



Restricted  
ACFC/OP/IV(2019)001

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

### **Fourth Opinion on Serbia<sup>1</sup> adopted on 26 June 2019**

#### **Summary**

Serbia is a multicultural country, with a diversity of national minorities, represented by 23 National Councils of National Minorities, but suffering from disparities in terms of the implementation of minority rights. The legal framework is solid, despite remaining discrepancies with certain sectorial laws, but its implementation is not monitored using evidence-based approaches. This creates difficulties in assessing possible improvements over this fourth monitoring cycle.

The contrast between the different levels of protection of minority rights in the Autonomous Province of Vojvodina and in Central or Southern Serbia remains notable. There is a need to significantly improve the level of protection in Central and Southern Serbia, without underestimating the need for further improvements in Vojvodina, in particular in terms of intercultural dialogue as well as regarding the command of the State language.

The level of representation of national minorities in the State administration cannot be assessed due to a lack of data, whilst national minorities continue to report on their under-representation, including in the State administration's local branches established in areas traditionally inhabited by persons belonging to national minorities or where they live in substantial numbers. This question is particularly relevant in areas traditionally inhabited by Albanian and Bosniak minorities. Roma communities are almost absent from the State or local administration, and the overall situation of Roma remains particularly alarming in terms of discrimination relating to most aspects of their daily life, be it housing, employment, access to education or in access to services or healthcare.

Important steps still need to be taken to improve interactions between the various communities living in Serbia and promote genuine intercultural dialogue and mutual understanding, including at all levels of the education system. Councils for Inter-Ethnic Relations still operate at a regrettably low level and their competences are limited. Representation of national minorities at local level should be significantly improved in order to ensure their integration and inclusion.

#### **Recommendations for immediate action:**

- raise awareness of persons belonging to the Roma minority living in informal settlements as well as relevant community workers about the legislative standards and the remedies available to victims of discrimination; resolutely address structural discrimination faced by Roma

---

<sup>1</sup> This opinion remains subject to editorial revision until its publication.

with regard to their citizenship status, as well as housing, healthcare, education and employment, including by taking the necessary affirmative measures to address the root causes of discrimination they face; eliminate all forms of segregation of Roma children and include them in mainstream education; redouble efforts to combat school absenteeism and early dropouts among Roma children, including by expanding and developing the long-term use of pedagogical assistants; step up efforts to improve participation of Roma in the economic and social life, by designing policy measures based on disaggregated data, setting up clear indicators, monitoring them in close co-operation with representatives of the Roma, with a view to adapting and strengthening them on a periodical basis;

- Set up and operate, as soon as possible and at the latest by the due date of the fifth State Report, a sustainable and human rights-based data collection framework on issues pertaining to the access to rights of persons belonging to national minorities as well as promote complementary qualitative and quantitative research in order to assess the situation of persons belonging to national minorities; on the basis of such data and research, set up, implement, monitor and periodically review minority policies with the effective participation of persons belonging to national minorities;
- Implement the recommendations of the Protector of Citizens of the Republic of Serbia listed in its Special Report on Councils for Inter-Ethnic Relations and commission an independent qualitative study, as soon as possible and at the latest by the due date of the fifth State Report, in order to assess the functionality of the Councils for Inter-Ethnic Relations; strongly support the development of independent qualitative and quantitative research showing the level and nature of inter-ethnic relations, including relations between persons belonging to national minorities and persons belonging to the majority; on the basis of such research, set up, implement, monitor and periodically review a comprehensive strategy aimed at revitalising inter-ethnic relations, in consultation with persons belonging to national minorities and local self-government units, taking into account the need to involve the majority in the integration and inclusion of national minorities in Serbian society;
- promote a multicultural and intercultural perspective in education, including by developing exchange programmes between communities, at every level of education; ensure, as soon as possible and at the latest by the due date of the fifth State Report, that through a process including effective participation of persons belonging to national minorities, history curricula and teaching materials promote respect for all groups in society and provide broad knowledge on minorities as forming an integral part of Serbian society; ensure that multiple perspectives are encouraged in historical and contemporary research; promote, in consultation with representatives of the national minorities concerned, possible models for bilingual or multilingual education;
- set up and operate, as soon as possible and at the latest by the due date of the fifth State Report, a sustainable and human rights-based data collection framework within the public administration and, on the basis of such data, set up, implement, monitor and review on a periodical basis concrete and effective measures aimed at producing long-term and measurable progress on the representation of national minorities in the public administration, in particular those living in remote areas and the most marginalised.

## Table of contents

<b>I. KEY FINDINGS .....</b>	<b>4</b>
MONITORING PROCESS.....	4
GENERAL OVERVIEW OF THE CURRENT SITUATION .....	4
ASSESSMENT OF MEASURES TAKEN TO IMPLEMENT THE RECOMMENDATIONS FOR IMMEDIATE ACTION .....	5
ASSESSMENT OF MEASURES TAKEN TO IMPLEMENT THE FURTHER RECOMMENDATIONS .....	5
<b>II. ARTICLE-BY-ARTICLE FINDINGS .....</b>	<b>7</b>
ARTICLE 3 OF THE FRAMEWORK CONVENTION .....	7
ARTICLE 4 OF THE FRAMEWORK CONVENTION .....	10
ARTICLE 5 OF THE FRAMEWORK CONVENTION .....	17
ARTICLE 6 OF THE FRAMEWORK CONVENTION .....	19
ARTICLE 8 OF THE FRAMEWORK CONVENTION .....	22
ARTICLE 9 OF THE FRAMEWORK CONVENTION .....	23
ARTICLE 10 OF THE FRAMEWORK CONVENTION .....	25
ARTICLE 11 OF THE FRAMEWORK CONVENTION .....	27
ARTICLE 12 OF THE FRAMEWORK CONVENTION .....	28
ARTICLE 14 OF THE FRAMEWORK CONVENTION .....	31
ARTICLE 15 OF THE FRAMEWORK CONVENTION .....	32
ARTICLES 17 AND 18 OF THE FRAMEWORK CONVENTION.....	40
<b>III. CONCLUSIONS .....</b>	<b>41</b>
RECOMMENDATIONS FOR IMMEDIATE ACTION .....	41
FURTHER RECOMMENDATIONS.....	42

## I. Key findings

### Monitoring process

1. This fourth cycle opinion on the implementation of the Framework Convention by Serbia was adopted in accordance with Article 26(1) of the Framework Convention and Rule 23 of the Resolution (97)10 of the Committee of Ministers. The findings are based on information contained in the fourth State Report,<sup>2</sup> submitted by the authorities on 18 September 2018, other written sources and information obtained by the Advisory Committee from governmental and non-governmental sources during its visit to Bujanovac, Niš, Petrovac na Mlavi, Kostolac, Novi Sad and Belgrade from 18 to 22 March 2019. The Advisory Committee expresses its gratitude to the Serbian authorities for their cooperation in the organisation of the visit. The Advisory Committee welcomes the authorities' cooperative approach and expresses its gratitude for the assistance provided before, during and after the country visit.

2. The State Report was due on 1 September 2017 and it was unfortunately submitted with a 12-month delay. The Advisory Committee notes however with satisfaction that a wide consultation was held to prepare the fourth State Report, including with representatives of national minorities and members of civil society. The third Opinion of the Advisory Committee as well as the third Resolution of the Committee of Ministers on the implementation of the Framework Convention by Serbia have been translated into Serbian and made available on the website of the Office for Human and Minority Rights of Serbia. The Advisory Committee is neither aware of translations in minority languages nor of a follow-up meeting having been organised after the publication of these documents.

### General overview of the current situation

3. The state of implementation of the Framework Convention by Serbia is characterised by a significant discrepancy between the quality of the normative provisions adopted, sometimes for several years already, and the continuously low level of data collected in order to be able to follow-up on their actual implementation. This lack of data makes it difficult for the Advisory Committee to monitor and review policy measures as well as to assess any possible improvements over this fourth monitoring cycle.

4. Serbia is a multicultural country, with a diversity of national minorities, represented by 23 National Councils of National Minorities.<sup>3</sup> However, the way this diversity is taken into account in public policies is still marked by a notable contrast between the different levels of protection of minority rights in the Autonomous Province of Vojvodina and in Central and Southern Serbia. There is a need to significantly improve the level of protection in Central and

---

<sup>2</sup> Fourth State Report on Serbia.

<sup>3</sup> Albanian, Ashkali, Bulgarian, Bunjevci, Bosniak, Croat, Czech, Vlach, Egyptian, German, Greek, Hungarian, Macedonian, Montenegrin, Polish, Roma, Romanian, Russian, Rusyn, Slovak, Slovenian, Ukrainian as well as the Executive Committee of the Union of Jewish Municipalities of Serbia (see State Report, Section III.4). The results of the 2011 census results, as reproduced in the Third State Report on Serbia, Section 2.1 are as follows: Serbs 5,988,150; Albanians 5,809; Ashkali 997; Bosniaks 145,278; Bulgarians 18,543; Bunyevtsi 16,706; Vlachs 35,330; Gorani 7,767; Greeks 725; Egyptians 1,834; Jews 787; Yugoslavs 23,303; Hungarians 253,899; Macedonians 22,755; Muslims 22,301; Germans 4,064; Roma 147,604; Romanians 29,332; Russians 3,247; Ruthenians 14,246; Slovaks 52,750; Slovenians 4,033; Turks 647; Ukrainians 4,903; Croats 57,900; Tzintzars 243; Montenegrins 38,527; Czechs 1,824; Shokci 607; Others 9,890; Did not declare themselves 160,346.

Southern Serbia, without underestimating the need for further improvements in Vojvodina, in particular in terms of intercultural dialogue as well as regarding the command of State language.

### **Assessment of measures taken to implement the recommendations for immediate action**

5. Despite the commendable efforts of the authorities, the situation of Roma remains particularly alarming in terms of discrimination relating to most of aspects of their daily life, be it housing, employment, access to education or in access to services or healthcare. In the Serbian context, Roma refers to those considered as having permanently lived in Serbia, those displaced following the 1999 conflict in Kosovo<sup>4</sup> and those “returning” from Western countries where they unsuccessfully sought asylum or migrated.<sup>5</sup> While the 2011 census refers to Roma as representing 2.05% of the population (147 604 persons), unofficial estimates rather refer to 500 000 to 600 000 Roma living in Serbia.<sup>6</sup> Persons identifying themselves as Egyptians and Ashkali are often confused with Roma, and they face similar difficulties in their integration in Serbian society.

6. The level of representation of national minorities in the administration cannot be assessed due to a lack of data. Representatives of national minorities continue to report on a lack of representation of minorities, in particular in the State administration, including local branches established in areas traditionally inhabited by persons belonging to national minorities or where they live in substantial numbers. This question is particularly relevant in areas traditionally inhabited by Albanian and Bosniak minorities. Roma are almost absent from the State and local administration.

7. The Law on National Councils of National Minorities was revised in 2018 following a three-year consultation process. New elections were held in November 2018 (see Article 15). The overall number of persons registered on the relevant electoral roll increased, which is to be welcomed. The campaign was however not monitored, in particular in the media, and this makes it difficult to assess how effectively matters of concern to persons belonging to national minorities have been taken into account during the campaign. A qualitative and quantitative analysis of the work carried out by the National Councils is necessary in order to further assess the quality of the system of representation.

### **Assessment of measures taken to implement the further recommendations**

8. The authorities demonstrate the necessary flexibility in the use of the 2011 census data, in particular with regard to the Albanian and Roma communities. Notable improvements are also to be underlined with regard to regularising the status of a large number of stateless persons, although efforts should not be decreased in this regard. Positive developments have also to be

---

<sup>4</sup> \*All references to Kosovo, whether 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.

<sup>5</sup> Ad Hoc Committee of Experts on Roma Issues (CAHROM), Thematic report on challenges and best practices in implementing Roma inclusion strategies, with a focus on solving the lack of IDs and improving access to social services (Ukraine, Greece, the former Yugoslav Republic of Macedonia, Poland and Serbia), CAHROM(2017)17, October 2017.

<sup>6</sup> See, *inter alia*, Ad Hoc Committee of Experts on Roma Issues (CAHROM), Thematic Report on (Re-) Housing Solutions for Roma and Alternative Measures to (Forced) Evictions (further to the CAHROM thematic visit to Serbia, 18-20 November 2013, CAHROM (2014)4, October 2014; Council of Europe, Estimates on Roma population in European countries; Government of Serbia, The Strategy of Social Inclusion of Roma for the Period from 2016 to 2025, pages 16-17.

noted with regard to the publishing of textbooks in minority languages, with the exception of those in the Albanian language.

9. Important steps still need to be taken in order to improve interactions between the various national minority communities living in Serbia and to promote a genuine intercultural dialogue and mutual understanding. Councils for inter-ethnic relations should constitute a more effective instrument for the integration and inclusion of national minorities at local level, but they still operate at a regrettably low level and their competences are limited. The privatisation of large parts of the media has also led to the closing of several local TV and radio stations as well as newspapers. While media provision in minority languages is still significant, it is nevertheless critical that the authorities start proactively assessing the impact of the privatisation process and the level of access to information in minority languages, including through a qualitative assessment.

10. In the following part of the opinion, a number of articles of the Framework Convention are not addressed. Based on the information currently at its disposal, the Advisory Committee considers that the implementation of these articles does not give rise to any specific observations. This statement is not to be understood as signaling that adequate measures have now been taken and that efforts in this respect may be diminished or even halted. Rather, the Advisory Committee considers that the obligations of the Framework Convention require a sustained effort by the authorities. Furthermore, a certain state of affairs which may be considered acceptable at this stage may not necessarily be so in further cycles of monitoring. Finally, it may be that issues which appear at this stage to be of relatively minor concern prove over time to have been underestimated.

## II. Article-by-article findings

### Article 3 of the Framework Convention

#### Personal scope of application

11. The Serbian authorities have not submitted any declaration or interpretative statement upon ratification of the Framework Convention related to its personal scope of application. The Advisory Committee welcomes, as it has in the past,<sup>7</sup> the flexible approach maintained by the Serbian authorities with regard to access to linguistic minority rights (Articles 10, 11 and 14) for non-citizens sharing a language with a national minority in Serbia. It notes however that, despite its reiterated recommendations, Article 2 of the Law on the Protection of Rights and Freedoms of National Minorities still defines a national minority as “any group of citizens of the Republic of Serbia which, though constituting a minority in the Republic of Serbia’s territory, is numerically sufficiently representative, belongs to a population group whose members have a long term and firm bond with the territory of the Republic of Serbia, and possesses characteristics such as language, culture, national or ethnic affiliation, origin or confession, differentiating them from the majority population, and whose members are characterised by care to collectively maintain their common identity, including their culture, tradition, language or religion”.

