

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



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Fourth Opinion on Bosnia and Herzegovina - adopted on 9 November 2017

Summary

Society in Bosnia and Herzegovina remains deeply divided among the three constituent peoples, namely Bosniaks, Croats and Serbs. Persons not identifying with any of them, who fall into the category of “Others”, are institutionally discriminated against, and are unable to participate fully in the political processes in the country. Public life in all spheres continues to be dominated by a pronounced sense of segregation among the constituent peoples. Although serious interethnic incidents have successfully been averted in recent years, continuing segregation merely superficially masks a dormant hostility and no real progress is made towards a deeper acceptance of ethnic groups other than one’s own.

Persons belonging to national minorities do not effectively enjoy access to rights enshrined in the Framework Convention, beyond recognition of their existence. Few efforts are made to teach languages of national minorities. There are practically no publications or broadcasts in national minority languages and these languages are not used in relations with the administrative authorities. Data on the ethnic composition of the country, in particular as regards persons not belonging to the three constituent peoples, collected during the 2013 census, has not been released.

Political leaders exacerbate ethnic divisions within the country. Divisive and discriminatory public statements of politicians and other public figures, inciting ethnic hatred or discord are not condemned, setting the tone of impunity. Cases of violence and abuse against returnees finding themselves in a minority situation in their place of residence continue to be recorded. Little progress has been achieved in eliminating segregation in education. Civil society initiatives, such as the protest in Jajce against school segregation, demonstrate the existing possibilities to move towards integrated schools.

Constitutional and other legal provisions that restrict the right of “Others” to be elected and hold certain public posts, despite the findings of the European Court of Human Rights to be discriminatory, have not been amended because of a lack of political will. In addition, persons belonging to constituent peoples residing in a territory not corresponding to their ethnic affiliation continue to suffer discrimination.

Roma continue to face serious and entrenched difficulties and discrimination, in particular as regards access to employment, health services, mainstream and higher education and housing. Progress has been achieved in providing identity documents to Roma, including children, and as regards school enrolment, but high drop-out rates, in particular among Roma girls, continue to be reported. Many Roma live in segregated communities, often facing substandard living conditions.

Recommendations for immediate action:

- **amend without any further delay the constitution and other relevant legal provisions to eliminate the exclusion of “Others”, including persons belonging to national minorities, and of “constituent peoples” whose ethnic affiliation does not match their place of residency, from running for and holding public offices;**
- **unequivocally condemn public statements of politicians and other public figures that incite ethnic hatred or discord and take resolute measures to promote intercultural dialogue and mutual understanding between the different ethnic and religious communities;**
- **take, as a matter of priority, all necessary steps to eliminate segregation in education in all forms, in particular by abolishing all remaining cases of “two schools under one roof” and replacing them with integrated education based on the common core curriculum covering history and geography that would be taught following an inclusive and multiperspective approach;**
- **ensure adequate access of Roma to housing, employment, health services and education; increase efforts to remedy shortcomings faced by Roma children in accessing education.**

Table of contents

I. KEY FINDINGS	4
MONITORING PROCESS	4
GENERAL OVERVIEW OF THE CURRENT SITUATION.....	4
ASSESSMENT OF MEASURES TAKEN TO IMPLEMENT THE RECOMMENDATIONS FOR IMMEDIATE ACTION.....	5
ASSESSMENT OF MEASURES TAKEN TO IMPLEMENT THE FURTHER RECOMMENDATIONS.....	6
II. ARTICLE-BY-ARTICLE FINDINGS	8
ARTICLE 3 OF THE FRAMEWORK CONVENTION.....	8
ARTICLE 4 OF THE FRAMEWORK CONVENTION.....	13
ARTICLE 5 OF THE FRAMEWORK CONVENTION.....	19
ARTICLE 6 OF THE FRAMEWORK CONVENTION.....	21
ARTICLE 9 OF THE FRAMEWORK CONVENTION.....	26
ARTICLE 10 OF THE FRAMEWORK CONVENTION.....	28
ARTICLE 11 OF THE FRAMEWORK CONVENTION.....	29
ARTICLE 12 OF THE FRAMEWORK CONVENTION.....	30
ARTICLE 14 OF THE FRAMEWORK CONVENTION.....	33
ARTICLE 15 OF THE FRAMEWORK CONVENTION.....	35
ARTICLES 17 AND 18 OF THE FRAMEWORK CONVENTION	39
III. CONCLUSIONS.....	40
RECOMMENDATIONS FOR IMMEDIATE ACTION	40
FURTHER RECOMMENDATIONS	40

I. Key findings

Monitoring process

1. This fourth cycle opinion on the implementation of the Framework Convention by Bosnia and Herzegovina was adopted 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 Fourth [State Report](#), submitted by the authorities on 22 December 2016, other written sources and on information obtained by the Advisory Committee from governmental and non-governmental contacts during its visit to Sarajevo, Banja Luka, Mostar, Jajce, Kakanj, Prnjavor, Stolac and Trebinje from 2 to 7 July 2017.

2. The Advisory Committee welcomes the authorities' overall constructive and co-operative approach towards the monitoring process and the considerable assistance provided by them before, during and after the 4th cycle visit. The third cycle opinion was translated into the local language and published promptly. The Fourth State Report containing comprehensive and valuable information was submitted following extensive consultations¹ and with the significant contribution of representatives of national minorities. In addition, the Advisory Committee received additional written information from representatives of some recognised minority groups and civil society representatives. The Advisory Committee notes, however, with regret that no follow-up dialogue was organised in Bosnia and Herzegovina after the last monitoring cycle. Such an event would have been a useful opportunity to discuss the opinion and the Committee of Ministers' recommendations, as well as more generally, developments affecting national minorities and policies implemented to address their concerns.

3. The Advisory Committee looks forward to continuing its dialogue with the authorities of Bosnia and Herzegovina 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. It also invites the authorities to consider translating this opinion and the forthcoming Committee of Ministers' Resolution into local languages, and to disseminate it widely among all relevant actors.

General overview of the current situation

4. Society in Bosnia and Herzegovina remains deeply divided among the three main national communities who, according to the constitution, are the "constituent peoples" of the country. Persons not identifying with any of the three "constituent peoples", who fall into the category of "Others" find themselves institutionally discriminated against and are unable to participate fully in the political processes in the country. Furthermore, persons belonging to "constituent peoples" residing in territories not corresponding to their ethnic affiliation are discriminated against in the field of political participation, in particular as regards standing for elections and accessing certain positions. Regrettably, in spite of the passage of time, the

¹ See state report, p. 8.

rulings of the European Court of Human Rights finding the existing constitutional and other legal provisions restricting the right of “Others” to be elected and hold certain public offices discriminatory, have not been implemented and the situation remains blocked on account of political will to amend the constitution with a view to giving “Others” the same rights as those given to “constituent peoples”.

5. Civil society organisations continue to be actively engaged in the promotion of interethnic dialogue and respect. Numerous non-governmental initiatives have been undertaken to bring together representatives of different groups in various areas of the public sphere, including in education, to enhance an environment of mutual understanding and confidence. Despite these efforts, public life continues to be dominated by a pronounced sense of segregation among the three main ethnic groups (the “constituent peoples”), which dictates modalities of coexistence within public institutions, urban spaces and schools. While serious interethnic incidents have successfully been averted in recent years, continuing segregation merely superficially masks a dormant hostility and no real progress is made towards a deeper acceptance of ethnic groups other than one’s own which all negatively affect the process of reconciliation and integration of Bosnian society.

6. Political leaders exacerbate ethnic divisions within the country, in particular in the periods running up to elections, with the view to mustering support and maintaining their grip on power. Divisive and discriminatory public statements of politicians, inciting ethnic hatred or discord, are not condemned, setting the tone of impunity. Cases of violence and abuse against returnees finding themselves in a minority position in their place of residence continue to be recorded. Streets and schools have been named after Nazi collaborators and other war criminals and a fund-raising concert for convicted war criminals was organised.

7. Persons belonging to national minorities do not effectively enjoy access to rights enshrined in the Framework Convention, beyond recognition of their existence. The results of the 2013 census, in particular as regards the ethnic composition of the country, were published in 2016 only in respect of the “constituent peoples”. Data on other nationalities, although collected, was not released. No efforts are made to teach languages of national minorities, with the exception of those for which there is a general uptake. There are practically no publications or broadcasts in languages used by persons belonging to national minorities and their languages are not used in relations with the administrative authorities. Topographical signage in languages of national minorities is almost non-existent.

Assessment of measures taken to implement the recommendations for immediate action

8. No progress has been achieved as regards amendment of the constitution and other relevant legal provisions so as to eliminate the exclusion from running for presidency and for office as a member of the House of Peoples² of Bosnia and Herzegovina of “Others”, including persons belonging to national minorities. Implementation of the judgments in the Sejdić and Finci (Application N° 27996/06) and Zornić (Application No. 3681/06) cases continues to be

² The House of Peoples is one of the two chambers of the Parliamentary Assembly of Bosnia and Herzegovina established under the Dayton Agreement of 1995. It is composed of 15 members: 5 Serbs elected in Republika Srpska and 5 Croats and 5 Bosniaks elected in the Federation of Bosnia and Herzegovina.

monitored by the Committee of Ministers. Regrettably, the Committee of Ministers noted that “no tangible information has been provided to the Committee on measures taken to intensify the dialogue of the leaders of the political parties to enable the adoption of the necessary changes to the Constitution and electoral legislation, despite three interim resolutions and the decisions adopted so far”.³

9. There has been little progress in eliminating segregation in education, in particular as regards abolishing segregated schools separating communities of “constituent peoples” (“two schools under one roof”) and replacing them with integrated education, in spite of the ruling of the Supreme Court of the Federation of Bosnia and Herzegovina (FBiH) which confirmed them unconstitutional in the 2014 ruling of a lower court.⁴ Neither of these rulings has been implemented and at least 32 schools continue to operate under the model of “two schools under one roof” in Bosnia and Herzegovina, in particular in central and southern parts of the Federation of Bosnia and Herzegovina.⁵ Civil society initiatives, such as the protest in Jajce against school segregation, have brought some positive results and demonstrate the existing possibilities to move towards integrated schools where all children would study together.

10. There has been no progress in introducing a common core curriculum in schools in Bosnia and Herzegovina in particular as regards the teaching of history, geography and religion. These subjects are taught as “national subjects” following Bosniak,⁶ Croat or Serbian curricula. The only exception to this system can be found in the Brčko District, where a common core curriculum is used in all schools for all subjects with the exception of religious instruction.

11. Some progress has been achieved in providing identity papers to Roma, including children, and work is ongoing to avoid such a situation in the future. Roma children who do not have identity documents can enrol in schools and obtain education, pending their delivery. Action plans for Roma employment, health and housing have been successful to some extent as regards the provision of dwellings to Roma families. Problems remain, however, with regard to employment and access to health services of some Roma.

Assessment of measures taken to implement the further recommendations

12. The census conducted in 2013 did allow respondents to express multiple ethnic affiliations, albeit in the one line provided for an answer. Regrettably, data on the ethnic composition of the country was not fully disclosed. In fact, information on ethnicity of persons who indicated ethnic affiliation other than that of the three ethnicities of the “constituent peoples” was not published. This is the case in many different contexts; such persons are considered as “Others”.

³ See Decision of the Committee of Ministers CM/Del/Dec(2017)1288/H46-6 adopted on 7 June 2017.

⁴ Bosnia-Herzegovina Court Orders End to Ethnic Segregation of Schoolchildren, available at <https://news.vice.com/article/bosnia-herzegovina-court-orders-end-to-ethnic-segregation-of-schoolchildren>.

⁵ Bosnian Students Challenge Classroom 'Apartheid', available at www.rferl.org/z/20010/2017/5/23.

⁶ Whereas all the state reports submitted by Bosnia and Herzegovina refer to “Bosniaks”, the Constitution in its Preamble speaks of “Bosniacs”. In its previous opinions on Bosnia and Herzegovina, the Advisory Committee used the term “Bosniacs”. Taking into account the right to self-identification, the Advisory Committee decides to use “Bosniaks” in this opinion.

13. Few complaints alleging discrimination on ethnic grounds were lodged by the victims of discrimination with the Institution of Human Rights Ombudsman, possibly indicating little knowledge of and confidence in the effectiveness of the remedies which the institution can offer. The fact that ombudspersons make decisions by consensus, combined with their refusal to take sensitive cases such as those involving discrimination in the field of education, further limit the institutions' relevance in cases of discrimination on ethnic grounds. Moreover, the institution remains understaffed and underfunded, thereby seriously hampering its ability to function effectively and efficiently.

14. Insufficient support to maintain and develop their cultural heritage and languages is provided to national minorities. Teaching of national minority languages, other than the languages for which there is a general uptake, such as German, Italian and Turkish, is organised by national minority NGOs outside of the school network. The unavailability of census data on the number of persons belonging to national minorities at municipal and cantonal level further impedes access to rights and services for persons belonging to national minorities, in particular as regards education. Funding for cultural expressions of national minorities varies greatly depending on the location, but tends to be of an ad hoc nature and favours traditional folkloristic undertakings.

