



Strasbourg, 23 February 2006

ACFC/OP/II(2005)007

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

Second Opinion on Romania, adopted on 24 November 2005

EXECUTIVE SUMMARY

Romania has continued to show commitment in the implementation of the Framework Convention and has taken new steps to maintain and develop further the climate of tolerance and intercultural understanding which generally characterizes Romanian society. New legislative, institutional and practical measures have been taken to strengthen the protection of persons belonging to national minorities in fields such as non-discrimination, the use of minority languages in the public sphere, as well as education, where the situation of the Roma has received particular attention, but where the necessary financial resources are not always guaranteed.

Romanian legislation provides important guarantees for the participation of national minorities and the latter, particularly the Hungarian minority, play an active role in Romanian public life. However, access to the existing mechanisms for participation and state support does not extend to all potentially interested organizations and communities.

Further measures are needed to ensure more effective implementation of the anti-discrimination legislation and to raise public awareness and tolerance, especially concerning full and effective equality of the Roma. The social and economic situation of the Roma remains problematic, and increased efforts, including of a financial nature, are needed to address manifestations of discrimination and the difficulties still faced by the Roma in the fields of employment, housing, health and education.

A balanced approach to the concerns of all interested parties should prevail in the current process of property restitution, with due consideration for its impact on the situation of persons belonging to more vulnerable groups.

TABLE OF CONTENTS

I. MAIN FINDINGS.....	4
Monitoring process.....	4
General legislative framework	4
Equality and protection against discrimination.....	4
Preservation and development of the culture and identity of persons belonging to national minorities.....	5
Tolerance and intercultural dialogue.....	5
Use of minority languages in the public sphere	5
Education.....	6
Participation	6
II. ARTICLE-BY-ARTICLE FINDINGS	7
Article 3 of the Framework Convention	7
Article 4 of the Framework Convention	11
Article 5 of the Framework Convention	14
Article 6 of the Framework Convention	18
Article 7 of the Framework Convention	21
Article 9 of the Framework Convention	22
Article 10 of the Framework Convention	24
Article 11 of the Framework Convention	25
Article 12 of the Framework Convention	26
Article 14 of the Framework Convention	30
Article 15 of the Framework Convention	32
III. CONCLUDING REMARKS	36
Positive developments.....	36
Issues of concern	36
Recommendations	37

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

SECOND OPINION ON ROMANIA

1. The Advisory Committee adopted the present Opinion on 24 November 2005 in accordance with Article 26 (1) of the Framework Convention and Rule 23 of Resolution (97) 10 of the Committee of Ministers. The findings are based on information contained in the State Report (hereinafter the Report), received on 6 June 2005, and other written sources and on information obtained by the Advisory Committee from governmental and non-governmental contacts during its visit to Bucharest and Braşov from 3 to 7 October 2005.
2. Section I below contains the Advisory Committee's main findings on key issues pertaining to the implementation of the Framework Convention in Romania. These findings reflect the more detailed article-by-article findings contained in Section II, which covers those provisions of the Framework Convention on which the Advisory Committee has substantive issues to raise.
3. Both sections make extensive reference to the follow-up given to the findings of the first cycle of monitoring of the Framework Convention, contained in the Advisory Committee's first Opinion on Romania, adopted on 6 April 2001, and in the Committee of Ministers' corresponding Resolution, adopted on 13 March 2002.
4. The concluding remarks, contained in Section III, could serve as the basis for the Committee of Ministers' forthcoming conclusions and recommendations on Romania.
5. The Advisory Committee looks forward to continuing its dialogue with the authorities of Romania as well as with representatives of national minorities and others involved in the implementation of the Framework Convention. In order to promote an inclusive and transparent process, the Advisory Committee strongly encourages the authorities to make the present Opinion public upon its receipt.

I. MAIN FINDINGS

Monitoring process

6. Romania has pursued a constructive approach to the monitoring procedure of the Framework Convention and also organised a follow-up seminar following the adoption of the first Opinion of the Advisory Committee. The Advisory Committee wishes to underline the constructive and transparent approach of the various public authorities it met in the context of the second cycle of monitoring. It notes with satisfaction the considerable progress recorded in Romania since its first visit in terms of the professionalism and openness of the authorities. However, with regard to consultations with national minorities prior to the transmission of the second State Report, the Advisory Committee regrets that minority representatives did not have sufficient opportunity to influence effectively the State Report. The Framework Convention is nevertheless well known among minorities, public authorities and non-governmental organisations. A number of non-governmental organisations work in Romania in the field of minority protection and contribute considerably to its development.

General legislative framework

7. The Advisory Committee welcomes the commitment shown by the Romanian authorities in the implementation of the Framework Convention and the numerous legal and institutional measures taken since the adoption of the first Opinion of the Advisory Committee.

8. A major issue at present is the Draft Law on the Status of National Minorities, currently under examination in the Parliament. There is general consensus among the minorities represented in the Council of National Minorities that a comprehensive law is necessary in order to guarantee the continued respect for the rights of persons belonging to national minorities in Romania. While recognising the importance of this goal, the Advisory Committee urges the authorities to ensure that such legislation is in line with the open and flexible approach advocated by the Advisory Committee and that it respects the need for democratic pluralism among minorities. An assessment of all the effects of the implementation of the envisaged law still needs to be carried out.

Equality and protection against discrimination

9. The Advisory Committee notes with satisfaction the positive measures taken by the Romanian authorities in order to promote full and effective equality in various fields between persons belonging to national minorities and the majority. It notes *inter alia* the system of reserved places introduced to encourage access of Roma to high school and university education, as well as the measures taken to support the public use of minority languages as well as the system of representation of national minorities in Parliament. Notwithstanding the legislative and institutional measures taken in the field of non-discrimination, there are only rare cases of application of the non-discrimination legislation. Further training and awareness-raising measures in the legal profession and the general public, as well as efforts to address the issue of the independence and resources of the National Council for the Fight against Discrimination, are among the ways to follow-up on these concerns.

10. In spite of the numerous measures taken to improve their situation, most of the Roma continue to be set apart from the rest of the population by considerable disparities. While the first results start to be visible, in particular in education, the impact of these measures remains

on the whole limited, and the Roma continue to face serious difficulties, such as discrimination in most key areas, including employment, housing and health.

Preservation and development of the culture and identity of persons belonging to national minorities

11. Romania has made laudable efforts to support the preservation and development of the identity and culture of persons belonging to national minorities. However, most support is channelled by the Department for Interethnic Relations, through the Council for National Minorities, to organisations represented in this Council, leaving numerically smaller minorities and organisations not represented in the Council for National Minorities at a disadvantage.

12. Recently, more resolute measures have been taken to accelerate the restitution process of church property and possessions that formerly belonged to ethnic communities. However, no assessment has been made of the impact of this process on persons belonging to different minorities and the Roma in particular.

Tolerance and intercultural dialogue

13. The Advisory Committee notes the existence in Romania of a social climate conducive to dialogue and multicultural understanding between national minorities and the majority. Penal legislation has been amended recently to better address ethnically or racially motivated crimes. In other fields, such as education and the media, there is still room for better inclusion of aspects related to the history and culture of national minorities, for instance by reviewing the content of curricula and textbooks intended for the majority, and by allocating better time-slots to minority programmes of interest for a larger audience.

14. Although improvements have been recorded in the way the media cover minority related issues, certain newspapers still publish articles reflecting prejudices against the Roma, in particular at the local level. Moreover, there are isolated instances of politicians expressing hostile views with regard to the Roma, and such statements are at times echoed by the media. Also, in spite of substantial improvements in police conduct as a result of specific training and awareness-raising measures, cases of abusive behaviour and hostile attitudes towards the Roma, even violence in some instances, continue to be reported and require more effective and impartial investigation.

Use of minority languages in the public sphere

15. For several years, Romania has made notable progress at the legislative and practical level with regard to the use of minority languages in the public sphere. Persons belonging to national minorities can now use their mother tongue in their relations with local public authorities and their languages can also be used in local topographical indications. While noting that some difficulties have been reported, the Advisory Committee welcomes the efforts made in Romania to ensure effective implementation of the relevant constitutional and legal provisions. In addition, the Advisory Committee notes that, according to the revised Constitution, persons belonging to national minorities have the right to use their mother tongue in courts, and that this possibility is no longer restricted to penal courts only.

Education

16. The Romanian authorities have continued to pay particular attention to the conditions necessary to ensure equal access to education for persons belonging to national minorities as well as to implement effectively their right to learn their mother tongue or to receive instruction in this language. However, these efforts take place within a context where the budget allocated to education is very low, which has sometimes meant that many of the efforts are completely dependent upon funding from international donors.

17. Shortcomings however persist in this area, in particular for numerically smaller minorities, and it is to be hoped that the new decentralized system of financing education will make it possible to better meet the existing needs.

18. Specific measures have been taken to promote equal access of the Roma to education at all levels, to reduce absenteeism and the school drop-out rate and to improve the educational performance of Roma students. Particular efforts have also been made to prepare adequate teaching material and to train the teaching staff necessary to ensure that these children can study elements of the history and culture of their community and learn their language. This being said, the educational situation of the Roma remains a challenge for the authorities, as absenteeism and school failure still exist, and occasional cases of Roma children isolation in the school system have been reported.

Participation

19. Romanian legislation provides considerable guarantees for the participation of persons belonging to national minorities in public life, including, in particular, representation in Parliament guaranteed by law. The Hungarian minority has a strong presence in Romanian public life, currently participating in the Government and influencing considerably the State's policy of minority protection. More recently other national minorities are also in a position to participate more effectively in political debates. Progress is not as clear with regard to the participation of the Roma in Parliament, although improvements are recorded at local level through Roma elected councillors and consultative structures and positions introduced for the Roma in fields such as education and health. National minorities, especially numerically smaller ones, continue to be under-represented in certain sectors of public administration, such as justice and police.

20. The Advisory Committee finds that the authorities have a dialogue with national minorities exclusively through the organisations represented in the Council of National Minorities. Moreover, since these organisations are at the same time those represented in Parliament and often through the same person, this dialogue may be strongly politicised. The Advisory Committee considers that a more inclusive approach should be pursued, as the current arrangements may also be detrimental to the maintenance of pluralism within the various communities. The current approach also poses problems at local level as reflected in the electoral legislation in force as well as in the Draft Law on the Status of National Minorities.

