



Strasbourg, 28 November 2013

Restricted
ACFC/OP/III(2013)004

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

**Third Opinion on Poland
adopted on 28 November 2013**

EXECUTIVE SUMMARY

Since ratifying the Framework Convention in 2000, Poland has continued efforts to protect the rights of persons belonging to national minorities. The authorities have continued to show their commitment to the implementation of the Act on National and Ethnic Minorities and on the Regional Language of 2005 as well as the Framework Convention, and have taken steps to complete the legislative framework pertaining to the protection of persons belonging to national minorities. The adoption in 2010 of the Anti-Discrimination Act introduces an adequate legal basis for protection against discrimination.

A climate of tolerance and dialogue generally prevails in Poland. However, racially motivated offences and incidents of intolerance and xenophobia, have not always been properly investigated, prosecuted and sanctioned. Some media permit openly racist and xenophobic language towards persons belonging to national minorities and the debate on the issue of ritual animal slaughter has at times been offensive in tone to the minorities concerned.

The authorities continue to support cultural activities of national minorities and the financial resources allocated to support minority cultures have been maintained in recent years, in spite of economic difficulties. National minorities, in particular the numerically smaller ones, express concerns about inaction of the authorities as regards providing funding necessary for the establishment of cultural centres, libraries or similar institutions.

A well-developed system of minority language education exists in Poland, permitting children belonging to national minorities to receive instruction in or of their languages, except in the case of the Romani language, which is deeply regrettable. Problems remain, however, with regard to adequate provision of textbooks, in particular in schools teaching all subjects in a minority language and with adequate financing of such schools. Furthermore, in spite of the initiatives taken by the authorities to address the concerns of the Roma regarding equal access to education, Roma children still face serious difficulties in the education system. A disproportionately high percentage of Roma children are placed in special schools.

The public radio and television channels broadcast some programmes in the languages of national minorities and the authorities support the publication of periodicals in languages of national minorities. Regrettably, the underfunding of the programmes broadcast in minority languages is constantly threatening their very existence and the inconvenient scheduling indicates the insufficient importance that the competent authorities attach to promoting diversity and awareness of national minorities contribution to Polish society. The awareness among the majority population of the country's multicultural history, and of the contribution of various national, ethnic, linguistic and religious groups to the cultural heritage of Poland remains low. Discontinuation of some television and radio broadcasts aimed at national minorities and providing information about national minorities, and limiting of teaching of history contribute to this regrettable state of affairs.

The right to display bilingual signs and place-names and to use a minority language in relations with administrative authorities is respected in practice in the municipalities where persons belonging to national minorities constitute at least 20% of the population. Furthermore, persons belonging to national minorities can register and use their names in a minority language with language-specific diacritic marks.

The authorities remain committed to the improvement of the socio-economic situation and integration of Roma into the Polish society. There are plans for the National Programme for the Roma Community in Poland, which was launched in 2004, to be extended until 2020. Although some progress as regards access to housing, infrastructure and healthcare has been registered, unemployment figures demonstrate that the various initiatives and schemes have not yielded tangible results and that a significant proportion of the Roma remain excluded from the labour market.

Issues for immediate action:

- **Increase efforts to combat all forms of intolerance, racism, xenophobia and hate speech; take further legislative measures and implement policies to combat racist manifestations, including in the media, and the political arena;**
- **Ensure that Roma children are fully integrated into mainstream education; review the enrolment policies for special schools; ensure access to pre-school facilities 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;**
- **Ensure, in consultation with the representatives of national minorities, that the agreed changes to the system of allocation of subsidies to national minority schools are enacted swiftly and ensure that their effects are monitored; ensure adequate provision of textbooks in minority languages.**

TABLE OF CONTENTS

I. MAIN FINDINGS	5
Monitoring process.....	5
General overview of the implementation of the Framework Convention after three monitoring cycles.....	5
Legislative and institutional framework.....	5
Culture.....	6
Intercultural dialogue and tolerance.....	7
Media.....	7
Use of minority languages.....	7
Education.....	7
Promotion of full and effective equality of Roma.....	8
II. ARTICLE-BY-ARTICLE FINDINGS	9
Article 3 of the Framework Convention	9
Article 4 of the Framework Convention	12
Article 5 of the Framework Convention	14
Article 6 of the Framework Convention	16
Article 8 of the Framework Convention	19
Article 9 of the Framework Convention	21
Article 10 of the Framework Convention	23
Article 11 of the Framework Convention	24
Article 12 of the Framework Convention	26
Article 13 of the Framework Convention	30
Article 14 of the Framework Convention	30
Article 15 of the Framework Convention	32
Article 16 of the Framework Convention	35
Article 17 of the Framework Convention	36
Article 18 of the Framework Convention	36
III. CONCLUSIONS	37
Positive developments following three cycles of monitoring	37
Issues of concern following three cycles of monitoring	38
Issues for immediate action.....	39
Further recommendations.....	39

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

THIRD OPINION ON POLAND

1. The Advisory Committee adopted the present Opinion on 28 November 2013 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 13 December 2012, and other written sources and on information obtained by the Advisory Committee from governmental and non-governmental contacts during its visit to Warsaw, Białystok, Puńsk, Cracow and Ochotnica Górna, from 3 to 7 June 2013.

2. Section I below contains the Advisory Committee's main findings on key issues pertaining to the implementation of the Framework Convention in Poland. 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 Poland, adopted on 27 November 2003 and 20 March 2009 respectively, and in the Committee of Ministers' corresponding Resolutions, adopted on 30 September 2004 and 28 November 2012.

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

5. The Advisory Committee looks forward to continuing its dialogue with the authorities of Poland 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 Opinions and other monitoring documents, aiming at increasing transparency and at sharing the information on the monitoring findings and conclusions with all the parties involved at an early stage (see Resolution CM/Res(2009)3 amending Resolution (97) 10 on the monitoring arrangements under Articles 24-26 of the Framework Convention for the Protection of National Minorities).

I. MAIN FINDINGS

Monitoring process

6. The Polish authorities have maintained a constructive approach to the process of monitoring under the Framework Convention. The Advisory Committee welcomes the willingness to co-operate shown by the authorities during the process leading up to the adoption of the third Opinion. Moreover, the Advisory Committee wishes to highlight useful steps taken by the authorities to disseminate the results of the first two cycles of monitoring. It further welcomes the organisation of an event in Lublin in September 2010 related to the 5th anniversary of the entry into force of the Act on National and Ethnic Minorities and on the Regional Language during which the second Opinion of the Advisory Committee was discussed in detail.

7. Fruitful meetings with central and local authorities and government officials as well as representatives from minority communities facilitated discussions on a variety of topics, allowing the Advisory Committee to develop additional insight. The Advisory Committee further notes with satisfaction that minority representatives were comprehensively consulted in the course of the preparation of the third State Report through the Joint Commission of Government and National and Ethnic Minorities.

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

8. The authorities have pursued their efforts to protect national minorities since the ratification of the Framework Convention, and have also maintained an inclusive approach in practice in communication with representatives of the national minorities.

9. The principal bodies responsible for structuring the dialogue between persons belonging to national minorities and the authorities are the Joint Commission of Government and National and Ethnic Minorities, the *Voivods'* plenipotentiaries for national and ethnic minorities established in each of the 16 *Voivodships*¹ and the Parliamentary Commission on National and Ethnic Minorities. The Team on Roma Issues within the Joint Commission of Government and National and Ethnic Minorities develops, coordinates, and monitors the implementation of the National Programme for the Roma Community in Poland.

10. The overall approach of the Polish authorities towards the personal scope of application of the Framework Convention is flexible and inclusive. The Act on National and Ethnic Minorities and on the Regional Language of 2005 enumerates nine national and four ethnic minorities to whom all provisions of the Act extend in equal measure. The Act further identifies the Kashubian language as a regional language to which some language and cultural rights contained in the Act apply.

Legislative and institutional framework

11. The Constitution of Poland² and the Act on National and Ethnic Minorities and on the Regional Language constitute the main legislative basis for the protection of national minorities'

¹ *Voivodship* is an administrative unit (a province) in Poland. *Voivod* is an appointed head of provincial administration.

² See Constitution of Poland, Article 35 "1. The Republic of Poland shall ensure Polish citizens belonging to national or ethnic minorities the freedom to maintain and develop their own language, to maintain customs and traditions, and to develop their own culture. 2. National and ethnic minorities shall have the right to establish educational and cultural institutions, institutions designed to protect religious identity, as well as to participate in the

rights. In addition, specific provisions in the field of education³ and electoral rights⁴ are contained in other legislative acts. Progress has been made in the field of legislative and institutional protection against discrimination. An Anti-Discrimination Act⁵ was adopted, to strengthen further prior legislation adopted to implement the EU Directives on Racial Equality and on Employment Equality. The Act defines the respective roles of the Commissioner for Civil Rights Protection (Ombudsman) and the Government Plenipotentiary for Equal Treatment. Whereas the Ombudsman has been tasked primarily with assisting in individual cases, the Government Plenipotentiary's role is to implement the equality and non-discrimination policy, counteract discrimination, analyse and evaluate the legal and social situation with regard to equal treatment, and to initiate and coordinate the government's action to ensure equal treatment.

12. Poland ratified the European Charter for Regional or Minority Languages in 2009, thus increasing the protection offered to languages used by persons belonging to national minorities. The Advisory Committee notes that the initial Report of the Committee of Experts of the Charter was made public in December 2011 and that a Charter Implementation Round-table was organised in Warsaw in September 2012.

13. A census was conducted in Poland in 2011. Respondents were asked optional questions on ethnicity (and could indicate two affiliations), and the mother tongue. The proposal on specific wording of these questions made by the Joint Commission of Government and National and Ethnic Minorities was broadly followed. The census forms and explanatory notes were translated into the languages of national and ethnic minorities, the regional Kashubian language and English. It has to be noted, however, that the accuracy of the data collected from sources other than direct interview is questioned by representatives of national minorities, and the long delay in the release of census data decreases rapidly its accuracy and thus usability because of the dynamic changes, in particular due to migration out of and into the country.

Culture

14. The authorities continue to support cultural activities of national minorities. It has to be noted, however, that representatives of national minorities sitting in the Joint Commission of Government and National and Ethnic Minorities have only limited influence over the decisions on the allocation of funding, and raise concerns over the lack of transparency of the process. Whereas it is welcome that the financial resources allocated to support minority cultures have been maintained in recent years, in spite of economic difficulties, some representatives of national minorities, in particular the numerically smaller ones express their concerns about the insufficiency of these funds to finance cultural programmes. The problem of maintaining cultural identity is felt most strongly by persons belonging to numerically small national minorities in Poland, such as the Tatars, Karaim, or Armenians. Representatives of these minorities have so far been unsuccessful in their efforts to mobilise the authorities to assist them by providing funding necessary for the establishment of cultural centres, libraries or similar institutions.

resolution of matters connected with their cultural identity” ; Article 27 “Polish shall be the official language in the Republic of Poland. This provision shall not infringe upon national minority rights resulting from ratified international agreements”.

³ Act on the education system of 7 September 1991.

⁴ Electoral Code of 5 January 2011.

⁵ Act on the Implementation of Certain Provisions of the European Union in the Field of Equal Treatment of 3 December 2010.

Intercultural dialogue and tolerance

15. The Advisory Committee notes that in general, a climate of tolerance and dialogue prevails in Poland. However, it regrets that the authorities' response does not seem to be adequate to investigate, prosecute and punish racially motivated offences and incidents of intolerance and xenophobia. This indicates lack of capacity or commitment by the law enforcement officials to combat hostility on ethnic grounds. The public debate on the issue of ritual animal slaughter has at times been characterised by intolerant attacks against persons defending this practice and some public statements revealed anti-Semitic and anti-Muslim sentiment. Some media permit openly racist and xenophobic language towards persons belonging to national minorities, in spite of the financial sanctions imposed on them.

16. The Advisory Committee finds it commendable that new core curricula at all levels of schooling, progressively introduced since 2009, aim to teach children about diversity of cultures, traditions and values. It has to be noted however that, according to national minority representatives, the awareness among the majority population of the country's multi-ethnic history, and of the contribution of various ethnic and religious groups to the cultural heritage of Poland remains low. Discontinuation of some television and radio broadcasts aimed at national minorities, and providing information about national minorities, and the limiting of teaching of history contribute to this regrettable state of affairs.

