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

**Opinion on Georgia,
Adopted on 19 March 2009**

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EXECUTIVE SUMMARY

The Advisory Committee welcomes the fact that the ratification of the Framework Convention has triggered a debate in Georgia and that discussion is continuing in connection with the introduction of a more comprehensive legislative framework for the protection of national minorities. It hopes that, as a result of this debate, Georgia will be able to devise a legislative framework for the protection of national minorities and introduce an open, comprehensive, long-term policy making it possible to respond appropriately to existing and future needs, in accordance with the principles set out in the Framework Convention. It is important that persons belonging to national minorities are fully involved in this debate. The Advisory Committee notes with satisfaction that the Government has stressed the need to promote tolerance and integration, and hopes the draft Concept on tolerance and civic integration will be swiftly adopted and effectively implemented.

The Advisory Committee encourages the Georgian authorities and all the parties concerned, to step up their efforts and to take an open and constructive approach in order to find as soon as possible a just and lasting solution to the conflict over South Ossetia and Abkhazia, as the conflict is adversely affecting the implementation of the Framework Convention throughout the entire Georgian territory. In doing so, the principles enshrined in the Framework Convention must be fully respected, in order to guarantee the rights of persons belonging to national minorities.

The Advisory Committee considers that the linguistic rights of persons belonging to national minorities are still a major challenge facing the authorities. Whilst they are making efforts to make it easier for those persons belonging to national minorities who are not familiar with the Georgian language to learn it, these efforts are far from adequate and do not constitute an appropriate response to existing needs. Improving facilities for learning Georgian should therefore be a priority for the authorities. They should also ensure that the policy of promoting the Georgian language is not pursued to the detriment of the linguistic rights of persons belonging to national minorities, the effective enforcement of which requires more resolute measures, both in the legislative framework and in its implementation.

In the field of education, the lack of resources invested in tuition provided in minority languages means that the pupils concerned are not on an equal footing with other pupils. Moreover, although it takes note with interest of the reforms undertaken in the Georgian education system, the Advisory Committee is concerned about their potential implications for persons belonging to national minorities. In particular, it is essential to ensure equal access, with no unjustified obstacles, to higher education for pupils who have studied in minority language schools. More generally, the authorities should take all the measures needed to promote full and effective equality for persons belonging to minorities in the education system.

Participation of persons belonging to national minorities in the country's cultural, social and economic life and in public affairs remains limited, and many of them are isolated from Georgian society. Their inadequate command of the Georgian language is one of several factors accounting for their marginalisation. The authorities should take vigorous measures to remove legislative and practical obstacles to the participation of persons belonging to national minorities

in elected bodies and in the executive, and allow minorities to be better represented in the public service. Consultation of representatives of national minorities by the authorities, particularly through the Council for Ethnic Minorities, should be more systematic, and the recommendations and proposals of this unique body representing minorities should be given all the necessary attention. Moreover, the Georgian authorities should take more resolute measures to promote the effective participation of persons belonging to national minorities in the socio-economic life of the country.

The Advisory Committee is concerned about increased religious tensions, which are particularly affecting persons belonging to national minorities. The authorities should make every effort to combat this phenomenon and, in general, all forms of intolerance based on ethnic or religious affiliation. It is also necessary to increase efforts to promote mutual understanding and intercultural dialogue between the majority population and persons belonging to national minorities, by means of a balanced policy that takes full account of the rights of persons belonging to minorities.

I. PREPARATION OF THE CURRENT OPINION

1. The initial State Report of Georgia (hereinafter: the State Report), due on 1 April 2007, was received on 16 July 2007. The Advisory Committee commenced the examination of the State Report at its 31th meeting, on 25-29 February 2008.

2. In the context of this examination, the Advisory Committee identified a number of points on which it wished to obtain fuller information. It obtained replies to its questions in the course of the below-mentioned visit.

3. Further to an invitation from the Government of Georgia, and in accordance with Rule 32 of the Committee of Ministers' Resolution (97) 10, a delegation of the Advisory Committee visited Georgia from 8 to 13 December 2008 in order to obtain supplementary information from representatives of the Government, non-governmental organisations and other independent sources on the implementation of the Framework Convention. In preparing this Opinion, the Advisory Committee also consulted a range of written materials from various Council of Europe bodies, other international organisations, non-governmental organisations and other independent sources.

4. The Advisory Committee subsequently adopted this Opinion at its 34th meeting on 19 March 2009 and decided to transmit it to the Committee of Ministers.

5. The present Opinion is submitted pursuant to Article 26 (1) of the Framework Convention, according to which, in evaluating the adequacy of the measures taken by the Parties to give effect to the principles of the Framework Convention, "the Committee of Ministers shall be assisted by an advisory committee", as well as pursuant to Rule 23 of Resolution (97) 10 of the Committee of Ministers, according to which the "Advisory Committee shall consider the state reports and shall transmit its opinion to the Committee of Ministers".

II. GENERAL REMARKS

6. The Advisory Committee notes that the State Report contains valuable information on the situation of persons belonging to national minorities in Georgia and on the measures which the authorities intend to implement in this sphere.

7. Notwithstanding that the Advisory Committee could only visit Georgia after the armed conflict of August 2008, it obtained a full picture of the situation during its visit. It finds that this visit, organised at the invitation of the Georgian Government, provided an excellent opportunity to have a direct dialogue with the parties concerned. The additional information provided by the Government and by other sources, including by representatives of national minorities, has proved to be most valuable, especially as concerns the practical implementation of relevant norms in the current, complex context in Georgia. The meetings took place not only in Tbilisi, but also in Marneuli, Akhalkalaki, Sagarejo, Gori and villages around Gori. The Advisory Committee welcomes the co-operative spirit shown by the Georgian authorities in the process leading to the adoption of this Opinion.

8. The Advisory Committee would first like to highlight the fact that it is faced with an unprecedented situation, ie. the consequences of a recent armed conflict between two States Parties to the Framework Convention, which took place after their ratification of the Convention. This situation is contrary to the spirit and letter of the Framework Convention, whose Preamble provides that one of the purposes of the Convention is to contribute to stability and peace in Europe and to promote international co-operation without prejudice to the territorial integrity of each State.

9. The Advisory Committee also stresses that it was unable fully to assess the situation of persons belonging to national minorities in Abkhazia and South Ossetia, or that of persons belonging to the Georgian population living in these two territories, although it did secure some relevant information. In preparing this Opinion, it therefore focused on the steps being taken by the Georgian authorities to give effect to the Framework Convention in the territory under their effective control.

10. The Advisory Committee has taken note, in this respect, of the declaration in the State Report stipulating, that “the provisions of the Convention will be fully implemented in the territory under the jurisdiction of Georgia”. It also notes that the Georgian Parliament’s Resolution No. 1938-II of 13 October 2005 on the ratification of the Framework Convention stipulates that Georgia will not be able to ensure the effective implementation of the Framework Convention in South Ossetia and Abkhazia until the regional conflicts have been resolved and the territorial integrity of Georgia has been restored. On the date of the adoption of this Opinion, Abkhazia and South Ossetia are not under the effective control of the Georgian Government, which can neither impose nor guarantee the application of its legislation and policies in these two regions.

11. Notwithstanding the above remarks, particularly in paragraph 9, the Advisory Committee finds that it has a duty to express its concerns regarding the consequences of the conflict on

respect for human rights in the territories outside the Government's control. In this connection, it takes note of the findings of other international bodies on the human rights situation in Abkhazia and South-Ossetia, in particular the Council of Europe Commissioner for Human Rights and the OSCE¹.

12. The Advisory Committee encourages the Georgian authorities, and all of the parties concerned, to step up their efforts and take an open and constructive approach with a view to finding a just and lasting solution to the conflict as soon as possible. In doing so, the principles enshrined in the Framework Convention must be fully respected to guarantee the rights of persons belonging to national minorities throughout the Georgian territory. The Advisory Committee recalls that the Framework Convention contains principles which must be respected by all parties in order to ensure peace and stability.

13. In this context, the Advisory Committee welcomes the fact that, as it noted during its visit to Georgia, the humanitarian measures taken by the Georgian Government are applied in the same way to all those affected by the conflict that took place in South Ossetia in August 2008, regardless of their ethnic affiliation, and that interethnic relations in centres for displaced persons appear to be generally good.

14. The Advisory Committee is aware that settling the conflicts is a priority for the Georgian Government and that efforts are being made to do so. It also understands that, as long as the above-mentioned conflicts have not been settled, they will continue to have an impact on relations between the different groups in Georgian society, as well as on policies concerning issues as important as integration into Georgian society, national identity and language, and on the policy for the protection of national minorities in general.

15. The Advisory Committee notes that for some years now, the authorities have given special attention to persons belonging to national minorities, as part of a strategy to ensure that society is fully integrated and to establish a climate of tolerance and mutual understanding. During its meetings with the representatives of the authorities it noted that this approach, which gives precedence to integration as the main means of protecting national minorities, takes on a particular dimension in the context of the conflict that took place in August 2008.

16. While acknowledging the importance of ensuring an integrated and cohesive society in Georgia, and the complexity of the current situation, the Advisory Committee considers it essential to ensure that the protection of persons belonging to national minorities is not merely one aspect of a broader strategy for conflict prevention and management. It therefore

¹ See "Special Follow-Up Mission to the Areas Affected by the South Ossetia Conflict: Implementation of the Commissioner's six principles for urgent human rights and humanitarian protection (12-14 November 2008, Tbilisi, Tskhinvali and Gori)", by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe. Other reports on the same topic at www.coe.int/commissioner. See also "Human Rights in the War-Affected Areas Following the Conflict in Georgia", OSCE, Office for Democratic Institutions and Human Rights, 27 November 2008, and OSCE High Commissioner on National Minorities: <http://www.osce.org/item/33105.html>

encourages the authorities to ensure that the action taken to protect minorities is part of a fully fledged public policy, aimed at efficiently meeting the needs of the persons concerned and making a constructive contribution to preserving and promoting their culture and identity.

17. The Advisory Committee wishes to point out that, in the context of this Opinion, several references are made to the Georgian Parliament's Resolution No. 1938-II of 13 October 2005 on the ratification of the Framework Convention and to the information given by the Parliament in this resolution regarding the way in which the Georgian authorities intend to implement the Framework Convention. The Advisory Committee is aware of the fact that, as Georgia did not make any declarations or reservations when it ratified the Framework Convention, the resolution is only a domestic policy document and that it in no way reduces the obligations which the country undertook to fulfil under the Convention. Nevertheless, it considered it necessary to examine the indications provided by this document with regard to Georgia's policy for protecting national minorities given that, in the absence of specific constitutional provisions on the protection of national minorities, or a law on this subject, this is the only internal document adopted by the Georgian Parliament on the matter. It was therefore important for the Advisory Committee, in the event that the Georgian authorities use the document to decide on the measures they will take to apply the Framework Convention, to consider the position expressed by the Georgian Parliament and to verify the extent to which the resulting approach is in keeping with the spirit and principles of the Framework Convention.

18. The Advisory Committee also wishes to point out that, when examining the implementation of the Framework Convention by Georgia, it took account of the very specific economic difficulties facing the country, as well as of Georgia's historical background. It noted that the authorities' task is all the more difficult in view of the consequences of the recent conflict. The Advisory Committee, aware of the importance of socio-economic conditions in implementing policies and measures that generally require adequate financial resources, welcomes the efforts made by the authorities to protect national minorities, as well as their concern to implement the Framework Convention.

19. In the following part of the Opinion, it is stated in respect of certain provisions that, based on the information currently at its disposal, the Advisory Committee considers that implementation of the article at issue does not give rise to any specific observations. This statement is not to be understood as signalling that adequate measures have now been taken and that efforts in this respect may be diminished or even halted. On the contrary, the nature of the obligations of the Framework Convention requires a sustained and continued effort by the authorities to respect the principles and achieve the goals of the Framework Convention. Furthermore, a certain state of affairs may be considered acceptable at this stage but that need not necessarily be so in further cycles of monitoring. Finally, it may be the case that issues that appear at this stage to be of relatively minor concern prove over time to have been underestimated.

III. SPECIFIC COMMENTS IN RESPECT OF ARTICLES 1-19

Article 1

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

Article 2

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

Article 3

Scope of application of the Framework Convention

22. The Advisory Committee underlines that, in the absence of a definition in the Framework Convention itself, the Parties must examine the personal scope to be given to the Framework Convention within their country. The position of the Georgian Government is therefore deemed to be the outcome of this examination.

23. Whereas the Advisory Committee notes on the one hand that Parties have a margin of appreciation in this respect in order to take the specific circumstances prevailing in their country into account, it notes on the other hand that this must be exercised in accordance with general principles of international law and the fundamental principles set out in Article 3. In particular, it stresses that the implementation of the Framework Convention should not be a source of arbitrary or unjustified distinctions.

24. For this reason the Advisory Committee considers that it is part of its duty to examine the personal scope given to the Framework Convention in order to verify that no arbitrary or unjustified distinctions have been made. Furthermore, it considers that it must verify the proper application of the fundamental principles set out in Article 3.

25. The Advisory Committee notes, where the personal scope given to the Framework Convention by Georgia is concerned, that ratification thereof on 22 December 2005 was preceded by a major internal debate on the possible definition to be given of the concept of “national minority”. It notes in this context that the Resolution of Parliament of 13 October 2005 on the ratification of the Framework Convention contains an interpretation according to which the only groups which may benefit from the status of “national minority” are those whose members have Georgian citizenship, are distinct from the majority of the population in terms of language, culture and ethnic identity, have lived on Georgian territory for a long period and live “compactly” on Georgian territory.

26. The Advisory Committee notes that, as specified by the authorities, the aforementioned resolution is merely a domestic policy document, given that no declaration or reservation was made by Georgia to the Council of Europe on ratification of the Framework Convention.

Notwithstanding this information, the Advisory Committee notes that, although this Resolution has not been incorporated into any domestic legally-binding text, it does form the basis of the Georgian authorities' approach to the protection of national minorities. The Advisory Committee points out that the interpretations contained in the resolution could give rise to serious concerns, were they to have practical effects on persons belonging to national minorities.

27. The Advisory Committee regards as problematic, from the viewpoint of the Framework Convention, that access to the protection of the Convention is granted exclusively to groups living "compactly", even if this restrictive approach has not been formally codified. It takes note of the existence in Georgia of persons belonging to national minorities who have left their traditional areas of settlement and scattered to other areas, but who share the same ethnic, linguistic and cultural identity as the members of their community of origin. While it is true that certain rights protected by the Framework Convention are exercised in common with others, or their exercise is linked to conditions based on territory, the Advisory Committee takes the view that these persons should not as a result lose their status as persons belonging to a national minority or be excluded from the protection of the Framework Convention.

28. The authorities are encouraged to take a more open approach to such persons, who should be able to benefit from the protection of the Framework Convention in other fields, such as equality and non-discrimination, freedom of expression, of association, of belief and of religion, participation in social and economic life, and education. The Advisory Committee considers in any case that, if the criterion of "compact" settlement were to be formally used, its meaning would have to be specified and its application limited to those articles of the Framework Convention, the practical application of which has a numerical dimension or a link to a territory.

29. Furthermore, the Advisory Committee regrets the application by Georgia of the criterion of citizenship for access to the protection of the Framework Convention, and considers that such a step is not in line with the current efforts aimed at developing a more nuanced approach to the use of the citizenship criterion in the protection of national minorities². The Advisory Committee indeed considers that, while citizenship may be a legitimate requirement in fields such as representation in Parliament, general application of this criterion nevertheless remains problematic 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.