II. ARTICLE-BY-ARTICLE FINDINGS

Article 3 of the Framework Convention

Scope of application of the Framework Convention

Findings of the first cycle

21. In its first Opinion on Romania, the Advisory Committee encouraged the authorities to consider the possibility of including other groups in the application of the Framework Convention, adopting, where appropriate, an article-by-article approach, and consulting those concerned. The authorities were encouraged in particular to involve representatives of the Csangos in their consideration of this matter.

Current situation

a) Positive developments

22. The Advisory Committee welcomes the fact that, as indicated in the State Report, the scope of the Framework Convention has been extended in Romania to cover two other groups of persons considered as national minorities - the Macedonians and the Ruthenians, now represented in Parliament and in the Council of National Minorities. The following 20 national minorities are represented in the Council of National Minorities: Albanians, Armenians, Bulgarians, Croats, Germans, Greeks, Hungarians, Italians, Jews, Poles, Roma, Russian-Lippovans, Serbs, Slovaks and Czechs (represented by a single organisation), Tatars, Turks, Ukrainians, Macedonians and Ruthenians.

23. Much discussion has recently taken place in Romania on the definition of “national minority” and the access to the protection afforded as a result of acquiring that status, particularly in the context of the debate on a Draft Law on the Status of National Minorities. Minorities hope that, with this law, a number of clarifications will be forthcoming, offering a suitable response to more recent socio-demographic trends and formalising in law the official approach in this field. The Advisory Committee believes that these are essential issues for framing a coherent and stable policy for the protection of minorities and notes that there is a consensus in the circles concerned on the need for greater clarity in this regard.

b) Outstanding issues

24. Nonetheless, the Advisory Committee notes that persons belonging to other groups, the Hungarian Csangos and the Aromanians in particular, have expressed an interest in the measures taken by the State to protect national minorities and therefore in the protection afforded by the Framework Convention. The Advisory Committee is under the impression that even though discussion on these matters has taken place within the communities in question and in academic circles, there has only been limited dialogue between the authorities and the representatives of those concerned, and a clear official response is still awaited.

25. This primarily concerns the Hungarian Csangos¹, who informed the Advisory Committee of their wish to receive support from the State for their efforts to preserve their linguistic identity and their artistic, cultural and religious traditions. The Advisory Committee

¹According to the official results of the last population census 1,226 individuals identified themselves as Csangos. In the documentation provided to the Advisory Committee by this group, the term used is Hungarian Csangos.

notes that there are diverging opinions within the Csango community, some of whom consider that while their religion (Catholic) differentiates them from the majority population, they are nevertheless not a separate ethnic group. The Advisory Committee takes note of the demand formulated by those within the Csango community who, considering themselves a distinct group, wish to benefit from State support in areas relevant to the preservation of their identity, including the use of their languages in the context of religious ceremonies. The authorities seem to privilege the view that Csangos form a separate religious group within the majority population but do not have a distinct ethnic identity. However, the Advisory Committee notes that, in practice, members of this community have for several years been able to study Hungarian in public schools and that the number of pupils concerned has increased (from 32 in 2001/2002 to 725 in 2005/2006).

26. The Advisory Committee also notes that in April 2005, an association of Aromanians officially asked the authorities to recognise them as a national minority. Diverging views have also been noted within this community as to the existence of a separate Aromanian language and identity, and therefore whether such recognition is necessary. A part of this community believe that the Aromanians use a dialect of Romanian and represent a sub-group of the Romanian people, which is also the approach adopted by the authorities. It is noted in this context that, in processing the results of the latest population census (held in March 2002), the National Institute for Statistics included those who identified themselves as Aromanians in the figures for Romanians (see also the observations in paragraph 38 below).

27. To date, Romania does not have a list of officially recognised national minorities nor a specific procedure for recognising ethnic communities as national minorities. Nonetheless, the groups taken into account and consulted by the Government in drawing up measures for the protection of minorities are those represented in the Council of National Minorities, a consultative body comprising representatives of citizens belonging to the national minorities represented in Parliament². At the same time, with regard to elections to the Chamber of Deputies and the Senate, “within the meaning of the present law, national minority is understood to mean an ethnic group represented in the Council of National Minorities”³. This implies that in the absence of an official definition of “national minority”, over and above the data provided by the population census, the authorities, in order to treat a group as a national minority, take into account the results of parliamentary elections. As indicated above, the Advisory Committee welcomes the inclusion of two new groups in the scope of application of the Framework Convention following the parliamentary elections of 2000. At the same time, the Advisory Committee considers it problematic from the point of view of Article 3 of the Framework Convention that the results obtained in elections are treated as a decisive factor for confirming the existence of a national minority. The Advisory Committee believes it is essential to ensure that such a criterion does not lead to unjustified distinctions among groups potentially eligible for the protection afforded by the Framework Convention.

28. The Advisory Committee also notes that the Draft Law on the Status of National Minorities, as it stands on the date of the adoption of this Opinion, includes an exhaustive list of 20 communities, representing “in the spirit of this law, the national minorities living in

² Article 2, Government Decision No. 589 of 21 June 2001, supplemented and amended, concerning the setting up of the Council of National Minorities.

³ Article 4 (1), Law No. 373 of 24 September 2004 on Elections to the Chamber of Deputies and the Senate.

Romania”, and a definition of “national minority”⁴, including, among others, the criterion of citizenship.

29. The Advisory Committee believes that such an approach does not adequately reflect the spirit of openness and dialogue required in relation to Article 3 and other provisions of the Framework Convention, and it considers that a non-exhaustive list would be more in keeping with a dynamic and flexible understanding of the concept of national minority. The Advisory Committee would therefore prefer a formulation that, rather than excluding certain potentially concerned groups altogether, would leave scope for the possibility that, in the future, additional groups would fall within the scope of domestic minority legislation as well as within the scope of application of the Framework Convention.

30. The Advisory Committee further considers that while citizenship is a legitimate requirement in areas such as representation in Parliament, the general application of this criterion nonetheless raises problems in relation to guarantees linked to other key areas covered by the Framework Convention, such as non-discrimination and equality, and certain cultural and linguistic rights.

Recommendations

31. The authorities are encouraged to consider the possibility of including in the application of the Framework Convention other persons having expressed an interest in the protection afforded by this Convention, in particular the Aromanians and the Hungarian Csangos, and to engage in a specific dialogue on this matter with those concerned. At the same time, they should pursue and develop existing measures of support for the preservation of the culture and identity of those concerned.

32. The authorities should also ensure that a flexible and open approach to the scope of application the Framework Convention is reflected in the Draft Law on the Status of National Minorities, in order to avoid arbitrary and unjustified exclusions and to maintain the possibility of the future inclusion of other groups, including non-nationals where appropriate, in the application of the Framework Convention.

Data collection

Findings of the first cycle

33. In its first Opinion on Romania, the Advisory Committee urged the authorities to consult and involve representatives of national minorities in the organisation of the next population census, particularly with regard to the content of the census forms and the options and wording of the question on ethnic origin.

⁴ “National minority is understood to mean any community of Romanian citizens living on Romanian territory at the time of the establishment of the modern State of Romania, numerically smaller than the majority population, having a specific ethnic identity expressed through culture, language or religion, and wishing to preserve, express and promote its identity” (Article 3 of the Draft Law on the Status of National Minorities).

34. In view of the wide discrepancy between the official statistics and the national minorities' own estimates of their number, the authorities were also encouraged to explore different ways of obtaining reliable statistics on the number of people belonging to minorities and on their situation in various fields.

Current situation

a) Positive developments

35. The Advisory Committee notes that during the last population census in March 2002, three open questions enabled respondents to express their ethnic origin, mother tongue and religion, and that the forms used had been discussed in advance with the Council of National Minorities. Accordingly, persons such as Italians or Csangos, who had not been listed as acknowledged ethnic groups in the previous census of 1992, now appeared as distinct groups in the census results. Similarly, the number of Roma who identified themselves as such increased from 401,087 in 1992 to 535,140 in 2002.

36. The Advisory Committee noted with interest the large amount of information, broken down according to many relevant criteria (age, sex, geographical distribution, or other) available at the National Institute for Statistics, on the situation of persons belonging to national minorities in areas such as housing, employment, health and education. It welcomes the readiness of the NSI to make this information available to other interested institutions and to carry out, where necessary, further and more targeted research.

b) Outstanding issues

37. While welcoming the fact that a larger number of Roma chose to declare themselves as such in the last census, the Advisory Committee notes that there are wide discrepancies in respect of the Roma between the statistics emerging from the census and other estimates, both official and non-official. These estimates place the number of Roma living in Romania much higher (between 1 and 2 million).

38. The State Report says that, in processing the data gathered in the population census, the NSI had included people belonging to a number of numerically smaller ethnic groups in the figures for related, numerically larger groups. In particular, this occurred in respect of the Aromanians⁵, some of whom have officially asked to be recognised as a national minority. The Advisory Committee is unclear as to the criteria used for including them in the figures for larger groups and whether the people concerned were consulted on the matter.

Recommendations

39. The authorities are encouraged to attach greater attention to consulting representatives of the people concerned when processing data obtained from the census, relating to ethnic origin, for official publication.

40. When planning protection measures for the Roma, the authorities should take appropriate account of the wide discrepancies between the figures derived from the census and other estimates as to their number.

⁵ According to information provided by the National Institute for Statistics, 24,645 identified themselves as Aromanians in the 2002 census.

Article 4 of the Framework Convention

Prevention and protection against discrimination

Findings of the first cycle

41. In its first Opinion on Romania, the Advisory Committee urged the authorities to implement promptly and fully the legal provisions for ensuring protection against discrimination and to take all necessary measures to ensure that the National Council for the Prevention of Discrimination was able to operate appropriately and effectively.

Current situation

a) Positive developments

42. The Advisory Committee welcomes the legislative measures taken by Romania to strengthen protection against discrimination. It notes in particular the passing of Law No. 48/2002, ratifying Government Order No. 137/2000 on Preventing and Punishing all Forms of Discrimination, and bringing together the legal provisions governing anti-discrimination measures in Romania. The Code of Conduct for Civil Servants, adopted by Law No. 7/2004, is also an important addition to the regulations introduced in Romania to ensure compliance with the principles of equality and non-discrimination.