12. The Advisory Committee recalls in this regard that – beyond its strong symbolic importance for persons belonging to national minorities – the personal scope of application of the Framework Convention should where appropriate also extend to non-citizens, particularly where exclusion on grounds of citizenship may lead to unjustified and arbitrary distinctions, for example when such exclusion concerns stateless persons belonging to national minorities who permanently reside on a given territory.<sup>8</sup> The Advisory Committee has always welcomed instances in which states parties have extended minority rights to non-citizens, thereby in practice disregarding an officially still existing precondition of citizenship.<sup>9</sup> A general application of this criterion may indeed act as a constraint in relation to several minority rights, in particular participation in social and economic life (see Article 15). While the Advisory Committee welcomes measures that have been or are being implemented in order to reduce statelessness in Serbia, legal and practical obstacles remain however for birth registration, acquisition of citizenship as well as registration of permanent residence and issuance of ID cards (see Article 4). This concerns mainly persons belonging to national minorities identifying themselves as Roma.

#### *Recommendation*

13. The Advisory Committee reiterates its call on the authorities to consider lifting the potentially limiting criterion of citizenship contained in the Law on the Protection of Rights and Freedoms of National Minorities.

#### Data collection and population census

<sup>7</sup> Third Advisory Committee Opinion on Serbia, adopted on 28 November 2013, Para. 36.

<sup>8</sup> Thematic Commentary No. 4, The Framework Convention: a key tool to managing diversity through minority rights. The scope of application of the Framework Convention for the Protection of National Minorities, adopted on 27 May 2016, para. 15.

<sup>9</sup> Thematic Commentary No. 4, para. 30.

14. The last population census was held in 2011. The Advisory Committee already had the opportunity to express its views on the process held in 2011 in its previous Opinion.<sup>10</sup> Keeping in mind the circumstances in which the 2011 population census was held,<sup>11</sup> the Advisory Committee notes with satisfaction that the authorities continue to demonstrate a flexible approach in the use of the 2011 census data for policy development, in particular as regards those affecting persons belonging to the Roma and Albanian minorities. The Advisory Committee notes also with satisfaction that the Strategy for Social Inclusion of Roma Men and Roma Women in the Republic of Serbia recognised the need for cautious use of such figures. When elaborating the Action Plan for 2017-2018, data from a survey conducted by UNICEF in 2014<sup>12</sup> were used as complementary data. With regard to Albanians, a new estimate of the number of inhabitants in Preševo, Bujanovac and Medvedja, based on a study carried out by the OSCE, the European Union and the Embassy of the United States is now being used to design social policy measures.<sup>13</sup> The authorities have formally decided that a new such estimate shall be used until the next population census is carried out,<sup>14</sup> apart from when the applicable legislation prescribes otherwise, as is the case for the funding of national councils (see Article 15).<sup>15</sup> The Advisory Committee welcomes the use made by the authorities of such alternative data and recalls that official statistics, for a variety of reasons, may not fully reflect reality. Results should be reassessed periodically and analysed flexibly, in close consultation with minority representatives. Authorities should also further avail themselves of other sources of information, including the general labour force and other surveys, as well as independent qualitative and quantitative research available on issues pertaining to the access to rights or persons belonging to national minorities.<sup>16</sup>

15. The Advisory Committee was further informed by the Statistical Office of the Republic of Serbia that the next census is planned for April 2021. It will involve a traditional door-to-door interviewing method, but interviewers will be equipped with laptops rather than paper questionnaires in order to reduce the data processing phase. The preliminary results will be published within a month while final results are expected to be published in 2021 or 2022. Questions on ethno-cultural characteristics will be formulated as open-type questions and the questionnaire will indicate that respondents are not obliged to declare themselves as affiliating to a given religion or ethnicity.

16. The Advisory Committee has, during its visit, asked persons belonging to national minorities whether they would be interested in the possibility, through the census, to affiliate themselves with multiple ethnicity or nationality. While some showed interest, most of the Advisory Committee's interlocutors were of the opinion that multiple affiliations could potentially weaken the rights of their minority group. Some of the interlocutors of the Advisory

---

<sup>10</sup> Third Advisory Committee Opinion on Serbia, adopted on 28 November 2013, Para 46 to 49.

<sup>11</sup> Third Advisory Committee Opinion on Serbia, Paras. 45 to 49.

<sup>12</sup> Statistical Office of the Republic of Serbia and UNICEF, Serbia Multiple Indicator Cluster Survey and Serbia Roma Settlements Multiple Indicator Cluster Survey, 2014, Final Reports.

<sup>13</sup> State Report, Section III.5.

<sup>14</sup> Government of the Republic of Serbia, Conclusion 05 no. 90-7304/2015 on the acceptance of the Activity Report for the implementation of the process of estimating the number of inhabitants in the municipalities of Preševo, Bujanovac and Medvedja, 2 July 2015.

<sup>15</sup> State Report, Section III.5.

<sup>16</sup> Thematic Commentary No. 4, Para. 18.



Committee even contested that they could legally express multiple affiliations within the census process, whereas the authorities have confirmed otherwise to the Advisory Committee.

17. The Advisory Committee recalls that the right to free self-identification, which is of cardinal importance and constitutes the cornerstone of international protection of minorities,<sup>17</sup> also extends to multiple affiliation. Persons belonging to national minorities should never be obliged to choose between preserving their minority identity – or identities – or claiming the majority culture, as all options must be fully available to them. This implies that practices by which an individual affiliates with a particular minority should not be seen as exclusive, as he or she may simultaneously identify with other minorities or with the majority. However, this must not be used as an argument to interfere with the rights of persons belonging to national minorities to self-identify freely and to claim minority protection.<sup>18</sup> All persons and groups concerned should be made aware of the possibility and enabled to avail themselves of the right to self-identify freely in order to access their rights. There should be no obstacles in practice to the choice of affiliating with a minority, or several, or to the majority; rather, the choice should be made free of any fear of resulting disadvantages or of loss in social prestige.<sup>19</sup>

18. While welcoming the possibility for multiple affiliation in the census form, the Advisory Committee regrets that persons belonging to national minorities are not sufficiently made aware of the advantages of multiple affiliations and that the system as a whole is not structured around this possibility. The Advisory Committee regrets in particular that persons belonging to national minorities may only be registered in one special electoral roll for the election of the National Councils (Article 15). The Advisory Committee considers that promoting an environment where multiple affiliation is perceived as an asset rather than a weakness is a duty of the State parties to the Framework Convention, as reflected under its Article 6. In the short time between this Opinion's publication and the next census, and given the importance attached in Serbia to the size of a minority population for access to minority rights, including funding of the national councils, it is important to ensure that persons belonging to national minorities are adequately informed of the importance of the 2021 census, including about the nature and effects of multiple affiliation. As it does systematically, the Advisory Committee encourages the authorities to make all information on the methodology and aim of data collection available in the languages of national minorities, and to include persons belonging to national minorities as interviewers in the organisation and operation of such processes, particularly in areas where national minorities are settled in substantial numbers.<sup>20</sup>

19. The Advisory Committee recalls also that the population census may provide the authorities with valuable statistical information in areas such as educational attainment, employment – including in public services – and household income. It therefore plays a crucial role, completed by other reliable data,<sup>21</sup> in the development of targeted policies aimed at improving the implementation of minority rights. It is therefore important to plan awareness-

<sup>17</sup> See, *inter alia*, European Court of Human Rights Grand Chamber judgment in the case of *Molla Sali v. Greece*, no. 20452/14, § 157, 19 December 2018.

<sup>18</sup> Thematic Commentary No. 4, para. 13.

<sup>19</sup> Thematic Commentary No. 4, para. 14.

<sup>20</sup> Thematic Commentary No. 4, para. 17.

<sup>21</sup> Thematic Commentary No. 2, The effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, adopted on 27 February 2008, para. 30. Also available in Albanian, Bosnian, Czech, Hungarian, Macedonian, Romanian or Serbian.

raising activities well in advance of the census so that persons belonging to national minorities are informed about its purpose for the population, including of the benefits they can expect from it. Such information should be adapted, in particular in terms of medium, in order to reach out to persons belonging to national minorities, including the most vulnerable, such as Roma living in informal settlements.

### *Recommendations*

20. The Advisory Committee calls on the authorities to launch an information campaign well ahead of the next census, targeting specifically persons belonging to national minorities, raising their awareness about the advantages of participating in the census, about multiple affiliation, and about their respective rights, with a view to successfully combining the protection and promotion of minority rights with the collection of reliable information about the ethnic composition of the population.

21. The Advisory Committee calls on the authorities to ensure the effective participation of persons belonging to national minorities in the design of the census methodology and in the organisation and operation of such processes, including as interviewers. It also calls on the authorities to make all information on the census methodology and the aim of data collection available in the languages of national minorities.

## **Article 4 of the Framework Convention**

### **Anti-discrimination legislative framework**

22. The Constitution of Serbia<sup>22</sup> contains several provisions aimed at combatting discrimination. Its Article 21 prescribes equality of all before the constitution and the law. It also enshrines prohibition of discrimination on any grounds, including national origin, religion, language, or culture. Its Article 14 further guarantees “special protection [of the State] to national minorities for the purpose of exercising full equality and preserving their identity”. Article 24 of the Law on the Prohibition of Discrimination contains a specific provision prohibiting discrimination against national minorities but only on the grounds of “religious affiliation, ethnic origin, religious beliefs and language”. Article 3 of the Law on the Protection of Rights and Freedoms of National Minorities<sup>23</sup> however further prohibits “any form of discrimination on national, ethnic, racial, linguistic, religious or any other grounds against national minorities and persons belonging to national minorities”. A number of other recently adopted legislative texts contain anti-discrimination provisions<sup>24</sup> together with the possibility for affirmative measures. The Law on Public Servants, for example, foresees such affirmative measures for the employment of persons belonging to national minorities to give priority to equally qualified candidates in order to achieve appropriate representation (See Article 15).<sup>25</sup>

23. The Advisory Committee notes that the anti-discrimination provisions differ from one law to the other, which makes it difficult for persons belonging to national minorities to identify

---

<sup>22</sup> Official Gazette 98/2006.

<sup>23</sup> Official Gazette 47/2018.

<sup>24</sup> See, *inter alia*, Law on Preschool Education, Law on Amendments to the Law on Primary Education or Law on Amendments to the Law on Secondary Education.

<sup>25</sup> European network of legal experts on gender equality and non-discrimination, Country report Non-discrimination, Serbia, 2018.

under what circumstances they are protected from discrimination. The Advisory Committee therefore underlines the importance of consistency with international standards.

### *Recommendation*

24. The Advisory Committee encourages the authorities to reinforce the clarity and accessibility of the anti-discrimination legislative framework, as well as to ensure that all such laws comply with international standards.

### **Anti-discrimination monitoring and available remedies**

25. Articles 35 to 40 of the Law on the Prohibition of Discrimination regulate the procedure for applying to the institution of the Commissioner for the Protection of Equality (hereinafter “the equality body”). Complaints may be submitted to the equality body by the person who considers themselves to be discriminated against, but also by an organisation engaged in the protection of human rights or another person acting on behalf and with the agreement of the person concerned. In case the equality body finds that the rights of this person have been violated, it shall issue a recommendation suggesting a way of redressing the violation, and action must be taken within 30 days by the person violating those rights. If the latter fails to do so within 30 days, the equality body may make that failure public. The number of complaints submitted to the Equality Body tend to decrease (648 in 2015, 626 in 2016 and 532 in 2017), and the percentage of such complaints on the grounds of “national affiliation and ethnic origin” varies from one year to another (18.4% in 2015, 9.4% in 2016 and 9.8% in 2017). They concern primarily public institutions (ministries, courts, hospitals, social institutions) but also media, work environment, access to the labour market, education and professional training or provision of services and use of buildings.<sup>26</sup>

26. The Advisory Committee notes that persons belonging to the Roma community submit the most complaints to the equality body on the grounds of “national affiliation and ethnic origin”, representing often more than half of the complaints received (50.4% in 2015, 38.3% in 2016, 53.2% in 2017). The Advisory Committee also observes that a decrease in the total number of complaints related to discrimination does not necessarily reflect the situation of the most marginalised persons, but may also point to possible weaknesses in informing them of the legal remedies available, and to the potential need for further awareness-raising and legal support to use such remedies. Such information campaigns should in particular reach out to the most vulnerable, in particular Roma living in informal settlements, as well as to relevant community workers.

27. The Protector of Citizens of the Republic of Serbia is entitled to receive complaints but also to raise *ex officio* problems encountered, *inter alia*, by persons belonging to national minorities living in Serbia, who all fall under its mandate. In 2017 the Protector of Citizens of the Republic of Serbia dealt with 58 complaints and initiated three investigations *ex officio* concerning minority rights, out of which 49 complaints were declared inadmissible. The Advisory Committee underlines that the high level of inadmissibility may reflect a lack of awareness on the procedures before the Protector of Citizens by persons belonging to national minorities. The Advisory Committee observes also that admissible cases led to the issuance of 14

<sup>26</sup> Commissioner for the Protection of Equality, *Annual report 2015*, March 2016. Number of complaints per affiliation: Roma (60), Bosniak (8), Albanian (8), Vlach (6), Romanian (5), Croatian (40), Hungarian (4), Bulgarian (2), Slovak (1), Slovenian (1) and other minorities (20).

recommendations, out of which only 6 have been accepted by the authorities concerned, despite the Advisory Committee's precedent recommendations in this regard. The Ombudsman of the Autonomous Province of Vojvodina indicated to the Advisory Committee that the complaints he receives from persons belonging to national minorities living in Vojvodina are mostly related to the use of the minority languages in contact with the administration, in particular personal data in minority language and script, such as the spelling of names on diplomas.

28. The Advisory Committee observes also from the latest available Regular Report of the Protector of Citizens that a majority of complaints concerning national minorities is introduced by persons belonging to the Roma national minority. The Advisory Committee noticed however in the course of its visit that persons belonging to the Roma national minority do not necessarily refer to the institution of the Protector of Citizens when asked which remedy they could consider for their discrimination cases to be addressed. The Advisory Committee underlines in this regard the importance for an institution like the Protector of Citizens to be perceived as an accessible recourse, and the equal importance for persons belonging to national minorities to perceive it as such.

#### *Recommendation*

29. The Advisory Committee calls on the authorities to step up their efforts to raise awareness especially among groups most frequently exposed to discrimination, in particular Roma living in informal settlements as well as the relevant community workers, about the legislative standards and of the remedies available to victims of discrimination.

