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

Second opinion on the Czech Republic adopted on 24 February 2005

EXECUTIVE SUMMARY

Since the adoption of the Advisory Committee's first Opinion in April 2001 and of the Committee of Ministers' Resolution in February 2002, the Czech Republic has taken new commendable measures to improve the protection of national minorities. These measures demonstrate the authorities' commitment to establish a genuine public policy in the field. Positive developments are noted at the legislative level, in particular as regards the use of minority languages in the public sphere, as well as in the field of education. As regards practice, increased efforts have been made in most of the relevant sectors, with particular accent on the situation of the Roma. Additional measures have been also taken to improve inter-ethnic dialogue.

Difficulties persist, however, in the implementation of certain parts of the relevant legislation, notably at the local level. In addition to the unsatisfactory involvement of local authorities, there are reported difficulties with regard to the identification of the geographical areas concerned by such measures, as well as shortcomings in terms of participation of minority representatives. Further efforts should also be taken to strengthen prevention of, and fight against, intolerance and discrimination.

The situation of the Roma, which continues to be a matter of concern, requires more resolute action by the authorities. Priority should be given in this action to the considerable difficulties faced by the Roma in fields such as housing and employment, as well as to the educational situation of Roma children, and to the allegations of sterilisation of Roma women without their prior free and informed consent.

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

SECOND OPINION ON THE CZECH REPUBLIC

1. The Advisory Committee adopted the present Opinion on 24 February 2005 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 second State Report (hereinafter the State Report), received on 2 July 2004, and other written sources and on information obtained by the Advisory Committee from governmental and non-governmental contacts during its visit to Prague and Ostrava, from 29 November to 2 December 2004.

2. Section I below contains the Advisory Committee's main findings on key issues pertaining to the implementation of the Framework Convention in the Czech Republic. 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 first cycle of monitoring of the Framework Convention, contained in the Advisory Committee's first Opinion on the Czech Republic, adopted on 6 April 2001, and in the Committee of Ministers' corresponding Resolution, adopted on 6 February 2002.

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

5. The Advisory Committee looks forward to continuing its dialogue with the authorities of the Czech Republic, 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.

I. MAIN FINDINGS

Monitoring procedure

6. The Czech Republic has adopted a constructive approach to the monitoring process of the Framework Convention. In December 2003, it hosted a follow-up seminar, with representatives of national minorities and of the Advisory Committee, to discuss the best ways of putting the monitoring findings into practice. In view of the interest shown by representatives of national minorities in the monitoring process and its results, more could be done in terms of awareness-raising on these results, including through translation of relevant documents, such as the Opinion of the Advisory Committee, the State's comments and the Resolution of the Committee of Ministers. In preparing the second State Report, the authorities consulted minority representatives, and included at least some of their concerns in the text of the Report. Their clear wish to comply with the recommendations made during the first monitoring cycle and to implement the Framework Convention more systematically also needs to be welcomed, as well as their open, self-critical spirit in pursuing their dialogue with the Advisory Committee.

General legislative framework

7. Legislative changes that have been introduced since the entry into force of the National Minorities Act (2001) illustrate the strategic efforts made to complete and expand legislation on the protection of national minorities. Concerning the use of minority languages in the public sphere, improvements have been made, in particular through amendments to several relevant laws, such as the Act on Administrative Procedure, the Code of Criminal Procedure, the Act on Civil Status Registers and the laws on local and regional self-government. The recent adoption of a new Education Act (Act N° 561/2004 Coll.) represents a development that has been particularly awaited by the national minorities.

Application of laws in practice

8. The Czech authorities' concern to develop a genuine policy for the protection of national minorities is to be welcomed. Thus, alongside sectoral measures adopted for that purpose, the Government has included funds in the annual state budget to support minorities' activities, and it has set up a special procedure for access to those funds. A more active effort to inform national minorities of funds available and procedures for obtaining them would be particularly useful.

9. Implementation of the Government's policy for the protection of national minorities continues to pose problems at local and regional level. In spite of some laudable initiatives taken at local level, particularly to improve the situation of Roma and dialogue with this community, many local authorities show only limited interest in protecting minorities. While duly taking into account the principles of local self-government, more resolute efforts are needed (including awareness-raising efforts) to

ensure that local authorities implement more effectively the legislation pertaining to the protection of national minorities, as well as international standards binding on the Czech Republic in this area. Increased efforts are needed, more generally, to ensure increasingly effective implementation, at all levels, of the National Minorities Act adopted in 2001.

Collection of data

10. Although a further population census was carried out in 2001, there are still significant discrepancies between official figures for, and unofficial estimates of, the number of persons belonging to certain national minorities, and particularly Roma. Numbers are one of the main legislative criteria to determine geographical areas where protective measures for national minorities, in such fields as education and official use of minority languages, apply. This makes it particularly important to find new ways of obtaining reliable data on the number, situation and possible problems of persons belonging to national minorities in different sectors.

Tolerance and intercultural dialogue

11. Although the general climate in Czech society is one of mutual respect and understanding, and significant improvements have been made in interethnic dialogue, there are still reports of prejudice and intolerance directed at certain persons - particularly Roma and foreigners. In spite of the many measures taken by the authorities to promote respect for diversity and to combat intolerance, negative attitudes still persist among the population, as well as some media and public authority representatives, particularly at the local level.

12. Of similar concern is the persistence of attitudes of intolerance and hostility on the part of certain police officers, extending to violence in some cases, towards persons belonging to more vulnerable groups, and particularly Roma. The authorities should monitor the situation more closely, and ensure that independent supervision mechanisms of the police are available. They should also ensure that any such incidents are investigated promptly, impartially and effectively, and that adequate sanctions are applied when appropriate. Systematic training in human rights and awareness-raising measures should also help to improve the situation.

Situation of the Roma

13. The situation of the Roma remains particularly disturbing. Although the authorities have taken numerous measures, Roma still face serious difficulties and discrimination in most areas of life, including employment, housing, health, access to public services, and education. In addition, they are confronted with attitudes of intolerance and hostility by the population at large, as well as, in some cases, by public authority representatives, including some police officers.

14. Although the authorities have done much to improve it, the educational situation of Roma children remains a subject of special concern. Clear and co-ordinated action by

central, local and regional authorities is needed to solve their many problems in this area, and put an end to their persistent isolation within the school system. In particular, the authorities must ensure that unjustified placement of these children in “special” schools is effectively abolished.

15. As regards allegations of cases of sterilisation of Roma women without their prior free and informed consent, the active role played by the Ombudsman in the investigations opened in this context is to be welcomed. The authorities must ensure that the above-mentioned investigations bring clarity as regards the alleged existence of such practices. If these allegations prove founded, there should be no delay in compensating the victims, imposing appropriate sanctions, and making any necessary changes in laws and procedures.

Use of minority languages

16. The Czech Republic now has legislation authorising the public use of minority languages, under certain conditions, in contacts with the authorities, and on bilingual signs and notices. However, further action is needed to ensure that this legislation is effectively implemented in practice. In particular, shortcomings have been noted with regard to the areas to which this legislation applies and the relevant procedures. More attention should be paid, when decisions on application are being taken, to the actual size, needs and demands of national minorities. In addition, further efforts are required to increase the use of minority languages in the media and the presence of persons belonging to national minorities in the media.

Education

17. In recent years, further measures have been taken to promote knowledge and appreciation of the traditions, languages and cultures of national minorities in Czech schools. Notwithstanding these measures, increased efforts are necessary to eliminate remaining shortcomings in this area.

18. The new Education Act represents a significant step forward for national minorities, as far as the teaching of minority languages and in these languages is concerned. Nonetheless, there are certain shortcomings in the legal conditions and modalities required for providing such teaching. In the context of the implementation of the new law, the authorities should take into account the real situation, needs and expectations of persons belonging to national minorities.

19. It is too early to determine if the approach adopted in the new Education Act will ensure that the unjustified placement of Roma children in “special” schools ceases - and, more generally, that Roma children are no longer isolated within the school system. The authorities should constantly examine these problems in consultation with those concerned and ensure that, when the new Act is implemented, the principles laid down in the relevant provisions of the Framework Convention are fully implemented. More

generally, increased efforts are expected at all levels in terms of implementation of governmental programmes for support of the Roma children in the sphere of education.

Participation

20. Conditions in the Czech Republic are in general conducive to effective participation by national minorities in public affairs. In this connection, note should be taken of the active role played in governmental policy for the protection of national minorities by the Government's Council for National Minorities, and the genuine partnership which exists between it and national minorities' organisations.

21. Effective participation of persons belonging to national minorities at local and regional level continues to pose problems. Although the local committees for national minorities provided for in the National Minorities Act represent an important step forward, they have not been systematically established in areas where the legal conditions for having them are satisfied. Moreover, their status and functions have not been made sufficiently clear, and so their impact remains limited. More generally, the authorities have yet to find ways of ensuring that minorities benefit - like the majority - from the better management of public affairs which decentralisation has brought with it, and that minorities do not see decentralisation itself as a threat to their interests.

