



Fourth Opinion on Azerbaijan – adopted on 8 November 2017

Summary

Society in Azerbaijan is broadly characterised by a climate of intercultural and interreligious tolerance. Azerbaijan is proud of its long-standing tradition of living together in a multicultural society and the authorities promote the concept of “Azerbaijani multiculturalism” both at national level and in the international community. Persons belonging to most minorities receive support from the authorities for expressing their cultural identity. However, the general restrictions on democracy, human rights and the rule of law in the country create an adverse effect on civil society, including for persons belonging to national minorities wishing to set up non-governmental organisations to represent their interests in the public sphere. Persons belonging to national minorities expressing critical views with regard to the authorities experience intimidation, arrest and some even imprisonment.

While the promotion of multiculturalism in Azerbaijan’s ethnically and religiously diverse society is generally to be welcomed, the notion of “Azerbaijani multiculturalism” as promoted by the authorities, in conjunction with the ongoing conflict in Nagorno-Karabakh and perceived threats from neighbouring countries, creates an environment in which persons belonging to minorities feel the obligation to express loyalty to the state at the expense of their minority identities. An institutional framework dedicated specifically to the promotion and protection of minority rights that would help persons belonging to national minorities to access their rights under the Framework Convention is still lacking. There is still no effective consultative mechanism, the lack of which is compounded by restrictions on freedom of association and freedom of expression. Teaching of minority languages is relatively well developed for the Russian and Georgian languages, but it is very modest for other minority languages. Except for Russian, there are still no specialised training possibilities for teachers of minority languages.

Recommendations for immediate action

- **Ensure that the 2019 population census effectively provides for free and voluntary self-identification and the possibility to indicate multiple affiliations and more than one first language in order to reflect the multicultural character of Azerbaijan's population;**
- **Adopt, in close consultation with persons belonging to national minorities, an adequate legal framework for the protection of national minorities and comprehensive anti-discrimination legislation and establish a specialised body to co-ordinate issues relating to national minority protection and provides the opportunity for national minority representatives to effectively participate in decision-making processes affecting them;**
- **Remove obstacles to freedom of expression and freedom of association and take supportive measures so that persons belonging to national minorities can express their identities, voice their concerns without fear of repercussions, and participate in public decision making, both individually and in community with others;**
- **Expand the scope of teaching of minority languages, inform about the right to learning minority languages, regularly assess the needs and demands for such teaching, and effectively enhance the quality of teaching through introducing teacher training at university level.**

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I. Key findings

Monitoring process

1. This fourth cycle opinion on the implementation of the Framework Convention by Azerbaijan was adopted in accordance with Article 26.1 of the Framework Convention and Rule 23 of Resolution(97)10 of the Committee of Ministers. The findings are based on information contained in the Fourth State Report, submitted by the authorities on 10 January 2017, other written sources and on information obtained by the Advisory Committee from governmental and non-governmental contacts during its visit to Baku, Lankaran and Massali from 3 to 7 July 2017. This opinion does not take into account the situation in Nagorno-Karabakh and seven adjacent districts, which are not under the effective control of the Azerbaijani authorities, to whom this Opinion is addressed. Due to the conflict in Nagorno-Karabakh, the Advisory Committee's delegation could not visit this area during its mission. The Advisory Committee welcomes the authorities' overall constructive and co-operative approach towards the monitoring process and their considerable assistance provided before, during and after the fourth cycle visit.

2. The third cycle opinion was translated into Azerbaijani. Unfortunately, it was neither translated into minority languages nor published on a public website in Azerbaijan, which limits its dissemination within society. The Advisory Committee regrets that no follow-up seminar was organised in Azerbaijan after the conclusion of the previous monitoring cycle.

3. The Advisory Committee looks forward to continuing its dialogue with the authorities of Azerbaijan 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 receipt. It also invites the authorities to translate the present opinion and the forthcoming Committee of Ministers' resolution into Azerbaijani and into minority languages, and to disseminate it widely among all relevant actors. The Advisory Committee considers that a follow-up dialogue would be beneficial to address the observations and recommendations made in the present opinion and to raise awareness of minority rights as provided for in the Framework Convention.

General overview of the current situation

4. Azerbaijan is a diverse society where, overall, persons with different ethnic, cultural, linguistic and religious affiliations live together in a spirit of tolerance and respect. The Advisory Committee could observe during its visit that respect for diversity is rooted in society as a whole and practiced on an everyday basis. The Advisory Committee notes that the authorities emphasise particularly in their contacts with the international community that Azerbaijan is a multi-ethnic country with a long-standing tradition of intercultural tolerance.¹ 2016 was declared the "Year of Multiculturalism" in Azerbaijan. Several international events hosted in

¹ See for example the website of Presidential Library of Azerbaijan on "Azerbaijani Multiculturalism" at http://multiculturalism.preslib.az/en_a1.html.

Baku such as the 7th Global Forum of the UN Alliance of Civilizations sought to promote the model of “Azerbaijani multiculturalism”.

5. While the Advisory Committee welcomes the promotion of the concept of multiculturalism by the authorities, it finds it problematic that the concept largely confines expressions of minority identity to the private sphere and that it is based on a narrow understanding of national minority identity in terms of minority cultures. There seems to be little space for expression of national minority identities in the public sphere, in particular if it is done collectively and goes beyond the expression of cultural identity in the narrow cultural, frequently folkloristic, sense. There is still no comprehensive legislation on the protection of national minorities, which among other issues includes support for cultural initiatives, media, the use of minority language outside the private and informal domain and education. Therefore, persons belonging to national minorities experience difficulties knowing and accessing their rights enshrined in the Framework Convention. The Advisory Committee recalls that, according to the preamble of the Framework Convention, “a pluralist and genuinely democratic society should not only respect the ethnic, cultural, linguistic and religious identity of each person belonging to a national minority, but also create appropriate conditions enabling them to express, preserve and develop this identity”.

6. The general climate of intercultural tolerance in society as a whole contrasts with a strong public narrative against the Republic of Armenia in the context of the conflict in Nagorno-Karabakh. The boundary lines between the negative rhetoric against Armenia and negative attitudes against persons of Armenian ethnicity are blurred. The Advisory Committee is aware of the suffering endured by the population, including persons belonging to national minorities, in the context of the conflict and is deeply concerned about several instances of escalation of violence along the line of contact during the reporting period, including during the country visit. However, the conflict situation, as well as security threats associated with neighbouring countries result in an atmosphere where persons belonging to national minorities report pressure to express loyalty to the state by emphasising their Azerbaijani identity including the use of the Azerbaijani language. In particular, the Advisory Committee observes that persons belonging to the Talysh and Lezgin minorities, when exercising minority rights in community with others, run the risk of being perceived as questioning the territorial integrity of Azerbaijan.

7. As regards the general situation of human rights, democracy and the rule of law, the situation in Azerbaijan has deteriorated in the reporting period.² Constitutional changes in 2016 further increased the powers of the president and weakened those of the parliament.³ The Advisory Committee shares the concerns of international observers such as the

² Freedom House, Freedom in the World 2017, available at <https://freedomhouse.org/report/freedom-world/2017/azerbaijan>. See also the regular reports on the honouring of the obligations and commitments by Azerbaijan produced by the Parliamentary Assembly of the Council of Europe Monitoring Committee, available at: http://website-pace.net/en_GB/web/as-mon/committee-documents.

³ European Commission for Democracy through Law (Venice Commission), Opinion on the draft modifications to the constitution submitted to the referendum of 26 September 2016, adopted on 14-15 October 2016, (CDL-AD(2016)029).

Parliamentary Assembly of the Council of Europe (PACE)⁴ and the Council of Europe Commissioner for Human Rights⁵ about increasing restrictions regarding media freedom, freedom of expression and freedom of association and the reports of ongoing detention of civil society representatives, human rights defenders, political activists, journalists, bloggers, lawyers, based on alleged charges in relation to their work. This policy has an adverse effect on civil society and spoils the climate in which minority organisations operate. Overall, the Advisory Committee underlines that compromising the principles of democracy, rule of law and general human rights principles in Azerbaijan creates notable obstacles to the implementation of minority rights enshrined in the Framework Convention.

Assessment of measures taken to implement the recommendations for immediate action

8. In general, the Advisory Committee regrets to note that only limited progress has been made in addressing the recommendations for immediate action. In 2011, the “National Action Programme on Increasing Efficiency of Protection of Human Rights and Freedoms in the Republic of Azerbaijan”⁶ was approved. Paragraph 2.2 of the programme announces the “continuation of the activities to preserve and develop the cultural heritage of ethnic minorities”, but does not list any concrete projects, activities or targets linked to this objective. Only sporadic measures have been undertaken to raise the awareness of persons belonging to minorities of their rights under the Framework Convention. Within the framework of projects funded and implemented by the Council of Europe, legal practitioners have received training on the European Convention on Human Rights and the European Social Charter (revised), but not on the Framework Convention.⁷ The imprisonment of Hilal Mammadov, a journalist affiliating with the Talysh minority,⁸ as well as a number of other imprisonments widely considered as politically motivated,⁹ demonstrate that the environment for persons expressing critical views, including on minority rights, continues to be very restrictive.