#### **Equality data collection and measures to promote effective equality**

30. The Advisory Committee notes from the outset that, despite its precedent recommendations, no significant changes were brought to the legal order with regard to the collection and processing of sensitive personal data relating in particular to individuals' national affiliation, but also to the language(s) spoken or their religion. It welcomes however a significant increase in the budget allocated to the Commissioner for Information of Public Importance and Personal Data Protection.<sup>27</sup>

31. The authorities have adopted the Strategy for the Prevention of and Protection from Discrimination in June 2013 and its Action Plan in October 2014. The latter covered a wide area of measures related to national minorities, including the setting up of the Budgetary Fund for National Minorities (Article 5), the elimination of discriminatory content in school textbooks (Article 12), as well as measures aimed at increasing the number of national minorities in the administration (Article 15) or at sanctioning local self-government units not complying with their legal requirements related to the establishment of the Councils for Inter-Ethnic Relations (Article 6). Concerning Roma, the Action Plan contained cross-references to the 2016-2025 National Strategy for the Social Inclusion of Roma (hereinafter referred to as the "Roma Strategy", see below). The Action Plan did not contain however major measures aiming to improve the collection of equality data. The implementation of the Action Plan was partly delayed and led to

---

<sup>27</sup> State Report, Section IV.1.

mixed results.<sup>28</sup> The Advisory Committee notes also that no further Action Plan was developed following the expiration of the 2014-2018 Action Plan, despite the remaining shortcomings of the anti-discrimination system, in particular in terms of equality data collection.

32. The Action Plan for the Realisation of the Rights of National Minorities adopted in March 2016<sup>29</sup> contains 11 chapters and follows the structure of the Framework Convention. While being subject to a quarterly monitoring since its launching, the implementation process was delayed and criticised, in particular by the Protector of Citizens of the Republic of Serbia, in the 2017 report.<sup>30</sup> The Advisory Committee observes that the Action Plan, while covering most of the provisions of the Framework Convention, did not contain measures aimed at creating a comprehensive equality data collection system including related to national minorities. It contains however sectorial measures such as the possibility for public administration employees to voluntarily declare their ethnicity. The relevant legal provisions were however not yet in force at the time of the Advisory Committee's visit to Serbia and their implementation could therefore not be monitored. The Advisory Committee notes also that no study was commissioned or supported in order to extract from the 2011 census and analyse the relevant data, such as the number of persons affiliating to national minorities and working in the State administration. Such a study would provide for stronger guarantees that data are collected in accordance with data protection standards than through individual declarations of State employees.

33. The Advisory Committee was informed by the authorities that a long-term programme is planned in order to establish a stronger data collection system within the Judiciary, and remedy the current situation that no disaggregated data, including by national or religious affiliation and gender, exist on court cases related to discrimination.

34. The Advisory Committee recalls that reliable information about the ethnic composition of the population is an essential condition for implementing effective policies and measures to protect minorities, but also for helping to preserve and assert their identity as well as for addressing their needs.<sup>31</sup> It therefore regrets that there is a very limited volume of disaggregated data available in Serbia regarding persons belonging to national minorities. In the view of the

<sup>28</sup> See, *inter alia*, YUCOM Lawyer's Committee for Human Rights, Discrimination in Serbia – Practice and challenges, February 2019.

<sup>29</sup> Office for Human and Minority Rights Action Plan for the Realisation of Rights of National Minorities, March 2016.

<sup>30</sup> Protector of Citizens of the Republic of Serbia, Regular Annual Report of the Protector of Citizens for 2017, March 2018.

<sup>31</sup> Conference of European Statisticians Recommendation for the 2020 Censuses of Population and Housing", United Nations Economic Commission for Europe, New York and Geneva, 2015, page 149, para. 701 to 703: "(...) countries with long-established multi-ethnic minority communities and/or recently arrived immigrant populations may wish to collect information on the ethnic composition of the population or of certain sub-groups of the population. The data are relevant for the understanding of the cultural diversity of the population, the position of ethnic groups in society as well as for the definition and monitoring of equality and anti-discrimination policies. Ethnicity provides a more accurate picture of the stock of immigrant populations, than can be obtained from information on country of birth or country of parents' birth alone, which will not be relevant for second and third generation immigrants. However, respondents' understanding or views about ethnicity, awareness of their family background, the number of generations that have lived in a country, and the length of time since immigration are all possible factors affecting the reporting of ethnicity in a census. Moreover, ethnicity is multi-dimensional and is considered to be more of a process than a static concept, and so ethnic classification should be treated as dynamic with movable boundaries. This may mean that classifications of ethnic categories will change between censuses which, while mirroring society at any one time, may lead to a degree of non-comparability between one census and another. Ethnic identity can be measured using a variety of concepts, including ethnic ancestry or origin, ethnic group, cultural origins, nationality, race, colour, minority status, tribe, language, religion or various combinations of these concepts. But for census purposes an affiliation with certain ethnic group should be distinct from an affiliation with a language and/or religious group, although overlap may be frequent. The combined collection and analysis of data on several ethno-cultural characteristics is particularly informative for the understanding of a country's cultural diversity."

Advisory Committee, this structural lacuna prevents the development of policies and strategies that genuinely address the needs of the persons concerned. As an example, any policy aimed at improving the representation of persons belonging to national minorities working in public services should have aimed to identify the current state of representation based on disaggregated statistics, before fixing target indicators to be reached and monitored (see Article 15). When this methodology is not applied, it is very difficult to support any claim that minority policies do indeed produce the expected results in practice. Data should therefore be reassessed periodically and analysed flexibly, in close consultation with minority representatives, in particular when statistics are used as the basis for the applicability of minority rights. The Advisory Committee has consistently emphasised the importance of regularly collecting reliable and disaggregated equality data related to the number and situation of persons belonging to national minorities. It has, however, cautioned states parties against the over-reliance on statistics and encouraged the authorities also to avail themselves of independent research, in particular when carried out by persons belonging to national minorities themselves, in order to assess and comprehensively address the particular shortcomings faced by persons belonging to national minorities.<sup>32</sup>

### *Recommendation*

35. The Advisory Committee calls on the authorities to significantly step up their efforts to set up and operate, as soon as possible and at the latest by the due date of the fifth State Report, a sustainable and human rights-based data collection framework on issues pertaining to the access to rights of persons belonging to national minorities as well as to promote complementary qualitative and quantitative research in order to assess the situation of persons belonging to national minorities. The Advisory Committee also calls on the authorities, on the basis of such data and research, to set up, implement, monitor and periodically review minority policies with the effective participation of persons belonging to national minorities.

### **The situation of the Roma**

36. In March 2016, the authorities adopted the 2016-2025 Roma Strategy. This text focuses on the 5 EU Roma integration goals, i.e. education, housing, employment, health and social protection. In March 2017, a Coordination Body was set up to monitor the implementation of the Roma Strategy and charged with coordinating the implementation efforts. It is, *inter alia*, tasked with monitoring the work of Roma coordinators and mobile teams working at local level. The 2017–2018 Action Plan for implementing the Roma Strategy was further adopted in June 2017. The Action Plan is to be reviewed after the first year of implementation, on the basis of a consultative process with civil society organisations and the Roma National Minority Council.

37. The Advisory Committee acknowledges the efforts made by the Serbian authorities, at institutional level, to structure their integration and inclusion policies towards persons belonging to the Roma national minority. It notes however that the most recent data still show a wide gap between the Roma and the non-Roma population living in their close vicinity in terms of access

---

<sup>32</sup> Thematic Commentary No. 4, para. 66.

to health services, employment rate (Article 15), youth in education and training (Article 12) as well as food security, which are all factors with life-long implications.<sup>33</sup>

38. With regard to healthcare and social protection,<sup>34</sup> the Advisory Committee remains very concerned by the situation of Roma,<sup>35</sup> in particular women and children.<sup>36</sup> World Health Organisation estimates that the mortality rate of infants in Roma settlements is twice as high as national average.<sup>37</sup> A majority of indicators show that access to health care is precarious for Roma living in settlements, including lower immunisation coverage and nutritional deficiencies.<sup>38</sup> Taking into account disaggregated data by ethnicity from Centres for Foster Care and Adoption in Serbia, a recent study<sup>39</sup> showed that an estimate of 30% of children in foster care in Serbia are Roma while they represent only 2% of the population. Child protection professionals consider these figures underestimated. The lack of prevention and support programmes helping Roma families to stay together or at least keep a contact was pointed out by psychologists and other specialists.<sup>40</sup> Poverty is pointed out as a significant factor in decision-making to remove Roma children from their families. While the recruitment of health mediators is commonly perceived as a positive measure, this role is not yet formalised and they remain recruited on a short-term basis.

39. Recent projects, mostly funded by international donors, demonstrate efforts in the field of social housing for Roma in Serbia,<sup>41</sup> which the Advisory Committee welcomes.<sup>42</sup> The number of Roma benefiting from social housing is however still reported as being very low.<sup>43</sup> Access to water and sanitation, as well as to electricity is often reported as a problem in Roma settlements, and overcrowding is structural.<sup>44</sup> Civil society organisations report also discriminatory collective billing methods applied by electricity providers only to Roma communities.<sup>45</sup> Forced evictions have still been reported within the fourth monitoring cycle<sup>46</sup> but have decreased during the last years, which is to be welcomed.<sup>47</sup> The adoption of the Law

<sup>33</sup> United Nations Development Programme, World Bank and European Commission, Regional Roma Survey 2017, Country factsheet "Roma at a glance", April 2018.

<sup>34</sup> Recommendation Rec(2006)10 of the Committee of Ministers on better access to health care for Roma and Travellers in Europe

<sup>35</sup> United Nations Development Programme, Health Deprivation among Roma in the Western Balkans, 2018.

<sup>36</sup> Statistical Office of the Republic of Serbia and UNICEF, Serbia Multiple Indicator Cluster Survey and Serbia Roma Settlements Multiple Indicator Cluster Survey, 2014, Final Reports.

<sup>37</sup> Commission for Protection of Equality, Abridged version of 2017 regular annual report, March 2018.

<sup>38</sup> Statistical Office of the Republic of Serbia and UNICEF, Serbia Multiple Indicator Cluster Survey and Serbia Roma Settlements Multiple Indicator Cluster Survey, 2014, Final Reports.

<sup>39</sup> European Roma Rights Centre, Family Life Denied : Overrepresentation of Romani Children in State Care in Serbia, December 2017.

<sup>40</sup> *Ibid.*, p. 15.

<sup>41</sup> EU Support for Quality Housing of Additional 50 Roma Families (2n phase of "Let's a home together" project) launched in April 2017; the Project 'For Each Rom to Have a Home', launched in June 2017; or the EU-funded project 'New Homes for Nine Roma Families in Vladičin Han', completed in April 2017..

<sup>42</sup> Recommendation Rec(2005)4 of the Committee of Ministers on improving the housing conditions of Roma and Travellers in Europe

<sup>43</sup> Belgrade Centre for Human Rights, Human Rights in Serbia 2017, 2018; Civil Rights Defenders, The Wall of Anti-Gypsyism-Roma in the Republic of Serbia, November 2017.

<sup>44</sup> United Nations Development Programme, World Bank and European Commission, Regional Roma Survey 2017, Country factsheet "Roma at a glance", April 2018.

<sup>45</sup> European Roma Rights Centre, Roma Denied Electricity in Serbia: Discriminatory Collective Punishment for Roma Paying Through Collective Meter, October 2016; Serbian Court Issues Emergency Order to Turn the Lights Back On in Roma Neighbourhood, January 2019.

<sup>46</sup> Letter of Nils Muižnieks, Council of Europe Commissioner for Human Rights to the Deputy Prime Minister of Serbia and the reply from the Serbian authorities.

<sup>47</sup> Civil Rights Defenders, The Wall of Anti-Gypsyism-Roma in the Republic of Serbia, November 2017.

on Housing and Maintenance of Apartment Buildings<sup>48</sup> in November 2016 was aimed at prescribing when and under what conditions the eviction procedures are to be implemented and the legal safeguards regulating such procedures. Notwithstanding the lack of data on the implementation of the law, it has been severely criticised by human rights defenders.<sup>49</sup> The situation of a significant number of families having been evicted remains precarious and some are subject to pending applications to the European Court of Human Rights.<sup>50</sup>

40. With regard to employment,<sup>51</sup> the authorities are aware of the difficulties and recognise that Roma are “the only ethnic group almost entirely excluded from the formal labour market”.<sup>52</sup> Recent strategic documents, including the Roma Strategy or the National Employment Strategy, have initiated a long-term process to overcome these structural and long-standing problems. The Advisory Committee notes with satisfaction that the State administration and local self-government units, as well as the equality body, developed internship programmes for young Roma. It is however concerned that the situation of Roma in the labour market and the cumulative nature of discrimination they face are such<sup>53</sup> that it will require repeated and sustained efforts to bring persons belonging to the Roma national minority onto an equal footing with the rest of the population, reinforcing on the one hand child development<sup>54</sup> and education (Article 12) and combatting, on the other, discrimination and prejudice (Articles 4, 6 and 12). In this context, it is essential to develop policies based on clear statistical studies (Article 3) in order to take measures which genuinely address the needs of the persons concerned, and to monitor and assess such measures on a regular basis, to check that expected results are met and adapt accordingly the measures taken. The Advisory Committee considers it essential that Roma representatives are included in this process in order to be able to influence the decision-making process on measures that could be taken to create effective job opportunities for them. According to Roma interlocutors, employment is the most important issue to support Roma inclusion in society.

41. With regard to statelessness, the Advisory Committee welcomes that joint co-operation between UNHCR, the Government of Serbia and the Protector of Citizens of the Republic of Serbia has led to further amendment of the relevant legislation,<sup>55</sup> simplifying subsequent birth registration and procedures related to registration of residence. Those legislative changes, together with training sessions for relevant civil servants, are considered as having harmonised practice in the area of birth registration and registration of residence and contributed to set up systemic statelessness prevention solutions. According to UNHCR figures, the number of stateless persons in Serbia went from about 30 000 in 2015 to 2 400 in 2017, it

<sup>48</sup> Official Gazette of the Republic of Serbia, no. 104/2016.

<sup>49</sup> Amnesty International, Serbia : Still failing to deliver on human rights, Submission for the UN Universal Periodic Review, January 2018, page 12.

<sup>50</sup> Al Jazeera, Roma family takes eviction case to European Court of Human Rights, 16 Jun 2018

<sup>51</sup> Recommendation Rec(2001)17 of the Committee of Ministers on improving the economic and employment situation of Roma/Gypsies and Travellers

<sup>52</sup> Government of the Republic of Serbia, Employment and Social Reform Programme in the Process of Accession to the European Union, May 2016.