30. In more general terms, the Advisory Committee encourages the authorities to favour a flexible and open approach to the scope of the Framework Convention, both in respect of practical measures and in the context of current debates and legislative processes in Georgia. It welcomes the openness displayed in this regard by certain representatives of the authorities. The Advisory Committee considers it as essential, in the complex context of Georgia, to avoid formalising exclusions which might prove unjustified, and considers it important to preserve the possibility of other groups, including non-citizens where appropriate, being able to be covered in

² Also see the Venice Commission report, "Non-citizens and minority rights", CDL-AD(2007)001, 18 January 2007.

future by domestic legislation on minorities and being included in the scope of application of the Framework Convention (also see the comments on Articles 5 and 6 below).

31. The State Report indicates that persons belonging to national minorities represented 16% of the population of Georgia, according to the results of the population census held in 2002 (which covered the whole territory with the exception of Abkhazia and South Ossetia)³. The Advisory Committee notes that, while these results already bore witness to an appreciable decrease in the number of persons belonging to national minorities, this decrease has subsequently become more marked. This development is particularly worrying for national minorities. According to most of the available sources, this is occurring mainly because of significant emigration, which of course affects the Georgian population as a whole, including the majority, but is regarded by the representatives of minorities as an indicator of the insufficient level of integration of Georgian society. In their view, it is as a result of the difficulties that prevent these persons from effectively participating in the social, economic and political life of the country – the language barrier in particular – as well as the discriminatory attitudes that they face because of their ethnic origin or religion, that they strive to find better conditions in other countries (see in this context the comments on Articles 4, 5, 6, 10 and 15).

The collection of ethnic data

32. A new population census is to take place in Georgia from 21 to 28 January 2010. Preparatory work is under way, in accordance with the Action plan already drawn up for the period 2006-2011. The Advisory Committee welcomes the attention given by the authorities to this process, which is indeed particularly complex and involves significant human and financial resources. It is important that the results of the census are reliable so as to obtain a useful overview of the composition of the population and the socio-economic situation of the different population categories (also see the comments on Article 4 below).

33. The Advisory Committee is concerned to note that, according to information supplied by the Department for Statistics, the question on individuals' ethnic affiliation will be compulsory in this new census, which would not be compatible with the principles of Article 3 of the Framework Convention, namely free expression of ethnic affiliation and the requisite optional nature of the answers to questions relating to this affiliation. Furthermore, the Advisory Committee encourages the authorities in due course to inform the population and raise public awareness about the importance, implications and methodology of the census, and to train census enumerators in such a way as to ensure full compliance with the said principles. It is important, when the methods and questionnaires to be used for the collection of ethnic data are drawn up, for the representatives of national minorities to be consulted. The inclusion among the census enumerators of persons belonging to national minorities and the making available of questionnaires in minority languages could also help to obtain reliable statistics about the ethnic composition of the population.

³ According to these results, the total population of 3,661,173 in 2002 included 284,761 Azeris (6.1% of the total population), 248,929 Armenians (5.7%), 67,671 Russians (1.5%), 38,028 Ossetians (0.9%), 18,329 Yezidi (0.4%), 15,166 Greeks (0.3%), 7,110 Kists (0.2%), and 7,039 Ukrainians (0.2%), with Jews, Abkhaz, Assyrians and Kurds each forming 0.1% of the total population.

34. The Advisory Committee notes in this context that, according to the interpretation given by certain representatives of the authorities, in pursuance of Georgian legislation (the Law on the population census⁴) it is compulsory in Georgia to reply to the question on individuals' ethnic origin. Moreover, the 2002 census forms contained a closed list of only six "nationalities": Georgian, Abkhaz, Ossetian, Azeri, Russian or Armenian. Additionally, there was an opportunity for the persons interviewed to indicate whether their mother tongue was, or was not, that of the nationality with which they had identified themselves.

35. According to information from the Department for Statistics, when the persons covered by the census declared a nationality other than the six shown on the form, the census enumerators processed the information supplied on the basis of a larger list containing more than a hundred nationality options, but without the person concerned being able to ensure that this information processing corresponded to the choice that he or she had expressed. The Advisory Committee takes the view that the obligation to answer the ethnic question, on the one hand, and such processing of the replies received, on the other, raise problems of compatibility with Article 3 of the Framework Convention. It strongly encourages the authorities to ensure, when the next population census is carried out, that the right to free expression of ethnic or national affiliation is fully respected, and that the question concerning such ethnic or national affiliation is optional.

36. The Advisory Committee takes note of information, obtained from official sources, according to which applicants for posts in the police force supply information about their ethnic origin, which is subsequently retained by the Ministry of the Interior. The Advisory Committee is aware that such information may prove useful when members of the police are assigned to the Georgian territory, and may facilitate communication with the different ethnic communities. At the same time, if the collection and retention of such data were not accompanied by sufficient safeguards as to the protection of personal data, this practice could be incompatible with Article 3 of the Framework Convention. The Advisory Committee therefore wishes to remind the authorities of the importance, when information about individuals' ethnic origin is collected, processed and disseminated, of compliance with the safeguards which appear, *inter alia*, in Recommendation (97) 18 of the Committee of Ministers concerning the protection of personal data collected and processed for statistical purposes.

Article 4

Non-discrimination legislation

37. The Advisory Committee notes that a number of legislative safeguards exist against discrimination, particularly any discrimination based on ethnic or religious affiliation. Article 14 of the Georgian Constitution guarantees the equality of all citizens before the law⁵, while the Criminal Code prohibits discrimination (Article 142), and particularly racial discrimination

⁴ The Georgian Law on the population census, adopted on 12 October 2001.

⁵ Article 14 of the Georgian Constitution: "Everyone is free by birth and is equal before law regardless of race, colour, language, sex, religion, political and other opinions, national, ethnic and social belonging, origin, property and title, place of residence".

(Article 142-1). Anti-discrimination provisions also exist in the legislation on civil and administrative matters, particularly in the Labour Code⁶ and the Law on general education (2005). The Advisory Committee nevertheless takes the view that the Georgian authorities should incorporate in existing legislation a prohibition of discrimination - particularly that based on ethnic origin - in other fields, including access to housing, social protection and public goods and services⁷. The authorities should also review the existing laws and consider elaborating comprehensive anti-discrimination legislation.

38. The Advisory Committee notes that case-law relating to the anti-discrimination legislation is very limited and includes no cases connected with individuals' ethnic or national affiliation. During their discussions with the Advisory Committee, the authorities emphasised that the absence of complaints about cases of discrimination based on ethnic affiliation is linked to the fact that this problem is virtually non-existent in Georgia. Other sources emphasised the fact that persons belonging to national minorities are very often unaware of their rights, because of a general lack of information as well as a lack of knowledge of the Georgian language, in which legislation is written. Furthermore, the sources of information available to the Advisory Committee refer to a widespread lack of confidence in the judicial system, particularly among persons belonging to national minorities, who are not inclined to go to the courts if their rights are violated. The anti-discrimination provisions of the Criminal Code also seem to be rarely used by the prosecution or the courts.

39. The Advisory Committee urges the authorities to ensure that persons belonging to national minorities have access to full information about their rights, where possible in their own language, as well as access to courts and other institutions if they consider that their rights have been violated. The Advisory Committee takes the view that action to raise awareness of discrimination and the relevant legislation among the judiciary, public officials and the police should also be enhanced.

40. The Advisory Committee is pleased to note that the Office of the Public Defender (Mediator) is much used when human rights violations occur and has, over the past few years, developed a range of human rights protection activities. The Advisory Committee particularly welcomes this institution's special focus on the situation of persons belonging to national minorities. A specific department of the Office deals with issues relating to national minorities, and the Office has established several consultative councils, including one which deals with national minorities and one with religions (see comments on Articles 6 and 15 below).

41. The Advisory Committee also welcomes the opening, in December 2008, of a regional Office of the Public Defender in Kvemo-Kartli, and hopes that the planned office in Samtskhe-Javakheti will be established shortly. These local representations in regions where substantial numbers of persons belonging to national minorities live should make these persons' access to the Office of the Public Defender easier, and raise their awareness of their rights. It does appear that, hitherto, few cases of human rights violations and discrimination on grounds of ethnic

⁶ Labour Code of Georgia, adopted in 2006, section 2(3).

⁷ Also see in this respect the second report on Georgia of the European Commission against Racism and Intolerance (ECRI), adopted on 30 June 2006 (CRI(2007)2).

affiliation have been brought to the Public Defender's attention, although the Committee was informed by several of the parties to whom it spoke of the existence of such cases. In practice, during its visit, the Advisory Committee was told by persons belonging to national minorities of the existence of direct or indirect discrimination, particularly in respect of access to education (see the comments under Articles 12 and 14, particularly those on access to higher education), socio-economic life and public affairs (see the comments in paragraphs 47 and 48 below and in respect of Article 15).

42. The Advisory Committee therefore calls on the Georgian authorities to step up their efforts to combat discrimination. It expects sufficient human and financial resources to be given to the Public Defender's regional offices to enable them to do their work efficiently. The Advisory Committee also calls on the Georgian authorities to continue to support the Office of the Public Defender, so that it can continue to work efficiently and completely independently.

43. The Georgian authorities have informed the Advisory Committee that they have no plan to introduce positive measures⁸ to promote the equality of persons belonging to national minorities. The Advisory Committee points out in this context that the introduction of specific compensatory, temporary measures frequently proves essential to the remedying of inequalities and to ensuring that persons belonging to national minorities can fully enjoy their fundamental rights. Such measures shall, as indicated in article 4.3 of the Framework Convention, not be considered discriminatory.

44. The Advisory Committee therefore calls on the authorities to consider, in the light of Article 4 of the Framework Convention, the possibility of devising positive measures to promote full and effective equality for persons belonging to national minorities. It would also be important to inform the majority population of these positive measures, explaining their essential role in combating discrimination.

45. Furthermore, the Advisory Committee emphasises that, in order to prepare effective anti-discrimination measures, it is vital to have available reliable and up-to-date data about the socio-economic situation and education of persons belonging to national minorities. The Advisory Committee notes that the Georgian authorities have a certain amount of data available, mostly from the 2002 population census (also see comments under Article 3). It nevertheless notes the existence of significant gaps in this sphere, and regrets the absence of any collection of data broken down according to ethnic origin, for instance through labour force or household surveys, or through sociological surveys and studies. Consequently, the Advisory Committee calls on the authorities to collect more information about the situation of these persons, while

⁸ The Advisory Committee notes that there is a difference in the terminology in this regard, both at international level and in the practice of the State parties. Article 4, paragraph 2 of the Framework Convention refers to "adequate measures", and paragraph 39 of the Explanatory Report mentions "special measures". The Opinions of the Advisory Committee have been trying to follow the different terminology used in the various State parties. In order to unify the language of its opinions and to embrace all different terms used to refer to these measures, the Advisory Committee will use the term "positive measures", unless explicit reference is made to Article 4, paragraph 2 of the Framework Convention, in which case reference is made to "adequate measures" in accordance with the terminology used in that provision.

ensuring that the international safeguards relating to the protection of personal data are complied with⁹.

**The discriminatory effects of the application
of legislation on the official language**

46. A number of legislative provisions in various fields relate to the use of the official language, which, in pursuance of Article 8 of the Constitution, is Georgian. Thus Georgian is the language used in public services (together with Abkhaz in Abkhazia), and, in pursuance of the Law on the public service, inadequate knowledge of this language may be a ground for dismissal¹⁰. The 1999 Code of Administrative Procedure also confers on Georgian the status of the language of administrative procedures, to the exclusion of any other language (except Abkhaz in Abkhazia). The 2005 Organic Law on local authorities establishes Georgian as the working language of local authorities. The 1997 Law on the courts makes the same provision for the judicial sphere as a whole, while persons with no knowledge of Georgian may benefit from the assistance of an interpreter. Other provisions cover the field of education (see comments in respect of Articles 12 to 14 below).

47. The Advisory Committee has been informed about a trend towards stricter implementation of the legislation on the official language in recent years, including in those regions where substantial numbers of persons live who belong to national minorities and speak little or no Georgian. It ensues from this shift to the exclusive use of the Georgian language that a good number of such persons may be disadvantaged in terms of access to public employment, of political representation (see comments under Article 15 below) and in the judicial sphere. Information has reached the Advisory Committee to the effect that persons belonging to national minorities can be at a disadvantage in the judicial field as the interpretation supplied is in many cases of poor quality (see also remarks in respect of Article 11 hereafter).

48. Similarly, the Advisory Committee has received reports that linguistic requirements applied to various occupations (mainly through language tests) seem to have resulted in employees from national minorities being replaced by persons belonging to the majority who, in some cases, do not have sufficient command of minority languages. These linguistic requirements constitute an additional obstacle to access to certain occupations for persons belonging to minorities. Frequently, they also give rise to uncertainty as to the retention of these persons in their employment. Furthermore, the replacement in employment of persons belonging to minorities by those belonging to the majority can result in misunderstandings and problems of communication between persons belonging to national minorities and new employees, thus creating problems of access to certain public goods and services for persons belonging to these minorities. In this respect, the Advisory Committee refers to its Thematic Commentary on the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, pointing out, inter alia, that “access to basic social benefits

⁹ See for instance the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS 108) and the Committee of Ministers Recommendation (97) 18 on the protection of personal data collected and processed for statistical purposes.

¹⁰ Law on the public service, 1998, Articles 12, 15, 16 and 98 paragraph 1.

and to certain public services should not be hampered by undue language or residency requirements”¹¹.

49. The Advisory Committee therefore urges the Georgian authorities to take all requisite steps to ensure that implementation of the existing legislative provisions on the use of the official language does not give rise to direct or indirect discrimination against persons belonging to national minorities who have insufficient command of this language, especially in regions where they live in substantial numbers. Furthermore, the Advisory Committee calls on the authorities to step up their efforts to assist the persons concerned in acquiring an adequate level of command of the Georgian language (also see comments under Article 14), and to take any other supporting measures enabling them to have access, on an equal footing with the majority, to employment, education and health care.

Absence of identity documents

50. The Advisory Committee is concerned by the fact that some persons belonging to certain national minorities have no identity documents, not having been registered at birth and not appearing on civil status registers. It is reported that these persons' situation is not regularised, partly through lack of information about the administrative procedures in force, and partly because these persons are said to be sometimes obliged to pay for the services of intermediaries in order to pursue procedures which are now free of charge. This problem particularly affects persons belonging to the Azeri minority, but also affects the Avar and Roma communities. Consequently, the persons concerned have no access to certain basic social benefits, and many of them still have no Georgian passport.

51. In this context, the Advisory Committee welcomes the action plan being implemented by the authorities to resolve these difficulties, particularly through information campaigns in several languages. It calls on them to continue and step up these efforts and to take all necessary measures to assist the persons concerned to regularise their situation, especially those who live in isolated regions. Progress in implementing the action plan should be monitored and evaluated.

Protection by law-enforcement agencies

52. The Advisory Committee takes note with concern of allegations of inadequate protection of persons belonging to the Azeri minority by law enforcement agencies in the areas bordering Armenia (in Kvemo-Kartli). Credible reports that these persons have been victims of acts of violence, land and other property seizures and thefts of cattle have been brought to the attention of the Advisory Committee. Cases of alleged disappearances have also been reported. Such acts were said to have been carried out by persons from the other side of the border, in a region where borders are not always precisely delimited. The parties to whom the Advisory Committee spoke emphasised the lack of reaction by Georgian law-enforcement agencies in such cases, placing the persons concerned in a situation of insecurity and vulnerability. The Advisory Committee expresses its concern about this situation and calls on the Georgian authorities to review these

¹¹ Advisory Committee's Thematic Commentary on the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, adopted on 28 February 2008, ACFC/31DOC(2008)001.

complaints with all due attention, so as to be able to take the necessary action including, if applicable in the international co-operation context (also see comments under Article 18).

