



Strasbourg, 24 October 2014

Public
Working document

**SECRETARIAT OF THE FRAMEWORK CONVENTION FOR THE
PROTECTION OF NATIONAL MINORITIES**

**COMPILATION OF OPINIONS OF THE ADVISORY COMMITTEE
RELATING TO ARTICLE 7 OF THE FRAMEWORK CONVENTION**

THIRD CYCLE

“Article 7

The Parties shall ensure respect for the right of every person belonging to a national minority to freedom of peaceful assembly, freedom of association, freedom of expression, and freedom of thought, conscience and religion.”

Note: this document was produced as a working document only and does not contain footnotes. For publication purposes, please refer to the original opinions.

Table of contents

1.	<i>Azerbaijan Opinion adopted on 10 October 2012</i>	3
2.	<i>Bulgaria Opinion adopted on 11 February 2014</i>	5
3.	<i>Estonia Opinion adopted on 1 April 2011</i>	8
4.	<i>Kosovo* Opinion adopted on 6 March 2013</i>	8
5.	<i>Moldova Opinion adopted on 26 June 2009</i>	9
6.	<i>Norway Opinion adopted on 30 June 2011</i>	10
7.	<i>Romania Opinion adopted on 21 March 2012</i>	10
8.	<i>Russian Federation Opinion adopted on 24 November 2011</i>	11

As of 24 October 2014, the Advisory Committee on the Framework Convention for the Protection of National Minorities had adopted a total of 35 opinions, of which 8 opinions on Article 7.

NOTE

Based on the information currently at its disposal, the Advisory Committee considers that implementation of certain articles does not give rise to any specific observations.

This statement is not to be understood as signalling that adequate measures have now been taken and that efforts in this respect may be diminished or even halted. On the contrary, the nature of the obligations of the Framework Convention requires a sustained and continued effort by the authorities to respect the principles and achieve the goals of the Framework Convention. Furthermore, a certain state of affairs may be considered acceptable at one stage but that need not necessarily be so in further cycles of monitoring. It may also be the case that issues that appear at one stage of the monitoring to be of relatively minor concern prove over time to have been underestimated.

* All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

1. Azerbaijan

Opinion adopted on 10 October 2012

Article 7 of the Framework Convention

Legislation on non-governmental organisations and freedom of association

Recommendations from the two previous cycles of monitoring

In the previous monitoring cycles, the Advisory Committee expressed its concern over the process of registration of non-governmental organisations which, among others, caused difficulties for organisations dealing with the protection of national minorities in the effective enjoyment of their freedom of association, as enshrined in Article 7 of the Framework Convention.

Present situation

The Advisory Committee notes with deep concern that the overall working environment for non-governmental organisations engaged in the protection of human rights, including those of persons belonging to national minorities, continues to be very difficult. The Advisory Committee refers to the opinion of the Venice Commission on the compatibility with human rights standards of the legislation on non-governmental organisations after the 2009 amendments, which considers the registration process still as lengthy and costly, as well as complicated and unpredictable. The Advisory Committee notes with concern that registration formalities continue to pose particular difficulties for non-governmental organisations engaged in the protection of human rights, including minority rights, who are viewed as critical of the government or even as “enemies of the government”. The Advisory Committee welcomes the fact that a number of organisations continue to perform important functions in the area of human rights promotion and defence and maintain working relations with relevant government agencies despite not being legally registered. It is concerned by the lack of legal certainty for these organisations as well as by the impression shared by a number of civil society representatives that the registration process functions as a ‘performance review tool’ rather than a clear and transparent legal procedure for acquiring the status of a legal entity. It further notes with concern reports from representatives of various minority communities that young persons belonging to national minorities face particular obstacles when wishing to register national minority youth organisations, despite assurances from the authorities that particular support is afforded to organisations representing the interests of youth.

Recommendation

The Advisory Committee calls on the authorities to ensure without delay that all persons belonging to national minorities can effectively and without undue obstacles enjoy the freedom of association, including as regards the promotion of minority rights or the representation of special interests, such as those related to young persons, within the national minority.