<sup>53</sup> See, *inter alia*, Civil Rights Defenders, The Wall of Anti-Gypsyism-Roma in the Republic of Serbia, November 2017.

<sup>54</sup> 5.7% of Roma children living in settlement attend early childhood education, compared to 50.2% for the rest of the population; 11.9% of Roma children living in informal settlements under the age of 5 have three or more children's books, compared to 71.9% for the rest of the population. See <sup>54</sup> Statistical Office of the Republic of Serbia and UNICEF, Serbia Multiple Indicator Cluster Survey and Serbia Roma Settlements Multiple Indicator Cluster Survey, 2014, Final Reports.

<sup>55</sup> Law on Amending the Law on Non-Contentious Procedures, Official Gazette 55/2014.



being understood that this primarily concerns Roma.<sup>56</sup> However, legal and practical obstacles are still reported with regard to administrative procedures for birth registration, acquisition of citizenship as well as registration of permanent residence and issuance of ID cards. Among the problems reported, practising lawyers refer in particular to by-laws preventing access to birth registration in cases where the mother does not possess personal documents. The lack of documentation further prevents access to children's allowance. Procedural fees also constitute a major factor preventing access to personal documents as well as social welfare centres failing to appoint guardians when the procedures require so, which concerns a number of cases where a parent without documents needs to testify through the representation of a guardian (including situation where the mother is asked to consent to a paternity test on the child). The Advisory Committee further notes that Roma returnees with children born abroad encounter particular difficulties in having their children registered in the birth registry book.<sup>57</sup>

42. Concerning the general situation of Roma, the Advisory Committee regrets a structural lack of data on the way legal provisions are implemented, making it impossible to support claims that the situation is addressed by the current policy measures. Interlocutors of the Advisory Committee expressed doubts that support awarded to Roma does in fact sufficiently reach people on the ground. The Advisory Committee is therefore of the opinion that independent qualitative and quantitative research is indispensable in order to be able to assess whether or not the measures taken are relevant and produce the expected results.

#### *Recommendations*

43. The Advisory Committee calls on the authorities to significantly step up their efforts in implementing and monitoring action plans within their set deadlines. Measures should be regularly monitored and periodically reviewed in order to verify that indicators have been reached and addressed the needs of persons concerned. Assessment and evaluation should be carried out in consultation with beneficiaries.

44. The Advisory Committee urges the authorities to resolutely address structural discrimination faced by persons belonging to the Roma national minority with regard to their citizenship status, as well as housing, healthcare, education and employment, including by taking the necessary affirmative measures to address the root causes of discrimination faced by Roma.

### **Article 5 of the Framework Convention**

#### **Preservation and promotion of all national minority identities and cultures**

45. National Councils of National Minorities have the competency to “establish cultural institutions for the purpose of preserving, improving and developing cultural specific features and safeguarding the identity of a national minority”.<sup>58</sup> They may also exercise a series of mostly consultative rights about, *inter alia*, the protection of cultural heritage. The provisions of the Law on the National Councils of National Minorities related to culture have been amended in 2018,

<sup>56</sup> UN High Commissioner for Refugees (UNHCR), UNHCR Submission on Serbia: 29th UPR session, January 2018.

<sup>57</sup> Praxis, Determining the date and place of birth, right to citizenship and permanent residence registration – Analysis of the remaining obstacles, 2017; Praxis and UNHCR, Review of the remaining obstacles in exercise of the right to birth registration, acquisition of citizenship and permanent residence registration, December 2018.

<sup>58</sup> Article 16 of the Law on the National Councils of National Minorities.

mostly through technical amendments, without it being possible for the Advisory Committee to assess at this stage the relevance of such changes and the way they will be implemented.

46. The Advisory Committee takes note of the detailed reporting of the authorities on budgets allocated to support the preservation and promotion of minority cultures and in particular of the authorities' remarks concerning the way budgets are allocated between the different National Councils.<sup>59</sup> It also takes note of several positive initiatives implemented by national minorities themselves.<sup>60</sup> The Advisory Committee has however been informed by several of its interlocutors representing the National Councils of the difficulties they face in funding their cultural activities. The Advisory Committee regrets that the system used to allocate funds to the different National Councils is not periodically reviewed and evaluated, in cooperation with the National Councils themselves, including those representing numerically smaller national minorities, in order to assess its relevance and fairness on a regular basis. Such review would allow persons belonging to national minorities and their representatives to be consulted and to publicly express their views on the allocation of funds.

47. The State authorities adopted a decree in March 2016 allocating resources to the Budget Fund for National Minorities. This Fund creates a new and welcome source of funding for the preservation and promotion of minority cultures.<sup>61</sup> It selects projects through public calls for proposals and priority areas of support are defined by the Council for National Minorities. While welcoming the setting up of the Fund, the Advisory Committee regrets the very low amount allocated to it in 2016 (15 000 EUR). The Fund has been significantly reinforced in 2017, with an annual budget amounting to about 185 000 EUR, which is a commendable step, but remains, in the Advisory Committee's view, insufficient in relation to the number of minorities in Serbia.

48. The Advisory Committee further observes that the resources allocated through the Budget Fund for National Minorities are exclusively awarded through competitive procedures and are project-based. It makes funding unforeseeable from one year to another for the beneficiaries. The Advisory Committee understands from its interlocutors that the allocation of project funds through competitive procedures is considered to be partly inefficient by minority organisations since it does not ensure sustainability. With regard to other available funding, the Advisory Committee notes also a two-speed system between, on one side, the Autonomous Province of Vojvodina that offers broader access to funds, and on the other side local self-governments units in Central and Southern Serbia offering a lower access to funds. Several interlocutors of the Advisory Committee from Central and Southern Serbia are even considering establishing their National Minority Councils in Vojvodina in order to benefit from this additional funding. While welcoming the efforts made by the Autonomous Province of Vojvodina, the Advisory Committee is concerned by the lack of available funding outside it.

49. The Advisory Committee observes also that the wide use of competitive procedures combined with an unbalanced funding system from one part of the country to the other makes access to funds quite challenging for certain minorities, in certain areas.<sup>62</sup> Increased funding for

---

<sup>59</sup> State Report, Section IV.3.

<sup>60</sup> It welcomes in particular the opening in the Autumn 2019 of the Museum of Danubian Swabians in Sombor, mostly thanks to the support of local and international donors.

<sup>61</sup> State Report, Section IV.3.

<sup>62</sup> Representatives of the Albanian, Bulgarian, Egyptian, Vlach as well as Rusyn National Councils have, *inter alia*, reported having such difficulties, be it for the purpose of establishing or funding a cultural centre (Egyptian), organising

national minorities in Central and Southern Serbia, as well as positive measures such as non-competitive procedures, specific procedures reserved for organisations with less resources, or the inclusion of selection criteria specifically designed to facilitate access to funds by organisations with less resources could offer solutions to these problems. Possibilities of capacity building should also be offered by the State to organisations with less resources so that they increase their chances to compete with other organisations.

50. The Advisory Committee also observes with regret the low percentage of supported projects with a multicultural dimension (less than 10% from the State budgets, and less than 2% from the Provincial budgets), which further echoes its findings under Article 6.

### *Recommendations*

51. The Advisory Committee calls on the authorities to further reinforce the resources allocated to the Budget Fund for National Minorities and take the necessary measures to ensure additional funding for national minorities in Central and Southern Serbia. It also calls on the authorities to develop capacity building opportunities for organisations with fewer resources to increase their chances to compete for funding by the Budget Fund for National Minorities and ensure that the design of competitive procedures takes into account their specific needs.

52. The Advisory Committee also calls on the authorities, at State as well as Provincial levels, to further promote and support multicultural and intercultural projects and ensure regular funding as well as sustainability.

## **Article 6 of the Framework Convention**

### **Tolerance and intercultural dialogue**

53. According to Article 81 of the Constitution of the Republic of Serbia, “in the field of education, culture and information, Serbia shall give impetus to the spirit of tolerance and intercultural dialogue and undertake efficient measures for enhancement of mutual respect, understanding and cooperation among all people living on its territory, regardless of their ethnic, cultural, linguistic or religious identity”. These principles are reiterated in several other legal texts.<sup>63</sup> The Advisory Committee welcomes the launching by the Office for Human and Minority Rights of the campaign “Together, we are Serbia” from July to December 2017 to raise the public’s awareness about cultural and linguistic diversity of Serbia. The Advisory Committee expresses however its general concern that such initiatives remain limited and notes that it is hard to assess if there has been any progress in inter-ethnic relations between different groups in Serbia. There is a low level of recent research or studies on inter-ethnic relations in Serbia and data has not been provided to the Advisory Committee in this respect.

54. The Advisory Committee recalls that Article 6 is the only provision of the Framework Convention that explicitly applies to “all persons living on [the] territory” of States Parties. The Advisory Committee has consistently held that an exclusive view that separates the issue of

---

cultural activities (Albanian, Rusyn), further standardising their language (Vlach) or simply diversifying their activities and being able to cover all the competencies of the National Council (Bulgarian, see also Article 9).

<sup>63</sup> State Report, page 139.

traditional minority protection from broader questions surrounding the integration of society does not do justice to the aim and purpose of the Framework Convention and rather hinders the enjoyment of the rights of persons belonging to national minorities. In fact, the promotion of tolerance and openness towards diversity in society is essential not only for the development and implementation of successful integration strategies, but it is also a central precondition for persons belonging to national minorities to self-identify as such without hesitation and proactively claim the rights contained in the Framework Convention.<sup>64</sup>

55. One of the key institutional measures aimed at making those principles more concrete and effective in Serbian society is the establishment of Councils on Inter-Ethnic Relations as provided for by the 2002 Law on Local Self-Government.<sup>65</sup> In its previous opinion, the Advisory Committee had already underlined that such bodies could “ensure that a forum exists in which to bring together all issues of inter-ethnic relations at local level”. The Advisory Committee notes with regret that the setting up and functioning of such councils remains a concern, including in the 72 ethnically mixed local self-government units where they are legally compulsory.<sup>66</sup> Where they have been set up, a significant percentage of councils do not function in practice, often as members have not been nominated. Where they have started functioning, the number of meetings held remains low and their impact remains questionable.<sup>67</sup> The Advisory Committee observes however that good practices could be drawn from the council of the city of Sombor, which is fully operational and regularly consulted, including on budgetary issues.

56. The Advisory Committee recalls also that in order to strengthen social cohesion, the aim of Article 6 is, *inter alia*, to promote tolerance and intercultural dialogue, by eliminating barriers between persons belonging to ethnic, cultural, linguistic and religious groups through the encouragement of intercultural organisations and movements promoting mutual respect and understanding and to integrate these persons into society while preserving their identity.<sup>68</sup> Interlocutors of the Advisory Committee have pointed out that only few initiatives are effectively taken with a view to proactively eliminate barriers between different ethnic groups. The Advisory Committee is of the opinion that, with the required support of State authorities, the Councils for Inter-Ethnic Relations as well as other types of decentralised structure representing specifically persons belonging to national minorities at local level (see Article 15) could contribute to eliminating such barriers at local level and complement the National Councils of National Minorities (Article 15), which are still functioning on the basis of a centralised approach.

### *Recommendations*

57. The Advisory Committee calls on the authorities to strongly support the development of independent qualitative and quantitative research showing the level and nature of inter-ethnic relations, including relations between persons belonging to national minorities and persons belonging to the majority.

<sup>64</sup> Thematic Commentary No. 4, para. 53.

<sup>65</sup> Official Gazette of the Republic of Serbia, 9/02, 33/04, 135/04 and 62/06.

<sup>66</sup> Protector of Citizens of the Republic of Serbia, Special Report on Councils for Inter-Ethnic Relations, July 2017.

<sup>67</sup> See, *inter alia*, Ljubica Djordjević, Local bodies for interethnic relations in the Western Balkans States: Still an empty shell, ECMI Working Paper #106, November 2018.

<sup>68</sup> Explanatory Report on the Framework Convention for the Protection of National Minorities, Para 49.

58. The Advisory Committee calls on the authorities, on the basis of such research, to set up, implement, monitor and periodically review a comprehensive strategy aimed at revitalising inter-ethnic relations, in consultation with persons belonging to national minorities and local self-government units. This strategy should clearly take into account the need to involve the majority in the integration and inclusion of national minorities in Serbian society.

59. The Advisory Committee urges the authorities to implement without delay the recommendations of the Protector of Citizens of the Republic of Serbia listed in its Special Report on Councils for Inter-Ethnic Relations and to commission an independent qualitative study, as soon as possible and at the latest before the due date of the fifth State Report, in order to assess the functionality of the Councils for Inter-Ethnic Relations.

### **Protection against hate crime and hate speech**

60. Article 54a of the Criminal Code of Serbia characterises hatred based on race, religion, national or ethnic affiliation, sexual orientation or gender identity as an aggravating circumstance. Hate speech as such is not incriminated as a specific criminal offense. Article 387.4 of the Criminal Code however establishes as a criminal offense the dissemination or publication of texts, images or any other representation of ideas or theories that support or incite hatred, discrimination or violence against any person or group. In its last report on Serbia, ECRI recommended that the Serbian authorities bring their criminal law further into line with its General Policy Recommendation No. 7.<sup>69</sup> Over the monitoring period, the authorities report a slightly decreasing but still worrying number of incidents considered as motivated by intolerance on the grounds of national origin, race or religion (158 incidents in 2012, 157 in 2013, 108 in 2014, 121 in 2015, 89 in 2016).<sup>70</sup> Such incidents number 77 physical assaults, of which 60% against Roma, as well as a significant number of cases of damage to religious facilities (153), damage to premises belonging to Roma (80) and defilement and desecration of cemeteries and memorials (69). The authorities however have not provided data on the number of convictions.

61. Efforts have been made to raise the awareness of prosecutors and police officers on the importance of prosecuting hate crimes. Guidelines for Prosecution of Hate Crimes in the Republic of Serbia have been developed as an attempt to help public prosecutors identify hate crimes as well as better understand the specificity of criminal offences motivated by hatred. Those Guidelines also address how to conduct efficient and effective investigations. The Ministry of the Interior made further efforts to raise awareness among the police force about the importance of prosecuting hate crimes, including the development of a manual and several one-day seminars held throughout 2016 and attended by a total of 179 police employees, focusing on recognising and reacting to discrimination.

62. The Advisory Committee welcomes the initiatives taken by the authorities to raise awareness on the importance of prosecuting and investigating hate crimes. It remains concerned however by the number of hate crimes committed against persons belonging to national minorities, including a significant number of instances of public hostility towards Roma.<sup>71</sup> The

<sup>69</sup> ECRI Report on Serbia, fifth monitoring cycle, adopted on 22 March 2017, Paras. 1 to 7.