43. The Advisory Committee also notes that the Romanian Constitution, revised in 2003, introduces, among other new provisions relating to the protection of minorities, a prohibition of nationalisation or any expropriation on the grounds of social, ethnic, religious, political or any other discriminatory criterion in respect of the owners (Article 44 (4)).

44. At the institutional level, the Advisory Committee notes the setting up of the National Council for the Fight against Discrimination⁶ as a specialist body overseeing the implementation of the principles of equal treatment and equal opportunities and monitoring the application of anti-discrimination legislation. Despite the limited material and human resources available, this Council has steadily developed its activities in terms of both information and awareness-raising and applying sanctions to those who have committed acts of discrimination. The Advisory Committee notes with satisfaction the increased determination and commitment shown by this Council to improve its working methods and conditions, to raise its profile and strengthen its credibility. The Advisory Committee also appreciates the efforts made to ensure that national minorities, including the Roma, are represented in its Steering Board.

45. Complaints of discrimination⁷ and decisions issued relate primarily to acts of discrimination against Roma, in particular with regard to access to public places, and discriminatory or racist articles or advertisements appearing in the press. The Advisory Committee also takes notes of the decisions and sanctions applied (in the form of fines) further to complaints of discrimination in access to housing or in education.

⁶ The National Council for the Fight against Discrimination was set up by virtue of Government Order No. 137/2000 on preventing and punishing all forms of discrimination, amended and supplemented by Government Decision No. 1194/2002, itself amended and supplemented.

⁷ In the period between its foundation in 2002 and 2004, the National Council for the Fight against Discrimination received 146 complaints of discrimination on ethnic grounds, 20 complaints of discrimination on religious grounds, and 3 complaints of linguistic discrimination. Between January and September 2005, out of a total of 272 complaints received, 63 (28 of which have been dealt with) related to ethnic identity, one to language and 8 (2 of which have already been dealt with) to religion.

b) Outstanding issues

46. The Advisory Committee notes that numerous non-governmental sources have criticised the National Council for the Fight against Discrimination for its limited impact, the little authority it has vis-à-vis public institutions and its failure to deal in depth with discrimination-related problems. One of the main concerns expressed by these sources is related to the independence of this body. A new anti-discrimination law, currently prepared by the Government, is aimed at strengthening the independence of the National Council for the Fight against Discrimination, which will be placed under the responsibility of the Parliament.

47. More generally, the Advisory Committee notes that a very small number of cases of discrimination on ethnic grounds have been reported. While this may be due to the rare occurrence of such cases, it may also be due to the fact that anti-discrimination legislation is not often applied by those concerned, whether judges, lawyers, prosecutors or whoever, and that the general public is not sufficiently aware of this legislation. The Advisory Committee hopes that the legislative measures recently taken to encourage recruitment of persons belonging to national minorities in the judiciary will make it possible to increase awareness of minority related issues within the legal profession (see also related comments in paragraph 181 below).

Recommendation

48. The authorities should take all necessary measures to ensure that the National Council for the Fight against Discrimination can operate independently and effectively. To this end, particular attention should be paid to revising its statute and allocating appropriate human and financial resources. There is also a need for further information and awareness-raising measures relating to anti-discrimination legislation, targeting both the population at large and the public authorities.

Application of the principles of equality and non-discrimination with regard to the Roma

Findings of the first cycle

49. In its first Opinion on Romania, the Advisory Committee called on the authorities to take more decisive steps to address the social and economic inequalities affecting the Roma population and to prevent and combat instances of discrimination which the Roma continued to suffer in various fields.

Current situation

a) Positive developments

50. In application of the Strategy to improve the situation of the Roma adopted by the Government in 2001⁸, improving the lot of the Roma has been a priority for the Romanian authorities in recent years. At the institutional level, a joint implementing and monitoring committee, with the National Agency for Roma as its executive body, is responsible for planning, co-ordinating and monitoring the implementation of the various measures developed under this strategy. Throughout the country, county offices for Roma have been set up in prefectures and Roma experts have been recruited in municipal authorities.

51. As pointed out in the State Report, many projects and programmes have been set in motion at national and local level to help the Roma cope with the difficulties encountered in

⁸ Government Decision No. 430/2001.

most walks of life and to narrow the gap between them and the rest of the population. The Advisory Committee notes with satisfaction that these measures, adopted in the majority of cases in co-operation with non-governmental organisations and with external financial support, are gradually beginning to show results in a variety of sectors – housing, employment, health and vocational training.

52. For example, school mediators and school inspectors for Roma have been appointed in the education sector, alongside forms of distance learning to train Roma teachers. As a result of these measures, an increasing number of Roma children are able to be taught the Roma language. They now have suitable textbooks and educational material.

53. In order to improve the health situation of the Roma, greater efforts have been exerted to raise the awareness of this community and to facilitate their access to health care, including via health mediators. These are posts for which almost 200 Roma women have been trained and recruited. In the employment field, a number of projects have been developed with non-governmental organisations to facilitate Roma access to the labour market (vocational training or re-training programmes, employment fairs for Roma, etc).

b) Outstanding issues

54. The implementation of the Strategy to improve the situation of the Roma, as well as the impact of this strategy, has been limited, although progress has been noted in the various sectors concerned. This state of affairs is often attributed to the limited state resources allocated for implementation of the strategy, both overall and in individual sectors, alongside insufficient co-ordination of those involved and the lack of appropriate monitoring. There has also been weak and ineffective participation by the Roma community in the various stages of drawing up and implementing the measures coming under the strategy.

55. Accordingly, the Roma continue to face serious problems in many areas, and to be victims of marginalisation and social exclusion. Despite the many measures taken to help them enter the labour market, unemployment remains particularly high among the Roma, and Roma women are particularly affected by this. Serious problems are also reported with regard to housing and living conditions, which continue to be extremely difficult for a large part of this population. In certain cases, the solutions opted for by the local authorities to deal with these difficulties - eviction measures followed by inappropriate rehousing solutions - only make matters worse for the people concerned. The Advisory Committee also notes that the Roma are exposed to additional difficulties in the context of the restitution of property under way in Romania (see also observations under Article 5 below).

56. In the health and social welfare fields, the Roma, which form the population group with the largest number of families living on social benefits, are particularly affected by the more general problem of implementation of current legislation. In education, despite significant progress, there are still many problems facing the Roma, and these has a negative impact on their access to the labour market and on their living conditions (see also observations under Articles 12 and 14 below).

57. It should also be noted that, even though now less frequent and despite sanctions imposed by the National Council for the Fight against Discrimination, discrimination against the Roma in different sectors continues to be reported, ranging from refusal to employ Roma to discriminatory practices of certain local authorities as regards restitution of land and access to social benefits.

58. The Advisory Committee notes with concern that, according to estimates by the authorities, around 50,000 Roma have no identity documents, a situation which seriously hampers their access to the majority of social and economic rights (social welfare, education, employment and housing). Major difficulties will also emerge, as a result of this lack of documents, for those Roma whose housing was affected by the floods of summer 2005. However, efforts are under way to help the persons concerned obtain these documents and the National Population Inspectorate is in contact with Roma organisations in order jointly to identify the most appropriate solutions.

Recommendations

59. The authorities should take more decisive measures, in consultation with the Roma, to overcome the shortcomings noted in the sectors identified as priority areas in the evaluation of the 2001 Governmental Strategy for the Roma. Increased attention should be paid to the level of resources allocated in this context.

60. The authorities are also called upon to ensure ongoing monitoring of the situation regarding discriminatory attitudes and practices vis-à-vis the Roma. At the same time, information and awareness-raising activities in this field, targeting the Roma, the rest of the population and the public authorities concerned, should be stepped up.

Article 5 of the Framework Convention

State support for the preservation of the cultures of national minorities

Findings of the first cycle

61. In its first Opinion on Romania, the Advisory Committee welcomed the efforts of the Romanian authorities to support the preservation and development of the cultures of national minorities and encouraged them to take appropriate account, above and beyond statistics, of the actual situation of the various minorities.

62. The authorities were also encouraged to take additional measures, in consultation with the Roma community, to enhance the Roma identity and improve the social perception of that identity.

Current situation

a) Positive developments

63. The Advisory Committee notes that the authorities have continued to lend their support for the cultural activities of national minorities and that appreciable efforts have been made in this area, taking into account the limited resources available. Hundreds of projects submitted by the 20 communities represented in the Council of National Minorities have in recent years received grants from the Ministry of Culture. The Hungarians, Germans, Roma and Ukrainians are the communities that have most benefited from these grants.

64. It should be noted that a new system for funding these cultural activities, based primarily on competition between projects, has recently been introduced and will be put into practice with effect from the 2006 budget. The Advisory Committee notes in this connection that in order to facilitate access to grants the Ministry of Culture intends to run training courses for minority organisations to help with the drafting of projects. In this context, the Advisory Committee notes with satisfaction that organizations and communities which are not represented

in the Council of National Minorities can also have access to the funds provided by the Ministry of Culture to support cultural activities.

65. Minority organisations also obtain funds from the state budget directly. These funds have increased significantly in recent years (rising from 90,000,000 Lei in 2001 to 264,434,000 Lei in 2005). The money, distributed by the Department for Interethnic Relations via the Council of National Minorities, is intended to help cover running costs but can also be used for cultural purposes. By way of example, the “Comunitas” foundation, to which the Hungarians have given responsibility for distribution of the funds allocated to them (amounting to 58,000,000 Lei in 2005), uses these funds primarily for cultural purposes, in support of the Hungarian press, books (47 published in 2003) and other publications in Hungarian, as well as other cultural and educational projects. Participation in other governmental programmes and, for certain minorities, support from the kin-states, supplement the above funding sources.

66. In general, national minorities are appreciative of the efforts made by the authorities in this field. Through their many institutions, artistic events and publications in minority languages, etc. they have a rich and visible presence in the cultural life of the country. There are also many, varied multi-cultural activities which are given support by the Department for Interethnic Relations, which is particularly active in this field.

67. The Advisory Committee also notes that additional guarantees are expected following the current parliamentary debate on the Draft Law on the Status of National Minorities which, *inter alia*, provides for the introduction of cultural autonomy for national minorities. The Draft states that “cultural autonomy is understood to mean the ability of a national minority to have decision-making powers in matters relating to its cultural, linguistic and religious identity, through councils elected by its members” (Article 57.1 of the Draft Law on the Status of National Minorities).