Freedom of assembly

Recommendations from the two previous cycles of monitoring

In the previous monitoring cycles, the Advisory Committee urged the authorities to ensure, including through legislative measures, that persons belonging to national minorities can effectively enjoy the freedom of assembly. Activities and public gatherings aimed at promoting the standards of the Framework Convention and other aspects of minority protection should be encouraged by the

authorities at central and local level, with any restriction being narrowly construed and proportionate in each case.

Present situation

The Advisory Committee regrets that organisations promoting the right of persons belonging to national minorities or wishing to disseminate information in this regard have reportedly continued to face difficulties when wanting to gather publicly, including at local level. Given the Advisory Committee's above-mentioned concern that the standards and provisions of the Framework Convention are insufficiently understood in society in general as well as among officials in charge, it points to the particular role played by minority organisations and civil society to improve that understanding and disseminate knowledge. Their activities, including as regards public gatherings, should be supported by the authorities rather than hindered. In this context, the Advisory Committee also refers to the multiple reports on the wave of arrests of activists and political opponents in connection with protests held in Baku in spring of 2011 and within the 'Sing for Democracy' context in 2012. These negative developments relating to the freedom of assembly in Azerbaijan generally can only have an intimidating effect also on minority organisations that would wish to jointly promote their rights under the Framework Convention.

Recommendation

The Advisory Committee again urges the authorities to take resolute steps in order to effectively and systematically guarantee the freedom of assembly of persons belonging to national minorities at central and local level, including as regards public gatherings aimed at promoting the standards of the Framework Convention.

Freedom of expression

Recommendations from the two previous cycles of monitoring

In the previous monitoring cycles, the Advisory Committee urged the authorities to take all necessary measures to ensure that no undue limitations were placed on the freedom of expression of persons belonging to national minorities, which would prevent them from conducting legitimate activities to preserve and develop their culture, language or identity, as protected by the Framework Convention.

Present situation

The Advisory Committee learned with profound sadness in August of 2009 that Professor Novruzali Mammadov, Editor in Chief of the Talysh language newspaper 'Tolishy Sado') had died in prison, after having been convicted and sentenced to ten years in prison for high treason. The Advisory Committee notes with deep concern that the sentence of the Grave Crime Court of 24 June 2008 under Article 274 of the Criminal Code found Mr Mammadov guilty of having conducted activities that, indeed, he was entitled to carry out under the Framework Convention as well as the 1992 Presidential Decree. The Advisory Committee refers in particular to activities related to the promotion of the Talysh language and culture, including his appeals for the creation of a Talysh language TV programme and his application to the Ministry of Justice to register the Talysh Cultural Centre as well as the Talysh language newspaper 'Tolishy Sado'. It is inconceivable that these activities, which the authorities through their ratification of the Framework Convention have committed not only to permit but to actively support (see Articles 5, 7 and 9 of the Convention), could be interpreted as acts of treason against the government. The Advisory Committee reiterates that the freedom of expression, as provided in Article 7 of the Framework Convention, is a fundamental human right which, necessarily, includes the freedom to express criticism or diverging opinions. The additional ground for conviction of Mr Mammadov contained in the sentence of the

Grave Crime Court, for having “appealed to international organisations based on violations of human rights of Talysh people” constitutes a direct violation of Article 7 of the Framework Convention.

The Advisory Committee is moreover deeply concerned about the recent arrest and indictment of Mr Hilal Mammedov, who succeeded Mr Novruzali Mammadov as Editor in Chief of the ‘Tolishy Sado’, under very similar charges, shortly before the Advisory Committee’s country visit. The indictment against Mr Hilal Mammedov of 3 July accuses him of having attended conferences in Iran in April and October 2006 and having spoken in that context on public Iranian TV about the Talysh population in Azerbaijan, allegedly with the aim of inciting ethnic hatred in Azerbaijan. The Advisory Committee is deeply concerned by this case as it appears again to incriminate a person for seeking to enjoy rights that are expressly granted by the Framework Convention, including the freedom of expression. According to a number of interlocutors, the case demonstrates the extent to which persons belonging to certain national minorities are habitually considered as having an affiliation with neighbouring countries, and seen as disloyal to Azerbaijan when seeking to express their minority identity. In addition, the Advisory Committee is alarmed by credible allegations of ill-treatment of Mr Mammedov during arrest and in pre-trial detention (see also comments under Article 6 above).