22. Effective participation of the Roma in various sectors, for example in economic and social life, housing, education and in the taking of decisions which affect them, still causes serious problems. Taking greater local and regional authority involvement and co-operation with Roma representatives as their starting point, the authorities must devise new and more effective ways of substantially increasing Roma participation and integration within Czech society.

II. ARTICLE-BY-ARTICLE FINDINGS

ARTICLE 3 OF THE FRAMEWORK CONVENTION

Personal scope of the Framework Convention. Citizenship criterion in defining the term “national minority”

Findings of the first cycle

23. In its first Opinion on the Czech Republic, the Advisory Committee noted that a law on the protection of national minorities was then being drafted, and hoped that its adoption would not lead to a limitation of the personal scope of application of the Framework Convention.

24. It noted that only citizens could be recognised as persons belonging to national minorities, and that there were other groups not regarded by the Government as protected by the Framework Convention.

Present situation

Positive developments

25. The “Act on the rights of members of national minorities and the amendment of certain laws” (Act No. 273/2001, of 10 July 2001, hereinafter “the National Minorities Act”), does not list officially recognised national minorities, but Article 2 defines the terms “national minority”¹ and “member of a national minority”.²

26. The Advisory Committee understands that the persons protected in the Czech Republic by the Framework Convention are, in practice, those who belong to groups represented on the Council for National Minorities, a government advisory body. These are Bulgarians, Croats, Hungarians, Germans, Poles, Roma, Ruthenians, Russians, Greeks, Slovaks and Ukrainians, as well as Serbs, who have recently been included. This recent inclusion of Serbs shows that the Czech authorities favour an open approach to the personal scope of application of the Framework Convention, which is to be welcomed. This approach is also illustrated in respect of the Jews, who are covered by the State support programmes for national minorities, despite the fact that most of them regard themselves as a cultural or religious community, rather than a national minority.

¹ “A community of citizens of the Czech Republic, who live on the territory of the present Czech Republic and as a rule differ from other citizens by their common ethnic origin, language, culture and traditions; they represent a minority of citizens and they show their will to be considered a national minority for the purpose of common efforts to preserve and develop their own identity, language and culture, and at the same time express and preserve interests of their community which have been formed during history”.

² “A citizen of the Czech Republic who professes other than Czech ethnic origin and wishes to be considered a member of a national minority in common with other persons who profess the same ethnic origin”.

27. Obviously, non-citizens have access to the measures included in the Government's special programme for the integration of foreigners. Because of shared ethnic origins, however, many of them (for example, Russians and Ukrainians) participate in the cultural or other activities of groups traditionally resident in the Czech Republic. They can therefore freely avail of state support provided for those groups, and use it to preserve their identity more effectively, without actually being recognised as national minorities. As stated by the Government in its observations on the Advisory Committee's first Opinion (concerning Article 5 of the Framework Convention), other groups, such as the Vietnamese, also have access to the subsidies provided by the state for the cultural activities of various communities.

28. The official approach, as embodied in the National Minorities Act, is that the personal scope of application of the Framework Convention only applies to citizens. However, the situation outlined above shows that, in practice, the Czech authorities' position is more open and flexible. The Advisory Committee welcomes the fact that the authorities continue to consider, where appropriate, the inclusion of persons without citizenship of the Czech Republic in the application of the Framework Convention on an article-by-article basis.

Recommendations

29. While taking note of the citizenship criterion included in the definition of "national minority" given in Czech legislation, the Advisory Committee encourages the authorities to pursue an open and flexible approach referred to above, and not to use this criterion to exclude certain persons from the personal scope of application of the Framework Convention.

Collection of data

Findings of the first cycle

30. In its first Opinion on the Czech Republic, the Advisory Committee noted that there were doubts concerning the reliability of the census-based figures on the number of persons belonging to national minorities. The authorities were invited to find ways of obtaining more accurate statistics on the ethnic composition of the population, essential to any effective policy for the protection of national minorities.

Present situation

a) Positive developments

31. A general census of the population was carried out in March 2001, and the findings have since been made public.³ The Advisory Committee welcomes the fact that national minority representatives were consulted in advance on the formulation of the questions relating to ethnic affiliation and mother tongue included in the census forms, and that both the forms and the accompanying explanatory material were published in several minority languages (German, Polish, Romany, Russian, Ukrainian), as well as English, French, Vietnamese, Arabic and Chinese. It also welcomes the fact that persons belonging to minorities, including the Roma, were directly involved in carrying out the census.

b) Outstanding issues

32. The census figures show a marked decrease, since the previous census (1991), in the number of persons declaring an ethnic origin other than that of the majority. The authorities see this as reflecting an increasing tendency on the part of respondents not to identify with national minorities. To explain this tendency, they suggest various reasons, for example, greater homogeneity within Czech society, the optional character of the ethnic question, increased integration of certain groups, refusal or reluctance to declare an ethnic origin other than that of the majority, or terminological confusion (failure to distinguish the terms indicating Czech citizenship and ethnic affiliation).

33. Minority representatives, on the other hand, consider that this is also due to certain organisational shortcomings of the census, such as failure to publicise the availability of forms in minority languages, and a lack of transparency in selecting persons belonging to national minorities to serve as census-takers. In the run-up to the census, certain media insisted on the danger that personal data might be misused, and this also seems to have been a significant factor.

34. The Advisory Committee notes that the authorities favour using independent surveys and research to supplement and refine the census data. It also notes, however, that they mention difficulties which impede data collection, one being the distrust of the process shown by certain persons belonging to minorities, and particularly the Roma.⁴

35. As in the previous census, “Moravians” or “Silesians” (altogether 391,352 persons, or approximately 3.8% of the population) figure again among large groups amongst the population on the basis of self-identification. According to the authorities, this self-identification in no way denotes ethnic affiliation, but simply reflects these persons’ wish, for historical or other reasons, to associate themselves with a regional identity, instead of indicating an ethnic origin.

³ According to the results of the 2001 census, a “nationality” other than Czech was reported by 980,283 persons (9,4% of the population). The largest groups concerned are the following: 380,474 Moravians (3.7%); 193,190 Slovaks (1.9%); 51,968 Polish (0.5%); 39,106 Germans (0.4%); 22,112 Ukrainians (0,2%); 14, 672 Hungarians (0.1%); 12,369 Russians (0,1%); 11,746 Roma (0.1%); 10,878 Silesians (0.1%).

⁴ While the 2001 census figures indicate that there are 11,746 Roma (0.1% of the population) and 23,211 speakers of the Roma language, unofficial estimates, which are not contested by the authorities, put the real number of Roma living in the Czech Republic at 150,000 to 200,000.

Recommendations

36. The Advisory Committee encourages the authorities to engage in dialogue with the persons concerned on trends highlighted by the latest population census and their consequences, so that they can better assess the practical impact of those trends on their policies for the protection of national minorities.

37. The authorities are encouraged to devise new ways of obtaining information on the actual number of persons belonging to national minorities, while ensuring that the international rules on the protection of personal data are respected. Additional information and awareness-raising measures are also needed to encourage the persons concerned to use the possibility of indicating their ethnic affiliation in the next census.

ARTICLE 4 OF THE FRAMEWORK CONVENTION

Legal and institutional protection against discrimination

Findings of the first cycle

38. In its first Opinion on the Czech Republic, the Advisory Committee found that there were certain shortcomings in legal and institutional protection against discrimination, and called for firm action to correct them.

a) Positive developments

39. The Advisory Committee welcomes the fact that amendments have been adopted to several legislative acts in order to improve protection against discrimination in relevant sectors, such as civil procedure, administrative procedure and labour law. Moreover, although after a considerable delay, legal protection against discrimination is now being strengthened by an important normative text, since the bill on equal treatment and protection against discrimination was approved by the Government at the end of 2004. This text aims to transpose the EU Directive No. 2000/43/EC on implementing the principle of equal treatment between persons irrespective of racial or ethnic origin into domestic law. It will combine and consolidate, within a single document, the legal means of protection against all forms of discrimination in many areas of life. It also improves institutional protection by providing for the setting-up of an Equal Treatment Centre - a specialised body dealing with questions of equal treatment and discrimination.

40. The Advisory Committee also wishes to pay tribute to the work of the Ombudsman, which particularly benefits persons belonging to national minorities (see, in this connection, the comments contained in paragraph 60 below). It notes that the Ombudsman's Office, reportedly one of the most respected of the Czech institutions, will continue, as far as its remit allows, dealing with equal treatment issues.

41. The Advisory Committee notes with satisfaction that, generally speaking, minority representatives consider that they enjoy equal treatment in all areas of life, and report that there is no particular problem of discrimination.

b) Outstanding issues

42. The Advisory Committee wishes to draw attention to significant discrepancies between official census figures and non-governmental estimates, which suggest that the real numerical size of national minorities is considerably under-estimated. The Advisory Committee finds the lack of reliable figures particularly disturbing in view of the fact that numerical thresholds, based on minorities' share in the population, are one of the criteria which determine application of certain important measures in such fields as education, use of minority languages for certain official purposes, and participation in public affairs.