Article 5

Legislative framework and general policy on the integration and the protection of national minorities

53. Georgia does not currently have either a law or constitutional provisions specifically devoted to the protection of national minorities. The domestic legal framework for the protection of national minorities is based on the principle of the equality of all citizens and on the right freely to develop one's own culture and to use one's mother tongue in public and private, which are enshrined in Articles 14 and 38 respectively of the Georgian Constitution. While legislative provisions concerning national minorities are included in certain laws relating to specific sectors (education, culture, local self-government, etc), these are dispersed and incomplete and do not yet seem to provide sufficient safeguards as to effective implementation of all the obligations accepted by Georgia under the Framework Convention.

54. Several pieces of draft legislation globally regulating the protection of national minorities have been prepared and examined over recent years. These efforts, however, have not led to the adoption of a specific law, and a number of crucial questions are still under discussion, namely: the definition of national minorities, the status and protection of persons belonging to national minorities who live on territories outside Government control, and the protection of persons belonging to national minorities who live outside the areas where such persons live "compactly".

55. When it visited Georgia, the Advisory Committee noted that, most of the authorities' representatives regarded as premature the adoption of such a law, given the circumstances currently prevailing in Georgia, and seemed to favour the introduction of legislative amendments in the various sectors of interest to national minorities. It notes that the Civil Integration and Tolerance Council is currently preparing a number of legislative amendments in order to create a legislative basis for policies connected with protection of the cultural heritage, to promote equal opportunities in access to the public service and to improve the quality of interpretation services to persons belonging to minorities.

56. The Advisory Committee notes that, in 2007, the Council for Ethnic Minorities sent to the various governmental bodies concerned a number of recommendations encouraging them to implement the Framework Convention more effectively in their sector of activity. It expects that the planned legislative amendments will take appropriate account of the position thus expressed by the minority representatives. This is all the more so that, since the ratification of the Framework Convention in October 2005, no legislative progress directly connected with the protection of minorities has been noted, notwithstanding a number of legislative proposals put forward by civil society.

57. The Advisory Committee has, in this regard, noted the discontent expressed by national minorities about the inadequacies of the current legislative framework and the consequences of

the lack of an overall Government policy on the protection of national minorities. It nevertheless notes that the authorities have, for several years, been endeavouring to develop a more consistent approach to the protection of national minorities. For instance, a “Draft Concept Paper on Integration Policy of the National Minorities in Georgia” was prepared in 2007 by the Parliamentary Committee for Human Rights and Civil Integration. Although this has not been debated in Parliament, this paper suggested some lines to explore with a view to future legislative developments in this field.

58. At the end of October 2008, the Civic Integration and Tolerance Council¹² drew up a “National Concept for Tolerance and Civic Integration” accompanied by an action plan containing practical measures to implement it. This document is to be adopted by the Government as the strategic basis for its policy on national minorities, and there are plans for the Civic Integration and Tolerance Council to conclude specific agreements with the ministries concerned. The Advisory Committee welcomes the Government's efforts to gauge the scale of the needs and difficulties of national minorities. It nevertheless, like the representatives of national minorities, considers that, in order to produce effects, this document should be more detailed and accompanied by adequate resources and clear legislative safeguards in the various fields of interest to national minorities. It welcomes the submission of the concept for an international expert opinion and encourages the authorities to give all due attention to the recommendations that this opinion contains.

59. In more general terms, the Advisory Committee notes that certain representatives of the authorities systematically consider minority issues from the perspective of conflict prevention and management. While it is aware of the complex context currently prevailing in Georgia, the Advisory Committee takes the view that it would be desirable to avoid such an association, which may be simplistic and have negative effects on the persons concerned and the majority population. It wishes to emphasise that the spirit of the Framework Convention is much wider and goes beyond conflict prevention. The Advisory Committee points out that the authorities should favour a more positive approach to the protection of national minorities, and consider it as an integral part of the public policies to ensure respect for human rights and fundamental freedoms.

60. The Advisory Committee further notes that a particular emphasis is placed by the authorities, in all of their activities relating to national minorities, on the subject of their integration into Georgian society. While acknowledging the importance of such integration, the representatives of minorities point out that this objective should not be achieved to the detriment of the equally legitimate goal of the preservation of these persons' identity, and particularly of their language. The Advisory Committee in fact notes that clear concern was shown by those parties to whom it spoke about the risk of assimilation to which persons belonging to minorities are exposed by the approach favoured by the authorities. They consider that a large number of measures taken by the authorities in recent years run counter to expectations of persons belonging to minorities and are evidence of a negative tendency in this field. Among the examples quoted are the problems connected with the return of religious property (see comments

¹² Established by Presidential Decree in 2005, this council is an inter-institutional body comprising representatives of various public institutions, national minorities, civil society, international organisations and the academic world.

under Article 8) and the stricter application of the legislative provisions requiring Georgian to be used in the public sphere (see comments on Articles 4, 10 and 15). The Advisory Committee is concerned about this situation and encourages the authorities to take a balanced approach, based on a long-term view, endeavouring both to achieve the objectives of integration of Georgian society and to meet the need to protect the rights of persons belonging to minorities in terms of the preservation and development of their identity. It also emphasises the essential need for minorities' representatives, including those from the regions, to be involved in the devising and implementation of these policies.

Support for the preservation and development of the culture and identity of persons belonging to national minorities

61. The Advisory Committee notes that the legislation in force contains legal safeguards for the preservation and development of the culture and identity of persons belonging to national minorities. In accordance with Article 34 of the Georgian Constitution¹³, the Government is required to promote the development of culture and encourage all citizens to take part in cultural life, as well as to promote the expression and enrichment of cultural identity. Furthermore, in accordance with Article 19 of the 1997 Law on Culture, national minorities may freely organise their own cultural institutions.

62. The practical effect of these guarantees is the payment of state subsidies to state theatres and to two publications of the two numerically largest minorities, the Armenians and Azeris, as well as grants to cultural centres (such as that of the Jewish minority, that of the Assyrians, the House of Caucasus, etc.) and other cultural establishments of national minorities. The initiatives taken by certain local authorities to improve awareness among the local population of the culture, traditions and life of other ethnic communities, are to be welcome. The Advisory Committee nevertheless notes with concern that, in many cases, national minorities have no representation in the management of cultural establishments, which are often run by persons belonging to the majority population. Furthermore, the cultural activities of these establishments have been decreasing as other activities, mainly commercial, increased in number, and the status of some establishments has declined. The Advisory Committee encourages the authorities to review this situation and to promote the activities of these establishments as well as their management by persons belonging to national minorities.

63. National minorities can also obtain funding for their cultural activities from the Ministry of Culture. It is often the case, however, that they are neither informed about the opportunities that exist nor consulted when subsidies are allocated. The Advisory Committee notes in this respect that there is no specific budget set aside for the cultural development of national minorities, which have to compete for project funds with all other NGOs. Thus the actual level of financial assistance available to the organisations of minorities is far from meeting the needs

¹³ “1. The state shall promote the development of culture, the unrestricted participation of citizens in cultural life, expression and enrichment of cultural originality, recognition of national and common values and deepening of international cultural relations.

2. Every citizen of Georgia shall be obliged to care for the protection and preservation of the cultural heritage. The state shall protect the cultural heritage by law.”

that exist, and the persons who belong to minorities are particularly concerned, at present, about the survival of their cultural and historical heritage.

64. The Advisory Committee notes the particular concern of national minorities as to the situation of their religious and historical buildings and the absence of appropriate state support. Looking beyond the difficulty of maintaining and restoring such buildings, there are reports of acts of vandalism against, and even attempts to destroy, these monuments, which are of particular symbolic value to the communities concerned. The Advisory Committee is concerned about such acts, which reflect a lack of respect and tolerance within Georgian society (also see the comments under Article 6 below). It considers that the authorities should take all necessary steps to prevent and punish such action, while at the same time acting more resolutely, including by providing adequate financial resources, to preserve the historical and cultural heritage of the persons belonging to national minorities.

65. The Advisory Committee notes that certain representatives of the authorities consider it important to encourage private actors to support the cultural development of minorities and the preservation of their historical heritage. While noting the scale of the financial difficulties facing Georgia, and while valuing the role that private entrepreneurs can play in this field, the Advisory Committee considers that their contributions cannot and should not replace that of the State. As required by the Framework Convention and guaranteed by Georgian legislation, it is primarily the State's duty to create the necessary conditions for the preservation and development of the cultural heritage of persons belonging to national minorities.

66. There is also a need to give sufficient attention to the needs of persons belonging to the numerically smaller minorities. The Advisory Committee considers that the preservation of the linguistic, cultural and historical heritage of these minorities (Assyrians, Avars, Kurds, Ossetians, Roma, Udins, Yezidi, etc.), in view of their contribution to the country's cultural diversity and richness, deserves the full attention of the authorities. The authorities are encouraged to increase their efforts in this sphere, in particular by introducing effective support measures, accompanied by the allocation of appropriate financial resources.

Article 6

Inter-ethnic relations and integration

67. The Advisory Committee is particularly satisfied to note that the August 2008 armed conflict currently seems not to have seriously affected inter-ethnic relations in Georgia in the areas under Government control. In fact, although some persons belonging to the Russian and Ossetian minorities expressed anxiety about the increasing amount of anti-Russian and anti-Ossetian remarks (also see comments in paragraph 81 below), it seems that relations between the different ethnic groups have overall remained stable, insofar as the Advisory Committee was able to see during its visit, including in the villages close to the "buffer zone"¹⁴, where solidarity seems to prevail between the residents belonging to different national minorities.

¹⁴ Gori, Tedotsminda, Akhalsheni, Kvemo Shavshebi.

68. However, the Advisory Committee notes that there is a certain lack of communication between various groups, particularly in regions such as Tsalka where persons belonging to several national minorities and to the majority live side-by-side. This lack of communication has sometimes led to tensions and disputes, which could not be dealt with through mediation, for want of a shared language. Thus the lack of communication is linked not only to the inadequate knowledge of Georgian of large numbers of persons belonging to national minorities, but also to a decreased knowledge of Russian, which used to be a commonly known language of communication between the different groups. In the Advisory Committee's opinion, it is therefore essential to inter-ethnic dialogue that better knowledge of the Georgian language among the persons belonging to the national minorities concerned be supported as speedily as possible, while efforts should continue to support minority languages.

69. Furthermore, the Advisory Committee notes with concern that the arrival, often in huge numbers, of "ecological migrants"¹⁵ and migrants from other parts of the country in regions where, as in Kvemo-Kartli, persons belonging to national minorities traditionally live in substantial numbers, has generated tensions between the new arrivals and the original residents. At times, such tensions have been further exacerbated by the absence of a common language to resolve differences. They were also reported to have been generated by the absence of preparations and support measures for these migration processes by the authorities (also see the comments under Article 16). The Advisory Committee therefore calls on the authorities to take measures with a view to providing better support in future for the resettlement processes for displaced populations, especially through preparatory, consultative and support measures for the populations which live in the regions concerned, so as to prevent added tensions between different groups. It also expects the authorities to take account of previous experience in their management of the situation of the persons displaced following the August 2008 conflict, as well as when the time comes to resettle the repatriated Meskhetian Turks (see comments in paragraphs 83 to 85 below), and to actively promote harmonious inter-ethnic relations.

70. The Advisory Committee regrets that interaction between the majority population and the persons belonging to national minorities, according to several of its interlocutors, remains limited. In practice, while there are overall no conflicts where the majority and the various national minorities live side by side, there is a substantial lack of effective participation of national minorities in Georgian society (also see the comments under Article 15 below), these minorities remaining isolated and marginalised, often having more contact with neighbouring countries than with Tbilisi. This is aggravated by the fact that, in certain regions, persons belonging to national minorities have access to information in their own language only through neighbouring countries' media. The Advisory Committee takes the view that this lack of information about the regional and national situation through programmes produced in Georgia and broadcast in minority languages does not increase trust in the central authorities by persons belonging to national minorities (also see the comments under Article 9 below).

¹⁵ "Ecological migrants" come from other regions of Georgia, particularly Adjara and Svanetia, whence they have been displaced by natural disasters (especially landslides) since the nineties. They have been settled by the authorities in Kvemo-Kartli, taking the place of the persons belonging to the Greek minority who have emigrated en masse since the early 1990s.

71. Furthermore, the Advisory Committee is concerned to note that the majority population's knowledge of the history and cultural heritage of national minorities remains limited, particularly in respect of those of the numerically small minority groups, such as the Kurds, Yezidi, Assyrians and Avars. National minorities and their cultures have little presence in the media (see comments in paragraph 80 below), and school textbooks sometimes convey a stereotyped images, as well as prejudice against them, thus creating obstacles to the promotion of mutual respect. Most of the parties to whom the Advisory Committee spoke also emphasised the lack of opportunities for full and effective participation in Georgian society and the consequent feeling of not being considered fully-fledged Georgian citizens, fuelling the emigration trend among persons belonging to national minorities. The Advisory Committee takes the view that this situation is worrying and that vigorous measures should be taken in order to remedy it.

72. In this context, the Advisory Committee welcomes the preparation by the authorities of a National Concept for Tolerance and Civic Integration and a five-year action plan in this sphere (see relevant comments under Article 5 above). The Advisory Committee also welcomes the work done since 2005 by the Civic Integration and Tolerance Council set up by the President of Georgia, on which national minorities have representatives. The Committee expects sufficient resources rapidly to be allocated to the implementation of the above-mentioned action plan, and regular monitoring and assessment of the plan's impact. It also emphasises that it is essential for persons belonging to national minorities to be closely involved in the implementation of the action plan and in the work of the Civic Integration and Tolerance Council. Generally speaking, it feels that it is essential for the authorities to continue and step up their efforts to promote open and balanced inter-ethnic and intercultural dialogue, as well as respect and mutual understanding.

The fight against racism and intolerance

73. The Advisory Committee is pleased to note that Georgian legislation regards racist motivation as an aggravating circumstance in a number of offences. It nevertheless notes that this does not relate to all kinds of criminal offences, and, like the European Commission against Racism and Intolerance (ECRI)¹⁶, the Advisory Committee calls on the authorities to consider amending legislation to make racist motivation for a crime an aggravating circumstance in respect of all criminal offences.

74. The Advisory Committee notes that a number of cases were reported to it in which intolerance or racial or anti-Semitic hatred have been expressed, although these were infrequent, and very few complaints were lodged about them (see also the comments under Article 4 above). The Advisory Committee was told by persons belonging to groups such as the Avars and the Kists of the existence of hostile attitudes to them, linked to the persistence of negative stereotyping of them. Chechen refugees and Roma were reported also to be frequent victims of stereotyping and prejudice, reflected in various forms of discrimination.

¹⁶ Also see in this respect the second report on Georgia of the European Commission against Racism and Intolerance (ECRI), adopted on 30 June 2006 (CRI(2007)2).