Media

17. The public radio and television channels continue to broadcast some programmes in the languages of national minorities, and the television coverage of regions inhabited by persons belonging to national minorities has improved since the completion of the digitization process. Regrettably, the underfunding of the programmes broadcast in minority languages is constantly threatening their very existence. Furthermore, scheduling of such programmes at inconvenient times and the fact that very few representatives of national minorities have been appointed to the regional public radio and television programming councils in accordance with the Act on Radio and Television Broadcasting indicates the insufficient importance that the competent authorities attach to promoting diversity and awareness of national minorities contribution to Polish society.

Use of minority languages

18. The right to display bilingual signs and place-names and to use a minority language in relations with administrative authorities is respected in practice in the municipalities where persons belonging to national minorities constitute at least 20% of the population. Most of the municipalities meeting the criteria opted to avail themselves of these rights. Some documents, such as bilingual school graduation diplomas are in use in minority schools. Persons belonging to national minorities can register and use their names in a minority language with language-specific diacritic marks.

Education

19. A well-developed system of minority language education exists in Poland, permitting children belonging to national minorities to receive instruction in or of their languages, except in the case of the Romani language. The Advisory Committee welcomes in particular the adoption of the national minority education strategies in consultation with national minority representatives which take into account the size, pattern of settlement and particular needs of German, Lithuanian and Ukrainian minorities. The number of children attending schools teaching the minority language or in the minority language remains stable. The amount of education subsidy allocated per child does not vary depending on whether the school teaches a

minority language as a subject matter or whether all subjects are taught in a minority language. This creates financial difficulties for the latter schools. Also, there is a shortage of textbooks in minority languages to cover appropriately the subject matters for all grades in the schools teaching minority languages and in minority languages.

20. In spite of the initiatives taken by the authorities to address the concerns of the Roma regarding equal access to education, Roma children still face serious difficulties in the education system. A disproportionately high percentage of Roma children are placed in special schools on the basis of certificates attesting to various disabilities. This indicates the inadequacy of the pre-school education opportunities for Roma children, who, as a result, enter primary school with little or no knowledge of the Polish language, and points to deficiencies in the testing methods.

Promotion of full and effective equality of Roma

21. The authorities remain committed to the improvement of the socio-economic situation and integration of Roma into the Polish society. There are plans for the National Programme for the Roma Community in Poland, which was launched in 2004, to be extended until 2020. Whereas some progress as regards access to housing, infrastructure and healthcare has been registered, unemployment figures demonstrate that the various initiatives and schemes, undertaken under the National Programme for the Roma Community and the Operational Project 'Human Capital' have not yielded tangible results and that a significant proportion of the Roma remain excluded from the labour market.

II. ARTICLE-BY-ARTICLE FINDINGS

Article 3 of the Framework Convention

Personal scope of application of the Framework Convention

Recommendation from the two previous cycles of monitoring

22. In the previous cycles of monitoring, the Advisory Committee considered that the authorities should favour a flexible and open approach to the scope of application of the Framework Convention, and examine, in consultation with those concerned, the possibility of including persons belonging to groups currently not afforded the protection offered by the Act on National and Ethnic Minorities and on the Regional Language in the application of the Framework Convention, in particular as regards their linguistic and cultural interests.

Present situation

23. The Advisory Committee notes no changes in the overall approach of the Polish authorities towards the personal scope of application of the Framework Convention. The Act on National and Ethnic Minorities and on the Regional Language of 2005 enumerates nine recognised national minorities⁶ (Armenians, Belarusians, Czechs, Germans, Jews, Lithuanians, Russians, Slovaks and Ukrainians) and four ethnic minorities (Karaim, Lemko, Roma and Tatars). All provisions of the Act extend to both national and ethnic minorities in equal measure. The Act further identifies Kashubian as a regional language to which some language and cultural rights contained in the Act apply.

24. The Advisory Committee notes that, according to the preliminary results of the census of 2011, 847 000 persons declared their Silesian ethnicity, of whom 376 000 declared it as their only ethnic identification and 431 000 jointly with Polish identification. Diverging opinions remain as to the options available regarding protection of the Silesian identity and language. The authorities should pursue the dialogue and explore the implications of different options in consultation with those concerned.

25. The Advisory Committee further notes that different varieties of the Silesian spoken language coexist in Silesia and that some efforts have been made towards its standardisation. The Advisory Committee notes the view of the Government, as well as experts, that the Silesian language constitutes a variety of Polish. The Advisory Committee considers that the authorities should assist standardisation efforts in close co-operation with the language group concerned and only if there is such a request.⁷ The Advisory Committee further notes that the lack of common understanding as to the ways the Silesian language can be expressed in writing hampers the exercise of certain linguistic rights of persons belonging to this group.

26. The Advisory Committee wishes to reiterate its view that the application of the provisions of the Framework Convention with respect to a group of persons does not necessarily require its formal recognition as a national minority or the existence of a specific legal status for such groups of persons.

27. The Advisory Committee welcomes in this context the authorities' support for Silesian culture, traditions and heritage (see related comment under Article 5 below). The Advisory

⁶ See Article 2 § 1 point 6 of the Act refers to national minorities as groups which "identify with a nation organised in its own State".

⁷ See *Third Thematic Commentary of the Advisory Committee on the FCNM on the language rights of persons belonging to national minorities*, paragraph 78, May 2012, www.coe.int/minorities.

Committee welcomes the on-going dialogue concerning the Silesian identity and language. In particular, the Advisory Committee notes the existence of the parliamentary multi-party Panel for the Preservation of the Silesian Spoken Language grouping 17 members of the *Sejm*. The Panel's stated objective is "to support regional tradition of Silesians with particular emphasis on the Silesian spoken language as a multigenerational platform for transmitting identity and to stimulate parliamentary knowledge and discussion on the role and condition of the Silesian spoken language as an element of the broadly understood culture of the Republic of Poland".⁸

28. The Advisory Committee further notes that following earlier drafts of 2007 and 2010 a proposal for amending the Act on National and Ethnic Minorities and on the Regional Language was introduced in 2012 as "members' bill" with the aim of giving the Silesian language the same status as is currently enjoyed by the Kashubian language. This draft is currently discussed within the Parliamentary Commission on National and Ethnic Minorities (see related comment under Article 15 below).

Recommendation

29. The Advisory Committee invites the authorities to continue the dialogue with Silesian community representatives with the view of finding the most appropriate solution for the recognition, preservation and promotion of the Silesian language, culture and heritage. The authorities are asked to assist with the standardization efforts, if there is such a wish among the speakers of different varieties of the Silesian language.

Data collection and self-identification

Recommendations from the two previous cycles of monitoring

30. In the previous cycles of monitoring, the Advisory Committee asked the authorities to consult the representatives of minorities during the preparatory phase for the census of 2011 about the questions relating to a person's affiliation with a national minority. Furthermore, the Advisory Committee encouraged the use of bilingual forms during the census in the municipalities where a minority language enjoyed a "supporting language" status.

31. The Advisory Committee also asked that the authorities to undertake awareness-raising activities among the persons belonging to national minorities well in advance of the census, in co-operation with minority representatives and to include persons belonging to minorities among census enumerators.

32. Finally, the authorities were asked to adopt measures aimed at collecting reliable socio-economic data, disaggregated by age, sex and geographical distribution, in particular in relation to employment, so as to be in a position to elaborate targeted minority policies in this field.

Present situation

33. The Advisory Committee notes that a census was conducted in Poland between April and June 2011. Representatives of national minorities were consulted about the formulation of the questions on national or ethnic identity (including the possibility of indicating two affiliations), and the mother tongue. The proposal on specific wording of these questions made by the Joint Commission of Government and National and Ethnic Minorities was broadly followed. In this regard, the Advisory Committee commends that the questionnaire used in the census was drafted

⁸ See the Statute of the Panel for the Preservation of the Silesian Spoken Language (in Polish) [http://orka.sejm.gov.pl/opinie7.nsf/nazwa/zesp_slonskijgodki/\\$file/zesp_slonskijgodki.pdf](http://orka.sejm.gov.pl/opinie7.nsf/nazwa/zesp_slonskijgodki/$file/zesp_slonskijgodki.pdf).

in accordance with the pertinent EUROSTAT recommendations.⁹ This questionnaire contained optional, open-ended questions on ethnicity, mother tongue and the language used at home as well as religious denomination. The last two of these questions were asked for the first time since the census of 1931. The Advisory Committee also welcomes the translation of the census forms and explanatory notes into the languages of national and ethnic minorities, the Kashubian language and English.

34. The Advisory Committee notes that the Census of 2011 was conducted using a variety of techniques. In addition to an interview, respondents could choose to fill in the electronic questionnaire using the Internet. However, most of the data was collected during the census from the electronic official registers without any direct input from the respondents. The Advisory Committee notes that, in order to obtain the fullest possible data, the census was conducted by means of an interview in all 86 municipalities inhabited by over 10% of persons who in 2002 indicated ethnicity other than Polish.

35. The Advisory Committee notes that 3,93% of respondents availed themselves of the opportunity to indicate more than one ethnic affiliation. In this context, the Advisory Committee notes that the majority of the persons who identified themselves as Silesians indicated Polish ethnicity as their other identification.¹⁰ Also, the vast majority of Kashubians declared Polish ethnicity as their other identification.¹¹

36. The census of 2011, like the previous one of 2002, aimed to collect detailed information on education, employment, place of residence, marital status, age and territorial distribution of persons belonging to national minorities. The Advisory Committee notes that the data of the census of 2011 is progressively being cross-tabulated and released providing an up-dated picture of the demographic situation in Poland.¹² It notes, however, that long delays in the release of census data, decreases rapidly its accuracy - and thus usability - because of the dynamic changes, in particular due to migrations out of and into Poland.

37. The Advisory Committee notes that many representatives of national minorities have raised concerns as regards the accuracy of the data collected from sources other than direct interview. Furthermore, the fact that the full information on ethnic composition of the country has not been published over two years after the census was conducted deepens this scepticism. The Advisory Committee stresses the importance of the publication of census results for the enjoyment of certain minority rights at the local level. Such publication should fully respect relevant international standards including the safeguards, notably those related to the protection of personal data, as laid down in the Committee of Ministers Recommendation (97)18 concerning the protection of personal data.

Recommendation

38. The Advisory Committee encourages the authorities to process and release the census data without any further undue delay, with full respect for the safeguards, notably those related

⁹ See the “United Nations Economic Commission for Europe and the Statistical Office of the European Communities (EUROSTAT) Recommendations for 2010 Censuses of Population and Housing”.

¹⁰ See also paragraph 24 above for details.

¹¹ Of the 233 000 persons who declared their Kashubian ethnic identity, 216 000 indicated it jointly with their Polish identity.

¹² According to the preliminary census results, the number of persons declaring belonging (either exclusively or as one of the two declared national identities) to one of the recognised national and ethnic minorities was: Germans - 148 000, Ukrainians - 51 000, Belarusians - 47 000, Roma - 17 000, Russians - 13 000, Lemko - 11 000, Lithuanian - 8 000, Jews - 8 000, Armenians - 4 000, Czechs - 3 000, Slovaks - 3 000, Tatar - 2 000 and Karaim - 346.

to the protection of personal data. The authorities are asked to ensure that the central statistical office is given the necessary resources enabling it to carry out this task.

Article 4 of the Framework Convention

Legal and institutional framework for prohibiting discrimination

Recommendation from the two previous cycles of monitoring

39. In the previous cycles of monitoring, the Advisory Committee asked the authorities to provide appropriate resources, including the financial means to the Office of the Government Plenipotentiary for Equal Treatment, which would allow it to intensify monitoring of alleged cases of discrimination, hostility on ethnic and national grounds and racial or ethnic hatred.