The Advisory Committee notes with deep concern, however, that practices of unjustified or selective criminal prosecution, including violence and threats of violence, directed against journalists and others who may express critical opinions are continuing or even intensifying, as reported by multiple international bodies. The European Court of Human Rights has repeatedly held against Azerbaijan with regard to unjustified convictions that are capable of dissuading the press from openly discussing matters of public concern. In this context, the Advisory Committee reiterates its concerns about the above-mentioned case of Mr Hilal Mammedov, which is likely to deter other persons belonging to national minorities from exercising their right to express their views related to minority rights protection in Azerbaijan, including through the media. The Advisory Committee notes in this context plans to amend national legislation to decriminalise defamation which, according to the National Program of Action, shall be completed by the end of 2012.

Recommendations

The Advisory Committee reiterates its urgent call on the authorities to abstain from unduly limiting the freedom of expression of persons belonging to national minorities, including as regards criticism regarding the implementation of minority rights in Azerbaijan. Resolute efforts must be made to raise the awareness of officials in charge, particularly within the judiciary, of international minority rights standards and the legitimacy of demanding adequate conditions to preserve and develop minority language, culture and identity.

The Advisory Committee urgently appeals to the authorities to ensure that persons belonging to national minorities who, in connection with their work as minority rights activists, have been charged with criminal offences are granted a fair trial in front of an independent and impartial court. All allegations of ill-treatment must be effectively investigated without delay.

2. Bulgaria

Opinion adopted on 11 February 2014

Article 7 of the Framework Convention

Freedom of peaceful assembly and association

Recommendations from the two previous cycles of monitoring

In its previous monitoring cycles, the Advisory Committee found that Bulgaria's constitutional provisions concerning political parties on ethnic, racial, or religious lines and pertinent legislative provisions raised problematic issues in the light of the Framework Convention and urged the authorities to remove all the existing obstacles preventing interested groups from exercising the freedom of association guaranteed by the Framework Convention.

Present situation

The Bulgarian authorities have confined themselves to observing that the principle of freedom of assembly and association is fully guaranteed by the Constitution and the relevant legislation in Bulgaria to every person without discrimination in full conformity with Bulgaria's international legal obligations. They consider that there are no obstacles for the registration of political parties, provided that all the formal requirements of the Political Parties Act in force are met. The authorities moreover consider that these requirements are clear and applicable to everyone without exception or discrimination.

The Advisory Committee recalls that the Constitution of Bulgaria expressly provides (Article 11(4)) that "There shall be no political parties on ethnic, racial or religious lines, nor parties which seek the violent usurpation of state power". As noted by the Advisory Committee in its second Opinion, the Venice Commission has expressed concern that these provisions "could be used to prevent minority linguistic ethnic or religious groups from organising themselves at all" and suggested "softening their wording in order to convey an open attitude towards minorities also in the language used in the Constitution". The Advisory Committee observes with regret, however, that the authorities have allowed this restriction to become entrenched with respect to some groups.

In this context, the Advisory Committee recalls the 2005 judgment of the European Court of Human Rights finding a violation of Article 11 of the European Convention on Human Rights (ECHR) as regards the authorities' dissolution of the United Macedonian Organisation Ilinden – Party for Economic Development and Integration of the Population (UMO Ilinden – PIRIN). It deplores the fact that despite repeated attempts by the party to register since then, this party has still been unable to register. The Advisory Committee acknowledges that, in the final instance, the refusals to register this party at domestic level have not been based on a finding that its aims are in breach of Article 11.4 of the Bulgarian Constitution. It also notes that a second case was lodged before the European Court of Human Rights by the same applicant concerning three subsequent refusals by the courts to register it, based each time on a series of formal grounds, and that in 2011, the European Court found that there had been no violation of the Convention in this respect. However, the Advisory Committee observes that one of the material grounds on the basis of which the Court reached its finding of no violation in this case was that amendments made in 2005 to the Political Parties Act had reduced the number of members required to form a political party from 5 000 to 2 500, a fact which the Court considered to have removed the main hurdle to the party's successful registration. The Advisory Committee notes, however, that according to the results of the 2011 census, which were not available at the time of the European Court's judgment, only 1 654 persons were recorded as having declared an ethnic Macedonian affiliation, compared with 5 071 in the 2001 census and over 10 000 in the previous census, of 1992. It is difficult to see how, in the current conditions, this political party could satisfy the formal requirements to register under the Political Parties Act (see also in this regard the comments in paragraph 83 below).

