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

Third Opinion on Croatia
adopted on 27 May 2010

EXECUTIVE SUMMARY

Since ratifying the Framework Convention in 1997, Croatia has stepped up its efforts to protect national minorities. The authorities have continued to show their commitment to the implementation of this treaty and have drawn on it when drafting the Constitutional Act on the Rights of National Minorities, which entered into force in 2002.

Croatia adopted the Discrimination Prevention Act in July 2008 which provides a clear legal basis for protection against discrimination. The Act provides protection and prohibits discrimination (among others) on racial, ethnic, national or religious grounds and establishes a judicial procedure for its enforcement. Despite this positive development, cases of discrimination of persons belonging to the Serbian minority and the Roma in the field of education, employment, housing, recognition of property and other acquired rights, reconstruction of housing units damaged during the war, sustainability of minority returns, access to health care and social protection continue to be reported.

In the field of employment, in particular in public administration, the judiciary, local government and public enterprises, the non-respect of the right to proportional representation of persons belonging to national minorities established under the provisions of the Constitutional Act on the Rights of National Minorities gives rise to serious concern.

The progress made in the repossession of property as well as in the allocation of housing care for former tenancy rights holders has had a positive effect on the overall return process, including its sustainability. There has been however a lack of transparency surrounding the allocation of housing units in 2008 and 2009 and there are concerns about the considerable number of unresolved cases particularly of former tenancy/occupancy right holders in the urban areas inhabited by a substantial number of persons belonging to the Serbian minority.

Ethnically-motivated incidents against persons belonging to national minorities, in particular the Serbs and Roma, continue to be a serious problem in Croatia, with many cases of attacks remaining unreported due mainly to a lack of trust in the police and justice systems. Various sources concur that the response from the law enforcement officials to ethnically-motivated incidents is inadequate. In addition, racism and anti-Semitism continue to plague Croatian football stadiums.

A well-developed system of minority language education exists in Croatia, permitting students belonging to national minorities to receive instruction in or of their languages. The number of children attending schools teaching minority language or in minority language remains stable. Textbooks for mother tongue education developed in the “kin-States” have been approved for use in Croatian schools and efforts have been undertaken at the primary school level to translate textbooks used for teaching other subjects from Croatian into minority languages. Regrettably, no similar efforts have followed at the secondary school level.

The functioning of the councils of national minorities, established under the Constitutional Act on the Rights of National Minorities is, in many self-government units, unsatisfactory. In particular, in many self-government units, co-operation between the councils of national minorities and local authorities is lacking.

The authorities have increased efforts to combat discrimination and integrate Roma into society. The National Action Plan for the Decade of Roma Inclusion 2005-2015 has already yielded some results, especially through increased inclusion of Roma children into the educational system (from the preschool to higher-level educational institutions), improved access to health care for the Roma population, and sustained efforts to resolve housing issues. Roma continue however to face persistent discrimination and difficulties in different sectors, in particular in employment, education, access to healthcare and housing. In some settlements the inhabitants face deplorable living conditions, without proper roofing, electricity, running water, sewage treatment, and roads.

Issues for immediate action

- ? **complete promptly and without any discrimination all pending cases concerning the repossession and reconstruction of private property and the allocation of housing units;**
- ? **prevent, identify, investigate, prosecute and sanction, as necessary, all racially and ethnically-motivated or anti-Semitic acts; take decisive action against racist and anti-Semitic acts perpetrated prior to, during and after football matches in the spirit of the Committee of Ministers Recommendation R(2001)6 on the prevention of racism, xenophobia and racial intolerance in sport;**
- ? **review the procedures applicable to the implementation of the right to proportional representation of persons belonging to national minorities in public administration, the judiciary, local government and public enterprises, in conformity with Article 22 of the Constitutional Act on the Rights of National Minorities ; observe stricter monitoring and enforce possible sanctions, in order to ensure the full and effective implementation of this provision at all levels;**
- ? **review legal provisions and administrative practice regulating the election and functioning of the councils of national minorities with a view to eliminating the identified shortcomings, as regards the representativity of these organisations, their funding and their cooperation with local authorities.**

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

THIRD OPINION ON CROATIA

1. The Advisory Committee adopted the present Opinion on Croatia 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 12 October 2009,¹ and other written sources and on information obtained by the Advisory Committee from governmental and non-governmental contacts during its visit to Zagreb and Vukovar, from 22 to 26 February 2010.
2. Section I below contains the Advisory Committee's main findings on key issues pertaining to the implementation of the Framework Convention in Croatia. These findings reflect the more detailed article-by-article findings contained in Section II, which covers those provisions of the Framework Convention on which the Advisory Committee has substantive issues to raise.
3. Both sections make extensive reference to the follow-up given to the findings of the monitoring of the Framework Convention, contained in the Advisory Committee's first and second Opinions on Croatia, adopted on 6 April 2001 and 1 October 2004 respectively, and in the Committee of Ministers' corresponding Resolutions, adopted on 6 February 2002 and 28 September 2005.
4. The concluding remarks, contained in Section III, could serve as the basis for the Committee of Ministers' forthcoming conclusions and recommendations on Croatia.
5. The Advisory Committee looks forward to continuing its dialogue with the authorities of Croatia as well as with representatives of national minorities and others involved in the implementation of the Framework Convention. In order to promote an inclusive and transparent process, the Advisory Committee strongly encourages the authorities to make the present Opinion public upon its receipt. The Advisory Committee would also like to bring to the attention of State parties that on 16 April 2009, the Committee of Ministers adopted new rules for the publication of the Advisory Committee's Opinion and other monitoring documents, aiming at increasing transparency and at sharing the information on the monitoring findings and conclusions with all the parties involved at an early stage (see Resolution CM/Res(2009)3 amending Resolution (97) 10 on the monitoring arrangements under Articles 24-26 of the Framework Convention for the Protection of National Minorities).

¹ Due on 1 February 2009.

I. MAIN FINDINGS

Monitoring process

6. The authorities have pursued their constructive approach to the monitoring process under the Framework Convention. The Advisory Committee would also emphasise, as a positive step, that the authorities organised a number of follow-up seminars in 2005-2006 which were instrumental in disseminating the results of the second monitoring cycle. Furthermore, it notes with interest that each year several events relating to national minorities were organised by the Croatian Office for National Minorities to address specific issues of interest to persons belonging to national minorities.

7. The Advisory Committee notes that the third State Report was prepared in consultation with the Council for National Minorities and representatives of associations of national minorities. The authorities also organised a number of seminars in the regions inhabited by substantial numbers of persons belonging to national minorities with a view to ascertaining their opinion on the situation of persons belonging to national minorities and preparing a State Report providing full information from varied sources.

8. The Advisory Committee visited Croatia from 22 to 26 February 2010. The visit, organised at the invitation of the Croatian Government, provided an opportunity to engage in direct dialogue with the parties concerned. Talks were held in Zagreb and Vukovar. The Advisory Committee welcomes the spirit of co-operation shown by the authorities during the process, which culminated in the adoption of the present Opinion.

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

9. Since ratifying the Framework Convention in 1997, Croatia has continued its efforts to protect national minorities. The authorities have continued to show their commitment to the implementation of this treaty and have drawn on it when drafting the Constitutional Act on the Rights of National Minorities, which entered into force in 2002.

10. In addition, the authorities have always adopted a genuinely co-operative approach in their exchanges of information with the Advisory Committee.

11. A number of international institutions have recently increased their scrutiny of Croatia's policy on minorities, in particular in the context of the country's accession process to the European Union. The authorities seem to be genuinely interested to conduct their policy on minorities in a way which would contribute to resolve their problems.

12. The principal bodies responsible for the implementation of the government's policy on national minorities are the Council for National Minorities, composed of Members of the Sabor elected on national minority tickets, and representatives of minority associations and the Office for National Minorities of the Government of Croatia. The Office is currently undergoing a reorganisation, and the plan is for the Office to have three departments: a department for legal affairs relating to the rights of national minorities, a department for the Roma, and a department for national minority projects.

Legislative and institutional framework

13. Since the accession to the Council of Europe in 1996, and the ratification of the Framework Convention on the Protection of National Minorities and of the European Charter for Regional or Minority Languages in 1997, Croatia has continued to develop its legal framework for the protection of the rights of persons belonging to national minorities.

14. In addition to the Law on Use of Language and Script of National Minorities and the Law on Education in Languages and Scripts of National Minorities, both adopted in 2000, the Parliament of Croatia subsequently adopted the Constitutional Act on the Rights of National Minorities, in 2002, which addresses the issues facing national minorities in a comprehensive manner. The rights of persons belonging to national minorities to political representation have been enshrined in the Law on the Election of Deputies to the Croatian Parliament (the Sabor) adopted in 2003.

15. The Constitutional Act on the Rights of National Minorities, which was welcomed on its adoption as a “good legal framework for the protection of the rights of persons belonging to national minorities, including persons belonging to numerically small groups”,² has shown over seven years of its implementation certain limits and failings. In particular, the provisions of Article 22 of the Law establishing the right to proportional representation of persons belonging to national minorities in the State administration and judicial bodies seem not to be fully implemented in practice. Also, the functioning of the Councils of National Minorities, is unsatisfactory (for details see below under “Participation”).

16. Measures have been taken with a view to improving the legislative framework to prevent and combat discrimination. The Discrimination Prevention Act was adopted in 2008. The authority for its implementation was vested with the Office of the Ombudsman, thus making the Office the main human rights protection institution with an emphasis on human rights promotion. The Act further introduced in the Croatian legal system the principle of shifting of the burden of proof and contained a provision allowing third-parties to intervene as *amicus curiae* in cases of discrimination.

Return process

17. The progress made in the repossession of property as well as in the allocation of housing care for former tenancy rights holders has had a positive effect on the overall return process, including its sustainability. The ‘co-validation’ mechanism, making it possible to validate working years spent in areas not controlled by the authorities of Croatia during the armed conflict for pension purposes, was recently re-opened and improves access to social benefits for returnees.

18. The Housing Care Programme has been implemented for minority returnees as of 2006, providing housing solutions for former tenancy/occupancy rights holders of all ethnicities, and the government targets of housing units to be allocated have seen 100% implementation rate in 2007. There has however been a lack of transparency surrounding the implementation rates in 2008 and 2009 when targets for the allocation of housing units were not met. There are also concerns about the considerable number of unresolved cases, particularly of former tenancy/occupancy right holders, in the urban areas inhabited by a significant number of persons belonging to the Serbian minority.

