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

Second Opinion on Estonia adopted on 24 February 2005

EXECUTIVE SUMMARY

Estonia has taken a number of steps to improve the implementation of the Framework Convention following the adoption of the first Opinion of the Advisory Committee in September 2001 and the Committee of Ministers' Resolution in June 2002. This process has included improvements in electoral and citizenship legislation as well as in the monitoring of language legislation.

There remain nevertheless shortcomings in the implementation of the Framework Convention. The positive measures to speed up and facilitate the naturalisation process need to be strengthened further, bearing in mind that the number of persons without citizenship, while gradually decreasing, remains disconcertingly high.

Legislation concerning language of instruction in secondary schools has been made more flexible, but the implementation of the pending reform has not yet been adequately prepared by the authorities. There is a need to find additional ways to facilitate contacts between pupils from different communities at all levels of education.

Despite some improvements in the related administrative practices, the Language Act still contains elements that are problematic from the point of view of the Framework Convention.

There is a need for additional targeted programmes to combat social marginalisation of persons belonging to national minorities.

TABLE OF CONTENTS:

I. MAIN FINDINGS	5
Monitoring process	5
General legislative framework	5
Citizenship process	5
Multicultural education and education in minority languages.....	6
Full and effective equality	6
Language legislation	7
Media	7
Support for cultural initiatives	8
Participation in decision-making processes	8
II. ARTICLE-BY-ARTICLE FINDINGS	9
ARTICLE 3 OF THE FRAMEWORK CONVENTION.....	9
Definition of the term national minority	9
Data collection	10
ARTICLE 4 OF THE FRAMEWORK CONVENTION.....	11
Legislative developments in the field of discrimination.....	11
Aliens Act	12
Naturalisation process.....	13
Social marginalisation and its effects	14
ARTICLE 5 OF THE FRAMEWORK CONVENTION.....	15
Support for minority cultures.....	15
National Minority Cultural Autonomy Act.....	16
ARTICLE 6 OF THE FRAMEWORK CONVENTION.....	17
Intercultural dialogue and stereotypes, including in the media	17
Ethnically motivated incidents.....	18
ARTICLE 8 OF THE FRAMEWORK CONVENTION.....	19
Religious communities.....	19
ARTICLE 9 OF THE FRAMEWORK CONVENTION.....	20
Legal guarantees and the amount of broadcasting for minorities	20
Translation requirement	21
ARTICLE 10 OF THE FRAMEWORK CONVENTION.....	21
The scope of the protection of state language.....	21
Use of minority languages in relations with authorities	22
ARTICLE 11 OF THE FRAMEWORK CONVENTION.....	24
Topographical indications.....	24
Private minority language signs.....	24
Recording of patronyms.....	25
ARTICLE 12 OF THE FRAMEWORK CONVENTION.....	26
School curriculum.....	26
Teacher training	27
Contacts between pupils	28
Access to pre-schools.....	29
Access to higher education	29
ARTICLE 13 OF THE FRAMEWORK CONVENTION.....	30

“Sunday schools” for national minorities	30
ARTICLE 14 OF THE FRAMEWORK CONVENTION.....	31
Minority languages in secondary education	31
Minority languages in basic schools	32
Language immersion programmes.....	33
ARTICLE 15 OF THE FRAMEWORK CONVENTION.....	34
Language proficiency requirements in elections	34
Consultative bodies representing national minorities	34
Effective participation in economic life.....	35
Language proficiency requirements in employment.....	36
ARTICLES 17 AND 18 OF THE FRAMEWORK CONVENTION.....	38
Transfrontier contacts	38
III. CONCLUDING REMARKS.....	39
Positive developments	39
Issues of concern.....	39
Recommendations.....	40

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

SECOND OPINION ON ESTONIA

1. The Advisory Committee adopted the present Opinion on 24 February 2005 in accordance with Article 26 (1) of the Framework Convention and Rule 23 of Resolution (97) 10 of the Committee of Ministers. The findings are based on information contained in the second State Report (hereinafter the State Report), received on 16 July 2004, and other written sources and on information obtained by the Advisory Committee from governmental and non-governmental contacts during its visit to Tallinn, Jõhvi, Kohtla-Järve, Kolkja and Tartu from 30 November to 2 December 2004.

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

3. Both sections make extensive reference to the follow-up given to the findings of the first cycle of monitoring of the Framework Convention, contained in the Advisory Committee's first Opinion on Estonia, adopted on 14 September 2001, and in the Committee of Ministers' corresponding Resolution, adopted on 13 June 2002.

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

5. The Advisory Committee looks forward to continuing its dialogue with the authorities of Estonia as well as with representatives of national minorities and others involved in the implementation of the Framework Convention. In order to promote an inclusive and transparent process, the Advisory Committee strongly encourages the authorities to make the present Opinion public upon its receipt.

I. MAIN FINDINGS

Monitoring process

6. Estonia has pursued a constructive approach to the monitoring process under the Framework Convention. Estonia agreed to early publication of the first Opinion of the Advisory Committee, and it was one of the first countries to host a follow-up seminar to discuss, with national minorities and representatives of the Advisory Committee, how the results of the first monitoring cycle could be put into practice.

7. In contrast to the first State Report of Estonia, which was drafted with only very limited consultation with representatives of national minorities, the second State Report was prepared with an inclusive approach. In this context, the authorities consulted a wide range of representatives of national minorities and NGOs and included some of their concerns in the State Report. This clearly had a positive impact on the quality of the State Report. Furthermore, the fact that the second State Report was produced also in the state language – and not only in English as was the case for the first State Report – helped to make the process more accessible.

General legislative framework

8. Since the adoption of the first Opinion of the Advisory Committee, Estonia has introduced some legislative changes in key sectors pertaining to national minorities, but the general legislative framework designed specifically for national minorities remains largely unchanged. For example, the National Minority Cultural Autonomy Act has not been subject to any changes, despite the fact that the law, while having finally led to the establishment of one national cultural autonomy, is generally considered to be ineffective and impractical, as was pointed out in the first Opinion of the Advisory Committee.

9. Pending proposals to draw up a new law on national minorities merit careful consideration by the authorities, who could in this connection also confirm and consolidate in law their increasingly practical and inclusive approach towards the personal scope of the protection designed for national minorities. These new initiatives could also facilitate Estonia's efforts to pursue its minority policies and programmes on a continuous and long-term basis.

Citizenship process

10. Following recommendations made in the first cycle of monitoring, Estonia has taken certain legislative and administrative steps to make the naturalisation process more accessible and streamlined, including for disabled persons, and the rate of naturalisation has recently increased. However, the number of persons without citizenship, 150 536 as of 31 December 2004, remains disconcertingly high, indicating that further positive measures are needed to facilitate and encourage naturalisation. One particularly valuable initiative is the proposed exemption of the elderly citizenship applicants from the

Estonian language proficiency examination, which is currently being considered by the Government. There is also a need to widen the accessibility of free-of-charge state language training to those concerned.

Multicultural education and education in minority languages

11. The envisaged start of the transfer to Estonian as the main language of instruction in upper secondary schools in the school year 2007/2008 is a major challenge affecting the implementation of Articles 12 and 14 of the Framework Convention. It needs to be pursued in a manner that guarantees the maintenance and development of minority language education in secondary schools. The envisaged transfer has not yet been adequately prepared throughout Estonia, and there is a need to intensify the training and other efforts to ensure that teachers have adequate Estonian language and other skills, and that pupils and others involved are also prepared for the transfer. Bearing in mind various problems associated with the pending transfer in many schools, it is extremely positive that Estonia has introduced added flexibility by providing secondary schools the possibility to apply for the exemption from the requirement to transfer to Estonian language teaching. However, there is an urgent need to provide more information and clearer procedural guidance on how schools and local authorities are to ask for such exemptions and how the central Government is to take the respective decisions.