The Advisory Committee emphasises that, while the registration of national minority political parties may be subject to certain conditions, such requirements should be designed so that they do not unreasonably or disproportionately limit the possibilities for persons belonging to national minorities to form such organisations, thereby restricting their opportunities to participate in political life and the decision-making process. This concerns inter alia numerical conditions for registration. The Advisory Committee also considers that as a matter of principle, the existing constitutional and legal restrictions placed on the formation of political parties on ethnic, racial or religious lines raise serious problems of compatibility with Article 7 of the Framework Convention. It moreover draws the authorities' attention to the fact that such parties could make it possible for the concerns and interests of persons belonging to national minorities, notably in regions where they live in substantial numbers, to be better represented and better taken into account in elected bodies – a factor that would contribute far more constructively than prohibition to fostering peaceful co-existence within Bulgarian society. At the same time, it observes that the existence of political parties officially representing minorities is not an automatic guarantee of the effective representation of their needs and interests. Furthermore, when their interests are effectively represented by mainstream parties, there is little incentive for minorities to seek to set up their own parties.

The Advisory Committee also notes that in a series of recent judgments, the European Court has found violations of the freedom of association, as regards the refusal to register a non-profit association of Macedonians, and of the right of peaceful assembly, regarding bans on and interferences in the holding of a number of rallies by organisations that aim to achieve the recognition of the Macedonian minority in Bulgaria. The Advisory Committee is deeply concerned by the authorities' steady refusal to allow such rallies and/or interference therein described in these judgments (on grounds that moreover had already been found problematic by the European Court). It is equally concerned by the systematic summoning and questioning of purported members of the UMO Ilinden – PIRIN party as to the genuineness of their wish to join it, described by the European Court as “worryingly reminiscent of past infamous persecutions”. While the Advisory Committee has not been informed of recent, similar actions, it emphasises that the combined long-term effect of the above actions is to create a climate of intimidation and harassment that runs counter to the provisions of the Framework Convention, and in which it is unsurprising that the numbers of people willing to self-identify as Macedonian have dropped.

The Advisory Committee recalls that the freedoms laid down in Article 7 of the Framework Convention apply to all persons but are particularly relevant for the protection of persons belonging to national minorities, as well as for those who wish to benefit from some or all of the rights extended to recognised minorities. It stresses that restrictive applications of the procedures for the registration of associations and political parties and of the rules governing the right of peaceful assembly should not be used as a means to stifle differences over identity or history. These must be addressed through an open and flexible approach, as emphasised throughout the present Opinion.

Recommendation

The Advisory Committee urges the Bulgarian authorities to remove all remaining legal obstacles preventing interested groups from exercising the freedom of association guaranteed by the Framework Convention. Furthermore, the Advisory Committee recommends that the authorities review anew the conditions applicable to the registration of political parties.

3. Estonia

Opinion adopted on 1 April 2011

Article 7 of the Framework Convention

Freedom of assembly

Present situation

Following the events in April 2007 surrounding the relocation of the statue of the ‘Bronze Soldier’ from the centre of Tallinn as well as the subsequent clashes between supporters of the removal (mainly Estonians) and its opponents (mainly ethnic Russians), a number of amendments to the Criminal Code as well as the Public Services Act and the Aliens Act were made. The Advisory Committee notes in this context that the new legislation may have an impact on the freedom of assembly. This concerns, for instance, the new Article 239 of the Criminal Code, which may be used against participants of peaceful and authorised demonstrations, if they coincide with a mass disturbance. The Advisory Committee expects that the interpretation of these provisions by the courts will ensure that there are no disproportionate effects on the rights protected under Article 7 of the Framework Convention.

The Advisory Committee is generally of the opinion that, irrespective of the nature of the accusations and the grounds brought against persons belonging to national minorities, the authorities should ensure that the rights of defendants and/or detained persons are fully respected. Persons who advocate minority rights including through exercising their freedom of peaceful assembly must in no circumstances be sanctioned for this activity.