15. The gap separating constituent peoples has not narrowed in recent years and efforts to promote intercultural dialogue and mutual understanding between the different ethnic and religious groups in Bosnia and Herzegovina are carried out on an ad hoc basis, often at the initiative of foreign donors and/or local NGOs. Manifestations of intolerance and ethnically motivated hostility against returnees in the political and cultural sphere abound and physical attacks continue to be reported.

16. There has been no progress as regards the use of minority languages in relations with administrative authorities or for the display of topographical and other signs, and existing provisions of Entity legislation⁷ in this field remain largely non-operational. In addition, legislative provisions obliging public radio and television to broadcast in languages of national minorities are not implemented. It has to be noted, however, on the positive side that some programmes about national minorities and issues affecting their access to rights continue to be broadcast.

17. Persons belonging to national minorities participated in the local elections of 2016 and a number of them were successful in winning seats. It has to be noted, however, that the underlying discrimination based on ethnicity and ensuing problems concerning eligibility to contest specific posts have not been resolved, either for persons belonging to constituent peoples residing in territories not corresponding to their ethnic affiliation or for those who are qualified as "Others". The problem of adequate representation of persons belonging to national minorities in consultative or representative bodies is exacerbated on account of the lack of data on ethnic composition at municipal level.

⁷ Under the terms of the Dayton Agreement Bosnia and Herzegovina comprises two Entities: the Federation of Bosnia and Herzegovina and Republika Srpska. The Federation of Bosnia and Herzegovina is further subdivided into ten cantons. The District of Brčko remains outside either of them.

II. Article-by-article findings

Article 3 of the Framework Convention

Scope of application

18. The Advisory Committee notes that there have been no changes in the overall approach of the authorities towards the personal scope of application of the Framework Convention. Within the domestic legal order, the term “national minority” applies to citizens of Bosnia and Herzegovina who do not belong to any of the three “constituent peoples” and share the same or similar ethnic affiliation, same or similar tradition, customs, religion, language, culture, and spirituality and close or related history and other characteristics.⁸ The relevant laws⁹ of the Entities use similar wording.

19. The State Law on National Minorities of 2003 enumerates 17 recognised national minorities (Albanians, Czechs, Italians, Jews, Germans, Hungarians, Macedonians, Montenegrins, Poles, Roma, Romanians, Russians, Ruthenians, Slovaks, Slovenes, Turks and Ukrainians). Although the list of national minorities recognised in this law is open-ended, the recognition of any other national minority group is conditional on their members meeting the same criteria as the members of the minorities already recognised, including citizenship. The Advisory Committee is pleased to note that, in practice, the authorities show a degree of flexibility in interpreting legislative provisions pertaining to the scope of application of the State Law on National Minorities. In particular it notes with interest the decision of the Minister of Human Rights and Refugees of 2012 to include a representative of the Austrian minority in the Council of National Minorities of Bosnia and Herzegovina.

20. Regrettably, the general application by Bosnia and Herzegovina of the criterion of citizenship for access to the rights protected under the Framework Convention is not in line with current efforts aimed at developing a more nuanced approach to the use of the citizenship criterion in the protection of national minorities. The Advisory Committee indeed considers that, while citizenship may be a legitimate requirement in fields such as representation in parliament and certain public offices, a general application of this criterion nevertheless acts as a constraint in relation to the guarantees associated with other important fields covered by the Framework Convention, such as non-discrimination and equality, as well as certain cultural and linguistic rights.¹⁰

21. In particular, the Advisory Committee recalls observations it made in its previous opinions concerning the unclear legal status of many persons displaced by the conflicts in the 1990s. It notes the considerable progress achieved in confirming the identity of persons and regularising the status of many Roma. It notes, however, that according to its interlocutors a small number of cases remain unresolved impacting on confirmation of citizenship of those

⁸ Article 3 of the Law on the Protection of Rights of Persons Belonging to National Minorities of 2003.

⁹ Law on National Minorities of the Republika Srpska of 2004 and Law on National Minorities of the Federation of Bosnia and Herzegovina of 2008.

¹⁰ See ACFC Thematic Commentary No. 4 on the scope of application of the Framework Convention on the Protection of National Minorities (2016), paras 29 and 30.

concerned. These difficulties need to be taken into account by the authorities when considering the personal scope of application of minority rights in Bosnia and Herzegovina. Persons displaced by the conflicts in the 1990s, whose citizenship has not been confirmed, should not a priori be excluded from benefitting from the protection provided by the Framework Convention.

22. The Advisory Committee reiterates its firm position that the right to be treated or not to be treated as a person belonging to a given ethnic group, as contained in Article 3 of the Framework Convention, is a free choice of each person and must be fully respected. It has to be noted, however, that the conditioning of access to employment on a specific ethnicity of an applicant, has reportedly led to numerous cases of abuse. In consequence, it undermines and trivialises the understanding and support for national minority rights within society.

Recommendation

23. The Advisory Committee reiterates its recommendation to the authorities to favour an inclusive approach concerning the scope of application of the Framework Convention and provide for access to rights to persons belonging to national minorities not listed in the State Law on National Minorities.

Persons belonging to the “constituent peoples” in a minority situation

24. The Advisory Committee notes with regret that discrimination in the daily life of persons belonging to “constituent peoples” who live in a minority situation, including in access to employment and social rights continues to be commonplace. Non-enforcement of domestic court rulings as well as those of the European Court of Human Rights in cases of discrimination undermines democracy, rule of law and respect of human rights in Bosnia and Herzegovina. In this context, the Advisory Committee draws the authorities’ attention to its 4th Thematic Commentary on the scope of application where it considered that “extending the protection of the Framework Convention on a case-by-case basis to persons belonging to the “constituent peoples” who live in a minority situation could provide an additional tool for promoting their access to rights and addressing the issues they are faced with, without implying a weakening of their status. Indeed, the applicability of minority rights to them is considered by the Advisory Committee as fully in line with the objective and aim of the Framework Convention”.¹¹

Recommendation

25. The Advisory Committee reiterates its call on the authorities to consider, in close consultation with those concerned, extending, on a case by case basis, the application of the Framework Convention to persons belonging to “constituent peoples” in a minority situation.

National minorities in the State and Entity Constitutions

26. The Advisory Committee notes with deep regret that no progress has been achieved in discussions aiming to change the language used at constitutional level to refer to national minorities. The Constitutions of Bosnia and Herzegovina and of the Entities continue to distinguish between Bosniaks, Croats and Serbs, as constituent peoples, and “Others”. The

¹¹ See ACFC Thematic Commentary No. 4 on the scope of application of the Framework Convention on the Protection of National Minorities (2016), footnote 6.

category of “Others”, which designates persons who do not identify as belonging to any of the three constituent peoples, is broad. In addition to including persons belonging to the 17 recognised national minorities, it includes persons belonging to other national, ethnic, religious and linguistic groups and persons who identify as belonging to more than one ethnic group. It also encompasses those citizens of Bosnia and Herzegovina whose identity is civic and those who identify with Bosnia and Herzegovina as a whole but do not wish to identify with a specific ethnic or religious group, rather than being determined by ethnicity and religion. The term “Others” is perceived by persons to whom it applies to be offensive as it places them in a situation of inferiority to that of the “constituent peoples”. The ambiguousness of the term “Others” combined with the right to self-identification proves in practice to be problematic, and open to possible misuse. The Advisory Committee was informed of cases of individuals changing ad hoc their declarations of ethnicity to claim “Others” status with a view to gaining access to reserved seats (see related comment under Article 15).

27. The Advisory Committee notes with regret that there is a lack of political will among the main stakeholders in Bosnia and Herzegovina to amend the constitution with the view to implementing the *Sejdić and Finci*¹² and *Zornić*¹³ judgments of the European Court of Human Rights. After almost eight years since the ruling in the *Sejdić and Finci* cases, various initiatives, such as the proposal adopted by the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina on 30 November 2016,¹⁴ which provided a specific roadmap for its implementation, have not led to conclusive results and the situation remains deadlocked.¹⁵

Recommendation

28. The Advisory Committee urges the authorities to introduce necessary changes to the constitution to guarantee equality of all citizens and explicitly prohibit discrimination on the ground of ethnicity.

Population census

29. The Advisory Committee notes that a census was conducted in Bosnia and Herzegovina for the first time since 1991 from 1 to 15 October 2013, yielding information on the ethnic composition of the country after the conflict. The questions on ethnic/national and religious affiliation were clearly indicated as optional. The question relating to ethnic affiliation included four pre-defined answers: “Bosniak”, “Croat”, “Serb” and “Not declared” and a space in which

¹² *Sejdić and Finci v. Bosnia and Herzegovina*, applications nos. 27996/06 and 34836/06, judgment of 22 December 2009 (Grand Chamber);

¹³ *Zornić v. Bosnia and Herzegovina*, Application No. 3681/06, judgment of 15 July 2014.

¹⁴ See Women Citizens for Constitutional reform, Parliament of BiH adopted a proposal on implementation of the verdict “*Sejdić-Finci*”, published on 5 December 2016, available at <https://womencitizensforconstitutionalreform.wordpress.com/2016/12/05/parliament-of-bih-adopted-a-proposal-on-implementation-of-the-verdict-sejdic-finci/>.

¹⁵ A similar problem has been identified recently at the Entity level, in the Republika Srpska where the European Court of Human Rights found that the legal impossibility for Mr Pilav (who resides in Republika Srpska and identifies as a Bosniak) to stand as a candidate in elections for the presidency of the country constitutes discrimination on ethnic grounds (case *Pilav v. Bosnia and Herzegovina*, Application No. 41939/07).

any other ethnic affiliation (or combination thereof) could be indicated.¹⁶ The question concerning religion included six pre-defined answers: “Islamic”, “Catholic”, “Orthodox”, “Agnostic”, “Atheist” and “Not declared” and a space in which any other religion could be recorded. The Advisory Committee notes that respondents could indicate more than one ethnic affiliation, albeit on one line provided for an answer. Furthermore, the compulsory question on the “mother tongue” allowed for indication of one language only. The impossibility to give multiple answers for any of the questions related to self-identification (only one line for the answer was provided) may have dissuaded persons from expressing multiple affiliations.

30. The first results of the census were published very promptly, on 5 November 2013.¹⁷ The information disclosed at the time did not include information on the ethnic composition of the country, but the figure on the number of residents in each canton and entity was provided.¹⁸ The official results were published by the Agency for Statistics of Bosnia and Herzegovina on 30 June 2016, showing markedly different figures than those disclosed earlier.¹⁹ Although the International Monitoring Operation (IMO), mandated to monitor the compliance of the census operation with international standards, concluded that the census in Bosnia and Herzegovina was as a whole conducted in compliance with international standards,²⁰ the Advisory Committee notes that the subsequent publication of the final results has been delayed due to methodological disagreements on data collection between the statistical institutes of the country's two entities, the Republika Srpska and the Federation of Bosnia and Herzegovina. It notes also the numerous media reports alleging intimidation of respondents aiming to make them declare a specific ethnicity, most often that corresponding to the local majority of the population.²¹

¹⁶ See “Census of Population, Households and Dwellings in Bosnia and Herzegovina”, 2013 Final Results, question 24 in the questionnaire, p. 256, available at www.popis2013.ba/popis2013/doc/Popis2013prvolzdanje.pdf.

¹⁷ Agency for Statistics of Bosnia and Herzegovina, Preliminary Results of the 2013 Census of Population, Households and Dwellings in Bosnia and Herzegovina, Sarajevo, 5 November 2013, available at http://www.bhas.ba/obavjestenja/Preliminarni_rezultati_bos.pdf.

¹⁸ According to the preliminary results of the Census in Bosnia and Herzegovina, the total number of enumerated persons stood on 30 September 2013 at 3 791 622 persons, out of which: 2 371 603 persons in the Federation of Bosnia and Herzegovina, 1 326 991 persons in the Republika Srpska and 93 028 persons in the Brčko District.

¹⁹ According to information contained in the state report “the final, internationally comparable census results, Bosnia and Herzegovina has 3 531 159 permanent residents, of which 2 219 220 (62.85%) live in the Entity of the Federation of Bosnia and Herzegovina, 1 228 423 (34.79%) in the Republika Srpska and 83 516 (2.37%) in the Brčko District”.

²⁰ Final assessment of the International Monitoring Operation for the 2013 Population and Housing Census in Bosnia and Herzegovina, available at www.coe.int/en/web/electoral-assistance/-/final-assessment-of-the-international-monitoring-operation-for-the-2013-population-and-housing-census-in-bosnia-and-herzegovina.

²¹ See for example *Popis stanovništva otjerao čovjeka u smrt*, available at www.tportal.hr/vijesti/clanak/popis-stanovnistva-otjerao-covjeka-u-smrt-20131003; *POPIŠI PROPALO: Ovo su ključni razlozi zbog kojih Dodik ne prihvata rezultate popisa!*, available at www.slobodna-bosna.ba/vijest/34223/popisi_propalo_ovo_su_kljuchni_razlozi_zbog_kojih_dodik_ne_prihvata_rezultate_popisa.html; *NEMIRNA ZEMLJA: Objava rezultata popisa stanovništva stvorit će nove napetosti u BiH*, available at <http://net.hr/danas/svijet/nemirna-zemlja-objava-rezultata-popisa-stanovnistva-stvorit-ce-nove-napetosti-u-bih/>; *Dodik i Ivanić slažu se oko popisa*, available at <http://rs.n1info.com/a165520/Svet/Region/Ivanic-i-Dodik-o-popisu-u-BiH.html>.

