



ACFC/OP/III(2019)002

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

Third Opinion on Georgia¹ adopted on 7 March 2019

EXECUTIVE SUMMARY

The legislative framework aimed at promoting minority rights in Georgia has been strengthened in recent years with the adoption of the Law on the Elimination of All Forms of Discrimination in 2014 and of the Law on State language in 2015. Georgia maintains a flexible and open approach with regard to the scope of application of the Framework Convention.

More effective data collection would however allow the authorities to more thoroughly identify the situation of persons belonging to national minorities, in every domain of public life, and should constitute a primary step in further developing inclusive policies towards minorities, consolidating their growing sense of belonging to Georgian society. The education sector deserves also the greatest attention: specific programmes have facilitated access to higher education and constitute examples of good practices; the content of teaching materials has however been strongly criticized as well as the lack of adequate teacher training in pre-school, primary and secondary education.

The authorities continue to vigorously promote the use of Georgian language in all areas of public life. The necessary complementary efforts on promoting the use of minority languages in relations with the administration and teaching and learning in and of those languages are however below the standards required by the Framework Convention.

Religious minorities are confronted with structural discrimination in access to funding and places of worship. Restitution procedures and construction permit procedures in relation to places of worship are not sufficiently transparent and are not based on clear and objective legal criteria, exposing the procedures to arbitrariness. Consultative mechanisms established

¹ This opinion remains subject to editorial revision until its publication.

under the auspices of the Public Defender provide a favourable context for the representatives of the national minorities to express their concerns and interests. They are not however systematically consulted by the authorities.

On the whole, Georgian society manifests much ambivalence with regard to persons belonging to national minorities. On the one side, visible efforts are made to promote diversity by both the State and civil society. On the other side, these efforts coexist alongside with a view of minority issues from a security perspective, in the context of nation-building, and alongside a lack of trust in certain minorities.

Issues for immediate action

- launch a national awareness raising campaign to inform the general public about the anti-discrimination legislation and the relevant legal remedies available, with a particular focus on persons belonging to national minorities; reinforce the mandate of the Public Defender so that it can address obligatory requests for information to private persons and deal with complaints related to administrative proceedings. The time during which the Public Defender is authorised to apply to a court in discrimination cases should also be extended to one year; the burden of proof shift should be reinforced in discrimination cases, so that the Public Defender can contribute to effectively implement the Law on the Elimination of All Forms of Discrimination;
- ensure that persons belonging to national minorities enjoy their right to manifest their religion or belief as well as their right to establish religious institutions, organisations and associations; review the relevant legislative provisions and administrative practice in accordance with the decisions of the Constitutional Court of 3 July 2018; set up transparent and non-discriminatory procedures for building or allocation of places of worship, in close and timely consultation with the representatives of the groups concerned; ensure that the process of restitution of property to religious communities is carried out in a non-discriminatory manner; systematically monitor cases of proselytism in schools;
- adapt the content of teaching materials so they contribute to the creation of a climate of tolerance and mutual understanding in Georgian society and step up efforts aimed at improving the quality of materials for minority and majority language learning; ensure high-level professional development for teachers from pre-schools, primary and secondary schools teaching in minority languages; identify a multilingual education model adapted to the Georgian context and implement it at pre-school, primary and secondary levels; monitor this implementation process to ensure that the model is indeed developed with and endorsed by teachers, school boards, parents and communities, implemented in all schools teaching in minority languages and evaluated in order to observe whether it does produce the expected effects.

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

THIRD OPINION ON GEORGIA

1. The Advisory Committee adopted the present Opinion on Georgia in accordance with Article 26 (1) of the Framework Convention and Rule 23 of Resolution (97) 10 of the Committee of Ministers. The findings are based on information contained in the State Report (hereinafter the State Report), received on 12 July 2017, other written sources and on information obtained by the Advisory Committee from governmental and non-governmental contacts during its visit to Tbilisi, Akhalkalaki, Akhaltsikhe, Marneuli and Tekali, from 12 to 16 November 2019.
2. Section I below contains the Advisory Committee's main findings on key issues pertaining to the implementation of the Framework Convention in Georgia. These findings reflect the more detailed article-by-article findings contained in Section II, which covers those provisions of the Framework Convention on which the Advisory Committee has substantive issues to raise.
3. Both sections make extensive reference to the follow-up given to the findings of the monitoring of the Framework Convention, contained in the Advisory Committee's first and second Opinions on Georgia, adopted on 19 March 2009 and 17 June 2015 respectively, and in the Committee of Ministers' corresponding Resolutions, adopted on 11 June 2014 and 30 May 2018.
4. The concluding remarks, contained in Section III, could serve as the basis for the Committee of Ministers' forthcoming conclusions and recommendations on Georgia.
5. The Advisory Committee looks forward to continuing its dialogue with the authorities of Georgia as well as with representatives of national minorities and others involved in the implementation of the Framework Convention. In order to promote an inclusive and transparent process, the Advisory Committee strongly encourages the authorities to make the present Opinion public upon its receipt as well as to make it available in minority languages.²
6. During the visit, the Georgian authorities expressed their readiness to organise a follow-up activity, in close cooperation with the Advisory Committee, on the implementation of the measures contained in the Opinion and the resolution, which is very much welcomed by the Advisory Committee.

² On 16 April 2009, the Committee of Ministers amended the rules for the publication of the Advisory Committee's Opinion and other monitoring documents, aiming at increasing transparency and at sharing the information on the monitoring findings and conclusions with all the parties involved at an early stage (see Resolution CM/Res(2009)3 amending Resolution (97)10).

I. MAIN FINDINGS

Monitoring process

7. Georgia maintains a generally constructive approach towards the monitoring process under the Framework Convention. The Second Opinion of the Advisory Committee was published shortly after its adoption together with the Government's comments in January 2016. The Committee of Ministers' resolution was adopted in May 2018.

8. The Advisory Committee welcomes the fact that its Second Opinion was translated into Georgian. In order to facilitate the widest possible distribution of its Third Opinion on the implementation of the Framework Convention by the Georgian authorities, including among minority communities themselves, the Advisory Committee encourages the Georgian authorities to translate the Third Opinion into national minority languages.

9. The Advisory Committee notes that the State Report³ does not indicate to what extent representatives of national minorities have been invited to contribute or comment on the State Report before it was submitted to the Council of Europe. The Advisory Committee strongly encourages the Georgian authorities to give the opportunity to representatives of the national minorities to participate in the elaboration of the fourth State Report. The Advisory Committee also notes that the State Report does not report on actions taken with regard to the recommendations listed in the Second Opinion and Resolution.

10. The Georgian authorities co-operated very constructively with the Advisory Committee during the preparations of the visit, during the visit itself, as well as after the visit, to answer follow-up questions of the Advisory Committee. The Advisory Committee visited Tbilisi, Akhalkalaki, Akhaltsikhe, Marneuli and Tekali from 12 to 16 November 2018. The visit, which was organised at the invitation of the Georgian authorities, provided an opportunity to engage in direct dialogue with the parties concerned. The Advisory Committee welcomes in particular co-operation shown during the visit and the availabilities of both local and national authorities. The wealth of input from civil society organisations was not only well focused, but also demonstrated Georgia's vibrant civil society.

11. Owing to the fact that Abkhazia and South Ossetia remain outside the effective control of the Georgian authorities, the Advisory Committee cannot direct any recommendations to them towards a more effective implementation of the Framework Convention in those regions. In its findings, the Advisory Committee reserves nevertheless the possibility to address issues of concern related to persons falling under the protection of the Framework Convention in those regions. It reiterates its call on all parties concerned to take a constructive approach with a view to ensuring the rights of persons belonging to national minorities as an integral part of universally applicable human rights throughout the territory of Georgia.

³ [Third State Report on Georgia](#).

General overview of the implementation of the Framework Convention after three monitoring cycles

12. Georgia has maintained a flexible and open approach with regard to the scope of application of the Framework Convention. Georgian society is historically diverse due to its location at ethnic and religious crossroads. This makes it a society that is both traditionally tolerant and nevertheless subject to the ups and downs of regional geopolitics and the resulting interplay of influences. The authorities continue to vigorously promote the use of Georgian language in all areas of public life. The Law on State Language has been adopted in 2015 with a view to further strengthening policy efforts in this regard. The necessary complementary efforts to promote the use and teaching in and of minority languages are however below the required standards.

13. Georgian society demonstrates much ambivalence. On the one side, visible efforts are made by both the State and civil society to promote diversity, as illustrated by the adoption of the State Strategy for Civic Equality and Integration and its respective Action Plan 2015-2020. On the other side, these efforts coexist with a remaining security perspective of minority issues, in a nation-building context, and a lack of trust in certain minorities. Linguistic and religious minorities' issues are politicised without being objectivised

14. An effort to develop objective disaggregated data would allow the authorities to more thoroughly identify the situation of persons belonging to national minorities, in every domain of public life, and should constitute a primary step in further developing inclusive policies towards minorities, consolidating their growing sense of belonging to the Georgian society. The next population census is planned for 2023 and constitutes a clear opportunity in this regard.

Legislative and institutional framework

15. The 2014 Anti-discrimination Law provides specific protection against discrimination, with a two-folded approach consisting of the possibility for victims to apply before civil courts or to complain before the Public Defender. The latter has, among others, the power to receive and examine complaints, to make non-binding proposals to institutions or to prepare opinions regarding necessary legislative changes. It may also apply to a court, as an interested person to request an administrative measure, or as a third-party. The low volume of equality data available reflects however lacuna in the awareness of the general public, including of persons belonging to national minorities, on the law and on the possibilities it offers to victims of discrimination in terms of redress.

Promoting tolerance and protecting the right to manifest religion

16. Like many European countries, Georgia is not immune from rising intolerance.⁴ It has significantly increased its capacity to combat hate crimes, in particular by the creation of a human rights department within the Ministry of Interior in charge of monitoring specific

⁴ Advisory Committee on the Framework Convention for the Protection of National Minorities, [11th activity report](#) covering the period from 1 June 2016 to 31 May 2018, page 14.

crimes, including those with a racial motivation. It remains to be seen whether these efforts will bring long-term results and will prove genuinely structural.

17. Religious minorities are confronted with structural discrimination in access to funding possibilities and to places of worship. Restitution procedures and construction permit procedures in relation to places of worship are not sufficiently transparent and are not based on clear and objective legal criteria.

Language policy

18. While the transliteration of names seems to be a resolved issue, the question of linguistic rights, in particular in communication with the administration, remains to be addressed. A rebalancing must take place between the legitimate efforts made to promote the use of the Georgian language, indispensable to the promotion of an integrated and inclusive Georgian society and its labour market, and the poor implementation of minority language policies in areas traditionally inhabited by persons belonging to national minorities or where they live in substantial numbers.

Education

19. The education sector deserves the greatest attention, in several aspects. On the one side, specific measures have facilitated access to higher education and constitute examples of best practices in this regard. On the other side, in primary and secondary education, intense criticism focuses on the content of the teaching materials (incomplete and poor quality translations, inadequate content to promote tolerance) as well as on teacher training (absence of a multilingual education model able to produce the expected results). The implementation of school exchanges could serve the purpose of both boosting tolerance and good relations between majority and minority background schools and improving the use of the State language by persons belonging to national minorities.

Participation and consultative mechanisms

20. Figures still suggest underrepresentation of persons belonging to national minorities in the political life, and the prohibition of political parties on a territorial principle remains an obstacle to political participation of persons belonging to national minorities, but positive signs should not be overlooked. Recent elections show changing trends in the participation of persons belonging to national minorities, including an increasing turnover in recent elections that may rouse the interest of political parties. Representation of minorities in the Parliament is satisfactory but remains of concern in some of the cities where persons belonging to national minorities live in substantial numbers.

21. Consultative mechanisms established under the auspices of the Public Defender provide a favourable context for the representatives of the national minorities to express their concerns and interests, but lack systematic and formalised consultation mechanisms by the authorities. At local level, targeted development measures are taken but further efforts are necessary to concretely connect the remote areas to the very heart of Georgian society's economic and social life.

II. ARTICLE-BY-ARTICLE FINDINGS

Article 3 of the Framework Convention

Personal scope of application

Recommendations from the two previous cycles of monitoring

22. In the previous monitoring cycles, the Advisory Committee encouraged the authorities to favour a flexible approach towards the personal scope of application of the Framework Convention.

Present situation

23. The personal scope of application of the Framework Convention in Georgia remains unchanged since the last monitoring cycle. Georgian authorities have not formulated any declaration or reservation upon ratification of the Framework Convention that would have specified its scope of application towards Georgia. The authorities have however clarified on several occasions⁵ that, notwithstanding the above-mentioned Resolution of the Parliament, the scope of application of the Framework Convention is not limited to regions inhabited by substantial numbers of persons belonging to national minorities. The Advisory Committee has not been informed of minorities that would wish to be protected by the provisions of the Framework Convention but are disregarded.

Data collection and census

Recommendations from the two previous cycles of monitoring

24. In the previous monitoring cycles, the Advisory Committee called on the authorities to firmly establish a flexible approach in all relevant data collection exercises, and to ensure that persons belonging to national minorities are made aware of their right to freely self-identify, or to refrain from doing so, including with respect to multiple affiliations.

Present situation

25. The last population census was held in 2014.⁶ The Advisory Committee has already expressed in its last opinion reservations about the way the last population census was conducted,⁷ in particular with regard to the application of the principle of self-identification and the impossibility to refer to multiple affiliations.

26. The authorities informed the Advisory Committee that the next census could possibly be held in 2023, but that no preparatory activities have started yet. The Advisory Committee was also informed that the authorities were so far not planning to amend the census form used

⁵ See, *inter alia*, [Comments of the Government of Georgia on the first opinion](#) of the Advisory Committee on the implementation of the Framework Convention for the protection of National Minorities by Georgia, received on 16 September 2009; See, also, State Strategy for Civic Equality and Integration and its Action Plan for 2015-2020, approved by [decree of the Government of Georgia n° 1740](#), 17 August 2015.

⁶ National Statistics Office of Georgia (Geostat), 2014 General Population Census Main Results General Information, 28 April 2016. Results can be summarised as follows: ethnic groups, in thousands of persons and percentage of the entire population: Georgians 3 224,6 (86,8%), Azeris 233 (6,3%), Armenians 168,1 (4,5%), Russians 26,5 (0,7%), Ossetians 14,4 (0,4%), Yazidis 12,2 (0,3%), Ukrainian 6 (0,2%), Kists 5,7 (0,2%), Greeks 5,5 (0,1%), Assyrians 2,4 (0,1%), Other 14,3 (0,4%), Refusal 0,6 (0,0%), Nationality not specified 0,5 (0,0%); Religion: Orthodox Christians 3097,6 (83,4%), Muslims 398,7 (10,7%), Armenian Apostolic 109,0 (2,9%), Catholics 19,2 (0,5%), Jehovah's Witnesses 12,4 (0,3%), Yazidis 8,6 (0,2%), Protestants 2,5 (0,1%), Judaists 1,4 (0,0%), Other 1,4 (0,0%), None 19,1 (0,5%), Refusals 9,6 (0,3%), Not specified 34,3 (0,9%).