9. A range of activities was organised to foster intercultural and interreligious understanding, in particular through the Baku International Multiculturalism Centre set up in 2014 and during the 2016 “Year of Multiculturalism”. Most of these activities, however, seem to aim more at promoting “Azerbaijani multiculturalism” to the outside world rather than providing a forum for open exchange between different communities in society. The Advisory

⁴ Parliamentary Assembly of the Council of Europe (7 September 2017), Report on “The functioning of democratic institutions in Azerbaijan”, available at <http://website-pace.net/documents/19887/3258251/20170907-AzerbaijanInstitutions-EN.pdf/1e6f0d15-1836-428b-a0c9-7f41ac8ece87>.

⁵ See reports on the visits of the Council of Europe Commissioner for Human Rights to Azerbaijan in 2013 and 2014 at <https://www.coe.int/en/web/commissioner/-/azerbaijan-stop-reprisals-against-human-rights-defenders>.

⁶ National Program for Action to Raise Effectiveness of the Protection of Human Rights and Freedoms in the Republic of Azerbaijan (27 December 2011), available at <http://en.president.az/articles/4017>.

⁷ State report, p. 7.

⁸ *Hilal Mammadov v. Azerbaijan*, Application No. 81553/12, judgment of 4 February 2017.

⁹ See for example the cases of *Ilgar Mammadov v. Azerbaijan*, Application No. 15172/13, judgment of 22 May 2014, *Rasul Jafarov v. Azerbaijan*, Application No. 69981/14, judgment of 17 March 2016, *Leyla Yunusova and Arif Yunusov v. Azerbaijan*, Application No. 59620/14, judgment of 2 June 2016. See also the Interim Resolution by the Committee of Ministers of the Council of Europe of 25 October 2017 regarding Azerbaijan’s failure to abide by the judgment of the European Court of Human Rights in the case of *Ilgar Mammadov v. Azerbaijan* ([CM/ResDH\(2017\)379](http://cm.resdh(2017)379)).

Committee welcomes the supportive policy towards most non-Muslim religious communities, which benefits also many persons belonging to national minorities.

10. Regrettably, no consultative mechanism has been put in place through which persons belonging to minorities could effectively participate in decisions affecting them. Minority representatives do not have access either at national or at regional level to an institutionalised mechanism to voice their views on issues of their concern. The Baku International Multiculturalism Centre has an Advisory Council representing members of national and religious minorities, but the scope is limited to cultural and language issues. In general, access to effective participation in decision making is restricted by the lack of freedom of expression and association.

Assessment of measures taken to implement the further recommendations

11. No new measures have been undertaken to obtain disaggregated quantitative and qualitative data on the situation and access to rights of persons belonging to national minorities. While some information seems to exist on the representation of persons belonging to minorities in public administration, no disaggregated data is gathered on socio-economic indicators, among others, which would allow assessing whether persons belonging to national minorities enjoy effective equality.

12. A Law on Culture was adopted in December 2012, which grants national minorities the right to “protect their own cultures, to define national cultural identities, to restore, enhance and improve their cultural resources” and protects the cultural heritage of national minorities as part of the “national cultural wealth of the Republic of Azerbaijan”. Support for minority cultures continues to be provided by the Ministry of Culture, the Presidential Council on State Support to Non-governmental Organisations and, since 2014, the Baku International Multiculturalism Centre. Regrettably, however, no institutionalised scheme with clear and transparent procedures and separate funding lines for cultural activities of national minorities has been put in place, ad hoc support for activities and short-term projects dominates over long-term funding, and the process of registration of associations creates additional obstacles to access that funding.

13. To address police misconduct with regard to the treatment of persons under arrest, including those belonging to national minorities, a lecture on “treatment of convicts in compliance with the European Convention on Human Rights” was added to the training curricula of the 2014-2015 courses for legal professionals and law enforcement agencies. However, the Advisory Committee notes with concern the case of the Talysh journalist Hilal Mammadov, where the European Court of Human Rights found a violation of Article 3 of the European Convention on Human Rights both as regards ill-treatment by the police and as regards the lack of an effective investigation of the applicant’s allegations of ill-treatment.¹⁰

14. As regards the freedom of association of persons belonging to national minorities, the amendments to the law on NGOs introduced in 2013 and 2014 have not remedied the shortcomings identified by the European Commission for Democracy through Law (Venice

¹⁰ See footnote 8.

Commission).¹¹ Instead, they rather increased the administrative burden on NGOs, including minority NGOs. Several cases regarding the refusal to register NGOs defending the interests of Talysh or located in the southern region are pending at the European Court of Human Rights.¹²

15. No measures have been taken to remove the existing obstacles to radio and television broadcasting in minority languages and the number of broadcasting hours has reportedly remained the same. Support for minority language print media continues to be non-existent. No active measures are taken to facilitate the use of minority languages in communication with the authorities. The Advisory Committee observes a lack of awareness of the need and benefits of the promotion of the use of minority languages alongside the Azerbaijani language rather than in contest with it.

16. Minority language teaching has largely remained at the same level and some efforts have been made to develop new teaching and learning materials in minority languages. The situation of teacher training, however, has not improved as there is still no possibility to learn minority languages other than Russian and Georgian at university level.

¹¹ European Commission for Democracy through Law (Venice Commission), Opinion on the Law on Non-Governmental Organisations (public associations and funds) as amended of the Republic of Azerbaijan, adopted on 12-13 December 2014, ([CDL-AD\(2014\)043](#)).

¹² See for example the cases of the NGO “Azeri-Talish National Moral Values” and “Centre for South Region Development and Gender” in *Farhad Valiev and Kamran Aliyev against Azerbaijan*, Application No. 12982/14 against Azerbaijan and nine other applications, communicated on 11 October 2016.

II. Article-by-article findings

Article 3 of the Framework Convention

Personal scope of application of the Framework Convention

17. The authorities continue to pursue an inclusive approach with regard to the scope of application of the Framework Convention, which implicitly includes all persons who have identified themselves in the 2009 census as belonging to an ethnic group other than Azerbaijani.¹³ This includes numerically small groups such as Kryzs, Udins, Khynalygs and Budugs. As the authorities consider the issue of the protection of national minorities in the framework of Azerbaijan's policy on multiculturalism,¹⁴ the Advisory Committee understands that the scope of application implicitly also covers very small groups that are not counted separately in the census such as Germans and Poles.¹⁵

Recommendation

18. The Advisory Committee encourages the authorities to pursue their inclusive approach and to ensure that all persons who may benefit from protection under the Framework Convention are made aware of this possibility and are effectively granted access to protection under the Framework Convention on an article by article basis.

Census

19. The last population census was held in 2009 and the next census, scheduled for 2019, is under preparation. In the questionnaire, respondents were given only one choice for ethnic affiliation ("nationality") and one for their first language. In a separate question, it was possible to mention further languages spoken. Census data suggests that most persons who identified with a minority also speak the respective minority language. The Advisory Committee welcomes that also members of numerically small minorities had the possibility to indicate voluntarily their ethnic affiliation. However, many representatives of national minorities have informed the Advisory Committee that the official figures of the 2009 census do not reflect the actual number of persons belonging to their respective group and that the real numbers are considerably higher. According to information submitted by the authorities to the Council of Europe Ad hoc Committee of Experts on Roma and Traveller Issues (CAHROM), for example, 49 persons identified as Roma in the 2009 census. The same document indicates that a total of 5 940 Roma live in "compact settlements" in Yevlakh and Agdash regions and 101 families in

¹³ The 2009 census results attached to the state report list 16 "nationalities" living on the territory of Azerbaijan: 180 324 Lezgins (2.02%), 120 306 Armenians (1.36%), 119 307 Russians (1.35%), 111 996 Talysh (1.26%), 49 838 Avars (0.56%), 37 975 Meshketian Turks (0.43%), 25 911 Tatars (0.29%), 25 218 Tats (0.28%), 21 509 Ukrainians (0.24%), 12 189 Sakhurs (0.14%), 9 912 Georgians (0.11%), 9 084 Jews (0.1%), 6065 Kurds (0.07%), 4 344 Kryzs (0.05%), 3 821 Udins (0.04%), 2 233 Khynalygs (0.03%), 1001 Budugs. See Annex 1 to the state report. With respect to the number of Armenians in the 2009 census, see Third Advisory Opinion on Azerbaijan, p. 10, footnote 3.

