

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 2 April 2014

Public
ACFC(2014)001

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

**Ad hoc Report
on the situation of national minorities in Ukraine
adopted on 1 April 2014**

**Report of the Advisory Committee on the Framework Convention for the
Protection of National Minorities
Ad hoc visit to Ukraine 21-26 March 2014**

Introduction

1. This report of the Advisory Committee on the Framework Convention for the Protection of National Minorities is prepared in response to the decision of 14 March 2014 of the Committee of Ministers, instructing the Advisory Committee to review, in light of recent developments, the situation of national minorities in Ukraine and report on its findings as soon as possible (CM/Del/Dec(2014)1194/1.7). In line with this decision, a delegation of the Advisory Committee travelled to Ukraine from 21 to 26 March 2014. Given the ad hoc nature of this request, the report is not based on a comprehensive assessment of the implementation of the Framework Convention in Ukraine. Rather, it reflects the findings of the Advisory Committee as regards the situation pertaining to minority rights following meetings with representatives of the Afghan, Armenian, Azeri, Bulgarian, Crimean Tatar, Gagauz, Georgian, Hungarian, Jewish, Karaim, Kazakh, Lezghin, Moldovan, Polish, Roma, Romanian, Russian, Tajik and Uzbek communities in Ukraine. These meetings took place in Odessa, Kharkiv and Kyiv; minority representatives in Western Ukraine were contacted by phone and the delegation met Crimean Tatar representatives in both Odessa and Kyiv.

2. This report is adopted in the context of fundamental structural reform processes that are ongoing in Ukraine, including with regard to its Constitution, Electoral Law, and local self-government arrangements. These all have a vital impact on the enjoyment of rights of persons belonging to national minorities as citizens of Ukraine. The report is also adopted ahead of presidential elections on 25 May 2014 and parliamentary elections to be possibly conducted in autumn 2014.

3. The Advisory Committee is grateful to the representatives of minority associations, civil society, international organisations and the authorities who agreed to meet the delegation at short notice. Given the particular focus of this report, not all concerns that were shared are reflected but only those that are of direct relevance to recent developments. The Advisory Committee looks forward, however, to conducting a comprehensive assessment in the course of the upcoming fourth cycle of monitoring under the Framework Convention.

Main findings

4. According to representatives of all minorities with whom meetings took place, the level of implementation of minority rights has not changed in 2014. Recent events have had no repercussions on the extent of schooling in minority languages or the possibility to use minority languages or regional languages in official contacts with authorities. While these events have created uncertainty and there is considerable fear among minority populations about possible military conflict following developments in Crimea, the Advisory Committee observed generally stable conditions and no sense of lawlessness. Most minority representatives reported that their daily life is continuing as before and that they have no specific concerns with regard to the enjoyment of their minority rights in the current context. While apprehensive about the overall situation in the country, they expressed their support for Ukrainian sovereignty and territorial integrity and conveyed their expectations in the new authorities to strengthen minority

rights protection frameworks in line with “European values”, in particular as regards respect for human and minority rights.

5. The Advisory Committee is concerned, however, about the negative impact of some media coverage, at national and international level, on inter-ethnic relations in Ukraine. The regular and, based on the delegation’s assessment, frequently unsubstantiated media reports of ongoing human and minority rights violations in Ukraine raise tension and fears among the population that are not conducive to calming the overall environment and are particularly unhelpful in the current pre-election context. This situation requires the immediate attention of national and international actors to avoid further escalation.

Main concerns regarding specific national minorities

6. There are grave and immediate concerns regarding the safety and access to rights of persons belonging to the Crimean Tatars. The overall security situation in Crimea is reportedly very tense with armed but unidentifiable paramilitary groups manning a variety of check-points, where they stop residents and check their identity and belongings. The Advisory Committee points to civil society reports of kidnappings, intimidation and ill-treatment in connection with these so-called “self-defence groups”, which constitute an immediate obstacle to the freedom of movement of Crimean residents, including persons belonging to national minorities. Given the open resistance to events unfolding in Crimea demonstrated by Crimean Tatar leaders and the fact that most Crimean Tatars boycotted the referendum called for by the local authorities on 16 March, persons belonging to the Crimean Tatars are exposed to particular risk.¹ According to representatives, some 5 000 persons, predominantly Crimean Tatars and mainly women and children, have left the peninsula for mainland Ukraine in recent weeks.