43. It is also difficult to assess the extent to which full and effective equality exists between persons belonging to national minorities and the majority in the absence of figures - broken down by age, sex and geographical distribution - on the real situation of these persons in various areas, for example, education, employment and housing. This is particularly important for the Roma, when measures to improve their living conditions and integration into the society, are being planned, implemented and monitored (see the comments on Articles 3, 5, 10, 11, 12, 14 and 15 below).

44. The Advisory Committee also notes that, apart from the difficulties faced by the Roma in various fields, limited information is available on instances of ethnic discrimination, investigative action and the number of cases where victims have been properly compensated (see also comments on Article 6 below).

Recommendations

45. The authorities are encouraged to make every effort to accelerate the adoption and entry into force of the new anti-discrimination legislation, and use all available means, including information and awareness-raising campaigns, to ensure its effective implementation. In particular, they should ensure that the Equal Treatment Centre is established without delay, and give it all the resources needed to fulfil its mission properly.

46. Similarly, more support should be provided for the Ombudsman, and the institutions to which its recommendations apply should be more responsive to them.

47. The authorities are also expected to take further action to collect data on the situation of minorities in the various sectors, including the frequency of cases of discrimination, investigative measures and action taken on the latter.

Application of the principles of equal treatment and non-discrimination with respect to the Roma

Findings of the first cycle

48. In its first Opinion on the Czech Republic, the Advisory Committee found that there were considerable socio-economic inequalities between Roma and the rest of the population, and called for more resolute action to remove them. It noted that discrimination was still frequent against Roma, and recommended that the authorities pay special attention to solving this problem, including by providing a suitable legislative basis and effective remedies.

Present situation

a) Positive developments

49. The Advisory Committee welcomes the fact that Czech society, including state authorities, is increasingly becoming aware of problems faced by Roma when it comes to equal treatment and non discrimination. For instance, Czech courts have, in recent years, given a certain number of decisions recognising that Roma have suffered discrimination in specific sectors, such as housing, employment and access to public places.

b) Outstanding issues

50. The Advisory Committee takes note with concern of the serious problems which Roma still face in most areas of life, and of the social exclusion and marginalisation which they continue to face. Although many measures have been taken under the Government's Roma integration policy, their situation, in terms of equality and discrimination, remains a major challenge. In most sectors there are considerable disparities between Roma and the majority population, as well as other national minorities.

51. While being aware of the fact that available data may be fragmentary, the Advisory Committee underlines that unemployment figures for Roma are particularly high, with estimates ranging from over 50% to 70%, and even 90% in certain cases. The Advisory Committee finds it disturbing that, although the Czech legislation provides protection against discrimination in this sector, many Roma still encounter discriminatory practices in the labour market and the Government's employment policies have had no real impact on their situation.

52. Roma report that they have serious problems in the housing field. Their situation in this area has not only failed to improve, but actually shows a dangerous tendency to become even worse. The authorities are aware of the gravity of this situation.⁵ They admit

⁵ See the Government policy concept for integration of the Roma, 2004.

that, until the new anti-discrimination legislation is passed, and in the absence of any other text offering specific protection in this area, Roma are particularly vulnerable in the housing sector. A shortage of subsidised housing, restrictive conditions on access to such housing, and their own social and economic insecurity, leave Roma open to discriminatory attitudes and treatment. The most serious issue in this respect is the persistence of such discriminatory practices on the part of certain local authorities. Instead of seeking lasting solutions to the housing problems of Roma, these authorities often take measures (including numerous cases of eviction) which simply perpetuate their segregation, marginalisation and distress.

53. Roma have equally serious problems in other areas, such as access to public services, health or protection of their rights by the courts. There are many reports of continuing discrimination in these areas, and of intolerance and hostility towards Roma (see also the comments under Article 6 below).

54. The Advisory Committee notes with concern that such practices and attitudes are still being reported in education, another sector where the Roma have special problems, in spite of the authorities' efforts in the last few years to improve their situation. One of the main problems noted is related to undue placement of Roma children in "special" schools (for details, see comments under Article 12 below).

55. The situation of Roma in the health field is no less disturbing. Here again, it appears that they do not always receive equal treatment from the medical or administrative staff concerned, and that their general health situation is still markedly worse than that of the rest of the population. The recent initiative of employing Roma assistants within the health system to facilitate communication and an approach more suited to their specific situation, is to be welcomed (see also the comments in paragraph 60 below).

Recommendations

56. The authorities are strongly encouraged to pay particular attention to the initiative - recently launched and apparently well received by civil society - for the setting-up of a special agency to combat social exclusion.

57. The authorities should also pursue and expand the sectoral measures aiming to improve the situation of Roma, while ensuring that these measures respond to the real needs of Roma and are adequately funded. As a matter of urgency, more resolute action should be taken in the housing field. At the same time, care should be taken to ensure that this action does not help to perpetuate segregation of Roma. In employment, special attention should be paid to Roma youth as well as to Roma women, who often suffer discrimination on both counts.

58. Roma themselves should also be consulted and involved more systematically in projects and programmes designed for them, and there should also be more effective partnership with NGOs in this area.

59. The authorities should look into the causes of inadequate implementation of the Government policy for the Roma integration at local level. With due respect to the principles of local self-government, they should verify whether legislative or other measures are needed to define more exactly the role and responsibilities of local authorities in areas affecting national minorities, and to make their action in this field more effective.

Allegations concerning the sterilisation of Roma women without their prior free and informed consent

60. The Advisory Committee is deeply concerned at recent allegations, from non-governmental sources, of cases of sterilisation of Roma women without prior free and informed consent. It notes that, in response to the criticisms voiced in this context both nationally and internationally, the Ombudsman decided, in the second half of 2004, to investigate those allegations, and brought the matter to the attention of the relevant state authorities. It is important that the authorities have decided, although after delays, to set up a special commission of enquiry within the Ministry of Health. The Advisory Committee also notes that, encouraged by public discussion on these claims, and with the support of various human rights organisations, 61 persons have decided, according to recent non governmental information, to lodge a formal complaint with the Ombudsman.

Recommendations

61. The Advisory Committee urges the authorities to ensure that investigation of these allegations is conducted in optimum conditions of transparency, independence and impartiality by the special commission of enquiry established by the Ministry of Health. It is essential that undue delays in publication of the findings be avoided, and that any cases where persons or authorities appear to have committed the acts complained of, be pursued vigorously by law enforcement authorities.

62. The authorities should also ensure that the existing legal regulations are fully respected, and that more comprehensive regulations are adopted, in compliance with relevant international standards, in order to define prior free and informed consent with sufficient clarity. Competent bodies are encouraged to ensure that concerned doctors respect the relevant principles of professional ethics.

ARTICLE 5 OF THE FRAMEWORK CONVENTION

Support for the cultural activities of persons belonging to national minorities

Findings of the first cycle

63. In its first Opinion on the Czech Republic, the Advisory Committee called on the authorities to continue their efforts to provide persons belonging to national minorities,

including the numerically smaller minorities, with conditions conducive to the preservation and development of their culture and identity.

Present situation

a) Positive developments

64. The Advisory Committee notes with satisfaction that the authorities, at central, regional and local levels, have continued to provide support, including of a financial nature, for cultural events organised by national minorities. Most of the communities concerned have a well-developed cultural life, popular groups or performers, arts institutions, and periodicals, many of them published in minority languages.

65. To allow minorities to develop these activities in optimum conditions, the authorities have set up a procedure for the award of state subsidies, based on selection of the best projects. Their decision to formalise conditions for access to these subsidies in a government resolution⁶ specifically devoted to support for the cultural development of minorities, and to include annual sums for this purpose in the state budget, is a positive development. The involvement of minority representatives in selecting the best projects should also be welcomed.

66. Figures supplied by the Government show that cultural subsidies awarded to minorities have globally increased in recent years. They also reflect marked differences in sums allocated to the various communities and show, in particular, that substantial sums have gone to projects for the Roma community.

b) Outstanding issues

67. The Advisory Committee notes that the financial support provided for the cultural activities of national minorities is still insufficient, having regard to the increasing number of applications and the need to ensure a balanced distribution of resources.

68. Minority representatives have expressed their wish, *inter alia*, to have cultural centres, allowing them to develop their activities in Prague and other cities where minorities are present in significant numbers. Where such centres exist in the Czech Republic, they are in general privately run. According to information supplied by the authorities, the Government decided, in June 2004, to give the city of Prague a grant to cover conversion and renovation of a building to serve as a House of National Minorities. Although this project had already run into problems and been delayed for several years, it is to be hoped that it will now be realised rapidly.

⁶ Government Resolution No. 98/2002 stipulating conditions and procedures for the award of subsidies from the state budget for the activities of persons belonging to national minorities and for promoting the integration of persons belonging to the Roma community.

