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

Second Opinion on the Slovak Republic, adopted on 26 May 2005

EXECUTIVE SUMMARY

The Slovak Republic has taken a number of steps to improve the implementation of the Framework Convention following the adoption of the first Opinion of the Advisory Committee in September 2000 and the Committee of Ministers' Resolution in November 2001. This process has included important changes in law and practice. The Slovak Republic has improved markedly its legal and institutional anti-discrimination framework through the adoption, in May 2004, of the Act on Equal Treatment in Certain Areas and Protection against Discrimination, the scope of which covers a number of societal settings. The overall substantial increase in the allocation of financial support to minorities in recent years deserves to be welcomed.

Shortcomings, however, remain in the legislative framework pertaining to the protection of national minorities, including as regards the financing of minority cultures and instruction in minority languages, where positive practices need to be consolidated through more detailed legal guarantees.

Improvements have been recorded in recent years as regards inter-community relations and intercultural understanding. Prejudices and intolerance against certain groups, however, persist and hostile attitudes toward the Roma need to be addressed. The continuing occurrence in recent years of a significant number of racially motivated crimes and incidents poses particular challenges.

The overall situation of the Roma continues to be a matter of deep concern. In the field of education, the persistence of various forms of exclusion and segregation affecting Roma children has not been adequately addressed so far. Serious problems persist in different societal settings, such as employment, housing and health care, a domain in which recent legislative changes still need to be fully reflected in practice. The participation of Roma in public affairs remains insufficient.

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

SECOND OPINION ON SLOVAKIA

1. The Advisory Committee adopted the present Opinion on 26 May 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 State Report (hereinafter the State Report), received on 3 January 2005 and other written sources and on information obtained by the Advisory Committee from governmental and non-governmental contacts during its visit to Košice and Bratislava from 4-6 April 2005.
2. Section I below contains the Advisory Committee's main findings on key issues pertaining to the implementation of the Framework Convention in Slovakia. These findings reflect the more detailed article-by-article findings contained in Section II, which cover 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 Slovakia, adopted on 22 September 2000, and in the Committee of Ministers' corresponding Resolution, adopted on 21 November 2001.
4. The concluding remarks, contained in Section III, could serve as the basis for the Committee of Ministers' forthcoming conclusions and recommendations on Slovakia.
5. The Advisory Committee looks forward to continuing its dialogue with the authorities of Slovakia 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 process

6. Slovakia has adopted a constructive approach to the monitoring process of the Framework Convention. It agreed to early publication of the first Opinion of the Advisory Committee and hosted a follow-up seminar to discuss, with representatives of national minorities and of the Advisory Committee, how the findings contained in the Opinion could be implemented. When drafting the State Report, the authorities have consulted, at least to a certain extent, representatives of national minorities through the Council of National Minorities and Ethnic Groups.

7. The Advisory Committee notes, however, that apart from the aforementioned follow-up seminar, very little has been done by the authorities in terms of awareness-raising on the monitoring results of the first cycle. Many NGOs and other relevant representatives of civil society were not informed about the preparation of the State Report and their views were not sought by the Government, which merely published the draft State Report on its website shortly before its adoption. The Advisory Committee expressed the hope that a more inclusive method of consultation would be followed in future monitoring cycles. This could have enriched the content of the State Report, especially as concerns the implementation in practice of the relevant norms, bearing in mind that the State Report makes almost no reference to the findings and recommendations contained in the first Opinion and in the first Resolution.

General legislative framework

8. Since the adoption of the first Opinion of the Advisory Committee, Slovakia has improved its legislative framework by introducing or amending a number of provisions in key sectors. For example, laudable measures have been taken to complete the anti-discrimination legislation. However, Act No. 365/2004 Coll. On Equal Treatment in Certain Areas and Protection Against Discrimination, amending and supplementing certain other laws, still remains to be fully implemented, as the provisions relating to the introduction of special measures have not entered into force yet as a result of a persisting constitutional dispute. Also, reinforced guarantees have been entrenched in the health care legislation so as to eliminate shortcomings detected following investigations into allegations of sterilisations of Roma women without their free and informed consent.

9. It is positive to see that achievements as regards linguistic rights of national minorities do not appear to have been hindered so far in practice by undue interpretations of the 1995 State Language Law. Further legislative efforts are still needed in other important areas, such as education and the financing of minority cultures, where more detailed guarantees would consolidate some positive practices that already exist. A draft law on national minorities, which would address the overall status of national minorities in Slovakia, is being considered by the Government. Such a law could constitute a tangible demonstration of the commitment of the State towards its national minorities, while addressing many of their concerns.

Data collection

10. The adequate implementation of the rights of persons belonging to national minorities requires, in a number of fields, data on the number of persons concerned. The 2001 census is crucial in this context, particularly in view of the lack of reliable data highlighted by the Advisory Committee during the first monitoring cycle. The questions asked in the 2001 census, the approach adopted in organising it, and the results that have been published all suggest that the more reliable data generated will help to remedy many of the identified shortcomings. At the same time, it is important to bear in mind that census results can only be regarded as one of the indicators of a national minority's size, especially since it is widely suggested that they do not fully reflect the real number of persons belonging to national minorities, especially the Roma. The allocation of state support for cultural initiatives and the activation of linguistic rights are therefore two important areas where the need to take into account complementary data is crucial, as the over-reliance on census data in these sectors may be detrimental to certain minorities.

11. Notwithstanding progress made in data collection through the 2001 census, there remain key areas (e.g. access to health care, employment and education) where the authorities still lack the data they need to assess the problems of certain vulnerable groups, such as the Roma, and particularly Roma women. In the future, data will therefore have to be collected in these areas, in a manner that respects the principles of data protection and ensures that the data is provided voluntarily and that the people concerned are informed about the methods and purpose of data collection. The recent publication, by the Plenipotentiary for Roma Communities, of a comprehensive demographic study on the Roma settlements is an encouraging example of data collection relying on sources other than the census. It also demonstrates that the data protection legislation does not exclude further data collection targeting specific groups.

Tolerance and intercultural dialogue

12. While there have been improvements in recent years as regards inter-community relations and intercultural understanding, which have resulted in minority issues being now perceived in a more positive way by the population, prejudices and intolerance against persons belonging to certain groups, particularly the Roma and immigrants, continue to be reported. For example, the way in which issues such as the 2004 social reform and the subsequent unrest in Eastern Slovakia have been dealt with by the media, the authorities and the police, have not contributed to reducing feelings of hostility toward the Roma.

13. The persistence of racially motivated crimes, which are on the rise according to official statistics, constitutes another matter of concern despite valuable efforts made by the authorities to address these problems more vigorously. In this context, it is essential that the racist motive of such crimes is recognised, and that a more effective protection of the persons at risk is ensured. Given the frequent allegations of police abuse against the Roma, the administrative monitoring mechanisms in place could be reviewed so as to ensure a reliable and independent complaint system that can undertake prompt, impartial and effective investigations into allegations of ill-treatment by the police.

Social situation of the Roma

14. The overall situation of the Roma minority remains worrying and the “Basic Positions” formulated in 2003 by the Government with a view to setting mid- and long-term measures in the fields of education, employment, social affairs, housing and health, remain, to a large extent, to be implemented. Indeed, many Roma still face severe difficulties and discrimination in a number of areas, including access to employment and housing, particularly in informal settlements with sub-standard living conditions. As regards the health care situation, a number of positive measures have been taken, and some important guarantees have recently been introduced in the relevant legislation to better respect the reproductive rights of Roma women. Segregating measures affecting the Roma, however, are reportedly still in place, such as physical separation from non-Roma patients in certain hospitals or special consulting hours by certain doctors. Existing governmental measures should be intensified to tackle such problems with more determination, including through public awareness-raising activities and increased efforts to adapt health care services to the linguistic and other needs of the Roma, in particular Roma women.

Education

15. A number of positive steps have been recorded in the field of education since the adoption of the first Opinion. The most significant measure was certainly the parliamentary adoption, in October 2003, of an Act establishing the Selye János University in Komárno as a public institution with financial support from the state budget. Since September 2004, the three faculties of this higher education institution offer most of their courses in the Hungarian language. The Selye János University should *inter alia* greatly improve the training of teachers of primary and secondary schools providing instruction in the Hungarian language.

16. The existence of a commendable network of schools providing either instruction in minority languages or bilingual education is an important contribution to the realisation of the rights of several minorities. Furthermore, the Roma language has been introduced as an auxiliary language of instruction in a few educational institutions at different levels, which should pave the way for a further development of similar measures in other establishments, as well as additional efforts in terms of teacher training. In order to fully reflect these positive practices and consolidate them in the future, more detailed guarantees could be introduced in the relevant legislation, and restrictions linked to the citizenship requirement could be eased.