7. In addition, there is great uncertainty and fear among Crimean Tatars regarding their future. Representatives expressed their full commitment to Ukrainian territorial integrity but pointed to the practical necessity for residents of Crimea to co-operate with the local authorities in daily life, particularly when it comes to issues related to property or the performance of public duties by legal professionals. Wide parts of the Crimean Tatar population are afraid that they may be forced to leave the territory – a fear felt all the more intensely as Crimean Tatars have twice suffered from deportations in the past, in 1783 and in 1944. The Advisory Committee is further deeply concerned about the safety and enjoyment of cultural, education and language rights of all national minorities in Crimea, including in particular the numerically smaller ones such as the Karaim and Krimchak as well as persons belonging to the Ukrainian community who are in a minority situation in Crimea.

¹ In an Opinion published on 21 March 2014, the Venice Commission found that this referendum was not in accordance with the Constitution of Ukraine or the Constitution of Crimea and that the circumstances in Crimea, i.e. the use of military force did not allow for the holding of a referendum in line with European democratic standards, in particular as regards the free expression of the will of the people concerned. See [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2014\)002-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2014)002-e). The Advisory Committee further notes that the conduct of a referendum without sufficient and comprehensive prior consultation with the population, including importantly the minority populations, and under the threat of force destroys the preconditions for free and effective participation for those concerned. See also ACFC Thematic Commentary on the Effective Participation of Persons belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs, paragraphs 18–21. It also takes note in this context of a survey conducted in February 2014 by the Kyiv International Institute for Sociology, whereby 41% of residents of Crimea declared their wish to unite with the Russian Federation. See <http://www.rosbalt.ru/ukraina/2014/03/02/1239442.html>.

8. A number of legislative drafts concerning Crimea are under consideration in the Verkhovna Rada in Kyiv, including the Law on the Status and Rights of Formerly Deported Persons, a law for the ratification of ILO Convention 169 on the Rights of Indigenous Peoples, and a Law on Occupied Territories. While welcoming the concern and attention paid to the situation of the Crimean Tatars and the adoption, after many years of discussions, of a declaration on 20 March 2014 to recognise the Crimean Tatars as indigenous people, the Advisory Committee is concerned that the Law on Occupied Territories may severely penalise all those who are forced by circumstances to co-operate with the authorities who are in effective control, including by accepting Russian citizenship to maintain their properties.

9. According to representatives of the Jewish community, there has been no increase in anti-Semitism in Ukraine in recent months and there is no fear of such developments within the broader Jewish community. Reports of a surge in hate crime against members of the Jewish community and synagogues have publicly been denounced as propaganda by Jewish representatives themselves who expressed, including towards the delegation of the Advisory Committee, their confidence in the authorities in Kyiv. The Advisory Committee is, however, concerned that these unverified media reports of hate crimes against persons belonging to the Jewish community may further raise tensions and thereby in fact provoke such attacks.

10. The Advisory Committee observed a variety of views among the Russian minority, ranging from full support for the Ukrainian authorities and the view that minority rights, including language rights, are sufficiently established, to the likening of the current situation related to language rights to “genocide of the Russian people”. The Advisory Committee is concerned that the natural diversity of opinions and geopolitical viewpoints existing within the Russian minority may be instrumentalised in the current climate and may give rise to additional tension, including intra-ethnic friction. Given the amplification by the media in particular of radical views among the minority, some representatives expressed serious concerns about being affiliated with these views based on their ethnic and linguistic identity. While there have been to date no reports of limitations or perceived threats to the use of Russian language in Western parts of Ukraine, the Advisory Committee considers it crucial for the authorities to ensure that the use of all minority languages continues to be actively encouraged throughout Ukraine.