69. The Advisory Committee has also considered the specific situation of Slovaks who, as a result of the dissolution of the former Czechoslovakia, are now a national minority in their own country. According to certain Slovak representatives, there are concerns within their community with regard to the maintaining of the identity of Slovaks living in the Czech Republic. According to them, the state support provided to the Slovaks to foster knowledge of their culture and history in schools is limited.

70. The Advisory Committee also noted that not enough was being done to make persons belonging to national minorities aware of the resources available and ways of gaining access to them. Moreover, these persons have little confidence in the financial help that they can obtain for their projects from local and regional authorities. In spite of the fact that, following decentralisation, these authorities are largely responsible for meeting the needs of national minorities, it appears that they are not paying enough attention to those needs, and not sufficiently prepared to fund minority activities from their budgets.

71. Although the Government has recently tried to remedy this situation by formally urging local authorities to subsidise the activities of national minorities⁷, the Advisory Committee remains concerned at the lack of trust and co-operation between minorities and some local authorities.

Recommendations

72. While respecting the principles of local self-government, central authorities should use all means available to encourage local and regional authorities to do more to support the efforts of persons belonging to national minorities to preserve their identities.

73. Further action should be taken to evaluate real needs of persons belonging to national minorities in this area, including of those belonging to numerically smaller minorities. Authorities at all levels as well as minority representatives should make additional efforts to increase awareness of the state aid available and procedures for obtaining it.

74. The authorities are encouraged to enter into dialogue with the representatives of the Slovak minority with regard to the concerns expressed within their community and to identify proper measures to ensure that adequate information on Slovak literature and history is offered in schools.

Integration of the Roma and affirmation of their identity

Findings of the first cycle

⁷ See, in this connection, Government Resolution No. 663 of 30 June 2004

75. In its first Opinion on the Czech Republic, the Advisory Committee called on the authorities to continue their efforts to integrate the Roma more effectively, while aiming to preserve and develop their identity.

Present situation

a) Positive developments

76. The Advisory Committee welcomes the measures taken by the authorities in recent years to help the Roma to maintain and affirm their culture and identity. It notes with satisfaction that the sums allocated for Roma projects account for a substantial proportion of the total included in the state budget to cover cultural support for minorities.

77. In practice, support for the Roma takes the form of subsidies for their cultural activities and publications, measures to encourage their presence in the media, and support for historical, sociological, ethnological and linguistic research projects.

78. The Advisory Committee is pleased to note that, after several years of difficulties, the running costs of the Roma Cultural Museum in Brno are now being subsidised from funds earmarked for that purpose in the state budget. It is also pleased to note that the state provided considerable financial support for the wide-ranging programme of activities at the World Roma Festival, held in Prague in 2003.

b) Outstanding issues

79. While welcoming the above recent developments, the Advisory Committee notes that their real impact on preservation and affirmation of Roma cultural identity remains limited. To a large extent, they will succeed only if the authorities' efforts to effectively improve the social and economic position of Roma, and limit their marginalisation and social exclusion, are also successful. Progress in these areas has so far been modest, and empowerment of the Roma within Czech society remains a major challenge, both for the authorities and for the Roma themselves (see, in this connection, the comments under Articles 4, 6, 12 and 15).

Recommendations

80. The authorities are urged to continue their efforts to support preservation and development of the Roma identity, and co-operate with the Roma in selecting the measures best suited to their real needs, while seeking to incorporate those measures into the Government's overall integration strategy.

ARTICLE 6 OF THE FRAMEWORK CONVENTION

Tolerance and intercultural dialogue

Findings of the first cycle

81. In its first Opinion on the Czech Republic, the Advisory Committee found that inter-ethnic dialogue was still insufficient, and that manifestations of intolerance and hostility towards persons belonging to national minorities, and particularly Roma, were still being recorded. The authorities were encouraged to do everything in their power to curb this.

Present situation

a) Positive developments

82. The Advisory Committee welcomes the efforts made by the authorities to improve the climate of tolerance and intercultural understanding. It notes that this climate is generally marked by a spirit of mutual respect and understanding, on which minority representatives themselves comment favourably.

83. Among the many measures taken in this field, the annual campaigns against discrimination, racism and extremism are particularly laudable. These campaigns comprise numerous information, awareness-raising and human rights training activities, which are aimed at various audiences, from schools, through the media, to the police and courts.

84. The Advisory Committee welcomes the fact that the authorities have paid attention, in recent years, to the particular situation and specific needs of Germans in terms of intercultural dialogue and mutual understanding. It notes that the Government is exploring ways to make a symbolic gesture in respect of Germans whose property was confiscated in 1945. Although no concrete development has been achieved so far, the issue is under consideration, including by the relevant Government authorities. Similar questions are also being considered with regard to persons belonging to the Croatian minority. The Advisory Committee is of the opinion that progress on this issue could be another step towards further improving the spirit of tolerance and intercultural dialogue within the Czech society.

b) Outstanding issues

85. In spite of substantial improvements, prejudices against persons belonging to certain groups, particularly Roma and foreigners are still reported in the Czech Republic. It is reported that, although more sporadically, extreme right-wing groups are still active and sometimes commit acts of violence. In addition, although on a limited scale, anti-semitic ideas are still being circulated, particularly by certain media and on Internet.⁸

86. Intercultural dialogue with the Roma remains problematic. Negative attitudes towards Roma are still reported in various circles, for example, the media, certain public

⁸ See, in this connection, European Commission Against Racism and Intolerance (ECRI), “3rd Report on the Czech Republic”, adopted on 5 December 2003, ECRI (2004) 22.

authorities (particularly at local level) as well as the public in general. Various sources also bring up the cases where Roma have been the targets of intolerance, hostility, and sometimes violence, including - in some cases - by police officers.

87. The Advisory Committee also notes the persistence of discriminatory attitudes and distrust with regard to foreigners, whose numbers have greatly increased in the last ten years. NGOs report that the authorities' tendency, when disseminating information on their policy on immigration, to focus unduly on its crime-control aspects, contributes to the negative public perception as regards non-citizens. In addition, these perceptions are often reinforced by prejudicial information in the media. In this context, the Advisory Committee draws attention to the fact that, according to Article 6 of the Framework Convention, the authorities shall encourage a spirit of tolerance and intercultural dialogue and take measures to promote mutual respect, understanding and co-operation among all persons living on the territory of the Czech Republic.

88. As regards the media, they are often criticised, not simply for not doing enough to encourage acceptance of diversity and tolerance, but also for their negative coverage of certain groups, including Roma and foreigners, such as Ukrainians who have recently arrived in the country and persons of Asian or African origin. In spite of marked improvements, there are still reports – although sporadic – of publication of certain press articles which convey or reinforce a negative image of minorities, including Germans and Jews.

Recommendations

89. The authorities should increase their efforts to combat social exclusion and manifestations of intolerance, racism and xenophobia still present in Czech society. They should monitor the situation more effectively, investigate and apply adequate sanctions when necessary, while pursuing and diversifying awareness-raising and training activities, aimed at promoting tolerance and acceptance of diversity.

90. In the case of the media, self-regulatory and monitoring bodies, as well as ethical councils, should pay more attention to the above-mentioned phenomena and combat them by using all means at their disposal.

91. The authorities are encouraged to pursue the dialogue initiated concerning the specific situation of the Germans, and redouble their efforts to improve communication between this minority and the majority. They should try to ensure that discussion on the questions at issue is not unduly politicised and promote a constructive approach, focused on the future and not weighed down by the past.

Fight against discrimination, hostility or violence on ethnic or racial grounds

Findings of the first cycle

92. In its first Opinion on the Czech Republic, the Advisory Committee concluded that certain persons belonging to national minorities, and particularly Roma, were still exposed to discrimination, intolerance and even violence, including by police officers and that the protective measures taken were often ineffective. The authorities were called to redouble their efforts to monitor and combat these phenomena, particularly by taking more effective preventive, investigative and punitive action.

Present situation

a) Positive developments

93. The Advisory Committee notes that the authorities have increased their efforts to combat ethnic or racial violence and discrimination, and also incitement to racial hatred. It notes, in particular, that a Standing Inter-Ministerial Committee against Racism and Xenophobia has been set up within the Ministry of the Interior. Various crime prevention programmes, particularly at local level, are also to be welcomed.

94. The Government's approval, in 2003, of a national strategy for police work with national minorities and other ethnic groups is a further positive development. This strategy envisages improved training and awareness-raising for police officers in the field of human rights and diversity, recruitment of more persons belonging to minorities within the police, and closer monitoring of attitudes of hostility, intolerance and even racism in the police. The Advisory Committee welcomes in this context local initiatives such as the one developed in the city of Ostrava.

95. The Advisory Committee also notes that efforts have been made to improve supervision of police work. It notes that offences committed by police officers are now, under an amendment to the Code of Criminal Procedure which took effect in 2002, investigated by prosecutors attached to the Ministry of Justice.

b) Outstanding issues

96. In spite of the measures mentioned above, many national and international sources report that discrimination, hostility or violence on ethnic or racial grounds persists within the Czech society, and that Roma are particularly affected.