⁷ [Second Advisory Committee Opinion on Georgia](#), adopted on 17 June 2015, para 18.

in 2014 and to use it for the next census. The Advisory Committee reiterates that the right to free self-identification, as protected in Article 3 of the Framework Convention, is of cardinal importance and constitutes the cornerstone of international protection of minorities.⁸ The Advisory Committee notes that the population census form used in 2014 and entitled “personal questionnaire”⁹ does not clearly specify whether the ethnicity, religion and language questions are optional or compulsory. It neither contains relevant explanation on the right to self-identification and the possibility of multiple affiliations. With regard to ethnicity, mixed background is not easily identifiable as a possibility, which could be done for example by inserting a proposed option “Mixed background” to be ticked or by explaining that it is possible to choose “other” and to fill out the relevant text box.¹⁰

27. The Advisory Committee further recalls that “reliable information about the ethnic composition of the population is an essential condition for implementing effective policies and measures to protect minorities, for helping to preserve and assert their identity as well as for addressing their needs. Population statistics should be collected regularly and should be complemented with information gathered through independent qualitative and quantitative research. The Advisory Committee cautions however against relying exclusively on official statistics and figures, as these, for a variety of reasons, may not fully reflect reality. Results should be reassessed periodically, complemented by information gathered through independent research, and should be carefully analysed in consultation with minority representatives, in particular when using statistics as the basis for the applicability of minority rights”.¹¹

28. The Advisory Committee observes that there is a very limited volume of disaggregated data available with regard to persons belonging to ethnic, religious or linguistic minorities, which prevents assessing and monitoring minority policies against such data. The lack of alternative data collection systems between the population censuses also prevents available information from being regularly updated. While the Advisory Committee welcomes private projects collecting their own data or analysing relevant data extracted from the 2014 population census,¹² it considers that such isolated initiatives should complement and analyse population statistics and not alleviate their deficiencies.

⁸ See, *inter alia*, European Court of Human Rights Grand Chamber judgment in the case of Molla Sali v. Greece, no. 20452/14, § 157, 19 December 2018.

⁹ 2014 [Population Census form “Personal questionnaire”](#) (“Form 2”).

¹⁰ “Conference of European Statisticians Recommendation for the 2010 Censuses of Population and Housing”, prepared in cooperation with the Statistical Office of the European Communities (EUROSTAT) and the United Nations Economic Commission for Europe, para. 426, reads as follows: “Respondents should be free to indicate more than one ethnic affiliation or a combination of ethnic affiliation if they wish so”; Conference of European Statisticians Recommendation for the 2020 Censuses of Population and Housing”, United Nations Economic Commission for Europe, New York and Geneva, 2015, page 148-150, para. 707-708.

¹¹ See, [Thematic Commentary No. 4](#), The Framework Convention: a key tool to managing diversity through minority rights. The scope of application of the Framework Convention for the Protection of National Minorities, adopted on 27 May 2016, para. 18.

¹² See, for example, the data collection conducted by the Caucasus Research Resource Center, available at: <https://caucasusbarometer.org/en>; or the [interactive web map of ethnic diversity in Georgia](#) developed by the Centre for the Studies of Ethnicity and Interculturalism.

Recommendation

29. The Advisory Committee calls on the authorities to adapt the census form in accordance with the right to self-identification and to launch an information campaign, well ahead of the next census, targeting persons belonging to national minorities. The campaign should aim at raising their awareness about their interests in participating in the census and about their respective rights, with a view to successfully combining the protection and promotion of minority rights with the collection of reliable information about the ethnic composition of the population.

Article 4 of the Framework Convention**Anti-Discrimination legislative and institutional framework***Recommendations from the two previous cycles of monitoring*

30. In the previous monitoring cycles, the Advisory Committee called on the authorities to promote the effective implementation of the 2014 Anti-discrimination Law by raising awareness of the applicable standards and relevant redress mechanisms amongst society and ensure that the provisions are consistently applied by the government and throughout the public sector.

Present situation

31. The 2014 Law on the Elimination of All Forms of Discrimination constitutes the cornerstone of the Georgian anti-discrimination legislative system. Its article 1 lists in particular religion, national origin and ethnic origin as prohibited grounds of discrimination. The State Report lists other relevant legislation containing anti-discrimination provisions,¹³ including Article 142 of the Criminal Code of Georgia that defines racial discrimination as a criminal offence. Discrimination is also considered as an aggravating factor for conviction according to Article 53 of the same Code, when a given crime is committed on any ground of discrimination.

32. The Law on the Elimination of All Forms of Discrimination provides for a twofold approach: its Article 10 provides for the possibility to apply before civil courts to claim for moral and/or material damages; at the same time, its Article 6 provides for the Public Defender of Georgia to monitor discrimination and equality issues. It has the power to receive and examine complaints of natural and legal persons or groups of persons who consider themselves as victims of discrimination. As follow-up measures, it has the power to make non-binding proposals to institutions, to prepare opinions regarding necessary legislative changes or to try to settle cases by mutual agreement of the parties. It may also apply to a court, as an interested person to request an administrative measure, or as a third-party.¹⁴ From the entry into force of the law on 2 May 2014, until 31 August 2017, the Public Defender has considered more than 400 discrimination-related cases.¹⁵

¹³ State Report, page 8. Including the Law on Personal Data Protection, the Law on General Education, the Law on Higher Education, the Law on Broadcasting, the Law on Culture and the Organic Law on Local Self-Governance Code.

¹⁴ Article 11(2) of the [Law of Georgia on the Elimination of All Forms of Discrimination](#).

¹⁵ Including 113 cases from 1 September 2015 to 31 August 2016 (17% concerning religion and 14% concerning ethnic origin/nationality), and 201 cases from 1 September 2016 to 31 August 2017 (10% concerning religion and 7% concerning ethnic origin/nationality). See Public Defender of Georgia, [Special Report on the fight against discrimination, its prevention, and the situation of equality](#), September 2017, pages 5-9.

33. Since October 2015, the Parliament has initiated a legislative proposal to further strengthen the mandate of the Public Defender. This proposal includes making obligatory the submission of information by private natural and legal persons to the Public Defender, extending from three months to one year the time for the Public Defender to apply to a court in discrimination cases, reinforcing the burden of proof shift, as well as allowing the Public Defender to deal with complaints related to administrative proceedings. This reform is however still pending before the Parliament. The Advisory Committee can only but regret that, despite previous recommendations, the mandate of the Public Defender remains unchanged since the last monitoring cycle.

34. The Advisory Committee has also had the opportunity to visit several Public Defender offices, including in Tbilisi, Marneuli and Akhalkalaki. It welcomes the efforts made to reinforce the field presence of the Public Defender and its dedicated staff members, but regrets that the costs for renting premises in the centre of Tbilisi significantly reduce its resources and may negatively influence its effective work. The Advisory Committee remains also worried that the available human resources may not be sufficient to fulfil the important task of the Public Defender to combat discrimination in particular with regard to persons belonging to national minorities. In Akhalkalaki and Marneuli, where persons belonging to national minorities constitute the majority of the population, the Public Defender's office has not received any complaint of discrimination on ethnic grounds for the three years preceding the Committee's visit. The Advisory Committee is of the opinion that the absence of complaints related to ethnic discrimination does not necessarily reflect the absence of concerns, but may also point to a lack of public knowledge of the legal remedies available and of what constitutes discrimination. The resources currently available in the Public Defender's offices can hardly be considered as sufficient to duly inform the general public, including persons belonging to national minorities, of the possibilities to complain to the Public Defender when discriminated against.

35. From May 2014 to 31 August 2017, the Public Defender of Georgia has also addressed 19 recommendations and general proposals to public agencies concerning possible discrimination, and 16 to private persons.¹⁶ Public agencies had complied with only 4 of those decisions by the time the Public Defender had published its report, while 6 had not been complied with and 9 were implemented. By the same time, private persons had only complied with 3 of the abovementioned decisions. The Advisory Committee is concerned that the Public Defender's decisions are not more systematically implemented by relevant public agencies and private persons and emphasises that rapid follow-up to the findings and recommendations of such a body is crucial to the achievement of full and effective equality for persons belonging to national minorities.

36. In the course of the last monitoring cycle, a number of training activities have been conducted by the Training Centre of Justice in order to raise awareness on the Law of Georgia on the Elimination of All Forms of Discrimination.¹⁷ Official reports mention similar training

¹⁶ Public Defender of Georgia, [Special Report on the fight against discrimination, its prevention, and the situation of equality](#), September 2017, page 30.

¹⁷ 40 target groups including 461 representatives of national minorities have been trained in 2016. Since October 2018, a free training cycle on the Law has been launched in the Training Centre of Justice, including in regions inhabited by national minorities, targeting among others representatives of local municipalities. Through this channel, 145 persons have been trained from January to November 2018. The training as well as training materials have been provided, where relevant, in the Armenian and Azerbaijani languages.

conducted by the Penitentiary and Probation Training Centre.¹⁸ The Advisory Committee welcomes such efforts aimed at reinforcing public officials' knowledge of the abovementioned legislation. A recent study shows however that, when it comes to the general public, only one person in five is aware of the anti-discrimination legislation¹⁹ and that ethnic Armenians and Azerbaijanis are less aware of the anti-discrimination legislation than ethnic Georgians. The same study indicates that only 28% of interviewed persons are likely to address the Public Defender if discriminated against. Relevant TV and social media could serve such purposes (see article 9). The Advisory Committee further underlines that, among persons aware of the law, persons interviewed within the study are more likely to consider that it has been adopted to satisfy the requirements of the Association Agreement with the European Union (75%), than to actually eliminate discrimination (67%). The Advisory Committee considers also that such a negative assumption should not remain unnoticed and that a national campaign could also prove useful to address this lack of confidence in the authorities' commitment to eliminate discrimination.

Recommendations

37. The Advisory Committee calls on the authorities to reinforce the mandate of the Public Defender so that it can address obligatory requests for information to private persons and deal with complaints related to administrative proceedings. The time during which the Public Defender is authorised to apply to a court in discrimination cases should also be extended to one year. The burden of proof shift should be reinforced in discrimination cases, so that the Public Defender can contribute to effectively implement the Law on the Elimination of All Forms of Discrimination.

38. The Advisory Committee calls on the authorities to take the necessary measures to ensure that the cost for renting the premises of the Public Defender's headquarters does not significantly reduce the operational budget of the Public Defender. Resources allocated to its field offices should also be increased to give the Public Defender the means to implement the necessary awareness raising work with regard to the Law on the Elimination of All Forms of Discrimination.

39. The Advisory Committee urges the authorities at all levels to comply without delay with the findings and recommendations of the Public Defender in all cases affecting the rights of persons belonging to national minorities.

Measures to promote full and effective equality and equality data

40. The State Strategy for Civic Equality and Integration and its respective Action Plan 2015-2020 were adopted on 17 August 2015²⁰ and represent an immediate continuation of the National Concept of Tolerance and Civic Integration implemented from 2009 to 2014. Its implementation is coordinated by an "Inter-Agency State Commission", managed by the Office of the State Minister of Georgia for Reconciliation and Civic Equality. Within the framework of the Inter-Agency State Commission, thematic working groups have been established, allowing commission members and civil society representatives to prepare proposals and

¹⁸ Report on the implementation of 2017 Action Plan of the State Strategy for Civic Equality and Integration, Office of the State Minister for Reconciliation and Civic Equality of Georgia, State Inter-Agency Commission, page 19.

¹⁹ Caucasus Research Resource Centres (CRRG-Georgia), "[Hate Crime, hate speech and discrimination in Georgia, Attitudes and Awareness](#)", baseline study of the Council of Europe project "Fight against discrimination, hate crimes and hate speech in Georgia", November 2018, page 41.

²⁰ State Strategy for Civic Equality and Integration, [Decree of the Government of Georgia n° 1740](#), 17 August 2015.

recommendations in the form of action plans. Budgets are allocated by the competent ministries, using their respective resources. Yearly implementation reports are published.²¹ The Advisory Committee welcomes the adoption of the State Strategy and considers it an important step for the protection of persons belonging to national minorities in Georgia. The Strategy recognises diversity and pluralism as markers of development and genuinely assists the authorities in the implementation and coordination of their work towards protection of persons belonging to national minorities, including political and civic participation, access to media and information, and awareness of rights. The Action Plan 2015-2020 contains clear objectives and activities, as well as specifies the respective responsible entities and implementation period. The Advisory Committee notes in particular that, as indicated in the implementation reports, a significant effort has been made towards the training of civil servants regarding anti-discrimination legislation. It regrets however that the Strategy and its Action Plan are not sufficiently evidence-based and, in particular, are not structured around key ethnic data that could serve as starting points, means of comparison and of evaluation of the Strategy. The indicators do not refer to possible targets to reach, which lacuna seems to be due to a structural lack of available data about persons belonging to national minorities. The Advisory Committee notes with concern in particular that the very few figures mentioned in the Strategy date from the 2002 Census.

41. The authorities neither report any recent criminal court conviction decision related to discrimination, nor provide disaggregated statistical data by religion, national origin or ethnic origin on discrimination cases in administrative and civil lawsuits. The Advisory Committee recalls in this regard that up-to-date, accurate and disaggregated data reflecting the situation of persons belonging to national minorities, including numerically smaller ones, is indispensable to devise effective policies aimed at responding to their needs and promoting their full equality. The Recommendations for the 2020 Census of Population and Housing, prepared by the Conference of European Statisticians in cooperation with the Statistical Office of the European Communities (EUROSTAT) and the United Nations Economic Commission for Europe indicate that multi-ethnic countries with long-established minorities and/or recently arrived immigrant populations may wish to collect information on the ethnic composition of the population, on mother tongue, the knowledge and practice of languages as well as on religious communities and denominations.²² The data are relevant for the understanding of the cultural diversity of the population, the position of national minorities in society as well as the definition and monitoring of evidence-based anti-discrimination policies.

42. The Advisory Committee welcomes that the Supreme Court of Georgia is developing statistical data on administrative and civil matters, but remains concerned by the absence of a comprehensive system to collect disaggregated equality data, in particular at central level. The absence of recent and relevant case-law further reinforces the idea that a national awareness raising campaign on anti-discrimination legislation would be necessary, reaching out to persons belonging to national minorities and informing them further about their rights.

²¹ State Strategy for Civic Equality and Integration, [Yearly implementation reports](#).

²² [Conference of European Statisticians Recommendations for the 2020 Censuses of Population and Housing](#), Para 700 to 712.

43. Concerning the repatriation of Meskhetians,²³ the co-rapporteurs of the Monitoring Committee of the Parliamentary Assembly of the Council of Europe on Georgia²⁴ have underlined the efforts made by the authorities in this respect, which constituted one of the main commitments of the Georgian authorities upon accession to the Council of Europe. The Advisory Committee notes however, with the co-rapporteurs, continuous difficulties for the persons concerned to relinquish Azerbaijani citizenship, and therefore to fulfil the requirements of Georgian law that considerably limits dual citizenship. As a result, only a very small number of deported Meskhetians have effectively returned to Georgia.²⁵

44. The authorities have recognised that citizenship status and lack of documentation are key challenges for persons belonging to the Roma, Dom and Lom communities. They are also aware that these issues may constitute discrimination grounds against access to rights for these persons, including access to education for children.²⁶ The Public Service Development Agency, through projects implemented by civil society and funded by the UNHCR, has provided registration and birth certificates to 75 persons belonging to the Roma, Dom and Lom communities since 2011.²⁷ Although projects included a door-to-door information campaign, observers underline that individuals concerned lack interest in being registered.²⁸

Recommendation

45. The Advisory Committee recommends that the authorities adopt proper measures aimed at collecting data on discrimination in all relevant fields and to this end, develop adequate methods of disaggregated data collection while fully respecting the right to free self-identification and in accordance with international standards on personal data protection.