² See Second Opinion on Croatia adopted by the Advisory Committee on the Framework Convention on 1 October 2004, para. 8.

19. The vast majority of previously occupied private properties have been repossessed with only 22 cases still pending a court decision. In addition, the long-standing issue of occupied agricultural land near Zadar was finally resolved and the majority of applications for reconstruction of housing have also been processed, with some 8,000 applications still pending. As the relevant deadlines for reconstruction of housing have been repeatedly extended, it is essential that pending cases be resolved without further delay.

Discrimination

20. Croatia adopted the Discrimination Prevention Act in July 2008 which provides a clear legal basis for protection against discrimination. The Act provides protection and prohibits discrimination on racial, ethnic, national or religious grounds (among others) and establishes juridical procedure of its enforcement.

21. Representatives of national minorities and civil society continue to report, however, cases of discrimination of persons belonging to the Serbian minority and the Roma in the fields of education, employment, housing, recognition of property and other acquired rights, reconstruction of housing units damaged during the war, sustainability of return of persons belonging to national minorities, access to health care and social protection.

22. In the field of employment, in particular in public administration, the judiciary, local government and public enterprises, the non-respect of the right to proportional representation of persons belonging to national minorities established under the provisions of the Constitutional Act on the Rights of National Minorities gives rise to serious concern. Despite clear underrepresentation of persons belonging to the national minority, there have been reports of vacancies being withdrawn when a national minority candidate applied for the post, or job criteria being altered to increase the chances of Croat applicants.

Ethnically-motivated incidents

23. Ethnically-motivated incidents against persons belonging to national minorities, in particular the Serbs and the Roma, continue to be a serious problem in Croatia, with many cases of attacks remaining unreported due mainly to a lack of trust in the police and the judicial system. Various sources concur that the response from the law enforcement officials to ethnically-motivated incidents is inadequate. In addition, racism and anti-Semitism continue to plague Croatian football stadiums. At the same time, measures to combat racist acts advocated by the European Commission against Racism and Intolerance in General Policy Recommendation N°12 on Combating Racism and Racial Discrimination in the Field of Sport and in Recommendation Rec(2001)6 of the Committee of Ministers of the Council of Europe to member States on the prevention of racism, xenophobia and racial intolerance in sport have not been adequately applied in Croatia.

Citizenship

24. A considerable number of persons belonging to national minorities, in particular elderly Serbian returnees, Bosniaks and the Roma living in Croatia continue to face difficulties in accessing and obtaining Croatian citizenship and in consequence also being afforded the protection of the Constitutional Act on the Rights of National Minorities provisions as well as of the Framework Convention. Their lack of clear citizenship status continues to make these groups particularly vulnerable to discrimination in all spheres of life.

25. Simplified procedures for the acquisition of citizenship are still only available to ethnic Croats, as is eligibility for dual citizenship. This constitutes unequal treatment based on ethnic origin.

Participation

26. The Law on the Election of Deputies to the Croatian Parliament (the Sabor) adopted in 2003 reserves eight seats in Parliament for representatives of certain national minorities. The distribution scheme of these eight seats appears to contain however, a strong favouritism towards smaller and historical minorities which does not accurately reflect the current situation of the country and the needs of its minorities.

27. National minorities have, in areas where they are concentrated in substantial numbers, and under certain circumstances, the right to seek the formation of councils of national minorities in units of local self government, whose members are elected in special candidate elections open to minority voters. However, due to irregularities in the voter registration records, persons belonging to national minorities were denied the right to vote, for example in the municipality of Gunja in the region of Spacva, despite the clear indication of their Serbian background in the municipal population register.

28. The functioning of the councils of national minorities, established under the Constitutional Act on the Rights of National Minorities is, in many self-government units, unsatisfactory. In particular, in many self-government units, co-operation between the councils of national minorities and local authorities is lacking and the councils are not even informed of planned discussions and decisions affecting persons belonging to national minorities. In addition, the legitimacy of the councils of national minorities remains questionable due to a number of substantial shortcomings. Only a very small proportion of persons eligible to vote in the elections to the councils in 2003 and in 2007 cast their ballots which undermined the democratic legitimacy of the electoral process. The funding for the councils, which should be secured through local self-government units and the State budget, remains most inadequate, seriously limiting their capacity to function effectively.

Support for minority cultures

29. The authorities continue to provide various forms of assistance to national minorities, such as support for cultural centres, libraries, music and drama festivals, art exhibitions, amateur cultural productions and other artistic events. However, various sources indicate that public financial support for national minorities' activities is still quite limited and insufficient to meet the needs of persons belonging to national minorities.

Education

30. A well-developed system of minority language education exists in Croatia, permitting students belonging to national minorities to receive instruction in or of their languages. The number of children attending schools teaching the minority language or in the minority language remains stable. Textbooks for mother tongue learning developed in the "kin-States" have been approved for use in Croatian schools and efforts have been undertaken at the primary school level to translate textbooks used for teaching other subjects from Croatian into minority languages. Regrettably, no similar efforts have followed at secondary school level.

31. Roma children still face serious difficulties in the education system and the number of Roma children attending secondary school education remains very low.

Use of minority languages

32. The usage of a minority language in relations with administrative authorities varies from one region to another. In the Istria County, inhabited by a large number of persons belonging to the Italian minority, the Italian language is widely used in local assemblies and executive offices.

33. The same level of protection is not afforded to other minority languages and scripts in the areas inhabited by persons belonging to other minorities, in particular to the Serbian and the Hungarian minorities. Although a number of municipalities in the Vukovar-Srijem and the Osijek-Baranja Counties adopted Town Charters proclaiming the right to use Serbian or Hungarian languages in relations with local administrative authorities, in practice implementation is much less advanced than in the case of the Italian language in the Istria County, in spite of the interest shown on the part of persons belonging to national minorities. In the Vukovar-Srijem and the Osijek-Baranja Counties there are continued difficulties with introducing bilingual topographical signs indicating the names of villages inhabited predominantly by persons belonging to the Serbian minority.

The National Programme for the Roma

34. The authorities have increased efforts to combat discrimination and integrate Roma into society. In 2003, the National Programme for Roma was adopted, followed later by the National Action Plan for the Decade of Roma Inclusion 2005-2015, which laid down a set of tasks geared to equal treatment in the area of education, employment, housing and access to health care.

35. The National Action Plan has already yielded some results, especially through increased inclusion of Roma children into the educational system (from the preschool to higher-level educational institutions), improved access to healthcare for the Roma population, and sustained efforts to resolve housing issues. Roma continue however to face persistent discrimination and difficulties in different sectors, in particular in employment, education and housing. In some settlements, the inhabitants face deplorable living conditions, without proper roofing, electricity, running water, sewage treatment, and roads.

II. ARTICLE-BY-ARTICLE FINDINGS

Article 3 of the Framework Convention

Scope of application

Recommendations from the two previous cycles of monitoring

36. In the previous cycles of monitoring, the Advisory Committee regretted that only some of the national minorities were explicitly mentioned in the preamble of the Constitution of Croatia while the rest were referred to as “others”. In this context, the Advisory Committee requested the authorities to take seriously the concerns expressed by those persons belonging to national minorities who are not explicitly mentioned in the preamble to the Constitution and urged them to ensure that the implementation of the norms pertaining to the rights of persons belonging to national minorities covers all national minorities protected in accordance with the Constitutional Act on the Rights of National Minorities.

37. The Advisory Committee also urged the authorities to clarify, in co-operation with the persons concerned, their approach to the category “Muslims” in a manner which accords with the right to self-identification under Article 3 of the Framework Convention.

Present situation

38. There has been no change as regards the scope of application of the Framework Convention in Croatia. The list of the ten minorities enumerated in the preamble to the Croatian Constitution³ remains unchanged. Likewise, the list of twelve other minorities⁴ included in the scope of application of Article 16 of the Law on the Election of the Deputies to the Croatian Parliament of 9 April 2003, which was welcomed by the Advisory Committee, has not changed.

39. Various interlocutors informed the Advisory Committee about the unresolved status of persons who declared themselves as “Muslim” in the Census of 2001.⁵ The legislation of Croatia does not afford “Muslims” recognition as a national minority, which in consequence excludes persons belonging to this group from enjoying the rights afforded by the Constitutional Act on the Rights of National Minorities. The authorities of Croatia decided however, on an ad hoc basis, that persons listed as “Muslim” on the electoral register be entitled to vote (but not to stand) in the 2007 elections of members of national minority councils which further added some ambiguity to the situation.

Recommendations

40. The Advisory Committee encourages the authorities to adopt an inclusive approach in dealings with persons belonging to minority groups living in Croatia.

³ The minorities enumerated in the Croatian Constitution are: Austrians, Czechs, Germans, Hungarians, Italians, Jews, Ruthenians Serbs, Slovaks and Ukrainians.

⁴ The twelve other minorities included in the scope of application of the Law on the Election of the Deputies to the Croatian Parliament are: Albanians, Bosniaks, Bulgarians, Macedonians, Montenegrins, Poles, Roma, Romanians, Russians, Slovenians, Turks and Vallachians.

⁵ In 2001 census 19677 citizens of Croatia identified themselves as “Muslim” by nationality. Historically, the term “Muslim” was used in all censuses conducted between 1953 and 1991 in the Socialist Republic of Yugoslavia to designate a person’s nationality.

41. In particular, the authorities are encouraged to continue a dialogue with the group of persons identifying themselves as Muslims by nationality regarding the possibility of including them in the scope of application of the Framework Convention.

Citizenship criterion in the definition of the term national minority

Recommendations from the two previous cycles of monitoring

42. In the previous cycles of monitoring, the Advisory Committee encouraged the authorities to include persons belonging to additional groups, including non-citizens as appropriate, in the application of the Framework Convention on an article-by-article basis, in particular by considering amending the Constitutional Act on Rights of National Minorities in so far as to avoid an *a priori* exclusion of non-citizens from its scope.

