrants. In parallel, there have been numerous attacks on places of worship used by persons belonging to national minorities, notably mosques. A particularly violent attack was carried out in May 2011 against the Banya Bashi mosque in Sofia during Friday prayers, and injured several persons.

75. The Advisory Committee is also particularly concerned that, following events in Katunitsa, near Plovdiv, in September 2011,[19] a wave of anti-Roma protests and attacks of particular intensity occurred throughout numerous Bulgarian towns and villages, lasting several days. An estimated 2 200 people participated in these protests, in which slogans inciting violence against Roma were displayed, and tens of thousands of persons registered on Facebook pages created following these events and relaying anti-Roma messages. Roma representatives have reported that as a result of these events – in which Roma persons who had no link to the initial incident were physically attacked as they went about their ordinary business in places as far away from Katunitsa as Burgas and Blagoevgrad – many Roma parents stopped sending their children to school, and in some neighbourhoods, they began organising their own defence groups, as they lacked confidence that they would be adequately protected by the police. While the protests appear to have died down after approximately a week, numerous physical attacks against Roma continued to be reported in the following weeks and months.[20]

76. The Advisory Committee is deeply worried by this situation and recalls that it is an obligation of States Parties to undertake appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity. The Advisory Committee underlines the especially damaging nature of attacks against persons that are based on their inalienable characteristics or profoundly held beliefs and emphasises that leading politicians, as well as the authorities more generally, have a particular responsibility to condemn all hate-motivated offences and systematically and effectively promote a society based on tolerance and mutual respect.

Recommendation

[18] See ECRI's Report on Bulgaria (fourth monitoring cycle), adopted on 20 June 2008, CRI(2009)2.
[19] On 23 September 2011, a young ethnic Bulgarian man died after having been hit by a vehicle driven by a Roma man linked to a controversial local Roma leader.
[20] See, amongst other sources, European Roma and Travellers Forum, Anti-Gypsyism in Bulgaria, May 2012, and ERRC, Attacks against Roma in Bulgaria: September 2011 – July 2012.

77. The Advisory Committee reiterates its recommendation that the Bulgarian authorities amend the Criminal Code so that it expressly provides that racist motivations constitute an aggravating circumstance for all criminal offences. It urges the authorities to step up their efforts without delay to ensure that all racially motivated offences are effectively identified, investigated, prosecuted and sanctioned as such. In this respect, intensified training for the police, prosecution authorities and judiciary would be particularly valuable. Such offences should also be systematically monitored.

Article 7 of the Framework Convention

Freedom of peaceful assembly and association

Recommendations from the two previous cycles of monitoring

78. In its previous monitoring cycles, the Advisory Committee found that Bulgaria's constitutional provisions concerning political parties on ethnic, racial, or religious lines and pertinent legislative provisions raised problematic issues in the light of the Framework Convention and urged the authorities to remove all the existing obstacles preventing interested groups from exercising the freedom of association guaranteed by the Framework Convention.

Present situation

79. The Bulgarian authorities have confined themselves to observing that the principle of freedom of assembly and association is fully guaranteed by the Constitution and the relevant legislation in Bulgaria to every person without discrimination in full conformity with Bulgaria's international legal obligations. They consider that there are no obstacles for the registration of political parties, provided that all the formal requirements of the Political Parties Act in force are met. The authorities moreover consider that these requirements are clear and applicable to everyone without exception or discrimination.[21]

80. The Advisory Committee recalls that the Constitution of Bulgaria expressly provides (Article 11(4)) that "There shall be no political parties on ethnic, racial or religious lines, nor parties which seek the violent usurpation of state power". As noted by the Advisory Committee in its second Opinion, the Venice Commission has expressed concern that these provisions "could be used to prevent minority linguistic ethnic or religious groups from organising themselves at all" and suggested "softening their wording in order to convey an open attitude towards minorities also in the language used in the Constitution".[22] The Advisory Committee observes with regret, however, that the authorities have allowed this restriction to become entrenched with respect to some groups.

81. In this context, the Advisory Committee recalls the 2005 judgment of the European Court of Human Rights finding a violation of Article 11 of the European Convention on Human Rights (ECHR) as regards the authorities' dissolution of the United Macedonian Organisation Ilinden – Party for Economic Development and Integration of the Population (UMO Ilinden –

[21] See State Report, page 42.

[22] European Commission for Democracy through Law (Venice Commission), Opinion on the Constitution of Bulgaria, adopted by the Venice Commission at its 74th Plenary Session (Venice, 14-15 March 2008), CDL-AD(2008)009, paragraphs 64 and 66. This Opinion took into account Decision No. 4/1992 of the Bulgarian Constitutional Court, which found that the political party Movement for Rights and Freedoms was not contrary to the Constitution.

PIRIN).[23] It deplores the fact that despite repeated attempts by the party to register since then, this party has still been unable to register. The Advisory Committee acknowledges that, in the final instance, the refusals to register this party at domestic level have not been based on a finding that its aims are in breach of Article 11.4 of the Bulgarian Constitution.[24] It also notes that a second case was lodged before the European Court of Human Rights by the same applicant concerning three subsequent refusals by the courts to register it, based each time on a series of formal grounds, and that in 2011, the European Court found that there had been no violation of the Convention in this respect.[25] However, the Advisory Committee observes that one of the material grounds on the basis of which the Court reached its finding of no violation in this case was that amendments made in 2005 to the Political Parties Act had reduced the number of members required to form a political party from 5 000 to 2 500, a fact which the Court considered to have removed the main hurdle to the party's successful registration.[26] The Advisory Committee notes, however, that according to the results of the 2011 census, which were not available at the time of the European Court's judgment, only 1 654 persons were recorded as having declared an ethnic Macedonian affiliation,[27] compared with 5 071 in the 2001 census and over 10 000 in the previous census, of 1992. It is difficult to see how, in the current conditions, this political party could satisfy the formal requirements to register under the Political Parties Act (see also in this regard the comments in paragraph 83 below).

82. The Advisory Committee emphasises that, while the registration of national minority political parties may be subject to certain conditions, such requirements should be designed so that they do not unreasonably or disproportionately limit the possibilities for persons belonging to national minorities to form such organisations, thereby restricting their opportunities to participate in political life and the decision-making process. This concerns inter alia numerical conditions for registration.[28] The Advisory Committee also considers that as a matter of principle, the existing constitutional and legal restrictions placed on the formation of political parties on ethnic, racial or religious lines raise serious problems of compatibility with Article 7 of the Framework Convention. It moreover draws the authorities' attention to the fact that such parties could make it possible for the concerns and interests of persons belonging to national minorities, notably in regions where they live in substantial numbers, to be better represented and better taken into account in elected bodies – a factor that would contribute far more constructively than prohibition to fostering peaceful co-existence within Bulgarian society. At the same time, it observes that the existence of political parties officially representing minorities is not an automatic guarantee of the effective representation of their needs and interests. Furthermore, when their interests are effectively represented by mainstream parties, there is little incentive for minorities to seek to set up their own parties.

[23] United Macedonian Organisation Ilinden – PIRIN and Others v. Bulgaria, application no. 59489/00, judgment of 20 October 2005.
[24] Indeed, the Constitutional Court found, in its 2000 judgment dissolving the party that had initially been allowed to register in 1999, that there was no Macedonian ethnos in Bulgaria and that it therefore could not be said that this political party was based on ethnic origin. Ibid, §25. However, this analysis may itself raise other issues; see above, comments with respect to Article 3.
[25] United Macedonian Organisation Ilinden – PIRIN and Others v. Bulgaria (No. 2), applications nos. 41561/07 and 20972/08, judgment of 18 October 2011.
[26] See §94 of the judgment. This was also a material ground on which the Committee of Ministers based its decision to close supervision of the execution of the above, 2005 judgment: see Resolution CM/ResDH(2009)120.
[27] See National Statistical Institute, 2011 Population Census – Main Results, page 23, available at http://www.nsi.bg/census2011/PDOCS2/Census2011final_en.pdf (last visited on 1 January 2013).
[28] Thematic Commentary No. 2, The Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs, adopted on 27 February 2008, ACFC/31DOC(2008)001, paragraphs 75-79.