17. The educational situation of Roma children remains a subject of special concern as many of them continue to be unduly placed in special schools designed for mentally disabled pupils. Even when they attend regular primary schools, various forms of segregation and isolation are still in place and contribute to their receiving an education of a lower quality. Efforts made to counter these phenomena have yielded only limited results so far, not least because the commendable objectives and priorities set in the governmental strategies are not consistently implemented in practice by the relevant ministries, which do not all manifest the same degree of commitment. The potential impact on Roma children of recent measures aimed at promoting increased decentralisation in the field of education merits particular attention, notably at pre-school level.

Participation

18. The representation of persons belonging to several national minorities in the Parliament and in local government authorities has increased since the adoption of the first Opinion. It is equally positive that the Government has continued to consult the Council of National Minorities and Ethnic Groups on relevant affairs. There may, however, be scope to involve this body and other representatives of national minorities more consistently in decision-making, in particular as regards the legislative reforms currently being considered by the Government. As regards the representation of national minorities in the civil service, there have been calls to make it more adequate, particularly for numerically smaller minorities and for the Roma within the police service in particular. As regards the Roma and especially Roma women, their involvement in the taking of decisions which affect them is insufficient and there is a need for the authorities tasked to implement the governmental policies to develop more effective partnerships with Roma organisations.

19. A number of positive comments have been made by various sources on the administrative reform process promoting decentralisation and its positive effects for persons belonging to national minorities in such fields as education and culture. However, fears have been expressed that this process may also have a negative impact on the level of participation of these persons. Against this background, it is important for the authorities to continue to ensure that minority participation at the regional level is given adequate attention in the future, for example through the creation of commissions dealing with minority issues, as was recently done in the region of Košice.

II. ARTICLE-BY-ARTICLE FINDINGS

Article 3 of the Framework Convention

Citizenship criterion

Findings of the first cycle

20. In its first Opinion on Slovakia, the Advisory Committee encouraged the authorities to include persons belonging to other groups in the scope of application of the Framework Convention on an article-by-article basis.

Present situation

Outstanding issues

21. The Advisory Committee notes that the Slovak legal order seems to limit the availability of rights and facilities to those persons belonging to national minorities who hold Slovak citizenship. The Advisory Committee agrees that a citizenship criterion can be a legitimate requirement in relation to certain measures taken in accordance with the principles of the Framework Convention. This can be the case, for example, as regards certain political rights available to persons belonging to national minorities. A generally applicable citizenship criterion is, however, problematic in relation to guarantees in many fields covered by the Framework Convention.

22. Citizenship can in particular hardly be seen as a reasonable criterion to authorise a person belonging to a national minority to make use of his or her language in official dealings. Although the Advisory Committee is not aware of cases in which the administrative authorities concerned have refused to communicate with a person in a minority language on the ground that that person is not a Slovak citizen, Article 2(3) of the 1999 Law on the Use of National Minority Languages is excessively restrictive in that it explicitly reserves this right to “citizens” of the Slovak Republic.

23. Similarly, the Advisory Committee is not aware of cases in which the educational authorities concerned would have refused to accept a pupil not holding the Slovak citizenship in a class held in his or her minority language. Article 34 of the Constitution and Article 3 of the Law on the System of Elementary and Secondary Schools, however, appear excessively restrictive in that they explicitly reserve this right to “citizens” of the Slovak Republic. These provisions would therefore deserve further attention by the authorities.

Recommendation

24. Consideration should be given to easing the current restriction of linguistic rights under the 1999 Law on the Use of National Minority Languages to Slovak citizens only. The same consideration should be given to easing the current restriction of the right to education in the mother tongue, under the Constitution and the Law on the System of Elementary and Secondary Schools, to Slovak citizens only.

Data collection

Findings of the first cycle

25. In its first Opinion on Slovakia, the Advisory Committee stressed the wide discrepancies between the official statistics of the Government and those of national minorities concerning the number of persons belonging to national minorities. In this context, the authorities were invited to find ways and means of encouraging persons belonging to national minorities to make use of the possibility to identify themselves as such in the context of the 2001 census.

26. The Advisory Committee urged the authorities to examine alleged administrative practices consisting of collecting personal ethnic data without the consent of the individuals concerned. In doing so, the authorities were invited to fully take into account, *inter alia*, the principle of personal data protection and respect the voluntary nature of such data collection.

Present situation

a) Positive developments

27. A general census of the population was carried out in 2001, the results of which have now been published¹. The Advisory Committee considers it positive that the said census contained questions, *inter alia*, on the mother tongue and the national affiliation of the respondents. These responses are considered personal data and therefore protected by Act No. 428/2002 Coll. On the Protection of Personal Data. It is also positive that the forms used were translated into minority languages, including in the Roma language, that Roma volunteers were recruited to encourage self-identification and that the Government supported an information campaign in minority languages, so as to raise awareness about the importance of the census.

28. The Advisory Committee welcomes the publication in 2004, by the Office of the Plenipotentiary for Roma Communities, of a demographic study on the Roma settlements in Slovakia (hereinafter: the Roma study). This comprehensive study gives a unique and detailed picture of the characteristics prevailing in most Roma settlements of Slovakia and is therefore instrumental to better understand and assess the needs of their inhabitants. The Roma study should therefore constitute an important tool of reference for the formulation and adaptation of governmental policies.

29. Reports indicating non-voluntary collection of personal ethnic data carried out without clear legal basis in, for example, the armed forces and governmental employment offices, have no longer been signalled to the Advisory Committee.

¹ The 2001 census gave the following results: 4,614,854 persons declared to be of Slovak nationality, 520,528 of Hungarian nationality, 89,920 of Roma nationality, 44,620 of Czech nationality, 24,201 of Ruthenian nationality, 10,814 of Ukrainian nationality, 5,405 of German nationality, 2,348 of Moravian nationality, 890 of Croatian nationality, 2,602 of Polish nationality, 1,179 of Bulgarian nationality, and 218 of Jewish nationality.

b) Outstanding issues

30. While the 2001 census produced quality data in a range of sectors and its results will be instrumental to design and implement current and future state policies for national minorities, it is at the same time important to continue to rely on additional data. Indeed census data does not always properly reflect the real situation: this is in particular the case as concerns the Roma, whose estimated number - including in the Roma study - is much higher than the 2001 census results suggest². The Advisory Committee considers that the allocation of state support for cultural initiatives and the activation of linguistic rights are two important areas where the need to take into account complementary data is crucial, as the over-reliance on census data in these sectors may be detrimental to the Roma (see related comments under articles 5 and 10 below).

31. Although the situation of minorities appears to be monitored fairly accurately through the collection of data in some areas, such as education, monitoring still seems to be largely insufficient in many other fields, such as access to employment and health care. The authorities need more precise data, broken down not only by minority, but also by gender and geographical area, as was the case in the Roma study, in order to ensure that policies and measures designed to help persons belonging to minorities are effective. In this respect, the Advisory Committee notes that the data protection legislation does not exclude further data collection, as evidenced by the methodology chosen and the guarantees given in the preparation of the Roma study.

Recommendation

32. Slovakia should seek to improve its evaluation of the practical effectiveness of measures taken to implement the Framework Convention through the collection of statistical data in different areas, such as access to medical care and employment or, in the absence of such data, by other means such as estimates based on *ad hoc* studies and special surveys. At the same time, it is essential to ensure that individual data and privacy are protected and that the individuals who provide information do so voluntarily and in full knowledge of how and what it will be used for.

Article 4 of the Framework Convention

Legal and institutional protection against discrimination

Findings of the first cycle

33. In its first Opinion on Slovakia, the Advisory Committee encouraged further efforts to expand the scope of legislative guarantees against discrimination by both public authorities and private entities. In this context, it noted that the establishment of an Ombudsman Office was under consideration. The Advisory Committee regretted the fact that the Government was not in a position to provide detailed information on the cases of discrimination investigated and brought to trial in various fields ranging from health care to education.

² 89,920 persons declared that they belonged to the Roma national minority in the 2001 census but most studies and assessments – including by the authorities - estimate their number between 320,000-400,000.