75. The Advisory Committee is particularly concerned about incidents of religious intolerance, very much affecting persons belonging to national minorities, since the majority of them belong to denominations other than the Georgian Orthodox Church (also see the comments under Article 8 below). It in fact seems to be the case that religious identity is increasingly associated in the public perception with national identity. Manifestations of religious intolerance, on occasion extending to acts of vandalism against religious buildings, and sometimes against persons, have been reported to the Advisory Committee (see also paragraph 64). The Advisory Committee considers particularly worrying the hostile, or even violent, manifestations of opposition to the building of mosques which were reported to it. In addition, several of the parties to whom the Advisory Committee spoke emphasised that the religious education dispensed in the school system covered only the Georgian Orthodox religion, even when the pupils belonged to other denominations. Although efforts are being made to reflect religious diversity more accurately in textbooks and school curricula, it was reported that information about other religions was very limited and in many cases bore the imprint of negative stereotyping (see also remarks in respect of article 7 below).

76. Although the courts have dealt with some incidents of religious intolerance in recent years, the Advisory Committee considers that the efforts made to combat this worrying problem remain inadequate. It urges the authorities to ensure that all cases of incitement to hatred or to religious violence and all cases of violence against persons or religious monuments are prosecuted. It also urges them to take all necessary steps to prevent and combat religious intolerance effectively and, in doing so, to take fully into consideration the recommendations made by the Council for Religions which operates under the aegis of the Public Defender.

77. In respect of police training, the Advisory Committee notes with satisfaction that human rights classes, also covering the rights of minorities and the fight against hate crime, are included in police training. Furthermore, community policing training is now being developed. Further positive developments are the introduction of phone lines for reporting any ill-treatment by the police and the setting up in 2005 of a general police inspectorate responsible for ensuring, *inter alia*, that members of the police respect human rights.

78. Notwithstanding this progress, the Advisory Committee notes that relations between the police and persons belonging to national minorities sometimes remain difficult, particularly in regions where persons belonging to minorities live in substantial numbers (also see the comments under Article 4 above). Furthermore, cases of police abuse are regularly reported, and these also affect persons belonging to national minorities. In some of these regions, particularly Kvemo-Kartli, persons belonging to national minorities remain underrepresented in the local police.

79. The Advisory Committee calls on the Georgian authorities to continue and step up measures to improve police awareness of the need to respect human rights, including the rights of minorities. It is also important to promote the recruitment into the police force of persons

belonging to national minorities, so that the composition of the force better reflects the diversity of Georgian society (see also remarks in respect of Article 15 below)¹⁷.

The media and tolerance

80. The Advisory Committee is concerned to note that the history, culture, languages and concerns of national minorities receive little media coverage, although the Law on broadcasting gives explicit terms of reference to the public audiovisual service in this respect (see the comments under Article 9 below). Furthermore, certain media, particularly in the print media, continue to disseminate stereotypes relating to national minorities and to disclose the ethnic origin of offenders or suspects who belong to national minorities.

81. According to the information at the Advisory Committee's disposal, cases occur of incitement by certain media to religious intolerance and to the dissemination of prejudice against religious denominations other than the Georgian Orthodox Church. It also seems that, following the August 2008 conflict, certain media outlets are voicing anti-Russian sentiments with increasing frequency, which might negatively affect persons belonging to the Russian minority. The Advisory Committee regards these developments as worrying and as posing a threat to the spirit of tolerance and mutual understanding. It consequently takes the view that appropriate measures should be taken when stereotyping or intolerant speech are disseminated, although these should not impinge on editorial independence of the media¹⁸. Cases of hate speech, if for example the media incite hatred on grounds of ethnic or religious affiliation, should be prosecuted and punished.

82. The Advisory Committee notes that a code of ethics for public broadcasting was adopted in 2006, and that a similar instrument for all broadcasters should come into force in 2009. It nevertheless seems, according to the information available to the Advisory Committee, that the procedures in place to monitor both compliance with ethical standards and the work of the media in general is not effective enough. It is important to ensure that the agencies which supervise the media and the complaint systems which exist for cases of racist speech or incitement to hatred are fully operational, known to the public and easily accessible.

The Meskhetian Turks

83. The Advisory Committee notes that, in accordance with the commitments accepted on accession to the Council of Europe, Georgia in July 2007 adopted a "Law on the repatriation of persons forcefully expelled from Georgia by the former Soviet Union in the 1940s". This law is intended to enable mainly persons belonging to the Meskhetian Turk community who were expelled from Georgia in 1944 to return, which should ultimately have an impact on the Georgian authorities' policy on intercultural and inter-ethnic relations.

¹⁷ Advisory Committee's Thematic Commentary on the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, adopted on 28 February 2008 (ACFC/31DOC(2008)001).

¹⁸ See also Committee of Ministers' Recommendation N° R (97) 21 on the media and the promotion of a culture of tolerance, as well as the work of the European Commission against Racism and Intolerance (ECRI) on "combating racism while respecting freedom of information", see proceedings of the seminar of 16-17 November 2006 (<http://www.coe.int/ecri>).

84. The Advisory Committee has received detailed information about this law and its implementation, extending to the demanding conditions imposed on applicants for return, most of whom are currently living in Kazakhstan, Azerbaijan or Russia. It notes in fact that these persons face a number of obstacles, including the fact that the repatriation application forms have to be completed in Georgian or in English (it should be borne in mind that the majority of applicants for return do not speak these languages), and the fact that they are required to supply certificates that are expensive and/or difficult to obtain¹⁹. Furthermore, the distribution of repatriation application forms to the persons concerned began at a late stage in 2008, when the statutory deadline for receipt of applications was 31 December 2008. The repatriation law also gives cause for a number of concerns as to the resettlement process for those allowed to return to Georgia. The law in fact makes no provision for a strategy of preparation and support for these persons' reintegration process or for any financial commitment by the State. Problems of statelessness could affect applicants for repatriation, through the combined effects of the provisions of the law on repatriation and the law on the acquisition of nationality. Finally, no provision foresees the right to appeal a rejection of application by the Georgian authorities.

85. In this context, the Advisory Committee welcomes the authorities' decision on 28 December 2008 to extend by six months the deadline for the lodging of such repatriation applications with the Georgian authorities, and expects that further extensions will be granted in this respect. It calls on the Georgian authorities to take all necessary steps to remove the disproportionate obstacles facing repatriation applicants. It also calls on the authorities, in conjunction with the international organisations concerned, to make appropriate preparation for the return to Georgia of persons belonging to the Meskhetian Turk community, both in material terms and in terms of preparation of the local population and support for the forthcoming reintegration process (see the comments in paragraph 69 above).

Article 7

Exercise of the right to freedom of association and freedom of expression

86. The Advisory Committee notes that Article 6 of Georgia's law on political associations, adopted on 31 October 1997, explicitly prohibits the setting up of political parties on a regional or territorial basis²⁰. The Advisory Committee observes that this provision has already been invoked as a ground for refusing to register a political association representing the interests of the Armenian minority (Virkh). It may therefore be interpreted as restricting the scope for persons belonging to national minorities to set up political parties representing their legitimate interests. Yet such parties could make it possible for the concerns and interests of persons belonging to national minorities, particularly in the regions where they live in substantial numbers, to be better represented and possibly better taken into account, in elected bodies at local and central level. While it fully understands that this law was adopted in the context of a

¹⁹ In addition to a large number of medical certificates, applicants are required to supply documents proving that they were deported in 1944.

²⁰ Article 6: "No party can be established according to the regional or territorial principle".

fear of separatism, following the conflicts with Abkhazia and Ossetia in the 1990s, the Advisory Committee considers that such a provision is likely to have a negative impact on the effective participation of persons belonging to national minorities in public affairs (also see the comments on Article 15.) Therefore, it calls on the authorities to take all the necessary measures to eliminate any unjustified limitations to the creation of political parties representing the legitimate interests of national minorities. They should, in particular, avoid any restrictive interpretation of the law on political associations.

87. Although the situation has improved over recent years, the Advisory Committee is particularly concerned at the reports of serious problems in the exercise of the right to freedom of expression and opinion²¹ by members of non-governmental organisations, human rights defenders and independent journalists. Non-governmental sources also refer to attempts by persons in high places in governmental structures or by political representatives to influence the editorial policy and programmes of the media.

88. The Advisory Committee notes with concern information about persons belonging to national minorities who have been subjected to pressure, and even harassment, by representatives of State bodies when their viewpoints differed from those of the authorities. The Advisory Committee finds this situation particularly serious and in no circumstances compatible with the rights protected by Article 7 of the Framework Convention. It urges the authorities to take all necessary steps to ensure that these rights are fully respected and to prevent, investigate and punish any unjustified violation or limitation of these rights of persons belonging to national minorities.

89. Persons belonging to the Armenian minority, in particular, drew the attention of the Advisory Committee and other international bodies to the situation of activists defending the rights of Armenians who had been arrested and imprisoned on extremely serious charges, which they regarded as ill-founded. The Advisory Committee is of the opinion that, irrespective of the nature of the accusations and the grounds brought against these persons, the authorities should ensure that the rights of defendants and/or detained persons are fully respected. In general, the Advisory Committee wishes to point out that advocating minority rights, as protected by the Framework Convention, must in no circumstances lead to measures of sanctioning of those involved.

Article 8

Exercise of the right to freedom to manifest one's religion and to form religious institutions, organisations or associations

90. The Georgian Constitution guarantees freedom of expression, thought, conscience, belief and religion, and prohibits persecution on the basis of the expression of opinions or thoughts and on the basis of religion or belief (Article 19, paragraph 2). These freedoms are also

²¹ Article 3 of Georgia's Law on freedom of expression (24 June 2004, No. 220) recognises and protects the right of every person, without any interference, to freedom of expression.

protected by Georgia's Criminal Code (Articles 115, 155 and 156), which also penalises unlawful interference through violence, the threat of violence or misuse of authority in the setting up or activities of political, social or religious organisations²² (Article 166). Furthermore, the Advisory Committee notes the dominant position of the Georgian Orthodox Church and the particular relations established between it and the State²³, and is aware of the particular role played by this Church in the history of the country and in the affirmation of Georgian national identity.

91. The setting up in June 2005, under the aegis of the Public Defender, of a Council for Religions, including representatives of 23 religious organisations, is a positive development. Persons belonging to national minorities thus have a specific discussion forum for issues relating to the preservation of their religious identity, giving them an opportunity to better define their needs and structure their communication with the authorities. The Advisory Committee welcomes this initiative of the Public Defender and calls on the authorities to ensure that this Council's requests and recommendations are duly taken into account by the responsible bodies.

92. The Advisory Committee nevertheless notes that, notwithstanding the guarantees referred to above, and in spite of certain improvements, serious deficiencies remain where the exercise of religious freedom is concerned. One of the main concerns of national minorities in respect of religion is the question of the legal status and registration of religious organisations. The Advisory Committee notes in fact that, while the Georgian Orthodox Church is recognised and protected as both a Church and a public entity, other religious groups can only register as non-governmental organisations or non-profit-making private-law associations²⁴, so they cannot enjoy the same conditions in respect of the exercise of their religious activities. Furthermore, various sources reported an often hostile approach by the Georgian Orthodox Church hierarchy, which, it seems, seeks by various means to consolidate its dominant position to the detriment of the other denominations.

93. The obstacles impeding their efforts to acquire, build or apply for the restitution of places of worship are another serious concern to the persons belonging to minorities. The Armenians, for instance, report reluctance, or even refusal, by certain local authorities to grant permission for the building of new churches, as well as tensions generated by these procedures. They also mention attempts by the Georgian Orthodox Church to appropriate property belonging to the Armenian churches, as well as acts of provocation and defamatory language against them. The Azeris report particular difficulties in their efforts to build and maintain mosques, as well as manifestations of hostility by both the Georgian Orthodox Church and the population of the Georgian Orthodox faith. The Assyrians and Yezidi have also faced strong opposition, including violent attacks and petitions signed by members of the Georgian Orthodox population, when they were seeking to set up an appropriate place of worship. The Advisory Committee also

²² During 2008, 12 preliminary investigations were opened in pursuance of Articles 155, 156 and 166 of the Criminal Code, the same number as in 2007. Four cases were brought before the courts for trial in 2008, compared with a single one in 2007.

²³ A Constitutional Agreement, known as the Concordat, was signed by the President of Georgia and the Georgian Orthodox Patriarch on 14 October 2002.

²⁴ Following an amendment of 6 March 2005 to Article 1509 of the Georgian Civil Code.

notes with concern acts of vandalism committed in April 2008 against the Jewish cemetery in Batumi, and reports of disrespectful acts and provocation in some traditional Azeri cemeteries.

94. While taking due note of the fact that the aforementioned manifestations have become less frequent in recent years, and that efforts have been made to reduce religious tensions, the Advisory Committee is deeply concerned about the situation described in the previous paragraphs, which it regards as incompatible with the principles enshrined in Article 8 of the Framework Convention. It particularly considers regrettable, in situations of tension between members of different denominations, the authorities' reported lack of action and effectiveness.

95. The Advisory Committee considers that the authorities should ensure respect for the various religious denominations that exist in Georgia and take all necessary steps to avoid and prevent, but also investigate and punish any manifestations of hostility and provocation towards another denomination. It takes the view that it is the authorities' duty to ensure that any person belonging to a national minority is granted recognition of the right to manifest, in appropriate conditions, his or her religion or belief, and entitlement to State protection against any violation of that right.

Return of religious properties

96. The Advisory Committee notes that religious properties continue to be the subject of disputes and to give rise to tensions in relations between the different religious communities, and that this issue is a cause for great concern for persons belonging to national minorities. It notes that, generally speaking, while the properties of the Georgian Orthodox Church have been, or are being, returned, the return process has been delayed for the other churches. Strong tensions were reported to it in relation to, *inter alia*, the return of Armenian churches and the attempts of the Georgian Orthodox Church to take over some of these buildings (as in the case of several churches in Tbilisi, including the Surb Norashen church used by the Armenian community since the 15th century), notwithstanding the agreement concluded between the Armenian Apostolic Church and the Georgian Orthodox Church on arrangements for resolving the property issue. The return of properties is also a sensitive matter for the other religious denominations, such as the Roman Catholic Church, the Evangelical Lutheran Church and the Jewish community.

97. The Advisory Committee finds this situation worrying and considers that the authorities should, through consultation of all the parties concerned, and taking care to preserve dialogue and mutual understanding, ensure that the return process results in fair and balanced decisions enabling the different churches to recover their former properties. Furthermore, it is essential to take all the necessary steps to ensure that the cultural, historical and religious heritage of national minorities is respected and preserved (also see the comments on Article 5 above).

Religious education

98. Obstacles to the exercise of freedom of religion are also reported to exist for young people who belong to minorities. According to information supplied by non-governmental sources, publicly-run schools continue to offer an optional course in religion, mainly providing teaching about the Georgian Orthodox faith, notwithstanding the Church's independence of the State and the statutory separation between public education and religious education (also see the

comments on Article 6 above)²⁵. Furthermore, non-Orthodox pupils are apparently quite often the subjects of attitudes of intolerance, or even hostility, among other pupils and their teachers. In addition, these sources report inadequate conduct by certain teachers, who tend to impose Georgian Orthodox religious practices in the school context, in spite of the aforementioned principle of separation and the existence of different faiths among the pupils. Moreover, some cases of hostility and pressure against pupils of “non-traditional” denominations continue to be reported.

99. The Advisory Committee welcomes the fact that, in the light of complaints received of violations of religious freedom²⁶, the Ministry of Education has decided to prepare new textbooks describing the different religions in neutral terms, and to arrange to carry out regular monitoring of the work of the teachers concerned. At the same time, it encourages the authorities to do everything necessary to ensure for persons belonging to minorities full respect for the right to freedom of religion, as protected by the Framework Convention and by national legislation.