83. The Advisory Committee also notes that in a series of recent judgments, the European Court has found violations of the freedom of association, as regards the refusal to register a non-profit association of Macedonians,[29] and of the right of peaceful assembly, regarding bans on and interferences in the holding of a number of rallies by organisations that aim to achieve the recognition of the Macedonian minority in Bulgaria.[30] The Advisory Committee is deeply concerned by the authorities' steady refusal to allow such rallies and/or interference therein described in these judgments (on grounds that moreover had already been found problematic by the European Court).[31] It is equally concerned by the systematic summoning and questioning of purported members of the UMO Ilinden – PIRIN party as to the genuineness of their wish to join it, described by the European Court as "worryingly reminiscent of past infamous persecutions".[32] While the Advisory Committee has not been informed of recent, similar actions, it emphasises that the combined long-term effect of the above actions is to create a climate of intimidation and harassment that runs counter to the provisions of the Framework Convention, and in which it is unsurprising that the numbers of people willing to self-identify as Macedonian have dropped.[33]

84. The Advisory Committee recalls that the freedoms laid down in Article 7 of the Framework Convention apply to all persons but are particularly relevant for the protection of persons belonging to national minorities, as well as for those who wish to benefit from some or all of the rights extended to recognised minorities. It stresses that restrictive applications of the procedures for the registration of associations and political parties and of the rules governing the right of peaceful assembly should not be used as a means to stifle differences over identity or history. These must be addressed through an open and flexible approach, as emphasised throughout the present Opinion.

Recommendation

85. The Advisory Committee urges the Bulgarian authorities to remove all remaining legal obstacles preventing interested groups from exercising the freedom of association guaranteed by the Framework Convention. Furthermore, the Advisory Committee recommends that the authorities review anew the conditions applicable to the registration of political parties.

Article 8 of the Framework Convention

The right to manifest religion or belief

Recommendations from the two previous cycles of monitoring

86. In its previous monitoring cycles, the Advisory Committee called upon the authorities to ensure that persons belonging to national minorities did not suffer discrimination in the exercise of their right to practise their religion.

[29] United Macedonian Organisation Ilinden and Others v. Bulgaria, application no. 34960/04, judgment of 18 October 2011.
[30] Singartiyski and Others v. Bulgaria, application no. 48284/07, judgment of 18 October 2011, and United Macedonian Organisation Ilinden and Ivanov v. Bulgaria (No. 2), application no. 37586/04, judgment of 18 October 2011.
[31] Ibid, §46 and §133 respectively.
[32] United Macedonian Organisation Ilinden – PIRIN and Others v. Bulgaria (No. 2), applications nos. 41561/07 and 20972/08, judgment of 18 October 2011, §88.
[33] In contrast, according to information provided by Macedonian interlocutors, in the brief period between the initial registration of the UMO Ilinden – PIRIN party by the Sofia City Court in February 1999 and its subsequent dissolution by the Constitutional Court in 2000 (the subject of a finding of a violation of the ECHR in the Court's judgment of judgment of 20 October 2005), the number of party members rose from 1 000 to roughly 10 000.

Present situation

87. The Advisory Committee notes with interest that amendments to the 2002 Religious Denominations Act have been proposed in order inter alia to extend the period in which religious communities may seek the restitution of property and address certain questions related to the management of religions present in Bulgaria. These proposals are currently pending before the Parliament and were reported to be at the committee stage as of mid-November 2013. The Advisory Committee has been informed that these proposals were drawn up in response to issues raised by representatives of a number of faiths whose adherents in Bulgaria are mostly persons belonging to national minorities (such as the Muslim, Catholic, Armenian Apostolic and Jewish faiths) and in consultation with the leaders of these religions. However, following the withdrawal of the support of one political party (Ataka), the outcome of the parliamentary proceedings was difficult to predict.

88. Muslims have also referred to some difficulties experienced regarding the practice of their religion. There is a lack of space for worship in Sofia, with some worshippers at Friday prayers having to pray outside in the street. A request for the construction of a second mosque in Sofia has been awaiting approval for several years. Muslims from the Smolyan area have also complained that following the 2007 destruction of a Muslim cemetery for private development, their requests to continue to have access to the burial grounds of their ancestors have not been heard, despite their efforts. Muslims have moreover reported occasional interference by law enforcement officers in their activities, including one instance in which law enforcement officers questioned the teacher of a Qur'an course in front of the children in his class. The on-going prosecution in Pazardzhik of 13 imams, muftis and preachers for participating in or leading a group preaching "anti-democratic ideology" has created considerable disquiet amongst Muslims and is seen by many as at least partly directed at intimidating Muslims in Bulgaria.

Recommendations

89. The Advisory Committee encourages the authorities to pursue their constructive dialogue with religious leaders with a view to enabling the rapid enactment of legislative amendments extending the period for restitution of religious property and better guaranteeing that religions are able to operate without undue interference from the state.

90. It invites the authorities to take measures to resolve rapidly issues surrounding lack of space for worship and ensure that there is no interference in the practice of religion by persons belonging to national minorities except where it is prescribed by law, pursues a legitimate aim and is proportionate to that aim.

Article 9 of the Framework Convention

Broadcasting for minorities/broadcasting in minority languages

Recommendations from the two previous cycles of monitoring

91. In its previous monitoring cycles, the Advisory Committee encouraged the Bulgarian authorities to increase their financial support to ensure access of persons belonging to national minorities, including numerically smaller groups, to radio and television programmes in their language. It also urged the authorities to ensure that the Turkish community continued to benefit from the daily Turkish TV news programme and that there were sufficient opportunities for broadcasts at appropriate times.

Present situation

92. The authorities have underlined that there are no legal restrictions on the access of persons belonging to any ethnic, religious or linguistic minority groups to the media and that all persons, irrespective of their ethnic self-identification, may create and use their own media outlets in compliance with the provisions of the Law on Radio and Television.[34]

93. The Advisory Committee notes that in accordance with the provisions of this Law, one ten-minute news programme in Turkish is broadcast on Bulgarian national television, from 4:10 to 4:20pm daily. Representatives of the Turkish minority report that while these broadcasts are welcome, ten minutes of daily television programming in Turkish, at a time when few people have access to television, is insufficient to meet the needs of the approximately 8% of the population of Bulgaria whose mother tongue is Turkish. The Advisory Committee also notes with interest that three hours of daily programming in Turkish are also broadcast on a public medium-wave radio station in regions where the Turkish minority lives compactly (in particular Kardzhali, north-eastern Bulgaria and central Bulgaria). However, radio programming in Turkish reportedly does not reach areas such as south-western Bulgaria and Plovdiv, and a request to open a privately owned radio station broadcasting in Turkish has not been approved by the media licensing authority. The Advisory Committee notes nonetheless with interest that the authorities are considering measures to allow public radio broadcasts in Turkish to be received across a larger territory.

94. The Advisory Committee finds it regrettable that in practice, no progress has been made in the area of broadcasting in minority languages since its first monitoring cycle and that no audiovisual programmes other than those described above are produced in minority languages in Bulgaria. It observes that an increased offer of television and radio programming in Turkish as well as in other minority languages, produced in Bulgaria and covering issues relevant to life in Bulgaria, is not only necessary to cover the needs of persons belonging to national minorities but could also serve as a significant factor in strengthening integration in Bulgarian society. It moreover notes that representatives of the Turkish minority have expressed a clear desire in this respect. The Advisory Committee draws the Bulgarian authorities' attention to the requirement that they adopt adequate measures to facilitate access to the media for persons belonging to national minorities and in order to permit cultural pluralism, in accordance with Article 9.4 of the Framework Convention.

95. The authorities have indicated that whereas there were significant demands for special-content programmes about the cultures and traditions of minorities in the early 2000s, a mainstreaming approach is now preferred. One talk-show on national radio and one on national television have been cited as regularly discussing multicultural and minority-related issues.[35] Otherwise, the presence of minorities in the media appears to be rather limited, with only one Roma presenter having been referred to. As noted earlier (see above, comments with respect to Article 6), media coverage of minority issues is moreover reported to be frequently negative. The Advisory Committee underlines the importance of the media to promote tolerance and cultural awareness in society, among others through the accurate portrayal of the living conditions and access to rights of the different groups, including by journalists with a minority background. To this end, it underlines that it is important that journalists receive adequate training and that the recruitment of minority representatives into the media is actively encouraged.

[34] State Report, page 44.
[35] "The Known and the Unknown" on radio and "Little Talks" on television.