68. The Advisory Committee considers that the introduction into the Romanian system of minority protection of cultural autonomy and the corresponding mechanism, would confirm Romania’s particular commitment to preserving and asserting the identity of its minorities. The Advisory Committee wishes to stress that, if this mechanism is applied, representatives of minorities would play a particularly important role in decision-making in the fields concerned since such decisions, rather than being the subject of mere consultation, should be submitted for their mandatory prior approval. In addition, with cultural autonomy, a collective dimension going beyond recognition of the rights of persons belonging to minorities as required by the Framework Convention, would be added to the Romanian system of protection for minorities.

b) Outstanding issues

69. Although the Roma, like other communities, are entitled to state support for minorities’ cultural initiatives, their representatives indicated to the Advisory Committee that they were encountering difficulties in obtaining funds and acquiring suitable premises to establish a national Roma cultural centre. Some representatives of the numerically smaller minorities are also of the opinion that the support they are given by the state is still inadequate in relation to their needs.

70. In addition, several sources stressed the lack of transparency and clearly defined criteria in the allocation of funds awarded to minority organisations from the state budget, and the lack of any mechanism to monitor the use of the funds received. It would appear that this allocation of funds takes place more often than not by means of negotiation between minorities and

therefore depends on the relative influence of the different organisations in the Council of National Minorities. Of course, it is difficult under such conditions to ensure a balance between the different communities and to correlate the amounts awarded to real needs.

71. With regard to the mechanism of “cultural autonomy” introduced by the Draft Law on the Status of National Minorities, the Advisory Committee considers that, in order to become operational, the legislature needs to provide additional clarifications.

72. For example, to avoid an overlap of responsibilities and the taking of conflicting decisions, special attention should be focused on relations between the institutions of cultural autonomy and other decision-making actors, particularly those state bodies which have the same or similar responsibilities in the fields covered by cultural autonomy. The Advisory Committee also considers it important to clarify, in the legislative process, how the future law will fit into the Romanian legal system and its relationship with the relevant sectoral laws (see also observations under Article 15 below).

Recommendations

73. The authorities are encouraged, when awarding state funds to organisations of national minorities, to attach greater attention to the actual needs of the various communities and to strike an adequate balance between them. Increased attention should be paid to transparency in the distribution of funds and also to the role played by local authorities in supporting national minorities’ activities.

74. In the present discussion on the Draft Law on the Status of National Minorities, further clarifications are needed with regard to the nature and scope of the envisaged cultural autonomy, in particular the legal status of its institutions and the relationship between them and state institutions operating in the sectors concerned.

Restitution of church property and assets having belonged to the communities

Current situation

a) Positive developments

75. The Advisory Committee welcomes the legislative and institutional measures taken in recent years by the Romanian authorities to speed up the restitution of religious property confiscated during the Communist regime. It notes in particular that the regulatory provisions pertaining to this process have been successively supplemented so as to clarify and extend the scope of restitution⁹. Also, a Government decision adopted in 2004¹⁰ makes provision, *inter alia*, for the matter to be referred to the courts where there is a failure to reach an agreement between the churches concerned on the ownership of the property at issue.

76. The Advisory Committee is aware of the particular importance and impact of this process, both for the churches and the persons concerned, some of whom belong to national minorities (Hungarian, German, Jewish, Armenian, Greeks, Serbian, Turkish, etc). At the same

⁹ Before the enactment of Law No. 10/2001, the general legal regime governing the restitution of property that had belonged to religious denominations was based on Emergency Government Order No. 94/2000, which stipulated that only 10 buildings could be returned to each religious denomination. A new law, Law No. 501/2002, was passed by the Romanian parliament in 2002 to provide a comprehensive framework governing the restitution of religious property.

¹⁰ Government decision No. 64/2004 of 13 August 2004.

time, it recognises the complexity and difficulty of the task and considers that all the parties concerned should co-operate in order to find a means of implementing the relevant legislation, while maintaining dialogue and understanding.

77. Efforts have also been made¹¹ to improve the legal framework pertaining to the restitution of properties which had belonged to certain ethnic communities, confiscated by the state under the Communist regime. Even though this process is still in its early stages, progress has also been achieved in implementing this framework.

78. The Advisory Committee welcomes the commitment of the Romanian authorities to press ahead with this complex and ambitious process, in the light of the high expectations of certain minorities who see this as a way of increasing considerably their current resources. It notes that in order to obviate the difficulties already encountered and to speed up the processing of claims received, a further review of the legal and institutional framework relating to the restitution of property took place in June 2005.

b) Outstanding issues

79. The Advisory Committee notes that the restitution of religious property, which has been taking place in Romania for several years, has encountered a number of problems and has been subject to considerable delay. In particular, difficulties have been reported with regard to former places of worship which had been confiscated.

80. The restitution of property of the ethnic communities is just in the very early stages and is proving to be equally complex. In the absence of a comprehensive assessment of the costs of this process and of the measures needed to counter its adverse effects, the Advisory Committee is concerned about its impact on the situation of persons belonging to more vulnerable groups, such as the Roma. More generally, the Advisory Committee has noted that this process may result in increasing inequalities among different national minorities, in terms of resources available. This situation should also be taken into account in the allocation of state support to the various communities.

81. In addition, the Advisory Committee finds that the restitution of properties currently used for public interest activities in the areas of education or health, needs to be addressed in a balanced way, given the impact it may have in these fields for Romanian society as a whole, including for persons belonging to national minorities. The Advisory Committee hopes that the new legislative and institutional framework will make it possible to take greater account of the concerns of all parties and enable just and suitable solutions to be reached.

Recommendation

82. The authorities should identify, in consultation with all the parties concerned and ensuring that dialogue and mutual understanding are maintained, the most suitable means of implementing the legislation on the restitution of property. Specific measures should be envisaged to assess the scope and impact of this process and to address the situation of persons potentially affected by this process, in particular the Roma.

¹¹ Law No. 64/2004, amended by Law No. 330/2004.

Article 6 of the Framework Convention

Tolerance and intercultural dialogue

Findings of the first cycle

83. In its first Opinion on Romania, the Advisory Committee, while welcoming the considerable improvement in inter-community relations, pointed to the outstanding shortcomings in this field and recommended that the authorities take steps to address them.

Current situation

a) Positive developments

84. The Advisory Committee notes with satisfaction that in general there is a climate of tolerance and understanding in Romanian society and that the various ethnic, linguistic and religious groups co-exist in harmony. Although negative prejudices and attitudes remain in Romanian society with regard to the Roma, the Advisory Committee notes a positive trend in this respect.

85. The Advisory Committee welcomes the efforts made by the authorities to promote mutual respect and understanding and to adopt more effective means to combat and protect against discrimination, intolerance and racism. On the legal level, it takes note of the adoption in 2002 of a Government Emergency Order prohibiting, *inter alia*, fascist, racist or xenophobic organisations and symbols, and the amendments to the Criminal Code which now includes new provisions against racist behaviour and discrimination. Recently, in September 2005, new amendments to the Criminal Code were put to Parliament for approval. These amendments sought to introduce harsher penalties against racially or ethnically motivated crimes and to make incitement to discrimination liable to criminal prosecution.

86. The Advisory Committee also welcomes the national campaign to inform the population about the Holocaust and its significance, supported by the public authorities at the highest levels and carried out by the media. Of note are the inclusion of specific chapters on the Holocaust in school curricula and the preparation, currently under way, of additional teaching material to improve the information provided to pupils. A National Institute for Holocaust Studies has also been set up.

87. Media monitoring bodies have also indicated a positive development in the way that the media, and especially the public media, cover issues relating to minorities, intercultural dialogue and tolerance. Progress can also be seen in the way the Roma are portrayed in the media. For example, particularly in the audio-visual sphere, more effort is made to foster understanding of the specific nature of the Roma culture and the problems they face. In the press, particularly in the central press, there are fewer articles stigmatising the Roma and fewer advertisements which discriminate against them. This can be explained, at least in part, by the sanctions imposed by the National Council for the Fight against Discrimination on media outlets which have published such articles. Training and awareness-raising activities for journalists, which have been organised for several years now, monitoring of the media by specialist non-governmental organisations, preparation of guides on best practices and the adoption of a code of ethics for journalists have certainly made a welcome, albeit still insufficient, contribution to improving the way the media deals with minority-related issues.

b) Outstanding issues

88. Although there have been positive developments in this respect, the Roma continue to face attitudes marked by negative stereotypes and prejudices on the part of the non-Roma population. In the media field, especially at local level, headlines or articles which are detrimental to the Roma continue to appear, despite a positive trend in recent years. More recently, hostility towards Roma in sports arenas and on Internet discussion forums has been reported. From time to time, in the speeches of senior Romanian politicians, anti-Roma stances are adopted which are subsequently reported in the media. While it is aware that these instances are isolated and for the most part occur in very specific contexts, prompted by topical events, the Advisory Committee is concerned about their negative impact on the way in which the Roma are perceived within society.

89. The Advisory Committee notes that few cases of hostility or violence towards the Roma are dealt with and tried by Romanian courts. More generally, there is virtually no case-law in Romania on racism and discrimination issues. According to the information received by the Advisory Committee, one of the factors contributing to this situation is the limited impact of the measures taken to increase awareness of such issues within the legal profession. Another reason cited is the victims' insufficient knowledge of the legislation and procedures enabling them to bring racist and discriminatory acts before the courts (see also relevant comments in paragraph 47 above).

90. The Advisory Committee also notes that substantive efforts are still needed to strengthen the intercultural dimension of education, making it an effective means of promoting mutual awareness and understanding between people belonging to different communities. Even though aspects of the history, culture and traditions of minorities have been introduced into the curriculum and textbooks intended for national minorities, such elements have a very limited presence in the curricula and textbooks used for the majority of the population.

91. Despite the recent active Holocaust information and awareness-raising campaign, certain people, albeit isolated, continue to promote openly anti-Semitic ideas without appropriate measures being taken against them.

92. The Advisory Committee has also noted that in two counties in the country, Covasna and Harghita, where people belonging to the Hungarian minority represent the majority of the population (more than 70%), inter-ethnic and inter-cultural dialogue remains problematic.