<sup>70</sup> State report, Page 145.

<sup>71</sup> Belgrade Centre for Human Rights, Human Rights in Serbia 2017, 2018, referring in particular to assaults targeting Roma as well as hate speech graffiti.

lack of available data makes it difficult to define trends on hate speech, however interlocutors from the concerned groups share the common impression that hate speech is on the rise in particular in national media, and is mostly used for political purposes. The Advisory Committee considers that these repeated instances of public hostility manifestly amount to “hate speech”<sup>72</sup> within the meaning of Recommendation n° Rec (97) 20 of the Committee of Ministers to the Member States. Observing that cases of hate speech do also originate from politicians, the Advisory Committee reiterates that the impact of such statements in the public debate is critical, given their particular influence as public figures and the immediate amplification of their actions and speeches in the media.

63. The Advisory Committee regrets that hate speech is neither systematically monitored nor expressly prohibited. According to long-standing case-law of the European Court of Human Rights, there can be no doubt that hate speech does not enjoy protection from Article 10 of the European Convention on Human Rights, guaranteeing freedom of expression.<sup>73</sup>

64. There continue to be occasional reports of police brutality against Roma,<sup>74</sup> for which the Advisory Committee has repeatedly underlined that it contributes to feeding distrust of minorities towards the police. It remains all the more important, in this context, to ensure adequate representation of national minorities in the police (see also Article 15).

#### *Recommendations*

65. The Advisory Committee calls on the authorities to further bring their criminal law into line with ECRI standards. It calls also on the authorities, at all levels, to condemn systematically and in a timely manner all instances of intolerance, in particular in public discourse, as well as to investigate systematically and, where relevant, prosecute hate speech statements.

66. The Advisory Committee reiterates its calls on the authorities to significantly step up their efforts in raising awareness of the police, prosecutors and the Judiciary as to the importance of investigating, prosecuting hate-motivated crimes against persons belonging to national minorities, and to ensure that police forces adequately reflect the diversity of the population in the local self-government unit where they operate, throughout the territory of the Republic of Serbia.

### **Article 8 of the Framework Convention**

#### **Right to manifest one’s religion and establish institutions, organisations and associations**

67. As in the Third Opinion, the Advisory Committee can but regret that the recommendations it has previously formulated have still not resulted in any change in Serbian legislation. Differential treatments, already underlined by the Venice Commission in 2006, remain in effect for religious organisations which are not among the seven “traditional churches

<sup>72</sup> Council of Europe, Media Regulatory Authorities and Hate Speech, June 2017, Pages 78 to 83.

<sup>73</sup> ECtHR, Jersild v. Denmark, 23 September 1994, Series A No. 298, para. 35; see also, Pavel Ivanov v. Russia, 35222/04, decision of 20 February 2007; M’Bala M’Bala v. France, 25239/13, decision of 20 October 2015, para. 40.

<sup>74</sup> European Roma Rights Centre, Roma Tortured by Police in Belgrade After Reporting Stolen Car, 16 May 2017.

and religious communities”,<sup>75</sup> in particular with regard to the acquisition of legal personality as well as their tax status.<sup>76</sup>

68. The Advisory Committee recalls that, according to Article 23 of the Framework Convention, the rights and freedoms flowing from principles enshrined in the Framework Convention, in so far as they are subject of a corresponding provision in the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter “ECHR”) or in the Protocols thereto, shall be understood so as to conform to the latter provision. In line with the European Court of Human Rights’ case-law under Article 9 ECHR, the Advisory Committee recalls that a State which has granted certain religious communities with a special status entailing specific privileges must not only comply with its duty of neutrality and impartiality but must also ensure that other religious groups have a fair opportunity to apply for this status and that the criteria established are applied in a non-discriminatory manner.<sup>77</sup> The Advisory Committee can therefore only reiterate its recommendations for a revision of the rules applicable to non-traditional religions as regards the acquisition of legal personality and their tax status.

69. The Advisory Committee further notes that representatives of the Vlach communities have entered into a constructive and pragmatic dialogue with the Serbian Orthodox Church in order to improve access to religious services in the Vlach language. While the situation has positively evolved, they report that obstacles remain in practice. Some representatives of Vlach communities also report attempts from the Romanian Orthodox Church to publicly deny the right of Vlachs to self-determine their national minority and religious affiliation. The Advisory Committee understands also from its interlocutors that persons belonging to the Egyptian minority encounter difficulties in accessing places of worship.

#### *Recommendation*

70. The Advisory Committee reiterates its call on the authorities to ensure that the right of persons belonging to national minorities to establish religious institutions, organisations or associations is effectively guaranteed in law as well as in practice, including by ensuring that legal provisions governing religious communities do not allow for discrimination, including against those of a numerically smaller size, in particular with regard to access to legal personality or tax status.

### **Article 9 of the Framework Convention**

#### **Access to printed and broadcast media in minority languages**

<sup>75</sup> The “traditional churches and religious communities” recognised in the Law are the following: Serbian Orthodox Church, Roman Catholic Church, Slovak Evangelical Church, Reformed Christian Church, Evangelical Christian Church, Islamic Religious Community and Jewish Religious Community.

<sup>76</sup> See, also, European network of legal experts on gender equality and non-discrimination, Country report Non-discrimination, Serbia, 2018, page 67.

<sup>77</sup> See, *inter alia*, European Court of Human Rights, Molla Sali v. Greece, no. 20452/14, Para. 155, 19 December 2018; İzzettin Doğan and Others, no. 62649/10, Para. 164, 26 April 2016. See also, *mutatis mutandis*, Religionsgemeinschaft der Zeugen Jehovas and Others, 40825/98, Para. 92, 31 July 2008; Savez crkava “Riječ života” and Others, 7798/08, Para. 85, 9 December 2010; Ásatrúarfélagid, 22897/08, Para. 34, 18 September 2012; and The Church of Jesus Christ of Latter-Day Saints v. the United Kingdom, no. 7552/09, Para. 34, 4 March 2014.

71. The 2014 Law on Public Information and Media has initiated the privatisation of 76 publicly owned media outlets in Serbia, out of which 44 were media broadcasting in minority languages. The stated objective of the reform was to reduce political and economic influences on the media owned by the State. Two sets of provisions were included in the law with the aim of guaranteeing the continued provision of programmes in minority languages: an obligation for new owners of retaining the core media business for a period of five years as well as a legal obligation to maintain the share of programmes in minority languages in the programming scheme as it was during the year preceding the adoption of the law. The privatisation process was effectively launched in 2015 despite strong opposition and public concerns of representatives of national minorities who requested that local and regional media broadcasting in minority languages be exempted from mandatory privatisation.<sup>78</sup>

72. There is still a significant number of media in minority languages in Serbia, in particular in Vojvodina. The remaining public Radio Television Vojvodina devotes two out of three channels to programmes in minority languages, including one channel entirely in the Hungarian language. While the State Report indicates that no “significant deviation in the continuity of broadcasting programmes in the languages of national minorities” was observed following the privatisation process,<sup>79</sup> the Advisory Committee was however informed of the closure of a significant number of local radio stations and print media outlets. In the absence of comprehensive State monitoring or reporting<sup>80</sup> on programmes broadcast in minority languages, it is difficult for the Advisory Committee to assess consistently and precisely the impact of the privatisation process on the volume and the quality of information available to persons belonging to national minorities in their own language. Several representatives of National Councils of National Minorities expressed their concerns about a decreasing number of media in minority languages. They reported to the Advisory Committee the important investments they made, and in some cases are still making, some of which represent a significant share of their budget, in order to maintain or develop their own media and mitigate the effects of the privatisation process.

73. The Advisory Committee is also concerned, as it underlined in its Third Opinion, that continuous and direct funding of media outlets by elected executive bodies such as the National Councils may raise questions about the editorial and political independence of such media and impact pluralism in minority media. The Advisory Committee notes in this regard that, despite the initial objective of the 2014 law, international observers still report on media dependence on public funding, which consequently exposes media to political influence, at both national and local levels.<sup>81</sup> Journalists’ organisations also report negative trends undermining editorial independence caused by links maintained between the political world and the media. The Advisory Committee also remains concerned that the expiration of the five-year obligation to retain the core media business in privatised media could constitute a pivotal deadline for minority media.<sup>82</sup> It recalls in this regard the important role played by both print media and

---

<sup>78</sup> South East European Media Observatory, Jovanka Matic and Dubravka Valić Nedeljković, Monitoring the implementation of new media legislation in Serbia, Privatisation of minority language media in Serbia, liberation of disappearance?, 2015.

<sup>79</sup> State Report, Section III.11.

<sup>80</sup> State Report, Section IV.6 : « Privatisation is a process which has been recently finished and at this point we cannot have a whole picture of the impact of the process on the situation in the media in minority languages ».

<sup>81</sup> Reporters without Borders and Balkans Investigative Reporting Network Serbia, Media Ownership Monitor Serbia, November 2017.

<sup>82</sup> Independent Journalists’ Association of Serbia (Snežana Trpevska & Igor Micevski, Indicators on the Level of Media Freedom and Journalists’ Safety in the Western Balkans, Comparative Analysis 2018, December 2018, Page 35.



broadcasting media in ensuring that persons belonging to national minorities are able to exercise their right to information. It also underlines the need to set up legal guarantees aimed at preserving sustainable editorial and financial independence of minority media and to secure editorial pluralism.

74. The Advisory Committee notes that the State report describes thoroughly the funding system for media support. While welcoming the volume of funds allocated to minority media, it regrets that such funding is not accompanied by a systematic monitoring and review of minority media, including with a quality perspective. It welcomes that a large part of the Action Plan for the Realisation of Rights of National Minorities focuses on access to information and that the Budget Fund for National Minorities will focus in priority on media. It nevertheless insists that such policies and funding initiatives should first and foremost be preceded by a thorough vision of the situation of minority media in the country in order to identify and design the necessary measures aimed at addressing the needs of persons belonging to national minorities. Having been informed of the ongoing development of a new national strategy on media, the Advisory Committee underlines the importance, in developing such documents, of consulting representatives of national minorities, taking into account the diversity of political opinions within each community, as well as media experts and independent researchers.

#### *Recommendations*

75. The Advisory Committee calls on the authorities to closely monitor the impact of the privatisation process on minority media and to commission a comprehensive and independent study on this subject. The Advisory Committee also calls on the authorities to take the necessary measures to ensure editorial independence of private and public minority media, including those owned by political representatives of national minorities.

76. In the context of the development of a new media strategy, the Advisory Committee calls on the authorities to consider minority media, from a quantitative as well as qualitative point of view, and in doing so to consult representatives of national minorities, taking into account the diversity of opinions within each community, as well as media experts and independent researchers.

### **Article 10 of the Framework Convention**

#### **Use of minority languages in relations with the authorities**

77. The Law on Employees in Autonomous Provinces and Local Self-Government Units was adopted in 2016, followed by a series of related by-laws, aimed *inter alia* at ensuring that the national composition of the population is reflected in the administration at local level (see Article 15)<sup>83</sup>. The Advisory Committee was also informed by its interlocutors of good practices already implemented at local level, such as the development of bilingual administrative forms in Serbian/Bulgarian in Bosilegrad and Dimitrovgrad or improvements related to the use of interpreters and translators in the Bosnian language in courts in Novi Pazar and Prijepolje. The Advisory Committee welcomes such initiatives, expecting that they constitute the first steps in

---

<sup>83</sup> State Report, Section III.12.

further improving the use of minority languages at local level, in areas traditionally inhabited by persons belonging to national minorities or where they live in substantial numbers.

78. The Advisory Committee notes however that the pause in recruitment in the State and local administrations, in force for several years now, has become a significant obstacle to the recruitment of speakers of minority languages. It regrets that comprehensive data is still not available to assess the relevance and the effectiveness of the measures taken, in particular to measure the level of employment of speakers of minority languages in the administration of autonomous provinces or of self-government units. It notes also that neither data, nor reporting from the authorities, is available on the level of employment of persons belonging to national minorities, or speakers of minority languages, in the State administration, including in inspectorates having branches at local level, such as tax administration, land registry or border control administration. The Advisory Committee understands from its interlocutors, in particular from Central and Southern Serbia, that they encounter difficulties in accessing State administration services in their minority language, including such local branches. In this regard, organisations promoting the Vlach language expressed a need for further support in order to finalise its standardisation process. Improving the representation of national minorities in the State administration is identified as a key factor to remedy these structural problems (see Article 15), as under-representation reduces the ability of persons speaking national minority languages to use their language in contacts with the public servants. The Advisory Committee was also informed by representatives of National Minority Councils that persons belonging to national minorities are too often unaware of their rights to use their minority language in relations with the local but also the State administration and, when they are so, that they encounter obstacles – such as delays – in being actually provided the requested public services. Such delays provoke a chilling effect on the persons concerned who prefer then using the Serbian language to have effective access to such services.

79. The Advisory Committee appreciates and welcomes the clarification contained in the State Report that the threshold of 15% of the population belonging to a national minority as of which a local self-government unit shall introduce the language and script of this national minority in official use corresponds to an obligatory threshold and does not prevent such measures to be taken below this threshold. The amendments made in 2018 to the Law on Protection of Rights and Freedoms of National Minorities further clarify that the official use of the minority language concerned shall be effective on the whole territory of the local self-government unit concerned. The State Report lists 26 self-government units where minority languages (sometimes several) are in official use despite the fact that the minorities concerned do not reach the 15% threshold.<sup>84</sup> The Advisory Committee remains concerned however by reports that certain local self-government units where the legal requirements are met still fail to recognise this state of fact in their Statute, preventing thus the effective official use of the minority language(s) concerned.

80. The Advisory Committee regrets also that the State Report does not contain any information on the level of information in minority languages provided in the framework of criminal procedures, in accordance with Article 10.3 of the Framework Convention.

### *Recommendations*

---

<sup>84</sup> State Report, Section IV.7

81. The Advisory Committee calls on the authorities to commission a study in order to evaluate the level of implementation of the legal provisions on the official use of minority languages and ensure that in all municipalities where the legal requirements are met, minority languages are effectively in official use.

82. The Advisory Committee calls on the authorities to step up their efforts, in areas traditionally inhabited by persons belonging to national minorities or where they live in substantial numbers, to collect data on the number of minority languages spoken by civil servants in State, provincial and local administrations and, in light of such data, to take the necessary measures, including adequate training targeting persons belonging to the national minorities concerned, to ensure that the number of speakers in these administrations corresponds to the greatest possible extent to the proportion of the population speaking minority languages.

83. The Advisory Committee calls on the authorities to step up their efforts in order to inform all persons belonging to national minorities in the areas concerned that they are entitled to use their minority language in contacts with the State, provincial and local administration.