Present situation

40. The Advisory Committee notes with satisfaction that legislation against discrimination, adopted prior to Poland's accession to the EU¹³ was further strengthened by the adoption in 2010 of the Act on the Implementation of Certain Provisions of the European Union in the Field of Equal Treatment (hereafter the Anti-Discrimination Act – ADA). The Act prohibits discrimination on the grounds of sex, race, ethnic origin, nationality, religion, denomination, belief, disability, age and sexual orientation. The Advisory Committee notes in particular the shifting of the burden of proof in cases of alleged discrimination and the provision enlarging the scope of application of the law to private relations, thus including also horizontal effects into non-discrimination legislation.

41. The Act defines the role expected of the Commissioner for Civil Rights Protection (Ombudsman) and the Government Plenipotentiary for Equal Treatment. The former, in accordance with the Law on the Ombudsman¹⁴ may intervene in individual cases by demanding initiation of civil or administrative proceedings (with the same rights as those of a prosecutor) and to demand that an authorised prosecuting attorney initiate preparatory proceedings in cases involving crimes prosecuted *ex officio*. The Commissioner for Civil Rights Protection (Ombudsman) thus fulfils some of the tasks required of the equality body under the EU Equality Directives.

42. The Advisory Committee notes that the Anti-Discrimination Act places responsibility for implementation of government equality and non-discrimination policy on the Government Plenipotentiary for Equal Treatment on equal treatment, including counteraction of discrimination on recognised grounds, analysing and evaluating the legal and social situation with regard to equal treatment and initiation and coordination of the government's action to ensure equal treatment. The Plenipotentiary also undertakes awareness raising activities and promotes equality.¹⁵

43. In this context, the Advisory Committee is pleased to note the adoption on 3 October 2013 by the Government, upon the proposal of the Plenipotentiary for Equal Treatment, of the National Programme for Equal Treatment for 2013-2016. This is the first comprehensive document aiming to cover all areas of life, unlike prior specific programmes

¹³ Amendments to the Labour Code of 24 August 2001 and 14 November 2003 and adoption of the Act on the Promotion of Employment and Labour Market Institutions, adopted on 1 June 2004 aimed to transpose European Council Directive on Racial Equality (2000/43/EC) and European Council Directive on Employment Equality (2000/78/EC) into Polish domestic legislation.

¹⁴ Act on the Commissioner for Civil Rights Protection (Ombudsman) of 15 July 1985.

¹⁵ See also ECRI Conclusions on the Implementation of the Recommendations in Respect of Poland Subject to Interim Follow-up, adopted on 20 March 2013, doc. ref.: CRI(2013)23.

which concentrated on equality between sexes or aimed to combat racism or discrimination based on ethnic or national identity. It is also noted that the Plenipotentiary is planning to establish regional (*voivodship*-based) plenipotentiaries modelled on the *Voivods'* plenipotentiaries for national and ethnic minorities (see also under Article 15 below).

44. The Advisory Committee notes, however, that neither the Government Plenipotentiary for Equal Treatment nor the Commissioner for Civil Rights Protection (Ombudsman) are entitled to intervene or mediate in cases involving two private parties.

Recommendation

45. The Advisory Committee calls on the authorities to ensure that the Office of the Government Plenipotentiary for Equal Treatment and the Office of the Commissioner for Civil Rights Protection (Ombudsman) are granted the support they need to carry out their roles effectively.

Promotion of full and effective equality of Roma

Recommendations from the two previous cycles of monitoring

46. In the previous cycles of monitoring, the Advisory Committee asked the authorities to take enhanced measures to prevent and combat discrimination and the social exclusion of the Roma and in particular to make every effort, in consultation with those persons concerned, to improve the situation of the Roma in fields such as employment, housing and education, including eliminating segregation and increasing awareness of their culture and needs.

47. The Advisory Committee also asked the authorities to tackle vigorously any discriminatory practices affecting Roma pupils and teachers, including through public awareness-raising campaigns and training programmes for persons concerned.

Present situation

48. The Advisory Committee welcomes the authorities' commitment to implement the National Programme for the Roma Community in Poland (2004-2013) and as well as plans for its continuation in the years 2014-2020. The National Programme has been elaborated by the Team on Roma Issues within the Joint Commission of Government and National and Ethnic Minorities, with the participation of Roma members of the Joint Commission and with the input of Roma organisations. It has to be noted that in addition to 85 million zloty (€20.2 million)¹⁶ allocated by the Minister of Administration and Digitization to this programme, other national and European Union funds have been used in specific fields. The Ministry of Education was responsible for the disbursement of the education subsidy for Roma children (93.6 million zloty (€17.8 million)) in the same period and specific measures to support education of Roma children by employing supporting teachers, educational assistants, providing scholarships, textbooks and school accessories free of charge (6.3 million zloty (€1.5 million)). Under the Operational Programme Human Capital 74.7 million zloty (€17.8 million) were allocated to support professional activity and social integration of the Roma.

49. The main thrust of the National Programme has been placed on education of Roma children. In order to achieve this, approximately over 50 Roma community centres have been established, in addition to school clubs subsidised by the Ministry of Education. Particular emphasis has been placed on the financing of kindergartens which are seen as the necessary prerequisite for successful integration of Roma children in primary schools. The Advisory Committee regrets to note, however, that in spite of these efforts Roma children are

¹⁶ The exchange rate used is that of the date of adoption of the Opinion.

disproportionately placed in special education schools (for more details see under Article 12 below). This practice is incompatible with Article 4, paragraph 2 and Article 12, paragraph 3 of the Framework Convention.

50. The Advisory Committee notes that regardless of the efforts undertaken in recent years, the educational results for Roma children lag far behind those of the other national minorities and the Polish population in general (see more detailed remarks under Article 12 below).

51. The Advisory Committee also notes with regret that unemployment figures for the Roma demonstrate that the various initiatives and schemes, undertaken under the National Programme for the Roma Community and the Operational Project 'Human Capital' have not yielded tangible results and that a large majority of the Roma remain excluded from the labour market. According to the State Report the unemployment rate for Roma was 30% compared to 11% nationwide, indicating a pattern of discrimination. This is in contrast to all other national minorities for whom the figures show lower unemployment rates than that of the Polish majority.

52. Also, Roma representatives continue to report ongoing discrimination in access to suitable social housing, health care, racial profiling by the police and discriminatory attitudes on the part of local administrative and law enforcement authorities. Biased media reporting has, on a number of occasions, fuelled local conflicts, which in some cases escalated into physical attacks against Roma and their property.

Recommendations

53. The Advisory Committee calls on the authorities to increase efforts to prevent and to combat the inequality and discrimination suffered by the Roma. In particular, effective steps must be taken to prevent children from being placed in special schools. The authorities must continue their efforts, in particular at local level, to improve the employment opportunities of Roma and to promote their integration into society.

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

Article 5 of the Framework Convention

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

Recommendations from the two previous cycles of monitoring

55. In the previous cycles of monitoring, the Advisory Committee asked the authorities to make further efforts, including by the allocation of sufficient financial resources, to support and promote the preservation and development of the cultures of national minorities, in particular as regards the establishment and operation of cultural centres and to identify without further delay adequate solutions to the situation of cultural properties confiscated by the former totalitarian communist regime.

56. Furthermore, the Advisory Committee asked the authorities to strengthen their support for initiatives aimed at protecting, preserving and developing cultural identity of minorities, including seeking ways of adapting funding procedures to allow small organisations to compete effectively for grants.

Present situation

57. The Advisory Committee welcomes efforts made by the authorities to support the cultural activities of national minorities by providing various forms of assistance to cultural activities, such as support for music and drama festivals, art exhibitions and other artistic events, museums, and cultural centres.

58. The funding for cultural projects amounted to over 14.3 million zloty (€3.4 million) in 2013 and was disbursed by the Minister of Administration and Digitization, upon a proposal made by an independent commission of experts created by the Joint Commission of Government and National and Ethnic Minorities. Generally, the funding for cultural projects remained stable in the years 2007–2011 and varied between a minimum of 13 million zloty (€3.1 million) in 2010 and 14.3 million zloty (€3.4 million) in 2008 and 2013.¹⁷

59. The Advisory Committee welcomes other cultural projects financed by the national and local authorities, which celebrate the cultural heritage of national minorities, the importance of which goes beyond maintaining culture and identity of persons belonging to national minorities. The construction in central Warsaw of the Museum of the History of Polish Jews (to be completed in 2014) is the most prominent of such projects. In many other smaller towns, such as Płock, where there are no significant Jewish communities left, synagogues have been renovated and serve as local museums of Jewish heritage (in Płock – Museum of History of Masovian Jews and a Centre for Intercultural Encounters).

60. The authorities support Silesian culture, traditions and heritage. The Silesian Institute in Opole and the Silesian Museum in Katowice actively promote research and awareness of Silesian heritage.

61. It has to be noted, however, that a number of challenges were raised by the representatives of national minorities, the most significant of which is the insufficient budget which does not meet the national minorities' expectations as well as the manner in which the funds are allocated. The Advisory Committee is concerned that the Minister of Administration and Digitization, when making decisions on the disbursement of funds, may disregard the proposal of the independent commission of experts without explaining reasons (see related comment under Article 15 below). Also, the fact that the budgets are allocated on an annual basis does not allow the organisations of national minorities to draw long-term plans. The Advisory Committee agrees with many of its interlocutors that moving towards pluri-annual budgetary plans would resolve this issue.

62. The problem of maintaining cultural identity is felt most strongly by persons belonging to numerically small minorities in Poland, such as the Tatars, Karaim, or Armenians. Representatives of these minorities have so far been unsuccessful in their efforts to mobilise the authorities to assist them by providing funding necessary for the establishment of cultural centres, libraries or similar institutions, without which their communities face rapid and full assimilation with the majority.

Recommendations

63. The Advisory Committee calls upon the authorities to continue and increase their efforts to support initiatives aimed at protecting, preserving and developing the cultural identity of minorities, including numerically smaller groups.

¹⁷ According to the figures provided in the State Report, the following amounts were disbursed in successive years to support cultural activities of national minorities: in 2007 – 12 262 592 zloty (€2 920 499), in 2008 – 14 295 883 zloty (€3 404 754), in 2009 – 13 104 025 zloty (€3 120 898), in 2010 – 12 980 579 zloty (€3 091 497), and in 2011 – 13 659 674 zloty (€3 253 233).

64. The authorities should ensure the transparency of decision-making processes on the allocation of funds to cultural projects, in which the minority representatives should be effectively involved.

Article 6 of the Framework Convention

Tolerance and intercultural dialogue

Recommendation from the two previous cycles of monitoring

65. In the previous cycles of monitoring, the Advisory Committee urged the authorities to increase their efforts to raise public awareness of the history and cultural heritage of the various ethnic and religious groups.

Present situation

66. The Advisory Committee is pleased to note that a climate of tolerance and respect generally prevails in Poland, on which minority representatives themselves comment favourably. The Advisory Committee received information about increased interest in the contribution of Jews to Polish culture, and to a lesser extent that of other national minorities. For instance, Jewish representatives informed the Advisory Committee of being solicited by local schools for presentations on Jewish history, traditions and customs. Generally, surveys indicate that xenophobic and anti-Semitic prejudices and stereotypes in society are becoming less widespread.¹⁸

67. The Advisory Committee notes the creation of the Chassidic Route which joins 27 municipalities in the Lubelskie and Podkarpackie *voivodships*. Also, at the local level many initiatives are taken to mark anniversaries of the liquidations of local Jewish ghettos during World War II. In 2012 such commemorations, ranging from marches and prayer meetings, to exhibitions, concerts, and theatre performances were organised in no less than 10 cities and towns.

68. In October 2013 the *Sejm* adopted a resolution commemorating the 1150th anniversary of the mission of St. Cyril and Methodius, highlighting the historical presence in Poland of Orthodox Christianity practiced by many persons belonging to the Belarusian, Lemko, Russian and Ukrainian minorities.

69. Despite these commendable initiatives, the awareness among the majority population of Poland's rich multi-ethnic history, and of the contribution of various ethnic and religious groups to the cultural heritage of Poland remains low, according to numerous representatives of national minorities. This regrettable state of affairs is further aggravated by the limiting of teaching of history and discontinuation of some television and radio broadcasts aimed at national minorities and providing information about national minorities (for more details see under Articles 9 and 12 below).