46. The Advisory Committee calls on the authorities to jointly launch a national awareness raising campaign in order to inform the general public about the anti-discrimination legislation and the relevant legal remedies available, but also, in consultation with representative organisations of persons belonging to national minorities, with the specific objective to reach out to persons belonging to national minorities.

47. The Advisory Committee calls on the authorities to pursue their efforts aimed at providing registration and birth certificates to persons belonging to Roma, Lom and Dom communities and to ensure that the lack of identity documents does not constitute grounds for discrimination in accessing their rights, in particular to education.

²³ Persons belonging to the Meskhetian community were expelled from Georgia during World War II. See, [Advisory Committee First Opinion on Georgia](#), adopted on 19 March 2009, Para 83-85.

²⁴ Parliamentary Assembly of the Council of Europe, Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), [Honouring of obligations and commitments by Georgia](#), Information note by the co-rapporteurs on their fact-finding visit to Tbilisi (28 to 20 March 2017), AS/Mon(2017)6, 16 June 2017.

²⁵ Committee on the Elimination of Racial Discrimination, Concluding observations on the combined sixth to eighth periodic reports of Georgia (Addendum), Information received from Georgia on follow-up to the concluding observations, received on 14 December 2017, Para. 53.

²⁶ CAHROM (2017)18 Thematic report from 6 November 2017 on the situation of Eastern Roma groups (Roma, Lom/Bosha, Dom/Garachi, Abdal) and policy responses to their needs (following the thematic visit held in Tbilisi Georgia, on 21-23 June 2017), page 27.

²⁷ Ministry of Justice of Georgia, Information on national implementation of FCNM, 2018, page 6.

²⁸ Thematic report of CAHROM, CAHROM thematic visit on the situation of eastern Roma groups (Roma, Lom/Bosha, Dom/Garashi, Abdal) and policy responses to their needs, CAHROM(2017)18, 6 November 2017, page 15.

48. The Advisory Committee also calls on the authorities to pursue their efforts to facilitate the voluntary return of deported Meskhetians.

Article 5 of the Framework Convention

Preservation and promotion of all national minority identities and cultures

Recommendations from the two previous cycles of monitoring

49. In the previous monitoring cycles, the Advisory Committee called on the authorities to enhance support for activities at central and local levels aimed at the preservation and promotion of all national minority identities and cultures, including through longer-term financial assistance and the provision of suitable premises where possible. It also called on the authorities to closely involve representatives in relevant allocation procedures.

Present situation

50. In July 2016, the “Cultural Strategy 2025” elaborated by the Ministry of Culture and Monument Protection of Georgia was adopted. Its objective 2.2 aims at the active engagement of all members of society, “including vulnerable groups, youth and minorities” in cultural life and their “access to cultural infrastructure and resources”. This heading includes a number of sub-objectives such as access to facilities to reinvigorate minorities’ contribution to cultural life, support to the development of specially adapted media programmes in order to contribute to the integration of minority groups, support to cultural initiatives of minorities – coupled with a reinforcement of their knowledge of the Georgian language (see Articles 10, 12 and 14) – and preservation and restoration of tangible and intangible cultural heritage of minority groups living in Georgia. The elaboration process of the Cultural Strategy 2025 included a consultation of national minority communities and organisations protecting their cultural rights.

51. Strategic Goal 4 of the State Strategy for Civic Equality and Integration (see Articles 4 and 6) relates also to “preserving ethnic minorities’ culture and promoting a tolerant environment”.²⁹ The required actions are less specific than those of the Cultural Strategy 2025 but nevertheless cover support to cultural activities, protection of tangible and non-tangible heritage as well as intercultural dialogue (see also Article 6).³⁰ Activities held in the framework of the implementation of the Strategy also contribute to disseminating information on the available funding.

52. A number of museums and theatres promoting minority cultures are directly funded by the State.³¹ Other public initiatives contribute to the aim of the promotion of minority cultures, including activities organised in the framework of the day of cultural diversity (on 21st May) or the music festival “Under One Sky” organised since 2008. The authorities further report that, since 2015, the website of the Ministry of Education, Science, Culture and Sport contains necessary information on available funding for cultural projects. Since 2016, it also includes information on competitive grant procedures aimed at promoting intercultural dialogue,

²⁹ The three interim goals of Strategic Goal 4 are 1) Reflecting the role and importance of ethnic minorities in the development and implementation of cultural policies, 2) Protection and popularisation of ethnic minorities’ cultural heritage and 3) Encouraging cultural diversity.

³⁰ State Report, Annex 4.

³¹ State Report, page 11: David Baazov Museum of History of Georgian Jews and Georgian-Jewish Relations, Mirza-Fatali Akhundov Azerbaijan Cultural Museum, Smirnoff Museum, Petros Adamyani Armenian State Drama Theater, Heydar Aliyev Tbilisi Azerbaijani State Drama Theatre and Aleksander Griboedov Russian State Drama Theatre, for a total funding having exceeded 680,000 Euros in 2016.

integration of national minorities in cultural processes and the promotion of their cultural traditions and innovations. On average, this source of funding covers 8 to 12 projects per year and supports various types of activities such as theatre performances, concerts, exhibitions, celebrations or publication of albums.

53. The Advisory Committee praises the inclusion of objectives specific to persons belonging to national minorities in the Cultural Strategy 2025 as well as the broad range of sectors it covers, from access to media to cultural heritage and access to culture. It commends also the consultation process that led to the elaboration of the Cultural Strategy 2025. The Advisory Committee welcomes the fact that the State Strategy for Civic Equality and Integration takes into account aspects related to the promotion and preservation of minority cultures. The annual reports on the implementation of the yearly action plans further detail the projects implemented, emphasising the authorities' commitments in this regard. The Advisory Committee observes, however, that the reporting by the authorities is almost exclusively focused on inputs (see also Articles 4, 6, 14), such as the number of projects implemented and their respective funding, but omits to evaluate the impact of such projects in the middle to long-term. The Advisory Committee therefore regrets that the indicators listed in the Strategy are exclusively input-based and that the Action Plan seems to lack performance indicators genuinely mirroring how the projects succeed in fulfilling the objectives listed in the Strategy.

54. The Advisory Committee welcomes the efforts made by the authorities in establishing transparent grant procedures and in ensuring the dissemination of information on State funding. It notes however that competitive procedures, as underlined by the authorities in the information they provided to the Advisory Committee, often result in granting funds to organisations being already experienced in project design and implementation. The Advisory Committee regrets however that certain minority cultures, in particular those of numerically smaller minorities, are not represented or promoted by experienced organisations. Positive measures such as non-competitive procedures or the inclusion of selection criteria specifically designed to facilitate access to funds by less experienced organisations could offer solutions to these problems.

Recommendations

55. The Advisory Committee calls on the authorities to implement, monitor and evaluate, on a regular basis the Cultural Strategy 2025 and the State Strategy on Civic Equality and Integration, with regard to the preservation and promotion of all national minority identities and cultures, not only in terms of inputs but also in terms of impact in the middle to long-term, in consultation with persons belonging to national minorities.

56. The Advisory Committee calls on the authorities to ensure that support procedures and policies for cultural activities, at central or local level, are designed in such a way as to enable access to funds to less experienced organisations and aim thus at promoting all national minority identities and cultures, including numerically smaller groups or communities.

Article 6 of the Framework Convention

Tolerance and intercultural dialogue

Recommendations from the two previous cycles of monitoring

57. In the previous monitoring cycles, the Advisory Committee encouraged the authorities to pursue their efforts of adopting a renewed strategy for civic equality and integration in close consultation with national minorities and to ensure that the recommendations made in the context of the assessment of previous measures are effectively taken into account. The Advisory Committee further invited the authorities at the highest level to promulgate assurances to minority populations in public discourse that their presence as integral members of society is welcome and valued and that the goal of Georgia's integration efforts is broad social cohesion with respect for linguistic, cultural and religious diversity

Present situation

58. During the last monitoring cycle, Georgia has equipped itself with a Civic Equality and Integration State Strategy, as well as an Action Plan for 2015-2020 (See Article 4). It is intended to improve engagement of ethnic minorities in civic and political life, but also to address socio-economic processes, education issues as well as preservation of culture and identity. The Action Plan is closely monitored by all authorities concerned, its implementation is coordinated by the State Inter-Agency Commission, and annual reports on its implementation are issued by the Office of the State Minister of Georgia for Reconciliation and Civic Equality.³² These developments underline the authorities' commitment to promote diversity "as a valuable asset for Georgia and a resource for the democratic and stable development of the country".³³ The Advisory Committee praises in particular the translation of these documents into the Armenian and Azerbaijani languages, as well as the inclusion of objectives and activities in the Strategy and its Action Plan related to "small and vulnerable" national minorities,³⁴ gender-mainstreaming and combating violence against women,³⁵ as well as to the promotion of a tolerant environment.³⁶ The Advisory Committee regrets however that the component related to the promotion of tolerance (Strategic Goal 4) is developed only around library policies and cultural programmes, and does not cover the education sector (see Articles 12 and 14), as well as interreligious dialogue (see Article 8).

59. According to a recent study,³⁷ 36% of Georgian nationals consider ethnic diversity as negative and 46% consider so religious diversity. Reasons given by interviewees are that diversity "threatens culture and traditions" (47%), "weakens national unity" (17%) and "exposes the country to security issues" (13%). 43% of persons interviewed for the purpose of this study think that persons belonging to national minorities have no right to protest in public, 39% believe these persons have no right to be elected, 36% believe they do not have the right to participate in decision-making on important state issues and 25% think that they do not have the right to vote. The Advisory Committee recalls that openness and tolerance in society

³² State Strategy for Civic Equality and Integration, [Yearly implementation reports](#).

³³ State Strategy for Civic Equality and Integration, [Decree of the Government of Georgia n° 1740](#), 17 August 2015, Annex I, Part I.

³⁴ State Strategy for Civic Equality and Integration, Strategic Goal 1 – Intermediate Goal 1.1.

³⁵ State Strategy for Civic Equality and Integration, Strategic Goal 1 – Intermediate Goal 1.2.

³⁶ State Strategy for Civic Equality and Integration, Strategic Goal 4 – Intermediate Goal 4.3.

³⁷ Caucasus Research Resource Centres (CRRG-Georgia), ["Hate Crime, hate speech and discrimination in Georgia. Attitudes and Awareness"](#), baseline study of the Council of Europe project "Fight against discrimination, hate crimes and hate speech in Georgia", November 2018.

can only be genuine if they are not limited to certain predefined groups but embrace everyone. It is essential that all segments of society, majorities and minorities alike, are addressed in order for integration strategies to effectively facilitate the formation of societal structures where diversity and respect for difference are acknowledged and encouraged as normal, through recognition, mutual accommodation and active engagement on all sides.³⁸ The Advisory Committee underlines that the above figures should require further analysis on the part of the authorities as they reflect the need to further involve the majority in the implementation of the State Strategy for Civic Equality and Integration.

Recommendation

60. The Advisory Committee calls on the authorities to implement, monitor and evaluate on a regular basis the State Strategy on Civic Equality and Integration, with regard to tolerance and intercultural dialogue, not only in terms of inputs but also in terms of impact on middle or long-term outcomes. Such implementation monitoring and evaluation should be done in consultation with persons belonging to national minorities, but also with the active engagement of the majority. The Advisory Committee calls on the authorities to promote tolerance and intercultural dialogue in the education sector as well as interreligious dialogue within the society as a whole.

Protection against hate crime and hate speech

Recommendations from the two previous cycles of monitoring

61. In the previous monitoring cycles, the Advisory Committee called on the authorities to strengthen the response capacity within law enforcement to investigate and sanction adequately and promptly hate crime and hate speech against minorities as well as to publicly and promptly condemn all expressions of intolerance and disrespect towards minorities.

Present situation

62. The Chief Prosecutor's Office published in 2016 new guidelines for prosecutors investigating or providing prosecutorial guidance on hate-motivated crimes. These guidelines, containing best practices and standards, are aimed at improving identification of hate crimes. The Chief Prosecutor's Office conducts monitoring on the way prosecutors follow those guidelines. Hate crimes data started being collected since 2016. Figures from the Chief Prosecutor's Office report respectively 42 and 86 hate crimes recorded by the police in 2016 and 2017 respectively. It led to 42 and 44 prosecution respectively, and 15 and 11 sentences.³⁹ Figures for 2018 show a significant increase, with 147 crimes recorded between January and October (included) and 97 persons prosecuted.

63. A human rights department was also established in January 2018 in the Ministry of Internal Affairs with the task to monitor investigations of hate crime incidents, identify gaps and propose measures for improvement. The authorities also report that the Ministry of Internal Affairs has trained 44 hate crimes investigators, in cooperation with the Public Defender's Office, in 2016.⁴⁰ Similar training took place in 2018. The Advisory Committee

³⁸ See, [Thematic Commentary No. 4](#), The Framework Convention: a key tool to managing diversity through minority rights. The scope of application of the Framework Convention for the Protection of National Minorities, adopted on 27 May 2016, para. 54.

³⁹ ODIHR, [ODIHR Hate Crime reporting on Georgia, 2017](#). The police number indicates investigations into incidents where the alleged bias motivation was detected, launched in the year concerned. The prosecution figure indicates the number of prosecuted individuals. Some of the prosecutions were initiative before the year concerned.

⁴⁰ State Report, page 14.

considers that the measures taken constitute important steps in setting up an operational framework to combat hate crime and welcomes the work of the Ministry of Internal Affairs in this regard. It remains to be seen whether they will be sufficient to increase in the long term the capacity of the authorities to investigate such crimes. Based on the figures at its disposal, the Advisory Committee observes an increasing number of crimes investigated, which is to be praised, but it remains the case that a small number of prosecutions lead to conviction.⁴¹

64. Among the cases investigated, some refer to very serious crimes, such as the killing in the streets of Tbilisi, in September 2018, of a human rights defender with national minority background.⁴² The prosecution authorities informed the Advisory Committee of the conduct of the investigation and confirmed that the suspected killer had manifested signs of ethnic intolerance and xenophobia when committing this act. The Advisory Committee notes that no court's judgment has been taken yet in this case and will continue to monitor it with great attention.

65. As regards hate speech, it is not criminalised *per se* under Georgian criminal law. Investigations are only launched when a specific threat of violence is involved, on the basis of Article 239-1 of the Criminal Code prohibiting public incitement to acts of violence. The Advisory Committee notes that, despite ECRI recommendations,⁴³ the Georgian authorities have not established a monitoring system for hate speech. Civil society actors nevertheless monitor and report a significant number of discriminatory comments in the media, with an important share accounting for xenophobia and islamophobia.⁴⁴ The Advisory Committee notes that national minorities are among those targeted. Observing that some of those cases of hate speech originate from politicians, the Advisory Committee reiterates that the impact of such statements in the public debate is critical, given their particular influence as public figures and the immediate amplification of their actions and speeches in the media.