## **Article 11 of the Framework Convention**

### **Personal names, topographical indications and other signs and inscriptions<sup>85</sup>**

84. The Advisory Committee notes with satisfaction that the registering of names in minority languages is available and does not raise difficulties in practice, throughout the territory of Serbia. It regrets however that instructions addressed by the Ministry of Public Administration and Self-Government Units to local authorities to ensure that forms of extracts from civil records are printed bilingually have only been addressed to self-government units in which minority languages are in official use. The Advisory Committee recalls in this regard that the provisions of Article 11.1 and 11.2 of the Framework Convention do not contain any territorial limitation to their scope of application.

85. As referred to in its last opinion, the Advisory Committee is convinced that the legal provisions are in place, in the Law on Official Use of Languages and Scripts as well as in the Law on National Councils of National Minorities, to allow the provisions of Article 11 relating to signs and inscriptions to be implemented and observed. The Advisory Committee notes however that the implementation of these provisions is linked to the recognition of the official use of the minority language(s) concerned by the local self-government unit concerned. These provisions may therefore remain unobserved in units failing to recognise the official use of minority languages in their Statute, despite the fact that the legal requirements may be met (see Article 10). The Advisory Committee recalls in this regard the importance of promoting multilingualism in signs and inscriptions as a means of conveying the message that a given territory is shared in harmony by various population groups. The Advisory Committee was also informed that

---

<sup>85</sup> The Advisory Committee notes that the Committee of Experts on the European Charter for Regional or Minority Languages (COMEX) has in 2018 had the opportunity to examine this development in depth while drawing up its fourth report on Serbia. The Advisory Committee refers to the detailed findings and recommendations of COMEX in its report.

multilingual signs or inscriptions may be removed due to renovations on public or private buildings and are not always displayed again once the renovation completed. The Advisory Committee is pleased to note however that the Ministry of Public Administration and Local Self-Government has sent a letter to cities and municipal administrations at the end of 2018 in order to draw their attention to their duty to implement the abovementioned legal provisions.<sup>86</sup>

### *Recommendations*

86. The Advisory Committee calls on the authorities to ensure that extracts of civil records can be printed bilingually or multilingually throughout the territory of Serbia when the records contain data in the Serbian language and one or several minority language(s).

87. The Advisory Committee reiterates its call on the authorities to ensure that the necessary measures to ensure that all local authorities where a minority language or languages are in official use comply with their obligation to display topographical indications in the relevant minority language or languages.

## **Article 12 of the Framework Convention**

### **Promotion of a multicultural and intercultural perspective in education**

88. The Advisory Committee notes from the outset that the State report contains only very limited information on measures taken in the fields of education and research to foster knowledge of the culture, history, language and religion of national minorities, including by the majority, or on measures aimed at facilitating contacts among students and teachers of different communities. The Advisory Committee welcomes the development of teaching materials related to minority languages with “elements of culture” of a given minority but notes that these are mostly elective subjects chosen by students willing to learn their own minority language (see Article 14) and not by the students affiliating with the majority.

89. The Advisory Committee has observed, in the course of its country visit, that the education system in Serbia is structured in such a way that contacts between students from different national minorities are not given primary consideration nor particularly promoted. The Advisory Committee has further witnessed that there is a perception among members of certain national minorities that bilingual education could be a potential source of assimilation. In the Advisory Committee’s view, such a perception could explain the low level of contacts between students from different affiliations.

90. The Advisory Committee’s principled position has always been that all aspects and elements of education should ensure “a climate of tolerance and dialogue”.<sup>87</sup> The core task for the authorities is therefore to organise the education system in a way which allows for interaction between persons from various groups in order to encourage mutual understanding and tolerance, while at the same time ensuring the successful maintenance and development of the elements of the identities of members belonging to those groups. Several methods have

---

<sup>86</sup> Contribution of the Ministry of Public Administration and Local Self-Government, addressed to the Secretariat of the Framework Convention in March 2019.

<sup>87</sup> Explanatory report, Para. 71.

been identified by the Advisory Committee over the years.<sup>88</sup> In this context, the Advisory Committee welcomes initiatives supported by the Pestalozzi Foundation in Preševo Valley to bring together students from different affiliations, in particular Albanian and Serbian, for cultural or sport events.

91. The Advisory Committee reiterates its view that languages form a continuum and the exact borders (linguistic and geographic) of languages are and will remain flexible and changing. In times of globalization and enhanced interaction, multilingualism is a factor of development of functional, cognitive and emotional assets. The Framework Convention itself presupposes the encouragement and support for bilingualism through a combined implementation of its Articles 12.1 and 14,<sup>89</sup> and has also identified possible methods in this regard.<sup>90</sup>

92. In addition to the teaching in and of minority languages, the mandatory curriculum should also include information on the history and contribution of minorities to the cultural heritage and the society of the State Party. Such teaching should not be limited to areas traditionally inhabited by national minorities, so that awareness of and respect for the linguistic diversity of society is promoted throughout the country from an early age onwards.<sup>91</sup> Adequate information on the composition of society, including national and other minorities, must form part of the public curriculum and of textbooks and education materials used in all schools throughout the territories of States Parties, not only to promote intercultural understanding and respect among all students, but also to raise the prestige and self-awareness of persons belonging to numerically smaller or disadvantaged groups.<sup>92</sup>

93. The Advisory Committee therefore considers it important that the authorities further identify an education system which would guarantee linguistic rights of persons belonging to national minorities and promotes a multicultural, multilingual and intercultural perspective in education. The Advisory Committee welcomes in this regard bilingual education initiatives in Serbian and Bulgarian languages, in Dimitrovgrad, at primary school level.

### *Recommendations*

94. The Advisory Committee urges the authorities to significantly step up their efforts to promote a multicultural and intercultural perspective in education, including by developing exchange programmes between communities as soon as possible and at the latest by the due date of the fifth State Report, at every level of education.

95. The Advisory Committee urges the authorities to ensure, as soon as possible and at the latest before the due date of the fifth State Report, that through a process including effective participation of persons belonging to national minorities, history curricula and teaching materials promote respect for all groups in society and provide broad knowledge on minorities as forming

---

<sup>88</sup> ACFC Thematic Commentary No. 1, "Education under the Framework Convention for the Protection of National Minorities", Section 2.1.2, March 2006.

<sup>89</sup> ACFC Thematic Commentary No. 1, Section 2.1.2, March 2006.

<sup>90</sup> The term « bilingual education » should be preferably saved for schools trying to keep both languages (minority and majority) at a similar level of importance, spread across curricula and different classes, and where classes are to the extent possible composed of pupils and teachers from different groups. See, ACFC Thematic Commentary No. 1, "Education under the Framework Convention for the Protection of National Minorities", Section 2.1.2, March 2006.

<sup>91</sup> Thematic Commentary No. 3, The language rights of persons belonging to national authorities under the Framework Convention, adopted on 24 May 2012, Para. 82.

<sup>92</sup> Thematic Commentary No. 4, para. 59.

an integral part of Serbian society, as well as to ensure that multiple perspectives are encouraged in historical and contemporary research.

96. The Advisory Committee encourages the authorities to promote, in consultation with representatives of the national minorities concerned, possible models for bilingual or multilingual education.

### **Access to education for Roma**

97. The overall situation of Roma children with regard to access to education, as described in the Roma Strategy,<sup>93</sup> remains a serious concern of which the authorities are well aware (see Article 4). Undeniable efforts are made to remedy this very difficult situation.<sup>94</sup> Interlocutors of the Advisory Committee underlined the necessity to increase the level of access and attendance at pre-school level as a determining factor to improve the overall situation of Roma students. The Advisory Committee welcomes that it has been clearly identified as a priority in the Roma Strategy. It notes however that, in pre-school education (ages 3 to 6), the level of enrolment is not only low (17% against 41% for the neighbouring non-Roma population) but decreased from 2011 to 2017.<sup>95</sup> In compulsory education (from ages 7 to 15), the enrolment rate of Roma is increasing (84% in 2017, against 80% in 2011) but a gap remains with the neighbouring non-Roma population (96%). The completion rate in compulsory education shows an even larger divide (62% for Roma, and 94% for non-Roma) and the completion rate in upper secondary education is of 14% for Roma, against 84% for non-Roma neighbours. The higher education completion rate continues to be very low in the Roma population at 1%, whilst it is 21% for the neighbouring non-Roma population. Representatives of Roma parents also report that school fees as well as costs for textbooks and lunches at school often constitute obstacles to access to education for Roma students. Positive reports on the involvement of pedagogical assistants at local level are to be noted. They remain however subject to precarious contractual situations.

98. The Advisory Committee further regrets that segregation of Roma children in schools is still reported,<sup>96</sup> where Roma children are in a discriminatory process separated from other children, in manifest breach of the relevant Council of Europe standards.<sup>97</sup> Early and forced marriages remain also an insufficiently and inadequately addressed issue, according to civil society reports, which further hinders access to education for students affected.<sup>98</sup>

### *Recommendations*

99. The Advisory Committee urges the authorities to step up their efforts to eliminate all forms of segregation of Roma children and to include them in mainstream education. The

---

<sup>93</sup> Strategy for the Social Inclusion of Roma in the Republic of Serbia 2016-2025.

<sup>94</sup> State Report, Section IV.9.

<sup>95</sup> United Nations Development Programme, World Bank and European Commission, Regional Roma Survey 2017, Country factsheet "Roma at a glance", April 2018.

<sup>96</sup> ERRC, Romani children segregated in Serbian kindergarten, September 2016.

<sup>97</sup> Recommendation CM/Rec(2009)4 of the Committee of Ministers to member states on the education of Roma and Travellers in Europe, adopted by the Committee of Ministers on 17 June 2009 at the 1061<sup>st</sup> meeting of the Ministers' Deputies.

<sup>98</sup> Praxis, League of Roma SKRUG, Institute on Statelessness and Inclusion, European Network on Statelessness and European Roma Rights Centre, Joint alternative report submitted to the 94<sup>th</sup> session of the Committee on the Elimination of Racial Discrimination in relation to the 2<sup>nd</sup> and 3<sup>rd</sup> reports of Serbia, October 2017.

situation at all levels should be closely monitored in order to avoid any segregation based on ethnic affiliation.

100. The Advisory Committee calls on the authorities to redouble their efforts to combat school absenteeism and early dropouts among Roma children. Such efforts should include the expansion and development of the long-term use of pedagogical assistants who can assist Roma children and their families in their contact and inclusion in the educational system.

## **Article 14 of the Framework Convention**

### **Teaching in and of minority languages, including teaching materials<sup>99</sup>**

101. Recent changes to the provisions of Article 14 of the Law on National Councils of National Minorities have reinforced the competences of the National Councils with regard to education. They shall now provide their consent before any teaching material in and of minority languages is approved by the Ministry of Education.<sup>100</sup> Significant efforts have been made in practice with regard to the publication of textbooks. Representatives of national minorities regret however that a one-year gap remains between the amendment of the national curriculum and the revision of textbooks in minority languages. The situation of textbooks in the Albanian language remains a regrettable exception. Recent consultations have nevertheless been held between the authorities of Serbia and Albania in order to constructively move forward in this respect. The Advisory Committee welcomes the efforts undertaken and hope they will lead to concrete results in the nearest future.

102. Students belonging to national minorities have access to education in their minority language, if it is one of the following: Albanian, Bosnian, Bulgarian, Croatian, Hungarian, Romanian, Rusyn and Slovak. These languages are available upon the condition that 15 pupils enrol in the first grade who opt for teaching in the same minority language. Below this threshold, the establishing of a class in a minority language is subject to approval by the Ministry of Education. In practice, at the date at which the State Report was prepared, the Ministry had derogated from this principle for 575 classes throughout the country, corresponding to 119 schools.<sup>101</sup>

103. For students taught in any of those languages, Serbian is a mandatory second language of instruction, both in elementary and secondary schools, for two hours per week. The Advisory Committee was informed in this regard by teachers in minority languages that a significant number of students graduate without having acquired a sufficient command of Serbian, which causes a series of problems in terms of access to higher education or to the labour market. The Advisory Committee also wants to point out the difficulty in achieving integration between different groups in Serbia if they do not have a common language in which they can communicate (see Articles 6 and 12).<sup>102</sup> It recalls that it is equally important, as stressed in Article 14(3) of the Framework Convention, that proper knowledge of the State language is acquired,

<sup>99</sup> The Advisory Committee notes that the Committee of Experts on the European Charter for Regional or Minority Languages (COMEX) has in 2018 had the opportunity to examine this development in depth while drawing up its fourth report on Serbia. The Advisory Committee refers to the detailed findings and recommendations of COMEX in its report.

<sup>100</sup> In the absence of answer within 30 days, the consent is considered given.

<sup>101</sup> State Report, Section IV.10.

<sup>102</sup> OSCE, Integration starts with a common language - Enhancing state language proficiency of national minority students in Serbia, 11 September 2017.

as the lack thereof seriously restricts opportunities for persons belonging to national minorities to effectively participate in public life and may inhibit their access to integration and weaken the cohesion of society as a whole.<sup>103</sup>

104. Bunjevac, Czech, Macedonian, Romani, Ukrainian and Vlach languages are also taught “with elements of national culture” for two hours per week. Minority languages, including those available as language of instruction (Albanian, Bosnian, Bulgarian, Croatian, Hungarian, Romanian, Rusyn and Slovak) are however generally not present in technical and vocational schools, or in adult education.

#### *Recommendations*

105. The Advisory Committee calls on the authorities to take the necessary measures to fill the one-year gap between the review of the national curriculum and the edition of revised materials in minority languages. It also calls on the authorities to find an appropriate and rapidly implementable solution for materials in the Albanian language.

106. The Advisory Committee encourages the authorities to enhance the availability and quality of State language teaching, including when taught as a second language, through a balanced approach that contains parallel measures safeguarding protection and promotion of minority languages.

### **Article 15 of the Framework Convention**

#### **Institutional framework for the participation of national minorities in decision-making**

107. From November 2015 to June 2018, the authorities pursued their efforts towards revising the Law on National Councils of National Minorities. Despite the consultations held, several representatives of National Councils have criticised the consultation process, in particular its lack of inclusiveness as well as the possible level of political influence over the process. The amended Law was adopted on 29 June 2018. The views of the representatives of national minorities on the amended law are somewhat divergent, some considering that the legal framework has consolidated and clarified their powers, others considering that they have lost part of their decision-making capacity. Interlocutors of the Advisory Committee also consider that some discrepancies remain between the amended law and the other sectoral laws (on education, culture, media and official use of the minority language and script) and that a holistic analysis should be made to further align those texts.