¹⁴ See state report, p. 2.

¹⁵ These groups are portrayed along others in the official catalogue to a 2016 photo exhibition organised by the Ministry of Culture on national minorities entitled "Azerbaijan – my native land", which the Advisory Committee obtained during the visit.

Agsu and Barda regions.¹⁶ The strongest contrast observed by the Advisory Committee was that interlocutors from the authorities referred to as many as 30 000 Armenians living in Baku, whereas according to the census only 104 persons in Baku self-identified as Armenian. The authorities explain this discrepancy in numbers by the fact that “the majority of these people are Armenian women married to Azerbaijani men and their children, who consider themselves as Azerbaijanis”.¹⁷ This raises concerns about the actual application of the principle of free self-identification of persons belonging to national minorities, which is based on awareness of the right as well as the fact that no disadvantage shall result from this choice.

20. Representatives of other minorities also felt that the census did not properly reflect the real number of persons belonging to their minority. In this context, reference was often made to the widespread practice of mixed marriages as a cause for multiple ethnic affiliations and for the existence of many bi- and multilingual families. The Advisory Committee therefore regrets that the census did not reflect the recommendation by the United Nations Economic Commission for Europe (UNECE) Recommendations for 2010 Censuses of Population and Housing¹⁸ to allow respondents to indicate more than one ethnic and more than one linguistic affiliation (native language). The Advisory Committee is convinced that an approach allowing for multiple affiliations, as also recommended by the UNECE Recommendations for the upcoming 2020 Censuses,¹⁹ would capture much better the rich multicultural and multilingual character of the population of Azerbaijan.

21. The Advisory Committee notes that the preparation for the census of 2019 is underway and was pleased to learn from the State Committee for Statistics that it will be based on the above-mentioned UNECE Recommendations. It notes that close consultation with national minorities at this stage is important, given that several minority groups said that their numbers were not accurately reflected in the previous census. The Advisory Committee reminds the authorities of the importance of training of the interviewers to ensure that interviewees give free and informed replies to the questions concerning ethnic and linguistic affiliation. Furthermore, an accurate picture of the number of speakers of minority languages would be important in order for the authorities to be able to assess the need for minority language teaching outside the traditional areas inhabited by persons belonging to national minorities traditionally or in substantial numbers (see Article 14).

Recommendation

22. The Advisory Committee calls on the authorities to ensure that the 2019 population census is prepared in consultation with minority representatives, that it safeguards free and voluntary self-identification and is accompanied by a broad awareness-raising campaign. To reflect the multicultural character of Azerbaijan’s society, multiple ethnic and linguistic affiliations should be reflected in the collection as well as the processing and presentation of the census data.

¹⁶ Submission to the Council of Europe Ad hoc Committee of Experts on Roma Issues.

¹⁷ Written reply to the Advisory Committee by the State Committee for Statistics.

¹⁸ United Nations Economic Commission for Europe (2006), Conference of European Statisticians Recommendations for the 2010 Censuses of Population and Housing, paras. 426 and 430 ff.

¹⁹ United Nations Economic Commission for Europe (2015), Conference of European Statisticians Recommendations for the 2020 Censuses of Population and Housing, paras. 708 and 725.

Article 4 of the Framework Convention

Legislative and institutional framework

23. The legal basis for the protection of national minorities in Azerbaijan is the 1995 constitution, notably Article 25 (equality and non-discrimination), Article 44 (right to nationality), and Article 45 (right to use one's mother tongue).²⁰ Apart from this, there is no specific legislation on the protection of national minorities and the Advisory Committee was informed that there are no plans to develop such legislation. The Advisory Committee deeply regrets the absence of any legislation that would protect the rights of national minorities in a more concrete and effective manner than the rather general provisions in the constitution. Whereas the constitution grants basic human rights for all citizens, no specific legislation exists to guarantee the effective access to these rights for persons belonging to national minorities. As outlined in the Explanatory Note to the Framework Convention, the "implementation of the principles set out in this framework Convention shall be done through national legislation and appropriate governmental policies."

24. In addition to Article 25 of the constitution, which prohibits restrictions of rights and freedoms on the grounds of, inter alia race, citizenship, religion, language and origin, there is a number of criminal, administrative and civil law provisions prohibiting discrimination.²¹ The authorities, members of the parliament and representatives of the ombudsperson's office informed the Advisory Committee that the relevant provisions in the constitution are sufficient and that no cases of discrimination on ethnic or linguistic grounds have occurred.²² According to the state report, there were "no cases of violation of rights or discrimination of any national minority or their representatives" by state authorities during the reporting period.²³ In the Advisory Committee's experience, this is a very unusual phenomenon and could rather be an indicator of a lack of awareness or trust in the effectiveness of the remedies available.

25. The Advisory Committee is of the opinion that the existing anti-discrimination provisions, taken together, do not provide sufficient safeguards against the discrimination of persons belonging to national minorities.²⁴ For instance, it is not clearly set out whether the constitutional prohibition of discrimination applies not only to the public, but also to the private sector.²⁵ Furthermore, special measures are not allowed in all circumstances as Article 25 of the constitution prohibits the granting of allowances or privileges on grounds such

²⁰ Constitution of the Republic of Azerbaijan of 1995, available at http://azerbaijan.az/portal/General/Constitution/constitution_01_e.html.

²¹ European Commission against Racism and Intolerance (ECRI), 5th monitoring cycle report on Azerbaijan, 7 June 2016, paras. 3-16.

²² See also the statement by Aydin Safikhani, Head of the Office of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan at the 89th session of the UN Committee on the Elimination of Racial Discrimination (CERD) on 2-4 May 2016, p. 2, available at http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/AZE/INT_CERD_IFN_AZE_23732_E.doc.

According to the statement, "there was not any case of intolerance and discrimination on the ground of ethnic belonging, religion, language and culture at any stage of the century-old history of Azerbaijan".

²³ State report, p. 6.

²⁴ See also UN Committee on the Elimination of All Forms of Racial Discrimination (CERD), Concluding observations on the combined seventh to ninth periodic reports of Azerbaijan ([CERD/C/AZE/CO/7-9](http://www.unhcr.org/refugees/refugees/4d4d4d4d)), paras. 21-22.

²⁵ European Commission against Racism and Intolerance (ECRI), 5th monitoring cycle report on Azerbaijan, 7 June 2016, paras. 3-16.

as race, nationality or language. The Advisory Committee finds this problematic because *de facto* equality in the context of the Framework Convention requires effective measures to support different identities, including the effective protection from discrimination based on these differences.²⁶ Overall, the Advisory Committee is deeply concerned that despite multiple recommendations in previous cycles, there are no plans to adopt comprehensive anti-discrimination legislation that would contribute to meeting the objectives of the Framework Convention.

26. The Advisory Committee notes that the Commissioner for Human Rights (Ombudsman) of Azerbaijan²⁷ has a wide mandate in preventing and combating violations of human rights and freedoms in the public sector. The formal requirements for an independent National Human Rights Institution are largely fulfilled, with the exception of the appointment procedure, according to which the ombudsperson is elected from three candidates nominated by the president.²⁸ However, the Advisory Committee is concerned about the passive attitude of the ombudsperson with regard to the numerous cases of alleged human rights violations vis-à-vis members of civil society, including persons belonging to national minorities, many of which were confirmed as such by the European Court of Human Rights.²⁹ It also notes that the Global Alliance of National Human Rights Institutions (GANHRI) recommended in March 2017 that the ombudsperson be downgraded to B status because of apparent “unwillingness to effectively engage on serious human rights violations” and flaws in the selection and appointment procedure.³⁰ Furthermore, the ombudsperson’s office, in the conversation with the Advisory Committee, did not seem concerned about the fact that there have been no complaints relating to discrimination on ethnic or linguistic grounds. The Advisory Committee finds it surprising that not a single case of discrimination was brought before the Ombudsperson in 2016 and the issue is virtually absent from the ombudsperson’s annual reports during the reporting period.³¹ While not questioning the general atmosphere of intercultural tolerance in the country, the Advisory Committee is concerned whether there might also be other reasons for the complete absence of complaints on discrimination-related issues such as insufficient trust in the effectiveness of the institution or fear of repercussions

²⁶ 4th Advisory Committee Thematic Commentary on the Scope of Application of the FCNM (2016), para. 58.

²⁷ Global Alliance of National Human Rights Institutions (GANHRI), Chart of the status of national institutions accredited by GANHRI as of 27 May 2017, available at <http://nhri.ohchr.org/EN/Documents/Status%20Accreditation%20Chart%20.pdf>.