Present situation.

a) Positive developments

34. The Advisory Committee welcomes the numerous measures taken by the Slovak authorities since the first monitoring cycle to improve the legal and institutional framework and enforcement procedures in the area of equality and the prohibition of discrimination. Act No. 365/2004 Coll. On Equal Treatment in Certain Areas and Protection against Discrimination (Anti-discrimination Act), amending and supplementing certain other laws, was adopted on 20 May 2004. This Act contains a ban on all forms of direct and indirect discrimination based in particular on national or ethnic origin. The Anti-discrimination Act has a broad scope of application, covering numerous fields such as employment, social security, health care, education and also the provision of goods and services. It also contains promising innovations: it provides in particular for the reversal of the burden of proof in judicial proceedings and tasks the Slovak National Human Rights Centre to monitor its implementation, develop awareness-raising activities about the fight against discrimination and arrange legal aid to victims of discrimination and expressions of intolerance.

35. It will be possible to assess more fully how the Anti-discrimination Act, which entered into force in July 2004, is working in practice once judicial decisions are available and NGOs and minority associations have gathered sufficient practical experience of this instrument. It seems, however, that a number of complaints have been received so far alleging discrimination in social welfare as well as in employment relations and there may be a need to ascertain whether persons belonging to certain minorities, like the Roma, are frequently among the complainants.

36. Constitutional Act No. 564/2001 Coll. on the Public Defender of Rights established the institution of the Ombudsman in Slovakia and the first incumbent took office in 2002. During its first three years of existence, the Ombudsman received 6,408 motions covering a range of sectors of relevance to persons belonging to minorities. It is also worth underlining the establishment, in 2003, of a Department of Equal Opportunities and Anti-discrimination within the Social Inclusion Division of the Ministry of Labour, Social Affairs and Family. This Department has taken an active part in the implementation of the governmental strategies on the Roma and has, in this context, paid particular attention to Roma women. There is also reason to welcome the expansion of the activities of the Plenipotentiary for Roma communities, which has been in a position to increase its staffing resources as well as to open several regional offices.

b) Outstanding issues

37. Article 8, paragraph 8 of the Anti-discrimination Act, which provides for the possibility to adopt specific positive measures to address disadvantages linked to racial or ethnic origin, has regrettably not entered into force to date. As proposed by the Ministry of Justice, the Government lodged a request for interpretation with the Constitutional Court in October 2004 in order to verify the constitutionality of this provision, which was incorporated in the Anti-discrimination Act at the initiative of the Parliament. According to the Ministry of Justice, the very concept of positive measures would not be compatible with the principle of equality and no preferential treatment should therefore be based on ethnicity or nationality. The Constitutional Court is due to review the complaint in spring 2005 and, depending on its ruling, Article 8, paragraph 8 of the Anti-discrimination Act will or will not enter into force.

38. The Advisory Committee recalls that Article 4 of the Framework Convention and the related paragraphs of the explanatory report, as well as other international human rights instruments, make it very clear that special measures are not only legitimate but may even be required under certain circumstances in order to promote full and effective equality in favour of persons belonging to national minorities. Provided they are in conformity with the proportionality principle, such measures shall therefore not be considered an act of discrimination. The Advisory Committee is of the opinion that without such measures being taken, it is extremely difficult to reach full and effective equality between persons belonging to vulnerable minorities and those belonging to the majority. Moreover, it is to be noted that a number of institutional arrangements and special measures have already been introduced in Slovakia, such as the post of Plenipotentiary for Roma communities as well as the recruitment of Roma social workers and school assistants. In this context, there is reason for concern that the current constitutional dispute may have a chilling effect or even a negative impact on such laudable initiatives.

39. As regards the fight against discrimination and the promotion of effective equality, improvements are required in the area of monitoring so that the results of governmental policies and measures can be assessed more effectively. It appears, for example, that out of the numerous applications lodged in these areas with the Ombudsman or with the competent authorities on the basis of the Anti-discrimination Act, a significant number seem to concern persons belonging to national minorities, including the Roma. Generally speaking, the authorities do not seem to gather adequate data on the implementation of the pertinent legislation pertaining to discrimination, including the number of civil and criminal cases brought before the judiciary and information on the resulting decisions.

Recommendation

40. The authorities are invited to step up their efforts to ensure prompt and full implementation of the new Anti-discrimination Act, including by providing the necessary support to the Slovak National Human Rights Centre. Slovakia should also introduce enhanced and inclusive methods of monitoring developments and, in this context, pay increased attention to the specific situation of persons belonging to national minorities in a range of sectors like employment and health care. In the context of the constitutional dispute on the Anti-discrimination Act, care should be taken not to jeopardise the positive measures in favour of disadvantaged minorities and efforts should be made to ensure adequate recognition of the importance of such measures within the public administration.

Situation of the Roma

Findings of the first cycle

41. In its first Opinion, the Advisory Committee welcomed the fact that the Government had designed a range of initiatives - including through the 1999 Roma Strategy - aimed at promoting full and effective equality for the Roma, but stressed at the same time that adequate attention was to be paid to, and resources allocated for, their implementation. In its corresponding Resolution, the Committee of Ministers pointed out that, despite efforts made, real problems concerning the Roma remained, in particular discrimination in various fields and the extremely wide socio-economic differences with the majority population.

Present situation

a) Positive developments

42. The Advisory Committee is pleased to note that governmental initiatives aimed at promoting full and effective equality for the Roma are regularly reviewed and supplemented in a constant effort to increase their efficiency. For example, in 2002, the Slovak Government approved its priorities with regard to the Roma communities on the basis of a detailed evaluation of the state of implementation of the 1999 Roma Strategy. In 2003, the Government formulated its “Basic Positions on the Roma Communities’ Integration Policy” (hereinafter: the “Basic Positions”), which lists several mid- and long-term measures in key areas, such as education, employment, the social sector, housing and health.

43. One chapter of the “Basic Positions” is entitled “Affirmative action – achieving equal opportunities”. It stresses the relevance of such action to ensure equal opportunities, while stating that they are compatible with Articles 12 and 34 of the Constitution and provided for in international human rights instruments, including the Framework Convention. More generally, it is positive to see that the “Basic Positions” identify concrete shortcomings and even violations of the rights of the Roma when formulating priority actions in the various fields concerned. This approach should help measure the efficiency of the priority actions in future evaluations of government policies.

b) Outstanding issues

44. The commendable objectives set in the “Basic Positions” and the various priorities expressed therein are not always consistently implemented in practice. Responsibility for implementation lies with the competent ministries, which do not all manifest the same degree of commitment towards the common objectives and the same approach to basic concepts. For example, some ministries seem to have shown reluctance to endorse the concept of special measures in their sphere of activities and to take ethnic background into account to target their measures. Furthermore, delays have been noted in the introduction of planned measures, such as the Social Field Workers Programme. The Plenipotentiary for Roma Communities, whose main role is to coordinate the implementation between the various ministries concerned, does not seem to have sufficient powers to redress such shortcomings.

45. As a general point, the Advisory Committee underlines that the involvement of representatives of the Roma communities both in the assessment made of the 1999 Roma Strategy and in the formulation of the “Basic Positions” does not seem to have been sufficient, despite the adequate representation of Roma staff members in the office of the Plenipotentiary for the Roma Communities (see related comments under Article 15 below). It is indeed essential to treat the Roma as key partners in such programmes and to consistently associate them in the design, implementation and monitoring of the various measures taken by the different ministries.

46. While bearing in mind that most measures envisaged to improve the socio-economic situation of the Roma require mid- and long-term efforts, the Advisory Committee notes that the impact of the 1999 Roma Strategy and the “Basic Positions” has not yet been up to the level of expectations in key sectors, such as education (see related comments under Article 12 below), housing and employment. For example, numerous concurring reports suggest that there has been no tangible improvement concerning the living conditions in most of the Roma settlements, where sub-standard living conditions continue to prevail. Many of these settlements are still without basic sanitary facilities, heating, running water, electricity and with insufficient access

to health care facilities. Similarly, inconsiderable progress has been recorded in the chronic underemployment of the Roma population.

47. The Advisory Committee notes that negative consequences of the 2004 reform of the social aid policy are still widely felt among disadvantaged groups, in particular among the Roma. While the general aim of the reform was to eliminate systematic shortcomings of the former system, which the authorities saw as discouraging people from seeking employment, the new system has affected the poorest families particularly harshly, especially those with several children, living in economically depressed areas with very few employment opportunities. Indeed, measures such as the introduction of a limit on the total amount paid for dependency allowances, regardless of family size, particularly affected many Roma families with several children. The new definition of material hardship, based on a distinction between “subjective” or “objective” reasons, where lower benefits are allocated for “subjective” reasons, have meant that many unemployed Roma are now receiving lower levels of payments. It is, however, widely acknowledged that in many municipalities with large Roma communities, especially in Eastern Slovakia, it is extremely difficult for these persons to find jobs given the persisting high rate of unemployment and widespread discrimination against Roma by many employers.