12. As regards basic schools, Estonia introduced in 2003 new legislative guarantees for receiving optional classes on minority languages for pupils whose mother tongue is not the language of instruction. These guarantees are potentially important especially for pupils belonging to numerically smaller national minorities as well as for those Russian-speaking pupils who opt for Estonian-medium schools. In practice, however, these new guarantees have not yielded significant results. There is a need to identify the obstacles that hinder the establishment of such classes, and to review the existing regulations and procedures with a view to ensuring that the positive goals of the new guarantees are met.

13. Initiatives in the field of education should be designed so that they facilitate contacts between pupils from different communities at all levels of education.

Full and effective equality

14. Estonia has recognised the need to make special efforts to improve development in Ida –Virumaa, where persons belonging to national minorities reside compactly, in order to ensure full and effective equality.

15. Persons belonging to national minorities continue to be significantly more affected by unemployment than the majority population, and their number in certain sectors of employment, including in higher levels of administration, is remarkably low. While there are many factors affecting this situation, it is essential that the authorities ensure that there is no direct or indirect discrimination in the labour market, and in this respect the implementation and monitoring of the new legal guarantees against discrimination in the Employment Contracts Act is of particular importance. The

adoption of the pending comprehensive equality legislation would be a further contribution to these efforts.

16. In addition to unemployment, persons belonging to national minorities are disproportionately affected by a number of other problems linked to social marginalisation, such as homelessness and drug abuse, which need to be addressed through special programmes. Of particular concern is the alarmingly high rate of HIV/AIDS amongst persons belonging to national minorities. It is to be welcomed that the authorities have increased their efforts in terms of prevention and treatment of HIV/AIDS, and there seems to be a wide agreement on the urgency of the matter. It is essential that the related services and documentation are consistently available also in the Russian language.

Language legislation

17. Estonia has addressed certain concerns expressed by the Advisory Committee in the first monitoring cycle regarding various language requirements. It has, for example, abolished the language proficiency requirements for electoral candidates and it has extended the validity of the certificates for Estonian language proficiency for occupational purposes that were issued under previous language regulations. The practice of the Language Inspectorate has also improved in some areas, as evidenced by the fact that it has stopped issuing sanctions for the posting of private signs visible to the public also in a minority language. It is important that such improvements are expanded further and that they have a firm legal basis, and that no overly regulatory approach is pursued, for example, in the promotion of Estonian language proficiency in employment.

18. Estonia has further regularised the use of minority languages in contacts with administrative authorities through amendments to the Language Act introduced in 2002. While constituting a step in the right direction in terms of implementation of Article 10 of the Framework Convention, the new legislation leaves an overly large margin of discretion to the individual officials concerned as to whether persons belonging to national minorities may use their language in contacts with authorities. More substantial guarantees are applicable only in those local governments where at least half of the permanent residents belong to a national minority, which constitutes a high threshold. Furthermore, the actual reach of these guarantees is difficult to determine due to the legal uncertainty surrounding the legal scope of the term national minority in Estonia.

Media

19. Persons belonging to national minorities have been given some support from the state in terms of their access to the media, but, considering the proportion of persons belonging to minorities in the overall population, this support appears limited. The promotion of domestic print and electronic media for national minorities, including bilingual initiatives therein, should be seen as a central element of integration efforts in Estonia, where many persons belonging to national minorities continue to follow to a large extent the media based in the Russian Federation.

Support for cultural initiatives

20. Estonia has continued to provide a substantial amount of support for cultural and other projects concerning national minorities. There is a need, however, to devise a funding scheme for those on-going activities that are difficult to sustain on the basis of the strictly project-based funding, such as the voluntary language schools (“Sunday schools”) set up by national minorities. At the same time, it should be stressed that such private initiatives, even when receiving public funding, do not eradicate the need to ensure adequate minority language education in the public educational system.

21. As the European Union is becoming an increasingly important source of funding for cultural and other civil society initiatives, it is essential that the related procedures are fully accessible to persons belonging to national minorities in Ida-Virumaa and elsewhere in Estonia, and that relevant training projects as well as materials are also made available in minority languages.

Participation in decision-making processes

22. The structure of the Presidential Round-Table was changed in 2003, with the introduction of a chamber of representatives of national minorities. This move contributed to the representativeness of the round-table, which was an issue of concern raised in the first cycle of monitoring under Article 15 of the Framework Convention. There is, however, still a need to consolidate the way in which the Round-Table and other relevant consultative bodies are involved in decision-making processes pertaining, directly or indirectly, to national minorities. This could be addressed in the context of the drawing up of the proposed law on national minorities.

23. The recruitment of persons belonging to national minorities in public service is also an essential factor in ensuring their full inclusion in decision-making processes, and there is a need to step up efforts in this sphere.

II. ARTICLE-BY-ARTICLE FINDINGS

ARTICLE 3 OF THE FRAMEWORK CONVENTION

Definition of the term national minority

Findings of the first cycle

24. In its first Opinion, the Advisory Committee noted that Estonia had *de facto* pursued a more inclusive approach to the protection of national minorities than that suggested in its declaration contained in the instrument of ratification. The Committee was of the opinion that Estonia should re-examine its approach contained in the declaration and consider the inclusions of additional persons belonging to national minorities, including non-citizens, in the application of the Framework Convention.

Present situation

a) Positive developments

25. The Estonian authorities recognise that the above-mentioned declaration, rather than guiding policies and practices, has mostly a “political-historical” meaning in today’s Estonia. In an important statement contained in the second State Report, the authorities explicitly endorse the inclusive approach by noting that, while the declaration specifies the direct beneficiaries of the provisions of the Convention, “*it is also apparent that all provisions of the Framework Convention are applicable in practice without any substantive limitations, and the norms of the Convention are equally available for all persons who consider themselves belonging to national minorities*”.

b) Outstanding issues

26. While the declaration at present has only limited impact in practice, it nevertheless continues to carry symbolic significance for persons belonging to minorities. Furthermore, there are areas where the declaration contributes to the prevailing legal uncertainty, including in terms of the right to use a minority language in contacts with administrative authorities (see also related comments under Article 10 below). It is also worth mentioning that the implementation of the National Minority Cultural Autonomy Act, referred to by the authorities as the source of inspiration for the restrictive declaration, has been problematic partly due to its limited scope of application (see also below under Article 5).

Recommendations

27. The authorities should continue to pursue an increasingly inclusive approach in legislation, policies and practices concerning persons belonging to national minorities. The proposed changes to the National Minority Cultural Autonomy Act and/or the

proposed new law on national minorities would provide a suitable context for consolidating such an inclusive practice in legislation. This would send a strong message of inclusion to the persons without citizenship and other persons belonging to minorities who are currently formally outside the scope of the declaration issued by Estonia under the Framework Convention.

Data collection

Findings of the first cycle

28. In its first Opinion on Estonia, the Advisory Committee encouraged the authorities to pay careful attention to data protection and to the right to be treated or not to be treated as a person belonging to a national minority in the collection of ethnicity data.

Present situation

a) Positive developments

29. Estonia has reformed its legal framework pertaining to data protection, notably by adopting a new Law on Personal Data Protection, which entered into force in October 2003, as well as through a new Code on Criminal Procedure, which entered into force in July 2004 and which abolished the obligation to indicate the ethnicity of the accused in the records of interrogation and to request such information at criminal trials.

b) Outstanding issues

30. The legitimate goal of ensuring personal data protection is at times pursued in a manner that excludes altogether the collection of ethnicity-based data. In many key fields, such as law-enforcement and participation in elected bodies and economic life, more comprehensive data on persons belonging to national minorities, broken down by gender and geography and other relevant factors, is needed to analyse the implementation of various articles of the Framework Convention.

Recommendations

31. The authorities should identify further ways to obtain increasingly reliable and up-to-date disaggregated data on national minorities, while continuing to pay careful attention to the principles contained in Article 3 of the Framework Convention.

ARTICLE 4 OF THE FRAMEWORK CONVENTION

Legislative developments in the field of discrimination

Findings of the first cycle

32. In its first Opinion on Estonia, the Advisory Committee called on the authorities to develop and implement anti-discrimination legislation to cover various societal settings.