108. The amendments to the law aimed in particular at clarifying the powers of the National Councils, strengthening their institutional position, reducing excessive politicisation by defining incompatibilities of functions between membership to a National Council and high political offices, as well as increasing cooperation between the National Councils and the state bodies, and between the National Councils themselves. Significant efforts have been made to update the Special Electoral Roll between the elections to the National Councils organised in November 2018. Employees of self-government units were trained in this regard, in particular to avoid interferences with the application process. The election campaign was launched in August 2018

---

<sup>103</sup> Thematic Commentary No. 3, Para. 72.



and promoted through a video<sup>104</sup> made by the Ministry of Public Administration and Local Self-Government. The overall number of persons registered increased, which is to be welcomed. The elections took place on 4 November 2018, under the scrutiny of the Republic Electoral Commission.<sup>105</sup> The Advisory Committee observes however that no particular monitoring of the media was held during the campaign and is therefore not in a position to further assess the quality of the campaign and to what extent it has addressed matters of interest to persons belonging to national minorities.

109. The Advisory Committee recalls that the consultation of persons belonging to national minorities is particularly important in countries where there are no arrangements to enable participation of persons belonging to national minorities in parliament and other elected bodies. Consultation alone does not, however, constitute a sufficient mechanism for ensuring effective participation of persons belonging to national minorities.<sup>106</sup> The representativeness of consultative bodies also depends on minority organisations and their appointment procedures. When specific consultative mechanisms in respect of an individual national minority are set up, due regard should be paid to the diversity within this group. States Parties are encouraged periodically to review the appointment procedures to make sure that the bodies concerned are as inclusive as possible, maintain their independence from governments, and genuinely represent a wide range of views amongst persons belonging to national minorities.<sup>107</sup>

110. Concerning the recent amendments to the law on the National Councils of National Minorities, the Advisory Committee recalls the particular importance of consultation processes being held with the representatives of national minorities when amending laws related to their representative bodies. It notes in this regard that some of the National Minority Councils considered that the consultations held in this particular instance were not entirely effective. Given the recent nature of the changes introduced in the law, the Advisory Committee also considers it important that the authorities proceed with a periodical review of the appointment procedures to assess the inclusiveness and independence of the National Councils as well as their genuine representation of the diversity of views amongst persons belonging to national minorities. Independent expertise should support such a review, including expertise on inter-ethnic relations and intercultural dialogue. The Advisory Committee also underlines the views shared by independent researchers that the National Minority Councils would possibly better function if their operations and elections were decentralised. The Advisory Committee is concerned in particular that the centralised electoral system of National Councils makes it difficult to ensure the effectiveness of the rights of persons belonging to national minorities who do not live in traditionally populated areas – such as in big cities, including Belgrade –, but also of persons belonging to national minorities who live in a large number of municipalities – such as Roma – or of persons belonging to numerically smaller minorities. The Advisory Committee would therefore encourage the authorities to explore alternative systems, including local minority self-governments. Concerning the recent elections, the Advisory Committee has also been informed that, for the Ashkali and Greek National Minority Councils, political transition has

<sup>104</sup> The video was broadcast 670 times on television and viewed 17550 times on websites and 68000 times on social networks, as well as broadcast on 4 local radios and 2 information websites.

<sup>105</sup> The overall turn-out was of 44.6% for the 18 National Councils elected through direct vote, with more than 50% of participation for the Bosniak, Bulgarian, Vlach, Egyptian, Rusyn and Czech National Councils. The overall representation of women elected members amounts to 39% (from 31.5% for the Bulgarian National Council to 53% for the Slovenian National Council).

<sup>106</sup> ACFC [Thematic Commentary n° 2](#), Paras. 106-107.

<sup>107</sup> ACFC [Thematic Commentary n° 2](#), Paras. 110-111.

been complicated by the inability of the elected majority to access the respective bank accounts of their National Councils due to refusals from the previous majority to hand-over access to these accounts.

111. In addition to national structures, regional and local consultative mechanisms have, in some circumstances, proved to be a useful additional channel for the participation of persons belonging to national minorities in decision-making, especially in areas of competencies where decision-making powers have been decentralised. In such situations, it is important that local authorities regularly involve these consultative bodies in their decision-making processes, when dealing with minority issues.<sup>108</sup> Local authorities, and in particular municipalities, should design and implement new ways to represent and effectively involve persons belonging to national minorities in the decision-making process,<sup>109</sup> in all areas traditionally inhabited by national minorities or where they live in substantial numbers, including larger cities. In parallel, the Advisory Committee remains of the opinion that Councils for Inter-Ethnic Relations should be made operational in all multi-ethnic self-government units (see Article 6). Their competencies would however benefit from being clarified and possibly extended, in particular with regard to access to information.<sup>110</sup>

112. The local level is also where Roma participation in decision-making can play a significant role in their integration. Local authorities in Kostolac mentioned to the Advisory Committee that what they consider as the main achievement of the monitoring cycle with regard to Roma is the increase in the level of consultation and participation they demonstrated in local policy design. The Advisory Committee praises such initiatives and very much insists on the need to make them more sustainable and oriented towards the long-term. It was observed however that the participation of Roma very much varies from one municipality to the other and is still far from having reached every segment of local life. Reports underline for example a low level of representation of Roma parents in parents' boards in schools, including in schools where Roma children represent a significant proportion of the students.<sup>111</sup>

113. The Advisory Committee further notes that, while the Article 2 of the Law on the Protection of Rights and Freedoms of National Minorities does not define what "numerically sufficiently representative" prescribes (see Article 3), Article 44 of the Law on National Councils of National Minorities conditions the establishment of a special electoral roll of a national minority on the submission of a request by 5% of the adult members identifying themselves as belonging to a given minority according to the latest census, provided this number is not inferior to 300. Despite the absence of reference to such procedure in the State report, the Advisory Committee was informed that persons belonging to the Aromanian minority have submitted a request to the Ministry of Justice in 2012 to establish a special electoral roll with a view to electing their National Council. The 2011 population census in Serbia registered 243 persons identifying themselves as Aromanians. Their request was rejected by the Ministry, before being overturned by an administrative court. The Supreme Court of Cassation has however eventually validated the Ministry's decision, on the basis of Article 44 of the Law on National Councils of National Minorities. The Advisory Committee recalls that the numerical strength of a group

<sup>108</sup> ACFC Thematic Commentary n° 2, Paras. 114-115.

<sup>109</sup> See Article 20, paragraph 1.10 of the Law on Local Self-Government,<sup>109</sup>

<sup>110</sup> In this regard, see Ljubica Djordjević, Local Bodies for Inter-ethnic Relations in the Western Balkan States : Still an empty Shell, ECMI Working paper #106, November 2018.

<sup>111</sup> RTV Presevo, "Roma have no representative in school boards", Web portal presheva.com, 8 April 2019.

should not be decisive for the characterisation as a minority and that numerically smaller groups are often in need of stronger protection to be able to preserve a specific identity, as is the case for the Aromanians.

### *Recommendations*

114. The Advisory Committee calls on the authorities to monitor and periodically review the implementation of the Law on National Councils of National Minorities in consultation with the Councils themselves, and to commission an independent qualitative study on the functioning of the Councils, including an evaluation of their inclusivity, independence and representativeness, as well as their capacity to initiate intercultural dialogue and strengthen inter-ethnic relations.

115. The Advisory Committee calls on the authorities, and in particular at local level, to design and implement new ways to represent and effectively involve persons belonging to national minorities in the decision-making process,<sup>112</sup> in all areas traditionally inhabited by national minorities or where they live in substantial numbers, including larger cities.

116. The Advisory Committee encourages the authorities to step up their efforts for the political integration of Roma at national and local level, including by systematically consulting them in policy design and decision-making on matters that may affect their rights.

### **Representation of national minorities in elected bodies and participation in public affairs**

117. In its previous opinions, the Advisory Committee has already underlined the quality of the legal framework aimed at promoting the representation of national minorities in elected bodies at national, provincial and local levels,<sup>113</sup> including Article 77 § 1 of the constitution<sup>114</sup> and Article 81 § 2 of the Law on the Elections of Members of the Parliament.<sup>115</sup>

118. The national authorities report 68 national minority political parties listed in the Register of Political Parties. Currently, national minority political parties have 9 seats in the Parliament,<sup>116</sup> thanks to the application of the so-called “natural threshold”. 10 other members of Parliament are not affiliated to national minority political parties but identify themselves as belonging to a national minority. Certain researchers consider that the “natural threshold” technique favours only large homogenous minorities whose political parties have convergent political goals. The same researchers highlight the fact that only one minority party has won an increasing number of seats in parliament since 2007, and only two others have occasionally won seats. Roma, for

<sup>112</sup> See Article 20, paragraph 1.10 of the Law on Local Self-Government,<sup>112</sup>

<sup>113</sup> Third Advisory Committee Opinion on Serbia, adopted on 28 November 2013, Para. 177.

<sup>114</sup> Article 77 § 1 of the Constitution of the Republic of Serbia guarantees the right for “members of national minorities (...) to participate in administering public affairs and assume public positions, under the same conditions as other citizens.” Article 4 § 5 of the recently amended Law on the Protection of Rights and Freedoms of National Minorities further foresees “that the Republic of Serbia shall provide conditions for efficient participation of persons belonging to national minorities in political life, the representation of representatives of national minorities in the Parliamentary Assembly, and the proportional representation of national minorities in the assemblies of the autonomous provinces and local self-government units (...).”

<sup>115</sup> Article 81 § 2 of the Law on the Elections of Members of the Parliament provides that “political parties of ethnic minorities and coalitions of political parties of ethnic minorities shall participate in distribution of mandates even if they won less than 5% of votes out of the total number of voters who have voted” (5% being the threshold as of which other political parties participate in the distribution of mandates).

<sup>116</sup> 6 for « Alliance of Vojvodina Hungarians », 3 for the « Party of Democratic Action of Sandžak » and 2 for the « Party for Democratic Action ».

example, do not benefit from the system due to the spatial dispersion and political heterogeneity of the community.<sup>117</sup>

119. In the Assembly of the Autonomous Province of Vojvodina, 17 members out of 120 identify themselves as belonging to a national minority. The data provided by the authorities<sup>118</sup> show that there are representatives identifying themselves as belonging to a national minority in 48 out of 74 of the assemblies of the multi-ethnic local self-government units. However, the figures presented neither allow the Advisory Committee to assess their proportion in these assemblies, nor their proportion compared to the total population in the area concerned. Moreover, the figures do not reflect gender representation in these institutions.

120. The Advisory Committee has noted over time that when electoral laws provide for a threshold requirement, its potentially negative impact on the participation of national minorities in the electoral process needs to be duly taken into account. It is generally advisable to carry out a periodical review to ensure that electoral laws adequately reflect developments in society and the needs of persons belonging to national minorities. It is essential that persons belonging to national minorities, including numerically smaller ones, are consulted in the process of drafting such legislation or monitoring its implementation. Electoral provisions aimed at promoting a balanced presence of women in elected bodies can be designed to have a positive impact on the participation of women belonging to national minorities in public affairs.<sup>119</sup>

121. While welcoming the “natural threshold” approach to mitigate the potentially negative impact of the 5% threshold on the representation of national minorities in the Parliament, the Advisory Committee notes that the system benefits mainly a few larger minorities. Criticism formulated by researchers support the recommendation the Advisory Committee made in its previous opinion to review the existing system, in consultation with the national minorities themselves, including numerically smaller ones, and assess whether the approach cannot be further improved.

### *Recommendation*

122. The Advisory Committee calls on the authorities to review the provisions in place regarding the elections of the members of Parliament and to consult in so doing the representatives of all national minorities, including numerically smaller ones.

### **Representation of national minorities in public administration**

123. The Advisory Committee has already positively assessed the applicable constitutional and legal provisions aimed at promoting the adequate representation of national minorities in the public administration.<sup>120</sup> In practice, some efforts have been made toward the inclusion of

<sup>117</sup> Forum for Ethnic Relations, Shadow report on the protection of national minority rights in the Republic of Serbia, page 28, May 2018; see also, OSCE ODHIR, Third Status Report, Implementation of the Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area, For Roma, With Roma, 2018, Pages 40-56.

<sup>118</sup> State Report, page 31-32.

<sup>119</sup> ACFC Thematic Commentary n° 2, Paras. 82-86.

<sup>120</sup> Article 77 § 2 of the Constitution of the Republic of Serbia foresees that “the ethnic structure of the population and appropriate representation of members of national minorities shall be taken into consideration (...) when taking up employment in state bodies, public services, bodies of autonomous province and local self-government units”. Article

national minorities in the police service at local level in certain regions,<sup>121</sup> however the lack of disaggregated data by ethnicity/nationality showing the representation of national minorities in the police force makes it difficult to support the claim that the situation has improved. The authorities report on the number of trainees attending the Basic Police Training Centre from 2011 to 2016, including on their ethnic affiliation. Figures show that certain classes of the Training Centre count several trainees belonging to national minorities, which is mostly due to a recent integration programme focused on one group one year, but neither explain whether a reasonable representation has been reached at local or central level within the Police itself, nor why other classes have a level of representation of national minorities inferior to 0.1%.<sup>122</sup>

124. Several interlocutors of the Advisory Committee complained about the lack of representation of persons belonging to their respective national minority, in particular in state-level public administration, including when such administrations are decentralised in areas inhabited by persons belonging to national minorities traditionally or in substantial numbers. Situations reported five years ago remain a source of concern, in particular the representation of Albanians and Bosniaks in local branches of the State administration operating respectively in Preševo Valley and Sandžak, including local courts, as well as the situation of Roma. Researchers underline the absence of monitoring of ethnic representation in public service, partially due to the underdeveloped character of data collection legal framework (Article 4).<sup>123</sup> They also report both a significantly smaller number of members of national minorities holding management positions and a generally smaller number of employees belonging to national minorities when compared to the share of national minorities in the general population.

125. The Advisory Committee recalls that the public administration should, to the extent possible, reflect the diversity of society. Comprehensive data and statistics are crucial to evaluate the impact of recruitment, promotion and other related practices on minority participation in public services. The collection of data on the situation of national minorities should be made in accordance with international standards of personal data protection, as well as the right for persons belonging to a national minority to choose freely to be treated as such, or not (see Article 3). Attention should also be paid to the effective participation in the executive, which can be advanced by various means such as the introduction of posts assigned for minority representatives at all levels.<sup>124</sup> Targeted measures can also be designed to ensure that all civil servants are sufficiently trained and competent to perform their work effectively. State language proficiency requirements should not go beyond what is necessary for the post or service at issue. Requirements unduly limiting access to employment opportunities are not compatible with the standards embedded in the Framework Convention. Where necessary, targeted support should be provided to facilitate the learning of the official language for applicants or personnel from national minorities.<sup>125</sup>

---

4 § 3 of the recently amended Law on the Protection of Rights and Freedoms of National Minorities further implements this principle and foresees the possibility for affirmative measures in order to achieve “appropriate representation of persons belonging to national minorities” in the public sector.