66. As was also raised about discrimination cases, the Advisory Committee notes that the lack of comprehensive data makes it difficult to define trends on hate speech. Representatives of the concerned minority groups share however the common impression that hate speech is on the rise, in particular through online media. The Advisory Committee regrets that hate speech is neither systematically monitored by the authorities⁴⁵ nor expressly prohibited. In light of the number of cases of hate speech reported by the civil society, it also regrets that there appears to be no comprehensive response mechanism to ensure that all hate speech cases, including in political discourse, are immediately and unambiguously condemned and countered at the highest level, in the spirit of Recommendation (97) 20 of the Committee of Ministers to the Member States on "Hate Speech". The Advisory Committee takes nevertheless note of the reservations expressed by some of its interlocutors that further criminalisation of

⁴¹ Figures provided by the Chief Prosecutor's Office to the Council of Europe Secretariat on 22 November 2018.

⁴² See, *inter alia*, Democracy and Freedom Watch, [Groups say 25-year old's fatal stabbing in Tbilisi was motivated by xenophobia](#), 12 October 2018.

⁴³ [ECRI Report on Georgia](#), fourth monitoring cycle, adopted on 8 December 2015, published on 1 March 2016, Para. 24.

⁴⁴ Media Development Foundation, [Hate Speech](#), 31 May 2018.

⁴⁵ The Georgian National Communication Commission has its own Public Defender of consumers' rights. According to its internal rules, it can be addressed by individuals *inter alia* in cases where a broadcast content provokes hatred, intolerance or hate speech. However the Annual Report of the Commission does not mention any case or complaint related to hate speech, nor refers to any kind of monitoring of hate speech instances. The Georgian Charter of Journalistic Ethics, created in 2009, is the only self-regulatory body in Georgia. Focusing on development of journalistic norms and professional standards, it serves also as a complaint mechanism against journalists having joined it (it counted 320 members at the end of 2017).

hate-speech could constitute a threat to the freedom of expression in the absence of proper judiciary controls. It recalls however that, according to long-standing case-law of the European Court of Human Rights, there can be no doubt that hate speech does not enjoy protection from Article 10 of the European Convention on Human Rights, guaranteeing freedom of expression⁴⁶. The Advisory Committee recalls in this regard that hate speech in public discourse generates a climate conducive to hate crimes. It notes that, on 14 July 2017, intolerant protests so called “Georgian March” were organised by far-right groups in Tbilisi, contesting the presence of migrants. These ultranationalist groups made intensive use of social media to spread hate speech based on xenophobia and homophobia. After the protest, which led to the ransacking of a restaurant owned by persons of non-Georgian background, 12 persons were prosecuted on the grounds of racial discrimination. The case is being investigated.

Recommendations

67. The Advisory Committee calls on the authorities to condemn systematically and in a timely manner all instances of intolerance, in particular in public discourse, to ensure that the existing legislation related to racial discrimination is effectively implemented, and to provide the necessary training to law enforcement and judicial authorities to ensure that its implementation is in line with the case-law of the European Court of Human Rights with regard to freedom of expression.

68. The Advisory Committee encourages the authorities to pursue their efforts in efficiently combating hate crimes by systematically investigating in a timely manner all crimes committed with discriminatory intent. It also calls on the authorities to step up their efforts to more efficiently prosecute and sanction such crimes.

Effective investigation of police abuse

Recommendations from the two previous cycles of monitoring

69. In the previous monitoring cycles, the Advisory Committee called on the authorities to facilitate the effective investigation of all cases of alleged police abuse through the establishment of an independent body specialised on the subject, accessible to persons belonging to national minorities.

Present situation

70. On 21 July 2018, the Law on the State Inspector Services was adopted by the Parliament of Georgia. It provides for the creation of a body in charge of investigating specific crimes committed by law enforcement officers and civil servants, including abuse of official power (Article 332-3 b. and c. of the Criminal Code of Georgia) and exceeding official powers (Article 333-3 b. and c. of the same Code). The Advisory Committee welcomes this new legislative development, including the guarantees of independence described in the Law. It regrets also that the entry into force of the law has since been postponed from 1 January to 1 July 2019.

71. The Advisory Committee notes however that, before the adoption of the abovementioned law, cases of police abuse, including concerning persons belonging to national minorities, have been reported by civil society actors. Investigations related to such cases, or a lack thereof, were criticized and led to judicial actions. The Advisory Committee has

⁴⁶ ECtHR, *Jersild v. Denmark*, 23 September 1994, Series A No. 298, para. 35; see also, *Pavel Ivanov v. Russia*, 35222/04, decision of 20 February 2007; *M'Bala M'Bala v. France*, 25239/13, decision of 20 October 2015, para. 40.

for example been made aware of the case of a man belonging to a national minority living in the village of Duisi in Pankisi Gorge,⁴⁷ who died on 10 January 2018 after having been wounded during an anti-terrorist operation held on 26 December 2017. Family members and legal representatives contest in particular the difficulties in having access to the documents related to the investigation about his death and about the delays of transmission of evidences from the State Security Services to the Investigation Unit of the Prosecutor's Office. On 26 December 2018, the Public Defender of Georgia called again on the Prosecutor's Office to provide his family with information about the investigation.⁴⁸

Recommendation

72. The Advisory Committee calls on the authorities to ensure that investigations of all cases of alleged abuse by law enforcement units concerning persons belonging to national minorities are conducted in an effective and independent manner and respect the applicable European standards. It calls on the authorities to effectively set up the institution of the State Inspector in the delays foreseen by the law on the State Inspector Services itself and to ensure it has the relevant resources to fulfil its mandate.

Article 7 of the Framework Convention

Prohibition of political parties at regional level

Recommendations from the two previous cycles of monitoring

73. In the previous monitoring cycles, the Advisory Committee called on the authorities to take resolute measures to remove any unjustified limitations to the creation of political parties representing the legitimate interests of national minorities.

Present situation

74. Article 23.3 of the Constitution of Georgia prohibits the establishment of a political party on a territorial principle. In their comments on the first Opinion of the Advisory Committee, the authorities had clarified that a similar restriction, previously based on the sole Article 6 of the Organic Law of Georgia on political association of citizens, did not present any obstacles to the establishment of a political party aiming at advancing "legitimate interests of persons belonging to national minorities",⁴⁹ without however clarifying whether this interpretation would apply to a party representing a given minority in a given region. The Advisory Committee observes that the Venice Commission has on several occasions expressed a negative opinion about the drafting of Article 23.3 of the Constitution of Georgia and has recommended other less intrusive measures being considered.⁵⁰ Acknowledging the legitimate interest and the utmost importance in preserving the unity of the State, and recalling that the Preamble of the Framework Convention reiterates unambiguously the principles of territorial

⁴⁷ See, *inter alia*, Human Rights Education and Monitoring Center (EMC), [Under the Security Gaze: History, Religion and Politics in the Pankisi Gorge](#), November 2018.

⁴⁸ First Channel (1tv.ge), [Public Defender calls on Prosecutor's Office to provide Machalikashvili's family with information about investigation](#), 26 December 2018.

⁴⁹ Comments of the Government of Georgia on the First Opinion of the Advisory Committee on the implementation of the Framework Convention for the protection of National Minorities by Georgia, received on 16 September 2009, [GVT/COM/I\(2009\)002](#).

⁵⁰ European Commission for Democracy through Law (Venice Commission), Opinion [876/2017](#) on the draft revised constitution as adopted by the Parliament of Georgia at the second reading on 23 June 2017, CDL-AD(2017)023, Para. 40-41; Opinion [918/2018](#) on the draft constitution amendments adopted on 15 December 2017 at the second reading by the Parliament of Georgia, CDL-AD(2018)005, Para. 40.

integrity and national sovereignty of States, the Advisory Committee considers nevertheless that such general prohibition could have a chilling effect on the establishment of political parties advancing the interests of persons belonging to national minorities, ensuring thus their participation in public affairs (see also Article 15) and does not consider it proportionate to the aim pursued. Restrictions on political freedoms such as freedom of association must be at once prescribed by law and necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.⁵¹ In this last regard, proportionality of the restriction requires in particular that it is assessed on a case-by-case basis through established procedures, including effective legal remedies, rather than precluded on principle.

Recommendation

75. The Advisory Committee recommends that the authorities consider reviewing Article 23.3 of the Constitution of Georgia and to consider less intrusive measures to the right of persons belonging to national minorities to establish political parties advancing their citizens' rights.

Article 8 of the Framework Convention

Right to manifest one's religion and establish institutions, organisations and associations

Recommendations from the two previous cycles of monitoring

76. In the previous monitoring cycles, the Advisory Committee called on the authorities to make every effort to combat indoctrination of students within the public education system, as well as religious tensions and all forms of intolerance based on religious affiliation, which particularly affect persons belonging to national minorities.

Present situation

77. The provisions of the Constitution of Georgia guaranteeing freedom of belief, religion and conscience⁵² have been amended in 2017 and 2018.⁵³ In the final version of the text, grounds for legitimate restriction of the freedom of belief, religion and conscience have been reduced, in accordance with the relevant opinions of the Venice Commission.⁵⁴ Grounds such as "national security", "preventing crime" and "administering justice", which are not "legitimate aims" of restriction within the meaning of Article 9 of the European Convention of Human Rights, have been deleted from the final text. Representatives of religious minorities' organisations consider this final version of Article 16 as progress in terms of the protection of their rights to manifest their religion. The Advisory Committee welcomes the adoption of this new provision of the constitution.

⁵¹ See Article 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms, ETS n°5.

⁵² Article 16 of the Constitution of Georgia reads as follows:

16.1 Everyone has freedom of belief, religion and conscience.

16.2 These rights may be restricted only in accordance with law for ensuring public safety, or for protecting health or the rights of others, insofar as is necessary in a democratic society.

16.3 No one shall be persecuted because of his/her belief, religion or conscience, or be coerced into expressing his/her opinion thereon.

⁵³ By Constitutional laws n° 1324 (of 13 October 2017) and n° 2071 (of 23 March 2018).

⁵⁴ European Commission for Democracy through Law (Venice Commission), Opinion [876/2017](#) on the draft revised constitution as adopted by the Parliament of Georgia at the second reading on 23 June 2017, CDL-AD(2017)023, Para. 40-41; Opinion [918/2018](#) on the draft constitution amendments adopted on 15 December 2017 at the second reading by the Parliament of Georgia, CDL-AD(2018)005, Para. 40.

78. On other aspects, the situation is however more worrying and the Advisory Committee notes with particular concerns that the rights of persons belonging to religious minorities remain structurally precarious. The relationship between the State and the Georgian Orthodox Church is based on a unique “Constitutional Agreement” referred to in Article 8 of the constitution. In their 2001 comments, the Venice Commission had in particular questioned the validity of the tax privileges accorded to the Georgian Orthodox Church.⁵⁵

79. In this context, the Constitutional Court of Georgia delivered on 3 July 2018 two important judgments following complaints introduced by religious minority organisations. The Constitutional Court examined, in one case, the tax exemption for the construction, restoration and painting of churches and cathedrals commissioned by the Patriarchate of Georgia, and in another case, the free-of-charge transfer of State-owned property to the Georgian Orthodox Church. The complainants contested that the Tax Code of Georgia and the Law of Georgia on State Property were unduly leaving them beyond the reach of such privileges. The Constitutional Court has concluded that such privileges were discriminatory and should be abolished or extended to “other comparably equal religious organisations” by 31 December 2018, after which the contested provisions would be considered invalidated. By that date, no new provisions had been adopted and these provisions therefore have been repealed.

80. In line with the Constitutional Court of Georgia and the European Court of Human Rights, the Advisory Committee considers that “a State which has granted certain religious communities with a special status entailing specific privileges must not only comply with its duty of neutrality and impartiality but must also ensure that other religious groups have a fair opportunity to apply for this status and that the criteria established are applied in a non-discriminatory manner”.⁵⁶ The Advisory Committee asked both the authorities and the complainant organisations about any possible follow-up to these judgments. Representatives of the complainant organisations informed the Advisory Committee that a first meeting was organized in December 2018 by the Parliament’s Legal Affairs Committee. A number of religious minority organisations informed the Advisory Committee that they were not invited to attend, nor were the complainants concerned by the two judgments or their representatives. The Advisory Committee notes however that in early 2019 the Human Rights Committee of the Parliament initiated a working group on freedom of religion, with the aim of reflecting on a possible law on religion and religious organisations. The Advisory Committee welcomes the latter initiative and invites the authorities to proceed in a transparent manner to a thorough and genuine consultation process leading to the full execution of the Constitutional Court judgments.

81. During the present monitoring cycle, media⁵⁷ and civil society organisations⁵⁸ also reported a number of cases of religious intolerance and proselytism in public schools, including

⁵⁵ European Commission for Democracy through Law (Venice Commission), [160/2001](#), Brief on the Draft Constitutional Agreement between the State of Georgia and the Apostle Autocephalous Orthodox Church of Georgia.

⁵⁶ See, *inter alia*, European Court of Human Rights, *Molla Sali v. Greece*, no. [20452/14](#), Para. 155, 19 December 2018; *Izzettin Doğan and Others*, no. [62649/10](#), Para. 164, 26 April 2016. See also, *mutatis mutandis*, *Religionsgemeinschaft der Zeugen Jehovas and Others*, [40825/98](#), Para. 92, 31 July 2008; *Savez crkava “Riječ života” and Others*, [7798/08](#), Para. 85, 9 December 2010; *Ásatrúarfélagid*, [22897/08](#), Para. 34, 18 September 2012; and *The Church of Jesus Christ of Latter-Day Saints v. the United Kingdom*, no. [7552/09](#), Para. 34, 4 March 2014.

⁵⁷ See, *inter alia*, BBC, [Georgia: Orthodoxy in the classroom](#), Natalia Antelava, May 2015.

⁵⁸ Human Rights Education and Monitoring Center (EMC), [Freedom of religion, Critique of discriminatory and non-secular state policy](#), 2016.

physical retaliation against students, the participation of teachers and students in intolerant protests against Jehovah's witnesses, the selling of religious items by teachers within the school premises or cases concerning forced collective prayers. The Advisory Committee expresses its deep concern with regard to those cases and recalls that it has already raised such concerns in its second opinion.⁵⁹ A more dedicated disciplinary policy is necessary on the part of the Ministry of Education in order to ensure that the provisions of the Law on General Education of Georgia are concrete and effective.⁶⁰

82. Concerning the restitution of places of worship confiscated during the Soviet period, interlocutors of the Advisory Committee share the view that the process is not progressing and that the identification of the historical owners of such buildings remains an unresolved issue. Until it is resolved, there is a risk that the buildings concerned will deteriorate further. The Advisory Committee has been informed of a number of cases where religious minority organisations encounter difficulties in obtaining the restitution of places of worship⁶¹ and of situations where such places are eventually registered as the property of the Georgian Orthodox Church.⁶² Certain entities representing minority religions can obtain only a temporary right to use some of these places, but cannot be transferred property rights over them because of reported flaws in the Law on State Property.⁶³ The Council of Religions under the auspices of the Public Defender of Georgia (hereafter "the Council of Religions", see also Article 15) has called for the establishment of a governmental commission in order to develop a plan for the restitution process, and proposed its participation together with academic experts, and non-governmental organizations.⁶⁴ Minority religious organisations also experience delays and refusals when requesting construction permits. The Council of Religions recommended criteria for such permits to be clarified in order to make such technical processes more transparent. With regard to restitution issues but also to construction permits, the Advisory Committee echoes the calls from representatives of minority religions for more transparent processes, based on objective legal criteria.

83. In this context, the Advisory Committee was informed by representatives of the religious minorities that they express a low level of trust towards the State Agency on Religious

⁵⁹ Second Opinion on Georgia, Para. 62.