96. As regards printed media, the Advisory Committee notes that a range of news bulletins and newspapers are available in minority languages in Bulgaria, notably in the languages of numerically smaller minorities such as Jews, Armenians and Aromanians. Despite their inevitably low circulation rates, they appear to be produced without significant support from the authorities. While Article 9.3 of the Framework Convention contains mainly a negative obligation on states not to hinder the creation and use of printed media in minority languages, the Advisory Committee underlines that print media remain an important means for persons belonging to national minorities to maintain and develop their cultures and language.[36]

Recommendations

97. The Advisory Committee urges the authorities to ensure that existing programming in Turkish is available in all regions where persons belonging to the Turkish minority live compactly. Programmes in minority languages should also be broadcast at times where they can be followed by the greatest possible audience.

98. It encourages the authorities to take adequate measures, including through relevant training activities, to increase the presence of persons belonging to minorities and their concerns in the media, including those of numerically smaller groups. Measures could also be taken to encourage the recruitment of journalists with a minority background into media outlets.

99. The Advisory Committee recommends that the authorities increase the financial support provided to ensure access of persons belonging to national minorities, including numerically smaller minorities, to radio and television programmes in minority languages, and encourages the authorities to step up their efforts to allocate funding for the support of printed media in minority languages, where this is requested.

Article 10 of the Framework Convention

Use of minority languages in relations with administrative authorities

Recommendations from the two previous cycles of monitoring

100. In its previous monitoring cycles, the Advisory Committee recommended that the Bulgarian authorities assess, in consultation with representatives of national minorities, whether there was sufficient need or demand for the use of minority languages in dealings with the administrative authorities in the geographical areas inhabited by a substantial number of persons belonging to national minorities, and that they take adequate remedial measures to bring the relevant legislation and practice into conformity with Article 10.2 of the Framework Convention.

Present situation

101. The Advisory Committee notes that according to the Constitution of Bulgaria, citizens whose mother tongue is not Bulgarian shall have the right to study and use their own language alongside the compulsory study of the Bulgarian language (Article 36(2)), and the situations in which only the official language shall be used shall be established by a law (Article 36(3)).[37]

[36] Thematic Commentary No. 3, The Language Rights of Persons Belonging to National Minorities under the Framework Convention, adopted on 24 May 2012, ACFC/44DOC(2012)001 rev, section IV.3.

[37] It should be noted that in accordance with the Constitution, Bulgarian shall be the official language of the Republic (Article 3) and the study and use of the Bulgarian language shall be a right and an obligation of every Bulgarian citizen (Article 36(1)).

102. During the Advisory Committee's visit to Bulgaria as well as in the State Report,[38] the authorities confined themselves to asserting that it is not forbidden to speak minority languages in Bulgaria and that it remains the sole prerogative of States Parties to decide how to implement Article 10.2 of the Framework Convention within the wide margin of discretion left to them under its provisions. In the light of the information available to the Advisory Committee, it appears that after three monitoring cycles, the authorities have made no attempt to assess the needs of persons belonging to national minorities regarding the use of minority languages in contacts with administrative authorities in the geographical areas inhabited traditionally or in substantial numbers by persons belonging to minorities, or *a fortiori* to legislate so as to ensure that minority languages can, under the conditions set out in Article 10.2 of the Framework Convention, be used in such contacts on the basis of clear and transparent regulations.[39]

103. The Advisory Committee observes that the responsibilities of national authorities under Article 10.2 of the Framework Convention have been examined extensively in its Thematic Commentary No. 3. While it acknowledges that different means of implementing this article may legitimately be chosen in different national and regional contexts, it draws the authorities' attention to the fact that states have a duty not to leave this matter solely to the discretion of the local authorities concerned: on the contrary, they should provide clear criteria and transparent procedures on how and when to institute the use of minority languages, including in written form, in order to ensure that this right is enjoyed by persons belonging to national minorities throughout the state, without discrimination. In addition, as the rights arising under Article 10.2 are triggered when only one of the two residency criteria are fulfilled (substantial number *or* area traditionally inhabited), they apply also in areas traditionally inhabited by only a relatively small percentage of persons belonging to national minorities, provided that the other cumulative criteria (namely the existence of both a request and a need to use the minority language in contacts with administrative authorities) are also fulfilled. The Advisory Committee moreover recalls that the term "need" in this context does not necessarily imply the inability of persons belonging to national minorities to speak the official language and their consequent dependence on services in their minority language: a threat to the functionality of the minority language as a communication tool in a given region is sufficient to constitute a need within the meaning of Article 10.2 of the Framework Convention.[40]

104. The Advisory Committee underlines that the failure of the authorities to make any attempt to evaluate demands and needs in this field since Bulgaria ratified the Framework Convention in 1999 can only be understood by persons belonging to national minorities as a sign of unwillingness on the part of the authorities to protect their rights, lack of respect for their identities or at best indifference to their situation. It notes that persons belonging to the Turkish minority have relayed a request for hospital services, at very least, to be available in Turkish in regions inhabited by substantial numbers of persons belonging to the Turkish minority. It stresses that taking more active initiatives to seek to accommodate the needs and identity of persons belonging to national minorities would constitute a significant step on the part of the authorities towards promoting the climate of tolerance and mutual understanding that is at the heart of the provisions of the Framework Convention.

[38] See pages 45-46 of the State Report.

[39] The Advisory Committee notes that as the authorities have previously outlined, provision is however made for interpretation into minority languages in criminal proceedings. See pages 68-70 of the first State Report, ACFC/SR (2003)001.

[40] Thematic Commentary No. 3, The Language Rights of Persons Belonging to National Minorities under the Framework Convention, adopted on 24 May 2012, ACFC/44DOC(2012)001 rev, paragraphs 55-58.

Recommendations

105. The Advisory Committee urges the authorities, in close consultation with representatives of national minorities and as a matter of priority, to assess the extent to which there exists a need and demand for the use of minority languages in dealings with the administrative authorities in the geographical areas inhabited traditionally or by a substantial number of persons belonging to national minorities.

106. It further recommends that the authorities establish by law clear criteria and transparent procedures on how and when the use of minority languages may be instituted in contacts with administrative authorities, including in written form, in order to ensure that this right is enjoyed on an equal footing throughout the state.

Article 11 of the Framework Convention

Use and official recognition of names in minority languages

Present situation

107. The Advisory Committee recalls that the authorities have taken welcome measures to reverse earlier policies and practices of forcibly changing the names of persons belonging to minorities to Slavic names.[41] However, it notes with regret that Turkish and Pomak representatives report continuing difficulties in having non-Slavic names officially recognised. In particular, they indicate that thousands of people have not yet been able to have their names restored, due to certain persisting obstacles and a need to simplify procedures; the names of deceased persons cannot be restored, meaning for example that a person belonging to the Turkish minority whose parents have died will not be able to have the latters' Turkish names (but only their forcibly attributed Slavic names) used on his or her birth certificate; and that even when their name has been restored, requests for official documents are first met with a demand for the person concerned to provide the Bulgarian name previously attributed to them, which remains on the records, rather than their name in their minority language. Moreover, the Advisory Committee has received numerous reports of persons experiencing or being threatened with discriminatory treatment should they choose to use their non-Slavic name.

108. The Advisory Committee recalls that the right to use one's personal name in a minority language and have it officially recognised is a core human right, linked closely to personal identity and dignity. This makes it particularly important that States Parties ensure that individuals are free from obstacles impinging on the use and recognition of their names in their own language.[42]

Recommendation

109. The Bulgarian authorities should take urgent steps, together with representatives of all groups concerned, to identify and eliminate any remaining impediments, whether in legislation, policy, procedure or practice, to the full official recognition and use in daily life of names in minority languages.

[41] On past policies and practices regarding the names of persons belonging to minorities and the measures taken to reverse them, see pages 10, 12-13 and 71-73 of the first State Report, ACFC/SR(2003)001.

[42] See further the Advisory Committee's Thematic Commentary No. 3, The Language Rights of Persons Belonging to National Minorities under the Framework Convention, adopted on 24 May 2012, ACFC/44DOC(2012)001 rev, paragraphs 61-63.