70. The Advisory Committee further notes that the situation of immigrant Roma is a matter of concern. For example, the planned eviction by local authorities of 100 Roma of Romanian origin from an illegal settlement at Kamińskiego Street in Wrocław is indicative of the lack of social integration strategies and discrimination.

71. Finally, it is with regret that the Advisory Committee notes that the public debate on the issue of ritual animal slaughter, including in the media and the political arena, has at times been

¹⁸ See for example Public Opinion Research Centre (CBOS) study on *The Attitude of Poles towards Other Nationalities* of February 2013 (in Polish), http://www.cbos.pl/SPISKOM.POL/2013/K_012_13.PDF.

characterised by intolerant attacks against persons defending this practice. Arguments of “medieval”, “primitive” and “barbaric” nature of ritual slaughter at times revealed anti-Semitic and anti-Muslim sentiment of some of the most vocal proponents of the ban. Such statements undermine the climate of intercultural dialogue and poison the public debate on national minority issues in general (see also under Article 8 below).

Recommendations

72. The Advisory Committee reiterates its call on the authorities to intensify their efforts to raise public awareness of the history and cultural heritage of the various ethnic and religious groups in Polish society, including through appropriate and adequate teaching of history of national minorities.

73. The Advisory Committee calls on the authorities to prevent and condemn expressions of intolerant attitudes in political discourse and the media, including in the field of religion.

74. The authorities should step up development and implementation of social integration strategies and antidiscrimination measures in particular for immigrant Roma.

Efforts to combat hostility or violence on ethnic grounds

Recommendations from the two previous cycles of monitoring

75. In the previous cycles of monitoring, the Advisory Committee urged the authorities to take all necessary measures to prevent, investigate and prosecute all racially motivated offences and to prevent and combat incidents of intolerance and xenophobia, including during sporting events. In this context, it asked the authorities to increase public-awareness of the problem and encourage fans to condemn racist attitudes and behaviour.

76. The Advisory Committee also urged the authorities to step up their efforts to combat all manifestations of intolerance, racism, anti-Semitism and xenophobia. Furthermore, the authorities were asked to take the necessary steps, while fully respecting the editorial independence of the media, to prosecute incitement to ethnic or religious hatred in the media.

77. Finally, the authorities were asked to intensify awareness-raising measures for law enforcement officials, the media, and the judiciary on tolerance and anti-discrimination issues.

Present situation

78. The Advisory Committee notes that the National Programme for the Prevention of Racial Discrimination, Xenophobia and Related Intolerance (2004-2009) was extended in October 2009 for the years 2010-2013. Under this Programme, a Council for the Prevention of Racial Discrimination, Xenophobia and Related Intolerance, composed of representatives of the government and public institutions was established in 2011. The Council’s role, in addition to coordination and evaluation of the authorities’ activities, is to elaborate bi-annual action plans for combatting racial discrimination, xenophobia and related intolerance.

79. The Advisory Committee was pleased to learn during its visit about the work of the Group for Monitoring Racism and Xenophobia, which operates within the Ministry of Home Affairs. Data on crimes and incidents motivated by hate indicates that their number does not show significant variation in recent years. In 2011, 90 cases of racist or xenophobic crimes and incidents were recorded of which 85 were motivated by hate, and 46 were directed at rights of persons belonging to national minorities (the vast majority of such cases involved hate speech against Jews or Roma, destruction of tombstones, or destruction of bilingual road signs in Polish and the language of a national minority). In 2012 the number of registered cases was 89, of which 37 were directed at rights of persons belonging to national minorities. Jewish

organisations, such as the Foundation for the Preservation of Jewish Heritage in Poland, corroborate this information. In 2010, it registered with the police 11 cases¹⁹ and in 2011 seven cases of incidents,²⁰ mainly concerning anti-Semitic graffiti and destruction of tombstones at Jewish cemeteries. The Advisory Committee is deeply concerned, however, that all too often these cases are not investigated by the police and are not prosecuted and sanctioned by the courts. For example, according to the information published by the Foundation for the Preservation of Jewish Heritage in Poland, only one out of 11 cases reported to the law enforcement authorities in 2010 resulted in the conviction of the perpetrators. There were no convictions in any of the cases reported in 2011. This indicates a lack of commitment or capacity by the law enforcement officials to combat hostility on ethnic grounds.

80. In this context, the Advisory Committee notes that efforts undertaken to train law enforcement officials have not produced expected results. In fact, since 2006, 58 000 policemen and women (approximately 60% of the total police force) have been trained under the Law Enforcement Officer Programme (LEOP) run jointly by the Ministry of Home Affairs and the Office for Democratic Institutions and Human Rights (ODIHR). The explicitly stated aim of this programme is to improve police skills in recognising, understanding and investigating hate crimes. Building on the experience of the LEOP, a new revised training programme TAHCLE (Training Against Hate Crimes for Law Enforcement) was launched in 2012. The Advisory Committee notes with interest that state organs are accompanied in this area by non-governmental organizations, such as the Association “Never Again” which prepared a brochure “Hate Crimes. Auxiliary Material for the Trainer” explaining different symbols of racist or xenophobic nature.

81. The Advisory Committee notes with deep concern that some media permit openly racist and xenophobic language towards persons belonging to national minorities. In well-publicised incidents in May 2011 and October 2011, Radio ESKA presenters proffered racial insults against the press spokesman of the General Inspectorate of Road Transport (GIRT), of Indian origin. The same two presenters a year later insulted Ukrainian women’s dignity on multiple grounds including national identity. The Advisory Committee regrets that the radio station in question apparently continues to tolerate such behaviour, in spite of having substantial pecuniary sanctions imposed by the National Broadcasting Council²¹ and upheld on appeal by the Appellate Court in Warsaw (in the cases of the 2011 broadcasts insulting the GIRT press spokesman). It also notes that the criminal proceedings concerning the case of 2012 are ongoing.

82. The Advisory Committee notes the reports of cases of discrimination against Roma, for example as regards denial of access to public places. The Advisory Committee finds it encouraging, however, that even prior to the entry into force of the Anti-Discrimination Act of 2010, Roma applicants were successful in litigating on the basis of the civil code. In a landmark judgment delivered by the Poznań Court of Appeal, the court ruled in favour of Roma men who were denied access to a club, and the perpetrator, in addition to an obligation to offer an apology, was obliged to pay 10 000 zloty (€2 380) to the account of the local Roma cultural association.²²

¹⁹ See *Anti-Semitic acts reported in 2010* http://fodz.pl/download/1Raport_2010.en.pdf .

²⁰ See *Anti-Semitic acts reported in 2011* http://fodz.pl/download/antysemityzm_2011_en.pdf.

²¹ See (available in Polish only) *Annual Report of the National Broadcasting Council on its Activity in 2011*, pg. 57 link: https://www.krrit.gov.pl/Data/Files/public/Portals/0/sprawozdania/spr2012/sprawozdanie_krrit_03_2012.pdf and *Annual Report of the National Broadcasting Council on its Activity in 2012* pg. 51, link http://www.krrit.gov.pl/Data/Files/public/Portals/0/sprawozdania/spr2013/sprawozdanie_krrit_2013.pdf .

²² Case of Adam G against Cuba Libre Club in Poznań, adjudicated in the 2nd instance by the Poznań Court of Appeal on 28 May 2012.

83. The Advisory Committee is also concerned about the continuing reports indicating that racism and anti-Semitism continue to plague Polish football stadiums and their surroundings in spite of a number of campaigns such as “Let’s Kick Racism Out of Stadiums” and the declared clampdown by the authorities. According to reliable media reports, for example concerning an insulting and xenophobic banner displayed in August 2013 at a football match in Poznań where a local team hosted opponents from Lithuania, xenophobic and anti-Semitic banners, chants and slogans continue to be displayed. The Advisory Committee notes with deep concern that despite strong statements from the authorities, measures to combat racist acts advocated by the European Commission against Racism and Intolerance (ECRI)²³ and already spelled out in CM Recommendation Rec(2001)6 on the prevention of racism, xenophobia and racial intolerance in sport,²⁴ have not yielded expected results in Poland.

84. Some law enforcement officials show a surprising lack of sensitivity and awareness for the need to combat manifestations of intolerance, racism, anti-Semitism and xenophobia in society. The Advisory Committee is deeply concerned by an argument advanced by a prosecutor in Białystok who, in June 2013, classified criminal proceedings without filing charges in a case of swastika graffiti arguing that “in Asia it is a symbol commonly used to display happiness and satisfaction”. Although, the prosecutor in question was forced to resign from his post in September 2013, the Advisory Committee considers that this incident testifies to a wider problem of lack of training and of discriminatory attitudes towards minorities permeating the law-enforcement structures in Poland.

Recommendations

85. The Advisory Committee urges the authorities to prevent, identify, investigate, prosecute and sanction effectively all racially and ethnically motivated or anti-Semitic acts. The authorities must intensify awareness-raising measures and training programmes for law enforcement officials and the judiciary on tolerance and anti-discrimination issues. It is also essential that there are independent bodies to supervise the work of the police.

86. The authorities must take the necessary steps to prosecute incitement to ethnic hatred in the media, so as to prevent such breaches in the future, while fully respecting the editorial independence of the media.

87. The authorities should take decisive action against racist and anti-Semitic acts perpetrated prior, during and after football matches. The Advisory Committee also calls upon 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

The right to manifest one’s religion or belief

Recommendations from the two previous cycles of monitoring

88. In the previous cycles of monitoring, the Advisory Committee encouraged the authorities to continue the dialogue with representatives of churches and national minorities celebrating religious holidays on days which are not by law non-working days, in order to find appropriate solutions to offer persons belonging to national minorities equal opportunities to benefit from their right to manifest their religion or belief.

²³ See ECRI General Policy Recommendation N°12 on Combating Racism and Racial Discrimination in the Field of Sport, adopted on 19 March 2009.

²⁴ 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.

Present situation

89. The Advisory Committee notes that the law²⁵ specifies that persons belonging to churches and other faith communities,²⁶ who celebrate religious holidays on days which are not by law non-working days, may at their request be given time off work or study, on the condition that they work on an alternative day to compensate for the absence from work. The Advisory Committee has been informed by representatives of national minorities that, in practice, employers ask for a certificate from the representative of the faith community in question, such as a rabbi or an imam confirming the person's membership of that community.

90. The authorities continue to return religious property confiscated by the communist totalitarian regime prior to 1989. In 2011, the Commission on the Restitution of the Property of the Roman-Catholic Church, having settled over 90% of all claims, ceased to operate by mutual agreement between the government and the Roman-Catholic Church, and the remaining claims were transferred to the court system. Four other commissions handling property claims of the Orthodox Church, Lutheran Church, Union of Jewish Religious Communities and "other denominations" continue to operate, but the Advisory Committee notes that there are complaints of the slowness of the process. By the end of 2012, approximately 50% of claims filed by these communities had not been resolved. The difference in the speed of procedures raises questions as to the commitment of authorities to handle restitution cases of other religious denominations in a swift and resolute manner.

91. The Advisory Committee notes with regret that at the end of 2012, ritual slaughter of animals, in accordance with the kosher rules in Judaism and halal rules in Islam, became effectively illegal in Poland. The Advisory Committee recalls that the European Court of Human Rights ruled in 2000 that ritual slaughter, constitutes a rite, whose purpose is to provide Jews with meat from animals slaughtered in accordance with religious prescriptions, which is an essential aspect of practicing the Jewish religion, and that "ritual slaughter must be considered to be covered by a right guaranteed by the Convention, namely the right to manifest one's religion in observance, within the meaning of Article 9".²⁷

92. This development came about as a result of a protracted legal procedure which culminated in the Constitutional Court ruling in November 2012 that the Minister of Agriculture exceeded the powers of his office in 2004 by issuing a regulation to allow ritual slaughter of animals, thus creating an exemption to the Law on the Protection of Animals of 1997. The exemption provided that animals be stunned before slaughter except when a registered religious group carried out the slaughter according to traditional religious practices. Following the Constitutional Court ruling of 2012, a proposal to amend the law to re-establish the legality of ritual slaughter by religious groups was put before the *Sejm* in July 2013 but failed to gather the necessary majority.