Article 9

Legislative framework

100. Pursuant to the Law on broadcasting, which came into force in January 2005, the public radio and television service (GPB) is obliged to reflect in its programmes the ethnic, cultural, linguistic and religious diversity that exists in Georgian society²⁷ and to broadcast an appropriate proportion of programmes made by minority groups in their respective languages²⁸. The law further specifies that “no less than 25% of the GPB programme budget shall be allocated to the airing of programmes connected with Abkhazia and the Tskhinvali region, and programmes in minority languages”²⁹. In addition, the law requires all holders of broadcasting licences to ensure that the views of the persons belonging to minorities living in the area that they serve are reflected in the programmes broadcast³⁰. The Advisory Committee takes the view that these legislative arrangements reflect the Parliament's wish to safeguard the access to the audiovisual media of persons belonging to minorities, the use of their languages and a fair representation of their opinions in the programmes broadcast. These legislative provisions must be fully implemented.

²⁵ According to Article 13 (2) of the Law on General Education, religious indoctrination, proselytism and enforced assimilation are not allowed to be part of the education process in schools.

²⁶ Unofficial sources indicate that the general inspectorate of the Ministry of Education, in the first half of 2007 alone, received some 15 complaints of this type.

²⁷ Article 16 (h) of the Law of Georgia on Broadcasting, adopted on 23 December 2004, which came into force on 18 January 2005.

²⁸ Article 16 (l) *ibid.*

²⁹ Article 33 (11) *ibid.*

³⁰ Article 46 (l.c) *ibid.*

Access of persons belonging to national minorities to information in their minority languages

101. In respect of practice, the Advisory Committee notes that public radio and television, as well as some private broadcasters, do transmit programmes for national minorities, and that progress has been reported in this field over the past few years.

102. A 25-minute programme of news, socio-economic or cultural reports and entertainment (“Moambe”) is broadcast by the public television service five times a week, in five languages: Abkhaz, Ossetian, Armenian, Azeri and Russian. Early in 2008, a Kurdish-language programme was added. The public radio service, for its part, broadcasts a daily five-minute news bulletin in these same minority languages and a weekly news summary in Russian. There is also a weekly programme on public radio called “Our Georgia”, which covers the history, traditions and cultures of the different ethnic and religious communities, as well as intercultural dialogue and the integration of Georgian society.

103. Efforts have also been made by public-service broadcasters to achieve a better reflection of, and a better promotion of, the diversity and cohesion of Georgian society in their programmes. A series of documentaries on multi-ethnic Georgia, made with the support of international organisations, is being broadcast on public television. Like the Law on Broadcasting, the Code of Ethics for Public-Service Broadcasting, adopted in December 2006, draws attention to the role which devolves to the public service in the promotion of tolerance and mutual respect, and defines the main rules applicable to media coverage of issues connected with national minorities (also see the comments under Article 6 above). The Advisory Committee also notes the setting up, in July 2006, of a supervisory committee responsible for promoting and monitoring, *inter alia*, application of these rules.

104. The Advisory Committee also considers as a positive development the setting up, for the public broadcasting service, of eight “public boards” with an advisory role, including one that deals with ethnic questions (set up in 2006 and bringing together 10 national minorities' organisations) and one that deals with religious issues. At the same time, it notes that, in an appeal signed by 70 member organisations of the Council for Ethnic Minorities under the aegis of the Ombudsman, national minorities asked the authorities to include their representatives on the administrative board of the public radio and television service. The Advisory Committee takes the view that, whatever the practicalities adopted to this end, the consultation of national minorities in the definition of the editorial policy of the public broadcasting service, and their direct participation in the preparation of programmes, are essential to ensure that their communities' life and concerns are properly reflected therein.

105. The Advisory Committee welcomes these developments over the past five years. It also welcomes the fact that some media organisations include in their teams persons belonging to minorities, and make efforts to cover issues affecting national minorities in their programmes. It notes at the same time that issues relating to national minorities are usually perceived by the media as sensitive matters requiring careful and responsible treatment.

106. The Advisory Committee also notes that some local television channels have, for several years, been broadcasting programmes in regions where substantial numbers of persons belonging to the Armenian and Azeri minorities live. A channel called ATV 12 broadcasts for three hours a day in the Armenian language in the region of Akhalkalaki, and to some extent in the region of Ninotsminda, and Parvana TV also broadcasts in the Javakheti region. Another television channel, TV Imperia LLC, daily relays in Armenian the news bulletin broadcast by Rustavi 2 to the region of Samtskhe-Javakheti. For the Azeri population, a television channel called Marneuli TV relays programmes in the Azeri language, although irregularly, in the Marneuli region. In particular, it relays a 20-minute weekly news programme. In its region, the Kvemo-Kartli channel offers programmes in Georgian and Azeri. Where private radio stations are concerned, Armenians can hear a daily one-hour broadcast, Azeris have 30 minutes of news bulletins and an entertainment programme, and Kurds have a weekly 15-minute programme in their own language.

107. That said, many of these private television channels and radio stations do not hold a broadcasting licence, and although they are currently tolerated by the authorities, their broadcasting could be stopped at any time. The Advisory Committee notes in this context that one of the conditions for the granting of a broadcasting licence is proof of the broadcaster's capacity to transmit programmes over a 10-year period. It takes the view that, in the current socio-economic conditions in Georgia, such a requirement represents a serious obstacle to the setting up of media by national minorities. The Advisory Committee calls on the authorities to review the conditions for the granting of broadcasting licences. Given the importance of the integration of persons belonging to national minorities into Georgian society, it also encourages authorities to seek solutions likely not only to eliminate all unjustified obstacles, but also to promote the creation of media outlets specifically catering for national minorities. In this regard, specific measures could be taken, introducing more advantageous conditions or allowing a degree of flexibility for the obtaining of broadcasting licences by national minorities' media.

108. The Advisory Committee notes that, overall, minority languages continue to occupy a proportionately very small place in the media, and that the access of persons belonging to national minorities to media and to news remains particularly problematic in those regions where they live in substantial numbers. In practice, public radio and television do not cover the whole of Georgian territory, and the persons belonging to national minorities who live in certain regions face a news vacuum in the national media. The Advisory Committee notes that, in this context, the solution adopted by the majority of the population of these regions is to turn to foreign media outlets broadcasting from the Russian Federation, Armenia or Azerbaijan. It takes the view that, while these outlets certainly constitute additional sources of information, useful to persons belonging to minorities, the national media remain in the best position to reflect the views in Georgian society about current affairs. This is all the more important during periods of tension or conflict, when news takes on a particular importance and can play a role in maintaining and promoting of social cohesion. The Advisory Committee is concerned about this situation and considers that genuine involvement by the central authorities is essential in order to enable these persons, using their own languages, to keep abreast of the latest developments in the country's social, economic and political life, to make their own needs known and to familiarise others with their cultural and historical heritage. The setting up of local public radio and

television studios and the provision of support for the setting up of private media by national minorities, as already mentioned, are ways of improving the situation in this field.

109. Where the print media is concerned, the Advisory Committee takes note of the anxiety of national minorities about the survival of their publications, and welcomes the efforts made by the communities concerned to ensure that their publications are distributed in their own language or in bilingual versions. The Advisory Committee notes that, to date, there are newspapers in Georgia published in their own language by Armenians, Assyrians, Azeris, Germans, Greeks and Russians, as well as in Georgian and in Russian by Jews. Three of these publications are State-financed: “Gurjistan”, which is published in Azeri, “Vrastan” in Armenian, and “Svobodnaya Gruzia” in Russian. The representatives of minorities find this support inadequate and consider that the authorities should enter into a firmer commitment to assist them in this area. The Advisory Committee calls on the authorities to consider giving greater support to national minorities' print media.

Article 10

Language policy

110. The Advisory Committee notes that, while a stronger policy on the consolidation of the Georgian language and its use has been promoted and implemented in recent years, little progress has been reported on the language rights of persons belonging to national minorities. On the contrary, the representatives of minorities currently refer to regression in this sphere and show concern about the impact of the Government's current language policy on the rights of persons belonging to national minorities. The Advisory Committee notes that this impact is not restricted to the use of minority languages, as this policy also affects the social and occupational integration opportunities of the persons concerned. It is concerned to note that a significant number of the representatives of national minorities to whom it spoke consider that current Government policy is designed to place them at a disadvantage, or even to exclude them (also see the comments on Articles 4 and 15 of the Framework Convention).

111. The Advisory Committee notes that, notwithstanding greater interest in the learning of the State language, the number of persons belonging to the Armenian, Azeri and other minorities, who have adequate command of Georgian, remains low in the regions where they live in substantial numbers, and the efforts made to promote its learning have hitherto not had very encouraging results (see the comments on Article 14 below). At the same time, while minority languages are effectively used in the public sphere at local level in certain regions, there are no legislative provisions enabling a legal basis to be given to this practice. The Advisory Committee notes in this context that the proposals made by organisations representing national minorities (Armenians in the region of Samtskhe-Javakheti and Azeris in the Kvemo-Kartli region) with a view to the granting to these minority languages of the status of working languages, or even official languages at local level, have been rejected by the authorities.

112. The Advisory Committee also notes the indications given by the Georgian Parliament in its Resolution on ratification of the Framework Convention about the way in which Georgia

intends to fulfil its obligations under this Convention in the linguistic sphere. The Advisory Committee considers these indications, although they do not have binding force, to reflect a rather restrictive approach to the rights of persons belonging to national minorities in respect of the use of their minority language.

113. The Advisory Committee is concerned to note that, in the absence of appropriate and effective solutions enabling the objective of integration to be reconciled with that of the protection of the identity of persons belonging to national minorities, the language issue is becoming a source of considerable tension. The Advisory Committee believes that the authorities should, in co-operation with the national minorities, develop a more balanced and more coherent strategy in this field. Such a strategy should contribute both to gradually eliminating the language barrier which keeps these persons in a situation of isolation and to preserving their identity and respecting their rights in relation to the use of their minority language.

114. While more appropriate teaching methods are needed to develop and improve the quality of the teaching of the Georgian language to persons belonging to national minorities, particular attention should also be given to the need to increase motivation to learn the language through more effective information and awareness-raising activities. The persons concerned should also be offered clear prospects of integration and participation in the country's socio-economic life and public affairs (also see the comments on Articles 12 to 14 and 15 below).

115. Whatever measures are taken in this context, the Advisory Committee urges the authorities to ensure that persons belonging to national minorities are able effectively to benefit from their linguistic rights as protected by Articles 10 and 11 of the Framework Convention. Clear and sufficient safeguards should be offered by Georgian legislation to this end.

Use of minority languages in relations with local administrative authorities

116. The Advisory Committee notes that, in the regions where substantial numbers of persons belonging to minorities live, minority languages are often used in relations with the local authority, and requests are accepted in whatever language they are made. Whereas according to the General Administrative Code, a certified translation is required of any request made in writing in a language other than Georgian, and the reply shall be given in Georgian, the practice seems to be more flexible in some areas. Moreover, where the composition of local bodies makes it convenient, meetings of local authorities are held in the minority language. For communication with the central authorities, only Georgian is accepted, although Russian is tolerated for communication with the representatives of local and regional executive bodies, who are often persons belonging to the majority population. The Advisory Committee nevertheless notes that the situation is different from one region to another, depending on the composition of the local authorities and of the population concerned.

117. The Advisory Committee takes note of this situation, which is the result of efforts made at local level to meet the needs of the population and of a degree of flexibility allowed in the

application of the legislative provisions governing the use of the State language. It nevertheless notes that this situation is far from satisfactory, either in respect of the implementation of the State language-related policy (although some efforts are being made to teach this language to local public servants) or in respect of the responses to the linguistic needs of persons belonging to national minorities. In particular, the representatives of both the Armenian and the Azeri minorities reported that, with stricter measures to increase the use of Georgian, including in municipalities where the majority of residents are persons belonging to a minority, opportunities to use minority languages are declining, and are at the discretion of the local authorities concerned.

118. In accordance with the legislation in force, Georgian (together with Abkhaz in Abkhazia) is the language of administrative procedures³¹ and the language of local Government³², making the State language the only one that can legally be used in relations with local administrative authorities. The Advisory Committee is therefore concerned to note that, although a degree of flexibility is currently applied in practice, persons belonging to national minorities have no legal guarantee of the exercise of the right to use their language in relations with administrative authorities, as required under Article 10 of the Framework Convention, whereas the conditions laid down in Article 10 do seem to be met in several areas where persons belonging to national minorities live in substantial numbers. Thus, while recognising that the aim of protecting and consolidating Georgian as the State language is legitimate, the Advisory Committee considers that the possibility of exercising the right for which Article 10, paragraph 2 provides should not be left exclusively to the discretion of the authorities concerned. It encourages the authorities to take all necessary steps, including in the legislative sphere, to guarantee the exercise of this right where the conditions for which Article 10 of the Framework Convention provides exist.

Use of minority languages in judicial proceedings

119. According to Article 85 of the Constitution, the right to an interpreter during judicial proceedings is guaranteed in the event that the persons concerned have no command of the language of the proceedings. The Advisory Committee is pleased to note that Georgian law guarantees the right to interpretation not only in the context of criminal proceedings³³, but also in that of civil and administrative proceedings³⁴.

120. Nevertheless, difficulties were in certain cases encountered by persons belonging to national minorities in judicial proceedings, mainly due to the often unsatisfactory quality of the interpretation provided (also see the comments under Article 4). The Advisory Committee encourages the authorities to take vigorous action in this field so as to eliminate any impediment, linguistic or other, to the enjoyment of their rights during judicial proceedings by persons belonging to national minorities.

³¹ Article 14 of the General Administrative Code.

³² Article 9 of the Law on Local Government.

³³ Article 9 of the Georgian Code of Criminal Procedure.

³⁴ Article 9 of the Georgian Code of Civil Procedure.

Article 11

Use of minority languages for local topographical indications

121. The Advisory Committee notes that, although some bilingual (in certain cases trilingual) topographical signs can be found in certain areas where substantial numbers of persons belonging to minorities live, particularly the Armenian minority, there is no legal basis for this practice. The relevant decisions remain within the remit of the local authorities concerned, although the conditions required by Article 11, paragraph 3 of the Framework Convention seem to be met in several areas where substantial numbers of persons belonging to national minorities live. In fact, domestic legislation, in pursuance of Article 7 of the Law on geographical place names, provides that such names shall be indicated in Georgian, and in Abkhaz in Abkhazia. The Advisory Committee finds this situation problematic in the light of Article 11, paragraph 3 of the Framework Convention.

122. In this context, the Advisory Committee takes note with interest of current plans mentioned in the State Report for amendment of the legislation so as to allow the use of minority languages for topographical indications in the regions where substantial numbers of persons belonging to national minorities live. It encourages the authorities to pursue these plans and to introduce safeguards affording appropriate means of meeting the obligations deriving from Article 11, paragraph 3 of the Framework Convention, where the conditions laid down by this provision are met.

123. The Advisory Committee regrets that no action has to date been taken or planned to remedy the situation in respect of the changes made during the 1990s to the traditional names of villages where national minorities live. Among the villages concerned are the Azeri villages in the region of Kvemo-Kartli, the names of which were changed in 1990-91. According to the representatives of the Azeri community, the authorities have not to date given a positive reply to their repeated requests. The Advisory Committee finds this situation incompatible with the principles of Article 11 of the Framework Convention. It therefore urges the authorities to identify, in co-operation with the representatives of national minorities, the means of giving their traditional names back to these villages, and possibly to other traditional designations which form an integral part of the identity of the communities concerned.