31. According to official figures,²² 50.11% of residents in Bosnia and Herzegovina declared themselves as Bosniaks, 30.78% identified themselves as Serbs and 15.43% as Croats. Ethnicity was not declared by 0.77% of the population, while less than 3% (96 539) declared themselves as “Others”. The Advisory Committee notes with deep regret that the figures indicating the number of persons who indicated belonging to each of the 17 recognised ethnic minorities or to other ethnic groups have not been released. Without the official figures, it is for example impossible to ascertain how many of the estimated 30 to 50 thousand Roma,²³ the biggest national minority living in Bosnia and Herzegovina, declared their ethnicity in the census. Information on other national minorities is also sorely missed, as it does not allow for a considered policy on national minorities to be developed, in consequence impeding access to rights.

32. The Advisory Committee notes in this context a commendable initiative of the Ministry of Human Rights and Refugees (MHRR), undertaken in the context of the Decade of Roma Inclusion 2005-2015 to collect data on the situation of the Roma national minority throughout Bosnia and Herzegovina recording socio-economic indicators and mapping out their needs. Similar initiatives have been undertaken more recently locally in Mostar and in Kakanj. The Advisory Committee draws the authorities’ attention to its 4th Thematic Commentary on the scope of application where it considered the “[a]uthorities should also further avail themselves of other sources of information, including the general labour force and other surveys, as well as independent qualitative and quantitative research available on issues pertaining to the access to rights of persons belonging to national minorities”.²⁴ It also wishes to emphasise in this context, that reliable information about the ethnic composition of the population is an essential condition for formulating and implementing effective policies and measures to protect minorities and for helping to preserve and assert their identity. However, the census cannot be considered as the only indicator of their number when implementing these policies and measures.

Recommendations

33. The Advisory Committee asks the authorities to publish without any further delay, census results relating to the ethnic breakdown of the persons included in the “Others” category, with full respect for the safeguards, notably those related to the protection of personal data.

34. The Advisory Committee calls on the authorities to review in advance of the next census, and in close consultation with minority representatives, the methodology of the census, the wording of the questions asked and safeguards for voluntary and informed answers. Respondents should have the possibility to indicate multiple affiliations, in line with the United Nations Economic Commission for Europe and Conference of European Statisticians Recommendations for the 2020 Censuses of Population and Housing. It further encourages the

²² Agency for Statistics of Bosnia and Herzegovina, Census of Population, Households and Dwellings in Bosnia and Herzegovina, 2013, Final Results, pp. 54-69, available at www.popis2013.ba/popis2013/doc/Popis2013prvolzdanje.pdf.

²³ Minority Rights Group International, World Directory of Minorities and Indigenous Peoples: Bosnia and Herzegovina - Roma, available at <http://minorityrights.org/minorities/roma-3/>.

²⁴ See ACFC Thematic Commentary No. 4 on the scope of application of the Framework Convention on the Protection of National Minorities (2016), para. 18.

authorities to ensure that quantitative and qualitative data, disaggregated by gender, age, and geographical distribution, is regularly made available for the design of targeted policies and measures aimed at the promotion of effective equality.

35. The Advisory Committee encourages the authorities to develop mechanisms for the regular collection of reliable information on the number of persons belonging to national minorities, as well as on their situation as regards access to housing and social services. Ethnic data collection, including on living conditions and other socio-economic indicators should be conducted in close co-operation with national minority representatives and with full respect for the safeguards, notably those related to international standards on the protection of personal data.

Article 4 of the Framework Convention

Legislation to combat discrimination and existing remedies

36. The Law on Prohibition of Discrimination²⁵ has been in force since August 2009. It is applicable throughout the territory of Bosnia and Herzegovina to all public bodies of the state, entities, cantons and the Brčko District. The law prohibits both direct and indirect discrimination and contains an open-ended list of protected grounds, including race, colour, language, religion, ethnic affiliation, national or social origin and affiliation with a national minority. The grounds for discrimination were expanded through a legislative amendment adopted in 2016.²⁶ The Advisory Committee notes the European Commission against Racism and Intolerance (ECRI)'s assertion expressed in its last report on Bosnia and Herzegovina,²⁷ that the law reflects most of ECRI's recommendations contained in its GPR No. 7 concerning specialised bodies such as ombudsman institutions' mandate and powers.²⁸

37. The courts in Bosnia and Herzegovina play an active role enforcing anti-discrimination legislation and protecting the human rights of persons belonging to national minorities. Notably, the 2010 ruling of the Constitutional Court found the Electoral Law and the Statute of the City of Mostar to be in breach of the constitutional principle of equality.²⁹ In addition, the ruling of the Supreme Court of the Federation of Bosnia and Herzegovina also proclaimed in 2014 that the "two schools under one roof" system constitutes segregation along ethnic lines

²⁵ Law on Prohibition of Discrimination, Official Gazette of Bosnia and Herzegovina No. 59/09, published on 28 July 2009, available at <http://arsbih.gov.ba/wp-content/uploads/2014/02/002-Anti-Discrimination-Law-.pdf>.

²⁶ Sexual orientation and gender identity were more accurately defined in local languages by the new amendments. In addition to these changes, sex characteristics were explicitly added to the list of protected grounds. For details see www.ilga-europe.org/resources/news/latest-news/anti-discrimination-law-updated-bosnia-herzegovina.

²⁷ See para. 11 of the ECRI Report on Bosnia and Herzegovina (fifth monitoring cycle) adopted on 6 December 2015, CRI(2017)2, available at www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Bosnia_Herzegovina/BIH-CbC-V-2017-002-ENG.pdf.

²⁸ ECRI General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, available at www.coe.int/t/dghl/monitoring/ecri/activities/GPR/EN/Recommendation_N7/ecri03-8%20recommendation%20nr%207.pdf.

²⁹ See Ruling of the Constitutional Court of Bosnia and Herzegovina in case No. U 9/09, of 26 November 2010, available at www.ustavnisud.ba/dokumenti/_en/U-9-09-386218.pdf.

and thus breaches anti-discrimination law.³⁰ The Advisory Committee welcomes these rulings, but regrets to note that those decisions of the courts of highest instances have not been implemented so far. In consequence, inhabitants of Mostar have been deprived of their right to elect local councillors in two successive local elections (in 2012 and 2016). Likewise, the “two schools under one roof” system continues to exist, without any clear indication as to its phasing out (for further details see under Articles 6 and 15).

38. The Advisory Committee recalls that, having replaced in 2010 the two Entity institutions, the unified Human Rights Ombudsman Institution³¹ has been operating in Bosnia and Herzegovina, led by three ombudspersons, each representing one of the constitutionally recognised “constituent peoples”. In fact, in accordance with the applicable legal provisions, the ombudspersons are appointed by the parliamentary assembly from the ranks of the three “constituent peoples” that is, Bosniaks, Croats and Serbs. The institution established to promote respect of human rights and to protect from discrimination, cannot be headed by persons belonging to the category “Others”, which is clearly discriminatory. Notwithstanding this shortcoming, originating from the Dayton Agreement, the institution is recognised as generally meeting the standards as regards the mandate and functions required of such an institution. It has to be noted in this context that in the absence of a law-dictated decision-making procedure,³² the three ombudspersons adopt decisions by consensus, which occasionally makes the decision-making process long and cumbersome. As a consequence of working by consensus, some sensitive files - such as segregation in the education system resulting from the application of the “two schools under one roof principle” - are not treated at all. This significantly weakens the credibility and impact of the ombudsman institution.

39. The ombudsman institution in Bosnia and Herzegovina has been enjoying the “A status” since 2010, granted by the International Co-ordinating Committee of National Institutions for the Promotion and Protection of Human Rights. The Advisory Committee notes that following the failure of the House of Peoples to adopt amendments to the law on the ombudsman institution, drafted by the MHRR which would have mandated the Ombudsman Institution to perform the functions of the National Preventive Mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), and also on account of shortcomings in the selection process of ombudspersons, the status of the ombudsman institution is being reviewed.³³

40. The effectiveness of the ombudsman institution remains limited. Although the Institution continues to receive a substantial number of communications from the public (11 981 in 2016, of which 2 977 registered complaints), its mandate is limited to issuing non-

³⁰ Balkan Transitional Justice, Bosnia Federation Rules Against Ethnically-Divided Schools, available at <http://www.balkaninsight.com/en/article/bosnian-federation-court-rules-against-school-discrimination>.

³¹ The official name of the Institution is “Institution of Human Rights Ombudsman of Bosnia and Herzegovina” (www.ombudsmen.gov.ba/Default.aspx?id=0&lang=EN). Officeholders are referred to as “Ombudspersons”.

³² See Venice Commission Opinion on the Draft Law on Ombudsman for Human Rights of Bosnia and Herzegovina, adopted by the Venice Commission at its 104th Plenary Session (Venice, 23-24 October 2015), CDL-AD(2015)034, available at [www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2015\)034-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2015)034-e).

³³ See GANHRI Sub-Committee on Accreditation Report – November 2016, available at <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20Final%20Report%20-%20Nov%202016%20-%20English.pdf>.

binding recommendations to the authorities and does not permit the office holders to represent victims in court proceedings, initiate cases or act as *amicus curiae* in cases brought by third parties. The Advisory Committee considers that participation of a specialised body in court cases where issues of discrimination are considered would ensure that all relevant standards are duly taken into account.

41. According to the Annual report for 2016,³⁴ only 96 of the 267 recommendations issued were either fully or partially implemented, while 62 remained unimplemented with an additional 59 for which “no feedback” was available.³⁵ Complaints alleging violations of “religious or other minority rights” constituted a small proportion of these, with only nine complaints registered in 2016. According to the Advisory Committee’s interlocutors, very few complaints from Roma appear to have been lodged with the ombudsman institution. The Advisory Committee considers that such low number of petitions could indicate insufficient knowledge of and confidence, on the part of persons belonging to national minorities, in the ombudsman institution to provide effective remedy in cases of alleged discrimination, especially with regard to national minorities and in particular the Roma. On the positive side, the Advisory Committee notes that the annual reports of the ombudsman institution are discussed in parliament, and are a subject to public scrutiny.

42. The Advisory Committee notes with deep concern that funding for the ombudsman institution remains insufficient to allow it to carry out its functions effectively. Of the 90 positions at the ombudsman institution, only 66 were filled in 2016, of which 27 by lawyers, with only two lawyers working in the department in charge of investigating complaints falling under the Law on Prohibition of Discrimination.

Recommendations

43. The Advisory Committee calls on the authorities to amend the law so as to allow persons not belonging to constituent peoples to hold the office of ombudsperson. The Advisory Committee calls on the authorities to continue to support and to co-operate with the Institution of Human Rights Ombudsman of Bosnia and Herzegovina in order to allow the office holders to carry out their role effectively, in particular as regards the enforcement of the ombudspersons’ recommendations.

44. The Advisory Committee further invites the authorities to consider expanding the powers of the ombudspersons, in particular as regards the possibility of initiating court proceedings and assisting victims before the courts.

45. The Advisory Committee urges the authorities to provide the ombudsman institution with the appropriate financial and human resources, in order to allow it to fulfil its duties effectively and independently.

46. The Advisory Committee strongly recommends that the authorities raise awareness amongst relevant officials as well as in broader society, especially among Roma, of applicable

³⁴ Annual Report on results of the activities of the Institution of Human Rights Ombudsman of BiH for 2016, available www.ombudsmen.gov.ba/documents/obudsmen_doc2017032310003163eng.pdf. p. 110

³⁵ The Report ascertained further that 48 recommendations fell into the category of “cooperation established”, p. 163.

anti-discrimination standards, including as regards multiple forms of discrimination, in close co-ordination with relevant civil society organisations. Efforts must target in particular those groups that are known to be most exposed to discrimination.

Discrimination in access to political posts

47. There has been no change since the adoption of the previous opinion as regards the requirement that candidates for a wide variety of posts declare their ethnic affiliation in order to access certain political posts. Such provisions, stemming from the Constitution of Bosnia and Herzegovina pepper numerous legislative acts such as the Election Law and legislation governing access to public service employment. These provisions and ensuing practice have repeatedly been found by the European Court of Human Rights to violate the ECHR. Regrettably, there has been no progress with the implementation of the judgments in the *Sejdić and Finci* (Application No. 27996/06) and *Zornić* (Application No. 3681/06) cases. Their implementation continues to be monitored by the Committee of Ministers. The Advisory Committee considers that the lack of progress made concerning the execution of the European Court of Human Rights (ECtHR) judgment in the case of *Sejdić and Finci v. Bosnia and Herzegovina* is another example of the persistent unwillingness to overcome the ethnic partition of the country for the benefit of developing an inclusive society.

48. The Advisory Committee notes with regret that there has been no change as regards the status and access to a number of rights of persons belonging to “constituent peoples” who live in a minority situation. Such persons continue to experience discrimination in daily life, including in political representation, access to social protection, employment and education. In one such case (*Pilav v. Bosnia and Herzegovina*) the European Court of Human Rights held that the legal impossibility for Mr Pilav (who identifies as a Bosniak residing in Republika Srpska) to stand as a candidate in elections for the presidency of the country, constitutes a violation of Article 1 of Protocol No. 12 (general prohibition of discrimination) of the European Convention on Human Rights. Pursuant to the constitution and the Election Act, only a person self-identifying as a Serb can be a presidential candidate from the Republika Srpska.³⁶

Recommendation

49. The Advisory Committee reiterates its call on the authorities to move forward rapidly towards amending the constitution and relevant legal provisions so as to eliminate discrimination based on ethnicity and place of residence, and in particular the exclusion from running for the presidency and for office as a member of the House of Peoples of Bosnia and Herzegovina of persons belonging to national minorities. It stresses the importance of adopting an approach that enhances the participation of all without further entrenching divisions and the need to ensure that the relevant amendments enter into force without any further delay.