93. According to the information received by the Advisory Committee, ethnic Romanians' efforts to preserve and promote their identity are, in the counties concerned, hampered by certain decisions taken by the local authorities. Problems relating to effective participation in public life and the implementation of the principle of full and effective equality in the different spheres of economic, social, political and cultural life have also been reported.

Recommendations

94. The authorities should pursue and step up their activities to increase awareness of the population, politicians and the media of the need for tolerance and respect for diversity, and in particular to counteract negative prejudices against the Roma. Additional training efforts are also needed to make professionals in the sphere of the judiciary more aware of issues relating to ethnic discrimination and intolerance.

95. In the education field, the authorities should attach priority to strengthening the multicultural dimension of curricula and syllabuses. They should, in particular, review textbooks in co-operation with representatives of minorities, so as to give an appropriate reflection of the diversity of Romanian society.

96. The Advisory Committee calls on the central and local authorities to take the necessary measures to improve inter-ethnic dialogue and strengthen mutual respect and understanding in the counties in which persons belonging to the majority are in a minority situation and to protect such persons against any discriminatory practices based on their ethnic origin.

Police conduct

Findings of the first cycle

97. In its first Opinion on Romania, the Advisory Committee expressed its concern that cases of ill-treatment of members of the Roma community by the police continued to be reported and that such allegations were inadequately investigated. The authorities were urged to take firmer measures to put an end to these practices and to improve tolerance among the police forces.

Current situation

a) Positive developments

98. The authorities have in recent years taken many steps to improve relations between the police and minorities, in particular the Roma. Other initiatives have sought to improve the way in which discriminatory practices and other forms of abuse by members of the police forces are prevented and punished.

99. For example, between 2002 and 2005 there were a number of initiatives to train police officers in human rights and tolerance, prevention and non-violent management of conflict in multicultural communities and/or involving Roma, and promoting and encouraging careers in the police for young Roma. A handbook on working in multi-ethnic settings has also been published.

100. The General Police Inspectorate has issued instructions on measures to prevent discrimination¹² and a code of conduct for members of the police forces has also been adopted¹³. It is also planned to establish bodies responsible for applying and monitoring the norms set out in this code. According to various surveys, public confidence in the police is improving, rising from 39% in October 2004 to 48% in September 2005.

b) Outstanding issues

101. Although there has been significant improvement following the efforts made by the authorities, there continue to be reports of inappropriate behaviour by certain police members vis-à-vis persons belonging to the Roma community, in some cases involving violence, although such reports are now much less frequent. Non-governmental sources also indicate that there are shortcomings in the judicial investigations and prosecution of such incidents.

¹² Instruction No. 379830/2004 of the General Police Inspectorate.

¹³ Government Decision No. 991/2005 on the Approval of the Code of Conduct for Members of the Police Forces.

102. Despite the fact that the Ministry of the Interior has special investigation procedures and a special body to deal with complaints of abuse by police members and to apply sanctions where appropriate, the Advisory Committee notes that there are concerns with regard to the impartiality of such investigations.

Recommendations

103. The authorities should pursue and step up their action to train the members of the police and raise their awareness of human rights and the specific problems inherent in working with the Roma community and increase their efforts to include more Roma within the police forces. They should also ensure that such training reaches a larger number of police officers and engage in more systematic monitoring of the practical impact of the training provided.

104. The authorities should identify the most appropriate solutions to ensure efficient and impartial investigation of complaints against members of the police forces. Additional measures should be taken to train and inform members of the legal profession to ensure that legislation on discrimination and the provisions of the Criminal Code regarding the fight against racism and intolerance are fully applied.

Article 7 of the Framework Convention

Freedom of association

Current situation

Outstanding issues

105. The Advisory Committee notes that the Draft Law on the Status of National Minorities provides for particular registration conditions for “organisations of citizens belonging to national minorities”¹⁴. For certain organisations set up by persons belonging to minorities, these conditions may prove difficult to fulfil and be too restrictive. While the Advisory Committee understands that a number of requirements are necessary for organisations to represent minorities in Parliament, it nonetheless finds that these provisions raise problems from the point of view of freedom of association in the case of organisations set up at local level wishing to promote the interests of national minorities through local elections.

106. At the same time, the Advisory Committee notes that these conditions are very similar to those provided for by the electoral legislation in force regarding the participation of national minorities in local elections, which were criticised by the Venice Commission in 2004¹⁵ (see, in this connection, the observations given under Article 15 below).

107. The Advisory Committee further notes that the impact of these particular registration conditions is not limited to access to elections and political representation alone. Indeed, political organisations are granted certain prerogatives which cultural/association-type organisations, subject to more flexible registration conditions, will not have. These include important rights such as the right to be represented on the Council of National Minorities, to manage special funds and to receive annual grants from the state budget, to put forward representatives in certain institutions and to bring cases of discrimination to the attention of the

¹⁴ The draft law uses this expression to designate organisations that intend to participate in elections and, accordingly, in public life at local level or in Parliament.

¹⁵ Venice Commission, Opinion No. 300/2004 on the Law for the Election of Local Public Administration Authorities in Romania, CDL-AD(2004)040.

National Council for the Fight against Discrimination. The Advisory Committee believes that such differential treatment between organisations of minorities is not conducive to pluralism and internal democracy within minorities (see also the observations given under Article 15 below).

Recommendations

108. The authorities should review the registration conditions envisaged for organisations of national minorities in order to bring them into line with the requirements of the Framework Convention, and more particularly with Article 7.

Article 9 of the Framework Convention

Access of persons belonging to national minorities to the media

Findings of the first cycle

109. In its first Opinion on Romania, the Advisory Committee called on the authorities to ensure a more balanced distribution of resources concerning both television and radio programmes among the various minorities, paying particular attention to the needs of the Roma and the numerically smaller minorities. The authorities were also encouraged to try to improve the time slots for minority radio and television programmes.

Current situation

a) Positive developments

110. The Advisory Committee welcomes the efforts made by Romania to improve national minorities' access to the public media. It draws particular attention to the opportunities available in this respect to the Hungarian and German minorities. The Hungarians have two weekly programmes in Hungarian on public television, lasting 75 minutes and 50 minutes respectively. The Germans have one 75-minute programme in German. Two dedicated departments, including members of the two minorities in question, are responsible for producing these programmes, which are almost entirely subtitled in Romanian.

111. The Advisory Committee also notes a weekly 48-minute programme entitled "Convietuiri/Living Together", reserved for the other 18 national minorities. At the same time, the second public channel broadcasts weekly programmes lasting 52 minutes for the Hungarians, Germans and Roma respectively, along with an inter-ethnic magazine for the other minorities and two intercultural programmes ("Ethnic Atlas" and "Children's Caravan"). Other programmes for national minorities are broadcast by "România Cultural" and "TVR International", and for the Hungarian and German communities by the Cluj and Timișoara local public television stations.

112. On public radio, programmes amounting to a weekly total of 380 minutes in Hungarian and 370 minutes in German are broadcast from the Bucharest studios. Most programmes in minority languages are, however, broadcast by local and regional studios, accounting for over 10% of their total output. Depending on the region, programmes are broadcast in Armenian, Bulgarian, Croatian, Hungarian, German, Greek, Romani, Russian, Serbian, Slovak, Tatar, Czech, Turkish, Ukrainian, and also in Aromanian.

113. In view of the limited budgetary resources available to public service radio and television, the Advisory Committee notes with satisfaction the clear commitment shown by the producers of public radio and television programmes for national minorities. According to

different sources, there has also been a significant improvement in the quality of these programmes in recent years. The Advisory Committee appreciates in particular the efforts made by the producers of the programmes for the Roma community to diversify their content and introduce new dimensions. It notes that these programmes now cover, above and beyond key aspects of Roma traditions and culture, the problems faced by the Roma today, the challenges of integration into society and what the Roma themselves have to say about these challenges.

114. The minorities have numerous publications, mostly in the minority language or bilingual. The Hungarians and the Germans in particular, who have a long-standing tradition in this field, have a network of newspapers and publications with a wide readership. In 2003 alone, there were over 120 publications in Hungarian (the press and on-line) in various counties in the country, which received state funding. The German community has several weeklies and a number of monthly cultural magazines in German. The Advisory Committee also notes that, according to the statistics of the Department for Interethnic Relations, in 2004 there were over 30 publications, mostly bilingual, published by organisations of the other minorities.

b) Outstanding issues

115. Despite the above positive developments, the Advisory Committee notes that there is a continuing imbalance between the various national minorities in the media sector, particularly with regard to the air-time allocated to them by the public audio-visual broadcasting service.

116. On the one hand, the Hungarians and Germans have programmes specifically for their communities and a prominent presence in the media; on the other hand, the audio-visual presence of the other minorities is much smaller and less individualised, even though they are given some television and radio air-time. Although the Roma have been given broader media coverage during recent years, their opportunities to use the media in order to raise awareness of Roma issues, remain limited. Roma representatives have expressed their wish to have increased possibilities to produce Roma programmes on local radio and receive state support when applying for licences for their own radio stations.

117. The Advisory Committee notes that, despite the existence of high quality television programmes prepared by journalists for and about minorities, these programmes are broadcast during day-time hours inconvenient for the general public. Both the journalists concerned and the minorities would like at least part of these programmes to be repeated at weekends or at later hours.

118. The national department responsible for radio programmes for national minorities claims that more effort needs to be made to extend these programmes' coverage to certain more remote areas where persons belonging to minorities live, even if in small numbers, who are unable to receive them.

Recommendations

119. The authorities should show greater determination in their efforts to deal with the imbalance, already highlighted in the past by the Advisory Committee, between the different minorities as regards access to the public media. Further efforts are necessary to increase Roma access to local radio, both through licencing measures and by providing material support for the production of Roma programmes.

120. In order to facilitate mutual understanding and dialogue and to increase public awareness about minorities, the public television service should find ways to provide more

convenient time-slots for minority programmes. The authorities should also examine the reported shortcomings concerning the geographical coverage of certain radio programmes.

Article 10 of the Framework Convention

Use of minority languages in dealings with local administrative authorities

Findings of the first cycle

121. In its first Opinion on Romania, the Advisory Committee welcomed the passing in 2001 of the Law on Local Public Administration which provided a number of legal clarifications as to the use of minority languages in dealings with local authorities and which encouraged the authorities to take all the necessary steps to ensure its full implementation.