Present situation

43. The Advisory Committee regrets that citizenship continues to be a requirement for persons belonging to minorities to access the protection offered by the Constitutional Act on the Rights of National Minorities. While the inclusion of a citizenship requirement is not in violation of any legally-binding international instrument, the Advisory Committee would like to remind the authorities that it is considered as a restrictive element that can have discriminatory effects. Given the considerable number of persons, including Roma, who are affected by this restriction, the Advisory Committee would like to encourage the authorities to pursue an increasingly inclusive approach and to consider extending the protection of specific articles of the Framework Convention which would be consistent with current efforts at the European level to develop a more nuanced approach to the application of the citizenship criterion in the protection of national minorities.⁶

44. The Advisory Committee acknowledges that the Contracting Parties have a margin of appreciation in determining the personal scope of application of the Framework Convention. It considers, however, that it is part of its duty to examine the personal scope of application given to the implementation of the Framework Convention in order to verify that no arbitrary or unjustified distinctions are made.

45. The Advisory Committee notes that a considerable number of persons of Serbian, Bosniak and Roma ethnicities living in Croatia continue to face difficulties in obtaining Croatian citizenship⁷ and in consequence from being afforded the protection of the Constitutional Act on the Rights of National Minorities as well as of the Framework Convention. The Advisory Committee considers that, while citizenship may be a legitimate requirement in fields such as representation in Parliament, general application of this criterion nevertheless remains problematic in relation to the guarantees associated with other important fields covered by the Framework Convention, such as non-discrimination and equality, as well as certain cultural and linguistic rights.

Recommendation

46. The Advisory Committee considers that the authorities should favour a more flexible and open approach to the scope of application of the Framework Convention. It considers that it would be possible to examine, in consultation with those concerned, the possibility of including persons belonging to groups currently not afforded the protection offered by the

⁶ See also Report on “non-citizens” and minority rights, CDL-AD(2007)001, paragraph 137, adopted by the Venice Commission at its 69th plenary session on 15-16 December 2006.

⁷ See the Concluding Observations of the Committee on the Elimination of Racial Discrimination, adopted on 24 March 2009, point 17.

Constitutional Act on the Rights of National Minorities, including non-citizens where appropriate, in the application of the Framework Convention, in particular as regards their linguistic and cultural rights.

Data collection

Recommendations from the two previous cycles of monitoring

47. In the previous cycles of monitoring, the Advisory Committee encouraged the authorities to ensure that collection of data on individuals' affiliation with national minorities be coupled with adequate legal safeguards and that the right not to be treated as a person belonging to a national minority be protected. The Advisory Committee also requested the authorities to identify ways to obtain increasingly reliable and up-to-date disaggregated data on national minorities in accordance with Article 3 of the Framework Convention.

Present situation

48. The Advisory Committee notes that a new population census is scheduled for 2011 in Croatia and that the authorities have already begun preparations for this. The questionnaire to be used in the census was drafted in accordance with the United Nations Economic Commission for Europe and the Statistical Office of the European Communities (EUROSTAT) Recommendations for 2010 Censuses of Population and Housing and contains optional open-ended questions on ethnic origin (nationality), religion and language. The Advisory Committee is concerned that the available options do not allow the respondents to indicate more than one ethnic affiliation or more than one language, which is contrary to the Conference of European Statisticians Recommendations for the 2010 Censuses of Population and Housing.⁸

49. The Central Bureau of Statistics of Croatia will conduct in June 2010 a Census Test covering approximately 15,000 persons. The Advisory Committee notes with satisfaction that districts inhabited by a substantial number of persons belonging to national minorities have been included in this Census Test.

50. The Advisory Committee also welcomes plans to include persons belonging to the different national minorities among the census enumerators which, in principle, should promote the atmosphere of trust necessary to obtain reliable figures in respect of the ethnic composition of the population.

51. The Advisory Committee considers it important that representatives of national minorities be consulted on the final wording of the questions, in as much as they concern national minorities and on the methods to be used for collecting data of an ethnic nature.

Recommendations

52. The Advisory Committee encourages the authorities to collect and process the census data in strict conformity with the principle of self-identification and with the recommendations of the Conference of European Statisticians.

53. During the preparatory phase for the next census, the authorities should consult the representatives of minorities about the questions relating to a person's affiliation with a

⁸ Conference of European Statisticians Recommendations for the 2010 Censuses of Population and Housing, prepared in co-operation with the Statistical Office of the European Communities (EUROSTAT) and the United Nations Economic Commission for Europe, paragraph 426: "respondents should be free to indicate more than one ethnic affiliation or a combination of ethnic affiliations if they wish so", paragraph 431: "Questions will generally refer to one language only. Multiple languages may be required for the mother tongue and main languages of minority groups".

national minority and to his or her mother tongue. The authorities should also carefully review the experience gained during the Census Test to eliminate any identified shortcomings.

54. The Advisory Committee encourages the authorities to take specific initiatives to include persons belonging to minorities, and persons speaking a minority language among the census officials. It also encourages the translation of the census questionnaires into minority languages.

55. The authorities should undertake awareness-raising activities among the persons belonging to national minorities well in advance of the next census, in co-operation with minority representatives. These activities should relate to the importance and usefulness of the collection of information about the ethnic composition of the population, as well as about the national safeguards and international standards for the protection of personal data. Ethnic data collection should be conducted in close co-operation with national minority representatives and with full respect for the safeguards, notably those related to the protection of personal data, the specific and limited use of such data by the authorities, and the free, informed and unambiguous consent of the persons concerned, as laid down in the Committee of Ministers Recommendation (97)18 concerning the protection of personal data.

Article 4 of the Framework Convention

Legislative developments in the field of combating discrimination

Recommendation from the two previous cycles of monitoring

56. In the previous cycles of monitoring, the Advisory Committee called on the authorities to develop anti-discrimination legislation in key fields such as education and housing.

Present situation

57. The Advisory Committee welcomes the adoption of the Discrimination Prevention Act in July 2008 (in force as from 1 January 2009) which reflects the standards set in the European Council Directive on Racial Equality (2000/43/EC) and the European Council Directive on Employment Equality (2000/78/EC) and provides a clear legal basis for the protection against discrimination, including in the field of employment. The Act provides protection and prohibits discrimination (among others) on racial, ethnic, national or religious grounds and establishes municipal and commercial courts' jurisdiction. The Advisory Committee notes in particular the shifting of the burden of proof and the provision allowing third-parties to intervene as *amicus curiae* in cases of discrimination.

58. In 2006, an amendment to the Criminal Code was adopted, qualifying racial hatred motivating a crime as an aggravating circumstance. According to the information contained in the State Report, articles 106 and 174 of the Criminal Code provide for the sanctioning of discrimination on any grounds whatsoever. However, the wording of these legal provisions is such that it is not possible to keep records of the crimes committed on the basis of specific grounds of discrimination.

59. The Advisory Committee notes the adoption in August 2008 of the National Anti-Discrimination Plan for the period 2008-2013 and an action plan for its implementation. These plans set important goals for resolving problems of refugees belonging to the Serbian national minority as well as monitoring of representation of members of national minorities in line with the Constitutional Act on the Rights of National Minorities, the State Administration System Act and Local and Regional Self-Government Act. The plans also aim to monitor the adoption and implementation of employment schemes for persons who, under special

regulations, are entitled to priority in employment, including members of national minorities and the adoption of specific measures targeting the Roma population. These measures include the training of civil servants on the rights of national minorities and prohibition of discrimination, the training of Roma representatives, especially of Roma women and young persons, to enable them to participate in the decision-making process and exercise their rights and increase their involvement in the life of society and research on the employment of the Roma with particular emphasis on the employment of Roma women.

60. Numerous interlocutors representing national minorities and civil society informed the Advisory Committee about cases of continued discrimination of persons belonging to the Serbian minority and the Roma in the fields of education, employment, housing, recognition of property and other acquired rights, reconstruction of housing units damaged during the war, sustainability of returns, access to health care and social protection.

61. In particular, in the field of employment, the manner in which Article 22 of the Constitutional Act on the Rights of National Minorities is applied gives rise to serious concern. This article establishes the right to proportional representation of persons belonging to national minorities in public administration, the judiciary, local government and public enterprises. Persons belonging to national minorities wishing to exercise this right are required however to ask expressly in a statement for their ethnicity be taken into consideration when the vacancy is filled. The Advisory Committee heard of a number of cases where this statement subsequently was used against the applicant, despite clear underrepresentation of the national minority concerned. Vacancies were suddenly withdrawn, job criteria subsequently altered, or simply the ethnicity of the candidate was not taken into account.

Recommendations

62. The Advisory Committee calls on the authorities to review the procedures applied to implement Article 22 of the Constitutional Act on the Rights of National Minorities, in order to carry out stricter monitoring and apply sanctions where appropriate, to make the implementation of this provision full and effective, including at local level.

63. The Advisory Committee urges the authorities to review the methodology and the criteria used for keeping records of committed crimes in order to record crimes according to specific grounds of discrimination.

Repossession of property

Recommendations from the two previous cycles of monitoring

64. In the previous cycles of monitoring, the Advisory Committee encouraged the authorities to complete the processing of pending repossession cases within the set deadlines and address discriminatory attitudes that were still prevalent, particularly with regard to cases of looting and claims for damages.

Present situation

65. The Advisory Committee welcomes that the vast majority of previously occupied private properties have been reposessed with only 22 cases still pending a court decision in May 2010. The Advisory Committee also notes that the long-standing issue of occupied agricultural land near Zadar was finally resolved and welcomes the fact that the majority of applications for reconstruction of housing has also been processed, although some 8,000 applications are still pending.

66. Considering that relevant deadlines were repeatedly extended, the Advisory Committee expects that pending cases will be resolved without further delay. It notes with concern that considerable differences in views persist in some cases as regards the so-called unsolicited investments and that such cases have allegedly been handled with some ethnic bias.

Recommendation

67. The Advisory Committee strongly encourages the authorities to process all pending cases concerning the repossession and reconstruction of private property without delay and without any discrimination. The Advisory Committee calls in this context on the authorities to provide adequate resources to the courts to deal effectively with the pending cases.