Recommendation

The Advisory Committee encourages the authorities to ensure that the new legal provisions introduced after the events of April 2007 are implemented in a manner that respects the individual rights and freedoms, notably those related to freedom of expression and of assembly, of persons belonging to national minorities in Estonia.

4. Kosovo*

Opinion adopted on 6 March 2013

Article 7 of the Framework Convention

Freedom of assembly, association, and expression

Recommendations from the two previous cycles of monitoring

In the previous monitoring cycles, the Advisory Committee encouraged the authorities to make further efforts to ensure the full implementation of the rights guaranteed in Article 7 of the Framework Convention and relevant international standards, in particular by addressing security concerns and by removing remaining obstacles to the freedom of movement.

Present situation

The Advisory Committee notes with concern that security considerations still limit the freedom of movement in specific areas of Kosovo*, affecting in particular members of minority communities living in enclaves and preventing them from enjoying freedom of assembly and association as protected by Article 7 of the Framework Convention. The Advisory Committee is further concerned

by the increasing number of reports pointing to political interference and lack of independence from the authorities within public media providers. This results in self-censorship and sometimes harassment of journalists and has a negative effect also on the freedom of expression enjoyed by persons belonging to minority communities in the media profession. It is pleased to note, however, that provisions of the Criminal Code that criminalised defamation and could further have limited the freedom of expression of journalists by placing pressure on them to reveal their sources were removed from the Criminal Code in October 2012, following campaigns by media rights activists in summer.

Recommendation

1. The Advisory Committee calls again on the authorities to ensure the enjoyment of rights as protected by Article 7 of the Framework Convention by addressing the continued limitations to the freedom of movement and promoting the freedom of expression, including in the media.

5. Moldova

Opinion adopted on 26 June 2009

Article 7 of the Framework Convention

Law on political parties

Recommendations from the two previous cycles of monitoring

In previous cycles of monitoring, the Advisory Committee was concerned that the requirements imposed by the Law on political parties could limit the right of persons belonging to national minorities to form political parties and to participate effectively in public affairs.

Present situation

A new Law on political parties was adopted in December 2007. The Advisory Committee notes with regret that it prohibits the creation of political parties on the basis of ethnic or national origin. Moreover, under the new Law, the registration of a political party requires at least 4 000 active members residing in at least 50% of the administrative units of the country, with not less than 120 members residing in each of the administrative units.

Even though the Advisory Committee acknowledges that persons belonging to national minorities have been elected in various bodies on the lists of mainstream political parties, it is concerned that the provisions of the Law on political parties restrict the scope for persons belonging to national minorities to set up political parties representing their legitimate interests. Yet such parties could make it possible for the concerns and interests of persons belonging to national minorities, particularly in the regions where they live in substantial numbers, to be better represented and possibly better taken into account in elected bodies, at the local and central levels (see also remarks in respect of Article 15 below). Therefore, the Advisory Committee considers that these provisions raise problems of compatibility with regard to the principles of Article 7 of the Framework Convention.

The Advisory Committee draws attention to its Thematic Commentary on the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, which states that political party registration requirements should “be designed so that they do not limit, unreasonably or in a disproportionate manner, the possibilities for persons belonging to national minorities to form such organisations and thereby restrict their opportunities to participate in political life and the decision-making process.”

Recommendation

The Advisory Committee urges the authorities to take all the necessary measures, including legislative, to eliminate any unjustified limitations to the creation of political parties representing the legitimate interests of national minorities.

6. Norway

Opinion adopted on 30 June 2011

Article 7 of the Framework Convention

Exercise of the right to freedom of thought, conscience and religion

Recommendations from the two previous cycles of monitoring

During the previous monitoring cycles, the authorities were invited to ensure that the application of the new provisions on religious instruction would not subject pupils to lessons emphasising a particular religion or belief.

Present situation

The Advisory Committee notes with satisfaction that the established system operates well and that freedom of conscience and religion is upheld. It expects that the authorities will continue ensuring full respect for these principles as a part of religious instruction.

7. Romania

Opinion adopted on 21 March 2012

Article 7 of the Framework Convention

Freedom of association

Recommendations from the previous cycles of monitoring

In the previous cycles of monitoring, the Advisory Committee encouraged the authorities to review the registration conditions envisaged for organisations of national minorities in order to bring them into line with the requirements of the Framework Convention.