⁶⁰ Article 13 of the Law on General Education of Georgia entitled "neutrality and non-discrimination" reads as follows: 1. Politicisation of the study process in general education institutions shall be inadmissible. 2. The use of the study process in general education institutions for the purpose of religious indoctrination, proselytism or forced assimilation shall be inadmissible. This rule shall not restrict the celebration of public holidays and historical dates in public schools, as well as the organisation of such events that are intended to establish national and universal values. 3. Any discrimination on admission to a school shall be inadmissible. This rule shall not exclude the possibility of holding a competitive selection in general education institutions that carry out military, specialised arts and sports trainings, as well as in schools with other status. Special educational needs of a person must be considered in a competitive selection. 4. It shall be inadmissible for schools to use their powers and resources in a way to directly or indirectly discriminate against pupils, parents, teachers or their associations. 5. Any differentiating act or an exception shall be considered as discrimination, except for the cases where such act or exception is fair and reasonable and ensures free development of and equal opportunities for each person and group. 6. Schools shall observe and facilitate tolerance and mutual respect among pupils, parents and teachers irrespective of their social, ethnic, religious, linguistic and world-view affiliations. 7. Schools shall protect individual and collective rights of minorities to freely use their native language, preserve and manifest their cultural affiliation on the basis of equality.

⁶¹ The mosque of Mokhe village in Adigeni Municipality is the subject of a [complaint to the UN Human Rights Committee](#).

⁶² Human Rights Education and Monitoring Center (EMC), [EMC and TDI call on the State to immediately put a stop to the illegal acts of damaging the Tandoyants Historical Armenian Church](#), 30 March 2018.

⁶³ Human Rights Education and Monitoring Center (EMC), Protection of Religious Minorities, [Report on the monitoring of the implementation of human rights strategies and action plans for 2016-2017](#), 3 October 2018.

⁶⁴ [Recommendations developed by the Council of Religions](#), 2017.

Affairs. They express higher confidence in the work done by the Council of Religions. The possibility, within the Council of Religions, to engage horizontally with 33 religious organisations in an independent framework was praised and should be valued accordingly.

84. The civil society organisations with whom the Advisory Committee met also expressed their concerns with regard to the situation of the Muslim communities⁶⁵ and were worried about increasing State control over the institutions representing them. The Public Defender has called for an investigation into the alleged forced resignation of the former Sheikh of Muslims of All Georgia in 2014, unsuccessfully.⁶⁶ The arrest of another Sheikh, in circumstances not yet clarified, continued to increase these concerns.⁶⁷ The Public Defender of Georgia also established in April 2017 direct discrimination on religious grounds in relation to Muslim persons crossing the border with Turkey, including repeated cases of confiscation of copies of the Koran, and unjustified and long-term delays in passing border controls. The Advisory Committee observes also that the situation of Muslim communities in the Pankisi Gorge (see also Article 6) is the subject of increasing criticism by civil society.⁶⁸ In light of the above, the Advisory Committee regrets that, while the State Strategy on Human Rights 2014-2020 contains a chapter aimed at guaranteeing the right to freedom of religion and belief,⁶⁹ the State Strategy for Civic Equality and Integration does not address the situation of persons belonging to minority religions, despite the fact that those persons face specific and systemic problems.

Recommendations

85. The Advisory Committee calls on the authorities to ensure that persons belonging to national minorities enjoy their right to manifest their religion or belief as well as their right to establish religious institutions, organisations and associations.

86. The Advisory Committee calls upon the authorities to review the relevant legislative provisions and administrative practice in accordance with the decisions of the Constitutional Court of 3 July 2018.

87. The Advisory Committee invites the authorities to take further steps to ensure that persons belonging to national minorities and practising minority religions have adequate access to places of worship. Decisions on the building or allocation of new places of worship should be taken in a transparent and non-discriminatory manner, in close consultation with representatives of the groups concerned.

⁶⁵ While 44% of Orthodox Christians believe that religious minorities have no problems, 17% of Muslims believe so: Caucasus Research Resource Centres (CRRG-Georgia), [“Hate Crime, hate speech and discrimination in Georgia, Attitudes and Awareness”](#), baseline study of the Council of Europe project “Fight against discrimination, hate crimes and hate speech in Georgia”, November 2018.

⁶⁶ Public Defender of Georgia, Annual report 2017, The situation of Human Rights and Freedoms in Georgia, Section 11.2.

⁶⁷ [Religious and Human Rights Organizations Respond to Sheikh Mirtaq Asadov's Detention in Azerbaijan](#), 15 November 2018.

⁶⁸ Human Rights Education and Monitoring Center (EMC), [Under the Security Gaze: History, Religion and Politics in the Pankisi Gorge](#), November 2018.

⁶⁹ Chapter 11 of the Strategy reads as follows: Objective: Guarantee the freedom of religion and belief of every person, as well as their abilities to express such beliefs. Tasks: a) Implement effective measures to prevent discrimination on grounds of faith and religious belief, as well as the consequences resulting from such discriminatory actions; b) Ensure the unrestricted operation of the activities of all religious associations; c) Implement effective measures to prevent and conduct meaningful investigations into all crimes committed on the basis of religious hatred and intolerance.

88. The Advisory Committee calls on the authorities to ensure that the process of restitution of property to religious communities is carried out in a non-discriminatory manner and to ensure that persons belonging to national minorities, and practising minority religions, are not at a disadvantage.

89. The Advisory Committee urges the authorities to systematically monitor cases of proselytism in schools and to ensure that students belonging to national minorities benefit from the provisions of Article 13 of the Law on General Education.

Article 9 of the Framework Convention

Access to printed and broadcast media in minority languages and representation of national minorities in the media

Recommendations from the two previous cycles of monitoring

90. In the previous monitoring cycles, the Advisory Committee called for increased efforts to promote an attractive and diverse media environment with ample opportunities for persons belonging to national minorities, including the numerically smaller ones, to access quality media in their languages and ensure that national minorities are adequately represented and portrayed in mainstream media.

Present situation

91. Article 16 of the Law on Broadcasting⁷⁰ provides for a number of obligations on the Public Service Broadcaster to reflect the ethnic, cultural, linguistic, religious, age and gender diversity of the Georgian society in its programs as well as to broadcast a relevant proportion of programs prepared by minority groups, in their language. In terms of public policy, the State Strategy on Civic Equality and Integration contains three main objectives related to access to media and information.⁷¹

92. In practice, the monitoring period has been subject to various changes in the public media landscape. The news programme “Moambe”,⁷² broadcast from 2013 to 2016 on the second channel of the Public Broadcaster in five languages (Abkhaz, Ossetian, Armenian, Azerbaijani and Russian), in an 11 to 12-minute format, has been discontinued. As the Advisory Committee already underlined in its second Opinion on Georgia, this programme was mostly a translated version of the national news programme, which was not a sufficient level of coverage. The Advisory Committee recalls in this regard that a pluralist and open media environment must not only contain options of programming in minority languages but must also ensure that the concerns and views of persons belonging to national minorities on daily issues such as education, the labour market or national reform endeavours are adequately mainstreamed into the public media generally, so that a common media space between majority and minority populations is created which is used by all members of society. It points

⁷⁰ Article 16 of the Law on Broadcasting provides that “the Public Service Broadcaster shall: (...) h) reflect ethnic, cultural, linguistic, religious, age and gender diversity in programs; (...) k) support the development of state originality, values and cultural diversity; l) broadcast a relevant proportion of programs prepared by minority groups, in their language.”

⁷¹ Objective 1.5.1 “Providing access to broadcasting programs and electronic/printed media in minority languages; Objective 1.5.2 “Providing coverage of ethnic minorities-related topics and participation in ethnic minority languages in broadcasting programs; and Objective 1.5.3 “Supporting the establishment of tolerance and cultural pluralism in the media”.

⁷² State Report, Page 18.

out in this context that the promotion of bilingualism in the media, such as through subtitling of programmes in Georgian, may indeed promote the creation of such a common media while also providing a learning tool to promote proficiency in the official language amongst minority communities.

93. The Public Broadcaster has launched in 2018 a large-scale programme aimed at developing a special web-platform available 24/7 in 7 languages (Georgian Abkhaz, Ossetian, Armenia, Azerbaijan, Russian and English), including news every hour. The Public Broadcaster has also set up a group called “Diverse Georgia” through which it consults and exchanges with representatives of national minorities. This cooperation led to the signature in November 2018 of a cooperation agreement between the Public Broadcaster and the representatives of national minorities through the Council of National Minorities. This agreement includes a media strategy and action plan aimed at reinforcing the level of information provided in minority languages, increase the level of awareness of the majority on minority issues, further reflect the diversity of national minorities in the programmes as well as improve the qualification, awareness and education of journalists on minority-related issues.

94. The Advisory Committee commends such developments that make use of the opportunities offered by digitalisation and the Internet to potentially remedy important strategic issues with regard to access to information in minority languages. It remains to monitor this project in the long-term and to ensure that the largest part of the population speaking minority languages has effective access to the programmes produced, as consulting the platform requires Internet access. The Advisory Committee welcomes the strategy aimed at reflecting the diversity of minority cultures in all the Public Broadcaster’s programmes provided the risk of reducing this mainstreaming policy to a single folkloric approach of minority cultures is identified and constantly monitored, in consultation with representatives of national minorities. Mainstreaming information on minority cultures in programmes targeting the entire population is not exclusive but complementary to a policy providing different programmes focusing specifically on matters of interest for persons belonging to national minorities, in minority languages, but also supporting the production of content by persons belonging to national minorities.⁷³ The Advisory Committee also notes the clear focus of the Public Broadcaster’s strategy to provide information in minority languages, mostly through the Internet. The Advisory Committee considers that in such cases, Internet access should constitute a primary objective, in particular in remote areas, in order to provide a satisfactory level of access to information to all persons belonging to national minorities, but also to ensure that access to information does not constitute an obstacle to integration for persons belonging to these minorities, in particular young persons living in those regions. In this regard, the Advisory Committee was informed of technical difficulties in certain regions in having satisfactory and uninterrupted access to the Internet.

95. The Advisory Committee also wishes to point out that television remains an important source of information in Georgia and should not be totally overlooked;⁷⁴ the

⁷³ OSCE High Commissioner on National Minorities, [The Tallinn Guidelines on National Minorities and the Media in the Digital Age](#), Guideline 12, February 2019.

⁷⁴ Figures vary from one study to another: from 88% of interviewees (in 2009) presenting TV as their first source of information for receiving news about Georgia (Caucasus Research Resource Centers, Georgia Comprehensive Media Research: Summary findings, August-November 2009) to 64% of interviewees pointing at TV (in 2018) as the

absence of programmes in minority languages on national public channels remains therefore a cause for concern. The Advisory Committee observes also that a number of privately owned radio and TV channels, as well as online media, operate on a local basis, although the it is not in a position to assess whether they constitute a positive development in terms of access to information⁷⁵ in regions inhabited by persons belonging to national minorities.

96. With regard to the printed press, the authorities report that they support newspapers in minority languages through the “National Minority Culture Promotion Program” of the Ministry of Culture. In 2016, it supported in particular 52 editions of the newspaper “Vrastan” (in the Armenian language) and 53 editions of the newspaper “Gurjistan” (in the Azerbaijani language).⁷⁶ The Advisory Committee notes however that the assistance remains limited to these numerically larger minorities. It welcomes in this regard the dialogue initiated in 2018 between the authorities and representatives of the newspapers ““Vrastan”, “Vecherni”, “Samkhretis Karibche”, “Vecherni Tbilisi”, “Kaukasische Post” and of the “Aliq Media” news portal, with the support of the Council of Europe and the European Union, in order to discuss further cooperation among them and possibilities for increased state funding for newspapers in minority languages.

Recommendations

97. The Advisory Committee calls on the Georgia Public Broadcaster to pursue the efforts undertaken to provide persons belonging to national minorities with access to programmes and information in minority languages and to continuously monitor and assess this project on a regular basis.

98. The Advisory Committee calls on the authorities, given the digital strategy implemented by the Public Broadcaster, to ensure that persons belonging to national minorities have access to the Internet, in particular in remote areas, and to report publicly on Internet coverage in Georgia.

99. The Advisory Committee encourages the authorities to extend their support to newspapers and other media outlets in languages spoken by numerically smaller minorities.

Article 10 of the Framework Convention

Use of minority languages with administrative authorities

Recommendations from the two previous cycles of monitoring

100. In the previous monitoring cycles, the Advisory Committee called on the authorities to pursue the adoption of a legislative framework for the use of languages and promote the effective implementation of established guarantees for the use of minority languages throughout the country, while creating an environment that is conducive also for the use of languages spoken by numerically smaller minorities.

Present situation

source of information they would prefer to receive additional information about the Public Defender. In this last study, Internet and social media were preferred by 31% of the interviewees.

⁷⁵ See, for example, Sandra Veloy Mateu, The Armenian minority in the Samtskhe-Javakheti region of Georgia, Civic integration and its Barrier, Policy paper, GRASS, 2016, Pages 23-24.

⁷⁶ State Report, Page 19.

101. The Law on State Language was adopted in July 2015. Its governing principle is the establishment of Georgian as the State language. Articles 9.3 and 11 nevertheless provide for legal exceptions “in municipalities where persons belonging to national minorities compactly reside”.⁷⁷ Article 24 of the same law states also that, “if necessary”, texts of public information such as “statements, notifications, titles, posters, signboards, placards, advertisements or other visual information intended to inform the public (...) may be indicated in a non-official language (...) and in those municipalities where representatives of national minorities compactly reside, appropriate information may be indicated in the language of those national minorities as well”. The State Report confirms that, in addition to Georgian and international languages, information in municipalities where national minorities “compactly reside” is published, where relevant, in Armenian and Azerbaijani. The Advisory Committee regrets in this regard that the Law on State Language was translated in English and Russian languages, but not in the other minority languages.

102. The Advisory Committee welcomes that the Law on State Language has clarified the legislative framework for the use of languages including with regard to areas where persons belonging to national minorities “compactly reside”. The Advisory Committee recalls in this regard that “as the rights of Article 10(2) are triggered by one of the two main criteria (“in substantial numbers” or “in areas inhabited (...) traditionally”), they apply also to areas where only a relatively small percentage of persons belonging to national minorities reside, provided that persons belonging to national minorities traditionally inhabit the areas concerned, that there is a request by these persons, and that such a request corresponds to a real need. States should carefully study the demand and assess existing needs in the geographical areas where there is substantial or traditional settlement of persons belonging to minorities, taking also into account the specific local situation. “Need” in this context does not imply the inability of persons belonging to national minorities to speak the official language and their consequent dependence on services in their minority language. A threat to the functionality of the minority language as a communication tool in a given region is sufficient to constitute a “need” within the meaning of Article 10(2) of the Framework Convention. Protective arrangements must be in place to maintain services in the minority language, even if it is not widely used, as it may otherwise disappear from the public sphere. In addition, states should not take decisions on the existence of sufficient demand based on discussions held in bodies where persons belonging to national minorities are not effectively represented”.⁷⁸

103. With regard to the practice, interlocutors of the Advisory Committee have mentioned that, even in municipalities where municipal councils are composed of a large majority of persons using a minority language, the minutes of the municipal councils’ meetings are only

⁷⁷ Article 9.3 of the Law on State Language reads as follows (translation sent by the Office of the State Minister of Georgia for Reconciliation and Civic Equality to the Secretariat of the Advisory Committee): “The State shall provide communication of persons belonging to national minorities, with public authorities and local self-government bodies in the language of that national minority with the help of an interpreter/translator, in the municipality where the representatives of national minorities compactly reside.”