48. Certain corrective measures have been taken by the authorities following social unrest in Eastern Slovakia in February 2004, with a view to softening the impact of the reform for the most vulnerable persons while maintaining its general approach. These include the development of so-called “activation benefits”, which make it possible to support re-qualification courses, temporary working programmes, etc. Various sources, however, suggest that the overall consequences of the 2004 social reform are not carefully examined and that further corrective measures still need to be devised. For example, fears have been expressed by NGOs that access to education of children - and especially girls - from poor Roma families living in informal settlements may be negatively affected by the social reform in that parents may in the future be more reluctant to send their children to school because of their strained financial situation (see related comments under Article 12 below). Concerns have also been expressed that more families might soon face forced evictions because they have increasing difficulties to pay their rent.

Recommendations

49. Stronger support and more determined action is required from the various ministries for the overall implementation of the 2003 “Basic Positions”, including addressing the situation of informal settlements and providing them with basic infrastructure on a non-discriminatory basis. In so doing, care should be taken to consult the Roma more consistently, including in the evaluation phase.

50. The authorities should monitor both the direct and indirect consequences of the 2004 social reform, in particular in the fields of education and housing, for disadvantaged groups, including the Roma and in particular Roma girls and women. Any resulting negative impact on the full and effective equality of these groups should be addressed.

Allegations concerning the sterilisation of Roma women without their prior free and informed consent and discrimination of Roma in access to health care

Findings of the first cycle

51. In its first Opinion, the Advisory Committee expressed particular concern about credible reports concerning *de facto* discrimination in particular against Roma in health care facilities.

Present situation

52. Following NGO allegations of sterilisation of Roma women without their prior free and informed consent, the authorities initiated criminal investigations on the basis of “genocide” as defined by Slovak criminal law. These investigations were closed in October 2003 as they did not establish the commission of such a crime against the Roma population. In the context of these criminal investigations, the Ministry of Health set up a commission composed of gynaecology and obstetrics experts to carry out an inspection of medical records covering a period of several years, including in the medical establishments of Krompachy and Gelnica. This inspection, which reportedly did not include sufficiently independent expertise, did not find grounds to sustain the commission of genocide, segregation or discriminatory practices. Consequently, the Government did not accept any political responsibility for the performance of alleged illegal sterilisations as such sterilisations were not deemed to have ever been an official policy in Slovakia³. Despite regrettable threats by some authorities, upon decision of the General Prosecution Office, criminal proceedings were eventually not brought against the authors of the NGO report alleging forced or coerced sterilisations.

53. The Advisory Committee, which has discussed these issues extensively with the authorities in the context of a follow-up seminar organised in Bratislava on 8 July 2003, recalls that other international bodies have expressed concern at the above-mentioned allegations of forced sterilisations and at the way in which these have been investigated at the domestic level, as well as issued recommendations on the subject⁴. Encouraged by these various calls to pursue investigations further with a view to identifying and remedying any systematic problem detected in the access of Roma to health care in Slovakia, the Government has subsequently identified shortcomings in the health care legislation and concluded that administrative irregularities in the way in which consent to sterilisation was being obtained from patients had been committed by certain doctors and medical establishments. This led the Government to adopt an important resolution⁵ instructing the Ministry of the Interior and the Ministry of Health to take a range of measures and to initiate, *inter alia*, amendments to the relevant health care legislation.

³ In his report of 17 October 2003 entitled “Recommendation of the Commissioner for Human Rights concerning certain aspects of law and practice relating to sterilization of women in the Slovak Republic” adopted on 17 October 2003, CommDH(2003)12, the Commissioner for Human Rights of the Council of Europe recommended in paragraph 53 item 4 that “the Government of the Slovak Republic accept clearly its objective responsibility for failing to ensure that no sterilisations were performed without free and informed consent, as required by international human rights instruments”.

⁴ See “Recommendation of the Commissioner for Human Rights of the Council of Europe concerning Certain Aspects of Law and Practice relating to Sterilization of Women in the Slovak Republic” adopted on 17 October 2003, CommDH(2003)12; Concluding Observations of the United Nations Human Rights Committee on Slovakia adopted on 22 August 2003, CCPR/CO/78/SVK, paragraph 12; Concluding Observations of the United Nations Committee on the Elimination of Racial Discrimination on Slovakia adopted on 10 December 2004, CERD/C/65/CO/7, paragraph 12.

⁵ Resolution n° 1018 of 29 October 2003 concerning the Report on developments with respect to suspicions of alleged forced sterilisations of Roma women in the Slovak Republic and the steps and measures taken.

54. The Advisory Committee welcomes the adoption by the Parliament, on 21 October 2004, of several key legislative changes aimed at responding to the shortcomings identified in the health care legislation⁶. These amendments, which entered into force on 1 January 2005, lay down in a very precise manner the conditions in which informed consent is to be sought from a person who will be provided with medical care or undergo a medical operation, as well as the requirements regarding the prior information this person has to be given. Moreover, rules regulating access to medical records have been improved, enabling for example their consultation by an authorised attorney and entrenching the right to make copies of the files *in situ*. Reinforced specific guarantees have been included as concerns informed consent for sterilisation and the crime of illegal sterilisation has been introduced in the penal code. These amendments seem to respond to many of the concerns expressed by both NGOs and international bodies in relation to the legislative framework. As regards practice, NGOs report on positive changes following the public debate on the issue of forced or coerced sterilisations and the entry into force of the aforementioned legislative changes. The Advisory Committee notes, however, that improved access to medical records based on these legislative amendments has allegedly been occasionally refused in the hospital of Krompachy to those concerned in early 2005, on the ground that implementing regulations and specific instructions from the Ministry of Health were still missing.

55. The authorities informed the Advisory Committee, during its visit to Slovakia, that a number of individual applications by alleged victims claiming civil compensation for alleged forced sterilisations had been dealt with or were still pending before various district and regional courts. It may also be that higher judicial authorities may have to pronounce themselves on these questions at a later stage. No judgement has allocated financial compensation to any of the applicants so far but the Advisory Committee considers it important that the Slovak Government closely monitors such judicial developments in the future, as they might help to identify further administrative or other deficiencies.

56. As regards discrimination more generally in the access of the Roma to health care, the Advisory Committee notes with concern persisting allegations of segregating measures at the expense of the Roma, including physical separation from non-Roma patients in certain hospitals or special consulting hours by certain doctors. Many Roma settlements lack health care facilities and services within a reasonable distance, and ambulances and doctors appear at times to be reluctant to enter Roma settlements when called upon to intervene. It is positive that the “Basic Positions” of the Government clearly acknowledge such phenomena and stress the need to tackle them.

Recommendation

57. The authorities should continue to closely monitor judicial developments in civil proceedings and, if need be, should consider the reopening of criminal investigations for bodily harm or other criminal offences. Efforts should also be made to ensure that legislative amendments aimed at reinforcing guarantees linked to free and informed consent and access to medical files are consistently applied in practice. As regards non-discriminatory access of the Roma to health care, existing measures should be intensified to tackle remaining problems more vigorously, including through public awareness-raising activities and increased efforts to adapt health care services to the linguistic and other needs of the Roma, in particular Roma women.

⁶ See Act No. 576/2004 Coll. on Health care, Services Related to the Provision of Health care and on Amendment and Supplementation of Certain Laws.

Article 5 of the Framework Convention

Conditions enabling national minorities to maintain and develop their culture

Findings of the first cycle

58. In its first Opinion, the Advisory Committee welcomed that increased efforts had been made to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture. In the corresponding Resolution, the Committee of Ministers emphasised that legal guarantees pertaining to some articles of the Framework Convention needed to be strengthened.

Present situation

a) Positive developments

59. The Advisory Committee notes that there are plans to prepare a draft law on national minorities as well as to initiate the modification of several sectoral legislative provisions so as *inter alia* to make them fully compatible with the new commitments undertaken by Slovakia at the time of the ratification of the European Charter for Regional or Minority Languages in 2001.

60. Further efforts have recently been intensified to complete the legislative framework pertaining to minorities. A draft law on the financing of minority cultures is being finalised and is expected to be transmitted to the Parliament in 2005. This draft mainly aims at ensuring more transparency and stability in state support for minority cultures since the current funding system only relies on ad hoc governmental resolutions. The representatives of several minorities, such as the Hungarians, but also the numerically smaller minorities like the Ruthenians and the Germans, have explained that such a law would help them to develop more sustainable initiatives to preserve their culture.