Former tenancy rights holders

Recommendations from the two previous cycles of monitoring

68. In the previous cycles of monitoring, the Advisory Committee urged the authorities to pay attention to the problems faced by the former tenancy rights holders belonging to a national minority (mainly Serbian) and to ensure that they benefit from the provision of adequate housing (“Housing Care Programme”) on the same basis as the majority population. It further recommended particular care to guarantee that each case be examined carefully and in a non-discriminatory manner by the relevant domestic instances.

Present situation

69. The Advisory Committee welcomes the fact that the Housing Care Programme has been implemented for minority returnees as of 2006, providing housing solutions for former tenancy/occupancy rights holders of all ethnicities, and that government targets of housing units to be allocated have seen a full and complete implementation rate in 2007.

70. The Advisory Committee, however, regrets the lack of transparency surrounding the implementation rates in 2008 and 2009 when targets for the allocation of housing units were not met and continues to be concerned about the considerable number of unresolved cases particularly of former tenancy/occupancy right holders in the urban areas inhabited by a substantial number of persons belonging to the Serbian minority.

Recommendation

71. The Advisory Committee urges the authorities to ensure that the processing of cases and allocation of housing units progresses without delay and without any discrimination as the delays in dealing with the restitution of tenancy/occupancy rights have a strong negative impact on the overall climate for sustainable minority return.

Office of the Ombudsman

Recommendation from the two previous cycles of monitoring

72. In the previous cycles of monitoring, the Advisory Committee considered that the Office of the Ombudsman merited increased support.

Present situation

73. The Discrimination Prevention Act of 2008 transferred the authority for the implementation of the Act to the Office of the Ombudsman, thus making the Office the main

human rights protection institution with an emphasis on human rights promotion, along with the remit to receive and respond to citizens' complaints. It is of particular importance that the Act gives the Office of the Ombudsman the right to initiate civil and criminal proceedings in discrimination cases.

74. In 2009, which was the first year of the implementation of the Act, the Office of the Ombudsman received 172 complaints about discrimination. 31% of these complaints alleged discrimination based on belonging to a national minority. These complaints ranged from discrimination in the workplace, and employment, decisions in administrative cases (reconstruction and housing provision), residence, citizenship, and access to public goods and services.⁹

75. The Office of the Ombudsman, in addition to fulfilling its primary monitoring role, also developed in co-operation with the Judicial Academy an awareness-raising programme for judges and lawyers, to familiarise them with issues raised in discrimination complaints and the relevant jurisprudence of the European Court of Human Rights. The Office further organised a public awareness campaign targeting in particular the Roma on discrimination issues, aimed at informing them about the Ombudsman's new role, and familiarising the public with the existing possibilities of seeking redress in cases of discrimination. The Advisory Committee is deeply concerned about the continued impunity of perpetrators of ethnically-motivated incidents, particularly against persons of Serbian and Roma origin (see Article 6, paragraph 111). In this context, the Advisory Committee expresses its strong support to the activities of the Ombudsman Office.

76. The Advisory Committee notes with regret that the Report of the Ombudsman's Office was merely noted by the Croatian Parliament but not approved or otherwise supported. The Committee was also informed that the available funding and human resources are inadequate to handle the growing workload of the Office.

Recommendation

77. The Advisory Committee urges the authorities to provide the Office of the Ombudsman with the appropriate financial and human resources, in order to allow it to fulfil its duties effectively and independently.

Citizenship

Recommendations from the two previous cycles of monitoring

78. In the previous two cycles of monitoring, the Advisory Committee urged the authorities to ensure that persons belonging to national minorities have access to citizenship and thus to the enjoyment of basic rights in the Republic of Croatia.

Present situation

79. The current Law on Citizenship and its application in practice still create significant obstacles to persons belonging to national minorities, particularly elderly Serbian returnees, Bosniaks and the Roma, in accessing citizenship. Their lack of clear citizenship status continues to make these persons particularly vulnerable to discrimination in all spheres of life and prevents them from enjoying the rights guaranteed by the Constitutional Act on the Rights of National Minorities which is only applicable to citizens (see also related comment in paragraph 43 *et seq.*). The Advisory Committee further considers it a matter of unequal

⁹ See http://www.ombudsman.hr/dodaci/UPR_NHRI_Coalition_Report.pdf.

treatment that simplified procedures for the acquisition of citizenship are still only available to ethnic Croats, as is the eligibility for dual citizenship. The Advisory Committee considers that such discrimination in access to dual citizenship is not compatible with Article 4 of the Framework Convention.

80. The authorities have taken measures within the framework of the National Action Plan for Roma to address the obstacles for Roma to access citizenship linked to the requirement of language and in particular Latin script proficiency, such as awareness raising efforts on the applicable rules. However, as of today, the necessity to prove an adequate proficiency in using Latin script still inhibits the access of long-term Roma residents to acquiring citizenship or, on occasions, to acquiring residence permits (see also related comment under Article 3 paragraph 43).

81. The Advisory Committee was made aware of cases where Roma children were not granted access to school because of their lack of a regularised status. It notes in this context the ongoing efforts of United Nations High Commissioner on Refugees as well as the Ombudsman Office to solve issues of regularisation of the status of Roma.¹⁰

Recommendations

82. The Advisory Committee urges the authorities to discontinue the unequal treatment of persons belonging to national minorities when it comes to access to simplified procedures and dual citizenship which are currently only available to ethnic Croats, including those living abroad.

83. The Advisory Committee calls on the authorities to redouble their efforts related to the regularisation of Roma and to ensure that the current administrative framework does not unduly hinder members of the Roma community from accessing basic rights, including access to education.

Situation of Roma

Recommendations from the two previous cycles of monitoring

84. In the previous cycles of monitoring, the Advisory Committee called on the authorities to provide adequate support, financial and other, for the National Programme for the Roma in order to achieve tangible improvements in the protection of Roma, including in terms of addressing the status of informal settlements and providing them with basic infrastructures on a non-discriminatory basis.

Present situation

85. The Advisory Committee notes that for some years the authorities have increased efforts to combat discrimination and integrate Roma into society. In 2003, the National Programme for Roma was adopted, followed later by the National Action Plan for the Decade of Roma Inclusion 2005-2015, which laid down a set of tasks geared to equal treatment in the area of education, employment, housing and access to health care.

86. Nevertheless, the Advisory Committee notes with regret that Roma continue to face persistent discrimination and difficulties in different sectors, in particular in employment, education and housing.

¹⁰ In addition, UNHCR estimates that there is significant *de facto* statelessness among Roma in Croatia. The Advisory Committee notes that Croatia is party to the 1954 Convention relating to the Status of Stateless Persons but did not accede to the 1961 Convention on the Reduction of Statelessness. There is no formal mechanism to establish statelessness and responsible actors are thus not in a position to effectively and timely identify persons at risk.

87. The Advisory Committee welcomes the information provided by representatives of civil society that the National Action Plan has already yielded some results, especially through increased inclusion of Roma children into the educational system (from the preschool to higher-level educational institutions), improved access to healthcare for the Roma population, and sustained efforts to resolve housing issues. There is agreement, however, that it remains extremely difficult for the Roma to obtain employment (see also related comment under Article 15).

88. The Advisory Committee is deeply concerned about the living conditions in some Roma settlements in the municipality of Zagreb which the delegation of the Advisory Committee visited and witnessed. The inhabitants of these settlements face most deplorable living conditions, without proper roofing, electricity, running water, sewage treatment, and roads (see also related comment under Article_15).

Recommendations

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

90. The authorities should thoroughly investigate any complaint of alleged discrimination of Roma in access to employment and provision of public goods and services. If discriminatory acts are established, the perpetrators must be adequately sanctioned.

Article 5 of the Framework Convention

Support for minority cultures

Recommendations from the two previous cycles of monitoring

91. In the previous cycles of monitoring, the Advisory Committee urged the authorities to maintain support for projects to develop minority cultures and to continue to support joint initiatives launched by several national minorities.

Present situation

92. The Advisory Committee is pleased to note that the authorities continue to provide various forms of assistance to national minorities, such as support for cultural centres, libraries, music and drama festivals, art exhibitions, amateur cultural productions and other artistic events.

93. The Advisory Committee also notes with interest that the funding for cultural projects amounts to 43.2 million Croatian Kuna and that it is disbursed by the Council for National Minorities, which is composed of Members of Parliament elected on national minority tickets, and representatives of minority associations.

94. The Advisory Committee notes that various interlocutors have underlined that public financial support for national minorities' activities is still limited and insufficient to meet the needs of these groups in order to preserve their cultural identity.

Recommendation

95. The Advisory Committee invites the Croatian authorities to maintain their support for the cultural activities of the national minorities' organisations and to ensure that financial difficulties will not affect disproportionately persons belonging to national minorities.

Article 6 of the Framework Convention

Promotion of tolerance

Recommendations from the two previous cycles of monitoring

96. In the two previous cycles of monitoring, the Advisory Committee urged the authorities to further their efforts to promote tolerance and intercultural dialogue, particularly at regional and local level, and to include local minority councils and their coordination bodies in this process.

Present situation

97. The Advisory Committee notes with interest that the Council for National Minorities organises regularly in co-operation with national minority organisations joint activities under the heading "Cultural Creativity of National Minorities in Croatia" for all national minorities, which aim at the recognition of minority cultures. It also notes that, in connection with the European Union's European Year of Intercultural Dialogue 2008, numerous events were organised by local authorities and civil society in order to promote and highlight the cultural, linguistic and religious diversity of Croatian society. Projects which were supported included the annual Jewish cultural festival "Bejihad", promoting intercultural and inter-religious dialogue, as well as a literary seminar "The Days of Vladan Desnica", named after a famous Croatian writer of Serbian origin.

98. The Advisory Committee notes, however, that according to some national minority representatives, minority culture is not being promoted as an integral part of the mainstream culture but rather presented as "marginal" within Croatian society. This undermines intercultural dialogue between persons belonging to national minorities and the majority and leads to isolation of minority cultures and the assimilation of persons belonging to national minorities into the majority culture which is perceived as more advanced.

Recommendation

99. The Advisory Committee invites the authorities to promote intercultural dialogue between minority and majority cultures and to include minority cultures as an integral part of Croatian culture with due regard to their specific characteristics and contribution to Croatian society.