93. The Advisory Committee notes that other legal challenges are on-going, including before the Constitutional Court. In particular, the Advisory Committee notes that the Union of Jewish Religious Communities in Poland applied to the Constitutional Court to examine the compliance of the Law on the Protection of Animals of 1997 with the Constitution of Poland and with the European Convention on Human Rights.

²⁵ Article 42 of the Act on Guarantees of Freedom of Conscience and of Religion of 17 May 1989.

²⁶ 173 religious denominations are registered in Poland.

²⁷ See paragraph 74 of the ruling of 27 June 2000 in the case of *Jewish Liturgical Association Cha'are Shalom Ve Tsedek v. France*, (App No. 27417/95) <http://hudoc.echr.coe.int>

Recommendations

94. The Advisory Committee calls on the authorities to complete the process of restitution of property to religious communities without further delay.

95. The Advisory Committee asks the authorities to adopt a religiously sensitive approach to the question of ritual slaughter of animals and consider, in consultation with those concerned, solutions which take into account religious freedom.

Article 9 of the Framework Convention**Print and broadcast media in minority languages***Recommendation from the two previous cycles of monitoring*

96. In the previous cycles of monitoring, the Advisory Committee asked the authorities to ensure, in consultation with representatives of the various national minorities, access of persons belonging to national minorities to the radio and television programmes which concerned them and in particular to take the necessary measures to provide adequate radio and television coverage of the regions where national minorities live.

97. The Advisory Committee also asked the authorities to ensure that national minorities were represented in public radio and television programming councils, especially in those regions where they lived in substantial numbers.

Present situation

98. The Advisory Committee notes that the public radio and television channels continue to broadcast programmes in the languages of national minorities, and that since the completion of digitization of broadcasting in Poland, the radio and television coverage of regions inhabited by persons belonging to national minorities has improved significantly. The regional branch of the public television TVP in Białystok broadcasts weekly programmes in Belarusian and Lithuanian, and the Katowice and Opole branches of the TVP broadcast a weekly German-language programme. A number of programmes are also broadcast in the Ukrainian language. Following the full digitization of broadcasting in 2013, the *Telenowyny*, the oldest 30-minute long news programme in the Ukrainian language with Polish subtitles, reaches the country wide audience on the TVP Regionalna channel. Kashubian language programmes are broadcast by the TVP in Gdańsk albeit with varying frequency.

99. The Advisory Committee further notes that the regional public radio stations in Białystok, Gdańsk, Katowice, Koszalin, Kraków, Rzeszów, Szczecin and Wrocław continue to broadcast programmes in Belarusian, German, Kashubian, Lithuanian and Ukrainian languages. In 2011, the last year for which figures are available, the Polish radio broadcast 927 hours of programmes in these languages.

100. In addition to broadcasting by public radio and television stations, there are a number of private radio stations broadcasting in Belarusian, German, and Kashubian languages. The Advisory Committee welcomes information provided in the State Report ascertaining that public funding for private radio and television programmes in minority languages and the regional Kashubian language in 2011 amounted to over 950 000 zloty (€226 000) and covered over 50% of the cost of producing such programmes.

101. The Advisory Committee also notes that the authorities support publication of a large number of periodicals ranging from weeklies (such as the *Wochenblatt* in the German language, *Niwa* in the Belarusian language or *Nasze Słowo* in the Ukrainian language), bi-weeklies (such as *Aušra* in the Lithuanian language) monthlies (for example *Dos Yidish Wort - Słowo*

Żydowskie in Yiddish) and quarterlies, including for numerically smaller national minorities (such as *Awazymyz* partially in *Karaim* or *Besida* and *Watra* in the Lemko language).

102. Against this generally positive background, the Advisory Committee notes with regret that television programmes aimed at the Roma, Tatar and Russian minorities, which until September 2011 were broadcast by the TVP Białystok, have been discontinued. Also, according to representatives of national minorities, the underfunding of the public radio and television, a fact which is widely recognised in Poland, is constantly threatening the very existence of the remaining programmes broadcast in minority languages. The main cause for this situation is that funding allocated by the national public broadcaster TVP to its regional branches does not take into account the fact that those branches of the TVP which produce programming in the minority languages need to cover additional costs. As each regional TVP branch is a separate commercial entity and no specific funding is earmarked for minority programming, the decisions on the level of financing and timing of broadcasting are left entirely with the branch directors and the regional public radio and television programming councils.

103. In this context, the Advisory Committee also regrets that very few representatives of national minorities have been appointed to the regional public radio and television programming councils. In fact, Article 30(4a) of the Act on Radio and Television Broadcasting of 1992, obliges directors of regional branches to consider candidates proposed by organisations representing national minorities. Regrettably, such consideration rarely results in appointment of minority representatives. Currently, no representative of national minorities sits on any of the regional television programming councils. It has to be noted that representatives of the Ukrainian minority participate in the work of the radio programming councils in Rzeszów, Koszalin, Olsztyn and Szczecin. In addition, one representative of the German minority participates in the work of the programming council in Opole and one representative of the Belarusian minority in Białystok. The Advisory Committee considers that the expiry of the term of office of the current radio and television programming councils in 2014, and the on-going public competition for the councils, offers an excellent opportunity to address this issue.

104. The timing of broadcasting of programmes aired by public radio and television is also a matter of concern. By way of example, the Advisory Committee regrets to note that the *Telenowyny*, which until recently were broadcast on Saturdays at 4 pm, reaching an average audience of 228 000 people, which demonstrates significant interest in the programme beyond the persons belonging to the Ukrainian minority, has been rescheduled for Mondays at 9 am since September 2013. This seriously undermines the possibility of reaching the target audience and additionally, given that it is the only programme addressing national minority concerns broadcast nationally, undermines the visibility of national minorities in Poland.

Recommendations

105. The Advisory Committee reiterates its call on the authorities to ensure, if necessary by taking legislative measures, that national and ethnic minorities are represented effectively in regional public radio and television programming councils, especially in those regions where they live in substantial numbers.

106. The Advisory Committee encourages the authorities to ensure access of persons belonging to national minorities, including the numerically smaller ones, to radio and television programmes destined for them, and in particular to take the necessary measures to provide adequate radio and television broadcasting at suitable times.

Article 10 of the Framework Convention

Use of minority languages in relations with the administrative authorities

Recommendations from the two previous cycles of monitoring

107. In the previous cycles of monitoring, the Advisory Committee invited the authorities to review the situation of the use of minority languages in relations with administrative authorities, on the basis of the experience gathered in the years following the adoption of the Act on National and Ethnic Minorities and on the Regional Language, in particular as regards the number of municipalities which had introduced minority language as a “supporting language”.²⁸

108. The Advisory Committee also called upon the authorities to provide for the possibility to deliver upon request certified documents in the “supporting language” and to consider extending the application of the provisions on “supporting language” to cover all branches of administration at local level.

Present situation

109. The situation as regards the legislative framework governing the use of a minority language in relations with administrative authorities remains unchanged. The decision to enter a municipality in the *Official Register of Municipalities where a Supporting Language is Used* (hereinafter: “the Official Register”) is taken on the basis of the application of the municipality council concerned. It has to be noted that only the municipalities inhabited by a significant number of persons belonging to a national or an ethnic minority may apply. The threshold required for national minorities to constitute at least 20% of the local population, established by the Act on National Minorities, continues to be used.

110. The Advisory Committee notes that, following the publication of the preliminary results of the census of 2011, the list of municipalities where persons belonging to national minorities constitute at least 20% of the population changed due to the fact that in three municipalities in Opole Voivodship which were on the list hitherto, the number and the proportion of persons belonging to national minorities fell below 20%, while in another three the proportion of minority population reached that threshold. Currently there are 51 municipalities (*gminas*), out of the total of 2 479 municipalities in Poland, on the list.

111. The Advisory Committee welcomes the information that the number of municipalities where a minority language is used as a “supporting language” in administration has increased since the adoption of the second opinion from twenty-one to thirty. The significant rise in the number of municipalities where the Belarusian language is used (from one to five out of nine municipalities concerned) is to be welcomed. The Advisory Committee also notes that the “supporting language” is used in most of the municipalities meeting the 20% threshold inhabited by persons belonging to the German minority and in the one such municipality inhabited by persons belonging to the Lithuanian minority. According to information available to the Advisory Committee, no application by a municipality council for entry in the Official Register has been turned down.

112. It is also commendable that the authorities show flexibility and the German language continues to be used in relations with the administrative authorities in the municipalities of Chrzastowice, Izbicko and Bierawa, which were entered in 2006 and 2007 in the Official Register, and where, according to the results of the census of 2011, the number of inhabitants belonging to the German national minority fell below 20% of the population.

²⁸ Article 9§1 of the Act of 6 January 2006 stipulates that “Before the municipal authorities it shall be possible to use, as supporting, the minority language as well as the official one”.

113. The Advisory Committee notes, however, that since June 2010 no municipality has been added to the Official Register. This may suggest that the practical benefit to persons belonging to national minorities of the introduction of the minority language in relations with administrative authorities is not significant enough to entice municipality councils to proceed with the administrative procedure.

114. Also, it has to be noted, that according to the information available to the Advisory Committee, no municipality has introduced financial incentives, permitted by the Act on National Minorities, to the relevant employees of the municipalities speaking the minority language. Whereas it is understood that in the times of economic difficulties, the financial resources available to the municipalities are scarce, it is the lack of qualified personnel fluent in minority languages which may discourage persons speaking minority languages to lobby municipality authorities to apply for the introduction of the minority language in administration.

115. The Advisory Committee notes with regret that the Kashubian language is used only in two municipalities out of nineteen concerned, and that no municipality applied to be listed in the Official Register after 2007.

116. The Advisory Committee welcomes the introduction in 2011 of bilingual school certificates and graduation diplomas in Polish and minority language in schools teaching minority languages (see also under article 14 below).

Recommendations

117. The authorities should review, in consultation with representatives of national minorities, the legislation, policies and practical situation of the use of minority languages in relations with administrative authorities, with the view to eliminate barriers deterring municipalities which meet the legal threshold from applying for entry in the Official Register.

118. In particular the authorities are asked to seek solutions, including financial incentives, as provided by the law, which would ensure that the right to use a minority language in relations with administrative authorities is respected in all municipalities inhabited by substantial number of persons belonging to national minorities.

Article 11 of the Framework Convention

Patronyms in minority languages

Recommendation from the two previous cycles of monitoring

119. In the previous cycles of monitoring, the Advisory Committee asked the authorities to increase awareness among Civil Registry officials of the right of persons belonging to national minorities to use and spell in the official register and identity documents their first and last names according to the spelling rules of their respective minority language.

Present situation

120. The Advisory Committee notes that there have been no changes to the legislative framework established by the Law on the Change of Name and Surname of 2008 governing the possibility for persons belonging to national minorities to use and spell their first and last names in a national minority language with language-specific diacritic marks in the register of civil status and identity documents. The Advisory Committee is pleased to have learned from representatives of the Lithuanian minority during its visit to Puńsk that this right is respected in practice and that 27 inhabitants of the municipality identifying themselves with that minority have chosen to have their names recorded in identity documents in the Lithuanian language.

121. Against this background, the Advisory Committee notes the lack of data on the number of persons who availed themselves of the opportunity to use and spell their first and last names in a minority language in the register of civil status and identity documents. The small number of persons who chose to have their names recorded in identity documents in the Lithuanian language in the Puńsk municipality suggests either a lack of awareness among persons belonging to a national minority of their rights in this regard, burdensome administrative requirements, or a reluctance on the part of such persons to be publicly identifiable as a person belonging to a minority.

122. There is a need to identify reasons for the absence of interest among persons belonging to national minorities to take advantage of the right to use and spell their first and last names in the register of civil status and identity documents according to the spelling rules of their respective minority language.

Recommendation

123. The authorities are invited to raise the awareness on the part of civil registry personnel as well as of those concerned as regards the rights of the persons belonging to national minorities to use minority languages to record their first and last names in a minority language in the register of civil status and identity documents.