Present situation

The Advisory Committee notes with regret that the situation with regard to the registration conditions envisaged for organisations of national minorities has not changed in Romania. Persons belonging to national minorities can establish non-governmental organisations (NGOs) under the generally applicable legislation. However, in the absence of a specific procedure for the recognition of NGOs representing national minorities, it is difficult for such organisations to benefit from provisions in the electoral legislation. These provisions establish particular conditions for candidates representing organisations of national minorities competing for seats in the Chamber of deputies specifically reserved for representatives of national minorities (see related comment under Article 15 below).

Recommendation

The Advisory Committee reiterates its recommendation that the authorities review the registration conditions envisaged for organisations of national minorities in order to bring them into line with the requirements of the Framework Convention, and more particularly with Article 7.

8. Russian Federation

Opinion adopted on 24 November 2011

Article 7 of the Framework Convention

Freedom of association and assembly

Recommendations from the two previous cycles of monitoring

In the previous monitoring cycles, the Advisory Committee urged the authorities to ensure that any restriction placed on the freedom of assembly and association of persons belonging to national minorities are necessary in a democratic society to protect specific public interests and are applied in a proportionate and non-discriminatory manner.

Present situation

The Advisory Committee notes with concern that the legislation on countering and prosecuting extremism continues to be sometimes used against persons or organisations engaged in minority protection, and “non-traditional” Muslim groups. Minority representatives have in particular informed the Advisory Committee that, when voicing concerns about the protection of human and minority rights, they are sometimes accused of being “traitors”, “extremists” and threatened with prosecution under the legislation against extremist activities (see also remarks on Article 6 above). Some representatives, involved in human and minority rights, have also allegedly been accused of “inciting social hatred”, and consequently prevented from continuing their activities. Therefore, the Advisory Committee welcomes the decision of the Supreme Court of the Russian Federation of 2011 providing guidance concerning prosecution for “extremism” and indicating *inter alia* that criticising politicians and political organisations must not be considered as incitement to hatred.

The Advisory Committee is also deeply worried by information provided by NGOs active in the field of human rights and minority rights that they are facing increasingly serious problems in the exercise of the right to freedom of association, expression and opinion. Despite the fact that the State Duma adopted in June 2009 amendments to the 2006 Law on NGOs, which lifted a number of administrative requirements imposed on NGOs, interlocutors of the Advisory Committee report that their organisations are subjected to disproportionate checks and audits by the authorities. Access to funding has reportedly become increasingly difficult, as a result of the legislation on NGOs adopted in 2006. The Advisory Committee finds this situation particularly serious and not compatible with the rights protected by Article 7 of the Framework Convention.

In addition, the Advisory Committee is informed that the Federal Ukrainian National-Cultural Autonomy was disbanded following an audit by the Ministry of Justice in 2009 and a decision of the Supreme Court of November 2010. Information brought to the attention of the Advisory Committee indicates that the suspension of the activities of the Ukrainian national-cultural autonomy is connected to, on the one hand, a lack of compliance with minor formal requirements under the legislation on NGOs and on national-cultural autonomies and, on the other hand, alleged engagement in activities advocating “nationalism and separatism”. Moreover, it is informed that the suspension is also connected to alleged involvement in issues which go beyond activities aimed at preserving and promoting minority cultures, whereas activities of national-cultural autonomies should, according to the law on national-cultural autonomies, be limited to the remit of culture (see also remarks on Article 5 above). The Advisory Committee is also aware that an inspection of the activities of the Union of Ukrainians in Russia is under way and that the federal Library of

Ukrainian Literature in Moscow was closed down based on allegations of keeping material considered extremist.

The Advisory Committee is concerned that suspending the activities of both the federal national-cultural autonomy and the Union of Ukrainians in Russia would result in there not being a single organisation for persons belonging to the Ukrainian minority at federal level. It is important to ensure that such persons continue to have a voice and functioning NGO structures at federal level. Furthermore, the Advisory Committee believes that, in general, it is essential for the authorities to ensure that state inspection on the activities of organisations advocating minority rights does not result in limitations on the freedom of association and assembly that are discriminatory or unnecessary in a democratic society.