Present situation

a) Positive developments

33. Estonia has improved guarantees against discrimination, including through amendments to Article 10 of the Employment Contracts Act, which entered into force in 2004. Estonia has declared its intention to develop further its normative framework pertaining to discrimination, and a draft law on Equality and Equal Treatment has been proposed. (For more information on challenges that persons belonging to national minorities, notably young women, face in the labour market, see comments under Article 15 below.).

34. According to amendments to the Legal Chancellor Act, which entered into force in January 2004, everyone has the right of recourse to the Chancellor of Justice to conduct a conciliation procedure if he or she finds that a natural person or a legal person in private law has discriminated against him or her, *inter alia*, on the basis of language or ethnic origin. While the effectiveness of the new procedure is partly linked to the pending adoption of the new legislation on Equality and Equal Treatment, this procedure could provide an important recourse for persons belonging to national minorities and complement the Legal Chancellor's important on-going work in this domain.

35. The adoption of the State Legal Aid Act, which enters into force on 1 March 2005, was another important step of particular importance to persons belonging to national minorities, who often, notably for language reasons, encounter specific challenges in their access to legal documentation and procedures.

b) Outstanding issues

36. The adoption of the law on Equality and Equal Treatment has been delayed. As a result, the existing legal guarantees against discrimination still contain shortcomings and the full potential of the above-mentioned new conciliatory procedure is not being put to use.

37. The drafts of the above-mentioned equality legislation do not explicitly include citizenship as a prohibited ground of discrimination. The same is true as regards the right

of recourse to the Legal Chancellor to conduct a conciliation procedure on the cases of alleged discrimination. The Advisory Committee recalls that in the Estonian context, where many residents are without the Estonian citizenship, legal safeguards against discrimination on the basis of citizenship – which do not exclude differential treatment with objective and reasonable justifications – would be of direct relevance to a large segment of society.

38. It is also to be noted that the above-mentioned Article 10 of the Employment Contracts Act stipulates in its paragraph 2 that it is not contrary to the said article to “require language skills necessary for the work and pay compensation for proficiency in languages”. It is important that this provision, which in itself pursues a legitimate aim, is not interpreted too broadly and/or in a manner that leads to undue obstacles for persons belonging to national minorities in their access to employment.

Recommendations

39. The authorities and the legislature should expedite the passage of new non discrimination legislation, ensuring also that adequate legal safeguards and procedures are in place in respect of discrimination on the basis of citizenship.

40. The authorities should carefully monitor the implementation of Article 10, paragraph 2 of the Employment Contracts Act so as to ensure that it does not lead to undue obstacles for persons belonging to national minorities in their access to employment.

Aliens Act

Findings of the first cycle

41. In its first Opinion, the Advisory Committee urged the authorities to ensure that the immigration quota is implemented without undue restriction on family reunifications.

Present situation

a) Positive developments

42. The Advisory Committee welcomes the amendments introduced to the Aliens Act in June 2002, which addressed the concerns expressed by the Advisory Committee regarding family reunification by exempting from the immigration quota *inter alia* the spouses of Estonian citizens or of aliens who reside in Estonia on the basis of residence permits.

b) Outstanding issues

43. The legal and political debates have continued over the issue of residence permits of former military officers and their spouses and minor children, including in the light of

the amendments to the Aliens Act, which entered into force in January 2004, excluding explicitly the issuance of permanent residence permits to them.

Recommendations

44. The authorities should continue their efforts to ensure that in the decision-making pertaining to temporary and permanent residency permits due attention is paid to the rights of the persons concerned, including their right to respect for private life and home.

Naturalisation process

Findings of the first cycle

45. In its first Opinion, the Advisory Committee regretted the relatively slow rate of naturalisation and called for additional measures to make naturalisation more accessible. In this connection, it also encouraged the authorities to pay increasing attention to availability and affordability of language training. Similarly, the Committee of Ministers underlined in its Resolution the need to promote the process of naturalisation.

Present situation

a) Positive developments

46. Estonia has introduced certain positive measures facilitating the naturalisation process. It has, *inter alia*, streamlined the administrative process between the registration of a citizenship application and the resulting decision and taken some steps to make the process of acquisition of citizenship more accessible to school children and to raise awareness of the importance of citizenship. In addition, prompted by a decision of the Supreme Court, further exemptions were introduced in 2004 for disabled persons from tests under the Citizenship Act.

47. These and other efforts to encourage naturalisation, coupled with the accession of Estonia to the European Union in May 2004, seem to have yielded certain results, and a clear increase in the rate of naturalisation was reported in 2004.

b) Outstanding issues

48. In spite of the recent increase, the number of persons without citizenship residing in Estonia remains disconcertingly high (on 31 December 2004, there were 150 536 persons without citizenship registered in Estonia). It is recognised that some of these persons lack motivation to seek citizenship. At the same time, studies suggest that many persons have opted not to seek citizenship because they consider the related tests too difficult and/or challenging their self-esteem. Despite the above-mentioned improvements affecting certain categories of potential applicants, the basic rules governing language tests under the Citizenship Act remain unchanged, and they constitute a real obstacle to the naturalisation of many persons, notably for the elderly, of whom those born before

1930 have been exempted from the written but not from the oral language exams. It is therefore encouraging that the authorities are currently considering proposals to exempt the elderly altogether from the language examination under the Citizenship Act. The Council of Europe's Commissioner for Human Rights has also made valuable recommendations to make the naturalisation process more accessible.¹

49. As regards affordability of language training, an amendment to the Citizenship Act, which entered into force in January 2004, introduced the possibility for full compensation for language training expenses. While this is in itself a positive development, the law envisages compensation only for those who subsequently pass their examinations on language and on the knowledge of the Constitution under the Citizenship Act. Proposals to expand the compensation scheme further were rejected in Parliament in October 2004. Aside from individual projects, often funded from foreign sources, there appears not to be enough systematic free-of-charge language training available for adults belonging to national minorities, despite the fact that improved Estonian language proficiency amongst national minorities is a central factor not only in terms of their access to citizenship but also for their employment opportunities and for the Government's integration efforts in general.

Recommendations

50. Estonia should continue to take steps to make naturalisation more accessible, including by pursuing the proposals to exempt the elderly applicants from language requirements under the Citizenship Act.

51. Estonia should introduce more free-of-charge Estonian language training opportunities for those persons with limited financial means who intend to take the citizenship exam or seek to improve their proficiency in the state language for other purposes that contribute to integration.

Social marginalisation and its effects

Current situation

52. Persons belonging to national minorities are affected by a number of problems linked to social marginalisation. In addition to being disproportionately affected by unemployment (see also comments on this issue under Article 15 below), persons belonging to socially vulnerable groups amongst national minorities face such problems as homelessness and drug abuse.

53. Of particular concern is the alarmingly high rate of HIV/AIDS amongst persons belonging to national minorities. It is to be welcomed that the authorities have increased their efforts in terms of prevention and treatment of HIV/AIDS, and there seems to be a consensus on the urgency of the matter.

¹ See Report by Mr Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to Estonia on 27-30 October 2003, CommDH(2004)5.

54. The proportion of persons belonging to national minorities in prisons is disconcertingly high in Estonia, although the Government does not have reliable data on this issue.

Recommendations

55. It is essential that the authorities design and implement special programmes to tackle social marginalisation and its effects that are felt particularly amongst national minorities. The Government should maintain the prevention and treatment of HIV/AIDS as a high priority and ensure that related services and documentation are fully accessible to persons belonging to national minorities, including in the Russian language.

56. There is a need to obtain more data and to analyse further reasons for the high incarceration rate of persons belonging to national minorities and to examine in this connection how Article 4 and other principles of the Framework Convention are reflected in various stages of law-enforcement (see also related comments on data protection under Article 3 and on the language proficiency requirements of prison staff under Article 15).

ARTICLE 5 OF THE FRAMEWORK CONVENTION

Support for minority cultures

Findings of the first cycle

57. In its first Opinion, the Advisory Committee urged the authorities to pay increasing attention to the support of minority cultures, including in connection with the implementation of the state integration programme, and stressed the importance of the participation of national minorities in the allocation of such support.