²⁸ See UN International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) (2012), Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA), Geneva, 26–30 March 2012, and GANHRI Sub-Committee on Accreditation, Report and Recommendations of the Session on 13-17 March 2017, available at <http://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20Final%20Report%20-%20March%202017-%20English.pdf>.

²⁹ See for example *Ilgar Mammadov v. Azerbaijan*, Application No. 15172/13, judgment of 22 May 2014, *Rasul Jafarov v. Azerbaijan*, Application No. 69981/14, judgment of 17 March 2016, *Leyla Yunusova and Arif Yunusov v. Azerbaijan*, Application No. 59620/14, judgment of 2 June 2016, and *Hilal Mammadov v. Azerbaijan*, Application No. 81553/12, judgment of 4 February 2017. See also the Interim Resolution by the Committee of Ministers of the Council of Europe of 25 October 2017 regarding Azerbaijan’s failure to abide by the judgment of the European Court of Human Rights in the case of *Ilgar Mammadov v. Azerbaijan* ([CM/ResDH\(2017\)379](https://www.coe.int/t/e/com/min/resolutions/CM/ResDH(2017)379)).

³⁰ See GANHRI Sub-Committee on Accreditation, Report and Recommendations of the Session on 13-17 March 2017, p. 18.

³¹ Commissioner for Human Rights of the Republic of Azerbaijan, Annual Reports on the activities in promotion and protection of human rights for 2016, available at www.ombudsman.gov.az/en/view/pages/59.

from the authorities. The ombudsperson has several regional offices, but they were not referred to by the Advisory Committee's interlocutors as institutions they would turn to if they felt their rights were violated. The ombudsperson is also responsible for promotion of human rights. While the ombudsperson holds occasional meetings with representatives of minorities, she did not undertake any targeted measures to promote awareness of minority rights during the reporting period.³² The ombudsperson did, however, recommend to the authorities in 2012 to ratify the European Charter for Regional or Minority Languages.³³

Recommendations

27. The Advisory Committee reiterates its recommendation to adopt and implement comprehensive legislation on the protection of national minorities and comprehensive anti-discrimination legislation in order to promote full and effective equality between persons belonging to national minorities and those belonging to the majority.

28. The Advisory Committee calls on the Commissioner for Human Rights (Ombudsman) to actively and independently pursue her mandate and increase her efforts to raise awareness of minority rights both among persons belonging to minorities and in the population as a whole. The nomination and appointment procedure should be brought in line with the recommendations of the Global Alliance of National Human Rights Institutions.

Article 5 of the Framework Convention

Support for minority culture

29. The Advisory Committee welcomes the positive attitude of the authorities and society as a whole towards the variety of minority cultures present on the territory of Azerbaijan. Through the concept of "Azerbaijani multiculturalism", which the authorities promote also through the newly established Baku International Multiculturalism Centre, set up in 2014, the diversity of ethnicities, languages, cultures and religions in Azerbaijan is embraced as a constituent element of the country's national identity. However, the Advisory Committee observes that the concept of "Azerbaijani multiculturalism" seems mainly emphasised in relation with the international community. At the national level, the prominent discourse seems to be dominated by an emphasis on the Azerbaijani nation, both in a civic and ethnic sense. This narrows opportunities for persons belonging to national minorities to express their minority ethnic identities.

30. The Law on Culture, adopted in December 2012, specifies in Article 30 that the cultures of national minorities are an integral part of Azerbaijan's national heritage and as such are protected by the state. The Baku International Multiculturalism Centre was set up in 2014 to study and support the cultural diversity in the country and actively promote "Azerbaijani multiculturalism" abroad through summer schools, conferences and branches in Bulgaria, Moldova and Israel.³⁴ The centre organises concerts, exhibitions and prepares publications,

³² Ibid and Annual Reports from 2013 to 2015.

³³ Commissioner for Human Rights of the Republic of Azerbaijan, Annual Reports on the activities in promotion and protection of human rights for 2013, page 61, available at <http://www.ombudsman.gov.az/en/view/pages/59>.

³⁴ See "Azerbaijani Multiculturalism" at <http://multikulturalizm.gov.az/en/>.

including in minority languages. Efforts have been made to collect and disseminate the traditional folklore and languages of national minorities, for instance through the *KulturaPlus* internet channel, which also broadcasts online classes on national minority languages.³⁵

31. The Advisory Committee observes that support for minority cultures takes place through different channels. The most common form of support given to minority organisations appears to be through the allocation of premises for cultural events, language or dancing classes or similar activities at local, regional and national level. The Advisory Committee notes that the Baku International Multiculturalism Centre will move to larger premises, which are planned to be available also for national minorities. The two regional cultural centres the Advisory Committee visited in Lankaran and Massali are well equipped to pursue culture related activities. The Advisory Committee welcomes the existence of these centres and hopes that the allocation of premises takes place in an inclusive, transparent and predictable manner to allow national minorities to plan and conduct their activities according to their needs.

32. The main sources of funding for cultural activities are the Ministry of Culture, the Presidential Council on State Support to Non-governmental Organisations,³⁶ as well as municipal and regional budgets. The Advisory Committee regrets to note that none of these sources has a budget line that is earmarked specifically for national minority purposes. National minority associations therefore compete with other organisations applying for funding for their cultural activities. In 2016, for instance, the Presidential Council on State Support to Non-governmental Organisations held three grant competitions, as a result of which 556 non-governmental organisation (NGO) projects were funded.³⁷ According to the Advisory Committee's interlocutors, only six of these projects were related to national minority issues.³⁸ On no occasion did minority associations themselves participate in decision making about the allocation of funding (see Article 15). Finally, there is no institutional multi-annual funding for national minority associations, which would be necessary for them to plan their work over a longer period of time.

33. As funding is available for registered organisations only, the restrictive NGO legislation (see Article 7) affects the availability of funding for cultural activities as well. The criteria are even stricter for organisations wishing to receive funds from foreign donors, though some simplification of the procedure was introduced through a single-window approach with effect from January 2017.³⁹ Foreign support is a key source for some minorities. The Udins, for example, received funding from Norway to re-build churches and are planning an ethnographic museum with support from Polish donors.

³⁵ See *KulturaPlus* Channel at <http://kulturaplus.az/home.php/channel/rodnoj-yazy-k/>.

³⁶ See Council on State Support to NGOs at www.cssn.gov.az/index.php?lang=en.

³⁷ Council of Europe Committee of Ministers (20 June 2017), State of implementation of the commitments entered into by Azerbaijan ([GR-DEM\(2017\)14](#)).

³⁸ The projects are in the following domains: Human rights and democracy; Women, family and children; War veterans and IDPs; Environment and health; Gender; and Youth.

³⁹ According to the Presidential Decree "On the application of the 'single window' principle in the procedure of allocating grants by foreign donors at the territory of the Republic of Azerbaijan" of 21 October 2016, the Ministry of Justice as the co-ordinating body for non-profit organisations has become the sole interface for applicants and must ensure a swift turnaround of the documents to the Ministry of Finance and registration of the grant.

34. The Advisory Committee observes a policy towards the culture and in particular the folklore of the very small minorities, notably Budugs, Khynalygs, Kryzs, Tats and Udins, which is generally supportive. The Advisory Committee was informed that the community of the Kryzs, for example, received support from the Ministry of Culture for buying traditional musical instruments. The Ministry of Culture also supported the creation of an online Atlas of traditional music of Azerbaijan.⁴⁰ The cultural heritage of these small communities is officially framed as part of Azerbaijan's common cultural heritage. The situation appears to be less clear-cut with regard to the numerically larger minorities and wherever the needs of minorities go beyond a narrow and folkloric concept of culture. Whereas the Russian and Georgian minorities can openly rely on support from the Russian Federation and Georgia respectively, the situation of the Lezgins in the north of the country and the Talysh in the south is more complex. In both cases, relations to neighbouring Russian Federation (Dagestan) and Iran, appear to raise suspicions of separatism and religious extremism. The Advisory Committee has also been informed by its interlocutors that the idea of organising conferences on Talysh culture is yet to receive sufficient support from the authorities. Several such conferences were organised in the Republic of Armenia, however, which contributed to the suspicion that Armenia seeks to fuel Talysh separatism.