Article 11 of the law reads as follows: “In the municipalities where representatives of national minorities compactly reside, public authorities and self-government bodies are entitled to establish procedures that are different from procedures provided for by the General Administrative Code of Georgia, in accordance with which, if necessary, translation of applications and complaints submitted to the local self-government bodies by persons belonging to the national minorities, and translations of the responses thereto may be required in the language of those national minorities”.

⁷⁸ ACFC Thematic Commentary n° 3, The language rights of persons belonging to national minorities under the Framework Convention, adopted on 24 May 2012, Para 56.

produced in Georgian language, even though the discussions themselves took place essentially in the minority language.

104. The Advisory Committee was also informed that persons complaining to the Public Defender local offices could indeed make a complaint in their minority language, provided that the staff member taking their complaint was able to speak that language. In principle, offices of the Public Defender are staffed with speakers of minority languages but given the small size of the offices, the availability of those staff members is not always ensured (see also article 4 on the resources allocated to the Public Defender). Moreover, the answer to this complaint is produced in the Georgian language and translated only orally to the person concerned, on the basis of a translation made by the office itself. The Advisory Committee has also noted that the translation skills of staff members, who are extremely dedicated, are not formally certified.

105. To the Advisory Committee's questions about the possibility of persons to receive healthcare in hospitals and to be informed about their treatment by persons speaking their minority languages, in areas where national minorities live in substantial numbers, the authorities answered that in practice, given the proportion of persons with a minority background in these areas, one would always find a member of hospital staff speaking the minority language. The Advisory Committee is nevertheless concerned that rights guaranteed by the Law on State Language itself, like in the three examples mentioned in this paragraph, are not more formally applied and guaranteed. It regrets that their implementation is conditioned to the goodwill of the civil servants concerned and that effective access to linguistic rights depends too much on *ad hoc* circumstances.

106. Regarding rights guaranteed by Article 10(3), the Ministry of Internal Affairs has set up information documents for persons deprived of their liberty, for administrative purposes or criminal offences. These documents are notified to the persons concerned and are available in Arabic Armenian, Azerbaijani, English, French, Georgian, German, Russian and Turkish. According to representatives of the Ministry of Internal Affairs, they are handed over to any detainee, in particular foreigners and persons belonging to national minorities. Article 38 of the Criminal Procedure Code of Georgia also states that "the accused may, during the conduct of an interrogation and other investigative actions, use the services of an interpreter at the expense of the States, if he/she has no or insufficient command of the language of a criminal trial, or has such physical disability that does not allow him/her to communicate without an interpreter". Article 13 of the Law on State Language further provides for the right to be assigned an interpreter to any person who does not speak the official language. The Advisory Committee welcomes these measures, in accordance with the letter and spirit of Article 10(3). The Advisory Committee has repeatedly noted that, "while adequate legal provisions may exist, this right is often not systematically implemented because of inadequate financial resources and/or a lack of qualified interpreters. This is particularly the case for the languages of numerically smaller minorities. The Advisory Committee has consistently encouraged the authorities to take all necessary measures to ensure that minority languages rights in the judicial system are fully safeguarded, including as regards investigative and pre-trial stages. In addition, the Advisory Committee has welcomed the guarantee of the right to interpretation into a minority language not only in the context of criminal proceedings, but also in that of civil

and administrative proceedings.”⁷⁹ According to researchers, interpretation/translation services in the framework of the functioning of the judicial system are outsourced in Tbilisi as well as in Georgia’s regions. While international languages such as English, German, French or Russian are interpreted or translated through competent companies and do not raise particular difficulties, the provision of interpretation/translation services into Armenian and Azerbaijani languages is problematic. Such interpretations/translations are usually not delivered by accredited companies but by ad hoc interpreters/translators who are not remunerated, and include speakers found locally, for example at markets, without any safeguard or guarantee on the quality of the services provided, including on the minimum understanding by the person concerned of the legal procedure.⁸⁰ The Advisory Committee considers that this situation breaches the minimum standard provided for in Article 10(3) of the Framework Convention.

107. The Advisory Committee further notes that the European Charter for Regional or Minority Languages remains due for ratification in line with Georgia’s pre-accession commitments to the Council of Europe. When acceding to the Council of Europe in 1999, Georgia committed itself to ratifying this instrument by 27 April 2000. In 2013, the authorities requested expert support to prepare the ratification. Legal advice has been provided and awareness-raising activities have been carried out during the last years.⁸¹ The Advisory Committee regrets that Georgia has however still neither signed nor ratified it.

Recommendations

108. The Advisory Committee calls on the authorities, while promoting the use of the State language, to effectively guarantee the right to use minority languages orally and in writing for persons belonging to national minorities, in relations between those persons and the administrative or judicial authorities, in areas traditionally inhabited by those persons or where they live in substantial numbers. It also calls on the authorities to envisage translating relevant pieces of legislation into minority languages.

109. The Advisory Committee encourages the Ministry of Interior to extend the translation of information documents on rights of detained persons to other minority languages spoken by numerically smaller groups in Georgia as well as to extend possibilities to use the services of an interpreter to speakers of those languages. The Advisory Committee therefore strongly encourages the Georgian authorities to extend translation of such documents to other minority languages, namely Abkhaz, Assyrian, Avar, Chechen, Kurmanji, Ossetian and Udi.

110. The Advisory Committee invites the authorities to comply with their pre-accession commitment and to ratify the European Charter for Regional or Minority Languages.

⁷⁹ ACFC Thematic Commentary n° 3, The language rights of persons belonging to national minorities under the Framework Convention, adopted on 24 May 2012, Para 59.

⁸⁰ Open Society Georgia Foundation/Open Society Justice Initiative, [The procedural rights of suspects in Georgia](#), Pages 138-139, July 2016.

⁸¹ See Biennial Report by the Secretary General of the Council of Europe to the Parliamentary Assembly on the application of the European Charter for Regional or Minority Languages, Doc. 13993, 2 March 2016, p. 6-7. In Georgia, the following languages comply with the definition of “regional or minority languages” according to the ECRML: Abkhaz, Armenian, Assyrian, Avar, Azerbaijani, Estonian, German, Greek, Kist/Chechen, Kurmanji/Kurdish, Ossetian, Russian, Udi, Ukrainian and (Urum) Turkish.

Article 11 of the Framework Convention

Personal names, topographical indications and other signs and inscriptions

Recommendations from the two previous cycles of monitoring

111. In the previous monitoring cycles, the Advisory Committee called for the introduction of guarantees allowing Georgia to meet its obligations under Article 11(3) of the Framework Convention. It also encouraged the authorities to ensure correct transcription of names when issuing birth certificates, possibly by considering the issuance of bilingual documents, and to address the restoration of historical names.

Present situation

112. Article 22 of the Law on State Language regulates the writing of first names, patronymics and surnames. Its paragraph 2 states that the transliteration from Georgian into other languages is to be done in accordance with transliteration procedures established under the norms of appropriate literary language. The State Report considers that the application of this provision follows “a liberal approach”.⁸² Surnames of Georgian citizens are defined and officially registered according to the will of the citizens themselves. The Advisory Committee is not aware of any specific complaint reported in this regard.

113. Article 25(1) of Law on State Language states that “inscriptions intended for public information shall be presented in the official language”. 25(2) provides that “procedures for presenting inscriptions in non-official languages (including on the languages of national minorities), intended for public information, shall be developed and approved by the Department of Official Language”. Other sub-provisions of Article 25 clarify the rules applicable to multilingual inscriptions: the text written in the non-official language shall always be placed on the right or below the State language, and its font size shall not be larger than the State language.

114. The Advisory Committee recalls that “Article 11(3) of the Framework Convention states provision must be made for topographical indications to be displayed also in minority languages in areas traditionally inhabited by ‘substantial numbers of persons belonging to a national minority’. The conditions are stricter, thus, than those contained in Article 10(2), as settlement must be both traditional and in substantial numbers. Transparent procedures, entailing clear criteria of what constitutes ‘substantial’ must be established by States Parties, such as for instance in the form of thresholds. While states have a margin of appreciation in determining the threshold, this must not be exercised in such a manner as to constitute a disproportionate obstacle with respect to certain minority languages.”⁸³ The Advisory Committee has observed that in Akhalkalaki, street names were displayed in the Armenian language. However, topographical signs, such as the sign at the entrance of the municipality, are not displayed in Armenian, and neither are important historical touristic sites in the area. Local authorities argued that regulation related to the size of signs prevents the addition of an extra language besides Georgian and English. The Advisory Committee recalls that “Article 11(3) of the Framework Convention requires that the display of signs in minority languages be given a clear and unambiguous legislative basis. It is not sufficient if this practice is granted as a matter of fact but unsupported by law. Road traffic safety or the use of different alphabets

⁸² State Report, Pages 21-22.

⁸³ ACFC Thematic Commentary n° 3, The language rights of persons belonging to national minorities under the Framework Convention, adopted on 24 May 2012, Para 65.

may not be used as arguments against multilingual signposts. On the contrary, multilingual signposts should be promoted as it conveys the message that a given territory is shared in harmony by various population groups.”⁸⁴ In areas of Kvemo Kartli and Kakheti where Azerbaijani population lives in larger number, the Advisory Committee was not able to confirm that the provisions of Article 11(3) of the Framework Convention were indeed respected.

Recommendation

115. The Advisory Committee calls on the authorities to step up their efforts in areas traditionally inhabited by substantial numbers of persons belonging to national minorities to display topographical signs also in minority languages.

Article 12 of the Framework Convention

Teaching materials, teachers training, intercultural education and equal opportunities for access to education

Recommendations from the two previous cycles of monitoring

116. In the previous monitoring cycles, the Advisory Committee underlined the need for good quality textbooks and effective professional training system for teaching in and of minority languages. The Advisory Committee also called on the authorities to identify effective means to ensure that minority language teachers are given access to the certification process and to enhanced opportunities for their professional development. The Advisory Committee also underlined the lack of resources invested in tuition provided in minority languages, with the consequence that the pupils concerned are not on an equal footing with other pupils. Against this background, the legislative changes to the national university entrance examination procedure and the establishment of a quota system for speakers of minority languages were welcomed.

Present situation

117. According to the 2005 Law on General Education, general education in Georgia comprises 12 years of schooling. The language of instruction is in principle Georgian (Article 4.1)⁸⁵ but students whose first language is not Georgian have the right to acquire a complete general education in their native language (Article 4.3). In this last case, teaching of Georgian as a second language is compulsory.

118. Before 2007, teaching and learning materials were mostly provided by neighbouring states, with the consequence that they were not in accordance with the national curriculum. Since then, materials in Georgian language were translated and disseminated but their quality was and still is largely contested (see Article 14). Notwithstanding mistakes spotted, researchers criticise the ethnic and religious centrism of the textbooks translated from Georgian.⁸⁶ They also consider that the materials’ content rarely presents minority groups as an integral part of the national community and are not adapted to the promotion of diversity. The Advisory Committee underlines the need for school materials to play an active role in the

⁸⁴ ACFC Thematic Commentary n° 3, The language rights of persons belonging to national minorities under the Framework Convention, adopted on 24 May 2012, Para 67.

⁸⁵ Georgian and Abkhaz languages in the Autonomous Republic of Abkhazia.

⁸⁶ See Tolerance and Diversity Institute, [Religious and Ethnic Diversity in School Textbooks of Georgian Literature, History and Civic Education \(9th-12th Grades\)](#); Shalva Tabatadze, [Textbooks for Minority Schools in Georgia: Problems and Challenges](#), International Journal of Multilingual Education #5, 2015, Page 6-8.

integration and inclusion of students with a national minority background, and notes in this regard that the Council of Religions has formulated several proposals in order to improve the compliance of existing materials with standards of intercultural education.⁸⁷ Inclusive materials contribute to the promotion of equal access to education.

119. Teachers with whom the Advisory Committee met also expressed interest in exchange programmes. The authorities report exchange programs implemented from 2013 to 2015 between schools teaching in the Armenian and Azerbaijani languages and schools teaching in Georgian language. Summer schools were also organised in 2016 for teachers and students from schools teaching in minority languages. The Advisory Committee is of the opinion that such programs contribute to intercultural dialogue and, if they were intensified, could play a significant role in promoting diversity in Georgian society. The principle position of the Advisory Committee has always been that all aspects and elements of education should ensure “a climate of tolerance and dialogue”, and that such dialogue is indeed only possible if persons belonging to different groups meet, in particular when they live in the same region. The Advisory Committee welcomes also in the regard that, to promote positive images of national minorities, awareness-raising materials have been elaborated in cooperation with national minorities, promoting their cultural contribution to Georgia. This material⁸⁸ has been widely distributed among public institutions and all secondary schools in Georgia to be used as a complementary teaching material. While welcoming this publication and its wide dissemination, the Advisory Committee regrets that it has remained a one-off initiative.

120. As regards access to higher education, the “1+4 Program”⁸⁹ continues to be implemented with success, although some aspects could be further improved.⁹⁰ Since the 2015/2016 academic year, the aptitude test has been available in Ossetian language and since 2016/2017 in the Abkhaz language, which is welcomed by the Advisory Committee. The number of students passing the test in Azerbaijani and Armenian languages has increased almost continuously, from 589 in 2012, to 1231 in 2018. The “1+4” Program functions also in the Academy of the Ministry of Internal Affairs and in the National Defence Academy.

Recommendations

121. The Advisory Committee urges the authorities to adapt the content of teaching materials so they contribute to the creation of a climate of tolerance and understanding in Georgian society. It also calls on the authorities to develop long-term exchange programmes between schools teaching in minority languages and schools teaching in the Georgian language throughout the country.

122. The Advisory Committee encourages the authorities to maintain their efforts to promote equal opportunities for access to higher education for persons belonging to national minorities.

⁸⁷ [Recommendations developed by the Council of Religions under the auspices of the Public Defender of Georgia, 2017.](#)

⁸⁸ [Minority languages in Georgia, expression of cultural wealth](#), Council of Europe, 2016.

⁸⁹ The “1 + 4” Program is in place since 2010 and allows students with a minority background to take an aptitude test in their native language, instead of 4 exams that persons with Georgian as a first language are required to take. If they pass the aptitude test, they are expected to undergo a one-year intensive Georgian language programme in order to attain the required level of command of the Georgian language, before being able to enrol in a Bachelor’s degree.

⁹⁰ Center for Training and Consultancy, Assessment of the educational program for preparation in Georgian language, 2018, available at: <http://www.ctc.org.ge/en/publications>.

Article 14 of the Framework Convention

Teaching in and of minority and majority languages

Recommendations from the two previous cycles of monitoring

123. In the previous monitoring cycles, the Advisory Committee noted that the authorities were making efforts to improve the command of Georgian language by persons belonging to national minorities, but stressed that these efforts did not constitute an appropriate response to existing needs and that the policy of promoting the Georgian language should not be pursued to the detriment of the linguistic rights of persons belonging to national minorities. The Advisory Committee also called on the authorities to elaborate adequate standards of minority language learning in close consultation with national minority representatives and relevant schools and to develop a comprehensive strategy for the promotion of modern language learning methodologies in minority language schools, including with respect to adequate education materials and teacher training opportunities, aiming at increasing proficiency in first languages and in Georgian.