Civil registration and access to identity documents, particularly for the Roma

50. The Advisory Committee notes with satisfaction that following the adoption of legislation on birth registration in the Republika Srpska in 2009 and in the Federation in 2011,

³⁶ Bosnia and Herzegovina: Ban on presidential election candidate breached human rights law, available at www.humanrightseurope.org/2016/06/bosnia-and-herzegovina-ban-on-presidential-election-candidate-breached-human-rights-law/.

considerable progress has been achieved towards ensuring that Roma persons do not lack identity documents. The provisions of entity laws on birth registration have been harmonised and the administrative procedures for the registration of births and deaths have been simplified. The registers in both entities have been digitalised and civil registry documents are issued free of charge.³⁷ It has to be noted, however, that according to figures available for 2015, around 400 children lacked birth certificates in the state on account of their parents having failed to register them.³⁸ These cases are being addressed with the assistance of the NGO Vaša prava BiH and the UNHCR.

51. The Advisory Committee learnt that the process of registration of persons without identity documents has advanced significantly in recent years, spearheaded by the MHRR. It has to be noted nonetheless that there were 63 persons under the UNHCR's statelessness mandate in 2016.³⁹ According to the same source, 40 individuals, mostly Roma, were in need of birth and/or citizenship registration.

52. In this context, the Advisory Committee notes with interest that the Law on Citizenship of the Republika Srpska,⁴⁰ adopted in 2014, provides favourable conditions for acquiring citizenship by stateless persons as well as persons with refugee status. According to Article 16, a stateless person or a person who has refugee status may acquire the citizenship of the Republika Srpska on the condition of five year residency prior to submitting a request. On the basis of this legislative provision, the status of 19 persons residing in the town of Prijedor, including a number of Roma, was regularised in 2016.⁴¹ With naturalisation, these persons were assigned a "unique designated number"⁴² which is required of all applicants for a range of social services, including social housing.

Recommendation

53. The Advisory Committee encourages the authorities to finalise swiftly the process of civil registration and to continue to ensure that all new-born children are registered.

Application of the principles of equality and non-discrimination

54. The main body responsible for promoting measures aimed at combatting discrimination and achieving equality is the Ministry of Human Rights and Refugees assisted by the Roma Board, an advisory body to the Council of Ministers at state level composed of equal numbers of representatives of Roma and of the government. In 2009-2010, the MHRR carried out comprehensive research into the situation of persons belonging to the Roma minority and established a database of their needs. Around 17 000 Roma were registered by the MHRR,

³⁷ Universal Periodic Review, Bosnia and Herzegovina National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, 8 August 2014, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/113/17/PDF/G1411317.pdf>.

³⁸ Written Comments by the European Roma Rights Centre For Consideration by the European Commission concerning Roma Inclusion in the Western Balkans Progress Reports 2016, p. 5 available at www.errc.org/cms/upload/file/ec-submission-on-roma-inclusion-in-the-western-balkans-july-2016.pdf.

³⁹ UNHCR Mid-Year Trends 2016, available at www.unhcr.org/dach/wp-content/uploads/sites/27/2017/04/midyeartrends_2016.pdf.

⁴⁰ Official Gazette of the Republika Srpska, No. 59/14.

⁴¹ *Vaša prava, Prve lične karte za naturalizovane izbjeglice u BiH*, available at www.vasaprava.org/?cat=19.

⁴² www.mup.vladars.net/eng/index.php?vijest=dokumenti&vrsta=jmb (in Bosnian).

although the ministry itself estimates their number to be at least twice as high making the Roma the largest national minority in Bosnia and Herzegovina.⁴³

55. The Advisory Committee notes that since 2005 the authorities in Bosnia and Herzegovina have been elaborating and implementing successive actions plans⁴⁴ with the aim of meeting the goals set by the Decade of Roma Inclusion 2005-2015. The state authorities earmark each year over 3 million BAM (1.5 million EUR)⁴⁵ for the various action plans. In addition EU funding provided under the Instrument for Pre-Accession Assistance (IPA) is used to finance the cost of implementing specific projects.⁴⁶

56. Currently, following public consultations,⁴⁷ a new Action Plan 2017-2020 has been prepared by the MHRR. The plan sets goals in the areas of employment, housing and health care.⁴⁸ Regrettably, the Action Plan 2017-2020 is still under discussion within the Council of Ministers of Bosnia and Herzegovina. According to interlocutors of the Advisory Committee, the main impediment blocking the adoption of the action plan is the refusal of the authorities of the Republika Srpska to endorse it and participate in its implementation. Reportedly, the authorities in that Entity prefer instead to develop their own action plan.

57. At the municipal level, there are commendable examples of local action plans for the improvement of the situation of the Roma population. Such plans have been developed, for example, in Mostar and Kakanj. The Advisory Committee considers that such plans, if properly consulted with the key stakeholders (most notably the Roma), funded and implemented, could serve as examples to other municipalities.

58. In addition, the state authorities do not allocate any funding for implementing the Action Plan on the Educational Needs of Roma, justifying this with the fact that education does not fall within the competence of the MHRR of Bosnia and Herzegovina. In fact, the primary responsibility for education rests with the cantons, and the financial burden of measures aimed at improving access of Roma children to education falls on their shoulders (see also under Article 12). The State Ministry of Civil Affairs, whose competences include co-ordinating

⁴³ Action Plan of Bosnia and Herzegovina for Addressing Roma Issues in the Fields of Employment, Housing and Health Care 2017-2020, implementing the Strategy for Addressing the Issues of Roma in Bosnia and Herzegovina, p. 2, available at

www.rcc.int/romaintegration2020/download/docs/Action%20Plan_English.pdf/52cbb5fd76ed48a7eace947f8889aa90.pdf.

⁴⁴ First Action Plan 2007-2012 available at

www.mhrr.gov.ba/ljudska_prava/Odbor_za_Rome/Akcioni%20plan%20za%20rje%C5%A1avanje%20problema%20Roma%20u%20oblastima%20zapo%C5%A1ljava%20stambenog%20zbrinjavanja%20i%20zdravstvene%20za%C5%A1tite.pdf, Revised Action Plan 2013-2016, available at www.mhrr.gov.ba/ljudska_prava/Odbor_za_Rome/Revidirani%20Akcion%20plan%20Bosne%20i%20Hercegovine%20o%20obrazovnim%20potrebama%20Roma.pdf.

⁴⁵ At the time of the adoption of the Opinion, 1 Bosnian Convertible Marka (BAM) was equivalent to 0,51 €.

⁴⁶ For example, in 2013, 5 million EUR was allocated to the construction of social housing for 150 Roma families in 14 municipalities.

⁴⁷ A public dialogue forum was organised by the Roma Integration Action Team in Sarajevo on 9 November 2016.

⁴⁸ Discrimination and other difficulties existing in the field of education are addressed separately in a special Action Plan on the Educational Needs of Roma, which was adopted in 2010 by the Council of Ministers of Bosnia and Herzegovina.

education policies, and hence education of Roma does not have the means to provide financial assistance to the cantons.

59. Furthermore, the Advisory Committee regrets to note that according to civil society representatives, serious problems persist with the implementation of the various projects to help the Roma and provide better access to employment, social and health services for Roma (see also under Article 15).

Recommendation

60. The Advisory Committee strongly recommends that the authorities adopt without any further delay, the Action Plan 2017-2020. It further asks them to regularly evaluate and review the implementation of the Strategy for Addressing the Issues of Roma in Bosnia and Herzegovina and accompanying action plans for the inclusion of Roma, in close consultation with representatives of these communities, with a view to assessing their impact in promoting the full and effective equality of Roma. It also urges the authorities at all levels to promptly make specific budgetary provision allowing the implementation of the national, entity, cantonal and municipal measures for the inclusion of Roma.

Article 5 of the Framework Convention

Conditions enabling minorities to maintain and develop their culture

61. The Advisory Committee notes with interest that in line with the Strategy for Cultural Policy of 2008 and the Action Plan of 2011 to Implement the Strategy, adopted by the Council of Ministers of Bosnia and Herzegovina, cultural policies in Bosnia and Herzegovina are developed and implemented by ministries responsible for culture established at all levels of government in line with the principles decentralisation, democratisation and de-etatisation. Most competencies in the area of culture rest with entities, cantons and the Brčko District which are responsible for the initiation and development of legislation and strategies in the area of culture, disbursement of public funds for programmes and activities, support for cultural institutions and distribution of public funds for programmes and projects.

62. At the state level, the Ministry of Civil Affairs, Sector for Science and Culture has a mandate to co-ordinate and harmonise activities and plans of entity authorities. In addition to the State Strategy for Cultural Policy of 2008 and the Action Plan 2011, there are multiple plans and strategies for promoting the cultural sector at all levels. The Federation of Bosnia and Herzegovina adopted a Development Strategy and Action Plan for the period 2010-2020, and the Republika Srpska has a similar development strategy.

63. The Advisory Committee welcomes the significant progress achieved in the years after the end of the conflict in the reconstruction and conservation of cultural sites with great significance for persons belonging to constituent peoples residing in minority situations and national minorities.⁴⁹ It further notes awarding a Grand Prix of the EU Prize for Cultural

⁴⁹ Such conservation endeavors include the Ethnographic Museum in Jajce, cultural centres in Rudo and Sokolac, a bridge to the mediaeval fortress in Srebrenik, ethnographic museum Eminagića House and the Ottoman Castle in Tešanj, Spanish Square in Mostar, the Ferhadija Mosque in Banja Luka, the Orthodox Cathedral in Mostar, the Monastery Plehan near Derventa, Fortress Kastel in Banja Luka and the Museum Herzegovina in Trebinje.

Heritage/Europa Nostra Award 2016 to the employees and activists of the National Museum of Bosnia and Herzegovina following its full reopening to the public in September 2015.⁵⁰ Significant additional support is provided to cultural activities of national minorities by some municipal and cantonal authorities implemented by NGOs.⁵¹

64. The Advisory Committee notes that the support provided by the state, entities, cantons and municipalities for cultural projects of national minorities is awarded on a basis of grants for individual projects. The amount of support is generally very insignificant and does not provide financial stability in the long run which limits the ability of cultural associations to develop long-term plans for their activities. Moreover, the Advisory Committee regrets that the procedure and criteria for obtaining grants remain unknown to most minority communities. In addition, the support offered to targeted and ad hoc individual projects is unlikely to offer the kind of longer-term organisational support that many minority cultural NGOs, particularly those representing numerically smaller minorities, would need in order to effectively and sustainably preserve and promote their identity, language and culture in line with Article 5 of the Framework Convention.

65. Notwithstanding these shortcomings, minority cultural associations implement each year a variety of projects with the support of cantonal and municipal authorities. The Advisory Committee notes in particular the active approach of the authorities in Bijeljina, Banja Luka, Doboj, Gradiška, Prnjavor and Prijedor. In particular, the Advisory Committee notes with interest the Festival of Cultures of National Minorities “Minority Fest” organised on a yearly basis in Sarajevo with significant engagement of the Sarajevo Canton Assembly. In this context the Advisory Committee regrets to note, however, that most of the projects tend to concentrate on traditional expressions of song, music, dance, handcraft and culinary exploits. These initiatives, although praiseworthy in themselves, risk presenting a folkloristic picture of national minorities. Furthermore, restriction of financial aid to activities that focus on presenting historic images of minorities, rather than the needs of persons belonging to national minorities as identified by them, is not in line with Article 5. The Advisory Committee considers in this context that the support of the authorities should extend, in addition to traditional cultural expressions, also to contemporary manifestations of culture. Accordingly,

⁵⁰ Europa Nostra, Europe’s top heritage award presented to employees and activists of the National Museum of Bosnia and Herzegovina, available at <http://www.europanostra.org/europes-top-heritage-award-presented-employees-activists-national-museum-bosnia-herzegovina/>.

⁵¹ In recent years such projects included Preservation of Traditional Wood-carving from Konjic, implemented by the Association of Croatian Amateurish Cultural Clubs, Kozara – Ethno-cultural Tourism as a Solution against Desertion of Rural Areas in Kozarska Dubica, organised by the Cultural Club Piskavica, Synergy of multicultural arts, reconciliation and tolerance, a festival of plays performed by the host theatre, involving travelling theatres from targeted municipalities of Bijeljina, Tešanj, Srbac, Prijedor, and Bihać, Through culture to respecting diversity, a series of workshops on the themes of interculturalism and preservation of the environment held in five targeted communities: Brčko, Bijeljina, Bratunac, Vlasenica and Živinice, Deblokada project - Summer Academy Stolac, project designed to improve the image of Stolac, Viva Ustiprača project - Respect culture of differences – it connects us, it enriches us, a project aimed at improving respect for cultural differences in five municipalities in the region of the Upper - Drina (Višegrad, Goražde, Čajniče, Rogatica and Novo Goražde) through a series of workshops and round tables on the themes of interculturalism and tolerance. For more details, see Improving Cultural Understanding in Bosnia and Herzegovina – Final Narrative Report, pp. 101-102, available at <http://mdgfund.org/sites/default/files/BiH%20-%20Culture%20-%20Final%20Narrative%20Report.pdf>.

support should be extended to initiatives that involve minority youth and those addressing every day needs of persons belonging to national minorities.