Current situation

a) Positive developments

122. The passing of Law No. 215/2001 on local public administration provided Romania with a clearer legal framework for the use of minority languages in the public sphere at local level, spelling out the way in which the guarantees set out in the Constitution in this connection (see Article 120 (2) of the Constitution) should be applied.

123. Under this 2001 law, minority languages may be used orally and in writing in the local administrative units where citizens belonging to a national minority represent over 20% of the population, in dealings between those citizens and the local authorities and in the replies given by the latter. In addition, minority languages should be used to inform persons belonging to national minorities of the agenda of and decisions taken at local authority meetings and, where one third of the local councils is comprised of representatives of minorities, during the council meetings themselves. The law also provides that local authorities should recruit persons with a good knowledge of the languages concerned to posts involving relations with the public.

124. In practice, according to data provided by the last population census, a list of localities fulfilling the conditions set out in Law No. 215/2001 has been drawn up and forwarded to the authorities concerned. According to the detailed information provided in the State Report, these provisions of the law on Local Public Administration are applied, depending on demand, in numerous localities in the 23 counties concerned in the country. The Advisory Committee also notes that a Government decision adopted in 2002¹⁶ now allows minorities to use their own symbols in official acts/ceremonies.

125. The Advisory Committee welcomes the fact that the Romanian Constitution, revised in October 2003¹⁷, introduces a significant guarantee for the use of one's mother tongue in the judicial system, stipulating in Article 128 (2), that "Romanian citizens belonging to national minorities have the right to express themselves in their mother tongue before the courts of law, under the terms of the organic law."¹⁸

¹⁶ Government Decision No. 223/2002 amending the regulations on the description and use of the nation's flag, anthem and coat of arms.

¹⁷ The Romanian Constitution of 1991 was amended and supplemented by Law No. 429/2003 revising the Constitution of Romania, published in the Official Gazette on 29 October 2003.

¹⁸ Article 12 of Law No. 304 of 28 June 2004 on the administration of justice sets out the specific conditions - in particular free access by the person concerned to the services of a translator or interpreter - under which this right may be exercised in practice.

126. The Advisory Committee notes with satisfaction that the scope of this right is not limited in Romania to criminal proceedings alone (as referred to in Article 10 of the Framework Convention) and hopes that all the necessary measures to ensure its implementation in practice have been taken by the competent authorities.

b) Outstanding issues

127. The Advisory Committee notes that implementation of the legislative provisions concerning the use of minority languages in dealings with local public administration has encountered resistance on the part of certain local authorities.

Recommendations

128. The authorities should pursue, in co-operation with representatives of national minorities, their efforts to ensure the practical application of the legislative provisions on the use of minority languages in dealings with local public administration.

129. The authorities are encouraged to ensure that the necessary conditions exist for the application of the new legislative provisions regarding the use of minority languages before the courts.

Article 11 of the Framework Convention

Use of minority languages to indicate place names

Findings of the first cycle

130. In its first Opinion on Romania, the Advisory Committee welcomed the passing in 2001 of the Law on Local Public Administration which introduced new guarantees for the use of minority languages to indicate place names and encouraged the Romanian authorities to implement fully these new legal provisions.

Current situation

a) Positive developments

131. Romania has made significant progress in applying Article 11, paragraph 3 of the Framework Convention through the implementation of Law No. 215/2001 on Local Public Administration. Article 90 (4) of this law authorises the use of minority languages for signs indicating the names of localities and local public institutions, in administrative-territorial units in which people belonging to a national minority represent over 20% of the local population.

132. In practical terms, it appears that these provisions have been implemented in more than 20 counties, in localities where the conditions required by the law have been met, and also in some cases - according to non-governmental sources - in localities where the 20% requirement has not been reached.

b) Outstanding issues

133. Despite the above-mentioned positive developments, a number of shortcomings in the implementation of Law No. 215/2001 have been reported by representatives of certain groups, such as the Ukrainians, who mention difficulties encountered in applying the provisions although the statutory 20% threshold had been reached.

Recommendation

134. The authorities should pursue their efforts to ensure the effective implementation of Section 90 (4) of the Law on Local Public Administration, making additional efforts to examine, in consultation with those concerned, the existing needs in this field.

Article 12 of the Framework Convention

Multicultural and intercultural dimension of education

Findings of the first cycle

135. In its first Opinion on Romania, the Advisory Committee welcomed the efforts made to improve the situation of national minorities in the educational field, and the numerous improvements noted, particularly in the teaching of minority languages. The Advisory Committee called on the authorities to review their approach to history teaching in order to reflect more fully the ethnic diversity of the country and to encourage mutual awareness and understanding.

Current situation

a) Positive developments

136. The Advisory Committee notes with satisfaction that aspects of the history, culture and traditions of persons belonging to national minorities are now offered as optional subjects to pupils belonging to the minorities concerned, in their mother tongue. Religion may also be taught as an optional subject in the mother tongue. A textbook on Roma history, culture and traditions has been elaborated and is available for the use of Roma children. Training courses for working with Roma children have been organised for non-Roma teachers (420 in 2004).

137. The Advisory Committee also appreciates the many out-of-school activities run at central level and given financial support by the Department for Interethnic Relations as well as by schools, activities meant to encourage dialogue between pupils and teachers belonging to different communities.

b) Outstanding issues

138. Nonetheless, the Advisory Committee remains concerned about the limited presence in the common school curricula, and in the textbooks and educational material designed for pupils belonging to the majority population, of information regarding the history and culture of the country's national minorities, even though the Education Act provides for such topics to be covered¹⁹. However, the competent authorities point to recent initiatives aiming at promoting ethnic diversity more fully in history textbooks (for the current school year, for pupils in grade 10 and with effect from 2006, for those in grade 12). According to the Ministry of Education and Research, such initiatives will also apply to literature textbooks.

139. The Advisory Committee also notes that the Draft Law on the Status of National Minorities makes several references in Article 17 to the state's obligation to guarantee teaching of or in minority languages in separate groups, or in kindergarten, schools, separate sections or classes. The Advisory Committee is aware that teaching for national minorities has its own specific features and may involve separate teaching. However, it hopes that in the legislative

¹⁹ Article 123 (3) of Law No. 84/1995 on Education, amended and supplemented.

process, the most appropriate approach and wording will be identified in order to promote multicultural education and to offer such forms of separate education as one possible option, and not as the only option provided for in the legislation.

Recommendation

140. The authorities should review the curriculum and syllabi of schools so as to adequately incorporate aspects which will enhance the country's ethnic and cultural diversity and ensure that the majority are more aware of the history and cultural identity of minorities. At the legislative level, the authorities are encouraged to promote an integrated and multicultural approach to education when addressing the right to education of persons belonging to national minorities.

Equality of opportunity in access to education – textbooks and teacher training

Findings of the first cycle

141. In its first Opinion on Romania, the Advisory Committee noted that the number of textbooks in minority languages and qualified teachers from certain smaller minorities continued to be insufficient. The authorities were encouraged to redouble their efforts to address this situation.

Current situation

a) Positive developments

142. The Advisory Committee notes that Romania has a generous legal basis which has given rise to an elaborate system of education for national minorities. It welcomes the commitment shown by the authorities to improve and consolidate this system under difficult financial circumstances, bearing in mind the rather limited proportion (around 4%) allocated to education in the national budget.

143. The Advisory Committee further notes that the recently introduced decentralised system of funding education²⁰, based on a standard amount per pupil, takes into consideration the fact that the costs for pupils belonging to minorities are necessarily higher. This new system, which is supposed to take better account of existing needs, is currently being introduced on an experimental basis in a number of counties in Romania.

144. In order to overcome the shortage of appropriate textbooks, in recent years the authorities have translated new textbooks for subjects such as maths, civics, biology, etc into minority languages. Also in preparation or under consideration are literary anthologies (in Serbian and Slovak) and textbooks covering the history of the Czech, Bulgarian, German, Hungarian, Serbian and Slovak minorities in the language of the community concerned.

145. The Advisory Committee notes with satisfaction that the Ministry of Education and Research is paying priority attention to the quality of education. This includes the adoption of specific regulatory provisions²¹ incorporating education quality criteria and mechanisms to monitor implementation. Although additional efforts are required to meet existing needs, it notes

²⁰ Law No. 354/2004 supplementing and amending Law No. 84/1995.

²¹ Emergency Government Order No.75 of 20 July 2005, on the quality of education, Official Gazette No. 642/20 July 2005.

the training measures taken to reduce the number of unqualified or under-qualified teachers in the sector of education for national minorities.

146. The Draft Law on the Status of National Minorities reasserts the right to education, already acknowledged in Romanian legislation, of persons belonging to national minorities and significantly enhances participation by such persons in the taking of decisions in this field. The Advisory Committee further notes that the draft law contains very favourable provisions in the field of education, such as the obligation for the State to guarantee education in the minority language at all levels and in all forms and types of education. In view of the financial difficulties mentioned above, the Advisory Committee hopes that impact and feasibility studies have been carried out prior to the introduction of such ambitious provisions (see also relevant comments under Article 5 above).

b) Outstanding issues

147. Although Romanian legislation offers persons belonging to national minorities broad opportunities in access to education and in receiving an education tailored to their specific needs, a number of shortcomings remain, particularly at local level, in the implementation of this legislation.

148. The authorities continue to experience difficulties in providing the requisite number of textbooks in the various subjects concerned, especially for the smaller minorities. In addition, minority languages continue in some cases to be taught by unqualified staff. Over and above the high costs of producing adequate textbooks, the authorities also seem to find it difficult to motivate young people - whether they belong to national minorities or to the majority - to consider a career in teaching. The Advisory Committee is concerned by the fact that, due to the economic situation of the country, severe financial restrictions affect Romania's education system, including the policies and measures specifically devised for national minorities. It notes that too often laudable initiatives launched in the education field depend on the existence of external financial support. More generally, the Advisory Committee notes that the plans as well as the legislation in force do not correspond to the resources available (see also comments in paragraph 142 above).

149. Nevertheless, the Advisory Committee has taken note of a recent Order from the Ministry of Education and Research, adopted in April 2005, authorising minorities to prepare their own textbooks in their mother tongue for various subjects, in line with the common curriculum. The Advisory Committee believes that such a solution, while it might address the problems in the short term, should not mean in the long term that the State does not have to fulfil its responsibilities and obligations in this field.