Topographical indications in minority languages

Recommendation from the two previous cycles of monitoring

124. In the previous cycles of monitoring, the Advisory Committee asked the authorities to pursue their efforts to complete and publish the *Register of Official Names of Topographical Indications* to ensure that persons belonging to national minorities can effectively exercise the right protected in Article 11, paragraph 3, of the Framework Convention.

Present situation

125. The situation as regards the legislative framework governing the display of topographical indications in minority languages has not changed since the adoption of the last Opinion of the Advisory Committee. Signs in minority languages displayed alongside those in the Polish language may be used in the municipalities where persons belonging to national minorities constitute at least 20% of the population, or in other towns or villages where more than half of the inhabitants taking part in consultations voted for the introduction of bilingual signs. The Minister of Administration and Digitization keeps the *Official Register of Municipalities where Place Names are Displayed in a Minority Language* (hereinafter: the Register of Municipalities).

126. The Advisory Committee notes the publication in December 2012 of the *Regulation of the Minister of Administration and Digitization of the Register of the Official Names of Places and Their Parts*. This Register supplements earlier standardization of names of hydrographical objects and of caves completed in the years 2003-2007 by the Committee for Place Names and Physiographical Objects.

127. The Advisory Committee notes with satisfaction that, as of November 2013, place names in the languages of national and ethnic minorities and in the regional Kashubian language have been displayed in 51 municipalities. Signs in the German language have been used in 29 municipalities, in Kashubian in 18 municipalities, in the Lemko language in two municipalities, and in Lithuanian and Belarusian in one municipality each.

128. The Advisory Committee further notes that no municipality opted for bilingual street signs and signs with names of the physiographical objects, the cost of which, unlike those signs

which indicate names of villages and towns (which is borne by the state budget), is to be financed from the municipality budget. The Advisory Committee underlines the importance of promoting bilingual signs, as this conveys the message that a given territory is shared in harmony by various population groups.²⁹

129. Against this generally positive background, the Advisory Committee regrets to note that a significant number of signs displaying place names in Lithuanian and Polish languages in the Podlaskie *Voivodship* and German and Polish languages in the Opolskie *Voivodship* were vandalized in 2011 and 2013. It finds it particularly worrying, that although these acts were widely condemned by the national and local authorities and the media and the repaired or new signs were swiftly reinstalled, the police investigations into the incidents in 2011 were discontinued due to the inability to find the perpetrators of these criminal acts. It further warns that impunity emboldens the vandals to continue and is indicative of lack of capacity or commitment on the part of law enforcement officials to elucidate such incidents (see related comment under Article 6 above).

Recommendations

130. The Advisory Committee asks that the authorities take more proactive measures in order to ensure that the provisions of Article 11, paragraph 3 of the Framework Convention are effectively implemented in all municipalities meeting the statutory threshold. It also encourages them to take a flexible approach over the financing of the cost of introducing signs displaying street names in languages of national minorities in the municipalities listed in the Register of Municipalities.

131. The authorities should redouble their efforts to investigate all cases of destruction of signs displaying place names in minority languages and bring perpetrators to justice.

Article 12 of the Framework Convention

Intercultural dimension of education

Recommendations from the two previous cycles of monitoring

132. In the previous cycles of monitoring, the Advisory Committee urged the authorities to review the existing textbooks and the compulsory curriculum in consultation with minority representatives, with a view to ensuring a better reflection of the history, culture and traditions of national minorities.

Present situation

133. The Advisory Committee welcomes the adoption in 2008 of the Regulation of the Minister of Education *On the basis of the pre-school education programme and general education in the individual types of schools* which established a new core curriculum at all levels of schooling and which has been progressively introduced since 2009. In the first three years of primary education the emphasis is placed on teaching children social skills necessary for co-operation and problem solving. In the fourth to sixth years of primary education, children while studying about history and society learn about their region and the diversity of its cultural traditions. Finally in lower-secondary and upper-secondary schools the new curriculum introduces “knowledge of society” and “knowledge of culture” subjects which teach about other religions, cultures and traditions in Europe and beyond.

²⁹ See *Third Thematic Commentary of the Advisory Committee on the FCNM on the language rights of persons belonging to national minorities*, paragraph 67, May 2012, www.coe.int/minorities.

134. The Advisory Committee notes with satisfaction that modern languages faculties teaching Belarusian, Czech, German, Hebrew, Kashubian, Lithuanian, Russian, Slovak and Ukrainian train teachers competent in respective languages, literatures and cultures. Information on the setting up at the Pedagogical University in Krakow in 2013 of the undergraduate Armenian, Lemko and Roma studies, in addition to the hitherto existing since 2004 post-graduate Roma studies is particularly welcome. Furthermore, the Advisory Committee notes that a number of universities developed programmes to train teachers to acquire multicultural and intercultural skills necessary to implement the new curricula. In particular, it commends the information contained in the State Report and acquired during its monitoring visit on the programmes developed at the Jagiellonian University and the Pedagogical University in Kraków, the Adam Mickiewicz University in Poznań, Białystok University and the State Higher Professional School in Gorzów Wielkopolski. It notes that proposed Kashubian Ethno-Philology Studies at Gdańsk University failed to start in 2013 due to insufficient interest on the part of students.

135. The Advisory Committee is concerned, however, that following the adoption in 2008 of the Regulation of the Minister of Education *On the basis of the pre-school education programme and general education in the individual types of schools* the schools teaching minority languages and in minority languages, have found it difficult to find appropriate textbooks in the languages concerned. Although some textbooks and manuals have been developed (12 in the Lithuanian language for teaching of language and history of Lithuania, seven in Kashubian, six in Ukrainian and two in Belarusian) there is a shortage of textbooks to cover all subject matters for all grades. The problem is particularly significant as regards schools teaching all subject matters (with the exception of the Polish language and history) in minority languages (i.e. in Lithuanian and in Ukrainian languages).

136. During its visit, the Advisory Committee was pleased to hear from representatives of the Jewish minority in Kraków about the positive attitude and interest demonstrated by the majority of school directors in involving Jewish organisations, such as the Foundation for the Preservation of Jewish Heritage in Poland, and eminent personalities in teaching about the Jewish culture, traditions and the Holocaust. This demonstrates, according to the interlocutors of the Advisory Committees, growing awareness of the Jewish culture in the Polish society generally and its important contribution to the Polish culture and shared history.

137. The Advisory Committee regrets to note, however, that although teaching of tolerance, respect and openness towards other cultures is compulsory in primary schools, it does not necessarily promote actively the presentation of cultures and traditions of national minorities living in Poland. As a consequence, children may learn about cultures and traditions on other continents but have no knowledge about the culture of other Polish citizens living in the same municipality or another region of the country. The fact that teaching of history since 2012 has ceased to be a compulsory subject after the first year of the upper-secondary school³⁰ (at the age of sixteen), and given that 88% of children do not choose humanities as the dominant area of study, further undermines, with regard to most children, the possibility of learning about the history of co-existence of different ethnic groups on its territory, development of cultural, social and economic relations within the county and in relations to neighbouring states. The Advisory Committee finds this deeply regrettable.

³⁰ See *Regulation of the Minister of National Education on the framework curricula in public schools*, dated 7 February 2012.

Recommendations

138. The Advisory Committee calls on the authorities to increase their efforts to ensure that an adequate supply of textbooks in minority languages is available at all levels of education.

139. The Advisory Committee urges the authorities to ensure a more comprehensive account of the history, culture and traditions of national minorities in the school curricula at all levels of education, including by increasing the opportunities to learn about the country's history and cultural diversity.

140. The authorities are also encouraged to increase their efforts aimed at promoting mutual respect and intercultural dialogue in the field of education, including by creating adequate opportunities for involving organisations of minorities in the education process.

Access to education for Roma

Recommendations from the two previous cycles of monitoring

141. In the previous cycles of monitoring, the Advisory Committee urged the authorities to take without delay specific measures to eliminate all separate "Roma classes" and to integrate Roma pupils into mainstream education. The Advisory Committee also called on the authorities to make more sustained efforts to promote the Roma language, culture and traditions, and to portray a more positive image of Roma identity among other children, families and teachers.

142. The Advisory Committee further asked the authorities to train teaching staff in the Romani language and to develop the necessary teaching materials with a view to creating opportunities for teaching of or in the Romani language, where there was a sufficient demand.

Present situation

143. The Advisory Committee notes with satisfaction the initiatives taken by the authorities to address the concerns of the Roma communities regarding equal access to education within the framework of the Programme for the Roma Community in Poland 2004-2013. The closing down of the last remaining separate "Roma classes" in 2011 is particularly welcome. The Advisory Committee, while welcoming the continued existence since 1993 of the Parish Polish-Roma Primary School in Suwałki, attended by 33 children of whom 25 are Roma and which teaches in part in the Romani language, thus maintaining children's linguistic and cultural identity, asks the authorities to monitor and support its activity to ensure that children attending it receive quality education and interact with children from other schools.

144. The authorities do not systematically collect information on the number of Roma children in schools. Whereas 17 000 persons declared their ethnicity as Roma according to the preliminary results of the 2011 census, the number of Roma children benefitting from educational support in 2011 was 2 306. Approximately 100 Roma education assistants and a similar number of supporting teachers have been recruited to facilitate the integration of Roma children in schools and their learning process. The Advisory Committee welcomes the information on the 145 dedicated school scholarships awarded under the Programme for the Roma Community and the provision free of charge of textbooks, school accessories, co-financing of bus transportation and school insurance.

145. Notwithstanding these laudable initiatives and achievements, the Advisory Committee notes that significant challenges in the access of Roma children to education remain. In particular, the fact that 16,8% of Roma children (as compared with 2% for the rest of the population) receive medical certificates attesting to their "disability" or "disorder" (in most cases classified as with "mild mental disability") is a cause for serious concern. The Advisory Committee is aware of the authorities' argument that such a certificate does not automatically

direct a child to a special school, and that the decision as to the choice of the school establishment remains with the parents. It considers nonetheless, that the high proportion of Roma children issued with such certificates attests to the inadequacy of the pre-school education opportunities for Roma children, who as a result enter primary school with little or no knowledge of the Polish language, as well as to the deficiencies in the testing methods. The Advisory Committee understands that the reasons leading to the disproportionate enrolment in special schools have not been fully identified and addressed.

146. The Advisory Committee notes further the precarious position of the Roma education assistants who are employed on temporary contracts which, in addition to not providing them with stable employment, sends a very negative signal to Roma children as regards their prospect for employment, thus undermining the motivation to complete their education. In addition, the continuing absence of any opportunities to learn the Romani language at school (apart from the Parish Primary Polish-Roma School in Suwałki) not only weakens the Roma children's linguistic and cultural identity but also increases the perception of the lesser worth of the Roma culture, language and traditions in the majority and Roma populations alike. The Advisory Committee considers that it is an important factor which contributes to the high drop-out rate, low attainment level and the small number of Roma children continuing education beyond the primary school level. The Advisory Committee deeply regrets, that according to the figures provided in the State Report over 50% of the Roma in Poland have not completed primary education, as compared to 3,6% nationwide.

147. The Advisory Committee further learned from various sources, including Roma minority representatives, that notwithstanding the commendable undertakings of the Pedagogical University in Kraków, the knowledge of Roma history, culture and traditions among teachers remains low, and little effort is made to teach students belonging to the majority population about the Roma and their contribution to Polish 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

148. The Advisory Committee urges the authorities to redouble their efforts to identify and remedy the shortcomings faced by Roma children in the field of education, and to ensure that Roma children have equal opportunities for access to all levels of quality education. In particular, steps must be taken to prevent children from being inappropriately diagnosed as having "mild mental disability", and to ensure that fully-informed consent is given as a condition for placement in special education.

149. The authorities are asked to identify causes for high drop-out rate from primary schools for Roma children and devise, in consultation with the Roma, strategies aimed at finding solutions to this issue.

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

151. The Advisory Committee further 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 among other children, families and teachers.

Article 13 of the Framework Convention

Private education for national minorities

Recommendations from the two previous cycles of monitoring

152. In the previous cycles of monitoring, the Advisory Committee called on the authorities to examine the situation with regard to the allocation of subsidies in education and to ensure that the legislative provisions in force were effectively implemented.