Bilingual topographical indications and other inscriptions

Recommendations from the two previous cycles of monitoring

110. In its previous monitoring cycles, the Advisory Committee recommended that the Bulgarian authorities assess, in consultation with representatives of national minorities, whether there was sufficient need or demand concerning the use of minority languages for topographical indications in the geographical areas inhabited by a substantial number of persons belonging to national minorities. It further urged the authorities to introduce appropriate legal safeguards to enable national minorities to display traditional local names, street names and other topographical indications intended for the public in the minority language, in conformity with Article 11.3 of the Framework Convention.

Present situation

111. The authorities have put forward the view that the terms of Article 11.3 of the Framework Convention allow for a wide variety of models to be adopted by different States Parties, based on the framework of the legal system and the specific conditions prevailing in each state. The authorities have indicated that they therefore consider the present situation in Bulgaria to be in conformity with their undertakings under Article 11.3, which in their view creates no direct obligations for States Parties. As regards practice, both the authorities and minority representatives have indicated that traditional local names, street names and other topographical indications are not displayed in minority languages in Bulgaria, and private initiatives such as the display of shop signs in minority languages risk being met with hostility. It appears that the authorities have as yet made no attempt to assess needs and demands in the areas where this provision could potentially come into play.

112. The Advisory Committee observes that while it clearly allows a wide margin of discretion as to the measures to be taken in practice, the language of Article 11.3 of the Framework Convention plainly creates a direct obligation on States Parties, in providing that they "*shall* endeavour" (emphasis added) to display topographical and similar indications in minority languages when the other conditions set out in this provision are met. The Explanatory Report of the Framework Convention (§ 70) moreover makes clear that this provision is intended not merely to create but to "*promote* the possibility" of such displays (emphasis added). In the light of these considerations, the Advisory Committee has previously concluded that Article 11.3 of the Framework Convention requires the display of signs in minority languages to be given a clear and unambiguous legislative basis. It has also observed that bilingualism in signposts should be promoted, as it conveys the message that a given territory is shared in harmony by various population groups.[43]

113. The Advisory Committee stresses that adopting a narrow and restrictive interpretation of Article 11.3 of the Framework Convention misses the opportunity that it provides to show, in practice, that speakers of different languages can co-exist peacefully while still being able to express publicly their different cultural and linguistic identities. The Advisory Committee emphasises that taking a constructive and open approach to the implementation of this provision would correspond more closely to the spirit of tolerance and mutual respect inherent in the Framework Convention.

[43] See further the Advisory Committee's Thematic Commentary No. 3, The Language Rights of Persons Belonging to National Minorities under the Framework Convention, adopted on 24 May 2012, ACFC/44DOC(2012)001 rev, paragraphs 65-67.

Recommendation

114. The Advisory Committee calls on the authorities to assess, in close consultation with representatives of national minorities, the extent to which there exists a need and demand for topographical and similar signs to be displayed in minority languages in the geographical areas traditionally inhabited by a substantial number of persons belonging to national minorities. The authorities should also establish by law clear criteria and transparent procedures on how and when such signs may be displayed, in order to ensure that this right is enjoyed on an equal footing throughout the state.

Article 12 of the Framework Convention

Intercultural dimension of education

Recommendations from the two previous cycles of monitoring

115. In its previous monitoring cycles, the Advisory Committee recommended that the authorities review the existing textbooks and compulsory curriculum in consultation with representatives of minorities, with a view to ensuring a better reflection of the history, culture and traditions of national minorities as part of the curriculum for all students in Bulgaria, and underlined the need for more sustained efforts to promote intercultural teaching methods at school.

Present situation

116. The authorities have referred to programmes conducted in 2010 and 2011 aimed at developing communication and understanding between children from different social, ethnic and cultural communities.[44] They have also indicated that teaching about national minorities is mainstreamed in the school curriculum for all students, and that elements of minority cultures, such as traditional songs and stories, are taught to all pupils. However, representatives of minorities report that the images of minorities conveyed in the textbooks used as part of the general curriculum remain largely confined to (negative) stereotypes.[45] They have also informed the Advisory Committee that in southern Bulgaria, even schools where the vast majority of pupils belong to the Turkish minority are only very rarely given Turkish names, and there are no school principals who belong to the Turkish minority.

Recommendation

117. The Advisory Committee recommends that the authorities intensify their efforts to ensure that the history, culture and traditions of national minorities are better reflected in schools and in the curriculum for all students in Bulgaria and that teachers are fully trained to incorporate the intercultural dimension in the classroom.

Equal access to education

Recommendations from the two previous cycles of monitoring

118. In its previous monitoring cycles, the Advisory Committee urged the Bulgarian authorities to put an end to practices of placing Roma pupils in separate classes or schools and to take measures to promote the integration of Roma pupils in mainstream schools and classes. It called for more sustained efforts to ensure access to kindergartens for all Roma children and

[44] See State Report, page 47.

[45] On the intercultural dimension of education generally, see Thematic Commentary No. 1, Education under the Framework Convention for the Protection of National Minorities, ACFC/25DOC(2006)002, Chapters 1.4 and 2.1.

guarantee that the curriculum in such kindergartens corresponded to the needs of the groups concerned, and to monitor, develop and mainstream good practices in these fields.

Present situation

119. The authorities have referred to a scheme entitled "Creating a favourable multicultural environment for practical implementation of intercultural education and training",[46] which allowed for the funding (to a total of BGN 5 million, i.e. approximately EUR 2.5 million) and implementation of 62 projects in 2008-2009, with 20 schools, 24 NGOs, 14 municipalities and four other organisations as beneficiaries. The activities funded were directed towards supporting the integration of children and pupils belonging to ethnic minorities, reducing the number of school drop-outs and the number of students at risk of becoming early school-leavers, and reducing the number of children not covered by the educational system. Around 23 000 persons – just over half of those covered by the scheme – reportedly belonged to ethnic minorities, and most of these were Roma children and parents.

120. The Advisory Committee also takes note that according to information provided to ECRI in 2011, over 10 000 Roma children participated in intercultural education programmes in 2009 and over 11 000 in 2010. More than 5 600 children began attending general schools and kindergartens outside their areas of residence, with free transport, in 2010, and 3 000 attended integration courses.[47] As regards access to kindergarten education more generally, the authorities have indicated that they are considering making pre-school compulsory from the age of four years (the current requirement is five). This measure could help increase the proficiency in Bulgarian of children who have a different mother tongue. However, at the time of drafting the present Opinion, it was not clear whether this measure would indeed be introduced.

121. The Advisory Committee welcomes the above initiatives. It notes with satisfaction that Roma representatives confirm that the number of Roma children who attend and complete school successfully is increasing and that a number of successful desegregation projects have also been carried out. It welcomes this progress as well as information that increasing numbers of Roma are successfully completing university education. However, it notes that the proportions of both Turkish and Roma pupils who do not complete secondary school remains significantly higher than the overall figure for the Bulgarian population, as do the proportions of Turkish and Roma children who never complete any level of education.[48] Against this background, it emphasises the need to continue efforts to ensure Roma children's integration in mainstream schools. It also underlines that the lack of activities designed to protect and preserve Romani culture and teach the Romani language may contribute to the difficulties experienced by Roma children in the school system, and these considerations also need to be addressed in taking measures to improve their access to education.

[46] This scheme was implemented under the Operational Programme "Human Resource Development" (OP HRD) 2007-2013, which included projects aimed at supporting the integration of children and pupils from ethnic minority groups. See State Report, page 47.

[47] ECRI, Conclusions on the implementation of the recommendations in respect of Bulgaria subject to interim follow-up, adopted on 7 December 2011, CRI(2012)7, page 6.

[48] According to official NSI data for 2011 cited in the National Roma Integration Strategy of the Republic of Bulgaria (2012-2020), secondary school was the highest level of education completed by 52.3% of the Bulgarian population, 29.7% of the Turkish and 9% of the Romani populations. 0.9% of Bulgarians, 7.5% of Turks and 21.8% of Roma have not completed any level of education.

Recommendation

122. The Advisory Committee calls on the authorities to pursue and intensify their efforts to eliminate segregation in schooling and to promote the full integration of Roma children in mainstream schools and classes, including through measures targeted specifically at improving the access of Roma children to kindergarten, at encouraging them to remain in school until they complete their secondary education and at helping parents to support their children in this respect.