150. The Advisory Committee notes with concern the information provided by representatives of the Turkish minority as well as by the National Institute for Statistics regarding the high level of illiteracy among young people belonging to this community.

Recommendation

151. The authorities should redouble their efforts to ensure, particularly for the numerically smaller minorities, an adequate number of textbooks and qualified teachers to teach minority languages or in these languages.

Situation of the Roma

Findings of the first cycle

152. In its first Opinion on Romania, the Advisory Committee, noting the difficulties encountered by the Roma in the field of education, particularly absenteeism, called on the authorities to take additional measures, including socio-economic support, in order to improve the situation.

Current situation

a) Positive developments

153. The Advisory Committee notes with satisfaction that the Romanian authorities continue to view education of the Roma as a priority area of action. It appreciates the fact that the Ministry of Education and Research is focusing on an integrated approach for Roma children and that efforts are being made to involve Roma representatives in education programmes and projects of direct relevance to them.

154. At the institutional level, inspectors for Roma education have been appointed in all county school inspectorates, and Roma mediators have been appointed in schools. A Roma specialist, acknowledged by his own community, now works in the Ministry of Education and Research.

155. In practical terms, significant resources have been allocated to the production of textbooks for the teaching of the Roma language, culture and history, and to train an adequate number of qualified teachers from among the Roma community to teach these subjects (see observations under Article 14 below). To address the problem of absenteeism and improve conditions enabling Roma children to achieve better school results, the authorities have also made provision for socio-economic support (including the distribution of snacks at school) and taken a number of initiatives to encourage Roma families realise to pay increased attention to education.

156. The Advisory Committee also welcomes the active measures taken to promote Roma access to university and, more recently, upper secondary school, through the allocation of specific places reserved for the Roma (398 in over 40 universities for the 2005-2006 academic year). Despite the fact that certain failings have been reported in the practical application of these measures, designed by the authorities as a means of forming an elite among the Roma, significant results have already been noted.

157. Specific measures have also been taken to promote vocational education for Roma, with places reserved for them in professional training establishments. Vocational training projects, linked to traditional handicraft occupations of the Roma, have also been developed at local level.

b) Outstanding issues

158. Despite the above efforts, a large proportion of Roma children continue to fail at school and drop out, often as early as primary school level, or to remain outside the school system altogether. Roma representatives and other sources, while appreciating the specific education measures introduced by the authorities, consider that insufficient steps have been taken to address the socio-economic factors contributing to this situation (poverty, poor health, parents'

educational level, traditions etc.). The stereotypes and negative attitudes vis-à-vis the Roma among pupils' parents and in schools are other factors limiting the effectiveness and impact of the measures adopted.

159. In this context, the Advisory Committee notes with concern reported attempts and occasional cases of isolation of Roma children within the education system. Nonetheless, it notes that the authorities are fully aware of this problem and it welcomes the steps already taken by the Ministry of Education and Research to tackle this phenomenon. For example, a special committee has been set up within the Ministry and a Notification²², has been issued to all staff and schools concerned, defining and prohibiting segregation in its different forms and setting out specific measures to address the problem.

Recommendations

160. While pursuing the positive measures taken in respect of the Roma in the field of education, the authorities should step up their efforts to provide socio-economic support and raise awareness among Roma families and the rest of the population. The measures and projects launched in the sphere of vocational training should be pursued and developed further, in constant co-operation with the Roma and the local authorities concerned.

161. Priority attention should be given to the implementation of the measures agreed upon to put an end to the separation of Roma children in the education system and to ensure ongoing monitoring of the situation in this field.

Article 14 of the Framework Convention

Teaching of minority languages and in these languages

Findings of the first cycle

162. In its first Opinion on Romania, the Advisory Committee noted that Romania had a system of teaching minority languages and providing instruction in those languages. The authorities were encouraged to ensure the effective implementation of this system with regard to certain numerically smaller minorities, in line with existing needs, and to examine the shortcomings identified in this respect.

Current situation

a) Positive developments

163. The Advisory Committee notes that Romania has an elaborate and dynamic system of teaching minority languages and providing instruction in those languages. This system ranges from pre-school to upper secondary school and, for a growing number of pupils²³, technical vocational education.

²² Notification No. 29323/20/04/2004 issued by the Ministry of Education and Research. The notification gives a list of practical steps to bring such practices to an end and desegregate the pupils in question. In addition, it fixes a deadline of three years in which the measures must be applied.

²³ While in the 1989-1990 academic year only 125 pupils were enrolled in vocational education with instruction in a minority language, in 2003-2004 the total exceeded 9,700 pupils.

164. According to official figures for pre-university education, in the 2004-2005 academic year, teaching was provided in Hungarian, German, Ukrainian, Serbian, Slovak, Czech, Croatian and Bulgarian. In all, this involved 204,191 pupils in 1,772 classes or groups. The Advisory Committee observes that the teaching of Hungarian (88.29%) and the number of pupils belonging to the Hungarian minority (181,887) represent a significant proportion of teaching in the mother tongue. For the same academic year (2004-2005), pupils belonging to the Croatian and Turkish minority were taught in their mother tongue for part of their course.

165. In addition, minority languages were taught as separate subjects for children whose mother tongue was Armenian, Bulgarian, Greek, Polish, Romani, Russian, Czech, Croatian, German, Hungarian, Serbian, Slovak, Turkish and Ukrainian.

166. In higher education, sections for the study of minority languages have been introduced in several universities in regions where minorities live. For students of Hungarian or German origin, there are also sections or courses in their respective language. The Advisory Committee notes in particular the opportunities available for higher education at the Babes-Bolyai University in Cluj-Napoca, a multi-cultural institution offering teaching in Romanian, Hungarian and German. In addition, a private Hungarian-language university, supported financially by Hungary, has been in operation for several years in Cluj-Napoca, with sections in a number of other towns. Nevertheless, representatives of the Hungarian minority consider insufficient the opportunities available at the Babes-Bolyai University in Cluj-Napoca and require the setting up of a state funded university in Hungarian as an issue of particular importance for the Hungarian minority.

b) Outstanding issues

167. The Advisory Committee notes that despite the above positive developments, certain numerically smaller minorities or those which cannot benefit from the support of a kin-state maintain that there are too few opportunities available to them as things currently stand. The representatives of the Ukrainian minority, for example, consider that there are too few classes available to them and point out that for some pupils the schools in question are too far away from where they live.

Recommendation

168. The authorities should review the situation, in consultation with the representatives of minorities, to see whether the opportunities for learning the minority languages in question correspond to actual needs and, where appropriate, take the necessary steps to address any shortcomings.

Study of the Roma language

Findings of the first cycle

169. In its first Opinion on Romania, the Advisory Committee noted the very limited opportunities for learning the Roma language and the lack of any teaching in this language in Romania. The authorities were urged to examine the situation in conjunction with the Roma and take the requisite steps to make the necessary improvements.

Current situation

a) Positive developments

170. Following the involvement of the Ministry of Education and Research, there has been significant progress in the teaching of the Roma language in Romania. The Roma now have textbooks (for both children and adults) for learning their language and additional classes for this purpose are included in the curriculum at the parents' request.

171. Roma language and literature studies have been introduced in the University of Bucharest with a special section which has 10 places per year. Short-duration and distance learning courses (45-60 participants each year) are run for unqualified teachers, and it has been possible to co-opt young Roma who have completed their secondary school studies to augment the ranks of language teachers. Other courses have been set up to train teachers of Roma history and traditions and to train inspectors for the education given to Roma.

172. Considerable attention has also been focused on producing teaching material. This includes the preparation and publication of dictionaries, a handbook on positive practices for teaching Roma children, audio cassettes comprising a selection of Roma tales and proverbs and also a textbook to teach reading to young and adult Roma.

173. As a result of these measures there has been an increase in the number of Roma pupils studying their mother tongue and heightened interest in studying the language among the Roma community. According to official figures, approximately 25,000 Roma children are studying the Roma language, history and traditions. Over 390 of the teachers involved are of Roma origin. Other initiatives, such as Roma language and culture summer camps, are designed to promote the use of the Roma language in out-of-school activities.

b) Outstanding issues

174. The Advisory Committee notes that, for the moment, the teaching of the Roma language covers only a limited proportion of the Roma population who could potentially be interested. In order to develop and consolidate the system, constant efforts alongside appropriate financial resources are required, and this should include placing a greater emphasis on informing families about the opportunities that exist.

Recommendation

175. The authorities should pursue their efforts to develop further the opportunities for teaching the Roma language, in co-operation with Roma representatives, and ensure that there is ongoing assessment of actual needs.

Article 15 of the Framework Convention

Participation of persons belonging to national minorities in public affairs

Findings of the first cycle

176. In its first Opinion on Romania, the Advisory Committee, while welcoming the opportunities created to promote the participation of persons belonging to national minorities in public life, noted certain shortcomings in this field and encouraged the authorities to take appropriate action.

177. The Advisory Committee noted in particular that there was insufficient consultation of the Council of National Minorities and that this Council had limited impact in the decision-making process. It also noted the preferential treatment accorded to organisations of national minorities which were represented in Parliament and which were members of the Council. The

authorities were encouraged to step up their efforts to support participation of the Roma in economic and social life.

Current situation

a) Positive developments

178. The Advisory Committee welcomes the legislative and institutional measures taken in Romania to enable persons belonging to national minorities to play a full part in public life. Above and beyond the right to parliamentary representation, guaranteed by the Constitution and set out in the electoral legislation, persons belonging to national minorities can make their voice heard through the Council of National Minorities, a consultative body to the Government.

179. Following the last parliamentary elections, minorities are represented in both houses of Parliament by two political groups: one formed by the Democratic Union of the Hungarians of Romania (UDMR), the main organisation of the Hungarian minority, and a parliamentary group of other national minorities, comprising members of the 18 other organisations of national minorities (19 minorities in all, the Slovaks and the Czechs being represented by one and the same organisation). The Advisory Committee has been informed that the two parliamentary groups co-operate well and with increasing effectiveness. It has also been informed that, in the current configuration of the Parliament, the national minorities also have considerable influence in the different parliamentary committees, where minority representatives are particularly active.

180. The UDMR is currently part of the Government coalition and holds important positions in the executive, such as deputy Prime Minister, positions of state secretary in the ministries and other key bodies for the protection of minorities (including the direction of the Department for Interethnic Relations) and a number of positions of Prefect and Sub-Prefect.