Stereotyping in the media

Recommendations from the two previous cycles of monitoring

100. In the previous cycles of monitoring, the Advisory Committee concluded that many media still report in a manner that strengthens negative stereotyping of certain national minorities. It recommended that the proposals to create a self-regulatory scheme, dealing also with complaints regarding reporting on minority issues and independent monitoring of media's portrayal of minority issues be supported.

Present situation

101. The Advisory Committee notes that, according to the information available from a variety of sources, including international organisations and Croatian human rights NGOs, the level of negative stereotyping of national minorities in the media has decreased in recent years. However, NGOs engaged in monitoring Croatian media for cases of hate speech reported that such cases, while identified occasionally in all kinds of media, are in particular still present on internet websites, blogs and discussion forums.

102. The Advisory Committee notes that the Council for Electronic Media, established under the Law on Electronic Media as an independent regulatory body, has been given the task of supervising the activities of radio and television broadcasters for compliance with this law and has been given the right to revoke a license or to start judicial procedures in cases of alleged breaches of impartiality or hate speech.

103. The Advisory Committee also notes that the Croatian Journalists' Association adopted a Code of Ethics which obliges journalists to defend human rights, dignity and freedom and to respect pluralism of ideas and attitudes. The Code also stresses the need to respect the ethics of public expression and the culture of dialogue and to respect human dignity and the integrity of the person. The Advisory Committee notes that the enforcement of the Code of Ethics has been delegated to individual editors. However, only one newspaper (*Jutarnji list*) has adopted rules for sanctioning journalists for breaking the Code.

Recommendations

104. The Advisory Committee urges the authorities to increase their efforts to combat all manifestations of intolerance, racism, anti-Semitism and xenophobia. In particular, the Advisory Committee urges the authorities to take further legislative measures and policies to combat racist manifestations in the media, in the spirit of the Committee of Ministers' Recommendation N° R(97)20 on "Hate Speech".

105. While fully respecting the editorial independence of the media, the authorities, as well as the Council for Electronic Media, must take the necessary steps to combat cases of ethnic hatred, so as to prevent such violations in the future. Increased attention must be paid by all those concerned to the implementation of the existing journalists' code of ethics.

Judiciary and war crimes trials*Recommendations from the two previous cycles of monitoring*

106. In its two previous cycles of monitoring, the Advisory Committee strongly encouraged the authorities to further prevent and eliminate any ethnic bias in the judiciary, including through comprehensive training, and to increase generally their efforts to improve the effectiveness and capacity of the judicial system to protect the rights contained in the Framework Convention.

Present situation

107. The Advisory Committee notes with satisfaction that a mechanism has been introduced that enables persons belonging to the Serbian minority who have not yet returned to Croatia to request from outside Croatia a review of *in absentia* trials which marks a positive step. As foreseen by this mechanism, all cases in which final judgments were passed *in absentia* due to the inaccessibility of the defendants were reviewed by January 2009.

108. The Advisory Committee notes with deep concern that ethnic bias is reportedly still widespread in the ongoing war crimes trials. As also pointed out by other international bodies,¹¹ courts often take the accused person's role in the 'defence of the homeland' as a mitigating factor, creating a clear ethnic bias in sentencing comparable crimes.

Recommendation

109. The Advisory Committee strongly urges the authorities to ensure that all war crimes trials are carried out in accordance with the rule of law and in a strictly non-discriminatory manner and to redouble their efforts to guarantee that all cases of war crimes are effectively prosecuted by fair trial, irrespective of the ethnicity of the victim and the presumed perpetrators involved.

Ethnically-motivated incidents

Recommendations from the two previous cycles of monitoring

110. In the previous cycles of monitoring, the Advisory Committee called on the authorities to combat attacks on religious buildings and cemeteries and to combat, generally, ethnically-motivated crime.

Present situation

111. Ethnically-motivated incidents against persons belonging to national minorities, in particular the Serbs and Roma, are of deep concern to the Advisory Committee. According to credible reports received by the Advisory Committee, a significant number of these incidents, ranging from damage to property and threats to attacks with explosive devices occurred in the territory of Vukovar-Srijem, inhabited by many persons belonging to the Serbian minority.

112. The Advisory Committee notes that following the ECHR judgment in the case *Šecić v. Croatia*¹² delivered in May 2007, in which the Court found that Croatia failed to investigate thoroughly and expeditiously a racially-motivated attack on a Roma man (which occurred in 1999), the authorities have undertaken measures to improve police investigations and the prosecution of such incidents.

113. However, the Advisory Committee also received reports that many cases of attacks against the Roma and persons belonging to the Serbian minority remain unreported due to basic lack of trust in the police and the judicial system. Various sources indicated to the Advisory Committee that high levels of discrimination and violence, in particular against Roma, remain a serious problem in Croatia, while the response from the law enforcement officials is inadequate. It is against this background that the Advisory Committee considers that any officially reported figures concerning racially-motivated crime must be treated with the utmost caution as they may well be lower than the reality.

114. The Advisory Committee is concerned by reports indicating that racism and anti-Semitism continue to plague Croatian football stadiums and their surroundings. According to reliable media reports, racist and anti-Semitic chants, slogans and gestures such as nazi salutes are not appropriately sanctioned or rebuffed by the players, referees, the football federation or the law enforcement bodies. The Advisory Committee notes with concern that measures to

¹¹ See Concluding Observations of the Committee on the Elimination of Racial Discrimination in its successive reports on the Republic of Croatia (CERD/C/60/CO/4 of 21 May 2002, CERD/C/HRV/CO/8 of 24 March 2009); Concluding Observations of the Human Rights Committee on the Second Periodic Report of the Republic of Croatia (CCPR/C/HRV/CO/2 of 4 November 2009); and European Commission, Croatia 2009 Progress Report (COM(2009)533 of 14 October 2009).

¹² See case of *Šecić v. Croatia* (Application no. 40116/02).

combat racist acts advocated by the European Commission against Racism and Intolerance (ECRI)¹³ and already spelled out in CM Recommendation Rec(2001)6 on the prevention of racism, xenophobia and racial intolerance in sport,¹⁴ have not been adequately applied in Croatia, in spite of recent amendments to the Act on Preventing Disorderly Behaviour at Sporting Events.

115. The Advisory Committee welcomes that in 2006, the Penal Code was amended to make discrimination relating to race, skin colour, gender, sexual orientation, ethnic origin, religion or other particularities an aggravating circumstance of any offence. The definition of an aggravated murder was also expanded to include motivation through racial hatred.

Recommendations

116. The Advisory Committee urges the authorities to prevent, identify, investigate, prosecute and sanction effectively all racially and ethnically-motivated or anti-Semitic acts. Systematic monitoring of these acts must be carried out by the authorities. The authorities must intensify awareness-raising measures and training programmes for law enforcement officials and the judiciary on tolerance and anti-discrimination issues.

117. The Advisory Committee strongly encourages the authorities to ensure that more vigorous action is taken to prevent, investigate and prosecute perpetrators of offences committed with racial, anti-Semitic or xenophobic motives and to provide for constant monitoring of this phenomenon within the society.

118. The authorities should take decisive action against racist and anti-Semitic acts perpetrated prior, during and after football matches in the spirit of the Committee of Ministers Recommendation R(2001)6 on the prevention of racism, xenophobia and racial intolerance in sport. The Advisory Committee also encourages the authorities to increase public awareness of the problem and encourage sports professionals and fans to condemn racist attitudes and behaviour.

Article 8 of the Framework Convention

Religious communities

Recommendations from the two previous cycles of monitoring

119. In the previous cycles of monitoring, the Advisory Committee urged the authorities to complete the process the of the restitution of property to religious communities.

Present situation

120. According to the information available to the Advisory Committee the authorities generally respect the provision of Article 8 of the Framework Convention. Persons belonging to national minorities face no specific obstacles to manifest their religion or belief or to establish religious institutions, organisations or associations.

¹³ See ECRI General Policy Recommendation N°12 on Combating Racism and Racial Discrimination in the Field of Sport, adopted on 19 March 2009.

¹⁴ See Recommendation Rec(2001)6 of the Committee of Ministers of the Council of Europe to member States on the prevention of racism, xenophobia and racial intolerance in sport, adopted on 18 July 2001.

121. The Advisory Committee notes, however, that no significant progress has been achieved as regards the restitution of property to the Serbian Orthodox Church and the Jewish Community. According to a statement made by a representative of the Serbian Orthodox Church,¹⁵ the key problems are lengthy administrative procedures and a lack of political motivation to resolve the issue. The Advisory Committee considers that the process of the restitution of religious property should proceed swiftly and without discrimination.

Recommendation

122. The Advisory Committee urges the authorities to complete the process of restitution of property to religious communities without any further delay.

Article 9 of the Framework Convention

Broadcasting for minorities in the electronic media. Printed media

Recommendations from the two previous cycles of monitoring

123. In the previous cycles of monitoring, the Advisory Committee concluded that the broadcasting in minority languages and on minorities was too limited in public service television and radio at national level. It considered that, taking into account the expressed demands by persons belonging to national minorities, their access to public service broadcasting for national minorities should be expanded in line with the relevant provisions contained in the Constitutional Act on the Rights of National Minorities.

Present situation

124. The Croatian Constitution guarantees the freedom of expression and the freedom of the press. The media in Croatia is governed also by legislation: the Law on Media, the Law on Electronic Media, the Law on Croatian Radio-Television and the Law on the Right to Access Information. In the past few years, these laws have been harmonised with European standards in the process of the EU pre-accession screening, as part of membership negotiations.

125. The media landscape in Croatia is very diverse. There are approximately 150 radio-stations and 21 TV channels that broadcast in Croatia. Of these, six radio stations and four TV channels are licensed for national coverage. The public broadcaster HRT is by far the largest and the most influential broadcaster in Croatia. The Advisory Committee notes that the HRT broadcasts a programme of 45-minutes called 'Prisma' on a weekly basis at mid-day on Saturdays which is geared towards minorities. While this is a commendable initiative, the Advisory Committee would welcome minority interests and concerns to be mainstreamed into regular broadcasts rather than singled out in one weekly programme. It further regrets, that 'Prisma' and its presentation of minority culture and folklore appears mainly to appeal to smaller minorities but does not engage in broader political discourse of interest to persons belonging to larger minorities.