Article 14 of the Framework Convention

Minority language teaching

Recommendations from the two previous cycles of monitoring

123. In its previous monitoring cycles, the Advisory Committee called on the authorities to intensify their dialogue with national minority representatives to analyse the existing demands of minorities, including from the numerically smaller groups, to receive teaching in or of their minority language. It called on the authorities both to increase their efforts to provide opportunities for pupils belonging to minority communities to learn their minority language and to abolish all legal and administrative restrictions on teaching subjects other than the minority language in the mother tongues of minorities.

Present situation

124. According to information provided by the Ministry of Education subsequent to the visit of the Advisory Committee, in the 2012-2013 school year, a total of 9 268 pupils were taking Turkish mother tongue classes, 158 Armenian, 32 Arabic and 26 Greek. The Advisory Committee has also been informed of the existence of Jewish schools, where Hebrew is also taught.

125. The Advisory Committee observes from the outset that compared with the numbers of persons having declared themselves in the 2011 census as having a Turkish ethnic affiliation in particular, these numbers are very low.[49] Many of the Advisory Committee's interlocutors drew its attention to the fact that the numbers of pupils studying Turkish as a mother tongue has fallen by over 90% in the last twenty years, from approximately 114 000 in the early 1990s to just over 9 000 today. The Advisory Committee notes that this drop in the number of pupils studying Turkish far outstrips the overall rate of population decline in Bulgaria. While there is a general downward trend (with some fluctuations) in the number of students learning any languages other than Bulgarian,[50] such a dramatic drop appears to be specific to the Turkish language and warrants the close attention of the authorities. The explanation that this phenomenon "is linked mainly to the opportunities for integration in the labour market after graduation" does not appear adequate to explain such a rapid and massive abandonment of mother tongue studies, especially as it has not been accompanied by greater interest in learning other languages that may seem

[49] 564 858 persons declared in the 2011 census that they were of Turkish origin and had Turkish as their mother tongue. See State Report, page 21.

[50] Compare the five-yearly tables of statistics for the teaching of languages other than Bulgarian provided in the NSI's reports on Education in the Republic of Bulgaria for 2010 and 2013, available respectively at http://www.nsi.bg/en/content/4779/публикация/education-republic-bulgaria-2010 and http://www.nsi.bg/en/content/11543/публикация/education-republic-bulgaria-2013. The total number of pupils studying English as a foreign language dropped, for example, from 529 078 in 2005 to 497 029 in 2012 (a drop of 6%). In the same period, the number of pupils studying mother-tongue Turkish fell by 62%, from 24 176 to 9 064.

more marketable.[51] The Advisory Committee wishes to draw the authorities' attention in this context to the fact that from a minority perspective, the continued existence of Decree No. 2/2009 of the Ministry of Education, which bans teachers from talking to pupils in their minority languages outside the classroom, has a chilling effect as it creates a sense of shame and guilt around expressing oneself in one's mother tongue. Combined with the recent rise in racist and xenophobic attacks against persons perceived as foreigners, the current climate is not one in which choosing to study one's minority language is an obvious choice. This makes it all the more crucial that the authorities take active steps to facilitate such a choice.

126. The Advisory Committee regrets to note that according to information provided by the Ministry of Education subsequent to the visit, no pupils are currently studying the Romani language as a mother tongue, although Romani representatives indicate that there is a demand for such instruction.[52]

127. The Advisory Committee has not been informed of any measures taken by the authorities to assess the level of demand in this field since its last Opinion and again regrets the passive approach taken by the authorities in the field of education in minority languages. In this context, the Advisory Committee was particularly struck by one view relayed to it by an official dealing with education matters, to the effect that the mother tongue is simply a signal of one's minority affiliation, but not a major aspect of the culture of minorities. Minority representatives regretted the fact that the Ministry of Education no longer employs experts in minority languages. They also consistently took issue with the fact that minority-language teaching is not included in the compulsory (general) curriculum but only offered as an element of the elective chapters of the school curriculum.[53] This not only sends the message that being proficient in minority languages is not a valued skill in Bulgaria but also means that minority languages are in competition with other elective subjects; students may thus, for example, have to choose between religious education and learning their mother tongue. Moreover, in all cases, the only option is teaching *of* the minority language; no provision is made for bilingual teaching or for other subjects to be taught *in* the minority language. Numerically smaller minorities also have particularly strong needs in the field of minority language education, as expressed for instance by the representatives of Armenians.

128. As regards textbooks used for teaching minority languages, the government reportedly provides little or no financial support for their production. There is a shortage of textbooks for the teaching of Turkish and those that have been approved are outdated as they have not been revised since the early 1990s, and there are reportedly no textbooks for teaching Romani. The authorities have stated that in order to initiate the procedure for approving new textbooks, a draft textbook must first be submitted, along with a request for its approval. While they indicate that they have informed non-governmental organisations working on the educational integration of persons belonging to minorities of the need to present such drafts and requests, it appears that the authorities do not consider that they have a responsibility to work actively towards preparing

[51] See State Report, page 16, and footnote 50 above on other languages.

[52] The number of persons having declared in the 2011 census that they were of Romani origin and had Romani as their mother tongue was 272 710. See State Report, page 21.

[53] According to the information available to the Advisory Committee, the school curriculum in Bulgaria is divided into three "chapters": compulsory subjects, "compulsory elective" subjects, which are outside the general curriculum but from which pupils are obliged to choose four hours of classes, and elective subjects, from which students may choose to take two hours of extra classes if they wish. The "compulsory elective" and elective subjects available in any given school depend on a decision taken by the school; parents may request the inclusion of certain subjects if desired. Minority language teaching can be offered as a "compulsory elective" or as an elective subject, but is not part of the general compulsory curriculum.

up-to-date textbooks for the teaching of minority languages themselves. The Advisory Committee considers this passive approach all the more regrettable in that the absence of a standard curriculum for teaching minority languages makes the drafting of textbooks for this purpose particularly difficult.[54]

129. The Advisory Committee also notes with regret that according to the information provided by the authorities, since 2010 no universities have offered a course for primary school teachers who will be using the Romani language; there are therefore no students currently enrolled in such a course. While the authorities point out that universities are autonomous according to the law and must therefore remain free to decide independently which subjects to offer, the Advisory Committee observes that it would be possible, without compromising the autonomy of universities, for the authorities to provide the latter with incentives (such as additional, dedicated funding) to run courses in the necessary subjects. In view of the demographic challenges facing Bulgaria (declining overall population and birth rate), it is especially important to take measures to promote the recruitment of adequately trained teaching staff, including in smaller towns and villages in regions where ethnic minorities are concentrated. Against this background, the Advisory Committee finds especially regrettable information it received according to which, even when teachers qualified to teach the Romani language would be available, they are not employed.

130. Finally, it may be noted that many Roma parents indicate a preference for their children to focus on learning Bulgarian at school, since they consider that speaking Romani at home is enough to gain proficiency in their mother tongue. However, if quality teaching of the Romani language were more widely available and parents' awareness raised to the strong advantages for children in mastering their mother tongue – advantages which also extend to the acquisition of additional languages, including the official language – this situation could be expected to change.

131. The Advisory Committee notes that the lack of teaching in minority languages is a significant cause of concern for persons belonging to national minorities in Bulgaria, and the current level of availability of mother-tongue instruction, in particular in Turkish and Romani, does not appear adequate to meet the needs of minorities. It regrets that work on a new draft law on education, which was expected to provide an opportunity to resolve some of the issues raised above, came to a halt following the parliamentary elections of 2013. It recalls that as a party to the Framework Convention, Bulgaria has undertaken to recognise that every person belonging to a national minority has the right to learn his or her minority language (Article 14.1) and, in areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if there is sufficient demand, to endeavour to ensure, as far as possible and within the framework of its education system, that persons belonging to those minorities have adequate opportunities for being taught the minority language or for receiving instruction in this language (Article 14.2). The Advisory Committee recalls that minority language teaching is often offered in response to local demand and that regular monitoring of such demands is therefore needed. A purely passive approach on the part of the authorities is not sufficient: demands for education in minority languages should be stimulated through actions such as awareness-raising among parents and young people, actively promoting existing possibilities for minority language teaching and enabling parents belonging to national minorities to make informed choices about

[54] Under the Law on Education as it presently stands, the Ministry of Education is obliged to develop standard curricula only for compulsory subjects. No curricula have been developed for the teaching of minority languages, as these are only offered as elective subjects (see further below).

the language education of their children. Attention must be paid to the languages of numerically smaller minorities, whose languages may be particularly threatened.[55]

Recommendations

132. The Advisory Committee urges the Bulgarian authorities to adopt active measures to affirm and protect the right of persons belonging to national minorities to learn their minority language. It calls on them, in consultation with representatives of national minorities, to raise the awareness of parents and children belonging to national minorities as to the existing possibilities of teaching of minority languages and the steps they can take in order to have such teaching introduced in their children's schools. It further calls on them, in consultation with representatives of national minorities, to undertake a detailed examination of existing demands for such teaching, including an analysis of any factors currently discouraging minority parents and children from requesting it. While these actions are especially urgent as regards the Turkish and Romani languages, they should also extend to the languages of numerically smaller minorities.