Articles 12 and 14

Teaching of or in minority languages

124. The Advisory Committee notes with interest that a large, albeit declining, number of schools still exist in Georgia which provide teaching in minority languages³⁵, or which have minority language sections while providing teaching in Georgian, or vice versa. Most of the teaching concerned is in Armenian, Azeri, Russian, Greek or Ossetian. In some schools which

³⁵ There are currently 391 schools in minority languages, out of a total of 2218 public schools (including those on the territories currently not under the control of the Georgian Government).

provide teaching in Georgian, minority languages are also taught. The Advisory Committee nevertheless notes that the system, as it exists, faces a number of difficulties.

125. Firstly, the schools which teach in a minority language face a general lack of resources, especially quality textbooks. For years the schools have made use of textbooks supplied by neighbouring countries, which do not correspond to the Georgian curriculum, placing their pupils in a situation of inequality with their counterparts attending schools which teach in Georgian. The Advisory Committee is pleased to note that textbooks are now being translated into the minority languages, and that new textbooks are being prepared in those languages. These new books should, *inter alia*, make possible higher-quality teaching of minority languages as first languages, and of Georgian as a second language. This process, however, still encounters difficulties insofar as the distribution of these textbooks does not yet reach all the schools concerned, and problems still exist in terms of the quality and cost as well as the training of teachers to work with these new tools. The teaching of or in certain minority languages is also made difficult in some cases by the absence of any textbooks. One example of this is the Ossetian school in Tbilisi, which has hitherto used textbooks from Tskhinvali, now no longer available since the conflict of August 2008.

126. The Advisory Committee notes with concern that significant shortcomings also remain in the training of teachers both of and in minority languages. Furthermore, although a few programmes exist in this field, opportunities to train teachers for minorities' schools are very limited. In many cases, teachers employed to teach Georgian in regions where persons belonging to national minorities live in substantial numbers do not know the minority language(s), making communication with the pupils and their parents very difficult. Similarly, most school heads belong to the majority population and do not speak these languages. Furthermore, the potential number of teachers and school heads from national minorities who have a good command of minority languages is in steady decline, as a result of the difficulties experienced by students educated in a minority language who seek access to higher education (see comments in paragraphs 131 to 133 below).

127. Opportunities to study certain minority languages, such as Kurdish and Assyrian, at school are non-existent at present. The Advisory Committee notes in this respect that, as a result of the devolution of educational administration and the discretion enjoyed by individual school councils (most of the members of which belong to the majority population) to choose the subjects that the school will offer, minority languages have little chance of being taught, particularly those of the numerically smaller minorities. Efforts to preserve these languages and to ensure that they are taught depend almost wholly on the communities concerned.

128. The Advisory Committee therefore calls on the Georgian authorities to continue and step up their efforts to make available quality school textbooks and to develop an effective system to prepare teachers to work with pupils belonging to national minorities in Georgian and in minority languages. It is important for the representatives of national minorities to be involved in these processes. The Advisory Committee also emphasises the importance of promoting the recruitment and retention as teachers of persons belonging to national minorities. Furthermore, more support should be given to the teaching of the languages of numerically smaller minorities.

Equal opportunities in the education system

129. The Advisory Committee notes that a wide-ranging reform of the education system is under way. Where national minorities are concerned, the authorities have told the Advisory Committee that their objective is to move towards a multilingual education system enabling quality teaching of both the Georgian language and minority languages to be provided, with a view to promoting the integration of persons belonging to national minorities. In addition, the authorities wish to harmonise the provision of education in the Georgian language and that in the minority language, so that all pupils are on an equal footing, particularly where school curricula are concerned³⁶. A number of bilingual schools have been set up in regions where persons belonging to minorities live in substantial numbers³⁷, and it is planned to extend this model to 40 schools in the country. The Advisory Committee welcomes these developments, and expects them to lead to true equal opportunities in the school system between pupils belonging to national minorities and those belonging to the majority.

130. However, a number of concerns relating to educational reform have been drawn to the Advisory Committee's attention. The requirement for history, geography and literature to be taught in the Georgian language from 2010-2011 causes understandable concern to many of the parties to whom the Committee spoke, who took the view that pupils and teachers who do not speak Georgian will not be ready in time to cope with this change. In addition, a system of funding based on pupil numbers has been introduced (in place of the funding per class which previously applied), and according to the representatives of national minorities, this favours neither the schools which teach in minority languages nor the bilingual schools³⁸. The Advisory Committee points out that it is important to ensure that implementation of educational reform does not have discriminatory effects on persons belonging to national minorities, and thus to take account of the specific circumstances prevailing in certain regions.

131. One of the main concerns expressed to the Advisory Committee by the representatives of national minorities relates to access to higher education. A compulsory university entrance examination was introduced in 2005, comprising a test in the Georgian language and literature, which represents a considerable obstacle to students from the minority-language education system. Such students have an extremely low pass rate, so their presence at Georgian universities³⁹ has fallen very significantly since 2005. This results in many students from the minority-language education system continuing their higher education abroad, after which they reportedly tend not to return to Georgia. In the Advisory Committee's opinion, the emigration of a portion (the best educated) of the young persons who belong to national minorities is a cause for great concern. Furthermore, those who stay in Georgia see their opportunities to get into the labour market restricted by their lack of access to higher education.

³⁶ These objectives are set out in the National Plan for the Integration of National Minorities through Multilingual Education, which should be implemented between 2009 and 2014.

³⁷ With the support of the OSCE/ High Commissioner on National Minorities (HCNM).

³⁸ Although the 2005 Law on education sets a minimum threshold of three pupils for a class to be maintained in a minority language.

³⁹ At the Akhalkalaki branch of Tbilisi State University, where approximately half of the students prior to 2005 were from national minorities, only a few applicants from minorities now manage to gain admission each year.

132. The Advisory Committee notes with satisfaction that the authorities have been endeavouring since 2006 to put a stop to the discriminatory effects of the university entrance examination on students belonging to national minorities; the most recent change came in 2008, when it was made possible for part of the examination (the “general competences test”) to be taken in Armenian or in Azeri. Courses to prepare students for the examination have also been organised, and the Georgian authorities have given the Advisory Committee a description of some new plans along the same lines. However, such efforts have to date been largely inadequate and have neither countered effectively the discriminatory effects of the university entrance examination nor reversed the tendency for students from national minorities to continue their studies abroad. This situation of *de facto* exclusion from higher education of students belonging to national minorities is incompatible with the principle of equal opportunities for all in the education system, as set out in Article 12, paragraph 3 of the Framework Convention.

133. Furthermore, several representatives of the Armenian minority emphasised their wish for the creation in the region of Samtskhe-Javakheti of either an Armenian-language university (also see the comments in this respect under Article 13 below) or a multilingual university, with the Akhalkalaki branch of Tbilisi State University currently offering teaching only in Georgian, in conformity with the Law on Higher Education, which establishes Georgian as the language of higher education (except where there is an agreement with another State; see the comments under Article 13 below). The Advisory Committee takes the view that the establishment of a higher education institution offering courses in several languages, including those of the national minorities, could facilitate the access to higher education of persons belonging to national minorities.

134. In addition, the Advisory Committee regrets that, according to the information received, the vocational training available to persons belonging to national minorities, especially in the regions where they live in substantial numbers, is limited. This deficiency further aggravates the exclusion of these persons from the labour market.

135. The Advisory Committee urges the Georgian authorities to take, forthwith, all the necessary measures to guarantee effective equality of opportunities for persons belonging to national minorities in respect of access to higher education. It also calls on them to continue and step up their efforts to ensure that persons belonging to national minorities have equal access to quality education, in accordance with the principles of the Framework Convention.

Teaching of the Georgian language

136. The Advisory Committee considers that the teaching of the Georgian language to persons belonging to national minorities who have insufficient command of it is one of the main challenges facing the Georgian authorities in the context of the implementation of the Framework Convention. In fact, as already referred to at length in the present Opinion, lack of knowledge or inadequate proficiency in the Georgian language prevents such persons in a number of cases from fully enjoying the rights guaranteed by the Framework Convention. It constitutes a significant obstacle to the full participation in the life of Georgian society of the persons belonging to national minorities. The increasingly strict application of the legislation on

the state language (see the comments under Articles 4 and 10 above) may well further marginalise a significant number of these persons.

137. The Advisory Committee notes that a number of measures have been taken in recent years to help the persons belonging to national minorities who do not know Georgian to learn it. The authorities, for instance, support the substantial efforts made by the “language centres” in the regions of Kvemo-Kartli and Samtskhe-Javakheti. Furthermore, the Advisory Committee notes with interest that the persons concerned are showing a greater interest in acquiring a good knowledge of Georgian. However, the authorities' efforts still seem to be very much insufficient, and do not meet the many needs that exist (teaching of Georgian in schools, bilingual teaching, adult education, teacher training, etc), especially in rural regions where the persons belonging to minorities have few opportunities to study Georgian. In addition, according to the Advisory Committee's information, the quality of teaching and the methods used are frequently inadequate, and there is a shortage of qualified teachers to teach Georgian as a second language. The measures taken to date and the lack of dialogue have sometimes also given rise to reactions of rejection among national minorities, which at times regarded the measures concerned as having been taken in order to assimilate them. The Advisory Committee considers that this situation raises issues of compatibility with the requirements of Article 14, paragraph 3 of the Framework Convention.

138. The Advisory Committee therefore urges the Georgian authorities to make every effort to improve substantially the availability of the teaching of the Georgian language, emphasising teacher training and the writing of textbooks, and ensuring a coordinated response to the many needs that exist. It recommends that the authorities, in close consultation with persons belonging to national minorities, work out a comprehensive long-term action plan, with the emphasis on support measures rather than on measures which give rise to greater exclusion. Furthermore, it is particularly important for the promotion of the learning of Georgian to go hand-in-hand with measures to protect and develop the languages and cultures of national minorities, as stipulated by the principles set out in the Framework Convention.

Intercultural education

139. As already pointed out under Article 6 above, the Advisory Committee deplores the lack of information, or sometimes biased information, about the history, religion and culture of national minorities in the textbooks and other materials used in schools. This deficiency, sometimes coupled with a situation of isolation from Georgian society and with linguistic difficulties, is responsible for a very low level of exchanges between pupils and teachers belonging to national minorities and those belonging to the majority. In this context, the Advisory Committee welcomes the efforts made by the authorities to facilitate exchanges between schools in the regions where national minorities live and those in other regions of the country⁴⁰. It strongly encourages the authorities to continue this kind of programme and make it more widely available.

⁴⁰ Such as the schools partnership programme begun in 2005 and the OSCE-backed inter-regional student exchange programme.

140. A particular problem arises in respect of history teaching, with the persons belonging to national minorities disputing the way in which their history is presented in school textbooks. The Advisory Committee is aware that history teaching is a highly sensitive subject in the Caucasus. It nevertheless calls on the Georgian authorities to ensure an objective and pluralistic approach to the teaching of history and to improve the content of history textbooks, drawing on proposals that might be made by boards of historians including persons belonging to national minorities. It points to the potential usefulness in this context of the Council of Europe's work on history teaching⁴¹.

Article 13

Private education in minority languages

141. The Advisory Committee notes that many persons belonging to the Armenian minority would like an Armenian-language university to be set up in Akhalkalaki. Article 4 of the Law on higher education makes teaching in all higher education establishments (public and private) in languages other than Georgian possible only in the framework of an international agreement, or with the approval of the Ministry of Education. Depending on its interpretation, this provision could constitute an obstacle to the application of Article 13 of the Framework Convention.

142. The Advisory Committee has been informed of the various steps taken to obtain the Georgian authorities' permission for such a university to be set up, so far without success. It has also understood from its dialogue with the authorities that they were not opposed to the setting up of such an institution. It therefore expects the authorities to continue their discussions on this subject with the persons concerned and to ensure that no unjustified obstacle impedes the exercise by the persons belonging to national minorities of their right to set up and manage their own private educational establishments, as set out in Article 13 of the Framework Convention.

Article 15

Institutional structures

143. Where institutions are concerned, a key position in the executive is held by the Ministry for Reintegration, which is responsible for coordinating Government action relating to the protection of national minorities. The Advisory Committee welcomes the plans to open offices of this Ministry in the regions where national minorities live and to conclude agreements with the regional representatives of the State and the organisations representing national minorities. The Parliamentary Human Rights and Civil Integration Committee also has within its terms of reference issues relating to national minorities. In addition, the Adviser on National Minorities to the President of Georgia is an active player in this sphere, providing liaison and coordination with the other public institutions concerned and serving as a contact point with minorities.

⁴¹ See <www.coe.int/t/dg4/education/historyteaching/>

144. According to the representatives of national minorities, the existence of several State structures with responsibilities in this field complicates their dialogue with the authorities. They believe that decision-making capacity and responsibility are thereby dispersed and weakened. They also deplore the lack of contact points for minority issues at local level. The Advisory Committee considers that it would be necessary to clarify the responsibilities of the various actors involved in minority policy and to identify a structure responsible for coordinating Government policy on the protection of national minorities. Such developments would be beneficial both for national minorities and for the authorities, who could thereby more easily obtain an overview of the concerns and needs of the persons belonging to minorities, and adopt a more consistent strategy in this field.

Participation in public affairs: elected assemblies

145. The Advisory Committee is concerned about the lack of effective participation in public affairs, which is one of the main worries for persons belonging to national minorities. This lack of participation is primarily manifested through a very limited representation in elected assemblies, especially at central level⁴², but also at local level, where the representation situation is nevertheless more varied: while the persons belonging to the Armenian minority are well represented in the locally elected assemblies in Samtskhe-Javakheti, where they form a very large proportion of the population⁴³, the representation of persons belonging to minorities is far more limited in other regions, such as Kvemo-Kartli, where they live in substantial numbers.

146. The main reason cited to explain this underrepresentation is lack of knowledge of the Georgian language, which constitutes a barrier to the participation of persons belonging to national minorities in elected assemblies, as Georgian is the statutory working language in these bodies (see comments under Articles 4 and 10 above). However, where they are largely made up of persons belonging to national minorities, local assemblies are not prevented from working in languages other than Georgian. The Advisory Committee notes that the Electoral Code, as amended in 2005, requires anyone wishing to stand for Parliament or to be a member of an electoral commission to have an adequate knowledge of the Georgian language. It nevertheless seems to be the case that this last-mentioned provision is not currently applied. The Advisory Committee points out that, were this provision to be applied, it would raise issues of compatibility with the principles set out in Article 15 of the Framework Convention⁴⁴.

147. The Advisory Committee nevertheless notes that persons belonging to minorities who have no problem in respect of command of the Georgian language, such as the Kurds and Yezidi, also face (even greater) underrepresentation in elected assemblies. The numerically smaller minorities are not adequately represented, or not represented at all, at both central and local level and, therefore, might not be able to effectively participate in public affairs.

148. Factors other than lack of knowledge of the Georgian language may explain and/or aggravate the lack of participation by persons belonging to minorities in elected assemblies.

⁴² Six persons belonging to national minorities sit in the Parliament elected in 2008. They thus form 4% of the members of Parliament.

⁴³ Persons belonging to the Armenian minority form almost 95% of the population in Akhalkalaki.

⁴⁴ In this respect, see the case of Podkolzina v. Latvia, Application No. 46726/99.