126. The Advisory Committee also notes that local radio stations, owned or partially owned by the local councils continue to broadcast programmes in the languages of national minorities, for example Radio Osijek in Hungarian and Slovak, Radio Rijeka and Radio Pula in Italian. A number of private radio stations broadcast programmes for national minorities. These include Radio Danube (Dunav) in Vukovar which aims at reaching persons belonging to the Serbian minority in the Srijem-Vukovar County and Radio Daruvar which broadcasts programmes in the Czech language.

¹⁵ The statement was made on the Croatian National Television Programme "Prisma" on 6 February 2010.

127. The Advisory Committee welcomes the establishment in 2005 of the Fund for the Promotion of Pluralism and Diversity in the Public Media pursuant to the Law on Electronic Media and notes with interest that a number of grants distributed by the fund have been earmarked to support programmes for national minority languages and that such funding, albeit in limited amounts, was awarded also to private radio stations which broadcast programmes in the languages of national minorities.

128. The Advisory Committee received information from representatives of national minorities and other sources that public funding available for media in minority languages is insufficient to meet the needs of these groups, thus limiting their access to the media in their own languages.

129. Nevertheless, the Advisory Committee notes that a number of periodical publications in the languages of national minorities are published in Croatia. These include: in Italian - La voce del popolo, Panorama, Arcobaleno and La batana; in Czech - Jednota, Detsky koutek, Prehled and Cesky lidovy kalendar. There are also publications produced in Hungarian (Uj Magyar, Kepes Ujsag), Ukrainian (Nova Dumka), Serbian (Novosti, Identitet), German (Deutsches Wort), as well as in Hebrew (Ha-kol) and others.

Recommendations

130. The Advisory Committee urges the authorities to ensure that the financial support to radio and television programmes for and by national minorities disbursed from the Fund for the Promotion of Pluralism and Diversity in the Public Media be granted on an equitable basis, in order to guarantee that all national minorities including numerically smaller groups benefit from the scheme.

131. The Advisory Committee further urges the authorities to increase their efforts to ensure access of persons belonging to national minorities to the radio and television programmes aimed at them. In particular, the Advisory Committee encourages the authorities to ensure that public TV and radio stations mainstream the interests and concerns of all minorities into their regular programming and to confirm their commitment to pluralism and independence also through active recruitment into their staff of persons belonging to national minorities.

132. Licensing procedures and frequency distribution for private broadcasting media should safeguard media pluralism and assure adequate minority representation.

Article 10 of the Framework Convention

Use of minority languages in relations with the local administrative authorities

Recommendations from the two previous cycles of monitoring

133. In the previous cycles of monitoring, the Advisory Committee called on the authorities to ensure that the provisions of the Constitutional Act on the Rights of National Minorities pertaining to the implementation of Article 10 of the Framework Convention were implemented in all units of local self-government where a national minority constituted at least one-third of the population.

134. The Advisory Committee also urged the authorities to use their discretionary power to introduce possibilities to use a minority language in relations with administrative authorities in other areas where minorities reside in substantial numbers.

Present situation

135. The situation as regards the legislative framework governing the use of a minority language in relations with administrative authorities remains unchanged. The high threshold required of national minorities to constitute at least one-third of the local population established by the Constitutional Act on the Rights of National Minorities is still in force.

136. The Advisory Committee notes that the extent to which the right to use a minority language in relations with administrative authorities is respected varies from one region to another. In the Istria County, inhabited by a large number of persons belonging to the Italian minority, the Italian language is widely used in local assemblies and executive offices.¹⁶ According to the information contained in the State Report, announcements of official notifications and summons, materials for sessions of representative and executive bodies, inscriptions and headings of official documents are issued in bilingual Italian/Croatian form.¹⁷

137. The State Report stipulates further that equality in the official use of the Italian language in administrative bodies also applies to forms, summons, certificates, decisions and other individual documents delivered by administrative bodies to citizens, which - along with their text in the Croatian language - must also contain a text in the Italian language.

138. The Advisory Committee notes with regret that the same level of protection is not afforded to other minority languages and scripts in the areas inhabited by persons belonging to other minorities, in particular to the Serbian and the Hungarian minorities. Although a number of municipalities in the Vukovar-Srijem and the Osijek-Baranja Counties adopted Town Charters proclaiming the right to use the Serbian or Hungarian languages in relations with local administrative authorities, in practice implementation is much less advanced than in the case of the Italian language in the Istria County, in spite of the interest shown on the part of the persons belonging to the national minorities concerned.

Recommendations

139. The Advisory Committee calls on the authorities to review, in consultation with representatives of national minorities, the demand for the use of minority languages in dealings with the administrative authorities in the municipalities inhabited by a substantial number of persons belonging to minorities.

140. The Croatian authorities are urged in particular to ensure that the right to use a minority language and script in relations with administrative authorities is respected in all units of local self-government where the law is applicable.

141. The authorities should use their discretionary power to introduce possibilities to use a minority language in relations with administrative authorities in other areas where minorities reside in substantial numbers.

142. The Advisory Committee calls on the authorities, in consultation with representatives of national minorities, to develop and mainstream throughout the country the good practices established in the Istria County in all the municipalities inhabited by a substantial number of persons belonging to minorities.

¹⁶ Similar by-laws were introduced in September 2009 in Daruvar when the local council adopted a new Town Charter which regulates official use of the Czech language on an equal footing with the Croat language in relations with local administrative authorities.

¹⁷ See the Third State Report submitted by Croatia on 12 October 2009, page 50.

Article 11 of the Framework Convention

Topographical indications

Recommendations from the two previous cycles of monitoring

143. In the previous cycles of monitoring, the Advisory Committee urged the authorities to take more proactive measures to ensure that the provisions of the Constitutional Act pertaining to the implementation of Article 11 of the Framework Convention were implemented.

Present situation

144. The Advisory Committee notes with regret that the situation concerning the use of minority languages for topographical indications has not changed significantly in Croatia since the last monitoring cycle. Although the Law on the Use of Language and Script of National Minorities and the Constitutional Act on the Rights of National Minorities entered into force respectively in 2000 and 2002, the application of the law which rests primarily with local authorities is seriously flawed, especially in those areas which are inhabited by a large number of persons belonging to the Serbian minority.

145. The Advisory Committee was informed that in the Vukovar-Srijem and the Osijek-Baranja Counties there are continuing difficulties with introducing bilingual topographical signs indicating the names of villages inhabited predominantly by persons belonging to the Serbian minority.

Recommendation

146. The Advisory Committee recalls its recommendation made in the second opinion and strongly urges the Croatian authorities to take more proactive measures to ensure that the provisions of the Constitutional Act pertaining to the implementation of Article 11 of the Framework Convention be effectively implemented, including at the regional and local level.

Article 12 of the Framework Convention

Availability of textbooks in minority languages

Recommendations from the two previous cycles of monitoring

147. In the previous cycles of monitoring, the Advisory Committee requested the authorities to address the problem of textbooks as a matter of priority to ensure equal treatment of persons belonging to national minorities in the educational system. It further requested them to consider approving to a greater extent, where appropriate, the use of books produced in the “kin-State” of the minority concerned in accordance with Article 15 of the Law on Education and Schooling in a National Minority Language and Script.

Present situation

148. The Advisory Committee notes that according to the information contained in the State Report, the Ministry of Science, Education and Sports approved textbooks for mother tongue learning developed in the “kin-States” for the following minority languages: Czech, Hungarian, Italian, Serbian and Slovak. In addition, 96 textbooks used for teaching other subjects at primary school level were translated from Croatian into minority languages. The

Advisory Committee also notes that all the textbooks used in primary schools are distributed to children free of charge.

149. The Advisory Committee regrets that, according to the information provided by minority representatives, similar efforts have not been undertaken as regards textbooks used in secondary education, where only the textbooks for mother tongue learning developed in the “kin-States” are available in minority languages. While recognising the high cost of producing small print runs, the Advisory Committee considers that the availability of textbooks in minority languages is a prerequisite for raising interest among students and parents in attending minority schools and an indispensable element of providing quality education for students belonging to national minorities.

Recommendation

150. The Advisory Committee urges the authorities to increase their efforts, including financial, to ensure that an adequate supply of textbooks in minority languages is available at all levels of education and to make specific efforts in relation to the minority languages for which no textbooks are available so far.

Education of Roma children and contacts amongst pupils from different communities

Recommendations from the two previous cycles of monitoring

151. In the previous cycles of monitoring, the Advisory Committee expressed concern over the placing of Roma children in separate classes and their stigmatisation in certain schools and called on the authorities to take further measures to improve the status of Roma in schools.

152. The Advisory Committee also called on the authorities to promote increased attendance of Roma children in pre-schools and to encourage improved contacts between pupils of different communities.

Present situation

153. The Advisory Committee welcomes the initiatives taken by the authorities to address the concerns of the Roma regarding equal access to education within the framework of the Action Plan for the Decade of Roma Inclusion 2005-2015 and the National Programme for Roma. The introduction of Roma educational assistants and scholarships specifically earmarked for Roma secondary school students are to be encouraged.

154. The Advisory Committee notes, however, with deep concern that Roma children still face serious difficulties in the educational system. According to figures provided by the authorities, the number of Roma children attending secondary schools, in spite of the recent commendable increase, remains very low. The figures indicate that in the school year 2009/10 there were 550 Roma children in pre-school education, 4,186 Roma students in primary schools and only 304 students in secondary schools. These figures conclusively demonstrate that the vast majority of Roma children do not continue their education beyond the primary level.

155. The Advisory Committee notes also with deep concern that, according to information obtained from a number of interlocutors, some Roma children are unable to attend school because of lack of identity documents.

156. The Advisory Committee notes with concern that insufficient knowledge of the Croatian language by Roma children at the time of entrance into the first grade of primary school was used to justify creation of separate Roma classes. In some communities, this policy resulted with over 80% of all Roma children being placed in such classes. In addition, the curriculum in such classes was significantly reduced in scope and volume as compared to the officially prescribed teaching plan which led to lower quality education.

157. In this context, the Advisory Committee welcomes and shares the conclusions of the judgement of the European Court of Human Rights in the case *Oršuš against Croatia*¹⁸ delivered on 16 March 2010, which held that language-based segregation of Roma children into separate classes constitutes discrimination and violates the European Convention on Human Rights.