35. As regards the situation of the Talysh minority, the Advisory Committee notes a discrepancy between what was communicated at meetings organised by the authorities and at its other meetings. According to meetings in the Baku International Multiculturalism Centre and in the cultural centres in Lankaran and Massali, the Talysh enjoy optimal conditions for maintaining and developing their culture. However, from other sources, the Advisory Committee learned that some Talysh are not satisfied with the cultural rights they can enjoy as persons belonging to the Talysh minority. While some interlocutors complained about the lack of legislation guaranteeing minority rights, the absence of a Talysh cultural centre in Lankaran and lack of support for cultural events, other sources go as far as accusing the authorities of a conscious assimilationist policy.⁴¹

36. The Advisory Committee is furthermore concerned about the case of the Sunni Mosque in the Old Town of Baku. The mosque was built in the 12th century and received the name "Lezgin Mosque" in the 19th century. In 2009, the name plate indicating "Lezgin Mosque" was removed from the building, which the Advisory Committee criticised in its Third Opinion. In May 2014, the mosque was put under a police blockade restricting the number of worshippers. In July 2016, the mosque was forcibly closed, ostensibly for renovations, thus also closing the Lezgin cultural centre "Samur" that was hosted there since 1993. Among the Lezgin community, there are well-grounded fears that its visibility in Baku will be reduced by these actions. The Advisory Committee is concerned that the Lezgin community in Baku has obviously not been effectively consulted on the steps taken by the authorities.

⁴⁰ Atlas of traditional music of Azerbaijan, <http://atlas.musigi-dunya.az/en/culture.html>.

⁴¹ Website of the Unrepresented Nations and Peoples Organisation (UNPO), Talysh (8 July 2015), available at <http://www.unpo.org/members/17338>.

Recommendations

37. The Advisory Committee calls on the authorities to allow and actively support persons belonging to minorities to preserve the essential elements of their cultural identities, including through removing obstacles to freedom of expression, freedom of association, and through guaranteeing the right to manifestation of religion.

38. The Advisory Committee renews its call on the authorities to ensure that long-term baseline funding, earmarked for cultural activities of national minorities, is available and accessible in line with fair procedures, and to ensure the participation of minority representatives in the allocation of these funds.

Article 6 of the Framework Convention

Tolerance and intercultural dialogue

39. The Advisory Committee welcomes the general climate of tolerance and respect in Azerbaijan's diverse society. The Advisory Committee was particularly pleased to note the overall good relationship between Shi'a and Sunni Muslims as well as the positive views of representatives of the Jewish minority about their situation in Azerbaijan and the virtual absence of anti-Semitism. The year 2016 was declared a "Year of Multiculturalism" with the organisation of events that showcase Azerbaijan as a model in terms of multiculturalism, tolerance, and intercultural dialogue. The Advisory Committee observes, however, that the concept is mainly interpreted in terms of traditional and folkloric characteristics of minorities as groups of static identities and would benefit from opening it up to the idea of a diversity of multiple, overlapping and evolving individual identities. In the Advisory Committee's view, persons belonging to national minorities must be allowed both to preserve their minority identities and to be perceived as an integral part of society simultaneously.⁴² Furthermore, the promotion of mutual respect and understanding requires not only ad hoc measures, but also long-term engagement as well as active measures to protect persons who may be subject to threats of discrimination, hostility or violence as a result of their minority identity.

40. The generally positive attitude towards diversity in Azerbaijan contrasts starkly with the persistent hostile narrative against neighbouring Armenia. It is hardly possible to discern this official discourse against Armenia as a country from hate speech towards Armenians as an ethnic group.⁴³ The Advisory Committee is concerned that the ubiquitous use of inflammatory language by politicians and other public figures can have an adverse impact on society's perception of persons belonging to the Armenian minority.⁴⁴ The important role of the media in promoting this discriminatory discourse and hate speech has been documented at the

⁴² 4th Advisory Committee Thematic Commentary on the Scope of Application of the FCNM (2016), para. 86.

⁴³ For more detailed information on hate speech against Armenians in Azerbaijan, see European Commission against Racism and Intolerance (2016), Report on Azerbaijan, fifth monitoring cycle, CRI(2016)17.

⁴⁴ UN Committee on the Elimination of Racial Discrimination (10 June 2016), Concluding observations on the combined seventh to ninth periodic reports of Azerbaijan, CERD/C/AZE/CO/7-9, para. 27. See also the Alternative Report to the CERD submitted by the Armenian Atlantic Association, available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fNGO%2fAZE%2f23691&Lang=en.

occasion of the escalation of violence in Nagorno-Karabakh from 2 to 5 April 2016.⁴⁵ While acknowledging that the two countries are in conflict, the Advisory Committee regrets that an entire generation of Azerbaijanis has now been raised with a rhetoric of hate, hostility and victimhood, which may have an impact on prospects of future reconciliation.

41. The Advisory Committee notes with concern reports about discrimination against members of the Armenian minority.⁴⁶ The Advisory Committee was also informed by its interlocutors of cases of discrimination in the public housing sector and verbal insults in everyday situations. It notes that it is difficult to obtain evidence and documentation for such allegations. According to the ombudsperson, not a single case of discrimination on ethnic grounds, Armenian or other, has been brought to her attention (see Article 4). The Advisory Committee, however, doubts that this can be taken as proof that such discrimination does not exist. Rather, it notes that many interlocutors said that only very few Armenians are left in Azerbaijan (see Article 3) and that those who live there behave as inconspicuously as possible or even hide their identity because they fear possible negative consequences.

42. Article 283 of the Criminal Code prohibits activities, including through mass media, aimed at instigating ethnic, racial or religious strife, injuring the sense of ethnic dignity, or establishing superiority over a certain group of people on the grounds of their ethnic or racial background.⁴⁷ The Advisory Committee further notes that one constitutional amendment to Article 47, Section III, introduced in 2016, supplements the definition of hate speech – previously defined as “propaganda provoking racial, national, religious discord and animosity”, and now extended to “hostility based on any other criteria”. The Advisory Committee shares the Venice Commission’s concerns that this provision may justify far-reaching restrictions on freedom of expression as guaranteed by Article 10 of the ECHR.⁴⁸

Recommendations

43. The Advisory Committee encourages the authorities to support actively the climate of tolerance and mutual understanding in society and to nourish it by interpreting diversity in an inclusive and dynamic way going beyond folkloric expressions of minority identities. National minorities should be understood as an equal and integral part of Azerbaijan’s society.

44. The Advisory Committee urges the authorities to condemn firmly any manifestation of intolerance and hate speech against persons belonging to the Armenian community and to undertake active measures to enable persons to safely identify as Armenians in public.

⁴⁵ Hrant Dink Foundation (2017), Four day war in Nagorno-Karabakh and the discriminatory discourse analysis of the media in Azerbaijan, Armenia and Turkey, available at <http://hrantdink.org/attachments/article/722/FOUR%20DAY%20WAR%20IN%20NAGORNO-KARABAKH.pdf>.

⁴⁶ UN Committee on Human Rights (16 November 2016), Concluding observations on the fourth periodic report of Azerbaijan, [CCPR/C/AZE/CO/4](#), para. 44.

⁴⁷ State report, p. 13.

⁴⁸ European Commission for Democracy through Law (Venice Commission), Opinion on the draft modifications to the constitution submitted to the referendum of 26 September 2016, adopted on 14-15 October 2016, [\(CDL-AD\(2016\)029\)](#), para. 40.

Article 7 of the Framework Convention

Legislation on non-governmental organisations and freedom of association

45. The Advisory Committee notes with deep concern that the legal and political environment for non-governmental organisations promoting human rights, including those of persons belonging to national minorities, continues to be problematic. According to the Venice Commission, the Law on NGOs adopted in 2000 which prescribes a mandatory registration procedure for NGOs and severely restricts the reception of foreign grants, reflects a “very paternalistic approach towards NGOs”.⁴⁹ The amendments to the law introduced in 2013 and 2014 have failed to address most of the shortcomings and some even increased the regular administrative burden linked to registration and reporting obligations operation of NGOs.⁵⁰ The Advisory Committee was surprised to learn at its visit that even local partners of the United Nations agencies were not exempt from these restrictions, which in the case of UNHCR led to the temporary freezing of numerous projects helping refugees, internally displaced and asylum-seekers in 2014.

46. Since 2013, criminal investigations into the activities of numerous domestic and international NGOs were carried out. As a result of the investigation, at least 32 organisations closed, the authorities froze dozens of NGO bank accounts and personal accounts of a number of organisation heads. Domestic and international NGOs described the criminal investigations, arrests, bank account closures and other pressures as a crackdown on civil society unprecedented in the country.⁵¹ In late 2015 and early 2016, the authorities conditionally released or pardoned a number of persons previously convicted on what are widely seen as politically motivated charges, including Hilal Mammadov, chief editor of the Talysh language newspaper “*Talishi Sedo*”.⁵² However, none of those released had their convictions revoked, several face travel restrictions, and a number of human rights defenders left the country fearing further politically motivated persecution.⁵³

47. Several attempts have been made to install a dialogue between the government and civil society representatives, the most recent one being a government-civil society dialogue platform on the promotion of the “Open Government Initiative”, which was established in September 2016 with the participation of 31 NGOs and 10 state institutions.⁵⁴ The Advisory Committee observes, however, a polarisation between NGOs that work with the government

⁴⁹ European Commission for Democracy through Law (Venice Commission), Opinion on the Law on Non-governmental Organisations (public associations and funds) as amended of the Republic of Azerbaijan, adopted on 12-13 December 2014, ([CDL-AD\(2014\)043](#)), para. 92.