61. The Advisory Committee notes with satisfaction that there has been a substantial increase in the allocation of financial support to minorities by the Ministry of Culture from 2001 to 2004.

b) Outstanding issues

62. The draft legislative changes currently under preparation do not seem to be well known among representatives of national minorities and NGOs involved in these matters. Their consultation in due course on such important changes will be essential to ensure that their needs are given proper attention by the authorities. Although a certain priority seems to have been given to the draft law on the financing of minority cultures, which appears to be politically less controversial, some delays have been noticed in the preparation of this piece of legislation which had been announced for quite some time.

63. The Roma have for many years proportionally received much less financial support from the Ministry of Culture than other minorities. The Ministry of Culture, which partly recognises this state of affairs while stressing that the imbalance has been significantly reduced since 2001, considers that it has to base its financial allocations on the figures resulting from the 2001 census, i.e. 89,920 Roma. The Advisory Committee, however, recalls that the authorities should not rely exclusively on census figures when designing, implementing and monitoring measures and policies in favour of minorities (see related comments under Article 3, “data collection”, above). Indeed, other indicators like surveys or scientific studies – notably the aforementioned

Roma study - may be used as well. This is all the more the case when it is widely acknowledged, including by the authorities, that the census results are well below the actual number of Roma. More generally, the Advisory Committee recalls that as regards cultural support, numerical considerations should not systematically determine state action as the promotion of a minority culture represents an objective *per se*.

Recommendations

64. The authorities are encouraged to speed up their efforts to complete the legislative framework pertaining to the financing of minority cultures and the protection of national minorities, while ensuring proper participation of representatives of national minorities in this process.

65. Slovakia should continue to support cultural initiatives for national minorities and, in this context, eliminate any remaining imbalance that negatively affects the support provided for certain minorities, notably the Roma.

Article 6 of the Framework Convention

Tolerance and intercultural dialogue

Findings of the first cycle

66. The first Opinion and the corresponding Resolution recognised improvements in inter-community relations. A certain lack of spirit of tolerance and of intercultural dialogue was, however, regretted particularly *vis-à-vis* the Roma, who were still victims of negative stereotypes often strengthened by the media.

Present situation

a) Positive developments

67. Efforts made by the authorities to improve the climate of tolerance and intercultural understanding appear to have relaxed relations between the majority population and national minorities. For example, recent opinion poll results suggest that minority issues are perceived as a risk and/or in a negative way by an increasingly smaller part of the population.

b) Outstanding issues

68. Despite improvements, prejudices against persons belonging to certain groups, particularly Roma and immigrants, continue to be reported in Slovakia. Negative stereotypes are still common in the media, whose role in stigmatising certain groups, like the Roma during the social unrest which took place in Eastern Slovakia following the reform of the social welfare system in February 2004, sometimes undermine efforts to build confidence and tolerance. Various sources indeed report increased tensions between the Roma and the majority population, following the said social reform and the way in which it had been dealt with by the media, the authorities and the police. More generally, widespread feelings of hostility toward Roma among the majority population make these persons particularly vulnerable to discrimination in various sectors, ranging from employment to housing, health care (see related comments under article 4 above) and education (see related comments under article 12 below).

Recommendation

69. The authorities should pursue further their efforts to promote tolerance and intercultural dialogue in education, the media and other fields. In the case of the media, self-regulatory and monitoring bodies should pay increased attention to the above-mentioned phenomena and combat them more vigorously; in this context, consideration could also be given to developing journalist training.

Police and ethnically motivated incidents*Findings of the first cycle*

70. In its first Opinion on Slovakia, the Advisory Committee expressed concern about continuing occurrences of racially motivated violent crime often targeted at Roma but also at other ethnic groups. Abuse of persons belonging to national minorities by members of the police and reciprocal mistrust was also highlighted, as well as shortcomings in the way in which the rare cases of racially motivated crime that eventually reached the police were addressed. In particular, police appeared to be over-hesitant to qualify alleged crime as racially motivated. In its Resolution, the Committee of Ministers stressed problems in the treatment of Roma by some law-enforcement officials.

Present situation

a) Positive developments

71. Criminal provisions have been strengthened in recent years: Act No. 253/2001 Coll. amending and supplementing the Criminal Code introduced a more comprehensive definition of racially motivated criminal acts. This addition was included to ensure that the courts would take racial motivation into account when examining attacks against the Roma. Some tribunals had previously been reluctant to do so on the ground that the Roma are part of the Slovak population.

72. A Commission for racially motivated crime, made up of representatives of several ministries but including also NGOs, was set up within the Ministry of the Interior in 2001. This Commission mainly aims to monitor ethnically motivated incidents, extreme right and skinhead activities as well as to propose and coordinate measures to counter these phenomena.

73. Internal guidelines have been issued by the Ministry of the Interior on the procedure and practices to be followed by the police in cases of alleged racially motivated violence. Specific posts have been created within the Police Presidium as well as in regional police offices to deal with such cases and police officers have been trained, in co-operation with NGOs, on the methodology to follow and practical steps to take. A pilot project was launched in 2005 in the regions of Presov and Košice with a view to recruiting specialist staff members within the police, whose main role is to improve communication with Roma communities and ensure full respect for the human rights of the Roma in all police interventions.

b) Outstanding issues

74. There is reason for concern about the continuing occurrence of racially motivated crimes and incidents in the country mainly against Roma and other vulnerable groups, as noted also by other international bodies⁷. While the authorities argue that such crimes have recently diminished in their most extreme form of violence, official statistical data clearly indicates an important rise of reported ethnically motivated incidents from the year 2000 onwards. The Advisory Committee recognises that this rise is partly due to the efforts made by the authorities to sensitise both the police and the victims to the importance of the issue. These efforts have, for example, resulted in the police being less hesitant to qualify an alleged crime as racially motivated, and also in progress in addressing the prevailing mistrust between the police and the victims, notably the Roma. The trend observed in statistics nevertheless calls for intensified state action in this field, without which the implementation of Article 6 of the Framework Convention in Slovakia continues to be difficult.

75. Allegations of police abuse, ill-treatment and verbal insults against Roma are still reported, including in the context of police interventions in informal settlements. A number of such disturbing complaints have been raised in the context of massive police and armed forces intervention following the social unrest which took place in early 2004 in Eastern Slovakia. Although subsequent investigations launched by the Ministry of the Interior have not identified any violation of the law, a number of complaints challenging the adequacy of the public use of force are still pending before the judiciary. More generally, numerous calls deplore the absence of a reliable and independent complaint system to undertake prompt, impartial and effective investigations into allegations of ill-treatment by the police since the existing procedures within the Police Presidium and the Inspection of the Ministry of the Interior lack objectivity and credibility⁸.

Recommendations

76. Slovakia should pursue and expand its efforts to ensure that ethnically motivated crime is consistently categorised and dealt with as such, as well as prosecuted vigorously by law-enforcement bodies.

77. The authorities should review the administrative mechanisms in place in cases of offences allegedly committed by police officers so as to ensure that a reliable and independent complaint system is introduced to undertake prompt, impartial and effective investigations into allegations of ill-treatment by the police.

⁷ See European Commission against Racism and Intolerance (ECRI), third report on Slovakia, adopted on 27 June 2003, paragraphs 16-23; Concluding Observations of the United Nations Human Rights Committee on Slovakia adopted on 22 August 2003, CCPR/CO/78/SVK, paragraph 17; Concluding Observations of the United Nations Committee on the Elimination of Racial Discrimination on Slovakia adopted on 10 December 2004, CERD/C/65/CO/7, paragraph 5.

⁸ See European Commission against Racism and Intolerance (ECRI), third report on Slovakia, adopted on 27 June 2003, paragraphs 16-23; Concluding Observations of the United Nations Committee against Torture on Slovakia adopted on 11 May 2001, A/56/44, paragraph 105 c.

Article 9 of the Framework Convention

Broadcasting for minorities

Findings of the first cycle

78. In its first Opinion, the Advisory Committee noted with approval the Government's increasing support for electronic and print media of national minorities and welcomed the broadcasting of programmes in minority languages on public television and radio, but suggested that more detailed legislative provisions in this field could be helpful. It also regretted the fact that very little broadcasting time was devoted to radio programmes in the Roma language. Finally, the Advisory Committee drew attention to certain provisions in the State Language Law of 1995, such as Article 5(6), that could lead to undue limitations on the freedom to receive and impart information and ideas in minority languages, and invited the authorities to address this issue.