158. The Advisory Committee further notes that various sources, including Roma minority representatives, indicated that the knowledge of Roma history, culture and traditions among teachers remains low and no efforts are made to teach students belonging to the majority population about the Roma and their contribution to Croatian society. This lack of awareness of the presence and contribution of Roma to society as a whole reinforces prejudice and stereotyping of its members and consequently hinders the successful integration of Roma into mainstream society.

Recommendations

159. The Advisory Committee urges the authorities to eliminate, without further delay, the continued segregation of Roma children at school and to redouble their efforts to remedy other shortcomings faced by Roma children in the field of education.

160. The authorities should investigate all reports of exclusion of Roma children from school due to the lack of identity documents, and take resolute action to tackle the problem.

161. The Advisory Committee calls on the authorities, as a matter of priority, to make more sustained efforts to ensure access to kindergartens for all Roma children and guarantee that the curriculum in such kindergartens corresponds to the diverse needs and multi-lingual composition of the groups concerned.

162. The Advisory Committee calls on the authorities to make more sustained efforts to promote the Romani language, culture and traditions, and to portray a more positive image of the Roma identity among other children, families and teachers.

Article 14 of the Framework Convention

Availability of minority language education

Recommendations from the two previous cycles of monitoring

163. In the previous cycles of monitoring, the Advisory Committee urged the authorities to continue to analyse the demand amongst national minorities to receive instruction in or of their languages and take appropriate follow-up measures, ensuring that the Law on Education in Languages and Script of National Minorities be implemented in respect of all national minorities without any discrimination. The Advisory Committee further requested the authorities to ensure an adequate level of teacher training and pay specific attention to those national minorities who do not benefit from support from a “kin-State” in this sphere.

¹⁸ See *Oršuš and others against Croatia*, application n° 15766/03.

Present situation

164. The Advisory Committee notes that, in accordance with the Law on Education in Languages and Script of National Minorities, a well-developed system of minority language education exists in Croatia, permitting students belonging to national minorities to receive instruction in or of their languages. Three basic models have been developed over the last decade ranging from teaching of all subjects in the language and script of a national minority (model A), through bilingual teaching in such a way that science and mathematics subjects are taught in Croatian, whereas arts and humanities subjects are taught in the minority language (model B), to teaching a national minority language and culture in the respective minority language, with the rest of the subjects being taught in the Croatian language (model C).

165. The Advisory Committee notes that the schools using A and C models of education are most popular and that the number of children attending them remains stable. The figures for the school years 2006/07 and 2007/08 show that both at the primary and secondary school level the number of children attending model A schools providing education in the Hungarian and Serbian languages is growing which shows commitment on the part of both the authorities and national minorities to preserve and further strengthen this model of education.

166. Despite a number of commendable initiatives which were introduced in the last decade to improve educational opportunities for Roma children (see related comments under Article 12), according to the information provided in the State Report, no teaching of, nor in the Romani language is organised in public schools. This shortcoming may to some degree contribute to the high drop-out rate, low attainment level and the extremely small number of Roma children continuing education beyond the primary school level.

Recommendations

167. The Advisory Committee calls on the authorities to continue monitoring the situation, in consultation with the representatives of national minorities, to assess whether the framework for teaching minority languages corresponds to actual needs and, where appropriate, take the necessary steps to address any shortcomings.

168. The Advisory Committee considers that the authorities should help to train teaching staff in the Romani language and to develop the necessary teaching materials, taking into consideration the Curriculum Framework for Romani which has been developed in co-operation with the European Roma and Travellers Forum,¹⁹ with a view to creating opportunities for the teaching of or in the Romani language, where there is a sufficient demand.

169. The authorities should consider encouraging bilingual and dual medium education models, which would attract children from majority and minority backgrounds.

Article 15 of the Framework Convention**Participation in economic life***Recommendations from the two previous cycles of monitoring*

170. In the previous two cycles of monitoring, the Advisory Committee noted significant shortcomings in the effective participation of national minorities in the economic life of the country, due to continued discrimination in that field and also due to the fact that minorities

¹⁹ http://www.coe.int/t/dg4/linguistic/Source/Rom_CuFrRomani2008_EN.pdf "A Curriculum Framework for Romani" developed in co-operation with the European Roma and Travellers Forum. Language Policy Division, CoE, Strasbourg 2008.

are particularly present in the economically disadvantaged war-affected areas. It urged the authorities to design a national strategy to redress this situation, in particular as regards the Serbian minority and the Roma.

Present situation

171. The Advisory Committee notes that in February 2005 the Government of Croatia, together with eight other governments in Central-Eastern Europe²⁰ signed the Declaration of the Decade of Roma Inclusion committing itself to improve the socio-economic status and social inclusion of Roma. The Declaration was followed by Croatia adopting a National Action Plan for the Decade of Roma Inclusion 2005-2015, which focuses on the priority areas of education, employment, health-care, housing, and commits relevant government ministries and agencies to take into account the other core issues of poverty, discrimination, and gender (see also related comment under Article 4) .

172. The Advisory Committee welcomes the information that authorities have taken steps to improve the unacceptable living conditions in a number of Roma settlements by carrying out technical infrastructure projects such as laying water pipes and constructing sewage networks, as well as by improving fire safety by installing hydrants in the Counties of Medjumurje, Koprivnica-Križevci, Varaždin and the City of Zagreb.

173. The Advisory Committee notes, however, with deep concern that a large proportion of Roma remain excluded from mainstream society and face difficult living conditions. Roma continue to face problems in relation to access to employment, adequate housing, social protection and healthcare facilities, and with general attitudes in society, where discrimination and stereotyping prevail.

174. The Advisory Committee is also deeply concerned about the continued lack of infrastructure and employment opportunities in the war-affected areas, which are still mainly inhabited by persons belonging to the Serbian minority and the Roma.

Recommendations

175. More determined efforts should be made to find ways and means to improve substantially 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 involve them in the drafting, implementation, monitoring and evaluation of the measures taken by the different ministries to implement the National Action Plan.

176. The Advisory Committee urges the authorities to ensure that economic conditions and access to employment in the war-affected areas are improved and promoted as a matter of priority, including through the development and vigorous implementation of special measures to alleviate the lack of necessary infrastructures and employment opportunities which particularly affect persons belonging to national minorities living in those areas.

²⁰ Declaration of the Decade of Roma Inclusion was signed in Sofia, Bulgaria, in February 2005 by the Prime Ministers of Bulgaria, Croatia, the Czech Republic, Hungary, Montenegro, Romania, Serbia, Slovakia and “the former Yugoslav Republic of Macedonia”. Three other States (Albania, Bosnia and Herzegovina, and Spain) joined the “Decade” later.

Participation within the administration and the judiciary

Recommendations from the two previous cycles of monitoring

177. In the two previous cycles of monitoring, the Advisory Committee strongly recommended that measures be taken to redress the underrepresentation of persons belonging to national minorities in the executive and judiciary bodies which was considered incompatible with Article 15 of the Framework Convention. As a matter of high priority, the authorities were urged to focus on the improved implementation of Article 22 of the Constitutional Act on the Rights of National Minorities, and to pay attention also to areas of public service that are not covered by the guarantees of that Act.

Present situation

178. Participation of persons belonging to national minorities within the administration and the judiciary remains minimal. The Advisory Committee notes with deep concern that implementation of Article 22 of the above-mentioned Act has not improved and that discrimination based on ethnic grounds continues to be reported in civil service recruitment processes throughout the country. The Advisory Committee notes with concern allegations that ethnic Croats are being favoured over higher-qualified persons belonging to the Serbian minority. According to information received by the Advisory Committee, this phenomenon is particularly present in the judiciary as well as in the police forces. In fact, the number of persons belonging to national minorities is decreasing in some public offices as previously hired persons of minority background are retiring and being replaced by ethnic Croats.²¹ In this context, the Advisory Committee is particularly concerned about the continued and possibly worsening situation of underrepresentation of minorities in the judiciary.²²

Recommendation

179. The Advisory Committee reiterates its deep concern that effective measures to redress the significant underrepresentation of persons belonging to national minorities in the administration and the judiciary have not been taken and reiterates its recommendation that the authorities take urgent steps to remedy this situation.

Participation of persons belonging to national minorities in elected bodies

Recommendations from the two cycles of monitoring

180. In the previous two cycles of monitoring, the Advisory Committee called on authorities to improve the legislation and practice with regard to the parliamentary representation of minorities and their participation in decision-making at local and regional level, reviewing their schemes periodically in order to ensure that they adequately reflect developments in the country.

Present situation

181. The Advisory Committee notes that eight seats in Parliament remain reserved for representatives of certain national minorities. However the distribution scheme of these eight

²¹ See "Exercising the Right to Employment of Serb National Minority in Accordance with the Constitutional Law of Rights of National Minorities", Igor Palija, December 2008 in research financed by 'The Balkan Trust for Democracy'.

²² The Advisory Committee refers to the data submitted by the Croatian authorities in their third State Report as compared with the data provided in the Comments of the Croatian Government to the Advisory Committee's Second Opinion on 13 April 2005.

seats does not accurately reflect the current situation of the country and the needs of its minorities.²³

182. The Advisory Committee notes that national minorities have in areas where they are concentrated and under certain circumstances, the right to seek the formation of national minority councils in units of local self government, whose members are elected in special candidate elections open to minority voters (see below paragraphs 186). However, the Advisory Committee was informed that due to irregularities in the voter registration records, persons belonging to national minorities were denied the right to vote, for example in the municipality of Gunja in the region of Spacva, despite the clear indication of their Serbian background in the municipal population register.

Recommendation

183. The Advisory Committee calls on the Croatian authorities to devise a system to correct voter registration records in consultation with civil society and representatives of national minorities in order to ensure that the special voting rights of persons belonging to national minorities are duly implemented.²⁴

Minority Councils

Recommendations from the two previous cycles of monitoring

184. In the previous cycles of monitoring, the Advisory Committee urged Croatia to involve consistently councils of national minorities in the decision-making processes at local level dealing with minority issues. The Advisory Committee further recommended that the councils of national minorities should establish strong co-operation with each other and with other relevant bodies.