133. The Advisory Committee also calls on the Bulgarian authorities to review the current status of minority language teaching in the school curriculum, with a view at the very least to ensuring that in areas where there is a demand for it, it is consistently included as a "compulsory elective" subject rather than a purely elective subject.

134. The Advisory Committee strongly recommends that the authorities take a more active role in promoting the development of adequate textbooks for minority language teaching, including through increasing the funding available to support initiatives to develop such textbooks and actively stimulating such initiatives. At the same time, the authorities need to take measures to promote the continuation and, where necessary, reintroduction of university courses for the training of teachers qualified to teach minority languages, to stimulate students to follow such courses and to promote the recruitment of teachers of minority languages in areas where minorities are concentrated.

Article 15 of the Framework Convention

Participation in decision-making processes

Recommendations from the two previous cycles of monitoring

135. In its previous monitoring cycles, the Advisory Committee urged the Bulgarian authorities to take measures to improve minorities' representation in elected assemblies by removing all undue obstacles, including those enshrined in law, to the effective participation in public affairs of persons belonging to national minorities. It recommended that substantial efforts be made to promote a better representation of the Roma at all levels and that attention also be paid to the representation of persons belonging to numerically smaller minorities.

Present situation

136. As regards the participation of persons belonging to national minorities in elected bodies, the authorities have confined themselves to indicating that there are no legal obstacles to the effective participation in relevant decision-making processes and mechanisms of citizens who identify as belonging to ethnic minority groups.

[55] Thematic Commentary No. 3, The Language Rights of Persons Belonging to National Minorities under the Framework Convention, adopted on 24 May 2012, ACFC/44DOC(2012)001 rev, paragraphs 70-71.

137. The Advisory Committee notes that, despite the constitutional restrictions on the establishment of political parties on ethnic, racial or religious lines (see further above, comments under Article 7), persons belonging to national minorities continue to be represented in Parliament, including following the most recent parliamentary elections in 2013; members of the political party Movement for Rights and Freedoms also currently hold a number of Cabinet positions. In regions where minorities live in substantial numbers, persons belonging to national minorities are also mayors and members of locally elected bodies. The Advisory Committee also notes that persons belonging to the Turkish minority have been elected from the lists of a variety of parties at local level, and that this is seen by them as a positive sign of integration in the political system.

138. However, the Roma minority remains largely sidelined from the legislative and executive spheres. Roma representatives have emphasised that no ministers or deputy ministers identify as Roma, very few Roma are employed as civil servants, and only one Member of Parliament identifies as Roma. The number of Roma elected at local level has reportedly decreased severely, from 81 local councillors elected in 1999 from parties representing the interests of Roma to only 17 in the 2011 local elections. The Advisory Committee is concerned that this may weaken decision-making aimed at addressing the situation of Roma in a position of socio-economic disadvantage (see further below), as those making the decisions may lack adequate knowledge of the Roma or even be prejudiced against this minority.

139. The Advisory Committee also reiterates its concerns raised earlier about the repeated refusal to register the UMO Ilinden – PIRIN party (see comments under Article 7 above) as well as about the sense shared by members of some communities that they should refrain from disclosing their minority affiliation if they wish to lead a successful political career (see comments under Article 6 above). The Advisory Committee has not received recent data concerning the presence of persons belonging to numerically smaller minorities in elected bodies.

140. The Advisory Committee recalls that the effective participation of persons belonging to national minorities in electoral and other decision-making processes is a critically important means of empowering minorities to express their views when legislative measures and public policies of relevance to them are designed. Their participation in locally elected bodies is also key to ensuring that decision-making at local level takes due account of the situation of persons belonging to national minorities.

Recommendation

141. The Advisory Committee calls on the authorities to step up their efforts to remove obstacles to and promote a better participation and representation of the Roma and numerically smaller minorities at all levels.

Consultative mechanisms

Recommendations from the two previous cycles of monitoring

142. In its previous monitoring cycles, the Advisory Committee called on the Bulgarian authorities to ensure that the National Council for Co-operation on Ethnic and Demographic Issues could effectively play its role as a consultation mechanism and enable persons belonging to national minorities to participate effectively in decision-making. It also invited ministries and other relevant bodies to maintain direct contacts with representatives of national minorities, including with those that were not part of the above Council.

Present situation

143. The Advisory Committee notes that the main mechanism for ensuring participation of minorities through consultation and coordination is now known as the National Council for Cooperation on Ethnic and Integration Issues (NCCEII). It has been chaired since June 2013 by the Deputy Prime Minister and Minister for Justice. The authorities have indicated that the NCCEII's activities cover ensuring equal opportunities and equal treatment, prevention of racism, xenophobia and discrimination based on ethnicity, improving access to social rights with a focus on the most vulnerable citizens in socio-economic terms, and the preservation and development of the cultural, religious and linguistic identities of minority communities. Its secretariat was also entrusted in 2011 with coordinating the process of updating the Framework Programme for Roma Integration in Bulgarian Society (2010-2020). The Advisory Committee also notes with interest that equivalent councils have been created at regional level in 28 regions.

144. While placing the NCCEII under the chairmanship of a Deputy Prime Minister shows a willingness to give this body a high profile, the Advisory Committee is concerned that there appears to be little political weight given to its work. Moreover, the lack of clear powers of this body, including decision-making powers, weakens its capacity to achieve results in practice. The Advisory Committee refers in this respect to the small budget of the NCCEII (BGN 200 000, or roughly EUR 100 000), which makes it reliant on obtaining contributions from specialised ministries in order to achieve its aims, especially as regards improving access to social rights.

145. As regards the representation of national minorities in the NCCEII, the Advisory Committee welcomes the fact that NGOs representing the interests of a number of minorities – Armenian, Aromanian, Jewish, Karakachan, Roma, Turkish and Vlach[56] – are present in this body. The Advisory Committee also notes with interest that the authorities have indicated that they are open to including additional NGOs representing "new" minorities, such as Russians, Chinese or refugees (see above, comments under Article 3), provided that they meet the criteria for membership, i.e. provided that they can demonstrate that they are legally registered and have been active in a relevant field for at least three years. It regrets, however, that the NCCEII's focus on working exclusively with ethnic minorities means that there is apparently no will on the part of the authorities to include Macedonian or Pomak NGOs in its work. The Advisory Committee observes that integration issues – which it understands in this context as meaning the promotion of a harmonious society, in all its diversity – also fall within the terms of reference of the NCCEII, and that there would appear to be a contradiction between this fact and the current exclusion of some groups whose definition of their identity does not correspond to the formal requirements as interpreted by the authorities.

146. In addition, significant fluctuations in the membership of the NCCEII are of concern, in particular in so far as they may indicate wavering trust of NGOs in the effectiveness of this body or insufficient knowledge of the formalities to be regularly fulfilled for membership. In this context, the Advisory Committee notes with regret that several representatives of Roma NGOs left the NCCEII in early 2013, considering it both hamstrung by its lack of decision-making power and too slow to respond to issues of major concern to them. It further regrets that subsequent requests by these NGOs to meet the Chair of the NCCEII were not acceded to. The Advisory Committee notes however with interest that 47 NGOs applied for membership of the NCCEII in 2014.

[56] See State Report, page 5.