Present situation

a) Positive developments

79. Act No. 16/2004 Coll. of 4 December 2003 on the Slovak Television now explicitly provides in its article 5(1) that the main activities of the Slovak Television include the broadcasting of programmes in the languages of national minorities or ethnic groups living in the territory of the Slovak Republic. A similar provision has been introduced by Act No. 619/2003 of 4 December 2003 as regards the main activities of the Slovak Radio.

b) Outstanding issues

80. While recognising that the State Language Law does not seem to have had a negative impact on broadcasting in minority languages so far and that no warnings or sanctions for non-compliance or violations of the said law have been reported, the Advisory Committee considers it important that continuous attention be paid to ensuring freedom to receive and impart information and ideas in minority languages.

81. The Advisory Committee is not aware of any increase in the programmes broadcast in the Roma language, which are quite limited (30 minutes a week).

Recommendation

82. The authorities are invited to continue and develop their commendable practices as regards minority language broadcasting, including by expanding programmes for the Roma minority, and ensure that no undue interpretation of the State Language Law hinders these achievements.

Article 10 of the Framework Convention

Use of minority languages in relations with administrative authorities

Findings of the first cycle

83. In its first Opinion, the Advisory Committee considered that the adoption of the Law on the Use of National Minority Languages in 1999 significantly improved the legal protection of minority languages, in particular through the 20% threshold it introduced. However, the Advisory Committee considered it essential to address the reported problems concerning its implementation, such as the lack of language skills in the offices concerned, and ensure that, as *lex specialis*, the law on minority languages consistently takes precedence over the State Language Law in practice. In the corresponding Resolution, the Committee of Ministers stressed that despite recent improvements in the legal status of minority languages in official contacts, the legislative framework touching upon languages still contains shortcomings.

Present situation

a) Positive developments

84. Progress has been reported in the implementation of the 1999 Law on the Use of National Minority Languages since the first monitoring cycle. In a number of municipalities concerned by the scope of this piece of legislation, concrete steps have been taken to facilitate and encourage the official use of minority languages.

b) Outstanding issues

85. While the changes brought about by the 1999 Law on the Use of National Minority Languages remain largely positive, certain aspects of the law and its implementation in practice remain problematic from the point of view of Article 10 of the Framework Convention and would deserve further attention by the authorities.

86. This is particularly the case for the citizenship requirement, which has been covered elsewhere in the Opinion (see related comments under Article 3 above). Another problematic issue is the criteria used to determine whether or not the 20% threshold is reached in a given municipality. Indeed, Article 2(1) of the 1999 Law on the Use of National Minority Languages exclusively refers to the results of the 1991 census in this respect, and takes account of Slovak citizens only. As indicated by the Government in the State Report, the list of municipalities in which the citizens of the Slovak Republic belonging to national minorities constitute at least 20% of the population is given in Ordinance No. 221/1999 Coll., which is based on the results of the 1991 census. The 2001 census results, however, reveal changes as regards the number of municipalities concerned with a decrease of the municipalities having the required share of the Hungarian, Roma and Ukrainian minorities and a substantial increase of the municipalities having the required share of the Ruthenian minority. The Advisory Committee understands that this delicate and sensitive question has so far delayed the adoption of a revised governmental Ordinance determining the list of municipalities concerned on the basis of the results of the 2001 census.

87. As a matter of principle, the Advisory Committee would like to point out that, when the Slovak authorities use percentages as the basis for establishing whether the use of minority languages in relation with administrative authorities is admissible, they should not rely too

strictly on figures taken from the latest census. Since Article 10, paragraph 2 of the Framework Convention refers also to areas which have been “traditionally” inhabited by persons belonging to a national minority, the demographic structure of the area in question could be considered over a longer period of time in order to ascertain the existence of sustainable demographic trends. This is particularly relevant when it comes to withdrawing existing linguistic facilities in certain municipalities, a measure that should be taken with extreme caution only. Moreover, the Advisory Committee recalls that census results can only be regarded as one of the indicators of a national minority’s size especially when elements suggest that they do not fully reflect the real number of persons belonging to national minorities, as is the case for the Roma (see related comments under Article 3 above).

88. Information on the practical implementation of the 1999 Law on the Use of National Minority Languages remains insufficient. It is for example difficult for the Advisory Committee to ascertain the extent to which the alleged lack of linguistic skills in the offices concerned represents a problem. In this context, Article 7 of the 1999 Law on the Use of National Minority Languages, which explicitly states that employees of the public administration shall not be required to have a command of a minority language does not seem to represent the best incentive to improve the situation. There may be a need for the Government to consider developing language training and other measures for the civil servants based in the municipalities where the use of minority languages in relations with administrative authorities is admitted.

Recommendation

89. As regards the determination of the list of municipalities in which the public use of minority languages is admitted, the authorities are invited to be prudent in the use of figures taken from the 2001 census and not to rely solely on these. They are also invited to act with extreme caution when considering the possible withdrawal of linguistic facilities in certain municipalities. The need for further language training and other accompanying measures, such as the recruitment of civil servants from among national minorities, should also be examined.

Article 11 of the Framework Convention

Personal names

Findings of the first cycle

90. In its first Opinion, the Advisory Committee noted with satisfaction that legislative provisions existed aimed at protecting the rights of persons belonging to national minorities to use their first names in a minority language and the right to official recognition of them, but noted that disturbing reports suggested that the Slovak form of a surname was still imposed in some instances on women belonging to national minorities.

Present situation

Positive developments

91. No reports on alleged forced use of the Slovak form of a surname for women belonging to national minorities have been brought to the attention of the Advisory Committee since the first monitoring cycle.

Recommendation

92. The authorities are invited to remain attentive in this field and ensure that existing legal provisions on the right to use personal names in a minority language are consistently implemented in practice.

Article 12 of the Framework Convention

Segregation of Roma children in schools

Findings of the first cycle

93. In its first Opinion, the Advisory Committee expressed deep concern about the reported undue placing of a high proportion of Roma children in so-called special schools designed for mentally disabled children, a practice not compatible with the Framework Convention. More generally, the Advisory Committee encouraged the Government to design and implement equal opportunities for access to education at all levels.

Present situation

a) Positive developments

94. The disproportionately high presence of Roma children⁹ in special schools reserved for mentally disabled children was identified as a specific problem requiring immediate action in the 2003 “Basic Positions” of the Government. The Government subsequently approved, in 2004, a Policy Concept of Integrated Education of Roma Pupils and Youth, Including the Development of Secondary and Higher Education. Implementation of this policy concept has been carried out mostly by the Ministry of Education. This has included the revision and development of the aptitude test procedure used to place children in special schools so as to eliminate their culturally biased approach, as well as the launching of experimental programmes intended to reintegrate Roma pupils attending special schools back into regular schools in selected districts and regions.

95. A certain number of young Roma have been recruited as teachers’ assistants to facilitate the contacts with Roma children in a number of schools, help them to cope with their language problems and stimulate their school performance. Efforts have also been made to increase the number of Roma pupils at pre-school level through the opening of so-called “zero classes” in several primary schools. These and other positive measures have been consolidated by Act No. 408/202 Coll. of 27 June 2002 amending Act No. 29/1984 Coll. on the system of Primary and Secondary Schools (School Act) and subsequent instructions regarding pedagogical methodology issued by the Ministry of Education.

b) Outstanding issues

96. Despite efforts made by the authorities, the Advisory Committee remains deeply concerned about the situation of Roma children in the field of education. Measures taken to stop the undue placing of Roma children in special schools designed for mentally disabled pupils have yielded only limited results so far. A number of the above-mentioned measures have been conceived only as experimental or pilots schemes. They have therefore not been consistently

⁹ According to 2001 official data, 38 % of all Roma pupils attended special remedial schools or classes for mentally disabled persons during the 2001/02 school year. The corresponding percentage of children from the majority population was only 2.5 %.

implemented over a significant period of time in all regions of Slovakia and in the various schools concerned.

97. The Advisory Committee finds it alarming that even where Roma children attend regular primary schools, various forms of segregation and isolation at their expense persist. Indeed, various reports and surveys conducted for example in the districts of Bardejov, Spisska Nova Ves and Prešov indicate that in many schools, Roma children account for more than 50% of the pupils and in some cases even 100%, a state of affairs which cannot be explained only by the fact that Roma reside compactly in these regions. Such schools are usually said to be of a much lower quality and perpetuate a worrying isolation of Roma children from their peers in the majority population.

98. Statistical data extracted *inter alia* from the 2001 census, as well as other data provided by the Government in the State Report, suggest that only limited progress is being made in improving the level of attendance of Roma children at pre-school level as well as in reducing school absenteeism, two problems that particularly affect the Roma minority and hamper their equal access to education.