⁵⁰ Ibid., paras. 46, 50, 51, and 69 ff.

⁵¹ European Stability Initiative (August 2014), The jails of Azerbaijan. A chronology of recent repression 14 May to 25 August 2014, ESI Background briefing, available at www.esiweb.org/pdf/A%20short%20chronology%20of%20the%20Council%20of%20Europe%20chairmanship.pdf.

⁵² Human Rights Watch (17 March 2016), Dispatches: Good News from Azerbaijan (For a Change), available at <https://www.hrw.org/news/2016/03/17/dispatches-good-news-azerbaijan-change>.

⁵³ UN Human Rights Council (2 April 2014), Opinions adopted by the Working Group on Arbitrary Detention at its sixty-eighth session, 13–22 November 2013, No. 59/2013 (Republic of Azerbaijan), A/HRC/WGAD/2013/59.

⁵⁴ OGP Azerbaijan (14 August 2017), Open Government Platform presents its project report, available at <http://ogp.org.az/index.php/2017/08/14/open-government-platform-presents-its-project-report/>.

in those platforms and other civil society representatives, who qualify these as “governmental NGOs – GONGOs” and doubt the seriousness of these initiatives.⁵⁵

48. The above-mentioned restrictions on the freedom of association are not specifically targeted towards national minorities and persons belonging to them, but they affect any group of persons wishing to pursue their interests collectively, in particular if these are of a political nature or perceived as such. While the Advisory Committee notes the concerns voiced by its interlocutors in the government and the parliament about international security concerns and the need to avoid tax evasion, it is of the view that the level of state control over NGO activities is disproportional to reaching this objective. Overall, the present legal and political environment poses serious obstacles for persons belonging to national minorities to enjoy their right to freedom of association under Article 7 of the Framework Convention. This situation has serious consequences for the possibilities of persons belonging to national minorities to receive support for cultural activities (see Article 5) and to participate in public decision making (see Article 15).

Recommendation

49. The Advisory Committee reiterates its call on the authorities to bring legislation and practice of NGO registration and operation in line with international standards so that all persons belonging to national minorities can effectively enjoy the freedom of association.

Freedom of expression

50. The Advisory Committee is deeply concerned about the continued restrictions on freedom of expression of individuals promoting human rights and democracy. Among the numerous individuals suffering from repression, many of whom have successfully brought their case to the European Court of Human Rights, there are also minority activists. The Advisory Committee is particularly concerned about the case of Hilal Mammadov, chief editor of the Talysh language newspaper “*Talishi Sedo*”. In this position, he is the successor of Novruzali Mammadov, who died in custody in August 2009.⁵⁶ Shortly after the Advisory Committee’s third cycle country visit in July 2012, Hilal Mammadov was arrested and charged with illegal possession of narcotic substances. New charges were later added, namely incitement to ethnic, racial, social or religious hatred or hostility. In September 2013 he was convicted on all charges and sentenced to five years’ imprisonment. The judgment was widely criticised as politically motivated and a punishment of Mammadov’s journalism and activism for national minority rights.⁵⁷ In February 2016, the European Court of Human Rights condemned Azerbaijan in first instance for violation of Articles 3 (inhumane and degrading treatment, right to an investigation) and 34 (right to an individual petition) of the European Convention of Human

⁵⁵ Eurasianet.org (4 November 2014), Azerbaijan: Debating GONGO v. NGO, available at <http://www.eurasianet.org/node/70761>.

⁵⁶ See Third Advisory Committee Opinion on Azerbaijan, adopted on 10 October 2012, paras. 66-67 and *Novruzali Khanmammad Oglu Mammadov and others v. Azerbaijan*, Application No. 35432/07, communicated on 27 August 2014.

⁵⁷ Civil Rights Defenders (2 October 2013), News editor sentenced to 5 years in prison before elections, available at www.civilrightsdefenders.org/news/statements/news-editor-sentenced-to-5-years-in-prison-before-elections.

Rights.⁵⁸ While the Advisory Committee is pleased to note that Hilal Mammadov was released from prison by a presidential pardon in March 2016, it observes with deep concern continued pressure on Mammadov and other Talysh activists. The Advisory Committee was worried when they were made aware that just one month before its visit in July 2017, that Mammadov and two other Talysh activists had been arrested and questioned, allegedly for “preventative purposes”.⁵⁹

51. The Advisory Committee is further concerned about the case of Arif Yunus, a historian and human rights activist who wrote about the history of national minorities in Azerbaijan.⁶⁰ He was detained from August 2014 to November 2015 and subsequently handed a harsh prison term on charges of alleged economic crimes. The sentence was denounced by international observers as politically motivated to punish Arif Yunus for his work defending the rights of political prisoners and towards finding a peaceful solution to the Nagorno-Karabakh conflict. In June 2016, the European Court of Human Rights found a violation of the right of individual petition and of the prohibition of inhuman or degrading treatment.⁶¹

Recommendation

52. The Advisory Committee urges the authorities to abstain from unduly limiting the freedom of expression of persons belonging to and defending the rights of national minorities.

Article 8 of the Framework Convention

Manifestation of religious belief

53. The Advisory Committee welcomes the predominantly peaceful co-existence of Shi’a and Sunni Muslims as well as 27 non-Islamic religious communities and notes the high degree of religious tolerance in society. Azerbaijan is a secular state with approximately a 95% Muslim population. Among the Muslim majority, religious observance varies and Muslim identity tends to be based more on culture and ethnicity rather than religion.⁶² The Talysh minority living in the south of the country is predominantly Shi’a, whereas Lezgins, who live in the north, are mostly Sunni. Azerbaijan takes pride in its religious tolerance and the good relations between Sunnis and Shi’as.⁶³ In the Heydar Mosque in Baku, the official Sunni and Shiite imams of the

⁵⁸ *Hilal Mammadov v. Azerbaijan*, Application No. 81553/12, judgment of 4 February 2017. See also the Third party intervention on the case by the Council of Europe Commissioner for Human Rights of 19 February 2015 (CommDH(2015)5), available at <https://rm.coe.int/16806daae3>.

⁵⁹ Meydan TV (8 June 2017), 1 Talysh Activist, 2 Talysh Newspaper Editors Arrested in Azerbaijan, available at www.meydan.tv/en/site/news/23428/.

⁶⁰ See for example Arif Yunus (2004), *Ethnic Profile of Post-Soviet Azerbaijan*, European Yearbook of Minority Issues, Vol. 4, 2004/5, pp. 481-494. See *Leyla Yunusova and Arif Yunusov v. Azerbaijan*, Application No. 68817/14, communicated on 5 January 2015. See also the Third party intervention on the case by the Council of Europe Commissioner for Human Rights of 16 April 2015 (CommDH(2015)10), available at [https://rm.coe.int/ref/CommDH\(2015\)10](https://rm.coe.int/ref/CommDH(2015)10).

⁶¹ *Leyla Yunusova and Arif Yunusov v. Azerbaijan*, Application No. 59620/14, judgment of 2 June 2016.

⁶² Administrative Department of the President of the Republic of Azerbaijan, Presidential Library (2009), *Religion*, available at http://files.preslib.az/projects/remz/pdf_en/atr_din.pdf. The identification with Russian and Georgian Orthodox, Jewish, Udin and Molokan also overlaps largely with ethnic affiliation.

⁶³ According to a study, 16% of Muslims in Azerbaijan self-identify as Sunni, 37% as Shi’a and 45% as “just a Muslim”. The Pew Forum on Religion & Public Life (2012), *The Worlds Muslims: Unity and Diversity*, available at <http://assets.pewresearch.org/wp-content/uploads/sites/11/2012/08/the-worlds-muslims-full-report.pdf>.

mosque take turns in leading Friday prayers on a weekly basis.⁶⁴ The Caucasian Muslim Board, the Russian Orthodox and the Catholic churches as well as several Jewish and Udi communities receive annual payments from the Presidential Reserve Fund.⁶⁵ According to the State Committee for Work with Religious Organisations, other recognised religious communities are three Molokan,⁶⁶ two Baha'i, a Krishna, a Lutheran, a Baptist and two Pentecostal communities. During the visit, both the Mountain Jewish and the Ashkenazi Jewish communities informed the Advisory Committee that their members felt secure and confirmed that anti-Semitism has traditionally not been a problem in Azerbaijan. The Jewish communities appreciate the financial support they receive from the government, but noted heavy bureaucratic procedures in receiving funding and religious literature from abroad.