97. These sources report that Roma are still discriminated against in most areas by private and also public entities, including certain public authorities, particularly at local level (see also comments on Articles 4, 5 and 12 of the Framework Convention). There are also reports that certain police officers have discriminated against Roma, have seriously failed to protect their rights, and have even inflicted violence on them. It further appears that these cases are not always promptly and impartially investigated by the competent services.

98. The Advisory Committee notes that some civil society representatives show a disturbing lack of confidence in the institutions operating in these fields, such as the

police and courts. Although changes have been made, NGOs claim that arrangements for the investigation of complaints against the police still lack objectivity and credibility - and that this is also why so few complaints are lodged. They also argue that crimes committed on ethnic or racial grounds are not properly dealt with by the courts, which are ineffective in this area. The sanctions they impose, in the rare cases where they find that crimes have in fact been committed on these grounds, are also criticised as being too lenient.

Recommendations

99. The authorities should take action to ensure constant monitoring of discrimination, hostility or violence perpetrated on ethnic or racial grounds. They should ensure that any such cases reported are speedily, impartially and effectively investigated, and that adequate sanctions are imposed when appropriate. Efforts should also be made to collect data in this area.

100. Where the police are concerned, it is important to pursue current awareness-raising and training activities aimed at promoting tolerance, and to extend them to all police officers, regardless of experience or rank. It is also essential that there are independent bodies to supervise and investigate the work of the police. Increased attention should be paid to improving communication with the Roma, and recruiting more of them as police officers.

ARTICLE 9 OF THE FRAMEWORK CONVENTION

Access of persons belonging to national minorities to the media

Findings of the first cycle

101. In its first Opinion on the Czech Republic, the Advisory Committee found that there were certain shortcomings as concerns access of persons belonging to national minorities to public television and radio, and their presence in the media. In particular, it insisted that programmes and air time must be allocated more fairly, and resources distributed more effectively, so that the needs of numerically smaller minorities could also be satisfied.

Present situation

a) Positive developments

102. The Advisory Committee welcomes the fact that the new legislation on public service radio and television services includes amongst the tasks of the public service media the obligation to contribute to preserving the cultural identity of persons belonging to national minorities. It should be also noted that such a contribution is now one of the criteria on which broadcasting licences are awarded.

103. In addition, state subsidies are awarded for publications produced by national minorities, and for the production and distribution of audiovisual programmes aimed at or devoted to national minorities, including programmes in minority languages.

104. In practical terms, the public television service's Ostrava studios have, since 1 January 2004, been broadcasting a weekly multi-cultural programme ("Babylon") on the lives and interests of national minorities and foreigners. This programme has given minorities the opportunity to use their languages on public television for the first time. Public television also continues to broadcast multi-cultural programmes, such as the "multi-ethnic" series, which, *inter alia*, give viewers information on the lives, traditions and interests of national minorities, including Roma. Nonetheless, minority languages are still very little used on public television, and therefore the launching, by Ostrava studios in September 2003, of a weekly news programme in Polish, is to be welcomed.

105. Although technical and financial difficulties persist in establishing programmes for numerically smaller minorities, the public radio service does in practice broadcast programmes devoted to national minorities and in minority languages, prepared by teams of persons belonging to national minorities, particularly Germans, Poles, Roma and Slovaks. In addition, an advisory group for national minorities has been set up by the Director for Programmes of the Czech Radio.

106. In the press field, it is worth noting, for example, that the Government helped to fund 20 projects for the publication of periodicals by minorities in 2003 (including four submitted by Poles, four by Roma, three by Slovaks, two by Germans, two by Bulgarians, one by Russians, one by Ruthenians, one by Ukrainians, one by Jews and one by Hungarians).⁹

b) Outstanding issues

107. In spite of these positive developments, the Advisory Committee finds that the time reserved for national minorities on public television is still too limited. The programme "Babylon", for example, which is shown during off-peak hours, has a mere 15-minute slot every week, and is nonetheless expected to cater for all the country's minorities, which it can do only to a very limited extent.

108. Public media coverage of issues concerning national minorities also remains unsatisfactory. Germans, Croats, Russians and the other minorities (particularly the numerically smaller ones) all find that public audiences receive insufficient information about the life of different communities, diversity and multiculturalism, and that the impact of the efforts made in this field falls far short of that intended (see also comments under Article 6 above).

⁹ Information provided by the "Report on the situation of minorities in the Czech Republic in 2003", annual report prepared by the Secretariat of the Government's National Council for Minorities.

Recommendations

109. The authorities should make further efforts, particularly in terms of programme length and timing, to give persons belonging to national minorities improved media access and coverage, paying special attention to numerically smaller minorities. More sustained efforts are needed to make these persons aware of the state support available to them in this area.

110. While ensuring that editorial independence of the media is respected, the authorities should endeavour to make the media more aware of the problems of persons belonging to national minorities, and of the role which they themselves can play in promoting tolerance and cultural pluralism.

ARTICLE 10 OF THE FRAMEWORK CONVENTION**The use of minority languages in dealings with administrative authorities***Findings of the first cycle*

111. In its first Opinion on the Czech Republic, the Advisory Committee noted shortcomings in the use of minority languages in contacts with the administrative authorities, and also during criminal proceedings, and called on the authorities to remedy this situation.

Present situation

a) Positive developments

112. The Advisory Committee notes that Article 9 of the National Minorities Act of 2001 gives persons belonging to national minorities the right to use their mother tongue in official documents and communications, and before the courts. The Municipal Elections Act (Act No. 491/2001 Coll.) also gives them the right to use their minority language for the purpose of disseminating important practical information on elections (date, place, documents required, etc.).

113. The new Administrative Procedure Act, as amended in 2004¹⁰, authorises the use of minority languages in dealings with the administrative authorities, both orally and in writing, with the help of free interpretation or translation when necessary. Similarly, public authority regulations dealing with matters of concern to national minorities may now be published in their languages. The use of minority languages in communication pertaining to other sectors, such as trading licences, accounts, taxes and fines, is also authorised.

¹⁰ Act No. 500/2004 Coll. on Administrative Procedure (Code of Administrative Procedure).

b) Outstanding issues

114. Under the above-mentioned legislation, the use of minority languages for publication of local official regulations and in connection with elections is limited to situations in which certain numerical and institutional conditions apply. Such use is authorised only in administrative territorial units where committees for national minorities have been established, i.e. units where persons belonging to national minorities account for at least 10% of the local population.¹¹ However, only census data are taken into account in this context, despite the fact that the authorities acknowledge that the census results do not fully reflect the real number of persons belonging to national minorities (see the comments under Article 3 above). Moreover, such committees have been established only in few of the cases where the requisite conditions apply, since local authorities have retained a certain margin of discretion as regards decision-making in this area.

115. In view of the above, the Advisory Committee finds problematic the process of identification of administrative-territorial units concerned, and considers that further clarification is needed to ensure that Article 10, paragraph 2, of the Framework Convention is effectively implemented.

Recommendations

116. The authorities should take all the action needed to eliminate the legal insecurity currently associated with the criteria used to select administrative-territorial units where minority languages may be used for publication of local official regulations and of election-related information. They should ensure that census data are not the only indicator applied in this context, and that local authorities do not make excessive use of their margin of discretion concerning the setting-up of committees for national minorities. More attention should be paid to the real situation of national minorities in practice, in terms of numbers, needs and demand.

The use of minority languages in criminal proceedings

Findings of the first cycle

117. In its first Opinion on the Czech Republic, the Advisory Committee found that the use of minority languages in criminal proceedings raised certain problems, particularly for the Roma, and called on the authorities to do everything necessary to remove these problems.

¹¹ In accordance with the following legislation in force in the field of local and regional self-government. Article 3 of Act No. 117 N.1128/2000 Coll. on the municipalities, amended by Act No. 273/2001 Coll.; § 78 Article 2 of Act No. 129/2000 Coll. on the regions, amended by Act No. 273/2001 Coll.; Article 2 of Act No. 131/2000 Coll. on the capital Prague.

Present situation

a) Positive developments

118. The Advisory Committee notes that the Code of Criminal Procedure, as amended in 2001 (and entered into force in January 2002) now contains specific provisions on the right of persons involved in criminal proceedings to use their own language, or another language understood by them, and to avail of free interpretation if necessary.

b) Outstanding issues

119. In spite of this improvement in the law, the Advisory Committee understands from non-governmental sources that difficulties still exist in practice, particularly concerning exercise of this right by Roma, owing to the shortage of qualified Roma-language interpreters.

Recommendations

120. The authorities should take all the action needed to remove the problems in this area without delay, backing it with adequate financial resources.

ARTICLE 11 OF THE FRAMEWORK CONVENTION**Surnames (patronyms) and first names in minority languages***Findings of the first cycle*

121. In its first Opinion on the Czech Republic, the Advisory Committee welcomed provisions in the new Act on civil status registers¹², which allowed persons belonging to national minorities to enter the female surnames without adding the suffix required by Czech grammar.