Recommendation

66. The Advisory Committee reiterates its call on the authorities at all levels to provide more structured, substantial, proactive and regular support to national minorities in order for them to maintain and develop their cultural heritage and languages, including contemporary manifestations of culture. It calls on the authorities to involve national minority representatives more consistently in decision making concerning the allocation of such support.

Article 6 of the Framework Convention

Tolerance and intercommunity relations

67. The Advisory Committee commends the activism and dedication of a network of civil society organisations that are engaged in the promotion of interethnic dialogue and respect, as well as the numerous non-governmental initiatives to bring representatives of different groups together in various areas of the public sphere, including in education, to enhance an environment of mutual understanding and confidence. It notes with deep concern, however, that, despite these efforts, public life continues to be dominated by a pronounced sense of segregation among the three main ethnic groups (the “constituent peoples”), which dictates modalities of coexistence within public institutions, urban spaces and schools⁵² (see further Article 12). While serious interethnic incidents have successfully been averted in recent years, the Advisory Committee is concerned that such segregation merely superficially masks a dormant hostility and no real progress is made towards a deeper acceptance of ethnic groups other than one’s own or to promote a Bosnian civic identity, which all negatively affect the process of reconciliation.

68. The political debates in Bosnia and Herzegovina continue to be dominated by questions concerning relations between the three “constituent peoples”. Some public figures resort to fuelling deep-seated ethnic divisions, thereby weakening democracy and undermining the rule of law. Discrimination on ethnic grounds remains a fact of life in such areas as education, access to employment, participation in public life, social security, place of residence and many others. The use of discriminatory language among the three main ethnicities (the “constituent peoples”) has a detrimental effect on interethnic relations overall, impacts negatively on the access to rights by persons belonging to national minorities (the “Others”) and on the integration of society in Bosnia and Herzegovina.

69. One recent example concerns President of the Republika Srpska, Milorad Dodik, who at a public event in Pale in 2016 reportedly told a TV reporter of his admiration for “Radovan Karadžić as a man with strength and character”.⁵³ He also welcomed with honours Momčilo Krajišnik, a war criminal convicted by the International Criminal Tribunal for the former

⁵² See for example Bosnia and Herzegovina 2015 Human Rights report, available at www.state.gov/documents/organization/253041.pdf.

⁵³ See Bosnian Serb Chief Plays Nationalist Card in Elections, available at www.balkaninsight.com/en/article/bosnian-serb-chief-plays-nationalist-card-in-elections-03-21-2016.

Yugoslavia (ICTY) after he served his prison sentence.⁵⁴ In a number of towns streets and schools have been renamed after convicted war criminals (such as Rasim Delić, former commander of the Bosnian army in the largely Bosniak city of Bihać, or fascist Ustasha-regime commanders and Nazi collaborators, such as Mile Budak and Jure Francetić in Mostar). In Goražde, for example, a school was named after the 13th Waffen SS Handžar Division imam Husein Đozo and a dormitory at the university campus in Pale was named after Radovan Karadžić. In the latest of such developments a school in Sarajevo was named after Mustafa Busuladžić, a Nazi collaborator who incited anti-Semitic hatred during the Holocaust.⁵⁵

70. The Advisory Committee reminds the authorities of the relevance of reflecting the diversity present in the country when making choices on street names and other topographical indications. Politically controversial historical figures whose historical role raises issues with certain minorities should be avoided. In this context, the Advisory Committee wishes to recall the High Commissioner on National Minorities (HCNM) Ljubljana Guidelines on Integration of Diverse Societies, which recommended that: “States should promote integration by respecting the claims and sensitivities of both minority and majority groups regarding the display and use of symbols in shared public space. While being mindful of freedom of expression, States should avoid the divisive use of symbols and discourage such displays by non-State actors. Where appropriate, opportunities to promote inclusive symbols should be sought.”⁵⁶

71. Another example concerns a fundraising concert in June 2017 in Mostar of Marko Perkovic Thompson, who traditionally opens his concerts with a Ustasha salute, in honour of Croatian detainees at the ICTY. Incredibly, this concert was organised with the co-operation of the local authorities who hailed it as a sign of reconciliation, as no disturbances were recorded prior, during or after the event.⁵⁷

72. The Advisory Committee continues to be deeply concerned by this situation, which has shown no signs of improvement in recent years. It stresses that, as a precondition for implementing the Framework Convention, states parties should promote mutual respect, understanding and co-operation amongst all persons living on their territory. The Advisory Committee is struck by the fact that observations made in the previous opinion adopted in 2013 are still valid today. Persons classified as “Others” remain sidelined from political debates and largely absent from mainstream media. Moreover, discrimination against “Others”, including persons belonging to national minorities, as regards access to political posts is not only a reflection of the lack of weight given to them in the construction of the State, it also means that they are not in position to significantly influence debates or to bring pressure to improve the situation of persons who do not belong to one of the constituent peoples in Bosnian society. The Advisory Committee deeply regrets this situation.

⁵⁴ Balkan Transitional Insight, Bosnian Serbs Welcome Home Freed Wartime Politician, available at www.balkaninsight.com/en/article/pale-prepares-to-welcome-momcilo-krajsnik.

⁵⁵ See The Times of Israel, 8 November 2017, Israel protests Bosnian school named for Muslim Nazi collaborator, available at <https://www.timesofisrael.com/israel-protests-bosnian-school-named-for-muslim-nazi-collaborator/>.

⁵⁶ See The Ljubljana Guidelines on Integration of Diverse Societies, p. 64, November 2012, para. 50, available at www.osce.org/hcnm/96883?download=true.

⁵⁷ Balkan Insight, Fascist Chants Mar Croat Nationalist Concert in Bosnia, available at www.balkaninsight.com/en/article/fascist-chants-on-thompson-s-concert-in-mostar-06-09-2017.

Recommendations

73. The Advisory Committee reiterates its call on the authorities at all levels to take resolute measures to promote intercultural dialogue and mutual understanding between the different ethnic and religious communities in Bosnia and Herzegovina. It invites them in particular to condemn all manifestations of intolerance and ethnically motivated hostility in the political sphere and actively to promote a sense of belonging to a shared country, in line with the spirit of promoting mutual respect, tolerance and understanding amongst all persons living on the territory of the state that is central to the provisions of the Framework Convention.

74. The Advisory Committee calls on the authorities to deal with the renaming of streets and other public places by promoting a continuing dialogue, including consultation with representatives of the other ethnic groups and in a spirit of tolerance and intercultural dialogue, and taking into account local sensitivities. It calls on the authorities to revoke street and school names named after war criminals and those who promoted genocide and other crimes against humanity.

Interethnic and interreligious relations

75. The Advisory Committee notes that violence against returnees who find themselves in a position of a minority in their place of return, continues to be reported. According to the UNHCR, there were 87 cases of racially motivated violence against returnees in 2015.⁵⁸ A number of attacks on religious property, desecration of graves and cemeteries, attacks on religious symbols, contempt or ridicule of any religion or attacks and insults directed at clergy or other religious leaders have been reported. The authorities assert that they take active measures to investigate cases of violations of religious freedom and find the perpetrators. The Advisory Committee notes, however, that according to the Interreligious Council of Bosnia and Herzegovina which monitors attacks on religious property there were 186 attacks on religious property, clerics and believers, in the period between 1 November 2010 and 31 October 2015, of which 88 attacks were against the Islamic Community, 57 attacks were on the property of the Serbian Orthodox Church, 36 attacks were against Catholic Church, four against the Jewish Community and one on the property of the Adventist Church.

76. In this context, the Advisory Committee notes that in data collected as part of the OSCE Hate Crimes Project,⁵⁹ at least 146 alleged bias-motivated incidents were reported to police in Bosnia and Herzegovina in 2015. These incidents included offensive graffiti (24% of cases), verbal assaults (21%), damage to religious facilities/desecration of graveyards (19%), displaying of symbols (18%), damage to property (14%), and physical violence (11%). Most of the incidents were directed at other groups among the “constituent peoples”. In fact, in 85% of incidents, victims were targeted because of their Bosniak/Muslim, Croat/Catholic or Serb/Orthodox affiliation. Roma were targeted in only two reported incidents. Interlocutors of the Advisory Committee claimed that such low numbers are due to the fact that Roma victims of hate crimes remain highly reluctant to approach the police as they do not trust that their

⁵⁸ See ECRI Report on Bosnia and Herzegovina (fifth monitoring cycle), p. 19, adopted on 6 December 2016, CRI(2017)2, available at www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Bosnia_Herzegovina/BIH-CbC-V-2017-002-ENG.pdf.

⁵⁹ Hate Crimes and Bias-Motivated Incidents in Bosnia and Herzegovina: 2015 Monitoring Findings of the OSCE Mission to Bosnia and Herzegovina, available at www.osce.org/bih/281906?download=true.

rights and concerns will be adequately considered and protected. Furthermore, interlocutors of the Advisory Committee assert that police misconduct and ethnic profiling are not uncommon, but remain unreported.

77. The Advisory Committee is also concerned about continuing reports indicating that ethnic hate speech, xenophobia, anti-Semitism and racism continue to plague football stadiums and their surroundings in Bosnia and Herzegovina in spite of a number of campaigns such as “Let's Kick Racism Out of Stadiums” and the declared clampdown by the authorities. According to reliable media reports,⁶⁰ for example concerning insulting racist chants and touting directed against a Sarajevo football teams’ Nigerian-born player. In another incident, during an international match between football teams of Bosnia and Herzegovina and Israel, anti-Semitic chants have also been reported.⁶¹ The Advisory Committee notes with deep concern that despite strong statements from the authorities, measures to combat racist acts advocated by ECRI⁶² and already spelled out in Committee of Ministers’ Recommendation Rec(2001)6 on the prevention of racism, xenophobia and racial intolerance in sport,⁶³ have not yielded expected results in Bosnia and Herzegovina.

Recommendations

78. The Advisory Committee urges the authorities to prevent, identify, investigate, prosecute and sanction effectively all racially or ethnically motivated acts. The authorities must intensify awareness-raising measures and training programmes for law enforcement officials and the judiciary on tolerance and anti-discrimination issues.

79. The Advisory Committee reiterates its call on the authorities to ensure that public statements of politicians and other public figures that incite ethnic hatred or discord are unequivocally condemned, to ensure that such discourse is not condoned in society.

80. The authorities should take decisive action against racist, xenophobic and anti-Semitic acts perpetrated prior, during and after football matches. The Advisory Committee also calls upon the authorities to increase public awareness of the problem and encourage sports professionals and fans to condemn racist attitudes and behaviour.

Segregation in the school system

81. In the Federation of Bosnia and Herzegovina, the system of “two schools under one roof” has been in existence since 1997, with children of the same ethnic affiliation attending classes and following curricula in accordance with their ethnic affiliation. This system which was devised in the immediate aftermath of the conflict as a temporary measure to encourage

⁶⁰ See Soccer - Bosnian league match marred by racism and crowd trouble, available at <http://uk.reuters.com/article/soccer-bosnia-violence/soccer-bosnian-league-match-marred-by-racism-and-crowd-trouble-idUKL5N10X0JL20150822>.

⁶¹ See The Times of Israel, Bosnia defeats Israel in tense qualifier, available at www.timesofisrael.com/bosnia-defeats-israel-in-tense-euro-2016-qualifier/.

⁶² See ECRI General Policy recommendation No. 12 on Combatting Racism and Racial Discrimination in the Field of Sport, CRI(2009)5, available at www.coe.int/t/dghl/monitoring/ecri/activities/GPR/EN/Recommendation_N12/e-RPG%2012%20-%20A4.pdf.

⁶³ See Recommendation Rec(2001)6 of the Committee of Ministers of the Council of Europe to member States on the prevention of racism, xenophobia and racial intolerance in sport, adopted on 18 July 2001.

the return of constituent peoples to their places of origin, fossilised in some cantons of the Federation into a system of segregating and isolating students within their ethnic communities. According to information provided to the Advisory Committee there were 32 segregated schools⁶⁴ in the Central-Bosnia and Herzegovina-Neretva Cantons of the Federation at the beginning of the 2017-18 school year, down from 54 three years prior.⁶⁵

82. In Stolac, where the delegation of the Advisory Committee visited a segregated school, there are efforts to maintain contacts between students belonging to the Croat and Bosniak communities. These include a joint school library and organisation of extracurricular activities for children belonging to both communities. Also, the Nansen Dialogue Centres (NDCs) in Sarajevo and Mostar implement projects in a number of schools throughout Bosnia and Herzegovina to achieve the Nansen Model for Integrated Education.⁶⁶ Such efforts are commendable. The Advisory Committee is nonetheless deeply concerned by the overall impression amongst civil society and international observers concerning the absence of comprehensive efforts to create an integrated education system.