54. Due to amendments to the Law on Grants⁶⁷ and the Law on Freedom of Religion in 2013, religious communities, as well as NGOs (See Article 7), need to have grant agreements officially approved before they can accept foreign donations. As a result of this and other provisions, Azerbaijan's Law on Freedom of Religion (2009) has been criticised by the Venice Commission as too restrictive and not meeting international standards.⁶⁸ The law, monitored by the State Committee for Work with Religious Organisations and amended several times during the reporting period, tightly controls religious activities. It sets a complex procedure of registration of any religious community, limits religious activity to a group's registered address, regulates the content, import, distribution and sale of religious texts, requires state approval of religious education for clergy, bans non-Azerbaijani citizens from leading Islamic rituals, and requires religious groups to report regularly on their activities.⁶⁹ Without prejudice to preventing radicalisation and terrorism, the Advisory Committee is concerned that provisions in the law may be used to justify an increasing number of arrests of members of Muslim

⁶⁴ Vestnik Kavkaza (16 January 2016), Prayer for unity held in Baku's Heydar Mosque, available at <http://vestnikkavkaza.net/news/Unity-Prayer-held-in-Baku%E2%80%99s-Heydar-Mosque.html>.

⁶⁵ In 2017, the Caucasian Muslims Department received AZN 1 million, the local diocese of the Russian Orthodox Church and the Baku Mountain Jews community AZN 250 000, and the Baku Community of European Jews, the Apostolic Prefecture of the Roman Catholic Church, and the Albanian-Udi Christian community AZN 100 000. The exchange rate at the time of adoption of this opinion is 1€ = 1.96 AZN.

⁶⁶ Molokans are a small, Russian-speaking community who settled in the town of Ivanovka in 1834 after being exiled from Russia for breaking away from the rules of the Russian Orthodox Church. See www.ivanovka.net (in Russian).

⁶⁷ Law on Grant (including amendments of 17 December 2013), available at <http://cssn.gov.az/documents/Law%20of%20the%20Republic%20of%20Azerbaijan%20on%20E2%80%9CGrant%E2%80%9D.pdf>.

⁶⁸ European Commission for Democracy through Law (Venice Commission), Joint Opinion by the Venice Commission and the OSCE/ODIHR on the Law on Freedom of Religious Belief of the Republic of Azerbaijan (October 2012), available at [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2012\)022-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2012)022-e).

⁶⁹ US Commission on International Religious Freedom, Annual Report 2017, pp. 124-128, available at www.uscifr.gov/sites/default/files/2017_USCIRFAnnualReport.pdf.

communities⁷⁰ and that the above-mentioned restrictions on freedom of association (see Article 7) affect also religious communities.⁷¹

55. The Advisory Committee notes reports that the Georgian Orthodox communities in the north-western Gakh region have long struggled to be allowed to re-open places of worship, forcibly closed in the Soviet period, and provide clergy for them. Only a limited number of churches have been allowed to re-open, and access to worship is restricted to no more than 30 minutes.⁷² In June 2015, the authorities denied entry to Georgian Orthodox priest Demetre Tetrushvili, who for the past four years had served two parishes with state permission.⁷³ In June 2016, after only a break of one year, the new priest for the two state-permitted Georgian Orthodox parishes in Gakh Region, Petre Khumarashvili, was able to move to Azerbaijan to take up his service.⁷⁴

Recommendation

56. The Advisory Committee calls on the authorities to refrain from any undue interference with the right of persons belonging to national minorities to freely express and manifest their religious beliefs. Registration of such religious communities and access to places of worship must be handled in a transparent manner and rejections must be open to effective legal redress.

Article 9 of the Framework Convention

Minority language television, radio broadcasting and print media

57. The Advisory Committee is deeply concerned that the few minority media existing in Azerbaijan operate in a highly restrictive environment as regards freedom of the media and freedom of expression which has a chilling effect on anybody, including persons belonging to minorities, who want to use their right to free speech.⁷⁵ Throughout the reporting period, critical journalists faced threats, intimidation and detention and numerous independent media outlets have had to close down (see Article 7).⁷⁶ Several of the Advisory Committee's

⁷⁰ For a detailed description of discrimination on the ground of religion including the arrest of participants of the "Freedom for hijab" protest in October 2012 and of 85 followers of Said Nursi in September 2015, see European Commission against Racism and Intolerance (ECRI), 5th monitoring cycle report on Azerbaijan, 7 June 2016, paras. 68-75.

⁷¹ See for example the case of *Islam-Ittihad association and others v. Azerbaijan*, where the Court found a violation of Article 11 of the European Convention on Human Rights (Application No. [5548/05](#), judgment of 13 February 2015).

⁷² Forum 18 (16 July 2015), Azerbaijan: Religious freedom survey, available at http://forum18.org/archive.php?article_id=2081.

⁷³ Forum 18 (8 September 2015), Azerbaijan: 11 weeks with no Sunday liturgy, available at http://forum18.org/archive.php?article_id=2097.

⁷⁴ Forum 18 (26 July 2016), Mosques ordered to close for "repairs", available at http://www.forum18.org/archive.php?article_id=2202.

⁷⁵ Azerbaijan is rated "not free" in the Freedom House Press Freedom Index and the score has been deteriorating every year during the reporting period, reaching 90 out of 100 (0=best, 100=worst) in 2017. See <https://freedomhouse.org/report/freedom-press/2017/azerbaijan>.

⁷⁶ See for example Council of Europe Committee of Ministers (20 June 2017), State of implementation of the commitments entered into by Azerbaijan ([GR-DEM\(2017\)14](#)), paras. 57-76; Parliamentary Assembly of the Council of Europe, Resolution [2141 \(2017\)](#) on "Attacks against journalists and media freedom in Europe", paras. 9-11;

interlocutors referred to the fact that censorship is officially abolished, but that the remaining media exercise self-censorship to avoid repression. Restrictions to media freedom started with traditional media, but increasingly extend to bloggers and social networks.⁷⁷ With the important exception of the cases of the successive editors-in-chief of the newspaper “*Talishi Sedo*” Novruzali Mammadov and Hilal Mammadov (see Article 7), minority media are not the main target of repression. Nevertheless, the Advisory Committee is convinced that the general restrictive environment is an obstacle to the establishment of new minority media, limits the journalistic freedom of existing minority media, and impedes critical reporting about the situation of national minorities in mainstream media.

58. The Advisory Committee regrets that persons belonging to national minorities in Azerbaijan have only very limited access to print media, radio and TV broadcasting in minority languages. The state report lists 15 newspapers and magazines published by national minorities,⁷⁸ but the Advisory Committee had difficulties learning more about these during its country visit. The state report lists four Talysh magazines, for example, but the minority representatives the Advisory Committee met could only name two of them. Representatives of the Lezgin and Kurdish minority reported the publication of newspapers. During its visit to Lankaran, the Advisory Committee was informed that a local newspaper publishes one column or page in Talysh language twice per month, for example a Talysh poem. While the Advisory Committee welcomes this step, it considers this insufficient for a region inhabited by Talysh traditionally and in substantial numbers. Furthermore, it was not possible to obtain information on the circulation and frequency of these newspapers. The Advisory Committee regrets that not a single minority newspaper receives public funding. The Presidential Fund of State Support for Mass Media Development finances 33 newspapers including two Russian dailies, but none of the small minority newspapers qualifies for that support because it a minimum print run of 2 500 is required and at least weekly frequency of publication for newspapers and a minimum print run of 1 000 and at least monthly frequency of publication for journals.⁷⁹ Therefore it is the minority communities themselves which have to bear the costs of their respective newspapers, which according to the Advisory Committee’s interlocutors, some smaller communities are unable to do.

59. According to Article 6 of the Law on Mass Media, media in Azerbaijan shall use the state language, but citizens of Azerbaijan also have the right to use other languages in the production and dissemination of mass information.⁸⁰ The Advisory Committee notes that the

UN Committee on Human Rights (16 November 2016), Concluding observations on the fourth periodic report of Azerbaijan, [CCPR/C/AZE/CO/4](#), paras. 36-37; several judgments by the European Court of Human Rights regarding journalists presented at http://www.echr.coe.int/Documents/CP_Azerbaijan_ENG.pdf, including *Emin Huseynov v. Azerbaijan*, Application No. [59135/09](#), judgment of 7 May 2015. On the most recent case, the closing of Turan News Agency and arrest of its editor-in-chief Mehman Aliyev in August 2017, see www.meydan.tv/en/site/news/24865.

⁷⁷ On the arrest of the blogger Mehman Huseynov in January 2017, see www.irfs.org/news-feed/mehman/free-azerbaijani-journalist-mehman-huseynov. Since early 2017, access to the websites of Radio Free Europe/Radio Liberty and of Meydan.TV is blocked for users in Azerbaijan.