Present situation

a) Positive developments

58. Estonia has continued to provide a substantial amount of support for cultural and other projects of national minorities, and it has taken steps to increase the role of the national minority umbrella organisations in the decision-making process. The new action plan of the state integration programme, approved in May 2004, also foresees a gradual increase in the support of cultural societies of national minorities.

59. Furthermore, it is to be welcomed that the integration projects are seen as a tool to strengthen more open and tolerant attitudes towards multiculturalism and that they should be used to develop the understanding of ethnic differences as a positive phenomenon that enriches society.

b) Outstanding issues

60. Support provided for minority cultures is generally project-based, which makes it at times difficult to sustain the type of activities requiring more consistent support and core funding, such as the voluntary language schools (“Sunday schools”) set up by national minorities (see also related comments under Article 13 below).

61. As the European Union has become an increasingly important source of funding for cultural and other civil society initiatives, including those of persons belonging to national minorities, there are concerns that the related procedures have become more complicated and difficult to access for persons residing in regions such as Ida-Virumaa and in the Lake Peipsi area.

62. The authorities’ commitment to Estonia as a multicultural society is not consistently reflected in the terminology used in official documents and statements. For example, the use of the term "non-Estonian" ("*mitte-eesti*") to describe the country's minority population, while intended to refer only to ethnicity, can give the impression that the national minorities are not an integral part of Estonian society. A similar consequence results from the use of the term "foreign languages" to describe also the languages of national minorities.

Recommendations

63. Estonia should continue to support initiatives launched by persons belonging to national minorities and also seek further ways to provide core funding in those areas where more sustained support is needed.

64. Estonia should ensure that the training projects as well as materials pertaining to the relevant funding schemes at the European Union are fully accessible to persons belonging to national minorities, including in their language, in Ida-Virumaa, in the Lake Peipsi area and elsewhere.

65. The Estonian authorities should avoid using terminology that can be perceived as implying that national minorities and their languages are not an integral part of Estonian society.

National Minority Cultural Autonomy Act

Findings of the first cycle

66. In its first Opinion, the Advisory Committee concluded that the National Minorities Cultural Autonomy Act has not had a substantial impact in Estonia and that it should be revised or replaced with norms that are better adapted to the current minority situation in Estonia.

Present situation

a) Positive developments

67. The implementation of the National Minority Cultural Autonomy Act was launched by the Ingrian Finns, who held elections for their cultural council in May 2004.

b) Outstanding issues

68. The National Minority Cultural Autonomy Act remains unchanged, despite the fact that there persists a wide measure of agreement amongst persons belonging to national minorities that the law does not, in its current form, serve its purpose, due, *inter alia*, to its restrictive scope of application. It is generally acknowledged that the law contains various shortcomings, and the authorities agree that amendments to the said law should be considered. At the same time, in the framework of the Presidential Round-Table on National Minorities, proposals have been launched for a new law on national minorities, the goals of which would include consolidating support for national minority associations. It remains to be seen whether the goals of the National Minority Cultural Autonomy Act and those envisaged for the new law on national minorities could be best pursued through one comprehensive piece of legislation.

Recommendations

69. Estonia should amend its legislative framework concerning cultural autonomy of national minorities. This should be done in parallel and in coordination with the pending proposals to draw up a new law on national minorities. In this connection, Estonia should confirm and consolidate its increasingly practical and inclusive approach as regards the personal scope of the protection designed for national minorities.

ARTICLE 6 OF THE FRAMEWORK CONVENTION**Intercultural dialogue and stereotypes, including in the media***Findings of the first cycle*

70. In its first Opinion, the Advisory Committee welcomed the increased intercultural dialogue but concluded that further efforts are needed to counter excessive division in the media environment between the media consumed by the majority population and that followed by the minority population.

Present situation

a) Positive developments

71. Estonia has continued to introduce various initiatives encouraging inter-cultural dialogue, including in the field of media. In the studies by the Integration Foundation and in other valuable initiatives involving monitoring in this sphere, certain improvements were reported in the way in which the Estonia-language and Russian-language media reported on integration issues.

b) Outstanding issues

72. Despite mutual tolerance, a certain separation between the majority population and the largest minority groups persists in various sectors of society (see also related comments on education under Article 12 below). Also, inter-cultural dialogue in the field of media continues to be complicated by the fact that a majority of the persons belonging to national minorities continue to follow largely foreign-based media, in particular TV, thereby falling often outside the domestic information system.

73. Some media coverage reinforcing negative stereotypes on national minorities is still reported, including in relation to Roma.

Recommendations

74. Estonia should continue to support initiatives aimed at promoting inter-cultural dialogue and contacts in the media and other pertinent fields and also initiatives to monitor developments in this sphere.

Ethnically motivated incidents

Findings of the first cycle

75. In its first Opinion, the Advisory Committee called for additional measures to counter the ethnically motivated incidents, although such incidents were limited in number.

Present situation

Positive developments

76. Ethnically motivated incidents appear to be isolated, and the new Penal Code, which entered into force in September 2002, provides new sanctions for public incitement to hatred or violence on the basis of, *inter alia*, race, language or origin. First convictions on the basis of these provisions were made in 2003.

Recommendations

77. Estonia should pursue its efforts to ensure that ethnically motivated crime is consistently categorised as such and prosecuted vigorously by law-enforcement bodies.

ARTICLE 8 OF THE FRAMEWORK CONVENTION**Religious communities***Findings of the first cycle*

78. In its first Opinion, the Advisory Committee regretted the fact that the Estonian Orthodox Church under the Moscow Patriarch had not been registered by the Ministry of Interior and called for increased efforts to solve this issue.

Present situation

a) Positive developments

79. In an important decision, the Ministry of Interior registered the Estonian Orthodox Church under the Moscow Patriarch on 17 April 2002, and the legal framework pertaining to religious organisations was reformed through a new Churches and Congregations Act, which entered into force in July 2002.

b) Outstanding issues

80. Following the registration the Estonian Orthodox Church under the Moscow Patriarch, the Government approved a protocol on the organisation of the property relations between the state and the said church, but the implementation of the agreement is still under way.

81. Article 7 of the new Churches and Congregations Act stipulates that the name of a religious association shall be written in Latin letters. While the requirements to use (also) Latin script may be justified for the registration purposes and for other official contacts, extending such an obligation to the use of the name in all other contexts, including internal activities of religious associations, would be problematic from the point of view of Articles 8 and 10 of the Framework Convention.

Recommendations

82. Estonia should pursue the implementation of the above-mentioned protocol on the organisation of property relations. It should ensure that the relevant provisions of the law are interpreted so that religious associations can write their names in an alphabet of their choice except in cases where it is necessary for a legitimate purpose to require also the use of the Latin script.

ARTICLE 9 OF THE FRAMEWORK CONVENTION

Legal guarantees and the amount of broadcasting for minorities

Findings of the first cycle

83. In its first Opinion, the Advisory Committee concluded that additional legal guarantees for the broadcasting on/for persons belonging to national minorities would contribute to the implementation of Article 9 of the Framework Convention. It also noted that the volume of minority language broadcasting in the public service TV appeared limited and should be reviewed.

Present situation

a) Positive developments

84. While the legislative provisions referring specifically to minorities have remained unchanged, it is positive that the development plan of the Estonian Radio and Estonian Television for 2003-2005, approved by *Riigikogu* in June 2002, acknowledges that the programmes of the Estonian Radio and the Estonian Television oriented for minority groups have been insufficient and merit more attention. There are some encouraging developments also in practice, including increased programmes for numerically small minorities in Radio 4, which complements the stations valuable Russian language programming.

b) Outstanding issues

85. The commitment to pay more attention to TV programmes oriented for minorities has regrettably not been adequately reflected in the budgetary decisions. The amount of domestically produced programmes for minorities remained modest and substantially below the targets set in the above-mentioned development plan, and the programmes that were produced were often funded from sources outside the regular budget of the Estonian Television. The number of persons belonging to national minorities following the Estonian public television channel remained very low (see also related comments under Article 6 above).