Present situation

124. Article 37(3) of the Law on State Language, adopted in 2015, foresees the introduction of a bilingual teaching programme for linguistic minorities. In November 2018, the Georgian authorities reported 211 public schools teaching all subjects of the national curriculum in minority languages⁹¹ and Georgian as a second language (82 in Azerbaijani, 118 in Armenian and 11 in Russian). Moreover, 76 schools teach the subjects of the national curriculum in Georgian language but propose to students belonging to national minorities the subject “national minority language and literature”. With a view to encouraging parents to enrol their children in schools teaching minority languages, promotional materials have been published in 13 minority languages.⁹² The Ministry of Education has in parallel reinitiated the teaching of languages spoken by numerically smaller minorities (two-hour long classes, per week) such as Assyrian, Avar, Chechen, Ossetian and Udi.⁹³ Abkhaz language courses are also in place since 2017 in two schools.⁹⁴ The grades at which the languages are taught vary however from one school to another.⁹⁵ In vocational education, minority languages are not taught. The Advisory Committee welcomes the measures taken to reinvigorate the teaching in and of languages spoken by numerically smaller minorities. It observes however that the national curriculum specifies only the subject while the program itself is to be defined by each language teacher, as well as the learning resources. It further notes that representatives of numerically smaller minority groups consider the number of teaching hours in those languages too short to maintain a proper command of the language. The Advisory Committee also regrets that, due to the reported lack of appropriate teachers, teaching of Kurd language was finally not introduced.

⁹¹ Schools where the first language of instruction is not Georgian.

⁹² Publications, developed in cooperation with the Council of Europe and the European Union, are available in Abkhaz, Armenian, Assyrian, Avar, Azerbaijani, Chechen, German, Greek, Kurdish, Ossetian, Russian, Udi and Ukrainian. Each publication outlines the advantages of bilingualism for the student’s development and practical information to enrol students in schools teaching the given language. Several information meetings have been organised for parents, pupils, schools and local authorities.

⁹³ Decree n° 1255 of the Minister of Education and Science of 20 November 2015, as well as Decree n° 702 of 13 September 2016.

⁹⁴ One in Batumi and the other one in village Pheria, Municipality of Khelvachauri

⁹⁵ Office of the State Minister of Georgia for Reconciliation and Civic Equality, Report on the implementation of State Strategy for Civic Equality and Integration and 2016 Action Plan, February 2017, page 7.

125. With regard to teaching in and of the State language, the poor command of Georgian by persons belonging to national minorities, in particular those living in traditional areas or in areas where they are in substantial numbers, is a recognized problem (see Article 12) and resolving it constitutes the primary objective of the authorities in this domain. Its consequences for the participation of persons belonging to national minorities in the political, economic and social life of the country are serious and constitute a strategic matter for Georgia (see Article 15). Critical steps have therefore been taken, in particular through the “1+4” program, which is commonly perceived as successful and on which there is a consensus that it should be continued.⁹⁶ The Advisory Committee has however observed, echoing specialists of the education field, that the measures taken to improve the command of State language have not yet managed to resolve the issue in a structural manner in particular at pre-school, primary and secondary levels.⁹⁷ Specialists point out two major factors determining the lack of effectiveness of the education policy: firstly the policy itself, including the type of multilingual education programme chosen, the curriculum and the textbooks (see Article 12), and secondly the resources allocated to it, including the teachers, their certification and professional development perspectives, but also the communities and families’ involvement. The Advisory Committee also regrets in this regard that the State Strategy on Civic Equality and Integration does not further insist on promoting the State Language together with the minority languages.

126. As to the teaching materials, from 2012 to 2019, according to the Ministry’s decision, only 70% of each textbook was actually translated and the remaining 30% of each book remained in Georgian language, for the purpose of promoting bilingual education. This decision was highly criticized (see Article 12) and perceived as having counter-effects on the objective pursued. Several recognised specialists considered that this decision was taken without scientific and methodological basis and produced only negative effects,⁹⁸ creating increased difficulties for teachers who do not have a sufficient command of the Georgian language, which is still often the case in areas inhabited by minority groups. As a consequence, teachers either were not in a position to teach part of the curriculum, or had to complete translations by their own means. A new curriculum was put in place for the academic year 2018-2019 for grades 1 to 6, but translation of new textbooks is only planned to be completed by June 2019. The Advisory Committee was however informed that their translation will no longer follow the 70%/30% approach. While welcoming the recent change in the translation policy, the Advisory Committee considers it problematic that materials are only translated one year after the new curriculum has been introduced. Representatives of the Ossetian communities also informed the Advisory Committee of the difficulties they experience in having access to textbooks for Ossetian language learning. Representatives of the Avar communities also raised difficulties in receiving books from Dagestan (Russia), possibly because of border controls (See articles 12

⁹⁶ See, *inter alia*, Center for Training and Consultancy, Assessment of the educational program for preparation in Georgian language, 2018, available at: <http://www.ctc.org.ge/en/publications>.

⁹⁷ Shalva Tabatadze, Textbooks for Minority Schools in Georgia: Problems and Challenges, International Journal of Multilingual Education #5, 2015, Pages , available at:

http://www.multilinguaeducation.org/storage/uploads/articles_contents/160720125744.pdf; Manana Rusieshvili, Izabella Petrishvili and Kakha Gabunia, Multilingual strategies for integration of ethnic minorities into society (Using the example of Georgia), International Journal of Multilingual Educationn, #8, 2016, Pages 60-69, available at: http://multilinguaeducation.org/storage/uploads/articles_contents/161013123539.pdf.

⁹⁸ Shalva Tabatadze, Textbooks for Minority Schools in Georgia: Problems and Challenges, International Journal of Multilingual Education #5, 2015, Page 8, available at:

http://www.multilinguaeducation.org/storage/uploads/articles_contents/160720125744.pdf; Manana Rusieshvili, Izabella Petrishvili and Kakha Gabunia, Multilingual strategies for integration of ethnic minorities into society (Using the example of Georgia), International Journal of Multilingual Educationn, #8, 2016, Page 63, available at: http://multilinguaeducation.org/storage/uploads/articles_contents/161013123539.pdf.

and 17). The Advisory Committee therefore recalls that the availability of textbooks in minority languages constitutes a prerequisite for increasing interest among students and parents in minority languages learning and an indispensable element for providing quality education.⁹⁹ The Advisory Committee welcomes that the Georgian authorities have participated, in the framework of a project funded and implemented by international organisations,¹⁰⁰ in the elaboration of kindergarten textbooks in 13 minority languages. It notes however that for the teaching of languages spoken by numerically smaller minorities, in primary or secondary education, no textbooks are produced and that, in practice, teachers of such languages use different materials that they have individually identified or elaborated. The Advisory Committee therefore regrets that the lack of textbook remains as a significant obstacle to teaching in and of languages spoken by numerically smaller minorities.

127. About teachers' professional development, measures are taken in particular through the implementation of the "Professional Development and Career Advancement Support Program for School Teachers from the regions densely populated with ethnic minorities". The authorities are fully aware that the lack of command of the State language by teachers in regions inhabited by substantial numbers of persons belonging to national minorities and have made this issue a priority.¹⁰¹ The Advisory Committee supports these necessary efforts that reflect the wishes expressed by teachers it met during its visit. They all showed great interest in professional development programmes, in particular on multilingual education. More structural issues, such as the low proportion of young teachers in the geographical areas concerned, would however require stepping up incentive measures. The Advisory Committee considers it also particularly important to measure the level of awareness of teachers and school directors about multilingual programmes and, accordingly, to increase awareness-raising efforts in this area.

128. The Advisory Committee has on several occasions underlined that the lack of knowledge of the official language(s) can limit possibilities of equal participation in society, of access to higher education and access to employment. Therefore, minority language schools must provide an adequate development of the speakers' proficiency in the official language(s). However, care must be taken in this regard to prevent a lowering of general education standards as a result of policies that suddenly introduce more official language learning. This can be a risk when minority language teachers are asked to teach in the official language, without proper support and preparation. Education reforms that aim at promoting increased official language teaching in minority language schools must be implemented gradually and flexibly to allow for adaptation to the needs of the teachers and the students concerned. In this context, it is important to monitor regularly the quality of education provided throughout the reform process. This should be carried out in close cooperation with representatives of school boards, teachers and parents' organisation.¹⁰² In this regard, the Advisory Committee observes and regrets that most of the measures taken by the Georgian authorities are reported in the

⁹⁹ ACFC Thematic Commentary n° 3, The language rights of persons belonging to national minorities under the Framework Convention, adopted on 24 May 2012, Para 77.

¹⁰⁰ These [textbooks](#), elaborated in the framework of the joint Council of Europe and European Union programme entitled "Civic Integration of National Minorities in Georgia and the European Charter for regional or minority languages" are available in Abkhaz, Armenian, Assyrian, Avar, Azerbaijani, Chechen, German, Greek, Kurdish, Ossetian, Russian, Udi and Ukrainian.

¹⁰¹ State report, Page 23.

¹⁰² ACFC Thematic Commentary n° 3, The language rights of persons belonging to national minorities under the Framework Convention, adopted on 24 May 2012, Para 80.

exclusive form of inputs (number of teachers trained, types of project designed). Stronger monitoring and evaluation processes would allow the authorities, together with the civil society and the Advisory Committee, to assess whether the measures do in fact produce what is expected, by comparing the situation before and after the measures were implemented. It appears therefore unclear what the multilingual education model chosen is, to what extent it has been formalised and implemented in all schools teaching in minority languages, and what results can be observed from the application of this model. This aspect is to be seen also in perspective with the remarks made under Articles 3, 4, 5 and 6 (see above) regarding the development of strategies and action plans together with the minorities concerned, starting by collecting relevant data and analysing them before eventually measuring the relevance and the impact of the measures taken.

Recommendations

129. The Advisory Committee urges the authorities to identify a multilingual education model adapted to the Georgian context and to implement it at pre-school, primary and secondary levels. The Advisory Committee also calls on the authorities to monitor this implementation process to ensure that the model is indeed developed with and endorsed by teachers, school boards, parents and communities, implemented to all schools teaching in minority languages and evaluated in order to see if it does produce the expected effects.

130. The Advisory Committee urges the authorities to step up their efforts aimed at improving the quality of materials for minority and majority language learning as well as at ensuring high-level professional development for teachers from pre-schools, primary and secondary schools teaching in minority languages.

131. The Advisory Committee encourages the authorities to continue supporting teaching and learning of languages of numerically smaller minorities, to increase the number of class hours and to ensure that adequate learning and teaching materials are available.

Article 15 of the Framework Convention

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

Recommendations from the two previous cycles of monitoring

132. In the previous monitoring cycles, the Advisory Committee called on the authorities to consult representatives of minorities, particularly through the mechanisms under the auspices of the Public Defender, and to make such consultations more systematic. Recommendations and proposals of bodies representing minorities should be given all the necessary attention.

Present situation

133. The Council of National Minorities under the auspices of the Public Defender (hereafter “the Council of National Minorities”), operating since 2005, is composed of more than 100 organisations representing national minorities of Georgia. Since 2005, a Council of Religions has also been established, and gathers together 32 religious communities. These two bodies constitute the main consultation mechanisms for national minorities. The Advisory Committee welcomes in this regard the efficient cooperation established with the Public Broadcaster (see Article 9). It notes however that the Council of National Minorities as well as

the Council of Religions have addressed a number of recommendations to the authorities in the course of the last monitoring cycle.¹⁰³ The two bodies informed the Advisory Committee however that these recommendations have not been followed-up on by the authorities concerned. The Advisory Committee recalls that the consultation of persons belonging to national minorities is particularly important in countries where there are no arrangements to enable the participation of persons belonging to national minorities in parliament and other elected bodies. Consultation alone does not, however, constitute a sufficient mechanism for ensuring the effective participation of persons belonging to national minorities. It is important to ensure that consultative bodies have a clear legal status, have a sustainable political and public financial support, that the obligation to consult them is entrenched in law and that their involvement in decision-making processes is of regular and permanent nature. While there are various models as regards the functioning of such structures, it is important to ensure that relevant regulations are detailed enough to provide for efficient and consistent consultation.¹⁰⁴ In order for consultations to be effective the Advisory Committee considers that it is also important to ensure that persons belonging to national minorities are given real opportunities to influence decision-making in such a way that the outcome of consultations adequately reflects the needs of persons belonging to national minorities as well as their age and gender demographics.¹⁰⁵ To this end, it is important to follow up the outcomes of consultations in close cooperation with representatives of the national minorities.

134. The Advisory Committee notes with satisfaction the inclusive nature of the elaboration process of the State Strategy for Civic Equality and Integration. The active involvement of the civil society, including representatives of persons belonging to national minorities, but also of media representatives and academics, as well as the organisation of consultations in regions traditionally inhabited by persons belonging to national minorities, or where they live in substantial numbers, is to be praised. The Advisory Committee also notes that, concerning the implementation of the Strategy, an inter-agency working-group has been established at central level, composed of different ministries as well as representatives of regions. In addition, advisory councils have been set up in Kvemo Kartli (in May 2016) and in Kakheti (in September 2016). They aim, among others things, at consulting with persons belonging to national minorities at local level on the challenges they face and at discussing possible concrete activities. The Advisory Committee welcomes the development of such working groups, which are indispensable for persons belonging to national minorities to be able to participate, contribute and endorse the actions taken by the authorities in the implementation of the Strategy. The consultation of the Council of National Minorities in the preparation of the different reports on the implementation of the Strategy is also a positive development.

135. The Advisory Committee was however informed that major infrastructural works have been started in the Pankisi Gorge, including two hydropower plants (Khadori-3 and Samkuristskali-2). While an information campaign was conducted, minority communities were reportedly not formally consulted, despite the potential impact these projects may have on the economic and social lives of the inhabitants. The Advisory Committee regrets that such large-

¹⁰³ See, for example, Recommendations developed by the Council of Religions, 2017, available at: http://tolerantoba.ge/failebi/inglisuri_broshura_sasxalxo_damcveli_1_44654.pdf.

¹⁰⁴ ACFC Thematic Commentary n° 2, The effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, adopted on 27 February 2008, Para 106-107.

¹⁰⁵ ACFC Thematic Commentary n° 2, The effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, adopted on 27 February 2008, Para. 71.

scale projects are not preceded by local consultation processes where concerns can be expressed and ecological as well as economic and social interests of persons belonging to national minorities could be taken into account.

Recommendation

136. The Advisory Committee calls on the authorities to formalise and make compulsory the consultation of the Council of National Minorities and the Council of Religions on matters of potential concerns for the persons and communities they represent. In this regard, it specifically calls on the authorities to effectively consult representatives of national minorities before designing and launching important infrastructural projects that may affect them.

Representation of national minorities in elected bodies

Recommendations from the two previous cycles of monitoring

137. The Advisory Committee underlined that the authorities should take vigorous measures to increase the participation of persons belonging to national minorities in the political life of the country.

Present situation

138. The State Strategy for Civic Equality and Integration contains several interim goals and objectives aimed at creating more appropriate conditions for civic mobilisation of national minorities but also for persons belonging to national minorities to be more involved in the public administration and services.¹⁰⁶ The Advisory Committee notes in this regard the two important programs carried out to improve the command of the State language by civil servants.¹⁰⁷ It welcomes also the internship program initiated by the Office of the State Minister for Reconciliation and Civic Equality allowing students with a minority background to work in public bodies and agencies.