147. The Advisory Committee recalls that consultative mechanisms take on a particular importance where there are no specific arrangements in place to promote the effective participation of minorities in legislative or executive bodies, and notes that their capacity to influence decision-making is all the more crucial in such cases. It underlines the importance of ensuring that adequate resources are made available to support their effective functioning. Where the membership of such consultation mechanisms does not include all groups that have expressed a wish to participate in their work, it is important that the authorities seek alternative means to engage in dialogue with such groups.[57]

Recommendation

148. The Advisory Committee calls on the Bulgarian authorities to clarify the powers and strengthen the role of the National Council for Cooperation on Ethnic and Integration Issues in order to ensure that it enables persons belonging to national minorities to participate effectively in decision-making. It also invites ministries and other relevant bodies to engage in direct dialogue with representatives of national minorities, and with groups that are not part of this Council.

Participation in economic and social life

Recommendations from the two previous cycles of monitoring

149. In its previous monitoring cycles, the Advisory Committee called on the Bulgarian authorities to increase their efforts to address the problems confronting the Roma in fields such as housing, employment and health care. It also emphasised that more determined efforts should be made to improve participation of the Roma – including Roma women – in decision-making processes and involve them as key partners in government programmes aimed at improving their situation.

Present situation

150. As noted above (see comments under Article 4), a number of programmes, strategies and action plans have been adopted in recent years in order to improve the situation of the Roma.[58] The Advisory Committee welcomes these efforts and observes that some positive impacts have been observed, notably as regards improved education outcomes for Roma (see further above, comments under Article 12). It also notes with satisfaction that in parallel to government initiatives such as the appointment of Roma labour mediators, the work of the Ombudsman and the Commission for Protection against Discrimination has helped to resolve individual cases of discrimination in the access of Roma to social rights, for example by preventing the demolition of illegally built housing and forced eviction of its Romani occupants, and to identify systemic changes that could be made to prevent similar problems in future.

151. Nonetheless, the Advisory Committee is concerned that the overall situation of many Roma in Bulgaria remains one of significant socio-economic disadvantage. Many Roma continue to live in poor housing conditions, often in areas with poor infrastructures (lacking hot

[57] See generally Thematic Commentary No. 2, The Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs, adopted on 27 February 2008, ACFC/31DOC(2008)001, part III.3.c), Participation of persons belonging to national minorities through consultative mechanisms.
[58] See also State Report.

running water or running water at all, lacking access to sewerage systems and/or lacking adequate street lighting), and to be at risk of forced eviction.[59]

152. Roma also have an overall lower life expectancy, higher child mortality rate and poorer health status than the rest of the population, frequently accompanied by lower levels of health insurance.[60] The Advisory Committee welcomes the employment of health mediators (105 funded from the state budget and implemented by municipalities from 2009 to 2011, up slightly to 109 in 2012) as a positive step towards improving access to health care and notes with interest that this has enabled extensive vaccination campaigns, health screening tests and awareness-raising measures to be carried out. However, it notes that such efforts need to be sustained and intensified in order to close the health gap in a lasting manner.

153. The Advisory Committee welcomes the initiative to engage labour mediators, whose role is to provide assistance where needed to Roma in their contacts with the authorities, and notably to help them register at employment offices. However, it notes with concern that data from the 2011 census confirms that there remain significant and persisting differences in the level of economic activity of Roma, but also of Turks, compared with ethnic Bulgarians.[61] Discrimination against Roma in access to education (see above, comments under Article 12) contributes to reducing the chances of access to employment and means that unskilled manual labour – a sector hit hard by the economic crisis – is often the only option immediately open to many Roma. Employment in this field is however often informal, meaning those concerned do not have access to social benefits such as health insurance, and do not accumulate pension rights for the periods worked in the informal sector. Roma representatives have also expressed concern that courses offered by the Ministry of Labour for re-training/re-skilling unemployed workers are unhelpful as they are not adapted to market demands nor to the level of education of many long-term unemployed Roma.

154. As regards the participation of Roma women in decision-making processes, the Advisory Committee welcomes the information provided by the authorities according to which the new Framework Programme for integration of Roma in the Bulgarian society (2010-2020) emphasises the need to involve actively citizens of Roma origin, in particular women, in its implementation. It notes that under the heading "Rule of law and discrimination", the National Roma Integration Strategy includes the task of "Creating the mindset of recognition of the equality of the Roma women. Encouraging their full individual, social and economic participation in social life." However, the only actions specifically aimed at improving the situation of Roma women in the Action Plan for the Implementation of this Strategy relate to pregnancy, childbirth and their role as mothers. While improvements in the level of healthcare and support available in these areas would clearly be welcome, the Advisory Committee finds regrettable that other aspects of women's lives, including their active participation in decision-making processes concerning the rights of Roma, appear to have been disregarded.

[59] See for example Naidenova et al. v. Bulgaria, CCPR/C/106/D/2073/2011: in this case the authors of the complaint to the UN Human Rights Committee had not been evicted but were threatened with eviction. See also Yordanova and others v. Bulgaria, application no. 25446/06, judgment of 24 April 2012, in which the European Court of Human Rights found that, although the State did not have an obligation to tolerate unlawful occupation of land indefinitely, the enforcement of a removal order issued on the basis of legislation that did not require the examination of proportionality and both issued and reviewed under a decision-making procedure that did not offer safeguards against disproportionate interference would violate the applicants' rights under Article 8 ECHR; the examination of the execution of this judgment is still pending before the Committee of Ministers.

[60] See United Nations Human Rights Council, Report of the independent expert on minority issues: Mission to Bulgaria (4 to 11 July 2011), A/HRC/19/56/Add.2, paragraphs 40-42.

[61] See NSI data for 2011 cited in the National Roma Integration Strategy of the Republic of Bulgaria (2012-2020).

155. The Advisory Committee underlines that the effective participation of persons belonging to national minorities in the socio-economic field is crucial for enhancing social cohesion, as keeping national minorities on the periphery of society can lead to social exclusion and increased tensions among groups (see also above, comments with respect to Article 6). It notes with interest that a series of consultations were held at local level, including with representatives of Roma NGOs, during the process of drawing up the National Roma Integration Strategy designed to address these issues, and welcomes this participatory approach. However, it deplores the fact that, despite the requests of Roma representatives in this respect, no budget was included as part of the Strategy, and observes that this is likely to hamper significantly the achievement of the goals it sets. It again emphasises the need to ensure that the implementation of the measures concerned is regularly reviewed, in close consultation with representatives of the Roma, and refers to its earlier recommendation in this respect (see above, Article 4).

Recommendations

156. The Advisory Committee strongly recommends that the Bulgarian authorities pursue and intensify their efforts to address the problems confronting many Roma in fields such as housing, employment and health care, in order to ensure their full and effective participation in the socio-economic life of the country. It further recommends that they take measures to address discrimination in access to employment experienced by persons belonging to other groups, such as the Turkish minority.

157. More determined and effective measures must be taken to improve the participation of Roma women in decision-making processes at all levels and involve them as key partners in government programmes aimed at improving their situation.

III. CONCLUSIONS

158. The Advisory Committee considers that the present concluding remarks could serve as the basis for the conclusions and recommendations to be adopted by the Committee of Ministers with respect to Bulgaria.

Positive developments following three cycles of monitoring

159. In 2011 a census was conducted. Optional questions on ethnic affiliation, mother tongue and religious belief and denomination were included, following consultations held with the National Council for Cooperation on Ethnic and Integration Issues (NCCEII) and the minority groups represented in it regarding the definition of the relevant concepts.

160. The Commission for Protection against Discrimination has continued to deal with individual complaints of racial and ethnic discrimination under the Antidiscrimination Act and has expanded its network of regional representatives. The approval of an increase in the Commission's annual budget for 2014 is welcome. The Ombudsman has also dealt with a number of complaints since 2010 from persons belonging to national minorities, notably Roma.

161. A range of provisions relevant to the protection of the cultural rights of persons belonging to national minorities exists and the authorities are currently engaged in a welcome process of drawing up a national cultural strategy, including the promotion of cultural diversity as a specific operational objective. The authorities have issued an open invitation to all non-governmental organisations that wish to participate in this process.

162. Ten minutes of television and three hours of medium-wave radio programming in Turkish continue to be broadcast daily. An increased offer of audiovisual programming in Turkish as well as in other minority languages, produced in Bulgaria and covering issues relevant to life in Bulgaria, is however still necessary to cover the needs of persons belonging to national minorities, and could moreover serve as a significant factor in strengthening integration in Bulgarian society.

163. Minority language teaching is provided in Turkish, Armenian, Arabic and Greek, although the numbers of pupils studying their minority language is low compared with the corresponding census figures.