Recommendations

86. Further measures, including increased budgetary support, are needed to expand the scope of public service broadcasting for national minorities, notably as regards domestically produced programmes. This issue merits particular attention in the envisaged new financing scheme for the Estonian Television. The need to strengthen pertinent legislative guarantees also persists and should be addressed in the on-going drafting of new legislation on public service broadcasting.

Translation requirement

Findings of the first cycle

87. In its first Opinion, the Advisory Committee referred to Article 25 of the Language Act and concluded that the goal of having minority language broadcasting subtitled in the state language should be pursued principally through voluntary methods rather than by imposing a rigid translation requirement. It further called for an examination of the impact of Article 25 of the Language Act on minority language broadcasting.

Present situation

Outstanding issues

88. Article 25 of the Language Act remains unchanged and the Advisory Committee has received no information on any efforts to analyse the impact that it has had on minority language broadcasting. The Language Inspectorate has monitored the implementation of the translation obligation notably in the field of cable broadcasting and found in September 2004 that a Russian language Orsent TV had violated the said provision. Orsent TV received a written order from the Language Inspectorate to bring its broadcasting into line with Article 25 of the Language Act, and subsequently the transmission of its programmes was temporarily terminated by the holder of the broadcasting licence up until Orsent TV began to translate its programmes.

Recommendations

89. Estonia should, as a matter of priority, review Article 25 of the Language Act with a view to ensuring its compliance with Article 9 of the Framework Convention and, pending possible amendments to the said article, ensure that measures taken in connection with the monitoring of the implementation of the said provision are proportional to the legitimate aim pursued.

ARTICLE 10 OF THE FRAMEWORK CONVENTION

The scope of the protection of state language

Findings of the first cycle

90. In its first Opinion, the Advisory Committee underlined that, while the protection of the state language is a legitimate aim, it is essential that it is pursued in a manner that fully reflects the principles contained in the Framework Convention, including in connection with the work of the Language Inspectorate.

Present situation

a) Positive developments

91. The Language Act has been amended in some respects to better take into account the concerns of persons belonging to national minorities, although the basic principles of the legislation remain essentially intact since the first monitoring cycle. There have been improvements in some sectors in the practice of the Language Inspectorate (see also related comments under Article 11 below) and the Constitutional Court has made important references *inter alia* to the need to ensure that the measures taken to ensure language proficiency for employees are proportional in accordance with the Language Act.

b) Outstanding issues

92. While recognising the need to promote and develop the Estonian language, the Advisory Committee considers that there remains a risk that the continuous reliance on a regulatory approach to promote the state language – sometimes at the expense of incentive-based voluntary methods – leads to problems in the implementation of the right of persons belonging to national minorities to use their language in private and in public, orally and in writing. This risk is accentuated by the fact that the Development Strategy of the Estonian Language for 2004-2010, approved by the Government in August 2004, while pursuing an important aim of protecting the Estonian language and while containing a number of valuable initiatives, also calls for additional legal regulations on, and supervision of, the use of the state language in businesses, advertising and various other sectors. At the same time, the Strategy pays limited attention to some factors, such as the need to develop Estonian language education for adults, which are of central importance for persons belonging to national minorities. In order to ensure a balanced approach, it is important that the position of persons belonging to national minorities and their languages is more fully taken into account in this context.

Recommendations

93. Estonian authorities should make further efforts to ensure that the protection and promotion of the state language is not pursued through an overly regulatory approach and at the expense of the protection of national minorities and their languages.

Use of minority languages in relations with authorities

Findings of the first cycle

94. In its first Opinion, the Advisory Committee concluded that legislation concerning the use of minority languages in contacts with administrative authorities lacks clarity and provides for a high threshold for the implementation of the right to receive replies in a minority language.

Present situation

a) Positive developments

95. Following amendments to Article 9 of the Language Act, which entered into force in January 2002, it is now legal to use a “foreign language” in oral communications with officials of state agencies and local government “by agreement of the parties”. This provides an improved legal basis for the practice, common in some areas, of using Russian in such contacts.

b) Outstanding issues

96. While improving legal certainty, the above-mentioned amendment provides only limited guarantees for persons belonging to national minorities as it leaves an overly large margin of discretion to the individual officials concerned as to whether persons belonging to national minorities may use their language in contacts with authorities without bearing interpretation costs. This follows from the fact that in cases where the official does not agree to the use of the “foreign language”, interpretation will be organised at the cost of the person “not fluent in Estonian”.

97. More substantial guarantees, covering also the submission of written documentation to the authorities in a minority language, are applicable only in those local government units where at least half of the permanent residents belong to a national minority, which, as was pointed out in the first Opinion of the Advisory Committee, constitutes a high threshold. Furthermore, the actual reach of these guarantees is difficult to determine due to the legal uncertainty surrounding the legal scope of the term national minority in Estonia (see also related comments under Article 3 above).

Recommendations

98. In the implementation of its legislation, Estonia should ensure that persons belonging to national minorities, in areas where they reside traditionally or in substantial numbers, have a true and effective possibility to use their minority language in relations with administrative authorities. It should seek to remove any legislative or practical problems identified, including those that may stem from imposed financial obligations or from the residual impact of the restrictive definition of the term national minority.

ARTICLE 11 OF THE FRAMEWORK CONVENTION

Topographical indications

Findings of the first cycle

99. In its first Opinion, the Advisory Committee encouraged the Government to find out whether the municipalities concerned are aware of the possibility to introduce place names in minority languages and to support implementation of such initiatives.

Present situation

a) Positive developments

100. The new Place Names Act, which entered into force on 1 July 2004, while retaining the basic principles governing minority language place names during the first monitoring cycle, streamlined the required procedures. The authorities have reported that they have made efforts to encourage municipalities concerned to invoke the possibility to introduce minority language place names, but that this was not followed up at the local level.

b) Outstanding issues

101. In spite of the Government's efforts, there appears to be still a certain lack of awareness of the relevant legal possibilities and procedures available, including in those municipalities in the Lake Peipsi area that are traditionally inhabited by the Russian-speaking Old-Believers. Furthermore, it appears that the possibility of using the Cyrillic script (alongside the Latin script), currently excluded by Article 10 of the Place Names Act, would increase interest in introducing traditional place names in minority languages and better reflect the spirit of Article 10 of the Framework Convention.

Recommendations

102. The Estonian authorities should continue their efforts to encourage relevant local authorities to introduce minority language place names. They should also consider the possibility of allowing the additional use of script other than Latin for such place names.

Private minority language signs

Findings of the first cycle

103. In its first Opinion, the Advisory Committee concluded that Article 23 of the Language Act is not compatible with Article 11 of the Framework Convention to the extent it prevents a person belonging to a national minority from displaying signs and

other information of a private nature visible to the public in a minority language, and it urged Estonia to revise the relevant legislation and practice.

Present situation

a) Positive developments

104. Following the comments made by the Advisory Committee in the first cycle, the Language Inspectorate has substantially improved its practice in this domain. Proceeding from the premise that the requirement that any information visible to the public should be only in Estonian is not in compliance with Estonia's international obligations, the Language Inspectorate no longer considers that using another language alongside Estonian in such signs, notices or advertisements is a violation of the existing legislation. This positive change also applies to the important area of electoral advertisement.

b) Outstanding issues

105. The text of Article 23 of the Language Act remains unchanged, despite the proposals, including by the Language Inspectorate, to introduce amendments that would explicitly sanction the use of another language alongside Estonian in private signs, notices and advertisements visible to the public.

Recommendations

106. Improvements in the practice of the Language Inspectorate affecting signs, notices and advertisements in minority languages should be explicitly rooted in legislation through amendments to Article 23 of the Language Act.

Recording of patronyms

Present situation

107. The State Report refers to the fact that persons belonging to national minorities do not have the possibility to have their patronyms entered as such in their official personal identity documents, but the Report goes on to argue that, bearing in mind the possibility to register patronyms as second first names, the current practice is in conformity with the Framework Convention.