83. The Advisory Committee stresses once again its observation made in the previous opinion that ethnic segregation in education is a breach of the human rights of the children concerned by it, that it runs counter to the development of the spirit of tolerance, mutual understanding and co-operation that is central to the Framework Convention (see also above, under Article 6) and that concerns about preserving language and culture can very well be met within the framework of integrated education. It notes with regret that there seems to be no willingness on the part of the authorities to introduce inclusive and integrated schools. In particular it is most regrettable that the court rulings proclaiming that the “two schools under one roof” system constitutes segregation along ethnic lines and is in breach of the anti-discrimination law⁶⁷ have had little impact and remain unimplemented.⁶⁸

84. Against this generally very bleak background, the Advisory Committee welcomes civil society initiatives, such as the one observed in Jajce in 2017 which aim to prevent creation of new segregated schools and more broadly strive to change the system altogether.⁶⁹ In fact, students in Jajce belonging to the Bosniak and Croat communities waged a year-long campaign

⁶⁴ See also Report by Niels Muižnieks, Commissioner for Human Rights following his visit to Bosnia and Herzegovina, from 12 to 17 June 2017, available at <https://rm.coe.int/report-following-the-visit-to-bosnia-and-herzegovina-from-12-to-16-jun/16807642b1>.

⁶⁵ See Zlatko Čustović, Segregation, Education and Nationalism: Two Schools Under One Roof System in Bosnia and Herzegovina », available at <http://politheor.net/segregation-education-and-nationalism-two-schools-under-one-roof-system-in-bosnia-and-herzegovina-2/>.

⁶⁶ The Nansen model for integrated education (NMIE) is a model of education in Bosnia and Herzegovina, promoted by the NDC which aims to enable successful integration of students, parents and teachers from different ethnic communities through a modern upbringing and educational process. For more information, see the home-page of the Nansen Dialogue Network, available at www.nansen-dialogue.net/index.php/en/.

⁶⁷ See *Presudom Vrhovnog suda Federacije BiH prekinuta evidentna praksa razdvajanja djece na etničkom principu*, available at www.vasaprava.org/?p=2092 (in Bosnian).

⁶⁸ Ruling of the Mostar Municipal Court of 27 April 2012, overturned by the Mostar Cantonal Court on 11 June 2013, but later confirmed by the Supreme Court of the Federation in November 2014.

⁶⁹ See Reuters report, Bosnian students keep up their protest against segregated schools, available at www.reuters.com/article/us-bosnia-protests-students/bosnian-students-keep-up-their-protest-against-segregated-schools-idUSKBN19B26P.

against the cantonal authorities, forcing them to reverse the decision to divide them into two separate schools.

Recommendation

85. The Advisory Committee reiterates its call on the authorities at all levels to take all necessary steps to eliminate segregation in education as a matter of priority. This means in particular accelerating the work to abolish all remaining cases of “two schools under one roof” and replace them with integrated education, as well as working to avoid the development of mono-ethnic schools in areas inhabited by a mixed population. It emphasises in this context that the existence of separate “national” groups of subjects does not justify maintaining separate schools and encourages the authorities to draw on the experiences of the Brčko District and other areas where integrated education is in place to help develop successful models in schools under their jurisdiction.

Article 9 of the Framework Convention

Application of the State Law on National Minorities in the field of the media

86. The Advisory Committee notes that the media landscape in Bosnia and Herzegovina remains deeply divided along ethnic lines. Specific television and radio stations, as well as printed media outlets target their outputs at one of the constituent peoples. The Communications Regulatory Agency (CRA) consists of seven members nominated by the Council of Ministers on the basis of a list of candidates submitted by the Council of the Agency, and appointed by the Parliamentary Assembly of Bosnia and Herzegovina.⁷⁰

87. The State Law on National Minorities obliges public radio and television stations to broadcast a weekly information programme in languages of national minorities, develop and broadcast other programmes addressing issues of interest to persons belonging to national minorities. It further invites public radio and television outlets to broadcast other programmes in national minority languages.⁷¹ The law further entitles persons belonging to national minorities to establish radio and television stations and to publish newspapers and other written media in their own languages.⁷²

88. The Advisory Committee regrets to note that legislative provisions as regards both public and private broadcasting in languages of national minorities remain a dead letter. According to information provided to the Advisory Committee, some programming on issues of

⁷⁰ Website of the Communications Regulatory Agency of Bosnia and Herzegovina, available at <http://rak.ba/eng/index.php?uid=1272016139>.

⁷¹ Article 16. “§1 Radio and TV stations whose founders are BiH, entities, cantons, cities, and municipalities and which have the role of a public service shall be obliged to provide in their programme schedules the special programmes for members of national minorities and they may also provide for other materials in the minority languages. §2 Radio and TV stations as public services of BiH shall secure informative programme for members of national minorities in their language at least once a week. §3 By their regulations the Entities and cantons shall identify the rights referred to in Paragraph 1 of this Article pursuant to the percentile representation of national minorities in the Entity, canton, city and municipality.”

⁷² State Law on National Minorities, Article 15. “Members of national minorities in BiH shall have a right to establish radio and TV stations, issue newspapers and other printed information journals in the language of a minority they belong to.”

interest to minorities and raising awareness about national minorities in Bosnia and Herzegovina is broadcast either nationwide or regionally. The BHT1 television channel reports having broadcast 46 news items on Jewish culture, religion, heritage, traditions and festivities and on a similar number of occasions about Roma holidays (St. George's Day), World Roma Day and issues affecting Roma in Bosnia and Herzegovina, such as the census, construction of houses under the Roma Decade programme, Roma culture, traditions and social issues affecting them.⁷³ Since April 2006, the Public RTV Service of the Republika Srpska has continued to broadcast the long-running bi-weekly *Korijeni* (Roots) show dedicated to the promotion of culture, traditions and languages of national minorities in the Republic. Also, 25 episodes of the *U fokusu* (In the focus) show have been broadcast between 2012 and 2016, with the intent to raise awareness and promote the rights persons belonging to national minorities.

89. *Radio Republike Srpske* has been broadcasting bi-weekly programmes since 2012 exploring issues affecting national minorities in Bosnia and Herzegovina in general with particular focus on the Republika Srpska. Finally, *Radio Vitez* devotes a part of its programming to issues affecting the Roma and follows activities launched by Roma associations in Bosnia and Herzegovina. In addition to public broadcasters, independent private media platforms such as *Buka* in Banja Luka or *Radio Kameleon* in Tuzla, continue to broadcast diverse content aiming to attract listeners across the whole ethnic spectrum of Bosnia and Herzegovina. In this context, the Advisory Committee considers that such endeavours should be strongly supported by the authorities, including by provision of vocational training which would increase the pool of qualified journalists and reporters capable of working in various media outlets.

90. The Advisory Committee regrets to note that no support is given by the authorities to the printed press in languages of national minorities. Publications of newsletters and bulletins in languages spoken by persons belonging to national minorities remain sporadic and are financed with NGOs' own resources.

91. The Advisory Committee reiterates the observation it made in its previous opinion that while these efforts are commendable, they remain sporadic; with the exception of the *Korijeni* fortnightly and *U fokusu* bi-monthly radio programmes in the Republika Srpska, there appears to be little effort to maintain a regular presence of national minorities in the public media. The Advisory Committee recalls in this context that for public service broadcasting to reflect the cultural and linguistic diversity existing within society, it must guarantee an adequate presence of persons belonging to minorities and their languages, including numerically smaller national minorities. This means that adequate support needs to be granted both to the media and programmes for, by, and about national minorities in minority and majority languages, as well as in bilingual or multilingual formats.

Recommendations

92. The Advisory Committee reiterates its call on the authorities to step up their efforts to ensure that public radio and television stations fulfil their legal obligations regarding the inclusion of specific programmes for national minorities in their programming schedules. They

⁷³ See state report, pp. 83-84.

should furthermore take determined measures to stimulate broadcasting in minority languages.

93. It recommends further that the authorities step up their efforts, including through exploring the possibilities of enhanced access to vocational training in this field, to ensure that persons belonging to national minorities have effective access to the media.

Article 10 of the Framework Convention

Use of minority languages in dealings with the administrative authorities

94. The Advisory Committee notes with regret that the situation with regard to the use of minority languages in dealings with the administrative authorities has not changed in Bosnia and Herzegovina since the previous monitoring cycle. According to information available to the Advisory Committee, there have been no changes to the legislative provisions in this area.⁷⁴ The legal threshold of 33% of the local population to be composed of persons belonging to national minorities, that must be met before municipalities in areas traditionally inhabited by national minorities can decide to allow the use of minority languages in relations with the administrative authorities, remains prohibitively high. The laws on national minorities adopted in both Entities, unlike the State Law do not impose a minimum threshold to be met as a precondition for the use of minority languages in relations with the administrative authorities. The Advisory Committee considers that in any case, the threshold of one-third is too high to ensure the effective enjoyment of the right set forth in Article 10.2 of the Framework Convention. It recalls in this context its position stated in its Thematic Commentary on the Language Rights that “[n]umerical thresholds must not constitute an undue obstacle to the official use of certain minority languages in areas inhabited by persons belonging to national minorities either traditionally or in substantial numbers”.⁷⁵

95. In the absence of detailed census data, it is clear that even taken cumulatively, persons who self-identified as belonging to one of the ethnic groups falling into the “Others” category do not meet, at the municipal level, the thresholds established State Law. In consequence, there are no cases where municipalities have taken steps to allow for the use of minority languages.

96. Furthermore, the Advisory Committee notes that the authorities have not carried out any studies of the demand and have not assessed the existing needs in the geographical areas inhabited by persons belonging to national minorities. Taken together, it can be ascertained that the right to use of minority languages in relations with the administrative authorities remains only a theoretical construct, and not a real effective legal provision, in Bosnia and Herzegovina.

⁷⁴ The State Law on National Minorities obliges the authorities of a municipality where national minorities constitute an absolute or relative majority of the local population to provide for the use of the national minority language between persons belonging to the national minority and the authorities; where this condition is not fulfilled, the State Law requires that a minimum threshold of one-third of the local population be composed of persons belonging to national minorities before municipalities can decide to permit the use of minority languages in relations with the administrative authorities.

⁷⁵ See ACFC Thematic Commentary No. 3 on the Language Rights of Persons belonging to National Minorities (2012), para. 57.

Recommendation

97. The authorities should review, in consultation with representatives of national minorities, the legislation, policies and practical situation of the use of minority languages in relation with administrative authorities, with a view to eliminating barriers for the use of minority languages in dealings with the administrative authorities in the geographical areas inhabited by a substantial number of persons belonging to national minorities.

Article 11 of the Framework Convention

Topographical information in minority languages

98. The Advisory Committee notes that the same conditions as described under Article 10 for the use of minority languages in contacts with the administrative authorities apply to the display of topographical information in minority languages. According to information available to the Advisory Committee, there have been no changes to the legislative provisions in this area. The authorities have not carried out any studies of the demand and have not assessed the existing needs in the geographical areas inhabited by a substantial number of persons belonging to minorities. It recalls in this context its position stated in its Thematic Commentary on Language Rights that “[n]umerical thresholds must not constitute an undue obstacle to the official use of certain minority languages in areas inhabited by persons belonging to national minorities either traditionally or in substantial numbers”. The Advisory Committee notes nonetheless that topographical signs in Italian (in addition to the Serbian language) have been installed in the village of Štivor in the Prnjavor region⁷⁶ of the Republika Srpska.

99. As regards standard topographical indications in Cyrillic and Latin scripts, which are provided for by the law throughout Bosnia and Herzegovina, the Advisory Committee regrets to note that a significant number of them have been vandalised to obscure the inscription in one of the scripts, most often that used by persons belonging to a minority in the given location. Regrettably such signs are rarely repaired and it seems that the perpetrators of these acts are seldom brought to account. The Advisory Committee considers that impunity emboldens the vandals to continue and is indicative of a lack of capacity or commitment on the part of law enforcement officials to elucidate such incidents.

Recommendations

100. The authorities should review, in consultation with representatives of national minorities, the legislation, policies and practical situation of the use of minority languages with a view to eliminating barriers for the use of minority languages for topographical indications in the geographical areas inhabited traditionally or in substantial numbers by persons belonging to national minorities.

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

⁷⁶ See state report, p. 46.

Article 12 of the Framework Convention

Teacher training and teaching about national minorities in schools

102. The Advisory Committee recalls that, in line with constitutional provisions of Bosnia and Herzegovina, the responsibility for education is decentralised and rests fully with the Republika Srpska, ten cantons in the Federation and the Brčko District. At the level of each of these administrative units, ministries of education were established (twelve in total), legislation was adopted, and budgets agreed. In the Federation of Bosnia of Herzegovina, the Federal Ministry of Education and Science was created to co-ordinate the work of ten cantonal ministries of education. This system is complicated further by Article 3 from Section V of the Constitution of the Federation of Bosnia and Herzegovina, which states that each canton can “delegate its jurisdiction in relation to education [...], and it is obligatory to do so towards the municipalities in which the majority population, based on the national structure, is not the population that makes the national majority in the canton as a whole”. The Advisory Committee notes in this context that the Ministers of Education Conference, which aims to co-ordinate all 14 ministries competent in the education sector in Bosnia and Herzegovina and the BiH Rectors' Conference should fully develop their potential as advisory bodies to implement the co-ordinated policies in the field of education. Financing of education is ensured by public funds allocated within the budgets of the Entities and Cantons, the Brčko District budget and the municipal budgets. No funding is available at the state level, but there are thirteen separate education budgets: two at the entity level, ten at the cantonal level and one in the Brčko District.