Present situation

a) Positive developments

122. According to the State Report, the latest amendments to the said Act (2004) confirm and specify further the provisions applying to persons belonging to national minorities when registering marriages or the names of female children. The law also allows persons concerned, and the parents of children concerned, to apply to have family names re-registered, free-of-charge, taking into account the specificities of the minority language in question, and to have new identity papers issued.

¹² Act No. 301/2000 Coll. on registers, names and first names, and the amendment of certain laws.

b) Outstanding issues

123. Although these new provisions have been well received by national minorities, the Advisory Committee notes that there have been complaints, particularly from Poles and Germans, concerning certain procedural shortcomings - specifically, the difficulty of obtaining copies of entries from registers giving names in minority languages, when those names have previously been entered in Czech, and the lack of rules on transcription of names into Czech.

Recommendations

124. The authorities should pay more attention to the rules on implementation of the above-mentioned amended Act, to ensure that persons belonging to national minorities can effectively exercise the right enshrined in Article 11, paragraph 1, of the Framework Convention.

Bilingual signs and place-names

Findings of the first cycle

125. In its first Opinion, the Committee welcomed the fact that the Municipalities Act had authorised the use of bilingual signs and place-names under certain conditions, and called for proper implementation of the new regulations.

Present situation

a) Positive developments

126. The Advisory Committee notes that the Municipalities Act, as amended in 2001, authorises the use of bilingual signs and place-names in municipalities where national minorities account for at least 10% of the local population, on presentation of a petition signed by at least 40% of adult minority residents. It welcomes the fact that the threshold has been set at a mere 10% - which reflects the authorities' will to make the possibility provided for in Article 11, paragraph 3 of the Framework Convention widely available.

b) Outstanding issues

127. Although the above provisions can be seen as positive, they currently apply only to a fairly limited number of municipalities, in which persons belonging to national minorities reside compactly, and their implementation has not advanced significantly. According to the State Report, Poles in the Těšín district of Silesia are the main group concerned. Some of them, in municipalities where the numerical criteria is fulfilled, have recently collected the necessary signatures and should now be in a position to use bilingual signs and place-names in the areas concerned.

128. The Advisory Committee notes that persons belonging to national minorities, particularly Poles, are strongly critical of the requirement to present a petition as a precondition for the introduction of bilingual signs and place-names. The Advisory Committee notes with concern that bilingual signs have not been yet introduced in those municipalities where the legislative conditions for doing so are satisfied.

129. The authorities explain this state of affairs by referring to opposition on the part of the majority and of certain local authorities. According to the State Report, local authorities are ready to accept the use of minority languages for the names of local public authorities and institutions (often the case with Poles in Silesia) and in dealings with the authorities. However, mainly for historical reasons, there are strong reservations as to the use of minority languages, Polish and German particularly, in bilingual topographical indications.

130. Other national minorities are more dispersed, and therefore find it harder to meet the conditions for using bilingual signs and place-names. In the specific case of Germans, the authorities, while pointing out that the numerical conditions are not satisfied, acknowledge that the use of German on signs indicating historic monuments and places previously inhabited by Germans might well have symbolic value for them. Changes are unlikely, however, given the extent to which these questions are politicised in Czech society (see also observations under article 6 above).

Recommendations

131. The authorities should ensure that there are no unjustified obstacles to prevent persons belonging to national minorities from availing of their legal right, where legal conditions are fulfilled, to use their own language, in addition to Czech, on local topographical indications. More should be done to sensitise the majority population and local authorities to this issue.

132. Given the uncertainty attached to the latest census figures for persons belonging to national minorities, the authorities are encouraged not to make them the sole indicator for implementation of the new legislative provisions, but to take also into account the real situation in the localities concerned.

ARTICLE 12 OF THE FRAMEWORK CONVENTION

Intercultural dimension of education

Findings of the first cycle

133. In its first Opinion on the Czech Republic, the Advisory Committee called on the authorities to redouble their efforts to ensure that information on the culture, history and languages of minorities was more effectively disseminated in schools.

Present situation

a) Positive developments

134. The Advisory Committee is pleased to note that, as part of its integration policy, the Czech Government has in recent years paid increasing attention to making people aware, from a very early age, of the importance of human rights, tolerance and multicultural dialogue. In this connection, it has devised a strategy for the teaching of human rights and tolerance - which also covers questions relating to national minorities.

135. The Advisory Committee welcomes the establishment by the Government, in 2002, of a Training Centre for Democratic Citizenship under the auspices of the Ministry of Education. One of its tasks is to introduce teachers of all levels (from primary school to university), the staff of psycho-educational centres and school inspectors, to the concept of multicultural education and train them to promote it in their work.

136. The Ministry of Education also supports programmes devoted to multicultural education by universities and research centres, and subsidises the production of teaching programmes and materials for national minorities. National campaigns against racism have been organised yearly since 1999, and these include also projects to promote multicultural education, which are run by NGOs in co-operation with schools, libraries and other educational establishments.

b) Outstanding issues

137. While welcoming the above mentioned recent developments, the Advisory Committee notes that much remains to be done to ensure that the traditions, languages and cultures of national minorities are genuinely known and appreciated in Czech schools. Minority representatives themselves consider that their cultures, languages and traditions get limited attention - or are even altogether absent in some cases - in Czech schools.

138. The Advisory Committee's dialogue with minority representatives has also shown that certain persons belonging to national minorities (for example, Russians, Serbs, Ukrainians and Roma), both children and adults, have a poor grasp of the Czech language, and face communication problems with the majority. The Advisory Committee understands that this applies, not only to persons who have arrived recently, but also to elderly people who have been living in the country for a longer period of time.

Recommendations

139. The authorities should pursue and extend the initiatives they have introduced in recent years to reinforce the intercultural element in education, with a view to fostering mutual knowledge and dialogue between the majority and the various minorities. Greater efforts are needed to teach the Czech language to persons belonging to certain minorities, without prejudice to the obligations under Article 14 of the Framework Convention.

Equal access to education. The situation of the Roma.

Findings of the first cycle

140. In its first Opinion on the Czech Republic, the Advisory Committee expressed concern at the educational situation of the Roma, and considered that the practice of undue placing of Roma children in “special” schools was not compatible with the Framework Convention. The authorities were encouraged to continue their efforts to eliminate isolation of these pupils, and find other ways to improve their educational situation.

Present situation

a) Positive developments

141. The Advisory Committee notes that the authorities are genuinely committed to improving the educational situation of Roma children, and are trying, in various ways, to realise this aim in practice. The Advisory Committee notes, above all, that the authorities are paying special attention to the unjustified placement of Roma children in “special” schools, reserved *de jure* for mentally disabled children who cannot successfully be educated in basic schools or in specialised elementary schools. It notes, in particular, the authorities’ commitment to put an end to such practices.

142. Tests and methods used to assess children’s intellectual abilities upon school enrolment have already been revised with a view to ensuring that they are not misused to the detriment of Roma children. Moreover, according to the authorities, the new Education Act (Act N° 561/2004 Coll.), which entered into force in January 2005, also introduces changes in the Czech system of education.

143. In addition to these changes, special educational programmes have been launched to help Roma children overcome their problems. These include waiving fees for the last year of pre-school education, relaxing the rules on minimum class sizes, more individualised education, appointing educational assistants (mostly Roma), as well as producing methodological handbooks and guidelines for teachers working with Roma children. Preparatory pre-school classes have also been organised for Roma children, and these have worked well, although on a fairly limited scale. To accommodate all the children concerned, these measures should be applied more widely.

144. The Advisory Committee also takes note of the special support programme for Roma access to secondary and higher education, and of the efforts made to build up a network of qualified Roma teachers and educational assistants. To ensure that Roma cultural identity gets more positive treatment in schools, special sections dealing with their culture, history and traditions have been opened at several universities. A textbook covering their history and lifestyle has also been commissioned by the Ministry of Education.

b) Outstanding issues

145. Although constant monitoring and evaluation of the school situation of Roma children is one of the Government's priorities, the State Report says little about the extent to which they are currently integrated in schools, or the effectiveness and impact of the many measures taken for them. The Advisory Committee notes with concern that these measures have produced few improvements. It also notes that local authorities do not systematically implement the Government's school support scheme, and do not always have the determination needed to act effectively in this field.

146. The Advisory Committee notes with concern that, according to non governmental sources, a considerable number of Roma children are still being placed, at a very early age, in "special" schools, and that revision of the psychological tests used in this context has not had a marked impact. According to non official estimates, Roma account for up to 70% of pupils in these schools, and this – having regard to the percentage of Roma in the population – raises doubts concerning the tests' validity and the relevant methodology followed in practice.

147. This situation is all the more disturbing, insofar as it also makes it more difficult for Roma children to gain access to other levels of education, thus reducing their chances of integrating in the society. Although legislation no longer prevents children from advancing from "special" to regular secondary schools, the level of education offered by "special" schools generally does not make it possible to cope with the requirements of secondary schools, with the result that most drop out of the system.