11. Persons belonging to the Kazakh and Armenian minorities reported concerns within their communities that their loyalty to Ukraine may be called into question following reports in the media about statements issued by the Governments of Armenia and Kazakhstan in support of the Russian Federation. The Advisory Committee also notes the particularly complex situation for persons belonging to the Lezghin minority given that they originate from the territory of the Russian Federation and fear losing contact with their families and community in Dagestan.

12. Apart from the above concerns, the Advisory Committee did not encounter any particular threat to or immediate concern for access to rights, including language rights, of persons belonging to national minorities in Ukraine. Representatives of most minorities reported no deterioration in access to rights but rather expectations that their situation may in fact improve. There are hopes within the Polish minority, for instance, that any new language legislation will extend safeguards also to languages of smaller and dispersed minorities. Representatives of the Moldovan and Gagauz minorities

agreed that support for their languages must be increased but considered that the first priority of the authorities should be to promote the socio-economic conditions of persons belonging to national minorities, particularly in the regions. The Roma minority, whose representatives expressed deep disappointment with the Government Strategy for the Integration of Roma adopted in March 2013 and the very limited attention that has been paid to their urgent concerns thus far, is hopeful that Ukraine may indeed join the Roma Decade in the coming months.

13. The Advisory Committee is, however, concerned about reports of nationalist aggression against Roma settlements in the recent past. While hate crime against persons belonging to the Roma minority in Ukraine has been regularly reported over the last years and interlocutors of the delegation indicated that attitudes of law enforcement towards Roma had not deteriorated in 2014, the Advisory Committee considers it crucial that particular attention is paid by the authorities to prevent further such attacks in the current context.

Findings of the Advisory Committee with regard to the implementation of specific rights under the Framework Convention

a) Language rights

14. According to representatives of all minorities with whom meetings were arranged and in line with monitoring conducted by the Ministry of Education in 2013, the August 2012 Law on the Principles of State Language Policy had no practical impact on the number of minority language schools or the use of languages in official contacts. Nonetheless, the call by the Verkhovna Rada to abrogate the law on 23 February 2014 created significant apprehension among parts of the Russian, Hungarian, and Romanian minorities, whose languages are considered regional languages in some of Ukraine's 27 regions as a result of the Law. The Advisory Committee notes that this Law remains in force today, following the decision of the Acting President on 27 February 2014 to veto its abrogation. It further notes that the Law has been controversial from its adoption as a number of critical concerns from minority communities as well as from international experts including the Venice Commission had not been taken into account.

15. In its third Opinion on the implementation of the Framework Convention in Ukraine, adopted in March 2012, the Advisory Committee considered that the Law, then in its draft stage, could promote mono-lingualism by the larger minorities and jeopardise the use of Ukrainian as the official language and main tool of communication, and that it did not foresee sufficient safeguards for the languages of numerically smaller minorities, such as the Karaim and Krimchak, whose languages are indeed threatened. Most interlocutors of the Advisory Committee in March 2014 attested to the absence of any special measures to protect and promote the languages of numerically smaller minorities, in particular those without a kin-state. Except for the Russian, Hungarian and Romanian minorities, representatives of most other minority groups described the law as a political instrument to appease and manage the claims of Russian speakers without giving Russian official language status, rather than an effort to address the needs and expectations of all, including numerically smaller minorities.

16. In addition, the Advisory Committee considered in its third Opinion that the Language Law could further polarise society around the issue of language and that

much more comprehensive consultations with representatives of all minorities should have been conducted prior to its adoption. This assessment remains even more valid now, in particular given the very strong demands expressed by representatives of the Russian minority. The Advisory Committee considers it vital that the authorities do not adopt any hasty amendments to language legislation at a moment when they are likely to have destabilising effects. They should instead ensure that comprehensive consultations give effective opportunities to minority representatives to participate in the drafting process. While representatives of the Romanian and Hungarian minorities are reportedly involved as experts in the current working group tasked to review the language legislation, Russian minority representatives consider that they are not adequately represented in the working group. The Advisory Committee considers the genuine representation of the important concerns of different minorities, including the numerically smaller ones, in the working group as a precondition for any credible discussion of future language legislation.