108. The Advisory Committee finds it commendable that the State Report explicitly refers to this concern, raised by the Legal Information Centre for Human Rights during the preparation of the State Report. The Committee recognised that the Framework Convention's provisions on personal names are to be applied taking into account each Party's own particular circumstances and that there has been an effort to accommodate the concerns over registration of patronyms, albeit the proposed solution is not endorsed by all persons concerned. At the same time, the Advisory Committee considers that other

options that would more fully address the concerns expressed in this regard could be sought, possibly in connection with the on-going reform of legislation on personal names.

Recommendations

109. The Advisory Committee encourages the authorities to seek further alternative solutions for the registration of patronyms in official personal documents, in consultation with persons belonging to national minorities.

ARTICLE 12 OF THE FRAMEWORK CONVENTION

School curriculum

Findings of the first cycle

110. In its first Opinion, the Advisory Committee underlined that the identity of all ethnic groups living in Estonia is to be reflected in schools in accordance with the national curriculum. The Committee further stressed the importance of supporting teaching of minority languages to persons belonging to the majority.

Present situation

a) Positive developments

111. In the framework of the Integration Programme, initiatives on curriculum development co-operation between Russian-medium and Estonian-medium schools have been launched. Also, a number of new textbooks for children studying in language immersion classes have been drawn up in a manner that takes into account the cultures of persons belonging to national minorities, avoiding at the same time gender stereotyping.

b) Outstanding issues

112. Despite some efforts, studies suggest that the multicultural elements in the curriculum of Estonian schools remain comparatively modest. Moreover, while the teaching of certain minority languages for majority pupils is available in a number of schools, studies show that the importance of studying minority languages is not widely appreciated amongst majority pupils.

113. The Government announced in October 2004 the establishment of a new commission to look into history issues. The envisaged task of the commission, including review of history textbooks used in Estonian-medium and Russian-medium schools, is of direct relevance to the implementation of Article 12 of the Framework Convention and it is important that the work of the said commission entails an intercultural perspective and that persons belonging to national minorities are also involved in the process.

Recommendations

114. Further efforts should be made to ensure that adequate multicultural elements are included in school curricula. Estonia should take further steps also to encourage majority pupils to study minority languages. Intercultural perspective should be reflected in the work of the new commission on history issues.

Teacher training*Findings of the first cycle*

115. In its first Opinion, the Advisory Committee called for increased language and other training for teachers.

Present situation

a) Positive developments

116. Estonia has launched a number of training initiatives, including in-service Estonian language training for teachers and introduced promising teacher exchange initiatives between Estonian-medium and Russian-medium schools.

b) Outstanding issues

117. There is a clear need to introduce more teacher training, including courses on language and in teaching methodologies, as well as study materials suitable for an increasingly bilingual school environment. This is instrumental *inter alia* to ensure that the quality of education does not suffer as a result of the increase in the proportion of Estonian language instruction in Russian-medium schools and that the teaching staff of schools continue to reflect the ethnic and linguistic diversity of Estonian society. The demand for additional training and other measures is particularly acute in many of those secondary schools that are expected to introduce Estonian as their main language of instruction as from 2007, but it also merits increased attention in other levels of education, including in pre-schools, especially in Ida-Virumaa.

Recommendations

118. Estonia should step up further its efforts in the field of teacher training and in the production of study materials suitable for a more bilingual school environment with a view to ensuring quality education.

Contacts between pupils

Findings of the first cycle

119. In its first Opinion, the Advisory Committee called for further initiatives to increase contacts between pupils of minority language schools and those attending schools with Estonian as the language of instruction.

Present situation

a) Positive developments

120. Projects have been launched to facilitate contacts of children belonging to national minorities with Estonian-speaking children, including through Estonian language camps and family exchange programmes.

b) Outstanding issues

121. While the above-mentioned efforts have yielded some positive results, the pupils in Estonian-medium classes and those receiving instruction in a minority language continue to have limited contacts. Also, the above-mentioned exchange projects and other similar initiatives focus almost exclusively on providing persons belonging to national minorities an experience in a cultural environment of the majority and not vice-versa.

122. Furthermore, it appears that none of the various models introduced to increase Estonian language instruction in pre-schools and basic schools entail a clear policy of encouraging the creation of bilingual classes bringing together pupils from both an Estonian language family environment and from a minority language environment or envisage measures to ensure that school facilities are planned so that they encourage contacts between them.

123. An increasing number of parents belonging to national minorities have requested that their children be enrolled in regular Estonian-medium pre-schools and schools. The Advisory Committee considers that introducing classes with pupils from both majority and minority communities can be a valuable way not only to improve the pupils' language skills but also to promote intercultural dialogue, provided the required specific pedagogical skills and tools and careful planning are ensured. There is a need to consider ways to further initiatives of this nature. This may need to involve changes in the current regulatory framework, which provides *inter alia* that, in order to enrol pupils in a school, they must have the sufficient proficiency in the language of instruction of the school concerned.²

² Decree No 10 (1994) of the Ministry of Education "The Order of Admission to, Change of and Leaving the School by Basic and Secondary School Students".

Recommendations

124. Estonia should further develop two-way contacts between children belonging to the majority and those belonging to a national minority. The importance of such contacts should also be reflected in the design and implementation of various models of education, starting at the pre-school level, as well as in the planning of educational facilities.

Access to pre-schools*Findings of the first cycle*

125. In its first Opinion, the Advisory Committee underlined that the availability of Estonian language teaching in pre-schools should be achieved in a manner that also provides equal opportunities for access to such education for persons belonging to national minorities.

Present situation

a) Positive developments

126. The Estonian language has been introduced gradually and in a manner that has not undermined the availability of Russian language teaching in pre-schools.

b) Outstanding issues

127. The availability of teachers with adequate language skills and other challenges need to be tackled so as to ensure that minority language pre-schools remain a real option with quality comparable to other alternatives such as immersion models.

Recommendations

128. Estonia should continue to pursue vigorously its commitment to ensuring that children belonging to national minorities have equal opportunities for access to pre-school education.

Access to higher education*Findings of the first cycle*

129. In its first Opinion, the Advisory Committee called for measures to ensure that the limited availability of Russian language instruction does not cause difficulties for persons belonging to national minorities with respect to their equal opportunities for access to higher education.

Current situation

a) Positive developments

130. Estonia has continued to provide the possibility for persons belonging to national minorities to devote their first year at university to acquiring proficiency in Estonian language, and, in addition to private institutions, state universities have continued to offer some limited programmes in Russian.

b) Outstanding issues

131. Language difficulties continue to be a serious obstacle in higher education for many persons belonging to national minorities, and this has contributed to the relatively high drop-out rate. Furthermore, the census data suggests that persons belonging to national minorities are significantly less likely to acquire a master or doctorate degree than persons belonging to the majority.

Recommendations

132. Estonia should take further measures to encourage and facilitate access of persons belonging to national minorities to higher educational institutions. In this connection, it is important to ensure that increase in the volume of state language instruction in the secondary education is pursued in a manner that does not harm the quality of education in schools attended by persons belonging to national minorities and thereby limit their possibilities to access higher education.

ARTICLE 13 OF THE FRAMEWORK CONVENTION

“Sunday schools” for national minorities

Findings of the first cycle

133. In its first Opinion, the Advisory Committee called for additional support for private initiatives on education of persons belonging to national minorities.

Present situation

a) Positive developments

134. In the context of the integration programme, a number of voluntary language schools (“Sunday schools”), set up mostly by cultural associations of national minorities, have received public support. There is an active discussion on how to establish a satisfactory funding scheme for such schools, which are of particular importance to numerically smaller minorities.

b) Outstanding issues

135. Due to shortcomings in the pertinent legislation and practice, public financial support for “Sunday schools” is at present not provided in an optimum manner and many of the schools concerned do not enjoy such support (see also related comments under Article 5 above).

Recommendations

136. Estonia should pursue its efforts to design an improved funding scheme for “Sunday schools” of national minorities, while ensuring that support for such private initiatives is coupled with adequate measures also in the public educational system.