103. In addition, nine Pedagogical Institutes have been set up (one in the Republika Srpska, two in the Herzegovina-Neretva Canton and one in Sarajevo, Tuzla, Zenica, Bihać, Gorazde and the Brčko District) with the mandate to provide teacher training, develop pedagogical standards, monitor the reform of the curricula and inspect work in the classrooms. Education Inspections functioning within each ministry of education have the mandate to oversee the implementation of laws and regulations at the cantonal level in the Republika Srpska and in the Brčko District, respectively, overlapping to some degree, with the work of the pedagogical institutes.⁷⁷

104. The Advisory Committee notes that that the decentralised responsibility for education matters in Bosnia and Herzegovina results in a plethora of permutations as regards learning about the culture, heritage, origins and traditions of the national minorities in Bosnia and Herzegovina and promoting cross-cultural understanding. Information provided by the authorities in the state report is scant and does not cover the whole of the country.

105. The Advisory Committee notes that insignificant progress has been achieved on the development of the common core curriculum in Bosnia and Herzegovina, in particular as regards the “national” subjects. Separate “national” subjects, such as mother tongue, history geography and religion, continue to be taught differently to pupils according to whether they

⁷⁷ For details see Bosnia and Herzegovina - Education for All 2015 National Review, available at <http://unesdoc.unesco.org/images/0022/002299/229929E.pdf>.

follow the Bosniak, Croat or Serb “national” group of subjects.⁷⁸ In addition, the almost complete absence of language, history and culture of national minorities from school curricula makes national minorities virtually invisible, and gravely threatens the preservation of their identities. The Advisory Committee reiterates its view that such an approach is detrimental to the dialogue and interaction of all children, and in the long run creates a divided society with the potential for enmity where the communities know little of each other, viewing those others with suspicion and resentment. An inclusive approach to the teaching of history and geography, such as is practiced in the Brčko District – taking a multidimensional perspective that also takes account of the history of national minorities in Bosnia and Herzegovina – would be far preferable as a means to facilitate contacts between students of different communities, as required by Article 12.2 of the Framework Convention. Such development would be of particular benefit to children living in municipalities inhabited by different communities.

106. Given the above shortcomings, the Advisory Committee notes that according to information provided by the authorities, the Manual on the Culture, Heritage and Traditions of National Minorities in Bosnia and Herzegovina and the Teachers’ Methodical Manuals have been distributed and are in use in a number of cantons in the framework of the “Culture of coexistence”, an optional subject taught in higher classes of the primary school component of education. Training courses on “Intercultural Education” were held in a large number of schools with the aim to promote diversity and to familiarise teachers with basic principles of intercultural education.

107. In the Zenica-Doboj Canton, schools developed plans which aim to overcome discrimination and encroachment on the rights of national minorities and marginalised groups, including the rights of the “constituent peoples” finding themselves in a relative minority in a particular area, and create conditions for national minorities to express themselves freely. The Education for Social Justice programme, developed by the Zenica-Doboj Pedagogical Institute, and implemented in all schools of the canton strives to create an environment of equality and mutual respect, promotes both civil society and non-discrimination and which respects and cherishes different ethnic and cultural models.

108. The Advisory Committee recalls that the Council of Europe Action Plan for Bosnia and Herzegovina 2015-2017 aims, among other goals, to assist the authorities to develop policies on inclusive education, education for democratic citizenship and to promote these concepts within educational institutions. It considers it an excellent opportunity for the authorities to build upon best practices developed within the country and in other European countries to develop programmes suited to national specificities.

109. It moreover notes with concern that no progress has been registered as regards the development of appropriate textbooks, teaching and learning materials, training of qualified teachers and providing adequate premises to support the efforts of national minorities to teach national minority languages. Most initiatives in these areas are currently taken by national minority NGOs.

⁷⁸ See Segregation, Education and Nationalism: Two Schools Under One Roof System in Bosnia and Herzegovina, available at <http://politheor.net/segregation-education-and-nationalism-two-schools-under-one-roof-system-in-bosnia-and-herzegovina-2/>.

Recommendations

110. The Advisory Committee urges the authorities to further develop measures and programmes designed to impart a better awareness of national minorities among the general public, and in particular pupils, building on the initiatives already taken towards strengthening teaching about national minorities in schools. These long-term efforts should in particular serve to make the history, culture and traditions of national minorities a component part of school syllabuses and to train teachers to teach these subjects.

111. The Advisory Committee also strongly recommends that the authorities take more resolute measures to develop the common core curriculum including history, geography and religious studies and apply it in every school in Bosnia and Herzegovina, and to introduce inclusive and multiperspective teaching of history, geography and religious studies, thus helping to create an inclusive, integrated Bosnian society. The subjects covered by the common core curriculum should be extended to include history, geography and religion.

Roma in the education system

112. The authorities continued in recent years to take measures covered by the Action Plan on the Educational Needs of Roma and Other National Minorities. These positive measures include merit-based grants to Roma students, provision of free textbooks, bussing of children from isolated Roma settlements and facilitation of admission to primary school of children lacking identity documents. It has to be noted, however, that these measures which are within the competence of cantons, are not applied uniformly throughout the country on account of the decentralisation of the education system in the country.

113. Enrolment in preschool institutions in Bosnia and Herzegovina is low and Roma children are disproportionately affected. The Implementation Plan 2008-2015 developed to implement the Strategic Directions for Development of Education aimed to increase the proportion of children attending preschool to 20% with an additional benchmark of 40% of children enrolled in any of the preparation programmes for starting school. The Advisory Committee welcomes in this context initiatives in municipalities where Roma associations are most active, such as training and employment of Roma educational assistants, in particular in the Republika Srpska. Furthermore, preschool preparatory programmes for Roma children, such as the one in Kakanj, which saw a 90% response rate, attest to a high demand for such initiatives.

114. The Advisory Committee notes that some progress has been achieved to eliminate inequalities faced by the Roma with regard to access to education in all parts of Bosnia and Herzegovina. Attendance rates of Roma children in schools have increased in recent years although they are still significantly below that of the national average. According to the figures advanced by the authorities,⁷⁹ 69.3% of Roma children attend school as compared with 97.6% enrolment among the population in general. The dropout rate in the course of primary schooling among Roma children remains unacceptably high at 46.2%. In consequence only about 20% of Roma girls complete primary school, and only 4.5% complete high school,

⁷⁹ Education for All 2015 National Review, available at <http://unesdoc.unesco.org/images/0022/002299/229929E.pdf>.

compared to 9.2% of Roma boys. Literacy among young Roma women aged between 15 and 24 is less than 70%, compared to the rate of 90% among young Roma men.

Recommendations

115. The Advisory Committee encourages the authorities to continue their efforts to improve the monitoring and evaluation of the implementation of the Action Plan on the Educational Needs of Roma and Other National Minorities. It encourages them to develop further measures, in consultation with Roma representatives and parents, notably by working to rapidly eliminate weaknesses identified and by disseminating good practices.

116. The Advisory Committee urges the authorities to address comprehensively the continued obstacles to equal access to education experienced by Roma children in co-operation with the respective ministries and local authorities, and in close consultation with minority representatives and parents. Effective measures must be taken, including through the employment of adequately trained educational assistants, and by ensuring access to preschool facilities for all Roma children at the same time guaranteeing that the curriculum in such kindergartens corresponds to the diverse needs and multilingual composition of the groups concerned.

Article 14 of the Framework Convention

Teaching in and of minority languages

117. There has been no change during the current monitoring cycle as regards requirements established by law for teaching in and of minority languages. In fact, under the State Law on National Minorities as amended in 2005, pupils belonging to a national minority must form 33% of the population of the school concerned for the school to be obliged to provide teaching in the minority language. The Federation Law reflects these criteria; the law of the Republika Srpska has not yet been aligned with these amended requirements and still includes the previous, more stringent requirement that the minority constitute an absolute or relative majority of the municipality concerned in order for children to be entitled to receive instruction in their minority language.

118. Different thresholds corresponding to a proportion that persons of a national minority must reach within the population at a municipal level are in existence as a precondition for establishing classes providing teaching in the minority language or for teaching of the optional classes on the language, literature, history and culture of the minority.⁸⁰ Given that the census data as regards ethnic composition of the country, in particular as regards the “Others” has not been released, any reference to such thresholds is problematic. However, even without the detailed census data, it is clear that the aforementioned thresholds are hardly possible to reach anywhere in the country due to a low proportion and low concentration of national minorities within Bosnia and Herzegovina. In consequence no public schools in Bosnia and Herzegovina make provision for teaching in the language of a national minority.

⁸⁰ For details, see Advisory Committee Third Opinion on Bosnia and Herzegovina, para. 141, adopted on 7 March 2013, ACFC/OP/III(2013)003, available at <https://rm.coe.int/168008c667>.

119. The Advisory Committee recalls that the State Law provides for teaching, as elective subjects, of national minority languages irrespective of any numerical threshold of national minority language speakers.⁸¹ Very little is done to implement these provisions in practice. According to the state report, Italian and Ukrainian continues to be taught in Prnjavor and Prijedor at primary school level,⁸² while German and Turkish are taught both in primary and secondary schools as foreign languages and are studied both by children belonging to the respective minorities and the majority.⁸³ The Romani language is taught in one primary school one hour a week. Splitting Roma children into different schools under one roof creates an additional obstacle to organising Romani language classes for children who might be potentially interested in learning Romani. Such is, for example the situation in Stolac, where in accordance with their parents' preference, six Roma children attend the Croat school, and six other Roma children attend the Bosniak school. Finally, some teaching of the above languages and of Slovenian has been arranged for preschool age children by respective national minority organisations.

120. The procurement of textbooks and other teaching and learning materials necessary for teaching and learning national minority languages is left to the care of parents, associations and foreign embassies. Such a deplorable state of affairs is indicative of a profound lack of interest on the part of the authorities for maintaining and preserving the languages still spoken by some persons belonging to various national minorities in Bosnia and Herzegovina. The main burden of initiating, organising and maintaining minority-language teaching in schools rests on the shoulders of national minority organisations.

Recommendations

121. The Advisory Committee reiterates its call on the authorities to step up their efforts and take a proactive approach to develop teaching in and of minority languages in areas where persons belonging to national minorities are settled traditionally or in substantial numbers. In particular the authorities should raise the awareness of persons belonging to national minorities of their rights regarding teaching in and of minority languages and support all initiatives to teach such languages.

122. The Advisory Committee reiterates its call on the authorities to provide increased and more active support to the development of school textbooks and other materials designed specifically for the teaching of minority languages.

⁸¹ See Article 14. Para 2. "Regardless of the number of members of national minorities the entities and cantons shall be bound to secure that the members of national minority, if they request so, may have instructions on their language, literature, history, and culture in the language of minority they belong to as additional classes."

⁸² See state report, p. 90.

⁸³ According to the state report, the German language is the most widely studied second foreign language (no figure given). Also, according to the state report, the Turkish language was studied in the period 2011-2015 by 6.500 students in five cantons of the Federation of BiH (Zenica-Doboj Canton, Herzegovina-Neretva Canton, Central Bosnia Canton, Bosnia-Podrinje and Sarajevo Canton).

Article 15 of the Framework Convention

Participation in public affairs

123. Legislation governing the election of legislators at the state, entity and canton level has not changed since 2002. Similarly, legislation governing minority representation in municipal councils and assemblies has not changed since the adoption of the last Advisory Committee opinion in 2013. The Advisory Committee recalls that national minorities are entitled to representation in municipal and city councils and assemblies in proportion to their percentage of the population, with a reserved seat guaranteed by law if they constitute at least 3% of the local population, according to census figures. Given that information on the ethnic composition of the country, as regards persons not belonging to “constituent peoples” and falling into the category of the “Others” was not released following the last census in 2013, reference figures taken into account remain those of the 1991 census.

124. The Advisory committee notes that local elections were held in October 2016⁸⁴ in respect of 74 Municipal Councils and four City Councils in the Federation of Bosnia and Herzegovina as well as 57 Municipal Assemblies and six City Assemblies in the Republika Srpska. Elections also took place the same day to the Assembly of Brčko District. Regrettably, no elections could be organised in the city of Mostar due to a political deadlock following the ruling of the Constitutional Court of Bosnia and Herzegovina which declared the electoral law and the City Statute of Mostar to be unconstitutional and in need of amendments, in particular as regards equal voting rights for all voters living in Mostar.

125. The Advisory Committee notes with interest the election under these rules of 26 national minority representatives in 24 municipalities.⁸⁵ The Advisory Committee notes that these figures are relatively stable as compared to the previous local elections in 2012 when 29 minority representatives were elected. It further notes that of the 30 Roma candidates, 14, including one Roma woman, were elected to the municipal councils. Two Roma have become speakers/chairpersons of municipal assemblies.

126. The Advisory Committee is concerned about claims it heard following these elections of some candidates opportunistically changing their declared ethnic affiliation to take advantage of seats reserved for national minority representatives and also an account of the fact that candidates of national minorities require fewer signatures for their candidacy to be validated than others do. While acknowledging the principle of free self-identification laid down in Article 3 of the Framework Convention, the Advisory Committee is concerned at the abuse of this system which was designed to promote the effective participation of national minorities at local level.⁸⁶

⁸⁴ Congress of Local and Regional Authorities, Observation of local elections in Bosnia and Herzegovina (2 October 2016) available at <https://rm.coe.int/16806fe048>.