Representatives of the Armenian minority informed the Advisory Committee that the existing electoral and administrative divisions, particularly in Samtskhe-Javakheti, prevent equality of voting rights from being achieved, with municipalities where there is an Armenian majority corresponding to far fewer electoral constituencies than those where persons belonging to the majority population live. The Advisory Committee takes the view that the Georgian authorities should consider the possibility of reviewing existing electoral divisions so as to ensure equal voting rights and to improve national minorities' participation in public life.

149. The Advisory Committee also notes that the 1997 Law on Citizens' Political Associations is another obstacle to the participation in elected bodies of persons belonging to national minorities. The conditions laid down in Article 6 of this law, prohibiting the setting-up of political parties on a regional or territorial basis (see remarks under Article 7 above), certainly may be interpreted as restricting the scope for persons belonging to national minorities to set up political parties representing their legitimate interests. The Advisory Committee is aware that, in practice, some persons belonging to national minorities are members of the Georgian Parliament, having been included on the lists of some political parties. Nevertheless, it takes the view that this does not imply that persons belonging to national minorities benefit from every opportunity for effective participation in the political life of the country and in the decision-taking process. Therefore, the Advisory Committee is of the opinion that the provisions of the law on political associations excessively restricts the scope for persons belonging to national minorities effectively to participate in public affairs, as prescribed by Article 15 of the Framework Convention.

150. In this context, the Advisory Committee is pleased to note the measures taken by the authorities to facilitate the participation of persons belonging to national minorities in elections. When presidential and legislative elections were held in 2008, the voting papers, lists of voters and information booklets about the elections were translated into three, sometimes four, minority languages (Russian, Armenian, Azeri and Ossetian) in those regions where persons belonging to national minorities live in substantial numbers. It strongly encourages the authorities to continue and take further this kind of initiative designed to provide better information about their rights to the persons belonging to national minorities, and to enable them to play a more active part in elections. Furthermore, as already mentioned above (see paragraphs 147 to 149), it urges them to take resolute measures to increase minorities' representation in elected assemblies, particularly by removing all the obstacles, including those enshrined in law, to the effective participation in public affairs of persons belonging to national minorities.

Participation in the public service and in the executive

151. The Advisory Committee expresses its concern at the underrepresentation of persons belonging to national minorities in the executive, particularly in posts of responsibility. Outside the municipalities of Samtskhe-Javakheti, where persons belonging to the Armenian minority form almost the whole population, there are virtually no mayors belonging to national minorities. The same is true of the posts of district president, governor, director of police departments, school head, etc, as well as posts within the Georgian Government. While, here again, inadequate knowledge of the Georgian language is a barrier, it is not, in the Advisory

Committee's opinion, the only explanation for the virtual absence of persons belonging to national minorities in posts of responsibility and in the public service in general.

152. Those parties to whom the Advisory Committee spoke emphasised that the replacement at local level, in various posts of responsibility and in public services, of persons belonging to national minorities by persons belonging to the majority who do not speak the minority language used in the region had only aggravated the lack of communication as well as the difficulties experienced by these persons in participating in public, social and economic life (also see the comments under Article 4 above). The Advisory Committee considers this situation a cause for concern and points out that the composition of public services should reflect the diversity that exists within society, so that they can perform their function more effectively⁴⁵.

153. The Advisory Committee welcomes the setting up in 2006 of the Zurab Zhvania School of Public Administration, which is intended to train managers and public servants from national minorities, providing them with, *inter alia*, intensive Georgian lessons. It also considers highly useful the plan to open a branch of the school in Akhalkalaki. It therefore calls on the authorities to continue this effort to provide training, but also to ensure that the persons trained at this school are able to find work following their training, including jobs in their region of origin. More generally, it considers that the authorities should include in their priorities the active effort that is needed to find ways of recruiting more persons belonging to national minorities into public services and into posts of responsibility, especially in the regions where they live in substantial numbers. To this end, greater efforts need to be made in respect of Georgian language lessons as well as measures aimed at the training and promotion of these persons⁴⁶.

Consultative mechanisms for national minorities

154. The Advisory Committee welcomes the setting up in 2005 of the Council for Ethnic Minorities within the structure of Georgia's Office of Public Defender. This council was set up to remedy the lack of a forum for consulting national minorities. It brings together almost 80 organisations which represent numerous ethnic minorities. Several working groups have been set up within the council, which has produced recommendations to the authorities aiming at improving the protection of national minorities.

155. The Advisory Committee notes that the representatives of national minorities whom it met all welcomed the existence of this body, which makes possible communication not only between minorities' organisations and the authorities, but also among different minorities. It had *inter alia* enabled national minorities' organisations to be consulted when Georgia's State Report on the Framework Convention was prepared. The authorities have announced that the council

⁴⁵ See Advisory Committee's thematic commentary on the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, adopted on 28 February 2008, ACFC/31DOC(2008)001.

⁴⁶ See Advisory Committee's thematic commentary on the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, adopted on 28 February 2008, ACFC/31DOC(2008)001.

should also be involved in monitoring the implementation of the tolerance and civil integration action plan.

156. While it welcomes the existence of the Council for Ethnic Minorities, the Advisory Committee deeply regrets that insufficient account has been taken of the recommendations that it has prepared and addressed to various relevant ministries and to Parliament. It therefore calls on the authorities to develop regular communication with the Council for Ethnic Minorities and to ensure that the council is fully involved in the preparation, implementation and monitoring of legislation, policies and programmes affecting national minorities.

Participation in social and economic life

157. The Advisory Committee notes that a significant proportion of persons belonging to national minorities is particularly affected by unemployment and poverty, mainly because they live in regions which are highly disadvantaged both economically and in terms of infrastructure, and which have poor links with the rest of Georgian territory, not only for reasons of history, geography and climate, but also because of an unequal redistribution of resources between regions. This particularly applies to the regions of Samtskhe-Javakheti and Kvemo-Kartli. For example, access to electricity and gas supplies, as well as to health care, is still sometimes difficult in these regions. This situation generates a feeling, expressed to the Advisory Committee by several of the parties to whom it spoke in these regions, of being both isolated from the rest of the country and at a disadvantage compared to the majority population, and this drives people to emigrate to neighbouring countries.

158. The Advisory Committee also notes that work to develop infrastructure in these regions, including transport routes, has been carried out in recent years. However, the persons belonging to minorities complain that they have rarely been invited to participate in these major works, such as the construction of the Baku-Tbilisi-Ceyhan oil pipeline. The Advisory Committee is aware that other border or mountain regions not characterised by the presence of large numbers of persons belonging to national minorities are also in a difficult economic situation. It nevertheless calls on the authorities both to continue and step up their efforts to open up the regions of Samtskhe-Javakheti and Kvemo-Kartli, in particular, so as to enable the persons who live there to access basic services and thus to enjoy their social and economic rights on an equal footing with the rest of the population, as well as to develop income-generating activities in these regions. Initiatives of this kind should enable the persons who live in these regions to feel greater confidence in the action taken by the authorities, and the social cohesion to be strengthened.

Access to employment and economic activities

159. As already emphasised, the Advisory Committee is concerned about the lack of access for persons belonging to national minorities to jobs in the public service (see the comments in paragraphs 151 to 153 above and in respect of Article 4). Furthermore, the Advisory Committee has been informed that access to various occupations in the spheres of education, social services, etc, increasingly depends on success in the Georgian language tests, further reducing the opportunities for persons belonging to national minorities to find employment in the public sector (see also remarks in respect of Articles 10 and 14 above). The Advisory Committee urges

the Georgian authorities to ensure that the setting of language tests does not constitute an insurmountable obstacle to the recruitment or retention in public-sector employment of persons belonging to national minorities⁴⁷. Against this background, the Advisory Committee notes with interest the practice introduced by the Ministry of the Interior, which recruits persons belonging to national minorities and provides them with on-the-job additional language training, should their command of the Georgian language not be sufficient (see also remarks in respect of Article 4 above).

160. Furthermore, the Advisory Committee was informed of restrictions imposed by the law-enforcement agencies in Kvemo-Kartli on sales pitches for farm products (for example by the roadside), which seem to affect particularly persons belonging to national minorities. In addition, such persons were said to face frequent difficulties when crossing the borders with Azerbaijan, restricting their opportunities to develop cross-border trade, which is a significant source of income for them (also see the comments under Article 17 below). The Advisory Committee calls on the Georgian authorities to remove the unjustified obstacles to the development of economic activities by persons belonging to national minorities and to take measures to encourage their effective participation in the socio-economic life of the country.

Privatisation and access to land

161. According to the information available to the Advisory Committee, many inequalities and a lack of transparency affect the process of redistribution and subsequent privatisation of land, a process which began in the 1990s. This problem particularly affects villages in Kvemo-Kartli which are close to the border with Armenia, where the majority of the population belongs to the Azeri minority. What is more, persons belonging to minorities who have obtained title deeds are said not always to be in a position to uphold their title, as numerous irregularities have been committed in this sphere as well. Similarly, the Advisory Committee notes that persons belonging to national minorities who live in the region of Tsalka are in a position of legal uncertainty in terms of access to land. The situation is all the more complicated in this region because it coincides with disputes with recently arrived persons about the ownership of houses and land left behind by persons belonging to the Greek minority who have emigrated en masse since the 1990s (also see the comments under Article 6 above).

162. The Advisory Committee is concerned by this situation, bearing in mind the fact that many of the persons belonging to national minorities living in these regions depend for their subsistence on arable farming and stock-rearing. It notes that the adoption of the 2005 Law on privatisation of State agricultural land has enabled certain inequalities in land distribution to be corrected, particularly relating to land adjoining the border. The Advisory Committee calls on the Georgian authorities to continue to give all due attention to this question, so as to ensure fair and equal access for all to the land privatisation process, in so far as this has long-term implications for the effective participation in economic life of the persons belonging to national minorities. The authorities should *inter alia* ensure the transparency of the privatisation process

⁴⁷ See Advisory Committee's thematic commentary on the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, adopted on 28 February 2008, ACFC/31DOC(2008)001.

and set up monitoring mechanisms to evaluate its impact. The persons belonging to national minorities should play an effective part in these monitoring and evaluation procedures.

Article 16

Resettlement of “ecological migrants”

163. The Advisory Committee notes that many “ecological migrants” from other regions of Georgia have, since 1997, been resettled in regions where persons belonging to national minorities live in substantial numbers, and particularly in the region of Tsalka. The inadequacies noted in the management of these resettlement processes (see comments under Article 6), were they to recur, have the potential to give rise to concerns in respect of Article 16 of the Framework Convention.

164. The Advisory Committee is aware that the Georgian authorities face an extremely difficult situation in respect of the persons displaced by ecological disasters, but more particularly following the conflicts over Abkhazia and Ossetia. It nevertheless wishes to point out that, when persons are resettled in regions where persons belonging to national minorities live in substantial numbers, the interests of the latter should be duly taken into account, as should their right to maintain and develop their language, culture and identity and to play a full part in social and economic life. Furthermore, the authorities should ensure that the populations concerned effectively participate in the decision-taking relating to any resettlement processes.

Article 17

Cross-border movement

165. Several representatives of national minorities met by the Advisory Committee reported problems when crossing borders. This applies *inter alia* to persons belonging to the Kist minority, but particularly to Azeris, who complain of recurrent difficulties when travelling between Georgia and Azerbaijan. Allegations of harassment and racist insults by Georgian customs officials were made to the Committee, as were complaints about anti-corruption measures directed disproportionately and without justification against persons belonging to the Azeri minority who engage in cross-border trade.

166. The Advisory Committee asks the authorities to give all due attention to this problem and to ensure that cross-border exchanges between persons belonging to national minorities and persons living in neighbouring countries are not impeded arbitrarily or without justification. It points out that such exchanges are particularly important to the preservation and development of the culture and identity of persons belonging to national minorities, as well as to their socio-economic situation.

Article 18**International agreements on the protection of national minorities**

167. The Advisory Committee notes with satisfaction that “kin states” may freely support the activities of persons belonging to national minorities who live in Georgia. They give significant support to the teaching of their respective languages, supplying school textbooks (see comments in Articles 12-14 above) and offering support to ‘Sunday classes’. The Advisory Committee also notes with interest the co-operation programme between Greece and the Georgian authorities which is intended to develop community policing, and which began in the Tsalka region in 2005.

168. The Advisory Committee notes that a number of bilateral co-operation agreements exist with Azerbaijan, Armenia and the Russian Federation, covering various fields which may have an impact on the situation of persons belonging to national minorities, such as education and culture. Nevertheless, the Advisory Committee finds it disconcerting that no agreements have been concluded since the end of the 1990s with Armenia or Azerbaijan.

169. The Advisory Committee expects the Georgian authorities in practice to continue to take a constructive attitude to international co-operation in respect of the protection of national minorities. It strongly encourages them to conclude co-operation agreements, particularly with neighbouring countries, including on issues of citizenship. It wishes to point out that the protection of national minorities is an integral part of the international protection of human rights, and that, having ratified the Framework Convention, the States Parties have undertaken to develop international co-operation in order to ensure the protection of national minorities.

Article 19

170. Based on the information currently at its disposal, the Advisory Committee considers that implementation of this article does not give rise to any specific observation.

IV. MAIN FINDINGS AND COMMENTS OF THE ADVISORY COMMITTEE

171. The Advisory Committee believes that the main findings and comments set out below could be helpful in a continuing dialogue between the Government and national minorities, to which the Advisory Committee stands ready to contribute.

Concerning general remarks

172. The Advisory Committee *finds* that the conflict of August 2008, and those of the 1990's concerning South-Ossetia and Abkhazia, have had a negative impact on the implementation of the Framework Convention in Georgia. It *considers*, therefore, that the Georgian authorities, and all of the parties concerned, should step up their efforts and take an open and constructive approach with a view to finding a just and lasting solution to the conflict as soon as possible. In doing so, the principles enshrined in the Framework Convention must be fully respected to guarantee the rights of persons belonging to national minorities throughout the Georgian territory.

Concerning Article 3

173. The Advisory Committee *finds* that the Georgian authorities apparently favour a restricted approach to the personal scope of application of the Framework Convention, particularly in that access to protection under the Convention is granted only to "compactly" settled groups and to persons with Georgian nationality, even though this approach is not strictly codified. The Advisory Committee *considers* that the authorities should favour a flexible and open approach to the scope of application of the Framework Convention, both where practical measures are concerned and in the context of the current legislative processes in Georgia.

174. The Advisory Committee *finds* that at the last census in 2002, the information-gathering methods did not permit full compliance with the right to free self-identification with a national minority and that the population census planned for 2010 might include a compulsory question on individuals' ethnic affiliation. The Advisory Committee *considers* that the authorities should ensure, in the next population census, that the right to self-identification, and the optional nature of the answer to a question on ethnic affiliation, are fully respected.

Concerning Article 4

175. The Advisory Committee *finds* that persons belonging to national minorities have a poor knowledge of their rights and avail themselves little of the courts when these are infringed. It therefore *considers* that the authorities should take steps in order that persons belonging to national minorities have access to full information on their rights and have access to courts and other institutions if they consider that their rights have been violated.

176. The Advisory Committee *finds* that the Office of the Public Defender performs a significant role in the protection of minorities, including at regional level, and affords a means of appeal in the event of discrimination with which persons belonging to national minorities may be confronted. It accordingly *considers* that the Georgian authorities should intensify their efforts in

combating discrimination, *inter alia* through positive measures to promote the effective equality of persons belonging to national minorities, and should continue to support the Public Defender's work.

177. The Advisory Committee *finds* that the implementation of the various laws on the use of the Georgian language in the public sphere disadvantages persons belonging to national minorities who do not have a sufficient command of that language. It therefore *considers* that the authorities should ensure that the implementation of the relevant legislative provisions does not result in direct or indirect discrimination against persons belonging to national minorities.