ARTICLE 14 OF THE FRAMEWORK CONVENTION**Minority languages in secondary education***Findings of the first cycle*

137. In its first Opinion, the Advisory stressed that the on-going initiatives in the educational system should be carried out in a manner that contributes to the integration of persons belonging to national minorities but not to their assimilation. In addition, the Advisory Committee concluded that the relevant implementing decree of the Basic Schools and Upper Secondary Schools Act should be formulated in a manner that clearly guarantees an adequate level of bilingual secondary education for persons belonging to national minorities.

Present situation

a) Positive developments

138. In March 2002, Estonia took a significant step towards accommodating concerns of persons belonging to national minorities relating to their secondary education by introducing an amendment to Article 9 of the Basic Schools and Upper Secondary Schools Act. The amendment makes it possible for secondary schools, subject to a permission by the Government, to maintain a minority language as their language of instruction even after 2007, when the transfer to Estonian as the main language of instruction of secondary schools (involving at least 60 percent of instruction in Estonian) is envisaged to commence. The amendment adds much-needed flexibility to the educational reform and it provides a tool to avoid certain problems that a rigid approach to the pending transfer obligation would have involved, bearing in mind, *inter alia*, the conclusion of the Development Strategy of the Estonian Language that “preparations for the transition have been inadequate” (see also related comments on teacher training under Article 12 above).

b) Outstanding issues

139. The amended Article 9 provides that a proposal to have a language other than Estonian as the language of instruction is to be addressed by the board of trustees of the secondary school to the local government council, which can then apply for permission from the Government. So far no decisions have been taken by the Government on the basis of this provision, and considering that the Ministry of Education has received some proposals directly from schools, the schools and others concerned are apparently not adequately informed or aware of the applicable procedures. It furthermore appears that the authorities have not yet determined a clear approach as to how to deal with forthcoming applications.

Recommendations

140. There is clear need to provide the schools, local authorities and others concerned with more procedural and other guidance on how to invoke the possibility to have a minority language as a language of instruction after 2007. Furthermore, there is a need for the central authorities to take more proactive measures on this matter and to establish a sound approach on how to process future applications and to take eventual decisions in line with the principles of the Framework Convention.

Minority languages in basic schools

Findings of the first cycle

141. In its first Opinion, the Advisory Committee concluded that the possibility to have a minority language as the main language of instruction is maintained but that legislation provides no guarantees for, or encouragement of, the implementation of this option. The Advisory Committee also noted that the role of minority languages in basic schools with Estonian as the main language of instruction lacks detailed guarantees.

Current situation

a) Positive developments

142. In the school year 2002/2003, there were 89 basic schools in Estonia with Russian as the main language of instruction, and, while no new legislative guarantees have been introduced in this respect, the State Report recognises the need to maintain schools with such instruction “considering the ethnic composition of the population”.

143. Furthermore, in 2003, Estonia introduced new legal guarantees for the study of minority languages that are not used as a language of instruction in the schools concerned. In accordance with amendments to the Basic Schools and Upper Secondary Schools Act and the corresponding Government regulations, schools shall organise at least two hours of optional lessons per week on a culture and language that is not the

language of instruction in the said school, upon request by parents of at least 10 pupils. These guarantees are potentially important especially for pupils belonging to numerically small national minorities as well as for those native-Russian speaking pupils who opt for Estonian-medium schools.

b) Outstanding issues

144. In practice, however, the above-mentioned new guarantees have not proved particularly successful. They have, to date, resulted in the establishment of only one class (with Ukrainian language teaching in Sillamäe) and the authorities acknowledge the limited results achieved so far and cite various reasons as possible explanation for this state of affairs, ranging from financial implications to the availability of “Sunday schools” and to the fact that many minorities concerned are dispersed and that these classes may coincide with classes in popular foreign languages.

Recommendations

145. There is a need to identify the obstacles that hinder the establishment of the above-mentioned classes and to review the existing regulations and procedures with a view to ensuring that the positive goals of the new guarantees are met.

Language immersion programmes

Findings of the first cycle

146. In its first Opinion, the Advisory Committee stressed that the fully voluntary nature of the “language immersion” should be maintained.

Current situation

a) Positive developments

147. While the Estonian language immersion classes have been introduced in an increasing number of Russian-medium schools, it is perceived as a voluntary alternative rather than a replacement of classes with Russian language as the language of instruction. This is important bearing in mind that immersion, while welcomed by a number of parents, is not considered a suitable model for all persons belonging to national minorities.

b) Outstanding issues

148. As the immersion classes expand further and significant resources are allocated to this method of teaching, it is important to ensure that other models of education are comparatively resourced.

Recommendations

149. The authorities should ensure that the immersion models are not unduly privileged in the funding decisions so as to ensure that the quality of teaching, as well as textbooks and facilities, in other educational models are comparable.

ARTICLE 15 OF THE FRAMEWORK CONVENTION

Language proficiency requirements in elections

Findings of the first cycle

150. In its first Opinion, the Advisory Committee concluded that the language proficiency requirements for candidates in local and parliamentary elections are not compatible with Article 15 of the Framework Convention and urged Estonia to pursue the abolishment of these requirements as a matter priority.

Current situation

Positive developments

151. Estonia fully addressed the above-mentioned concern of the Advisory Committee by removing the language proficiency requirements for candidates in parliamentary and local government elections through amendments, introduced on 21 November 2001, to the *Riigikogu* Elections Act and to the Local Government Council Election Act.

Consultative bodies representing national minorities

Findings of the first cycle

152. In its first Opinion, the Advisory Committee concluded that, bearing in mind that the Presidential Round-Table was essentially an expert body, new structures of consultation were needed.

Current situation

a) Positive developments

153. The structure of the Presidential Round-Table was changed in 2003, with the introduction of a chamber of representatives of national minorities. This move contributed to the representativeness of the round-table. There have also been promising initiatives at the regional and local level to set up new consultative structures for persons belonging to national minorities, the most recent being the decision to set up a new council of national minorities in the city of Tallinn.

b) Outstanding issues

154. Despite certain progress, the status and the role of consultative bodies in decision-making processes pertaining to national minorities could be developed and consolidated. The Advisory Committee notes in this connection that initiatives that may have an indirect but substantial impact on minority protection, such as the Development Strategy of the Estonian Language, have not been consistently discussed with the representatives of national minorities. There have been proposals to include guarantees for inclusive and adequately funded consultation structures in the proposed new law on national minorities.

Recommendations

155. Estonia should take further steps to consolidate the role of consultative bodies representing national minorities, and consider this issue also in the context of the discussions on the proposed law on national minorities.

Effective participation in economic life

Findings of the first cycle

156. In its first Opinion, the Advisory Committee concluded that unemployment appears to affect disproportionately persons belonging to national minorities and it urged the Government to pursue decisively its initiatives to counter this phenomenon.

Current situation

a) Positive developments

157. Estonia has recognised the need to make special efforts to improve development of Ida-Virumaa, which is a region with a large number of persons belonging to national minorities and with the country's highest unemployment rate. It is also positive that the round-table of national minorities of Ida-Virumaa has been consulted in the drawing up of the development plans of the region. According to the authorities, a slight improvement was noted in the unemployment rate in Ida-Virumaa during 2004.

b) Outstanding issues

158. Persons belonging to national minorities continue to be significantly more affected by unemployment than the majority population and their number in certain sectors of employment, including in higher level of administration, is remarkably low. The unemployment rate of young women belonging to national minorities is particularly disconcerting, and it is therefore positive that they will receive particular attention in the implementation of the EQUAL initiative, launched by the EU to promote equal opportunities in the labour market.

159. While there are many factors affecting the employment situation of persons belonging to national minorities, it is essential that the authorities ensure that there is no direct or indirect discrimination in the labour market, and in this respect the implementation and monitoring of the new legal guarantees against discrimination in the Employment Contracts Act is of particular importance (see also related comments under Article 4 above).