⁸⁵ See Local Elections 2016 - Final Report on Civic and Nonpartisan Observation of Local Elections, available at <http://podlupom.org/v2/en/document/local-elections-2016-final-report-on-civic-and-nonpartisan-observation-of-local-elections/189>.

⁸⁶ See ACFC Thematic Commentary No. 4 on the scope of application of the Framework Convention on the Protection of National Minorities (2016), para. 10.

127. The Advisory Committee notes with deep regret that there has been no change as regards automatic exclusion from running for certain high-level political offices of persons belonging to national minorities. It notes in particular, the failure of the state to implement the Sejdić and Finci and Zornić judgments of the European Court of Human Rights of 2009 and 2014, respectively. In addition, as confirmed by the Pilav judgment, persons belonging to “constituent peoples” are discriminated against by being excluded from running for certain posts on account of their place of residence not matching their ethnic belonging. Moreover, persons belonging to national minorities remain sidelined by the main political parties and have not been invited to participate in discussions aimed at breaking the deadlock concerning this issue. The Advisory Committee can only repeat its assertion made in the previous opinion that “this is symptomatic of the lack of regard given to the situation of persons belonging to national minorities by many of the mainstream political parties in Bosnia and Herzegovina. Decisive action from political leaders themselves will be required to turn this around”.⁸⁷

Recommendations

128. The Advisory Committee reiterates its call on the authorities to ensure that the possibilities of representation in municipal councils and assemblies that are laid down by law for persons belonging to national minorities are effective in practice. To this end, the authorities should review the criteria for inclusion of national minority representatives on party lists, so as to prevent abuse of the system by candidates who do not represent national minorities.

129. The Advisory Committee urges the authorities to ensure that national minorities are able to participate effectively in work on revising the State Constitution, and refers to its recommendations in Article 4 in this respect.

Councils of National Minorities

130. The Councils of National Minorities at state and entity level have been operational since 2007. These councils, set up on the basis of the relevant state, entity and cantonal legislation, within the Parliamentary Assembly of Bosnia and Herzegovina, the National Assembly of Republika Srpska and the Parliament of the Federation of Bosnia and Herzegovina, as well as Tuzla and Sarajevo Assemblies, operate in their limited advisory capacity and voice publicly concerns of national minorities within the parliamentary forums. The Advisory Committee is pleased to note that, in practice, the authorities show a degree of flexibility in interpreting legislative provisions pertaining to the scope of application of the State Law on National Minorities. In particular it notes with interest the decision of the Minister of Human Rights and Refugees of 2012 to include a representative of the Austrian minority in the Council of National Minorities of Bosnia and Herzegovina.

131. Following the last round of parliamentary and local elections, the composition of these councils was renewed. The Advisory Committee notes that the councils’ reports are presented and debated in parliaments. Representatives of the councils informed the Advisory Committee about increases in funding for national minority projects they managed to secure through their lobbying work.

⁸⁷ See ACFC Thematic Commentary No. 3 on the Language Rights of Persons belonging to National Minorities (2012), para. 152.

132. The Advisory Committee notes in particular the work of the Council of National Minorities at the Parliamentary Assembly of Bosnia and Herzegovina in 2013-2016 on the drafting of the Strategy to Address the Issues of National Minorities in Bosnia and Herzegovina (renamed in 2015 the Strategic Platform to Address the Issues of National Minorities). It notes with regret, however, that the draft, which remained inaccessible to the Advisory Committee, has not been adopted despite the length of time it has been on the agenda.

133. It has to be noted also that the issues identified in the third opinion remain unresolved. The politicised nature of appointment of council members by parliamentary bodies, and the necessity to reach a consensus on one representative for each of the seventeen recognised national minorities led in practice to a stalemate as regards some minorities whose seats on the councils remain vacant. For example, the Advisory Committee was informed that in the Council of National Minorities advising the Assembly of the Republika Srpska, only 11 out of 17 seats have been filled. In addition the actual capacity of the councils to influence policies on national minorities remains very weak, undermining confidence of national minorities they represent in their effectiveness.

134. The Advisory Committee notes the work carried out by the Roma Board, an advisory body to the Council of Ministers at state level. The board which consists of 22 members, half of whom represent Roma organisations (including three Roma women) and half representing public institutions at all levels of government, strives to be an interface between Roma associations and the authorities. In addition, it advises on the various strategies, action plans and other projects aiming to combat discrimination of Roma and improve their access to rights and services. The Advisory Committee welcomes in particular the development of monitoring procedures and indicators on the implementation of the action plans for Roma. It notes, however, with regret that reportedly the Roma Board pays little attention to gender equality issues.

Recommendations

135. The Advisory Committee reiterates its call on the authorities to review the provisions governing the membership of the State Council for National Minorities and other councils at the entity and cantonal levels (in Sarajevo and Tuzla) in order to ensure that minorities themselves designate their representatives.

136. It invites the authorities to consider expanding the councils' mandates, to allow them to influence decision making on issues affecting the rights of persons belonging to national minorities.

Participation in economic and social life

137. The situation of the Roma minority remains one of the most urgent problems in the country and the Roma remain the most vulnerable group. Roma still continue to face serious and entrenched difficulties and discrimination, in particular as regards access to employment, health services, mainstream and higher education and housing. According to the European

Roma Rights Centre, almost 95% remain unemployed.⁸⁸ Many Roma live in segregated communities, often facing deplorable substandard living conditions. Although some progress has been achieved in a number of settlements in providing housing,⁸⁹ running water, sewage treatment, and access to roads, in many others concerted efforts are required to remedy shortcomings. The Advisory Committee further notes that the provision of social housing is still insufficient to meet the needs.

138. The Advisory Committee notes reports that infant mortality among Roma is four times greater than among the rest of the population.⁹⁰ The problem is compounded by not all Roma being covered by a health insurance (on account of failure to register for an insurance scheme) and lack of means to pay for some treatments which the public health system cannot provide in a timely way. Finally, according to human rights NGOs, law enforcement authorities show widespread indifference toward Roma victims of domestic violence and human trafficking.

139. Unemployment affects overall more than one in four persons in Bosnia and Herzegovina.⁹¹ Roma are most severely impacted, and are almost completely excluded from the labour market. Funding which is earmarked each year under various schemes to increase employment of Roma, such as co-funding for employers who employ Roma and support for the self-employment of Roma developed in the framework of the action plan, do not have any lasting effect on the situation. Explanations given for this state of affairs include low skills of Roma, lack of co-ordination among local services, lack of information to potential employers and reluctance of employers to hire Roma. Widespread unemployment has a knock-on effect on the ability of Roma to access health and social services.

140. The Advisory Committee notes that 30 housing units were constructed in Mostar in the last five years and 35 in Kakanj. Overall, around 1 000 housing units, both individual and social housing units, were built and reconstructed between 2008 and 2015. However, Roma representatives informed the Advisory Committee that many housing units built back in 2009 and 2010, are still not connected to the electrical grid, water supply and waste water networks, and that almost nothing is being done in this area. Moreover, the Advisory Committee was informed, that many housing projects were implemented without any consultation with Roma families or representatives. Furthermore, many refurbishment projects were not carried out in accordance with the standards expected of buildings intended for habitation. The principal reason cited for these shortcomings is poor planning and ineffective monitoring procedures.

141. Roma continue to experience problems in accessing health care. Main obstacles in this area are lack of identity documents and residence registration. In addition, as a result of poverty, many Roma find it difficult to cover the additional costs during treatment. According

⁸⁸ Written Comments by the European Roma Rights Centre For Consideration by the European Commission concerning Roma Inclusion in the Western Balkans Progress Reports 2016, p. 6, available at www.errc.org/cms/upload/file/ec-submission-on-roma-inclusion-in-the-western-balkans-july-2016.pdf.

⁸⁹ Projects of this nature have been visited by the Advisory Committee delegation in the towns of Mostar and Kakanj.

⁹⁰ Written Comments by the European Roma Rights Centre For Consideration by the European Commission concerning Roma Inclusion in the Western Balkans Progress Reports 2016, p.5 available at www.errc.org/cms/upload/file/ec-submission-on-roma-inclusion-in-the-western-balkans-july-2016.pdf

⁹¹ See World Bank database, available at <https://data.worldbank.org/indicator/SL.UEM.TOTL.NE.ZS?locations=BA>.

to Roma representatives, occurrences of refusal of treatment continue to be reported. In particular, the inability of the more elderly Roma, who are no longer of working age and therefore not eligible for registration in employment offices, to obtain health insurance coverage, remains an issue of concern.

Recommendations

142. The Advisory Committee urges the authorities to exert more efforts to prevent and combat inequality and discrimination suffered consistently by the Roma. The authorities must step up their efforts, in particular at local level, to improve the living conditions of the Roma and to promote integration of society.

143. The Advisory Committee urges the authorities to increase their efforts to implement comprehensive measures, in close consultation with the relevant community representatives, to promote effectively the participation of Roma in socio-economic life. Particular efforts must be made to ensure adequate access to education, housing, and employment and access to health services, including through targeted vocational education and training.

Articles 17 and 18 of the Framework Convention

144. The Advisory Committee notes that there have been no significant developments during the current monitoring cycle as regards issues addressed in its Third Opinion on Bosnia and Herzegovina pertaining to the “kin-State” support⁹² and bilateral and multilateral agreements on national minority protection.⁹³

Recommendation

145. The Advisory Committee reiterates its call on the authorities to consider carefully the impact of support from abroad particularly on the education sector, and, where appropriate, to review its educational policies to ensure that they respond to the aim of promoting mutual respect, understanding and confidence, and not to further entrench division or segregation along ethnic lines.

⁹² See ACFC Third Opinion, para. 183.

⁹³ See ACFC Third Opinion, para. 186.

III. Conclusions

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

147. The authorities are invited to take account of the detailed observations and recommendations contained in Sections I and II of the Advisory Committee's Fourth Opinion.⁹⁴ In particular, they should take the following measures to improve further the implementation of the Framework Convention:

Recommendations for immediate action⁹⁵

- **amend without any further delay the constitution and other relevant legal provisions to eliminate the exclusion of "Others", including persons belonging to national minorities, and of "constituent peoples" whose ethnic affiliation does not match their place of residency, from running for and holding public offices;**
- **unequivocally condemn public statements of politicians and other public figures that incite ethnic hatred or discord and take resolute measures to promote intercultural dialogue and mutual understanding between the different ethnic and religious communities;**
- **take, as a matter of priority, all necessary steps to eliminate segregation in education in all forms, in particular by abolishing all remaining cases of "two schools under one roof" and replacing them with integrated education based on the common core curriculum covering history and geography that would be taught following an inclusive and multiperspective approach;**
- **ensure adequate access of Roma to housing, employment, health services and education; increase efforts to remedy shortcomings faced by Roma children in accessing education.**

Further recommendations⁹⁶

- publish without any further delay, census results relating to the ethnic breakdown of the persons included in the "Others"; review in advance of the next census, the methodology of the census, the wording of the questions asked and the safeguards for voluntary and informed answers; ensure that the respondents are given the possibility to indicate multiple ethnic affiliations;

⁹⁴ A link to the opinion is to be inserted in the draft resolution before submission to the GR-H.

⁹⁵ The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

⁹⁶ Ibid.

- continue to support the Institution of Human Rights Ombudsman of Bosnia and Herzegovina in particular as regards the enforcement of the ombudspersons' recommendations and consider expanding the powers of the ombudspersons;
- adopt without any further delay the Action Plan for Roma 2017-2020; regularly evaluate and review the implementation of the Strategy for Addressing the Issues of Roma in Bosnia and Herzegovina and accompanying action plans for the inclusion of Roma; make specific budgetary provision allowing the implementation of the measures for the inclusion of Roma;
- provide more structured, substantial and regular support for cultural projects of national minorities; ensure that public radio and television stations fulfil their legal obligations regarding the inclusion of programmes for national minorities in their programming schedules; take determined measures to stimulate broadcasting and publications in minority languages;
- prevent, identify, investigate, prosecute and sanction effectively all racially or ethnically motivated acts; take into account local sensitivities when naming streets, schools and other toponyms;
- take more proactive measures in order to ensure that the provisions for the use of minority languages in dealings with the administrative authorities and for topographical indications are effectively implemented in municipalities inhabited traditionally or in substantial numbers by persons belonging to national minorities;
- address comprehensively the continued obstacles to equal access to education experienced by Roma children including through the employment of adequately trained educational assistants, and by ensuring access to preschool facilities for all Roma children and while guaranteeing that the curriculum in such kindergartens corresponds to the diverse needs and multilingual composition of the groups concerned;
- take a more proactive approach to develop teaching in and of minority languages in areas where persons belonging to national minorities are settled traditionally or in substantial numbers; provide increased and more active support to the development of school textbooks and other materials designed specifically for the teaching of minority languages;
- review the provisions governing the membership of the State Council for National Minorities and other similar councils in order to ensure that minorities themselves designate their representatives; consider expanding the councils' mandates, to allow them to influence decision making on issues affecting the rights of persons belonging to national minorities.