b) Education rights

17. The Advisory Committee refers to its assessment of the education situation in its third Opinion, as no changes in the number of or practices in minority language schools have been reported. Teaching in the official language remains insufficient in a number of minority language schools. The incentive to learn Ukrainian has reportedly further diminished as a result of the current language legislation, particularly in regions where minority languages have been recognised as regional languages. Moreover, representatives of the Romanian minority continue to be concerned about the limited availability of suitably trained teachers who are able to teach in Romanian, which raises broader concerns about access to quality education for this community.

18. The Advisory Committee welcomes the commitment expressed by the Ministry of Education to reassure minority communities that their minority language education will continue to be available. It also welcomes assurances that, despite the current austerity and the limited budget, no cuts will be made in the printing and distribution of textbooks in minority languages, including for the Crimean Tatar and Ukrainian language schools located in Crimea.

c) Participation rights

19. The participation of persons belonging to national minorities in public as well as in socio-economic life of Ukraine was considered insufficient by the Advisory Committee in 2012 and remains so. In the current context, particular efforts must be made to ensure that minority representatives are informed of ongoing developments, including in the legislative and constitutional field, and are given effective means to participate. The collapse of the Party of Regions has further diminished opportunities for persons belonging to the Russian minority to be effectively represented in political decision-making, particularly in the East. Urgent efforts must be made to create alternative channels of participation for the Russian minority to avoid further isolation and radicalisation. It is of regret to the Advisory Committee in this respect that representatives of the Russian minority in Kharkiv declined the several invitations for a meeting. Confidence-building measures are immediately needed to ease tensions and promote an environment in which minority protection legislation and frameworks can be negotiated with effective participation of minority representatives. Efforts of some political figures, including the Prime Minister, to address the population in the Russian

language and to reconfirm Ukraine's commitments towards its minority populations are welcome first steps in this regard.

Conclusions

20. The Advisory Committee observed no immediate threat to the enjoyment of minority rights in the current situation in mainland Ukraine. It expresses urgent concerns, however, for the safety and access to rights of minority populations in Crimea, in particular the Crimean Tatars, numerically smaller minorities as well as persons belonging to the Ukrainian community, who are in a minority situation in Crimea. There is an urgent need for an international presence to monitor the evolving situation on the ground in Crimea, including as regards ongoing institutional arrangements led by the local authorities, which have a direct impact on the enjoyment of rights of persons belonging to national minorities. In addition, it is vital that any Law on Occupied Territories that is discussed in the Verkhovna Rada in Kyiv fully takes the concerns of Crimean residents into account and does not penalise those who are forced to co-operate with the authorities in effective control.

21. With the present language legislation remaining in force, there is no immediate necessity to adopt amendments. Moreover, doing so could create considerable further tension in the current context. The Advisory Committee urges the authorities to refrain from moving too hastily in this field and to engage in a comprehensive and effective consultation process with representatives of all minorities before taking any further steps. In addition, any review of the language legislation should be undertaken within a broader and long-term engagement concerning the review and implementation of minority rights related policies. Such engagement should also draw upon the expertise available in the Council of Europe and the OSCE High Commissioner on National Minorities. The Advisory Committee looks forward to continuing its constructive co-operation with the OSCE as well as the UN structures on the ground in Ukraine for this purpose.

22. Despite the support for and trust in the authorities expressed by most minority representatives, there is an urgent need for the central and regional authorities to engage in more direct and structured dialogue and confidence-building measures with minority populations throughout Ukraine. Functioning channels must be established without delay to ensure that all minority populations in Ukraine are duly informed of and can effectively participate in the ongoing reform processes concerning important legislative frameworks directly affecting their concerns.

23. It is further crucial that targeted measures are taken to promote responsible journalism, curtail the propagation of prejudice and stereotypes based on ethnic and linguistic identity, and limit the negative effects of some media reporting on inter-ethnic relations in Ukraine.