Present situation

153. The Advisory Committee notes with satisfaction that there are no obstacles in Poland to setting up private schools and that faith-based and civic organisations of national minorities, in particular the Jews, Belarusians, Lithuanians and Roma readily use such possibilities. Currently there are 25 kindergartens and 60 schools providing education to children identifying with national minorities and providing opportunities to learn minority languages at an early age.

154. The Advisory Committee welcomes in particular the authorities continued financial support to such initiatives, in line with the national legislation which guarantees equal treatment of all schools regardless of whether they are public or private.

Recommendation

155. The Advisory Committee calls upon the authorities to continue to support private schools of national minorities in line with the established practice.

Article 14 of the Framework Convention

Teaching of minority languages and receiving instruction in these languages

Recommendations from the two previous cycles of monitoring

156. In the previous cycles of monitoring, the Advisory Committee urged the authorities to assess whether the framework for teaching minority languages corresponded to actual needs and, where appropriate, take the necessary steps to address any shortcomings. Furthermore, the Advisory Committee asked the authorities to review the existing school curricula as regards national minority-specific subjects and ensure an adequate supply of qualified teachers, school manuals and textbooks.

Present situation

157. The Advisory Committee notes that the legislative basis for teaching minority languages and receiving education in these languages has not changed since the last monitoring cycle.³¹ The Advisory Committee is pleased to note that, for each child learning a national minority language, the amount of subsidy is increased above the applicable rate for a pupil in a school of the same type in the same municipality: by 20% in primary schools teaching more than 84 minority children, and in lower and upper secondary schools teaching more than 42 minority children, and then again by 150% for children learning minority languages in smaller schools.

158. The Advisory Committee notes that in addition to the Development Strategy for the Lithuanian Minority Education (developed in 2001) and the Development Strategy for the German Minority Education (2007) the authorities adopted the Development Strategy for

³¹ Act on the Education System of 7 September 1991 and Regulation of the Minister of Education of 14 November 2007 on the Conditions and Manner of Schools and Public Institutions Performing Tasks Enabling the Maintenance of the Sense of National, Ethnic, Linguistic and Religious Identity of Students Belonging to National and Ethnic Minorities or to a Community Using the Regional Language.

Ukrainian Minority Education in 2011. This nuanced approach is welcome as it takes into account the size, pattern of settlement and particular needs of each minority. It is noted that in accordance with these strategies, schools teaching children from the Lithuanian and Ukrainian minorities teach all subjects, apart from Polish language and history, in the respective minority languages. All other minorities have opted for their minority languages to be taught as subjects, with the rest of the curriculum taught in the Polish language.

159. The number of children learning minority languages and the number of schools where minority languages are taught has increased since the Advisory Committee adopted its second Opinion on Poland in 2008. It has to be noted however that, whereas the number of children learning minority languages (or in minority languages) in primary schools has risen,³² the number of children learning minority languages (or in minority languages) in lower-secondary schools decreased.³³ The number of children learning a minority language in upper secondary schools remained stable.³⁴

160. The number of primary, lower secondary and upper secondary schools where minority languages are taught increased significantly between 2007 and 2012 in particular as regards German and Kashubian languages.³⁵ Smaller increases in the number of schools where the Ukrainian and Lemko languages are taught could also be observed, while the number of schools teaching the Belarusian, Slovak and Armenian languages remained stable. The only decrease registered concerns schools teaching in the Lithuanian language (14 in 2007-2008 and 12 in 2011/2012 and Hebrew (a decrease from four to three in the same period).³⁶ The Advisory Committee notes with regret that there are no opportunities for the Roma children to learn the Romani language³⁷ (see also under Article 12 above).

161. Another issue of concern is the manner in which minority education is financed. Whereas the multipliers of 20% in the amount in subsidy per child learning a minority language and of a further 150% in the case of children learning in small schools is welcome, the Advisory Committee regrets to note that until very recently there was no differentiation in the amount of subsidy depending on whether the school teaches a minority language as a subject matter (as is the case of teaching of Belarusian, German and Kashubian languages) or whether all subjects are taught in a minority language (which concerns Lithuanian and Ukrainian language schools). This created particular financial difficulties for the latter schools.

162. In this context, the Advisory Committee notes with interest, recent discussions and apparent agreement reached in October 2013 within the Joint Commission of Government and National and Ethnic Minorities to introduce more flexibility into the way subsidies are allocated. In particular, it is welcome that a coefficient for medium-sized schools where teaching is conducted in a minority or the regional language and a provision for higher subsidies to schools where all subjects are taught in a minority language has been introduced. The Advisory

³² At primary school level, 39 147 children were learning a minority language or were taught in a minority language in the school year 2011/2012 as compared with 32 333 children in 2007/2008.

³³ In lower secondary schools, 9 121 children were learning a minority language or were taught in a minority language in the year 2011/2012 as compared with 13 140 children in 2007/2008.

³⁴ In upper secondary schools, 1 598 children were learning a minority language or were taught in a minority language in the year 2011/2012 as compared with 1 490 children in 2007/2008.

³⁵ Kashubian language was taught in 163 schools in 2007 and 322 schools in 2012. German language was taught in 348 schools in 2007 and 390 in 2012.

³⁶ The Advisory Committee was pleased to learn from the Lithuanian representatives that in spite of the closure of small village schools, all children living in Puńsk and Sejny municipalities who wish to learn Lithuanian (of whom there were 534 in the school year 2011/2012) can do so in larger schools, primarily in Puńsk and Sejny.

³⁷ See also pages 89-92 of *the Report of the Committee of Experts on the European Charter for Regional or Minority Languages on the Application of the Charter in Poland*, adopted on 7 December 2011, doc. ref.: ECRML (2011) 5.

Committee notes, however, that for these changes to take effect, the *Regulation of the Minister of Education on the manner of allocation of education subsidy part of the general subvention to local authorities* must be duly amended.

163. The Advisory Committee points out in this context that bilingual education that guarantees proficient language learning in minority and other languages, such as Polish, may also provide an adequate response to the education needs of persons belonging to numerically smaller minorities.

164. The Advisory Committee also finds it unfortunate that according to the information from representatives of the Armenian minority, the teacher training schemes developed by the authorities to improve their knowledge of a minority language, apply only to languages spoken in the neighbouring countries, thus effectively disadvantaging persons belonging to the Armenian minority.

Recommendations

165. The Advisory Committee calls upon the authorities to urgently modify the system of allocation of subsidies to national minority schools, with the view of guaranteeing adequate funding which would take into account different types of schools.

166. The authorities are also asked to identify, in consultation with national minority representatives, ways to provide the necessary textbooks in national minority languages.

167. The Advisory Committee considers that the authorities should create opportunities for teachers to learn the Romani language with a view to increasing opportunities for the teaching of or in the Romani language, where there is a sufficient demand.

168. The authorities are asked to ensure that teacher training schemes cover all minority languages concerned.

Article 15 of the Framework Convention

Minority representation in elected bodies

Recommendations from the two previous cycles of monitoring

169. In the previous cycles of monitoring, the Advisory Committee encouraged the authorities to examine, in consultation with the representatives of the national minorities, legislative provisions on the political representation of minorities in the *Sejm* and the *Senat* to reflect more adequately the composition of Polish society.

Present situation

170. The Advisory Committee notes that the electoral code was amended prior to the legislative elections in 2011. It notes, however, that the provisions of the law pertaining to participation of parties representing national minorities in elections to the Polish parliament (the *Sejm* and the *Senat*) have not changed since the adoption of the second opinion by the Advisory Committee. In elections to the *Sejm*, parties representing national minorities are exempt from the obligation to obtain at least 5% of the vote nationally, and their candidates participate in the allocation of seats in multi-member constituencies. The Advisory Committee notes with regret that ethnic minorities³⁸ do not benefit from the above provisions. The rules for the election to the *Senat* do not contain any provision referring to minorities. Its members are elected in single-member constituencies by simple majority.

³⁸ Karaim, Lemko, Roma and Tatars, who are recognised as ethnic minorities in Poland. See paragraph 23 of this Opinion for details.

171. The Advisory Committee notes with satisfaction that a representative of the German minority was elected in the legislative election of 2011 taking advantage of the non-applicability of the 5% threshold to parties of national minorities. It notes further that parliamentarians identifying themselves with Armenian, Belarusian and Ukrainian national minorities were elected from the electoral lists of the national political parties. A significant number of persons speaking the Kashubian regional language have also been elected to both chambers of Parliament.

172. Local self-government plays an important role in many areas of public policy in Poland and persons belonging to minorities participate in local elections and to assemblies and executive positions at all levels. In the 2010 municipal elections, they successfully ran for mandates in the region (*voivodship*), county (*powiat*) and municipality (*gmina*) assemblies and for executive posts of *voits* and mayors (at the *gmina* level), and *starostas* (at the *powiat* level). The Advisory Committee notes however in this regard that no data is available on the number of persons belonging to national or ethnic minorities elected to different levels of assemblies.

Recommendation

173. The Advisory Committee calls on the authorities to extend the provision exempting parties representing national minorities from the obligation to obtain at least 5% of the vote nationally, to cover parties of ethnic minorities.

Consultative mechanisms

Recommendation from the two previous cycles of monitoring

174. In the previous cycles of monitoring, the Advisory Committee encouraged the authorities to make full use of the potential of the Joint Commission of Government and National and Ethnic Minorities and to convene its meetings regularly, in line with the provisions of Article 28 of the Act on National and Ethnic Minorities and on the Regional Language.

175. The Advisory Committee also encouraged the authorities to pursue and develop measures to promote Roma participation in local public life, in particular by considering setting up consultative structures at local level in areas traditionally inhabited by them.

Present situation

176. The Advisory Committee notes that following its establishment in 2005, the Joint Commission of Government and National and Ethnic Minorities, composed of representatives of all recognised national and ethnic minorities and of government ministries has become the main forum for developing, implementing and monitoring minority policies and is the principal forum for a regular dialogue on issues affecting all minorities. The Commission meets at regular intervals³⁹ to discuss issues of interest to national minorities, adopt its opinions on legislative and other regulatory proposals and draft governmental policies. The minority side of the Joint Commission also issues its own opinions (“the positions” or “stands”) voicing its concerns vis-à-vis the authorities.

177. The Advisory Committee further notes that a Group for Roma Affairs operates within the Joint Commission of Government and National and Ethnic Minorities to advise at all stages of the programming, implementation and monitoring of the Programme for the Roma Community in Poland.

³⁹ The Joint Commission of Government and National and Ethnic Minorities held 40 sittings between 2005 and October 2013.

178. In addition, the Parliamentary Commission on National and Ethnic Minorities continues its very active role in stimulating public interest in national minority issues. The Advisory Committee notes that in the current Parliament, elected in November 2011, it held over 50 sittings to debate and make recommendations on a multitude of issues affecting national minorities. The Advisory Committee notes with interest in particular that the Parliamentary Commission is currently examining a proposal for amendments to the Act on National and Ethnic Minorities and on the Regional Language aiming at recognising the Silesian language as a regional language, thus extending to it the protection of all the provisions currently applicable to the Kashubian language.

179. The Advisory Committee notes further that the main Department of Religious Denominations and National and Ethnic Minorities located within the Ministry of Administration and Digitization, which is the main organ responsible for coordination and implementation of the state's policy on national minorities, is assisted by *Voivods'* plenipotentiaries for national and ethnic minorities. It regrets to note however that no advisory councils on minorities' issues, including Roma issues, have been set up at the local level.

180. The Advisory Committee notes with concern that both the Joint Commission of Government and National and Ethnic Minorities and the Group for Roma Affairs remain purely advisory bodies with no decision-making powers. According to national minority representatives, their opinions and recommendations are disregarded by the authorities, for example when deciding on the allocation of funds to cultural projects, without even stating their reasons for doing so.

181. In addition, the Advisory Committee is concerned by reports of cumbersome procedures resulting in long delays in electing representatives of organisations of national minorities to the Joint Commission, which in a number of cases has resulted in prolonged vacancies.

Recommendations

182. The Advisory Committee urges the authorities to review the position of the Joint Commission and its Group for Roma Affairs and to ensure that ministerial decisions take their opinions and recommendations fully into account.