139. With regard to electoral life, the Central Electoral Commission has achieved important work during the last monitoring cycle, informing voters in minority languages including through information meetings targeting minority groups such as Azerbaijani and Armenian speaking women, developing special online tools for persons belonging to national minorities to check their personal data, and implementing grant schemes aimed at supporting awareness and information projects in the regions populated in large numbers by national minorities. The Advisory Committee notes also that, in the framework of the 2018 Presidential elections, voting materials such as ballot papers, list of voters, instructions for voting and posters describing the voting procedures were translated into Armenian and Azerbaijani, and disseminated in the polling stations of the regions concerned. Training materials were also translated into Armenian and Azerbaijani and training was conducted by the Central Electoral Commission Training Centre. The Advisory Committee observes that the participation has increased in 11 of the 12 districts where persons belonging to Armenian and Azerbaijani minorities live in substantial numbers (on average, from 39.2% in 2012 to 43.3% in 2018).

¹⁰⁶ See, among others, Interim goal 1.3 “Increasing access to state administrative and judicial bodies and mechanisms for members of ethnic minorities”, in particular its objectives 1.3.3 to 1.3.6 (respectively on access, professional development, knowledge of state language and recruitment); see also interim goal 1.4 “Encouraging participation of ethnic minorities in the political decision-making process” and its objectives 1.4.1 to 1.4.3 (respectively on electoral information, involvement in political parties and legal framework for participation).

¹⁰⁷ State Report, page 30: the State Language Teaching Program and the Public Governance and Administration Program of the Zurab Zhvania School of Public Administration.

140. Regarding the Parliament, 11 out of 150 members of Parliament belong to national minorities. It corresponds to 7.3% of the Parliament, compared to 13.1% in the general population (based on the 2014 population census). This figure corresponds to the general impression shared by the civil society representatives that persons belonging to national minorities are still underrepresented in the political life, although positive signs should not be overlooked. The reasons preventing a larger involvement of persons belonging to national minorities are multi-layered. The lack of legal incentives is especially noted as one of the reasons, in particular in a context where political parties are prohibited at regional level (see Article 7). Although manifestos of political parties seem to neglect the interests of minorities, some misconceptions about the behaviour of persons belonging to national minorities are to be reviewed in the light of the most recent electoral results.¹⁰⁸ The widespread belief that national minorities vote for the ruling party is not confirmed by recent analysis, which may rouse the interests of other political parties in dealing with issues of concerns for national minorities. The Advisory Committee also notes that the share of national minorities on the lists for the regions has risen in 2017 in comparison to 2014, with the exception of one party. Despite the fact that the needs of national minorities are still largely ignored by political parties, studies show a higher level of confidence in the political parties on the part of the national minorities (from 10% in 2013 to 38% in 2017).¹⁰⁹ At local level however, from the 6 cities where national minorities constitute the majority of the population (based on the 2002 population census), only 3 have a municipal council where a majority of members belong to national minorities (Marneuli, Akhalkalaki and Ninotsminda).¹¹⁰

141. The Advisory Committee remains attentive to the way persons belonging to national minorities participate in the political life in Georgia. It welcomes the positive trends observed in previous elections processes and observes that there is still room for improvement in the way political parties take into account the interests of persons belonging to national minorities.

Recommendations

142. The Advisory Committee calls on the authorities to step up their efforts to create the conditions for proportional representation of persons belonging to national minorities in elected bodies.

143. The Advisory Committee calls on the authorities to adopt incentivising measures, including legal ones, to increase the interest of political parties in proposing measures in their manifestos taking into account the needs of persons belonging to national minorities and in proposing to those persons to participate as candidates in the respective elections.

Participation in social and economic life

Recommendations from the two cycles of monitoring

144. The Advisory Committee also called on the authorities to ensure that persons belonging to national minorities benefit equally from regional infrastructure and development

¹⁰⁸ Centre for the Studies of Ethnicity and Multiculturalism, Competing for Votes of Ethnic Minorities in Georgia: the 2017 local elections, policy paper, 2018.

¹⁰⁹ Caucasus Research Resource Center, Knowledge of and attitudes toward to EU in Georgia, 2013 and 2017.

¹¹⁰ Centre for the Studies of Ethnicity and Multiculturalism, Competing for Votes of Ethnic Minorities in Georgia: the 2017 local elections, policy paper, 2018.

projects and promote their equal access to the social and health facilities as well as to employment opportunities throughout the country.

Present situation

145. As underlined above, the authorities have taken measures to promote employment of minorities in the public sector and to reinforce the competences of civil servants with regard to the State language. The State Report also refers to awareness raising measures on monetary social assistance carried out in regions of compact settlement of national minorities as well as measures aimed at developing online teaching of the State language targeting young people.¹¹¹ In the same vein, a new project aimed at developing entrepreneurship was developed by the Ministry of Sport and Youth Affairs in 2017 in 4 municipalities (Pankisi, Gori, Akhaltsikhe and Zugdidi).

146. The Advisory Committee notes also that important infrastructural projects are being continued and underlines the importance of taking into account the needs of persons belonging to national minorities when developing such projects. On the one hand, the authorities should ensure that these projects contribute to opening up remote areas and to connecting them to the economic centre that is Tbilisi. There is a manifest need to connect producers and consumers, in particular when in parallel the authorities are developing projects aimed at promoting self-entrepreneurship in remote regions. Such infrastructure is also important for persons belonging to national minorities to be able to go to Tbilisi in case they require specific medical treatment. The Advisory Committee was informed that it is sometimes more convenient for persons belonging to the Armenian ethnic minority to get an appointment and travel to Yerevan rather than consulting a doctor in Tbilisi, mainly because of the lack of road infrastructure. On the other hand, the Advisory Committee inquired whether calls for tenders launched in the framework of these infrastructural projects were sufficiently designed with the perspective of boosting the local economy in mind. It could be done so through fixing specific eligibility criteria of social nature or by imposing contractual requirements to the awarded company, such as recruiting and training a certain percentage of local employees.

147. A recent study has also pointed out that the Labour Code of Georgia was prohibiting discrimination on several grounds, including “belonging (...) to a religious (...) organisation”, the wording of which may indeed limit the scope of this provision to certain beliefs only. The Advisory Committee would welcome that the Code unambiguously proscribes any religious beliefs as prohibited grounds of discrimination. In this context, the Advisory Committee insists on widening the anti-discrimination mandate of the Public Defender to the private sector (see Article 4).

Recommendations

148. The Advisory Committee calls on the authorities to step up their efforts to ensure that persons belonging to national minorities benefit from the infrastructure projects carried out in areas traditionally inhabited by persons belonging to national minorities or where they live in substantial numbers and that their interests are taken into account when designing and implementing them.

¹¹¹ State Report, Page 31.

149. The Advisory Committee calls on the authorities to maintain their efforts to promote equal access to the labour market, medical and social services to persons belonging to national minorities, including numerically smaller ones living in remote areas.

Articles 17 and 18 of the Framework Convention

Bilateral agreements and regional cooperation

Recommendations from the two previous cycles of monitoring

150. In the previous monitoring cycles, the Advisory Committee encouraged the authorities to pursue their efforts to promote good relations within the region and to enhance in particular the effective participation of persons belonging to national minorities in the development and implementation of relevant cooperation.

Present situation

151. The Advisory Committee notes the important number of bilateral agreements signed with Azerbaijan (74) and Armenia (59), although a large majority of them have not been signed during the last monitoring cycle. These agreements may have an important role to play in the economic and cultural development of border regions where persons belonging to national minorities live in substantial numbers. The Advisory Committee has witnessed on several occasions how trans-border cooperation could be used at the benefit of the persons belonging to national minorities.

Recommendation

152. The Advisory Committee calls on the authorities to maintain their efforts to further develop cross-border cooperation to the benefit and with the participation of persons belonging to the national minorities to promote good relations with the neighbouring countries.

III. CONCLUSIONS

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

Positive developments following three cycles of monitoring

154. Georgia continued to have a flexible approach of the scope of application of the Framework Convention. The anti-discrimination law adopted in 2014 constitutes a solid legal basis to combat discrimination, including the possibility to apply to civil courts or to the Public Defender's complaint mechanism. The Public Defender benefits from a good reputation and the recommendations and general proposals it delivers are of recognised good quality. Under its auspices, the Public Defender has also established important consultation mechanisms, namely the Council of National Minorities and the Council of Religions. It also cooperates with different public institutions in order to promote minority rights, including with the Public Broadcaster, which launched in 2018 a new online strategy with regard to minority languages, with a web platform available 24/7 in 7 languages.

155. Georgia has also recently developed a series of strategies on human rights as well as on integration, in particular the State Strategy for Civic Equality and Integration and its Action Plan for 2015-2020. The Ministry of Interior has established in the first weeks of 2018 a new human rights department to monitor investigations of hate crime incidents and in July 2018 a new law on State Inspector has been adopted by the Parliament. Discrimination is also considered as an aggravating factor for conviction according to Article 53 of the same Code, when a given crime is committed on any ground of discrimination.

156. Transliteration of names seems to be a resolved issue as no complaint were recently reported. Moreover, the innovative "1 + 4" program continues to produce positive results with regard to access to high education. Important efforts are also made in teaching the State language, in particular to civil servants.

Issues of concern following three cycles of monitoring

157. Georgia is confronted with a structural lack of data and the next census is unlikely to be organised before 2023. The census form will have to be adapted in order to fully comply with the self-identification principle. Equality data are also insufficient, which may be the consequence of a lack of awareness raising on the anti-discrimination legislation as well as the respective complaints mechanism. In this regard, the resources of the Public Defender, in the opinion of the Advisory Committee, need to be further reinforced, in particular in its field offices.

158. The strategies relevant for minority protection would gain from being more specific, and they should be monitored and evaluated on a regular basis, in consultation with the persons concerned. Persons belonging to national minorities also need to be further involved in the development of strategies promoting tolerance, including at school and between religious faiths. Promoting tolerance also requires a clear commitment on the part of the

authorities to combat hate speech. Combatting other hate crimes similarly implies implementing without delay the law on State Inspector.

159. Consultation mechanisms established under the auspices of the Public Defender should be further formalised, strengthened and supported as well as integrated into an automatic consultation mechanism for any matter related to minority rights. Political participation of national minorities would be increased if political parties were encouraged to cover issues of interests for persons belonging to national minorities. In this regard, political parties on a territorial principle remain prohibited. The representation of national minorities in the Parliament is moreover not proportionate to the number of persons belonging to national minorities in the general population.

160. Georgian society would also benefit from policies focusing on strengthening the integration of persons belonging to national minorities in the social and economic life of the country, including through the development of infrastructure, in consultation with the persons concerned. The display of topographical signs in minority languages in regions traditionally inhabited by persons belonging to national minorities and where they live in substantial numbers remains very limited.

161. The improvement of participation mechanisms is also an important question with regard to religious minorities. They suffer structural discrimination in access to funding possibilities and to places of worship. Restitution procedures and construction permit procedures in relation to places of worship are not sufficiently transparent and are not based on clear and objective legal criteria. Access to the administration in minority languages in areas where persons belonging to national minorities live traditionally or in substantial numbers lacks a clear implementation framework and relies too much on the goodwill of the civil servants concerned. Basic information from police or judicial procedures should also be produced in minority languages spoken by numerically smaller minority groups.

162. With regard to education, there is an urgent need for better teaching materials in minority languages as well as for improving teacher training, with a particular focus on multilingual education. Materials should also be reviewed in order to genuinely promote tolerance and intercultural dialogue. While the teaching in and of languages spoken by numerically smaller minorities has been resumed in a limited number of schools, the number of hours remains quite low and quality materials are still to be developed.

Recommendations

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

Issues for immediate action¹¹²

- launch a national awareness raising campaign to inform the general public about the anti-discrimination legislation and the relevant legal remedies available, with a particular focus on persons belonging to national minorities; reinforce the mandate of the Public Defender so that it can address obligatory requests for information to private persons and deal with complaints related to administrative proceedings. The time during which the Public Defender is authorised to apply to a court in discrimination cases should also be extended to one year; the burden of proof shift should be reinforced in discrimination cases, so that the Public Defender can contribute to effectively implement the Law on the Elimination of All Forms of Discrimination;
- ensure that persons belonging to national minorities enjoy their right to manifest their religion or belief as well as their right to establish religious institutions, organisations and associations; review the relevant legislative provisions and administrative practice in accordance with the decisions of the Constitutional Court of 3 July 2018; set up transparent and non-discriminatory procedures for building or allocation of places of worship, in close and timely consultation with the representatives of the groups concerned; ensure that the process of restitution of property to religious communities is carried out in a non-discriminatory manner; systematically monitor cases of proselytism in schools;
- adapt the content of teaching materials so they contribute to the creation of a climate of tolerance and mutual understanding in Georgian society and step up efforts aimed at improving the quality of materials for minority and majority language learning; ensure high-level professional development for teachers from pre-schools, primary and secondary schools teaching in minority languages; identify a multilingual education model adapted to the Georgian context and implement it at pre-school, primary and secondary levels; monitor this implementation process to ensure that the model is indeed developed with and endorsed by teachers, school boards, parents and communities, implemented in all schools teaching in minority languages and evaluated in order to observe whether it does produce the expected effects.

Further recommendations

- adapt the census form in accordance with the right to self-identification and launch an information campaign, well ahead of the next census, targeting persons belonging to national minorities; adopt proper measures aimed at collecting data on discrimination in all relevant fields and to this end, develop adequate methods of disaggregated data collection while fully respecting the right to free self-identification and in accordance with international standards on personal data protection;
- ensure that the cost for renting the premises of the Public Defender's headquarters does not significantly reduce the operational budget of the Public Defender. Resources allocated to its field offices should also be increased to give the Public Defender the means to implement the necessary awareness raising work with regard to the Law on the Elimination of All Forms of Discrimination;

¹¹² The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

- condemn systematically and in a timely manner all instances of intolerance, in particular in public discourse, and ensure that the existing legislation related to racial discrimination is effectively implemented; provide the necessary training to law enforcement and judicial authorities to ensure that the implementation of the existing legislation related to racial discrimination is in line with the case-law of the European Court of Human Rights with regard to freedom of expression;
- ensure, given the digital strategy implemented by the Public Broadcaster, that persons belonging to national minorities have access to Internet, in particular in remote areas, and report publicly on the Internet coverage in Georgia;
- guarantee effectively the right to use minority languages orally and in writing for persons belonging to national minorities, in relations between those persons and the administrative authorities, in areas traditionally inhabited by those persons or where they live in substantial numbers; envisage translating relevant pieces of legislation into minority languages;
- formalise and make compulsory the consultation of the Council of National Minorities and the Council of Religions under the auspices of the Public Defender of Georgia on matters of potential concerns for the persons and communities they represent; effectively consult representatives of national minorities before designing and launching important infrastructural projects that may affect them;
- step up efforts to ensure that persons belonging to national minorities benefit from the infrastructure projects carried out in areas traditional inhabited by persons belonging to national minorities or where they live in substantial numbers and that their interests are taken into account when designing and implementing them, through effective consultations with the persons concerned;
- promote equal access to the labour market, medical and social services to persons belonging to national minorities, including numerically smaller ones living in remote areas.