Recommendations

160. Authorities should pursue further their efforts to address the disproportionately high unemployment rate amongst persons belonging to national minorities in Ida-Virumaa and elsewhere by launching regional development initiatives and measures to fight direct and indirect discrimination in the labour market. This should also enhance the recruitment of qualified persons belonging to national minorities in public service.

Language proficiency requirements in employment

Findings of the first cycle

161. In its first Opinion, the Advisory Committee stressed that language proficiency requirements should be applied only where they are necessary to protect a public interest and it drew attention to the situation of those persons who had already received their language proficiency certificates in accordance with the previously applicable regulations. It also called for human rights training for the staff of the implementing agencies.

Current situation

a) Positive developments

162. In an important decision, the *Riigikogu* amended Article 28 of the Language Act on 10 December 2003 in order to extend, indefinitely, the validity of the “old” language proficiency certificates issued for occupational purposes. Furthermore, the Language Inspectorate is conscious of the fact that, in the private sphere, they should supervise language proficiency of only those employees whose proficiency requirement is tightly linked to a public interest.

b) Outstanding issues

163. It appears that the present language proficiency requirements are unrealistic in some sectors and do not fully take into account the practical situation in the sectors concerned, as is suggested by the extraordinarily high number of infringements of the Act detected by the Language Inspectorate. In 2003, the Inspectorate carried out 2400 inspections and found that the Language Act had been infringed in 1899 cases. In 2004, violations were again found in a great majority of cases inspected and the number of misdemeanour procedures increased considerably, including *inter alia* fines for 257

public servants (mostly police and detention personnel) and for 129 teachers of Russian-medium schools.

164. Also, it appears also that the language proficiency requirements do not take adequately into account the regional specificities. For example, the Language Inspectorate checked the Estonian language skills of Kohtla-Järve town officials between 1997-2003 and concluded that 83 percent of them did not have the required language skills. During its follow-up inspection, the Inspectorate concluded that 85 percent of the persons concerned had not improved their skills.³ It is clear that rigid implementation of language requirements would be unrealistic in such circumstances and that this would have a negative impact on the employment situation and functioning of certain public bodies.

165. In some sectors, the work to implement the Language Act has created new challenges. This is the case, for example, in the prisons, where the aim of ensuring Estonian language proficiency of the staff reportedly risks resulting in shortcomings in their Russian proficiency, which is essential bearing in mind that a majority of the inmates are Russian-speaking.

166. In addition, there is a degree of uncertainty amongst national minorities as to the reach of the Estonian language proficiency requirements in the private sphere. For example, it is unclear to many as to whether the requirement of intermediate level Estonian language proficiency, established by the governmental decree of 15 May 2001, for certain sales and service employees applies to all persons who have the duty to give information on qualities, prices and origin of goods and services offered or whether it is enough that someone with the said proficiency is available in a given service or sales enterprise.

Recommendations

167. In general, the authorities should ensure that the Estonian language proficiency of employees and public servants is not be pursued through an overly proscriptive approach by the Language Inspectorate or others involved and that the protection of national minorities is fully taken into account in this context.

168. In each individual sector of employment, the suitability of the existing language proficiency requirements, mostly established in 2001, should be reviewed so as to ensure that the requirements are realistic, clear and proportional to the aim pursued, and that they do not unduly hinder access of persons belonging to national minorities to employment and their participation therein.

³ See Ilmar Tomusk, Director General of the National Language Inspectorate, “Kohtla-Järve – An Estonian Town in Ida Viru County” (2003).

ARTICLES 17 AND 18 OF THE FRAMEWORK CONVENTION

Transfrontier contacts

Findings of the first cycle

169. In its first Opinion, the Advisory Committee stressed that the new visa regime with the Russian Federation should be implemented so that it does not cause undue restrictions on the rights of persons belonging to national minorities to establish and maintain contacts across frontier. The committee also supported attempts to conclude additional bilateral agreements with relevance to the protection of national minorities.

Present situation

a) Positive developments

170. Estonia and the Russian Federation concluded a new agreement in October 2003, simplifying visa procedures for residents of border regions.

b) Outstanding issues

171. There remains a need to extend the validity of the simplified visa regime at the cross-border region. The successful completion of the renewed discussions with the Russian Federation on the signing of a border treaty would also be likely to have a positive impact on the cross-border contacts of persons belonging to national minorities.

172. The Advisory Committee would like to draw attention to the need to pursue further bilateral projects to tackle environmental issues concerning Lake Peipsi in co-operation with persons belonging to national minorities residing in the lakeside communities, where fishing has traditionally been a key activity.

Recommendations

173. Estonia should continue to introduce initiatives to facilitate cross-border contacts between Estonia and the Russian Federation and involve persons belonging to national minorities in relevant bilateral initiatives.

III. CONCLUDING REMARKS

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

Positive developments

175. Estonia has taken a number of steps to improve the implementation of the Framework Convention following the adoption of the first Opinion of the Advisory Committee in September 2001 and the Committee of Ministers' Resolution in June 2002. In various key sectors, the authorities have addressed shortcomings in legislation and practice while stepping up their dialogue with representatives of national minorities and civil society.

176. As regards naturalisation, certain positive measures have been introduced to make the process more accessible and streamlined, and there has recently been an increase in the rate of naturalisation.

177. Estonia has introduced important flexibility to the legislation concerning language of instruction in secondary schools by making it possible for schools to apply for an exemption from the requirement to introduce Estonian as the main language of instruction as from 2007.

178. Estonia has addressed certain problems contained in its language-related legislation, including by eliminating the language proficiency requirements for electoral candidates and by extending the validity of language proficiency certificates for occupational purposes.

179. The obstacles to the posting of minority language private signs have been reduced through changes in the practice of the Language Inspectorate.

Issues of concern

180. The number of persons without citizenship remains disconcertingly high. Despite positive measures taken to facilitate naturalisation, the language tests and other factors are still an obstacle for many.

181. The envisaged transfer to Estonian as the main language of instruction in secondary schools, involving at least 60 percent of instruction in Estonian, has not yet been adequately prepared by the authorities, including as regards teacher training and procedures for seeking exemptions from the said transfer.

182. New legal provisions on optional classes on minority languages have not yielded substantial results in basic schools. In addition, the initiatives to facilitate contacts

between pupils from different communities have not yet been implemented widely enough in various levels of education.

183. Despite some improvements in the related administrative practices, the Language Act still contains elements that are problematic from the point of view of the Framework Convention, including as regards private signs.

184. The state language proficiency requirements in employment do not fully take into account the present practical situation in all affected sectors, such as law-enforcement, and in the geographic areas concerned.

185. Persons belonging to national minorities, in particular young women, in Ida-Virumaa, and elsewhere, continue to be disproportionately affected by unemployment.

186. The proportion of persons belonging to national minorities employed in public service is relatively low, in particular in higher levels of administration.

187. The National Minority Cultural Autonomy Act remains unchanged despite the fact that it is generally considered to be ineffective.

188. Estonia has improved guarantees against discrimination in some sectors, but the proposed comprehensive legislation in this sphere has not yet been adopted.

Recommendations

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

- Take further positive measures to facilitate and encourage naturalisation, including through increased free-of-charge state language training.
- Intensify training and other efforts required for the transfer to Estonian as the main language of instruction in secondary schools and establish clear procedures for seeking exemptions from the said transfer.
- Review the functioning of the legal provisions on optional classes on minority languages in basic schools.
- Take further measures to facilitate contacts between pupils from different communities.
- Take steps to ensure that the Language Act is fully in line with the Framework Convention, including as regards private signs.

- Review the state language proficiency requirements in various sectors of employment so as to ensure that they are realistic, clear and proportional.
- Pursue further efforts to address the disproportionately high unemployment rate amongst persons belonging to national minorities by launching regional development initiatives and measures to fight direct and indirect discrimination in the labour market.
- Enhance the recruitment of qualified persons belonging to national minorities in public service.
- Address shortcomings in the National Minority Cultural Autonomy Act by drawing up, in consultation with those concerned, legislation that is more inclusive and takes better into account the present-day concerns of persons belonging to national minorities.
- Complete the work to draw up comprehensive legislation against discrimination.