164. A number of programmes, strategies and action plans have been adopted in recent years in order to improve the situation of the Roma, most recently the National Roma Integration Strategy of the Republic of Bulgaria (2012-2020). This was followed by work with regions and municipalities to create strategies specific to each region of Bulgaria and action plans at the level of each municipality. The number of Roma achieving better education outcomes, including completing university education, has increased in recent years and successful school desegregation projects have been carried out. Initiatives such as the employment of health and labour mediators have also proved positive.

165. Persons belonging to national minorities continue to be represented in Parliament, including following the most recent parliamentary elections in 2013, and, in regions where minorities live in substantial numbers, they are also mayors and members of locally elected bodies. The NCCEII, which is the main mechanism for ensuring participation of minorities

through consultation and coordination, includes NGOs representing the interests of a number of minorities and the authorities have indicated that they are open to including additional NGOs.

Issues of concern following three cycles of monitoring

166. The authorities maintain the position that they will not recognise the existence of the Pomak and Macedonian minorities as such and they have not organised any consultations or discussions on the protection offered by the Framework Convention with representatives of Pomaks or Macedonians, although these groups have repeatedly expressed their wish to benefit from the protection of the Framework Convention. During the census, persons who wished to declare a Macedonian or Pomak identity were reportedly actively discouraged or even prevented from declaring these affiliations. Many Macedonian organisations took the position that the census figure regarding Macedonians must therefore be rejected as a matter of principle. The number of persons having declared themselves as Pomaks was moreover not published with the overall census results, and the number having declared a Roma ethnic affiliation is much lower than unofficial estimates. There was also a sharp and as yet unexplained increase in the number of persons preferring not to disclose their ethnic affiliation in this census.

167. Issues faced by persons belonging to national minorities do not appear to be high on the agenda of the Commission for Protection against Discrimination and the latter does not appear to be closely attuned to the need to take adequate measures to promote the full and effective equality of persons belonging to national minorities.

168. The lack of a clearly defined and easily accessible government policy regarding the protection of the cultural rights of persons belonging to national minorities may hamper the exercise in practice of these rights. Certain tensions surrounding state support to minority cultures have also been observed.

169. The overall climate of tolerance in Bulgarian society appears to have deteriorated. Racism has become increasingly widespread in political discourse and the media. There has been a proliferation of extremist political parties, some of which actively instrumentalise anti-immigrant and anti-Roma sentiments. Some government policy – including proposals to respond to a sudden influx of asylum-seekers by building a fence along part of its border with Turkey – has tended to aggravate these messages, and legal remedies in cases of hate speech do not appear to be very effective in practice. There has also been a worrying rise of physical attacks against refugees, asylum-seekers and persons perceived as belonging to these groups, as well as many attacks on places of worship used by persons belonging to national minorities, notably mosques. Numerous physical attacks against Roma have also occurred. There is still no general provision in the Criminal Code making racist motivations an aggravating circumstance for all offences and it is reported that offences for which charges could be brought under the criminal law provisions that expressly prohibit specific racist acts are rarely prosecuted as such.

170. The existing constitutional and legal restrictions on the formation of political parties on ethnic, racial or religious lines raise serious problems of compatibility with Article 7 of the Framework Convention. Restrictive applications of the procedures for the registration of associations and political parties and of the rules governing the right of peaceful assembly are also of concern.

171. The current offer of audiovisual programming in minority languages, produced in Bulgaria and covering issues relevant to life in Bulgaria, is not sufficient to cover the needs of persons belonging to national minorities.

172. It appears that the authorities have made no attempt to assess the needs of persons belonging to national minorities in a number of fields, including as regards the use of minority languages in contacts with administrative authorities and the display of topographical indications in minority languages, or to legislate so as to ensure that minority languages can be used in these fields in accordance with the provisions of the Framework Convention and on the basis of clear and transparent regulations. Minority representatives also report continuing difficulties in having non-Slavic names officially recognised and experiencing negative consequences when they choose to use their non-Slavic name.

173. The number of pupils studying Turkish has fallen dramatically in the last twenty years and no pupils are currently studying the Romani language as a mother tongue. Minority-language teaching is only offered as an element of the elective chapters of the school curriculum, and the only option is teaching of the minority language, with no provision made for other subjects to be taught in the minority language or for bilingual teaching. Adequately trained teachers and up-to-date textbooks are also lacking.

174. The Action Plans developed under the National Roma Integration Strategy are not currently funded. Moreover, the designation of the intended beneficiaries of these strategies raises issues from the point of view of the Framework Convention and needs clarification. The overall situation of many Roma in Bulgaria remains one of significant socio-economic disadvantage. Many Roma continue to live in poor housing conditions, often in areas with poor infrastructures, and to be at risk of forced eviction. The overall health status of Roma is significantly lower than that of the rest of the population and there remain significant and persisting differences in the level of economic activity of Roma compared with ethnic Bulgarians. The proportion of Roma pupils who do not complete secondary school or who never complete any level of education also remain significantly higher than the overall figure for the Bulgarian population.

175. The NCCEII's focus on working exclusively with ethnic minorities means that it shows little will to include representatives of groups that the authorities do not recognise as ethnic minorities in its work, despite the potential of this body to promote integration. Moreover, the lack of clear powers of this body, including decision-making powers, as well as its small budget, weaken its capacity to achieve results in practice.

Recommendations

176. In addition to the measures to be taken to implement the detailed recommendations contained in Sections I and II of the Advisory Committee's Opinion, the authorities are invited to take the following measures to improve further the implementation of the Framework Convention:

Issues for immediate action[62]

- **make specific budgetary provision for the implementation of the current national, regional and municipal strategies and action plans for the integration of Roma, and regularly evaluate and review the implementation of the various strategies and action plans, in close consultation with representatives of the Roma;**

[62] The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

- **systematically condemn hate crimes and hate speech and step up efforts to ensure that all racially motivated offences are effectively identified, investigated, prosecuted and sanctioned;**

- **adopt active measures to affirm and protect the right of persons belonging to national minorities to learn their minority language and undertake a detailed examination of existing demands for such teaching, including an analysis of any factors currently discouraging minority parents and children from requesting it;**

- **ensure that persons belonging to national minorities are able to participate effectively in decision-making, inter alia through clarifying the powers and strengthening the role of the National Council for Cooperation on Ethnic and Integration Issues;**

- **pursue and intensify efforts to address the socio-economic problems confronting persons belonging to minorities, particularly Roma, in fields such as housing, employment and health care.**

Further recommendations[63]

- engage in direct and constructive dialogue with persons belonging to groups interested in the protection offered by the Framework Convention and pursue an inclusive approach in respect of the personal scope of application of the Framework Convention, in consultation with those concerned and in accordance with the provisions of the Convention;

- ensure that the Commission for Protection against Discrimination and the Ombudsman have adequate resources to take effectively into account the concerns and rights of persons belonging to national minorities;

- step up efforts to support initiatives aimed at protecting, preserving and developing the cultural identity of minorities and work closely with representatives of national minorities in drawing up a national cultural strategy;

- remove all remaining legal obstacles preventing interested groups from exercising the freedom of association guaranteed by the Framework Convention, and review anew the conditions applicable to the registration of political parties;

- increase the financial support provided to ensure access of persons belonging to national minorities, including numerically smaller minorities, to radio and television programmes in minority languages; ensure that programming in minority languages is adequate to cover the needs of persons belonging to national minorities and that programmes in minority languages are broadcast at times when they can be followed by the greatest possible audience;

- assess, in close consultation with representatives of national minorities, the extent to which there exists a need and demand for the use of minority languages in dealings with the administrative authorities and for topographical and similar signs to be

[63] The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

displayed in minority languages, in the geographical areas where the relevant conditions of the Framework Convention are met; establish by law clear criteria and transparent procedures on how and when these rights may be exercised; identify and eliminate any remaining impediments to the full official recognition and use in daily life of names in minority languages;

- pursue and intensify efforts to eliminate segregation in schooling and to promote the full integration of Roma children in mainstream schools and classes, including through measures targeted specifically at improving the access of Roma children to kindergarten, at encouraging them to remain in school until they complete their secondary education and at helping parents to support their children in this respect;

- actively promote the development of adequate textbooks for minority language teaching as well as the continuation and, where necessary, reintroduction of university courses for the training of teachers qualified to teach minority languages.