The Advisory Committee further regrets that the federal legislation prohibiting the creation of political parties established “on the grounds of professional, racial, national or religious belonging” has not been amended. Although it is not aware of claims to form political parties established on ethnic or national belonging, it reiterates its view that this law is restricting the scope for persons belonging to national minorities to set up political parties representing their legitimate interests. Bearing in mind that the competence of national-cultural autonomies is restricted to the field of cultural affairs (see remarks above), such parties could make it possible for the concerns and interests of persons belonging to national minorities, particularly in the regions where they live in substantial numbers, to be better represented and possibly better taken into account in elected bodies at local and central level (see also remarks under Article 15 below).

Finally, the Advisory Committee also reiterates its concern that only one national-cultural autonomy can be established in a given subject of the Federation, following a decision of 2004 of the Constitutional Court interpreting the Law on National-Cultural Autonomy. It believes that this constitutes a limitation to the freedom of association of persons belonging to national minorities (see also remarks on Article 5 below).

Recommendations

The Advisory Committee urges the authorities to take all necessary steps to ensure that the rights protected under Article 7 of the Framework Convention are fully respected and to prevent, investigate and punish any violation or unjustified limitation of these rights.

The Advisory Committee also calls upon the authorities to ensure that the law on countering extremist activities is applied in a non-discriminatory manner and is not used to hamper the activities of persons and groups advocating legitimate concerns of persons belonging to national minorities and, more generally, the protection of human rights. Inspections and audits of the activities of NGOs, including those involved in minority issues, carried out by state authorities must not result in limitations on the freedom of association and assembly, other than those necessary in a democratic society.

Furthermore, the Advisory Committee invites the authorities to consider amending the federal legislation on political parties with a view to enabling persons belonging to national minorities to set up political parties representing their legitimate interests. It also invites them to review the provisions of the Law on National-Cultural Autonomies limiting the exercise of freedom of assembly.

Freedom of conscience and religion

Recommendations from the two previous cycles of monitoring

In the previous monitoring cycles, the Advisory Committee urged the authorities to ensure that the result of the debate on the design of religious education be carried out in a manner that takes due account of the multicultural nature of society and the views of persons belonging to national minorities.

Present situation

The Advisory Committee notes with interest that a pilot programme on religious education was launched in 2010 in 19 regions, through which pupils could choose to study various modules under the subject of “Foundations of religious cultures and secular ethics”. While acknowledging that it is too early to evaluate the impact of this pilot project, the Advisory Committee welcomes this initiative as it believes that non-confessional and multi-perspective religious education can be a powerful tool to increase mutual understanding and tolerance. The Advisory Committee is nonetheless informed that pressure had been exerted in some regions on the choices of pupils and parents with regard to religious education. In particular, there is a persisting trend to teach Orthodox Christianity at the expense of other religions and teaching of the Russian Orthodox religion has been made compulsory in the Tambov region.

Moreover, the Advisory Committee is concerned by information indicating that all men and women living in Chechnya have been obliged to adopt traditional Muslim clothes in public. Cases of threats directed at women not adopting traditional clothing have been reported to the Advisory Committee. The Advisory Committee acknowledges the view expressed by the authorities that it is important to respect local traditions and culture of the place of residence. However, it firmly believes that respect for traditions cannot be imposed by coercion and must not result in violations of the right to freedom of religion and conscience as guaranteed by Article 28 of the Russian Constitution, Article 9 of the European Convention on Human Rights and Article 7 of the Framework Convention (see also remarks on Article 6 above).

Recommendations

The Advisory Committee encourages the authorities to pursue their efforts to develop and implement curricula that cover non-confessional and multi-perspective elements in religious education. Moreover, it invites them to ensure that religious education does not result in imposing a religion on pupils of another religion or belief and that pupils and parents are able to make free choices concerning religious education in all regions of the Russian Federation.

The Advisory Committee calls on the authorities to take resolute measures to ensure that the constitutional guarantees of freedom of conscience and religion are strictly respected and effectively protected everywhere on the territory of the Russian Federation and that persons belonging to minorities, and minority religions, are not coerced to adopt practices related to a particular faith (see also remarks on Article 6 above).