178. The Advisory Committee *finds* that persons belonging to certain national minorities lack identity documents, and *considers* that the authorities should continue and step up their efforts to help these people regularise their situation without further delay.

Concerning Article 5

179. The Advisory Committee *finds* that for the time being Georgia does not have specific legislation or a co-ordinated, comprehensive policy on the protection of national minorities, and budgets devoted to the cultural development of national minorities. It *considers* that the National Concept for Tolerance and Civic Integration adopted in 2008, and the relevant action plan, should be more detailed and accompanied by the allocation of adequate resources and clear legislative guarantees. Furthermore, it *considers* that the authorities should pursue a balanced policy for the protection of minorities, aimed at promoting societal integration and protecting the rights of persons belonging to minorities with regard to the preservation and development of their identity and their cultural heritage. Representatives of the minorities should be associated with the elaboration and implementation of such policy.

180. The Advisory Committee *finds* that persons belonging to national minorities have expressed concerns about the lack of State support to the preservation of their religious and historical buildings, and the acts of vandalism perpetrated on certain buildings of national minorities. The Advisory Committee *considers* that the authorities should take all necessary measures to prevent, investigate and punish such acts, and have a more resolute commitment to the preservation of the historical and cultural heritage of the minorities.

Concerning Article 6

181. The Advisory Committee *finds* that the armed conflict of August 2008 does not seem to have seriously affected inter-ethnic relations in Georgia in the areas under Government control and that co-existence between the majority and the various national minorities is free of conflict on the whole. However, it *finds* that there is a major shortfall in the integration and participation of national minorities in Georgian society, with the effect, *inter alia*, of increasing the tendency among persons belonging to national minorities to emigrate. The Advisory Committee *considers* that the authorities should take resolute steps to remedy this situation and intensify their efforts to promote an open, balanced inter-ethnic and intercultural dialogue.

182. The Advisory Committee *finds* that communication is lacking between various groups owing to the absence of a common language, and this sometimes has resulted in conflicts. It

therefore *considers* it essential to inter-ethnic dialogue that the persons belonging to the national minorities concerned be enabled to acquire a better knowledge of the Georgian language, while continuing the efforts to support minority languages.

183. The Advisory Committee *finds* that incidents of religious intolerance are being witnessed, displayed in various forms of hostility to persons of denominations other than the Georgian Orthodox religion. The Advisory Committee *considers* that the authorities should guarantee that legal proceedings are initiated in all cases of incitement to religious intolerance or violence, and effectively combat religious intolerance. In addition, adequate measures should be taken in the event of incitement by the media to hatred on the grounds of ethnic origin or religion.

184. As to the application of the “Law on the Repatriation of Persons Forcefully Expelled from Georgia by the former Soviet Union in the 1940s”, the Advisory Committee *finds* that candidates for return who belong to the Meskhetian Turks’ community face disproportionate obstacles in their applications for repatriation. It therefore *considers* that the Georgian authorities should take all the necessary steps to eliminate these disproportionate obstacles and, in co-operation with the international organisations concerned, make appropriate preparation for the return to Georgia of persons belonging to the Meskhetian Turk community.

Concerning Article 7

185. The Advisory Committee *finds* that one of the provisions of the Georgian Law on Political Associations can be interpreted in a way that is likely to prevent the formation by persons belonging to national minorities of political parties representing their interests. It *considers* that the authorities should take resolute measures to remove any unjustified limitations to the creation of political parties representing the legitimate interests of national minorities.

186. The Advisory Committee *finds* that persons belonging to national minorities have been faced with serious problems in exercising the right to freedom of expression and opinion, and *considers* that the authorities should take all requisite measures to prevent, investigate and punish any unjustified violation or limitation of these rights committed against persons belonging to national minorities.

Concerning Article 8

187. The Advisory Committee *finds* that the legal status and the registration as religious entities of religious organisations other than the Georgian Orthodox Church are issues which raise serious problems, and that these organisations have to contend with difficulties and with expressions of hostility when they wish to purchase, build or request the restitution of places of worship. The Advisory Committee *considers* that the authorities should ensure respect for the various religious denominations present in Georgia and prevent, investigate and punish all expressions of hostility towards another denomination. Furthermore, the authorities should ensure that, in the process of restitution of the properties of the various denominations, fair and balanced decisions are taken.

188. The Advisory Committee *finds* that the public schools continue to offer religious instruction which largely focuses on the teaching of the Georgian Orthodox faith, and that non-Orthodox pupils are often exposed to intolerant attitudes. It *considers* that the authorities should take steps to ensure full respect for the right to freedom of religion of persons belonging to minorities.

Concerning Article 9

189. The Advisory Committee *finds* that even though certain programmes which concern minorities, including in their languages, are broadcast by public service television and radio, they are insufficient. Moreover, persons belonging to national minorities who live in certain regions are confronted with a vacuum of information broadcast by the national media, as public television does not cover the entire territory of Georgia.

190. The Advisory Committee *considers* that the central authorities should be more committed to ensuring that persons belonging to national minorities can be informed in their own languages of the latest developments of the country's social, economic and political life, as well as making their own needs heard and making their cultural heritage known. The provision of the Law on Broadcasting securing specific allocations from the budget of the public radio and television service for programmes on national minorities, or in their languages, must be fully implemented.

Concerning Article 10

191. The Advisory Committee *finds* that persons belonging to national minorities have no legal guarantee for exercising the right to use their own language in dealings with the administrative authorities, although in practice there is a degree of flexibility. The Advisory Committee *considers* that the authorities should ensure that the Georgian legislation affords clear guarantees in that respect.

192. The Advisory Committee *finds* that, even though the law secures to those in need of it the right to interpretation during judicial proceedings, persons belonging to national minorities complain of difficulties owing to the often low quality of the interpretation provided. The Advisory Committee *considers* that the authorities should eliminate any impediment, linguistic or other, to the enjoyment of their rights during judicial proceedings by persons belonging to national minorities.

Concerning Article 11

193. The Advisory Committee *finds* that, although bilingual place names exist in certain areas of substantial minority settlement, this practice is unsupported by any legal basis. Consequently, it *considers* that the authorities should introduce guarantees allowing the obligations under Article 11, paragraph 3 of the Framework Convention to be adequately met.

194. The Advisory Committee *finds* that no step has been taken to remedy the changes in the traditional names of villages inhabited by national minorities which occurred during the 1990s. It

considers that the authorities, in conjunction with those concerned, should determine ways of restoring the traditional names to these villages.

Concerning Articles 12 and 14

195. The Advisory Committee *finds* that there is still a large number of schools offering instruction in minority languages, but that they are faced with a general lack of resources, particularly by way of good quality textbooks and teacher training. It *finds* moreover that the efforts to preserve the languages of the numerically smaller groups rely almost entirely on the communities concerned.

196. The Advisory Committee *considers* that the authorities should intensify their efforts regarding the supply of good quality textbooks and develop an effective system of training for teachers who work with pupils belonging to national minorities. It also *considers* it important to promote the recruitment, and the retention in service, of teachers from the national minorities. Lastly, more support should be given to the teaching of the languages of numerically smaller minorities.

197. The Advisory Committee *finds* that an extensive reform to the education system is being implemented, giving rise to a number of concerns among persons belonging to national minorities, particularly in relation to the impact, on their language rights, of the extension of the compulsory use of Georgian at school. The Advisory Committee *considers* it important to ensure that the implementation of the reform to education does not have discriminatory effects for persons belonging to national minorities.

198. The Advisory Committee *finds* that the compulsory university entrance examination, which comprises a test in Georgian language and literature, forms a considerable obstacle for students who have studied in the education system in a minority language. The Advisory Committee *considers* that the Georgian authorities should effectively guarantee equal opportunities for persons belonging to national minorities in access to higher education.

199. The Advisory Committee *finds* that the authorities' efforts as regards teaching of the Georgian language to persons belonging to national minorities remain largely insufficient and do not meet the many needs that exist. The Advisory Committee *considers* that the authorities should set about substantially improving the availability of teaching of Georgian, and that it would be expedient to develop an overall long-term action plan in close consultation with persons belonging to national minorities, with the twofold aim of promoting the learning of Georgian and protecting and promoting the languages and cultures of national minorities.

200. The Advisory Committee *finds* that school textbooks are lacking information on the history, religion and culture of national minorities, or contain sometimes biased information. It *considers* that the authorities should continue and intensify their efforts to facilitate exchanges between pupils and teachers from different regions and communities, and that they should also ensure an objective and pluralistic approach to history teaching.

Concerning Article 13

201. The Advisory Committee *finds* that the various moves made to create an Armenian language university in Akhalkalaki have not succeeded for the time being. It *considers* that the authorities should carry on discussions in this regard with the persons concerned, and ensure that no unjustified obstacle impedes the exercise by persons belonging to national minorities of their right to set up and manage their own private educational facilities.

Concerning Article 15

202. The Advisory Committee *finds* that the existence of several State structures with functions relating to the protection of national minorities complicates official dialogue with the representatives of the minorities and weakens each agency's capacity to reach decisions and assume responsibilities. The Advisory Committee *considers* it necessary to clarify the responsibilities of the various actors involved in minority policy and to identify a structure responsible for coordinating Government policy on the protection of minorities.

203. The Advisory Committee *finds* that there is a significant shortfall in participation by persons belonging to national minorities in public affairs, notably in elected bodies. It *finds* in addition that the numerically smaller minorities are not adequately represented, at both the central and local level. It therefore *considers* that the authorities should take resolute steps to increase the representation of minorities in elected bodies, and pursue the measures already taken to enable persons belonging to minorities to take a more active part in elections.

204. The Advisory Committee *finds* that persons belonging to national minorities are also under-represented largely in the executive, and particularly in responsible positions, as well as in the public service. The Advisory Committee *considers* that the authorities should actively seek means of increasing the recruitment of persons belonging to national minorities to the public services, particularly in the regions where they live in substantial numbers.

205. The Advisory Committee *finds* that the Council for Ethnic Minorities performs an important role in communication with the authorities. However, the recommendations which it has prepared and addressed to various bodies do not appear to have been sufficiently taken into consideration. It *considers* that the authorities should increase communication with the Council for Ethnic Minorities and ensure that it is fully involved in the preparation, implementation and monitoring of legislation, policy and programmes concerning national minorities.

206. The Advisory Committee *finds* that a significant proportion of persons belonging to national minorities is particularly affected by unemployment and poverty, due to the fact of residing in economically disadvantaged regions or to certain restrictions imposed in connection with commercial activities. The Advisory Committee *considers* that the authorities should intensify their efforts to open up the regions of Samtskhe-Javakheti and Kvemo-Kartli, and remove all unjustified obstacles to the development of economic activities by persons belonging to national minorities.

207. The Advisory Committee *finds* that the process of redistribution and privatisation of land has generated inequalities, and *considers* that the authorities should pay all due attention to this question, in order to secure fair and equal access to the land privatisation process for everyone. They should also guarantee the transparency of the privatisation process.

Concerning Article 16

208. The Advisory Committee *finds* that the large-scale resettlement of people in regions where persons belonging to national minorities live in substantial numbers has caused tensions. It *considers* that in future, if processes of resettlement of populations prove necessary, the interests of persons belonging to national minorities who live in the regions of resettlement should be duly taken into account. Moreover, these persons should be fully involved in the decision-making concerning such processes.

Concerning Article 17

209. The Advisory Committee *finds* that in certain regions persons belonging to national minorities encounter problems when crossing borders. The Advisory Committee *considers* that the authorities should act to prevent arbitrary or unjustified obstacles to transfrontier exchanges between persons belonging to national minorities and persons living in neighbouring countries.

Concerning Article 18

210. The Advisory Committee *finds* that “kin states” can freely support the activities of persons belonging to the national minorities in Georgia but that few international agreements on the protection of national minorities have been concluded since the end of the 1990s. The Advisory Committee *considers* that the authorities should maintain a constructive attitude towards international co-operation on protection of national minorities and conclude co-operation agreements, particularly with the neighbouring countries.

V. CONCLUDING REMARKS

211. The Advisory Committee considers that the concluding remarks below reflect the main thrust of the present opinion and that they could therefore serve as the basis for the corresponding conclusions and recommendations to be adopted by the Committee of Ministers.

212. The Advisory Committee welcomes the fact that the ratification of the Framework Convention has triggered a debate in Georgia and that discussion is continuing in connection with the introduction of a more comprehensive legislative framework for the protection of national minorities. It hopes that, as a result of this debate, Georgia will be able to devise a legislative framework for the protection of national minorities and introduce an open, comprehensive, long-term policy making it possible to respond appropriately to existing and future needs, in accordance with the principles set out in the Framework Convention. It is important that persons belonging to national minorities are fully involved in this debate. The Advisory Committee notes with satisfaction that the Government has stressed the need to

promote tolerance and integration, and hopes the draft Concept on tolerance and civic integration will be swiftly adopted and effectively implemented.

213. The Advisory Committee encourages the Georgian authorities and all the parties concerned, to step up their efforts and to take an open and constructive approach in order to find as soon as possible a just and lasting solution to the conflict over South Ossetia and Abkhazia, as the conflict is adversely affecting the implementation of the Framework Convention throughout the entire Georgian territory. In doing so, the principles enshrined in the Framework Convention must be fully respected, in order to guarantee the rights of persons belonging to national minorities.

214. The Advisory Committee considers that the linguistic rights of persons belonging to national minorities are still a major challenge facing the authorities. Whilst they are making efforts to make it easier for those persons belonging to national minorities who are not familiar with the Georgian language to learn it, these efforts are far from adequate and do not constitute an appropriate response to existing needs. Improving facilities for learning Georgian should therefore be a priority for the authorities. They should also ensure that the policy of promoting the Georgian language is not pursued to the detriment of the linguistic rights of persons belonging to national minorities, the effective enforcement of which requires more resolute measures, both in the legislative framework and in its implementation.

215. In the field of education, the lack of resources invested in tuition provided in minority languages means that the pupils concerned are not on an equal footing with other pupils. Moreover, although it takes note with interest of the reforms undertaken in the Georgian education system, the Advisory Committee is concerned about their potential implications for persons belonging to national minorities. In particular, it is essential to ensure equal access, with no unjustified obstacles, to higher education for pupils who have studied in minority language schools. More generally, the authorities should take all the measures needed to promote full and effective equality for persons belonging to minorities in the education system.

216. Participation of persons belonging to national minorities in the country's cultural, social and economic life and in public affairs remains limited, and many of them are isolated from Georgian society. Their inadequate command of the Georgian language is one of several factors accounting for their marginalisation. The authorities should take vigorous measures to remove legislative and practical obstacles to the participation of persons belonging to national minorities in elected bodies and in the executive, and allow minorities to be better represented in the public service. Consultation of representatives of national minorities by the authorities, particularly through the Council for Ethnic Minorities, should be more systematic, and the recommendations and proposals of this unique body representing minorities should be given all the necessary attention. Moreover, the Georgian authorities should take more resolute measures to promote the effective participation of persons belonging to national minorities in the socio-economic life of the country.

217. The Advisory Committee is concerned about increased religious tensions, which are particularly affecting persons belonging to national minorities. The authorities should make every effort to combat this phenomenon and, in general, all forms of intolerance based on ethnic

or religious affiliation. It is also necessary to increase efforts to promote mutual understanding and intercultural dialogue between the majority population and persons belonging to national minorities, by means of a balanced policy that takes full account of the rights of persons belonging to minorities.