99. Another issue that merits particular attention by the authorities is the potential impact on Roma of recent measures aimed at promoting increased decentralisation in the field of education. While the general process of administrative decentralisation seems to be largely welcomed by those concerned, including by persons belonging to national minorities, fears have been expressed that the shift of responsibility from the Ministry of Education to the municipal authorities for the funding of kindergartens may eventually lead to a reduction in the level of attendance of the Roma and other disadvantaged children. This unfortunate state of affairs might indeed be due to the poor financial situation of certain municipalities, which may be tempted to reduce their support for special measures for disadvantaged pupils and/or have difficulties to keep their kindergartens open. This element, coupled with the potential negative impact of the social reforms on the Roma, renders specific monitoring of the situation necessary and, where appropriate, the subsequent adoption of remedial measures (see related comments under Article 4 above).

Recommendations

100. Slovakia should step up its efforts aimed at eliminating the various forms of segregation affecting Roma in the education field. More resolute action should be taken to eliminate the undue placing of Roma children in special schools reserved for mentally disabled children as such practice is not compatible with the Framework Convention and to ensure that those children who have been subject to such a decision have the possibility to be reintegrated into the regular school system.

101. Successful measures to promote equal opportunities for access to education should be generalised, such as the recruitment of young Roma as teachers' assistants, and attendance of Roma children in kindergarten. In this context, care should be taken to ensure that the recent decentralisation measures do not negatively affect the situation of the Roma, including through special resources aimed to compensate the effects of this decentralisation in favour of the most vulnerable persons in areas such as pre-school education.

Article 14 of the Framework Convention

Minority language education

Findings of the first cycle

102. In its first Opinion, the Advisory Committee welcomed the right, enshrined in Article 34 of the Constitution, for persons belonging to national minorities to receive education in their mother tongue but at the same time encouraged the adoption of more detailed legislative guarantees in this field. It further noted that the Roma language was recognised only in a very limited fashion and that no school offered instruction in the Roma language, *inter alia* because of a lack of qualified teachers. More generally, the Advisory Committee encouraged the Government to strengthen its efforts in the field of teacher training given the needs in this area.

Present situation

a) Positive developments

103. In October 2003 the Parliament adopted Act No. 465/2003 Coll. on establishing the Selye János University in Komárno. This university, which is composed of a Faculty of Economics, a Faculty of Pedagogy and a Faculty of Reformed Theology, started to operate in September 2004 and offers most of its courses in the Hungarian language. It is funded by the state budget. The setting up of the Selye János University has been widely welcomed as a significant step forward in the realisation of the rights of persons belonging to the Hungarian minority. The setting up of a Faculty of Pedagogy should greatly improve the training of teachers of primary and secondary schools providing instruction in the Hungarian language.

104. In its 2002 Programme on education, the Government committed itself to focusing on the creation of further opportunities for the Ruthenian and Roma minorities to receive education in their mother tongues. The Roma language is now used as an auxiliary language of instruction in kindergartens, in preparatory grades of primary and special schools with a high concentration of Roma pupils, in the Secondary School of Fine Arts in Košice, in the private Gymnasium of Košice and in the Department of the Roma Culture at the University of Constantine the Philosopher in Nitra. Since 2002, at least three textbooks in the Roma language have been approved and subsequently published by the authorities. Furthermore, thanks to joint efforts by the Plenipotentiary for the Roma communities and the Ministry of Education, the Roma language has been introduced in four pilot projects focusing on secondary education, and a considerable number of Roma language teachers should graduate in spring 2005. In this context, mention should also be made of the preparatory work carried out since 2002, by the Roma Culture Department of the Social Sciences Faculty at the University of Constantine the Philosopher in Nitra, to introduce bachelor-level study for teachers' assistants.

105. The school reform implemented in recent years, which *inter alia* resulted in the municipalities having more responsibilities as regards funding, setting up of classes and organisational matters, has been welcomed for its increased flexibility by a number of representatives of national minorities, including the Hungarians.

b) Outstanding issues

106. As was already emphasised in the first monitoring cycle and notwithstanding the existence of a commendable network of schools providing either instruction in minority languages or bilingual education, Article 3 of the Law on the System of Elementary and Secondary Schools is a provision of a very general nature. This provision guarantees only to Slovak citizens belonging to the "Czech, Hungarian, German and Polish and Ukrainian (Ruthenian) nationalities" the right to education also in their mother tongue "to the extent necessary for the interest of their national development". In addition to the need to address the restriction of this provision to citizens only (see related comments under Article 3 above), the Advisory Committee considers that there remains a need to entrench more detailed legislative guarantees to consolidate the existence of schools providing minority language teaching and to expand certain guarantees to other minorities not explicitly mentioned, like the Roma. This need could be addressed, for example, in the ongoing debate on the preparation of a draft law on national minorities (see related comments under article 5 above).

107. As regards the practical situation of schools with instruction in a minority language, the attention of the Advisory Committee has been drawn by representatives of the Hungarian minority to the need for the authorities to pay increased attention to the linguistic skills of school inspectors, who allegedly at times lack sufficient knowledge of the minority language used in the educational institutions they are tasked to supervise.

108. Despite progress made in the development of Roma language teaching and the interest expressed by those concerned, few opportunities exist in practice for persons belonging to this minority to attend classes with instruction in the Roma language. The Advisory Committee is aware of the particular challenges ahead of the authorities to improve this situation and in particular the difficulties linked to the codification of the Roma language and the need to train more Roma teachers. Nevertheless, the Advisory Committee is of the opinion that there is still scope for improvement in this respect.

Recommendations

109. Efforts should be made to develop more detailed legislative guarantees in order to consolidate the existence of schools providing minority language teaching and expand certain guarantees in this field to other minorities not explicitly mentioned in the current provisions.

110. The authorities are invited to intensify existing measures so as to create further opportunities to receive Roma language teaching, including through the development of additional teacher training programmes. Increased attention should be paid to the linguistic skills of schools inspectors operating in educational institutions providing instruction in a minority language.

Article 15 of the Framework Convention**Participation of persons belonging to national minorities
in the decision-making process***Findings of the first cycle*

111. In its first Opinion, the Advisory Committee welcomed that the Council of National Minorities and Ethnic Groups was being consulted increasingly by the Government and

expressed the wish that the introduction of a public administration reform would be designed in a manner that contributes also to the effective participation of persons belonging to national minorities.

Present situation

a) Positive developments

112. Following the 2002 parliamentary and municipal elections, the proportion of persons belonging to national minorities increased both in the Parliament and in local government authorities. Representatives of the Hungarian Coalition Party hold several ministerial and state secretarial positions in the current Government, which also contributes to an effective participation of the Hungarians in public affairs.

113. As regards the Council of National Minorities and Ethnic Groups, the Advisory Committee notes that the Government has continued to consult it on relevant matters, including on the preparation of the State Report.

114. The legislation on public administration was completed in 2001 with the adoption of Act No. 302/2001 Coll. on Self-Governing of Upper-tier Territorial Units, which creates eight self-governing regions. A number of positive comments have been made by various sources on this administrative reform process promoting decentralisation and its positive effects for persons belonging to national minorities in such fields as education and culture. For example, the regional Office in Košice has recently been in a position to establish a Commission dealing with minority issues following this reform process in order to tackle the particular situation faced by the region in this respect.

b) Outstanding issues

115. While noting that the boundaries of the self-governing regions coincide with the boundaries of regions created under Act No. 221/1996 Coll. on Territorial and Administrative Division of the Slovak Republic, which had previously been criticised by certain Hungarian representatives, the Advisory Committee considers it important for the authorities to continue to ensure that minority participation at the regional level is given adequate attention in the future.

116. Representatives of numerically smaller minorities have indicated that they were not sufficiently employed in the public administration and especially in certain key ministries, such as the Ministry of Culture. The Advisory Committee is not aware of any specific efforts by the Government to review the situation and, where appropriate, to encourage a better participation of numerically smaller minorities in the civil service.

117. The Advisory Committee stresses that the contribution of the Council of National Minorities and Ethnic Groups could be more significant, particularly if such issues as its status and the scarce resources at its disposal were to be addressed.

Recommendations

118. The authorities are invited to ascertain whether the persons belonging to national minorities, particularly to numerically smaller minorities, are adequately represented in the civil service and, where appropriate, to take further measures in this respect.

119. Consideration could be given to revisiting the status and strengthening the scarce resources, composition and working methods of the Council of National Minorities and Ethnic Groups so as to reinforce its contribution as an advisory body to the Government on minority issues.