181. Although to a much lesser extent, other minorities also have representatives in other public bodies. The Advisory Committee notes that under the new Justice System Act which came into force on 25 July 2005 (Law No. 247/2005), graduates from the National Judicial Institute belonging to national minorities are given preference, provided that their abilities are equivalent to other candidates, for recruitment in areas where the population using the same language represents at least 50% of the total number of inhabitants.

182. Following the last local elections, representatives of minorities also hold numerous positions as mayors and local and county councillors²⁴. Although virtually absent in elected county councils, the Roma hold 189 seats as local councillors and are present in a consultative capacity in the local and county authorities, through specific structures set up in recent years: the Roma offices in prefectures, the Roma experts in municipal authorities, health mediators (primarily Roma women) and school inspectors for the Roma (recruited among Roma, but also among Romanians or Hungarians).

183. The Advisory Committee notes that the Roma are represented on important bodies such as the National Agency for the Roma and the National Council for the Fight against Discrimination. It also welcomes the initiatives launched by the Ministry of the Interior to promote the training and recruitment of members of the Roma community into the police force.

²⁴ Among the posts of mayor held by persons belonging to minorities, 186 are filled by Hungarians, 9 by Germans, 2 by Ukrainians and 1 each by a Bulgarian, a Croat and a Russian-Lippovan. In addition, 2,481 seats of local councillors are held by Hungarians, 189 by Roma, 96 by Germans, 20 by Slovaks and Czechs, 29 by Ukrainians, 21 by Russians-Lippovans, 11 by Serbs, 6 by Croats, 5 by Bulgarians, and 3 by Tatars and 2 by Poles.

184. At the institutional level, the Advisory Committee welcomes the reinforcement of the status of the Department for Interethnic Relations as a governmental body responsible for matters relating to the protection of minorities, directly subordinate to the Prime Minister since July 2003. It welcomes the active role played by the Department for Interethnic Relations in initiating and promoting projects aimed at preserving the identities of minorities, and the priority it attaches to enhancing diversity.

185. The Advisory Committee notes that the Draft Law on the Status of National Minorities seeks to introduce, alongside the concept of cultural autonomy, new mechanisms for the participation of minorities in public life and, in particular, in the decision-making process in areas such as culture, education and the media. The Advisory Committee notes that the different national minorities have been consulted on this draft law, initiated and promoted by the UDMR, and notes that a consensus has emerged among the member organisations of the Council on National Minorities on the need for such a law (see also comments under Article 5 above) .

b) Outstanding issues

186. The Advisory Committee is concerned about the low level of participation by the Roma in local public affairs. It notes that, although there are Roma local councillors following the last local elections, in numerous communities where there is a significant proportion of Roma, the latter remain absent from the local administration and that the effectiveness of the recently introduced consultation structures, mentioned above in paragraph 182 has so far been limited.

187. In addition, national minorities, particularly the numerically smaller ones, continue to be inadequately represented in certain sectors of the public administration, such as the judiciary and the police. The Advisory Committee hopes that efforts made by the authorities to encourage the recruitment of such persons in the sectors in question will soon begin to produce visible results.

188. The Advisory Committee notes that the Council of National Minorities has relatively limited impact on decisions taken by the executive. As it has no legal personality and the bare minimum of human and material resources to organise its meetings effectively, its influence on the political choices made derives more from the presence of well-known figures among its members than from its institutional authority. More generally, the Advisory Committee notes that, among the different national minorities, the Hungarian minority is the one which has a particularly prominent and effective presence in public life, whereas the presence and influence of the other communities are much more subdued.

189. The Advisory Committee is further concerned that only the organisations which are members of the Council of National Minorities are considered the legitimate representatives of minorities vis-à-vis the authorities and are the only ones entitled to the funds specifically earmarked for national minorities in the state budget.

190. It also notes that the electoral legislation in force, both for local²⁵ and parliamentary²⁶ elections, grants the member organisations of this Council which are also represented in Parliament, preferential treatment over other minority organisations wishing to represent the interests of national minorities in elections. Under this legislation, organisations set up within a single minority but which are not represented in Parliament must, in order to take part in the

²⁵ Law No. 67/2004 on Local Elections.

²⁶ Law No. 373 of 24 September 2004 for election to the Chamber of Deputies and the Senate, published in the Official Gazette on 29 September 2004.

elections, satisfy much more restrictive conditions, particularly with regard to participation in local elections.

191. The Advisory Committee regrets that similar provisions have been included in the current Draft Law on the Status of National Minorities, particularly since the Romanian authorities were well aware of the observations of the Venice Commission, which had considered these conditions to be at odds with the principles of equality, proportional representation and pluralism within minorities²⁷ (see also observations under Article 7 above).

192. With regard to the envisaged cultural autonomy, the Advisory Committee notes that the procedures for becoming a member of the National Council of Cultural Autonomy of each minority are more open, enabling the various types of minority organisations to put forward candidates. At the same time, the Advisory Committee hopes that the current parliamentary debate will provide all the necessary clarifications concerning the institutions, procedures and mechanisms introduced by the draft law, including with regard to the situation of national minorities not willing or not able to use the cultural autonomy mechanism as a means of participating in public affairs (see also the observations under Article 5 above).

Recommendations

193. The Advisory Committee encourages the authorities to pursue and develop measures to promote Roma participation in local public life, in particular, by finding ways of making the consultative structures set up at that level more effective.

194. The authorities should also identify ways to clarify the institutional position of the Council of National Minorities and make its action more effective, while at the same time providing the opportunity for organisations of national minorities other than those that are members of the Council to be involved in the taking of decisions and to have access to the resources allocated by the State for the protection of national minorities.

195. The authorities should monitor the implementation of the new Justice System Act in order to facilitate the recruitment within the justice system, of persons belonging to numerically smaller minorities.

196. The authorities should ensure, in the interests of persons belonging to minorities, that the Draft Law on the Status of National Minorities complies with the principles of equal opportunities and pluralism both within minorities and between their representative organisations. In addition, legal clarity should be provided with regard to the cultural autonomy institutions and procedures envisaged by the draft law.

²⁷ Venice Commission, Opinion No. 300/2004 on the Law for the Election of Local Public Administration Authorities in Romania, CDL-AD(2004)040.

III. CONCLUDING REMARKS

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

Positive developments

198. Since the adoption of the Opinion of the Advisory Committee in April 2001 and the Resolution of the Committee of Ministers in March 2002, Romania has continued to pay particular attention to the protection of national minorities. Important steps have been taken to consolidate and build upon Romania's existing legislation and practice in the field of minority protection, while constantly involving the representatives of national minorities in this process.

199. On the legislative level, these steps have resulted in new constitutional and legislative provisions in areas of direct concern to persons belonging to national minorities. Increased efforts have also been made to develop an adequate legal and institutional basis for preventing and combating manifestations of discrimination, intolerance and hostility based on ethnicity. In addition, a Draft Law on the Status of National Minorities is currently being examined by Parliament.

200. Special measures adopted in order to promote the full and effective equality of persons belonging to national minorities have produced results in various fields, including education, the use of minority languages in the public sphere, and participation in decision-making. Representatives of national minorities acknowledge the existence of a social climate favourable to tolerance and intercultural dialogue and agree that progress has taken place in this regard.

201. The situation of the Roma continues to remain a priority for the authorities. Numerous sectoral measures have been adopted in recent years aimed at combating the social exclusion of the Roma, and reducing the serious disparities which continue to separate them from the rest of the population in most areas. Moreover, significant efforts have been made to improve the public image of the Roma as well as their relations with the police.

Issues of concern

202. Although Romania has a developed legal and institutional framework for the protection of national minorities, shortcomings continue to be reported with regard to the implementation of certain legislative provisions, particularly at local level. The financial difficulties affecting many fields of relevance to the protection of national minorities, such as education, also have an impact on the effective implementation of measures adopted by the Government. Further efforts must be made to redress imbalances in the state support provided to the different national minorities in various fields. The ongoing restitution of property is likely to increase the resources of more prosperous groups and to leave persons belonging to other groups, such as the Roma, in a disadvantaged position. However, no assessment of the impact of this process on the various groups has been made.

203. Similarly, the authorities should adopt a more open approach, in their dialogue with the national minorities, towards organisations other than those represented in the Council of National Minorities and, in a more general way, towards other groups that have expressed an interest in receiving the protection afforded by the Framework Convention.

204. In spite of the many initiatives taken by the Government, the majority of the Roma continue to confront serious difficulties and manifestations of discrimination in different fields, including employment, housing, health and education.

205. Moreover, the impact of the awareness-raising measures taken to improve the public image of the Roma and to encourage more positive attitudes towards them within society remains limited. Public manifestations of hostility and intolerance are still reported in certain media, as well as in the statements made by certain members of public authorities and, in spite of improvements in this area, in the conduct of certain members of the police.

Recommendations

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

- increase awareness-raising measures among the public, politicians and the media regarding the importance of tolerance and respect for diversity and ensure that educational curricula reflect, in an appropriate manner, the diversity of Romanian society; take effective measures to strengthen interethnic dialogue and mutual understanding in areas where persons belonging to the majority are in a minority position;
- take more resolute action to prevent and combat discrimination and social exclusion of the Roma and address, as a matter of priority, the difficulties they face in employment, housing, health and education; evaluate the effects of the process of restitution of property on the situation of persons belonging to the Roma minority;
- find ways to provide more convenient time-slots for minority television programmes and promote better access of the Roma to the local radio;
- pursue and strengthen the initiatives taken in order to improve the situation of the Roma in the field of education and to develop the teaching of their language; pursue and monitor the measures taken to prevent and combat the isolation of Roma children within the educational system;
- increase efforts, which require also an increase of the general budget for education, to ensure the availability of sufficient and qualified teachers and textbooks for education of or in minority languages, in particular for numerically smaller minorities;
- promote further the participation of persons belonging to national minorities in public affairs at central and local levels, in particular as regards the Roma and the numerically smaller minorities; encourage pluralism within minorities and develop contacts with organizations which are not represented in the Council for National Minorities, in order to avoid unnecessary politicization of minority organizations;
- make an assessment of the legal and institutional effects as well as the budgetary implications of the Draft Law on the Status of National Minorities and ensure compliance of the draft law with the principles embodied in the Framework Convention.