183. The authorities should pursue and develop measures to promote participation of minorities in public life at local level, in particular, by considering setting up consultative structures, especially as regards Roma.

184. The authorities are also asked to review, in co-operation with representatives of national minorities, the procedure of election of national minority members to the Joint Committee with a view to making the procedure more participatory, efficient, transparent and swift.

Participation of national minorities in economic and social life

Recommendations from the two previous cycles of monitoring

185. In the previous cycles of monitoring, the Advisory Committee asked the authorities to continue and increase efforts to develop policies to address the problems confronting the Roma in a number of fields, particularly in the areas of housing, employment, and medical care, and allocate adequate resources to remedy the situation. In this connection, it asked that the authorities actively involve the Roma representatives in the various stages of development, implementation, monitoring and evaluation of such measures.

Present situation

186. The National Programme for the Roma Community in Poland established in 2004 continues to be the main operating tool for the implementation of the governmental policies for, and with the active participation of the Roma in the fields of culture, maintaining ethnic identity, improving living and health conditions, preventing racist offences and reducing unemployment. In addition, projects established in 2006 aimed at improving employment and social cohesion, increasing the education level and reducing social exclusion of Roma continue to benefit from financing available from the European Social Fund of the European Union under the Operational Project 'Human Capital'. Together, these two sources of funding in the years 2007-2011 financed projects worth 120 million zloty (€28.6 million).

187. Implementation of projects designed to improve housing and infrastructure depends on co-operation among the Roma, the central authorities who are purveyors of funding, as well as the local authorities who are responsible for provision of land, and necessary construction permits. The Advisory Committee was pleased to observe in Ochotnica Górna how such co-operation can bear fruit and lead to tangible improvements in the living conditions of some of the Roma communities. According to the Roma interlocutors such positive predisposition of the local authorities and the local inhabitants is becoming more frequent. The Advisory Committee finds it regrettable however, that according to the minority representatives and the authorities alike, there are cases where local authorities show complacency or outright hostility to the provision of any assistance to Roma communities in spite of the availability of funding.

188. The Advisory Committee also notes the on-going debate on the extension of the Białowieża National Park (BNP) to cover a larger part of the Białowieża forest. This proposal, which undoubtedly is of great importance for the preservation of biodiversity and unique ecosystems of world importance, may nonetheless lead to loss of employment opportunities for local residents, many of whom associate with the Belarusian national minority. The Advisory Committee notes in this context, that according to Belarusian representatives the high unemployment in the region has already led to a large number of young persons leaving the area, which, in the case of persons belonging to national minorities, may lead to an accelerated rate of assimilation with the Polish majority. It notes also that the authorities have been implementing the Sustainable Development Plan for the Białowieża Forest Region since 2010.

Recommendations

189. The Advisory Committee urges the authorities to develop, as a matter of urgency, and in consultation with Roma representatives, genuine and realistic programmes aiming to end the *de facto* exclusion of the Roma from the labour market and social services.

190. The Advisory Committee asks the authorities to continue to implement strategies, such as the Sustainable Development Plan for the Białowieża Forest Region, and monitor their effectiveness in consultation with local authorities and representatives of the Belarusian minority which would create economic opportunities to populations affected by the planned extension of the Białowieża National Park.

Article 16 of the Framework Convention**Changes in electoral district borders***Present situation*

191. The Advisory Committee has received information on national and ethnic minorities concerns as regards local elections to *Voivodship* Assemblies planned for 2014. In particular, the

creation of larger districts composed of two or more counties (*poviats*) may have a negative effect on the electoral rights of persons belonging to national and ethnic minorities and may constitute a breach of the Electoral Code⁴⁰ prohibiting practices which “affect the social ties of voters belonging to national and ethnic minorities living on the territory of the combined counties”.

Recommendation

192. The Advisory Committee urges the authorities to ensure that the rights of persons belonging to national and ethnic minorities are duly taken into account when establishing electoral districts ahead of local and regional elections.

Article 17 of the Framework Convention

Transfrontier contacts

Recommendations from the two previous cycles of monitoring

193. In the previous cycles of monitoring, the Advisory Committee asked the authorities to pursue their efforts with neighbouring countries to ensure that EU border regulations were implemented in a manner that did not cause undue restrictions on the right of persons belonging to national minorities to establish and maintain contacts across frontiers.

Present situation

194. The Advisory Committee notes that in addition to the regular border crossing points with non-EU States, there are only two pedestrian border crossings on Poland’s eastern border: one in Białowieża with Belarus and one in Medyka with Ukraine. Information on the planned opening of further pedestrian crossings with Belarus in Kuźnica and Połowce is welcome.

Recommendation

195. The Advisory Committee encourages the authorities to continue their efforts to open in consultation with neighbouring countries further border crossings that would allow persons belonging to national minorities to establish and maintain contacts across frontiers.

Article 18 of the Framework Convention

Bilateral co-operation

Present situation

196. The Advisory Committee notes that Poland has concluded bilateral agreements with neighbouring countries containing clauses aimed at protecting national minorities. It considers that the authorities should enhance the implementation of the agreements and ensure that the enjoyment of rights of persons belonging to national minorities is not negatively affected by political considerations.

Recommendation

197. The Advisory Committee encourages the authorities to implement the existing bilateral agreements pertaining to minority protection in the spirit of the Framework Convention.

⁴⁰ See Article 462§4 of the Electoral Code.

III. CONCLUSIONS

198. 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 Poland.

Positive developments following three cycles of monitoring

199. Since ratifying the Framework Convention in 2000, Poland has continued its efforts to protect the rights of persons belonging to national minorities. The Act on National and Ethnic Minorities and on the Regional Language which was adopted in 2005 and the Anti-Discrimination Act of 2010, constitute a solid legal basis for the protection of rights of persons belonging to national minorities and for protection against discrimination, including in the field of employment on racial, ethnic, national or religious grounds. The Joint Commission of Government and National and Ethnic Minorities has, since its establishment in 2005, become the main forum for developing, implementing and monitoring minority policies and is the principal forum for a regular dialogue on issues affecting national minorities. In the *Sejm* the Parliamentary Commission on National and Ethnic Minorities continues its very active role in stimulating public interest in national minority issues.

200. The authority for implementation of the Anti-Discrimination Act was vested in the Office of the Commissioner for Civil Rights Protection (Ombudsman) and the Government Plenipotentiary for Equal Treatment. A number of initiatives have been taken by the authorities to combat discrimination, to increase human rights awareness, and to raise professional standards among police officers.

201. The preliminary data released following the census in 2011 has provided valuable information on the population, including the ethnic composition of the country, and it was overall considered as having been conducted in line with international standards.

202. The authorities provide various forms of assistance to cultural activities of national minorities, and raise awareness of national minorities' contribution to the Polish society in general. The public radio and television channels continue to broadcast some programmes in the languages of national minorities, and the television coverage of regions inhabited by persons belonging to national minorities has improved since the completion of the digitization process.

203. A well-developed system of minority language education exists in Poland, permitting children belonging to national minorities to receive instruction of or in their languages. New core curricula at all levels of schooling which have been progressively introduced since 2009 aim to teach children about diversity of cultures, traditions and values. National minority education strategies have been developed in consultation with national minority representatives to take into account the size, pattern of settlement and particular needs of German, Lithuanian and Ukrainian minorities.

204. The right to display bilingual signs and place-names and to use a minority language in relations with administrative authorities is respected in practice in the municipalities where persons belonging to national minorities constitute at least 20% of the population. Most of the municipalities meeting the criteria opted to avail themselves of these rights. Some bilingual documents, such as school graduation diplomas, are in use in minority schools. Persons belonging to national minorities can register and use their names in a minority language with language-specific diacritic marks.

205. The authorities have continued their efforts in recent years to combat discrimination and implement policies for Roma inclusion into the mainstream society. There are plans for the National Programme for the Roma Community in Poland which was established in 2004 to be extended until 2020.

Issues of concern following three cycles of monitoring

206. The detailed results of the census of 2011 as regards the ethnic composition of the country have not been published yet, which has negative effects on the enjoyment of rights of persons belonging to national minorities, in particular at the local level. Diverging opinions remain as to the options available regarding protection of the Silesian identity and language.

207. Racially motivated offences and incidents of intolerance and xenophobia continue to be reported in Poland and the authorities' response does not seem to be adequate. All too often such offences are either not investigated by the police at all or are not prosecuted and sanctioned by the courts. This indicates lack of capacity or commitment by the law enforcement officials to combat hostility on ethnic grounds. The public debate on the issue of ritual animal slaughter has at times been characterised by intolerant attacks against persons defending this practice and some public statements revealed anti-Semitic and anti-Muslim sentiment. Some media permit openly racist and xenophobic language towards persons belonging to national minorities, in spite of the financial sanctions imposed on them.

208. The awareness among the majority population of the country's multicultural history, and of contribution of various national, ethnic, linguistic and religious groups to the cultural heritage of Poland remains low. Discontinuation of some television and radio broadcasts aimed at national minorities and providing information about national minorities and limiting of teaching of history contribute to this regrettable state of affairs. The problem of maintaining cultural identity is felt most strongly by persons belonging to numerically small minorities in Poland, such as the Tatars, Karaim, or Armenians. The complete ban on ritual slaughter of animals impacts on religious freedom of persons belonging to the concerned minorities.

209. The underfunding of the programmes broadcast in minority languages is constantly threatening their very existence. Furthermore, scheduling of such programmes at inconvenient times and the fact that very few representatives of national minorities have been appointed to the regional public radio and television programming councils in accordance with the Act on Radio and Television Broadcasting indicates the insufficient importance that the competent authorities attach to promoting diversity and awareness of the contribution of national minorities to Polish society.

210. The amount of education subsidy allocated per child does not vary depending on whether the school teaches a minority language as a subject matter or whether all subjects are taught in a minority language. This creates financial difficulties for the latter schools. Also, there is a shortage of textbooks in minority languages to cover appropriately the subject matters for all grades in the schools teaching minority languages and in minority languages.

211. The full and effective representation and participation of minorities at all levels requires further strengthening. The recommendations of the Joint Commission of Government and National and Ethnic Minorities are not consistently taken into account.

212. Roma continue to face persistent discrimination and difficulties in different sectors, in particular in employment and education. A disproportionately high number of Roma children receive certificates attesting to their disability and are placed in special schools. This indicates the inadequacy of the pre-school education opportunities for Roma children, who as a result enter primary school with little or no knowledge of the Polish language, and points to the

deficiencies in the testing methods. Over 50% of the Roma have not completed primary education, as compared to 3,6% generally, and unemployment figures demonstrate that the various initiatives and schemes, undertaken under the National Programme for the Roma Community and the Operational Project 'Human Capital' have not yielded tangible results and that a significant proportion of the Roma remain excluded from the labour market.

Recommendations

213. 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 action⁴¹

- **Increase efforts to combat all forms of intolerance, racism, xenophobia and hate speech; take further legislative measures and implement policies to combat racist manifestations, including in the media, and the political arena;**
- **Ensure that Roma children are fully integrated into mainstream education; review the enrolment policies for special schools; ensure access to pre-school facilities 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;**
- **Ensure, in consultation with the representatives of national minorities, that the agreed changes to the system of allocation of subsidies to national minority schools are enacted swiftly and ensure that their effects are monitored; ensure adequate provision of textbooks in minority languages.**

Further recommendations⁴²

- proceed swiftly with the publication of the results of the census of 2011;
- introduce concerted measures to respect, protect and promote the cultural identity of numerically smaller minorities;
- adopt a religiously sensitive approach to the question of ritual slaughter of animals;
- provide adequate funding for programming in national minority languages and ensure appropriate timing of such broadcasts; reintroduce television programmes in languages of national and ethnic minorities which have been cancelled in recent years, and ensure participation of national minorities in the programming councils of public broadcasters;
- undertake further measures to promote intercultural dialogue and awareness of the contribution of national minorities to Polish society; including by increasing teaching about national minorities' history;

⁴¹ The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

⁴² The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

- take measures to improve access of Roma to the labour market; develop, in consultation with those concerned, genuine and realistic programmes to lower the unemployment among Roma;
- ensure full and effective participation of all minorities especially at regional and local level.