148. It is too early to determine whether the revised educational system introduced by the new Education Act (Act N° 561/2004 Coll.), will substantially change the present situation of over-representation of Roma children in "special" schools or "special" classes. It is necessary for the authorities to keep the circles concerned constantly informed of the new developments and to discuss with them the implementation of the new Act.

149. In addition, the Advisory Committee notes that, in spite of the awareness-raising initiatives taken by the Ministry of Education, many of the Roma children who attend ordinary schools are isolated by other children and by teaching staff, or even placed in separate classes. At the same time, it is recognised that in some schools Roma children are the largest pupil-group simply because the schools concerned are located near the places where Roma reside compactly. It is important to ensure that these schools, too, provide quality education.

150. Estimates as to the number of Roma children who remain outside the school system vary. It appears that those who do attend school¹³ rarely advance beyond primary school. Material conditions in some of the schools they attend are reportedly precarious,

¹³ According to government sources, over 90% of the Roma children are enrolled in schools.

and the teaching they receive is still, in most cases, insufficiently adapted to their situation.

Recommendations

151. The Advisory Committee calls on the authorities to concentrate their efforts to make their support measures for Roma children more effective, and ensure that the programmes decided by the Ministry of Education are more systematically implemented by local authorities, in consultation with Roma representatives.

152. Priority should go to placing Roma children in ordinary schools, supporting and promoting preparatory classes and also educational assistants. Recruiting Roma teaching staff, and making all education staff aware of the specific situation of Roma children should also receive increased attention.

153. A further strategic priority should be the adoption of additional awareness-raising measures on the critical importance of education as a factor of individual development and social integration. An active involvement on the side of the parents, in particular with regard to the implementation of the new Education Act, should be also promoted as a condition *sine qua non* for the overall improvement of the educational situation of the Roma.

154. More determined action is needed to combat isolation of Roma children in both ordinary and “special” schools. A clearer approach, coupled with instructions and immediate action on all levels, is needed to put an end to unjustified placement of these children in “special” schools designed for children with mental disabilities. Effective monitoring measures, particularly designed to eliminate undue placement of children in such schools, should be one of the authorities’ constant priorities.

ARTICLE 13 OF THE FRAMEWORK CONVENTION

Private education for national minorities

Outstanding issues

155. The Advisory Committee notes that representatives of the Russian minority have expressed a desire to obtain a more suitable location for the Russian school of Prague.

Recommendation

156. The municipal authorities are encouraged to enter into dialogue with the representatives of the Russian minority and to examine the possibility of finding a satisfactory solution to their concern.

ARTICLE 14 OF THE FRAMEWORK CONVENTION

Teaching of minority languages and instruction in these languages

Findings of the first cycle

157. In its first Opinion on the Czech Republic, the Advisory Committee noted that there was no clear educational programme to meet the needs of national minorities concerning teaching their languages and receiving instruction in these languages. It encouraged the authorities to verify the situation in this area and to take the measures which proved necessary, in consultation with the persons concerned.

Present situation

a) Positive developments

158. The Advisory Committee welcomes the adoption in 2004, at the end of a legislative process extending over several years, of a new Education Act, which details *inter alia* the principles and modalities for the purpose of ensuring persons belonging to national minorities equal access to education. The minority representatives, who had criticised the authorities for failing to adopt modern, clear and stable legislation in the field of education - an area that is crucial to sustaining identities of national minorities - regard this as a positive development. They find that the new law generally meets their expectations, and brings improvements for minorities, particularly concerning teaching of and in minority languages.

159. In this connection, it may be noted that the number of pupils needed to establish minority language classes has been reduced (to eight pupils for pre-school and to ten pupils for primary education), and that final secondary school examinations have been adjusted and they now take into account the special situation of schools which use a minority language as the language of instruction (in practice, this concerns only Poles).

160. At present, Poles are the only minority with access to teaching in their own language from pre-school to secondary school level (some 4,000 pupils are concerned). The support they receive from the state for the production of teaching materials and for teacher training, particularly through the Education Centre especially established for Polish schools, can only be welcomed. The subsidy approved by the Government in June 2004 for rebuilding of the Polish school at Janblunkov, using Polish as the language of instruction, deserves to be mentioned in this context.

161. There are no schools designed specifically to the persons belonging to the Slovak minority. According to governmental sources, this is due to the fact that interest in learning Slovak is not sufficient. However, there is close bilateral co-operation with Slovakia in the education field. Thus citizens of both countries are free to use either Czech or Slovak in higher education, including in university entrance examinations.

b) Outstanding issues

162. Although the new Education Act contains various elements which contribute to protection of national minorities, some of its provisions raise questions. Under the Act, for example, classes or schools teaching minority languages, or using them as languages of instruction, may be set up only in areas where committees for national minorities have already been established - which makes it often impossible to open new classes or schools of this type.

163. As already stated, the existence of these committees depends on criteria to which some uncertainty is attached, such as census data or the willingness of local authorities to establish them. It is therefore questionable whether these criteria are sufficiently clear and objective to permit accurate identification of situations that meet the Framework Convention's conditions for access to teaching of, or in, minority languages. As already noted, the persons concerned have criticised the procedure for the establishment of such classes or schools, which requires them to present a petition (see also comments on Articles 4, 10 and 11 above).

164. According to information supplied by the authorities, the smaller and more scattered minorities (Bulgarians, Croats, Hungarians, Germans, Roma, Ruthenians, Russians, Greeks, Slovaks and Ukrainians) do not have enough pupils to qualify for teaching of, or in, their languages in public schools.¹⁴ Teaching of several minority languages (for example, Bulgarian, Greek, Russian, and Hebrew) is thus provided privately by the communities concerned. Some of the initiatives of this nature, which are usually backed by kin-states, are also supported by the Czech authorities.

165. Germans, in particular, have German teaching programmes, which are run by their associations, and which they would like to extend to parts of the country with smaller German communities. They would also like to use German as the language of instruction. According to the authorities, their wishes could not be satisfied under the previous legislation, since they did not meet the legal conditions.

Recommendations

166. When the new Education Act is implemented, the authorities should clarify and, when necessary, adjust the criteria and procedure used to identify situations covered by Article 14, paragraph 3, of the Framework Convention. In this connection, they should ensure that account is taken of minorities' real situation and needs.

167. More should be done to ensure real involvement, backed by adequate resources, of local and regional authorities in implementation of government policy in this area.

¹⁴ However, the new Education Act includes, for such situations, a clause delegating the schoolmaster the power to set up bilingual subjects in school educational programmes where necessary.

Initiatives taken by minorities themselves, for teaching of their languages outside the ordinary system, should also receive more support.

ARTICLE 15 OF THE FRAMEWORK CONVENTION

Participation of persons belonging to national minorities in the decision-making process

Findings of the first cycle

168. In its first Opinion on the Czech Republic, the Advisory Committee encouraged the authorities to find ways of involving persons belonging to national minorities, including Roma and the numerically smaller minorities, more effectively in the taking of decisions which affect them.

Present situation

a) Positive developments

169. In institutional terms, the Advisory Committee notes that there are several governmental consultative bodies whose activities touch upon the protection of national minorities (the Council for Roma Affairs, the Human Rights Council, the Council for National Minorities), as well as a Parliamentary Sub-Committee on Nationalities. In particular, it notes the important role played by the Council for National Minorities (hereinafter “the Council”), a joint advisory body, on which minorities (a majority of its members) and state authorities are both represented. The various ministries also have specialised advisory bodies to deal with minorities and their problems, some of them working specifically on integration of the Roma.

170. The annual reports submitted to the Government and published by the Council, which also give minorities a space to voice their concerns and expectations, are also to be welcomed. The Advisory Committee strongly welcomes the Council’s monitoring and information activities, and particularly its critical and self-critical spirit. Minority representatives also take a favourable view of its work, although they find that its impact on government decision-making is still limited, and expect it to pursue a more determined approach.

171. Territorial reform and decentralisation have brought changes which should, in principle, contribute to the participation of national minorities in various areas of public life. Specifically, this applies to the setting-up of committees for national minorities, to advise local and regional authorities, in places where the latest census figures show that minorities account for at least 10% of the local population.

172. The Advisory Committee considers that these committees can indeed do much to promote the interests of minorities at local and regional level, and foster their participation in public affairs. This is particularly important in a country where minorities

are not automatically represented in parliament, and the persons belonging to national minorities who are in elected bodies, especially at the central level, are not formally representatives of the national minority to which they belong.

b) Outstanding issues

173. In spite of the essentially positive developments referred to above, the situation at local level concerning effective participation by national minorities in public life raises a number of questions. It appears that, generally speaking, territorial reform and decentralisation have not, as the subsidiary principle might suggest, worked to the advantage of minorities, but have actually made it harder for them to obtain the public support they need for their activities. Specifically, local authorities are criticised, both by representatives of national minorities and by the Government, for their limited co-operation and interest in protecting national minorities.