Present situation

185. The Council for National Minorities, established under Articles 35 and 36 of the Constitutional Act on the Rights of National Minorities and composed of Members of the Sabor elected on national minority tickets and representatives of minority associations, plays an active role in stimulating public awareness of national minorities, creating a framework for discussion on national minority issues and for making proposals for resolving the outstanding issues affecting them. It has also been given the authority to allocate State funds for national minority programmes.

186. The Constitutional Act on the Rights of National Minorities devotes an entire chapter III to the “Councils and Representatives of National Minorities in Self-Government Units”, establishing them as advisory bodies to the local self-government units.

187. The Advisory Committee notes with regret that the legitimacy of the councils of national minorities remains questionable due to a number of substantial shortcomings. Only a very small proportion of persons eligible to vote in the elections to the councils in 2003 and in 2007 cast their ballots which undermined the democratic legitimacy of the electoral process. The funding of the councils, which should be secured through the local self-government units and the State budget, remains inadequate, thus seriously limiting their capacity to function effectively. The current level of funding does not allow the councils to rent adequate

²³ One of the eight seats is, for example, reserved for the small Italian minority, whereas the Bosniaks as second largest minority, share one seat with four other minorities.

²⁴ See also Joint Opinion on the Draft Law on Voters Lists of Croatia by the Venice Commission and the OSCE ODIHR, 1-2 June 2007.

premises, hire staff or cover other running costs. According to the information contained in the 2009 European Commission Progress Report on Croatia, these problems are particularly acute in the war-affected areas.

188. Furthermore, the Advisory Committee has been informed that in many self-government units, co-operation between the councils of national minorities and local authorities is lacking and that the former ones are not even informed of planned discussions and decisions affecting persons belonging to national minorities. Such lack of respect for the councils of national minorities on the part of local authorities demonstrates serious disregard for the law, but also further undermines the legitimacy of the councils within their respective minority constituencies.

Recommendation

189. The Advisory Committee urges the authorities to review, in consultation with representatives of national minorities, the legal provisions and administrative practice regulating the election and functioning of the councils of national minorities with a view of eliminating the identified shortcomings.

Article 16 of the Framework Convention

Sustainable return

Recommendations from the two previous cycles of monitoring

190. In the two previous cycles of monitoring, the Advisory Committee noted the substantial changes in the demographic make-up of areas inhabited by persons belonging to national minorities and recommended that the authorities encourage the sustainable return, of persons belonging to national minorities, including at local level.

Present situation

191. The progress made in the repossession of property as well as in the allocation of housing for former tenancy rights holders (see above under Article 4) has had a positive effect on the overall return process, including its sustainability. The 'co-validation' mechanism, making it possible to validate, for pension purposes, the years of employment spent in areas not controlled by the authorities of Croatia during the armed conflict, was recently re-opened and improves thus access to social benefits for returnees.

192. According to a UNHCR survey on the sustainability of return,²⁵ only 54% of Serbian returnees have remained in Croatia, the others have returned to their country of asylum. Lack of access to housing remains a significant impediment to sustainable return. In this regard, the Advisory Committee notes with deep concern that the approximately 7,500 negative decisions regarding reconstruction assistance are still pending in second instance and that all of them originate from applicants of Serbian origin. It further notes that, according to the above mentioned survey, 30% of the returnees are unemployed which far surpasses the overall statistics of roughly 10% of unemployment in Croatia. The transition from receiving minimal return assistance into benefiting from the social welfare system remains difficult for returnees.

²⁵ See *Sustainability of minority return in Croatia*, Milan Mesic and Dragan Bagic, UNHCR 2007.

Recommendation

193. While noting the steps taken by the authorities to improve the conditions of return and the sustainability of return of persons belonging to national minorities, the Advisory Committee strongly urges them to redouble these efforts to ensure that returnees are enabled to establish a dignified life in adequate living and working conditions in Croatia.

III. CONCLUSIONS

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

Positive developments following two cycles of monitoring

195. Croatia has pursued a constructive approach towards the monitoring process and has taken useful steps to disseminate the results of the two first cycles of monitoring. The authorities have also maintained an inclusive approach in practice in the communication with representatives of the national minorities.

196. Since ratifying the Framework Convention in 1997, Croatia has continued in its efforts to protect national minorities. The authorities have continued to show their commitment to the implementation of this treaty and have drawn on it when drafting the Constitutional Act on the Rights of National Minorities, which entered into force in 2002.

197. Measures have been taken with a view to improving the legislative framework to prevent and combat discrimination. The Discrimination Prevention Act was adopted in 2008. The authority for its implementation was vested in the Office of the Ombudsman, thus making the Office the main institution for the protection of human rights with an emphasis on human rights promotion. The Act further introduced in the Croatian legal system the principle of the shifting of the burden of proof and contained a provision allowing third parties to intervene as *amicus curiae* in cases of discrimination.

198. The Office of the Ombudsman, in addition to fulfilling its primary monitoring role, also developed awareness-raising programmes for judges, lawyers, and the public aimed at familiarising them with the existing possibilities of seeking legal redress in cases of discrimination. There is deep concern surrounding the continued impunity of perpetrators of ethnically-motivated incidents, particularly against persons of Serbian and Roma origin, and the Ombudsman's efforts seeking redress in these cases deserve strong support.

199. The progress made in the repossession of property as well as in the allocation of housing care for former tenancy rights holders has had a positive effect on the overall return process, including its sustainability. The 'co-validation' mechanism, making it possible to validate, for pension purposes, the years of employment spent in areas not controlled by the authorities of Croatia during the armed conflict, was recently re-opened and improves access to social benefits for returnees.

200. The authorities continue to provide various forms of assistance to national minorities, such as support for cultural centres, libraries, music and drama festivals, art exhibitions, amateur cultural productions and other artistic events.

201. A well-developed system of minority language education exists in Croatia, permitting students belonging to national minorities to receive instruction in or of their languages. The number of children attending schools teaching minority languages or in minority languages remains stable.

202. The authorities have increased efforts to combat discrimination and integrate Roma into society. The National Action Plan for the Decade of Roma Inclusion 2005-2015 has already yielded some results, especially through increased inclusion of Roma children into the

educational system (from the preschool to higher-level educational institutions), improved access to healthcare for the Roma population, and sustained efforts to resolve housing issues.

Issues of concern following two cycles of monitoring

203. Cases of discrimination of persons belonging to the Serbian minority and the Roma in the fields of education, employment, housing, recognition of property and other acquired rights, reconstruction of housing units damaged during the war, sustainability of the return of persons belonging to national minorities, health care and social protection continue to be reported. In the field of employment, in particular in public administration, judiciary, local government and public enterprises, the non-respect of the right to proportional representation of persons belonging to national minorities established under the provisions of the Constitutional Act on the Rights of National Minorities gives rise to serious concern.

204. Ethnically-motivated incidents against persons belonging to national minorities, in particular the Serbs and Roma, continue to be a serious problem in Croatia, with many cases of attacks remaining unreported due mainly to a lack of trust in the police and judicial system. Various sources concur that the response from law enforcement officials to ethnically-motivated incidents is inadequate. In addition, racism and anti-Semitism continues to plague Croatian football stadiums.

205. A considerable number of persons belonging to national minorities, in particular elderly Serbian returnees, Bosniaks and the Roma living in Croatia, continue to face difficulties in obtaining Croatian citizenship and in consequence from being afforded the protection of the Constitutional Act on the Rights of National Minorities as well as that of the Framework Convention. Cases where Roma children were not granted access to school because of their lack of a regularised status were reported.

206. The functioning of the councils of national minorities is, in many self-government units, unsatisfactory. In particular, co-operation between the councils of national minorities and local authorities is lacking. In addition, the low turnout at elections to the councils of national minorities undermined the democratic legitimacy of the electoral process. The funding for the councils, which should be secured through the local self-government units and the State budget, remains inadequate, seriously limiting their capacity to function effectively.

207. Roma continue to face persistent discrimination and difficulties in different sectors, in particular in employment, education and housing. In some settlements the inhabitants face most deplorable living conditions, without proper roofing, electricity, running water, sewage treatment, and roads.

Recommendations

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

Issues for immediate action²⁶

- **complete promptly and without any discrimination all pending cases concerning the repossession and reconstruction of private property and the allocation of housing units;**

²⁶ The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

- **prevent, identify, investigate, prosecute and sanction, as necessary, all racially and ethnically-motivated or anti-Semitic acts; take decisive action against racist and anti-Semitic acts perpetrated prior to, during and after football matches in the spirit of the Committee of Ministers Recommendation R(2001)6 on the prevention of racism, xenophobia and racial intolerance in sport;**
- **review the procedures applicable to the implementation of the right to proportional representation of persons belonging to national minorities in public administration, the judiciary, local government and public enterprises, in conformity with Article 22 of the Constitutional Act on the Rights of National Minorities ; observe stricter monitoring and enforce possible sanctions, in order to ensure the full and effective implementation of this provision at all levels;**
- **review legal provisions and administrative practice regulating the election and functioning of the councils of national minorities with a view to eliminating the identified shortcomings, as regards the representativity of these organisations, their funding and their cooperation with local authorities.**

Further recommendations²⁷

- **continue the dialogue with the group of persons identifying themselves as “Muslims” by nationality regarding the possibility of including them in the scope of application of the Framework Convention;**
- **review the provisions on the acquisition of dual citizenship in order to avoid unequal treatment based on ethnic origin;**
- **undertake further efforts to prevent, to combat and to sanction the inequality and discrimination suffered consistently by the Roma; thoroughly investigate any complaint of alleged discrimination of Roma in access to employment and provision of goods and services;**
- **prosecute and sanction adequately perpetrators of discriminatory acts ; step up efforts, in particular at local level, to improve the living conditions of Roma and promote their inclusion into society;**
- **review the demand for the introduction of bilingual topographical signs and for the use of minority languages in dealings with the administrative authorities in the municipalities inhabited by a substantial number of persons belonging to national minorities and ensure that the right to use a minority language and script in relations with the administrative authorities is respected in all bodies of local self-government where the law is applicable;**
- **put, without further delay, an end to the continued segregation of Roma children in schools and redouble efforts to remedy other shortcomings faced by Roma children in the field of education.**

²⁷ The recommendations below are listed in the order of the corresponding articles of the Framework Convention.