Participation of the Roma

Findings of the first cycle

120. In its first Opinion, the Advisory Committee noted with deep concern the shortcomings that remained as concerns the effective participation of the Roma - and Roma women in particular - in social and economic life.

Present situation

a) Positive developments

121. The 2002 municipal elections have led to the election of a few Roma mayors and a considerable number of municipal councillors. Although limited, this progress recorded in the political participation of persons belonging to the Roma minority deserves to be welcomed and may pave the way for future improvements in this sphere. Following the administrative reform process, the regional Office in Košice has recently been in a position to establish a Commission dealing specifically with Roma issues.

122. Efforts have been made to involve Roma organisations in the elaboration of the measures designed by the Government to implement its “Basic Positions”. The reinforcement of the status and staff of the Plenipotentiary for Roma Communities has been accompanied by measures to increase the number of qualified Roma working for this institution.

b) Outstanding issues

123. In spite of these positive developments, participation mechanisms for the Roma minority remain limited, particularly at the central level. Various sources indicate that the authorities involved in the implementation of measures aimed at improving the situation of the Roma often fail to establish an effective partnership with Roma organisations (see also related comments under Article 4 above). More generally, their involvement in the taking of decisions which affect them remains insufficient.

124. The presence of Roma in executive structures as well as in the public administration is extremely limited. This is particularly the case within the police service, where recent efforts made to recruit Roma police officers have met with difficulties.

Recommendations

125. More determined efforts should be made to find ways and means to substantially improve participation of the Roma - including Roma women - in decision-making processes. The authorities should ensure that the Roma and their organisations are treated as key partners in governmental programmes aiming at improving their situation. In so doing, they should endeavour to associate them in the design, implementation and monitoring of the various measures taken by the different ministries to implement the 2003 “Basic Positions”.

126. Steps already taken to increase the number of Roma working in the public administration, particularly within the police service, should be continued and intensified.

Article 18 of the Framework Convention

Cross-border co-operation

Findings of the first cycle

127. In its first Opinion, the Advisory Committee welcomed the attempts to improve the functioning of the joint commissions envisaged in the 1995 treaty on Good Neighbourliness and Friendly Co-operation between Slovakia and Hungary.

Present situation

a) Positive developments

128. The Advisory Committee is pleased to note that Slovakia has been particularly active in strengthening cross-border co-operation with its neighbours, which has had positive impacts for persons belonging to national minorities. This has been recently attested by the signature, in January 2003, of an Agreement between the Government of the Slovak Republic and the Government of the Republic of Hungary on Co-operation in the Fields of Culture, Education, Science, Sports and Youth, which is however not exclusively aimed at addressing minority issues. Mention must also be made of the signature, in December 2003, of an Agreement between the Government of the Slovak Republic and the Government of the Republic of Hungary on Mutual Support for National Minorities in the fields of Education and Culture. This Agreement, which mutually recognises that each State Party may support its “kin minority” living in the territory of the other State Party under agreed conditions, appears to take due account of the principles of good neighbourliness, friendly relations and co-operation between states, as enshrined in Articles 2 and 18 of the Framework Convention. The Advisory Committee indeed considers that these principles are of central importance in the preparation of rules governing kin state support for their minorities.

b) Outstanding issues

129. The attention of the Advisory Committee was drawn to certain difficulties as regards recognition of diplomas for foreign teachers wanting to work in primary schools (grades 1 to 4) of Slovakia. These difficulties seem to complicate in particular the recruitment of teachers coming from Hungary with a view to teaching in Slovak schools providing instruction in Hungarian.

Recommendation

130. The authorities are invited to ascertain that there are no undue obstacles complicating the recognition of diplomas for foreign teachers invited to work in Slovak primary schools with instruction in minority languages.

III. CONCLUDING REMARKS

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

Positive developments

132. Slovakia has taken a number of steps to improve the implementation of the Framework Convention following the adoption of the first Opinion of the Advisory Committee in September 2000 and the Committee of Ministers' Resolution in November 2001. This process has included important legislative changes as well as changes in practice. Furthermore, important pieces of legislation on the financing of minority cultures and the protection of national minorities are currently under discussion within the Government and should be transmitted to the Parliament soon.

133. Since the adoption of the first Opinion of the Advisory Committee, Slovakia has improved markedly its anti-discrimination legal and institutional framework. The most significant step was the adoption, in May 2004, of Act No. 365/2004 Coll. On Equal Treatment in Certain Areas and Protection against Discrimination, the scope of which covers a number of societal settings. This Anti-discrimination Act provides in particular for the reversal of the burden of proof in civil proceedings and tasks an independent authority to monitor its implementation, develop awareness-raising activities about the fight against discrimination and arrange legal aid to victims of discrimination. The setting up of an Ombudsman institution in 2002 represents a further contribution to an improved framework to combat discrimination.

134. The overall substantial increase in the allocation of financial support to minorities by the Ministry of Culture in recent years deserves to be welcomed.

135. Serious efforts have been made to address ethnically motivated crimes more vigorously both in terms of strengthening relevant legal provisions and improving the institutional framework, notably through the creation of a Commission for racially motivated crime in 2001. Commendable measures have also been taken to train police officers to deal with such cases in full respect of human rights and raise their awareness about the importance of the problem.

136. In the field of education, the setting up of the Selye János University in Komárno, which started to operate in September 2004, is to be welcomed. This state-run University, which comprises three faculties, will significantly improve teacher training opportunities and expand the possibilities available for persons belonging to the Hungarian minority to receive higher education in their language, since it offers most of its courses in the Hungarian language.

Issues of concern

137. While the adoption of the Anti-discrimination Act in 2004 significantly strengthened the existing legal framework, there is reason for concern about the related constitutional dispute which has so far hampered the entry into force of an important provision allowing the introduction of positive measures to address disadvantages linked to racial or ethnic origin. Furthermore, the impact of the aforementioned dispute on a range of existing or planned special measures in favour of the Roma is still unclear.

138. The legislative framework pertaining to the protection of national minorities still contains shortcomings, including as regards the financing of minority cultures and instruction in minority languages, as well as certain restrictions such as those limiting linguistic rights to persons belonging to national minorities who hold Slovak citizenship. There is scope for improvement in the participation of persons belonging to national minorities in the decision-making process, including with regard to the pending legislative reforms and representation in the civil service.

139. The continuing occurrence in recent years of a significant number of racially motivated crimes and incidents targeting Roma and other vulnerable groups poses particular challenges and seriously affects the implementation of the Framework Convention in Slovakia. Allegations of police abuse against Roma in various contexts are still reported and need to be addressed.

140. The Roma continue to face particular difficulties and experience various forms of exclusion and even discrimination. Serious problems persist in different societal settings, such as employment, housing and health care, a domain in which recent legislative changes still need to be fully reflected in practice. Their participation in public affairs remains insufficient and their involvement in governmental programmes aimed at improving their position should be more consistent.

141. In the field of education, the persistence of various forms of exclusion and segregation which mainly affect Roma children is a source of deep concern. The potential impact on disadvantaged Roma pupils of recent measures promoting increased decentralisation, as well as the effects of the 2004 social reform, merit particular attention, including in terms of monitoring to ensure that equal opportunities for access to education are not negatively affected. The number of classes with instruction in the Roma language remains limited despite the interest expressed by those concerned.

Recommendations

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

- Ensure the full and effective implementation of Act No. 365/2004 Coll. On Equal Treatment in Certain Areas and Protection against Discrimination and take steps to ensure that existing or planned special measures in favour of disadvantaged groups like the Roma are further supported and encouraged;
- Pursue the efforts already made to complete the legislative framework pertaining to national minorities, including in the fields of culture and education, and ensure that achievements in this field are not hindered by undue interpretations of the 1995 State Language Law; consider easing restrictions as regards linguistic rights available to persons belonging to national minorities;
- Review the mechanisms aimed to ensure participation of persons belonging to national minorities in order to render it more effective;
- Ensure that persons belonging to national minorities, especially the numerically smaller ones, are adequately represented in the civil service;
- Redouble efforts to fight more vigorously ethnically motivated crimes at all levels, including through the consistent application, by law enforcement officers and prosecution bodies, of reinforced criminal provisions;
- Address allegations of police abuse against Roma and consider in this context the introduction of an independent, effective and reliable complaint system;
- Take further steps to put an end to exclusion and segregation practices affecting Roma pupils;
- Ensure that the rights of Roma women are respected in practice, particularly in the field of health care;
- Intensify existing measures, including as regards teacher training, so as to create further opportunities to receive Roma language teaching.

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