174. The status and role of the committees for national minorities established at local and regional level are not always clearly defined. As mentioned before, there is some legal uncertainty as to the conditions governing their existence. In practice, many local authorities have failed to establish such committees, even in places where the numerical criteria are satisfied, as it is reported with regard to the Germans and Slovaks. As for the Roma, who, according to unofficial estimates, are the largest minority, only one municipality satisfies the said numerical criterion, if the census figures are taken as the basis of calculation.

175. The Advisory Committee is concerned about the existing legal uncertainty stemming from doubts attached to the census figures, as well as from the lack of clarity concerning the role of demand for such committees and the exact meaning of the 10% criterion (i.e. whether it refers to persons belonging to a specific minority or to all minorities living in the locality concerned). These concerns are accentuated by the fact that, as stated above, the existence of these committees is in itself one of the criteria used to identify areas where minorities are eligible for beneficial measures in such crucial fields as the use of minority languages and education (see comments under Articles 10, 11, 12 and 14).

Recommendations

176. With due respect to the principles of local self-government, the Czech authorities should take more determined action to ensure that legal measures designed to promote effective participation, and particularly the establishment of local committees for national minorities, are effectively implemented on all levels. They should also remove the legal uncertainty surrounding the criteria used to identify areas where these committees are to be established.

Participation of Roma

Findings of the first cycle

177. In its first Opinion on the Czech Republic, the Advisory Committee expressed concern at the problems encountered by Roma seeking to play a genuine part in economic, cultural and social life, and in the taking of decisions affecting them, and encouraged the authorities to do more to improve their situation in all the areas concerned.

Present situation

a) Positive developments

178. The Advisory Committee is pleased to note that the authorities are becoming increasingly aware of the difficulties faced by the Roma in terms of effective participation in various sectors, as well as in the decision-taking processes. It notes that addressing these difficulties is one of the Government's priorities. The Advisory Committee welcomes in this context positive multi sectoral initiatives taken at local level - which it could note during its visit to Ostrava - in order to improve the effective participation of Roma in economic, social and cultural life. It considers that such initiatives should be developed more systematically by the local authorities concerned.

179. The appointment of Roma co-ordinators to advise regional authorities in each of the 14 regions on policies and measures to improve the situation and integration of Roma is a positive development.

b) Outstanding issues

180. In spite of these positive changes, developments in recent years have not really been encouraging. At central level, the impact of the bodies responsible for Roma affairs on decision-making remains limited. Various sources indicate that these bodies' failure to co-ordinate their activities sufficiently and to establish an effective partnership with Roma organisations at least partly explains this situation.

181. At local level, administrative-territorial reform seems to have interfered with the positive initiatives already launched, which had started to produce effects. This applies, in particular, to the setting-up of a network of Roma co-ordinators in the former districts. The network was dismantled when the districts were abolished, and only half of the co-ordinators are now doing similar work, at local level. There are also reports that their work, and their communication with the authorities concerned, particularly at local level, is not entirely effective. The Advisory Committee notes, in this connection, that local authorities are criticised for their lack of determination in addressing the problems of the Roma.

182. More generally, social exclusion still affects Roma in most areas including social and economic life and education (for details, see comments on Articles 4, 5, 6, 12 and 14 above). Although Roma have numerous associations, they do not appear to be sufficiently active, and their involvement in the taking of decisions which affect them remains limited

and often ineffective. The presence of Roma in executive structures, in the police and public administration in general also needs to be increased.

Recommendations

183. The authorities are encouraged to co-operate with Roma representatives in examining the situation of the Roma with regard to effective participation in public affairs, and finding ways of improving it substantially. They should also pursue the initiatives launched in this field, doing their utmost to ensure that regional and local authorities implement them effectively.

ARTICLE 18 OF THE FRAMEWORK CONVENTION

Present situation

Positive developments

184. The Advisory Committee notes that the Czech Republic has concluded bilateral agreements touching upon the protection of persons belonging to national minorities.

Recommendation

185. The Advisory Committee encourages the Czech Republic to continue its relevant efforts in the field of bilateral co-operation.

III. CONCLUDING REMARKS

186. The Advisory Committee considers that these concluding remarks could serve as a basis for the conclusions and recommendations to be adopted by the Committee of Ministers in respect of the Czech Republic.

Positive developments

187. Since the adoption of the Advisory Committee's first Opinion in April 2001 and the Committee of Ministers' resolution in February 2002, the Czech Republic has pursued and diversified its action to protect persons belonging to national minorities, with the strategic objective of developing a genuine public policy in this field. An annual assessment of the situation is carried out by the Government's Council for National Minorities, with the participation of representatives of national minorities. Both representatives of national minorities and the authorities have confirmed that the protection of national minorities has developed positively in recent years.

188. In the legislative field, in accordance with the National Minorities Act of 2001, the authorities have adopted the measures necessary to supplement and clarify the legislation on protection of national minorities. For instance, the use of minority languages in relations with the administrative authorities, for topographical indications as well as teaching of, and in, minority languages is now governed by specific legislation. Similarly, Czech legislation contains provisions on the participation of representatives of national minorities in decision-making affecting them, at the central, local and regional levels.

189. Progress has been noted as regards the adoption of sectoral legislation providing protection against discrimination and the drafting of a comprehensive law on equal treatment and protection against discrimination. A Centre for Equal Treatment will be established as soon as this law has been adopted. Moreover, several measures have been taken in recent years to promote tolerance and respect for diversity and to improve inter-ethnic dialogue.

190. The situation of the Roma has continued to be a priority of the Government, and renewed impetus was recently given to governmental action in this area following the revision of the integration policy concept for the Roma. Numerous measures have been adopted to reduce the gap between Roma and the rest of the population in most fields, improve the public image of the Roma and to combat their marginalisation and social exclusion.

Issues of concern

191. Although significant advances have been made regarding the legislation on the protection of national minorities, shortcomings in the practical implementation of the relevant provisions have been reported, particularly at local level. In many cases, local authorities appear unwilling to take measures in favour of persons belonging to national

minorities where the majority population is likely to have reservations about such steps. These shortcomings are also exacerbated by certain deficiencies in the legislation in question, particularly as regards the criteria for determining the geographical areas concerned by such measures and the procedures to be followed in order to benefit from them. The lack of reliable statistical data on persons belonging to national minorities also has a negative impact for the implementation of the relevant legislation.

192. Despite positive developments, there is still room for improvement in fields such as the use of minority languages in the public sphere, teaching of and in minority languages and participation of national minorities in public affairs, particularly at local level. Media access for persons belonging to national minorities and education reflecting their culture and traditions also require increased efforts.

193. Public perception of persons belonging to vulnerable groups, such as the Roma, remains problematic. The awareness-raising measures taken to enhance intercultural dialogue, including in the media, have had a limited impact, and instances of discrimination, intolerance and even violence against such persons are still reported. The fact that representatives of the public authorities, including law enforcement officials, are sometimes responsible for such behaviour remains a matter for concern.

194. The situation of the Roma is still a matter for deep concern in terms of both their equality and their effective participation in public life. The Roma continue to be discriminated against in most fields and to suffer from social exclusion and marginalisation. The many governmental initiatives to improve their situation in various respects have brought limited results. The difficulties they encounter in the spheres of employment and housing, the continuing isolation of Roma children within the education system, as well as allegations regarding cases of sterilisation of Roma women without their informed prior consent, should all be dealt with as a matter of priority.

Recommendations

195. Apart from the measures to be taken in response to the detailed recommendations set out in sections I and II of the Advisory Committee's Opinion, the authorities are encouraged to take the following measures with a view to further improving the implementation of the Framework Convention:

- Ensure the effective implementation of the legislation relevant for the protection of national minorities in various fields, particularly by encouraging local and regional authorities to support the preservation and development of the essential elements of the identity of persons belonging to national minorities.
- Speed up the adoption of an anti-discrimination law and ensure its rapid implementation, notably regarding the establishment of the Centre for Equal Treatment; ensure more effective monitoring of the situation in this sphere, using more varied means of data collection.

- Provide more appropriate solutions to the difficulties encountered by Roma in a number of fields, in consultation with them. As a matter of priority, take the necessary steps to eradicate the practice of isolation of Roma children within the education system and to ensure the proper handling, by the competent authorities, of allegations and complaints of cases of sterilisation of Roma women without their prior free and informed consent.
- Pursue the efforts to combat intolerant or hostile police attitudes towards Roma and other vulnerable persons by developing more appropriate training and awareness-raising measures and ensuring more effective, impartial, independent monitoring of police activities. Take additional awareness-raising measures targeting the media, the judiciary and local authorities.
- Pay more attention to the use of minority languages in the media, in relations with administrative authorities and with regard to topographical indications.
- Reinforce the intercultural dimension of education and, with regard to the teaching of, and in, minority languages, ensure that the concrete situation of persons belonging to national minorities, their real needs and their demands are duly taken into account when implementing the new legislation on education.
- Enhance efforts to improve participation in public affairs by persons belonging to national minorities, particularly at local level, where it should be ensured that committees for national minorities are established wherever the legal conditions are fulfilled.