<sup>121</sup> State report, Pages 148-149.

<sup>122</sup> State report, Page 148.

<sup>123</sup> Forum for Ethnic Relations, Shadow report on the protection of national minority rights in the Republic of Serbia, pages 16-17, May 2018; Council for Human Rights – Bujanovac, (Non)Implementation of the Agreement of the Governments relating to the South of Serbia, May 2016.

<sup>124</sup> ACFC Thematic Commentary n° 2, Paras. 120, 127-128.

<sup>125</sup> ACFC Thematic Commentary n° 2, Paras. 125-126.

126. The Advisory Committee notes that the authorities have started work on the necessary legislative arrangements in order to set up and operate a proper, sustainable and human rights-based ethnic data collection system within the public administration. The Advisory Committee is convinced that the most pressing needs are now for data collection, policy design – in light of the collected data – as well as for the adoption and implementation of concrete and effective measures aimed at producing long-term and measurable progress. Measures such as indicators could be envisaged. As for other key policies related to minority rights in Serbia (Articles 4 and 6), the Advisory Committee regrets that the principles enshrined in the constitution and the law are not always combined with measures for implementation, including their periodical review in consultation with persons belonging to national minorities.

127. The Advisory Committee underlines the utmost importance of the proportionate representation of national minorities in the public administration. Such a State policy, leading to the proportionate representation of national minorities could trigger a revitalising process of participation in the economic and social life of the country (see below), in particular for communities in remote regions such as Albanians in Preševo Valley as well as Bosniaks in Sandžak, or for the most marginalised such as Roma. It would gradually increase the level of confidence in the state authorities, eliminate the current ethnic and social distance, and address the sense shared among a number of interlocutors of the Advisory Committee that they are not taken into consideration.

#### *Recommendation*

128. The Advisory Committee urges the authorities to set up and operate, as soon as possible and at the latest by the due date of the fifth State Report, a sustainable and human rights-based data collection framework within the public administration and, on the basis of such data, to set up, implement, monitor and review on a periodical basis concrete and effective measures aimed at producing long-term and measurable progress on the representation of national minorities in the public administration, in particular those living in remote areas and the most marginalised.

#### **Participation in social and economic life**

129. Article 4(5) of the Law on the Protection of Rights and Freedoms of National Minorities prescribes that the State “shall take appropriate measures to improve the economic situation of the underdeveloped areas traditionally inhabited by persons belonging to national minorities”. The Advisory Committee has however been reported by representatives of the Albanian, Bosniak and Bulgarian minorities of an important lack of investments, including in infrastructures, in the respective areas where they traditionally live. Civil society representatives further reported an important level of unemployment (over 50%) in certain areas, as well as a demographic deficit in certain regions lacking socio-economic investments. Persons belonging to the Albanian minority also reported difficulties in obtaining recognition of diploma, in particular for the purpose of continuing specialised academic studies in Serbia.

130. The Advisory Committee recalls that States Parties should take specific measures to increase the opportunities for persons belonging to minorities living in peripheral and/or economically depressed areas, such as rural, isolated and border areas, war-damaged areas or regions affected by de-industrialisation, to participate in the socio-economic life of the country.

Studies should be undertaken to assess the possible impact of development projects on persons belonging to national minorities. Particular attention should be paid to the situation of women and youth from national minority backgrounds. The authorities should ensure that persons belonging to national minorities are fully involved in the planning, implementation, monitoring and evaluation of policies and projects likely to have an impact on their economic situation and the situation of the regions where they live in substantial numbers.<sup>126</sup>

131. With regard to Roma, their employment rate is still significantly lower than neighbouring non-Roma (21% vs. 40%) although the overall figures have improved for both populations between 2011 and 2017.<sup>127</sup> Women – only 9% of whom are employed – and youth – 78% of Roma aged 18-25 are neither in employment, education nor training – are dramatically affected. Such marginalisation has life-long implications for the persons concerned, blocking further opportunities, including related to their housing (Article 4), access to higher education (Article 12), but also access to healthcare. In 2017, more than one quarter of Roma aged 16 or over reported having not accessed health services when needed, which shows an improvement compared to previous years, but remains much higher than the rate among neighbouring non-Roma.

132. A recent study<sup>128</sup> aimed to demonstrate the link between recurrent discrimination (Article 4), poor access to employment and difficult access to education (Article 12) as leading factors in immiseration, the latter being itself a significant factor in decision-making to remove Roma children from their families. Taking into account data from the only two Centres for Foster Care and Adoption in Serbia who provided disaggregated data by ethnicity, the study indicates that 30% of children in foster care in Serbia are Roma, while they represent only 2% of the population (Article 3). Child protection professionals consider these figures underestimated. The lack of prevention and support programmes helping Roma families to stay together or at least stay in contact was pointed out by specialists and psychologists.<sup>129</sup>

133. The Advisory Committee recalls that where comprehensive and long-term strategies are in place, particular attention should be paid to their effective implementation. Adequate resources need to be provided in a timely manner at all levels of operation, especially locally. The implementation of such policies should be carefully monitored and their impact evaluated, in close co-operation with representatives of the minorities concerned, with a view to adapting and strengthening policies over time. Effective coordination of measures undertaken by the various bodies involved should be a key concern.<sup>130</sup>

134. The Advisory Committee welcomes measures taken in the framework of the Roma Strategy for tackling Roma social and economic marginalisation, including the establishment of mechanism to outreach Roma communities such as health mediators, mobile local teams or local coordinators. These mechanisms remain however to be formalised and community workers, who would preferably be qualified Roma, are often contracted on a short-term basis, which impacts their work. Certain budget implementation rates are reported to be low, in particular

<sup>126</sup> ACFC Thematic Commentary n° 2, Paras. 44-45.

<sup>127</sup> United Nations Development Programme, World Bank and European Commission, Regional Roma Survey 2017, Country factsheet “Roma at a glance”, April 2018.

<sup>128</sup> European Roma Rights Centre, Family Life Denied : Overrepresentation of Romani Children in State Care in Serbia, December 2017.

<sup>129</sup> *Ibid.*, p. 15.

<sup>130</sup> ACFC Thematic Commentary n° 2, Para. 49.

with regard to access to healthcare, and funding is reportedly missing or unallocated for training new mediators, for mediators' operational work, to recruit a sufficient number of health mediators, as well as for employment measures.<sup>131</sup>

### *Recommendations*

135. The Advisory Committee calls on the authorities to prioritise the economic revitalisation of areas where persons belonging to national minorities reside in Central and Southern Serbia, including improvement of the infrastructure and incentives for more employment opportunities.

136. The Advisory Committee calls on the authorities to step up their efforts to ensure the effective participation of Roma in economic and social life by designing policy measures based on disaggregated data, setting up clear indicators, monitoring them in close co-operation with representatives of the Roma, with a view to adapting and strengthening them on a periodical basis.

## **Articles 17 and 18 of the Framework Convention**

### **Bilateral agreements and regional cooperation**

137. Serbia has signed bilateral agreements related to the protection of national minorities with Croatia, Hungary, North Macedonia and Romania. The Advisory Committee observes that minority issues play a prominent role in bilateral relations with neighbouring EU member States, some of whom have made their support for candidacy status or the opening of specific chapters conditional on an improvement of the situation of specific minority groups in Serbia. However, the Advisory Committee notes that this does not necessarily translate into more formal bilateral co-operation; for example, the intergovernmental joint committees with Croatia and Hungary only met once during the last monitoring period, while the joint committees with North Macedonia and Romania did not meet.<sup>132</sup> The Advisory Committee notes also that researchers have observed a slowdown of bilateral cooperation with neighbouring countries in the recent years, mostly due to political attention being mainly focused on the EU accession process.<sup>133</sup>

138. Given the importance of Serbia in the political stabilisation and economic development of the entire region, the Advisory Committee underlines the positive impact that an enhanced bilateral cooperation could have on national minorities, in particular in terms of economic development of areas where persons belonging to national minorities reside in Central and Southern Serbia (see Article 15).

### *Recommendation*

139. The Advisory Committee calls on the authorities to consider enhancing bilateral cooperation related to the protection of national minorities, with EU and non-EU neighbouring countries, in order to stimulate the economic development of areas where persons belonging to national minorities reside, in particular in Central and Southern Serbia.

---

<sup>131</sup> Roma Integration 2020, Regional Cooperation council, 2018 National Platform on Roma Integration in Serbia, Policy Recommendations, June 2018.

<sup>132</sup> State Report, Section IV.12.

<sup>133</sup> Forum for Ethnic Relations, National Minorities in Serbia's relationship with the Neighbors, the status of National Minorities in Serbia and EU Negotiations : The Role of Neighbouring Countries, March 2017.



### III. Conclusions

140. The Advisory Committee considers that the present concluding remarks and recommendations could serve as the basis for the resolution to be adopted by the Committee of Ministers with respect to the implementation of the Framework Convention by Serbia.

141. The authorities are invited to take account of the detailed observations and recommendations contained in Sections I and II of the Advisory Committee's Fourth Opinion. In particular, they should take the following measures to improve further the implementation of the Framework Convention:

#### **Recommendations for immediate action<sup>134</sup>**

- raise awareness of persons belonging to the Roma minority living in informal settlements as well as relevant community workers about the legislative standards and the remedies available to victims of discrimination; resolutely address structural discrimination faced by Roma with regard to their citizenship status, as well as housing, healthcare, education and employment, including by taking the necessary affirmative measures to address the root causes of discrimination they face; eliminate all forms of segregation of Roma children and include them in mainstream education; redouble efforts to combat school absenteeism and early dropouts among Roma children, including by expanding and developing the long-term use of pedagogical assistants; step up efforts to improve participation of Roma in the economic and social life, by designing policy measures based on disaggregated data, setting up clear indicators, monitoring them in close co-operation with representatives of the Roma, with a view to adapting and strengthening them on a periodical basis;
- Set up and operate, as soon as possible and at the latest by the due date of the fifth State Report, a sustainable and human rights-based data collection framework on issues pertaining to the access to rights of persons belonging to national minorities as well as promote complementary qualitative and quantitative research in order to assess the situation of persons belonging to national minorities; on the basis of such data and research, set up, implement, monitor and periodically review minority policies with the effective participation of persons belonging to national minorities;
- Implement the recommendations of the Protector of Citizens of the Republic of Serbia listed in its Special Report on Councils for Inter-Ethnic Relations and commission an independent qualitative study, as soon as possible and at the latest by the due date of the fifth State Report, in order to assess the functionality of the Councils for Inter-Ethnic Relations; strongly support the development of independent qualitative and quantitative research showing the level and nature of inter-ethnic relations, including relations between persons belonging to national minorities and persons belonging to the majority; on the basis of such research, set up, implement, monitor and periodically review a comprehensive strategy aimed at revitalising inter-ethnic relations, in consultation with persons belonging to national minorities and local self-government units, taking into account the need to involve the majority in the integration and inclusion of national minorities in Serbian society;

---

<sup>134</sup> The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

- promote a multicultural and intercultural perspective in education, including by developing exchange programmes between communities, at every level of education; ensure, as soon as possible and at the latest by the due date of the fifth State Report, that through a process including effective participation of persons belonging to national minorities, history curricula and teaching materials promote respect for all groups in society and provide broad knowledge on minorities as forming an integral part of Serbian society; ensure that multiple perspectives are encouraged in historical and contemporary research; promote, in consultation with representatives of the national minorities concerned, possible models for bilingual or multilingual education;
- set up and operate, as soon as possible and at the latest by the due date of the fifth State Report, a sustainable and human rights-based data collection framework within the public administration and, on the basis of such data, set up, implement, monitor and review on a periodical basis concrete and effective measures aimed at producing long-term and measurable progress on the representation of national minorities in the public administration, in particular those living in remote areas and the most marginalised.

Further recommendations<sup>135</sup>

- Launch an information campaign well ahead of the next census, targeting specifically persons belonging to national minorities, raising their awareness about their interests in participating in the census, including on multiple affiliation, and about the advantages of participating in the census, about multiple affiliation, and about their respective rights, with a view to successfully combining the protection and promotion of minority rights with the collection of reliable information about the ethnic composition of the population.
- Ensure effective participation of persons belonging to national minorities in the design of the census methodology and in the organisation and operation of such processes, including as enumerators; make all information on the census methodology and the aim of data collection available in the languages of national minorities.
- Ensure that the right of persons belonging to national minorities to establish religious institutions, organisations or associations is effectively guaranteed in law as well as in practice, including by ensuring that legal provisions governing religious communities do not allow for discrimination, including against those of a numerically smaller size, in particular with regard to access to legal personality or tax status.
- Closely monitor the impact of the privatisation process on minority media and commission a comprehensive and independent study on this subject; take the necessary measures to ensure editorial independence of private and public minority media, including those owned by political representatives of the national minorities;
- In areas traditionally inhabited by persons belonging to national minorities or where they live in substantial numbers, collect data on the number of minority languages spoken by civil servants in State, provincial and local administrations and, in light of such data, take the necessary measures including adequate training targeting persons belonging to the national minorities to ensure that the number of minority languages spoken by civil servants in State,

---

<sup>135</sup> The recommendations below are listed in the order of the corresponding articles of the Framework Convention

provincial and local administrations corresponds to the greatest possible extent to the proportion of the population speaking minority languages; inform all persons belonging to national minorities, in the areas concerned, that they are entitled to use their minority language in contacts with the State, provincial and local administration; commission a study in order to evaluate the level of implementation of the legal provisions on the official use of minority languages and ensure that in all municipalities where the legal requirements are met minority languages are effectively in official use;

- Enhance the availability and quality of State language teaching, including when taught as a second language, through a balanced approach that contains parallel measures safeguarding protection and promotion of minority languages;
- Monitor and periodically review the implementation of the Law on National Councils of National Minorities in consultation with the Councils themselves, and commission an independent qualitative study on the functioning of the Councils, including an evaluation of their inclusivity, independence and representativeness, as well as their capacity to initiate intercultural dialogue and strengthen inter-ethnic relations; design and implement new ways to represent and effectively involve persons belonging to national minorities in the decision-making process at local level, in all areas traditionally inhabited by national minorities or where they live in substantial numbers, including larger cities.
- Prioritise the economic revitalisation of areas where persons belonging to national minorities reside in Central and Southern Serbia, including improvement of the infrastructure and incentives for more employment opportunities.