⁷⁸ State report, p. 21.

⁷⁹ Information received from representatives of the Presidential Fund of State Support for Mass Media Development during the country visit.

⁸⁰ The Law on of the Republic of Azerbaijan on Mass Media was adopted in 1999 and amended in 2001 and 2002. See http://azerbaijan.az/portal/Society/MassMedia/massMedia_e.html.

state radio broadcasts 20 minutes per week in the Talysh, Kurdish and Lezgin languages, approximately 40 minutes per week in the Georgian and Armenian languages, and 15 hours per month in the Russian language. The Advisory Committee further learned during its visit that the state-owned TV channel AZTV broadcasts 30 minutes per week in the Kurdish and Turkish languages and 15 hours per month in the Russian language. The Advisory Committee regrets that, according to the information received from its interlocutors, there are no minority-run broadcasting media or programmes, even among private stations and at regional level.

60. Several of the Advisory Committee's interlocutors from national minorities referred to the internet and online social networks as main platforms for obtaining and sharing information. Facebook has 1.75 million followers in Azerbaijan⁸¹ and 78.8% of the population use the internet.⁸² In this context, the Advisory Committee is deeply concerned about reports on restrictions of internet freedom in the country through the blocking of online content,⁸³ pro-government trolling in social networks and the intimidation arrests of individuals in reaction to posts on blogs or social networks.⁸⁴ The Advisory Committee is worried that these measures create a climate of self-censorship⁸⁵ which negatively affects the possibility of persons belonging to national minorities to express their views openly through on online media or social networks.

Recommendations

61. The Advisory Committee calls on the authorities to expand broadcasting in minority languages in radio and television and support national minority organisations in developing their own print, broadcasting and online media, without prejudice to the editorial independence of the media.

62. The Advisory Committee calls upon the authorities to guarantee the freedom of the media, including on the internet, so that critical reporting about minority issues is not discouraged.

Minorities in the media

63. The Advisory Committee welcomes that, according to information received from the authorities, propaganda against ethnic minorities in the media is prohibited. Furthermore, the "National strategy on the development of information society in Azerbaijan 2014-2020" stresses the importance of "ethnic content" and the protection and promotion of Azerbaijan's ethno-cultural heritage by means of modern technologies.⁸⁶ The Advisory Committee was furthermore informed that public television is obliged to report on the ethnic diversity of

⁸¹ Orkhanrza.com (8 January 2017), Azerbaijan Facebook & Instagram Statistics, available at <http://orkhanrza.com/en/azerbaijan-facebook-instagram-statistics-january-2017>.

⁸² International Telecommunications Union, ICT Facts and Figures 2017, available at www.itu.int/en/ITU-D/Statistics/Documents/statistics/2017/CoreHouseholdIndicators_July2017.xls.

⁸³ Committee to Protect Journalists (28 April 2017), Azerbaijan government seeks order to permanently block news websites, available at <https://cpi.org/2017/04/azerbaijan-government-seeks-order-to-permanently-b.php>.

⁸⁴ Azerbaijan is considered "partly free" in the Freedom on the Net Report 2016, available at <https://freedomhouse.org/report/freedom-net/2016/azerbaijan>.

⁸⁵ Eurasianet.org (15 April 2014), Azerbaijan presses clampdown on Facebook activists, available at www.eurasianet.org/node/68277.

⁸⁶ State report, p. 12.

Azerbaijan. However, it was impossible for the Advisory Committee to find out exactly how the latter obligation is ensured. Some interlocutors said there were occasional folkloric programmes, but most agreed that reporting on national minorities in general remains scarce. This limits the possibilities for mainstream society to learn about and understand the specific concerns of persons belonging to minorities.

Recommendation

64. The Advisory Committee reiterates its call on the authorities to encourage the development and broadcasting of more programmes on issues relevant to national minorities in close co-operation with minority representatives.

Article 10 of the Framework Convention

Use of minority languages in relation with administrative authorities

65. The Advisory Committee received conflicting information regarding the implementation of Article 10.1 on the right of persons belonging to a national minority to use freely and without interference his or her minority language, in private and in public. The constitution states that Azerbaijan ensures “free use and development of other languages spoken by the people” (Article 21.2) and that everyone has the right to use his or her mother tongue.⁸⁷ During the country visit, whenever the Advisory Committee asked about the use of minority languages in the public sphere, representatives of the authorities stressed that Azerbaijani was the official language, but that there are no restrictions in using minority languages in public. The Advisory Committee received different information from minority representatives as to what extent this is actually practiced. From conversations with minority representatives, the Advisory Committee understood that minority languages are mainly restricted to the private and informal sphere.

66. No progress has been made regarding the implementation of Article 10.2 on the use of minority languages in relations with administrative authorities in areas inhabited by persons belonging to national minorities traditionally or in substantial numbers. The Advisory Committee regrets that the State Report does not provide information on the effective implementation of Article 10 of the Framework Convention, although the Advisory Committee had recommended the authorities in the Third Opinion to introduce norms specifying the conditions for the use of minority languages in relations with administrative authorities.⁸⁸ There is still no formal possibility to use minority languages in contacts with local or regional authorities. During its visit to Lankaran and Massali, the Advisory Committee was informed that all written communication with local authorities has to be done in the Azerbaijani language. On occasions where a citizen, usually an elderly person belonging to the Talysh minority, is unable to speak Azerbaijani, administrations would have recourse to Talysh-speaking staff on an ad-hoc basis. In the view of the Advisory Committee, this does not qualify as an effective possibility to use minority languages in relations with administrative authorities. The Advisory Committee finds this particularly regrettable as it was informed that a vast majority of the population in the Lankaran and Massali regions speak Talysh. For both Lankaran’s hospital and

⁸⁷ Constitution of the Republic of Azerbaijan, available at <http://en.president.az/azerbaijan/constitution>.

⁸⁸ Advisory Committee Third Opinion on Azerbaijan, adopted on 10 October 2012, para. 85.

Lankaran University, interlocutors mentioned that almost all staff members were able to communicate in Talysh. The Advisory Committee notes that some representatives of the Talysh and Lezgin minorities claim that their respective languages should receive the status of “regional languages”.⁸⁹

67. While Azerbaijan signed the European Charter for Regional or Minority Languages (ECRML) on 21 December 2001, the Advisory Committee regrets that no progress has been made towards the ratification of the ECRML and that, according to members of the parliament, there are no plans to ratify it in the near future. The Advisory Committee wishes to remind the authorities of Azerbaijan’s commitment to signing and ratifying the ECRML by 25 January 2002.

Recommendations

68. The Advisory Committee calls on the authorities to ensure the right of persons belonging to national minorities to use minority languages in the public space, including in contacts with the administration, and in particular in regions inhabited by persons belonging to national minorities traditionally and in substantial numbers.

69. The Advisory Committee calls on the authorities to comply with their post-accession commitment and ratify the European Charter for Regional or Minority Languages.

Article 11 of the Framework Convention

Bilingual topographical indications and other inscriptions

70. The Advisory Committee regrets that the authorities do not promote the preservation and display of topographical indications in minority languages in areas traditionally inhabited by substantial numbers of persons belonging to a national minority. The Advisory Committee saw no bilingual place or street signs during its visit to Lankaran and Massali. It takes note of reports from the Unrepresented Nations and Peoples Organization (UNPO) about restrictions on the use of signs of a private nature in Lezgin language.⁹⁰ The Advisory Committee further takes note of criticism by the Lezgin representatives about the changing of names of villages in the north⁹¹ and wishes to remind the authorities of the importance of consultation with representatives of national minorities affected by these kinds of decisions. During its visit to Massali, the Advisory Committee was informed that most place names of the Talysh villages in the region are in Talysh language, spelled in the Latin script with the addition of Azerbaijani endings. In the view of the Advisory Committee, this could be interpreted as an act of Azerbaijanisation of these topographical names, which runs contrary to the intention of Article 11 of the Framework Convention. Choosing bilingual topographic signs in both the Azerbaijani and Talysh language would instead be a step towards the appreciation of the multilingual

⁸⁹ Submission to the Advisory Committee by Unrepresented Nations and Peoples Organization (UNPO) together with the Moscow Talysh National and Cultural Autonomy, November 2015 and submission to the Advisory Committee by the Unrepresented Nations and Peoples Organization (UNPO) and Federal Lezgin National and Cultural Autonomy (FLINCA), October 2015.

⁹⁰ Submission to the Advisory Committee by the Unrepresented Nations and Peoples Organization (UNPO) and Federal Lezgin National and Cultural Autonomy (FLINCA), October 2015. See also UNPO (2013), Alternative Report submitted to the UN Committee on Economic, Social and Cultural Rights in collaboration with The Federal Lezgin National and Cultural Autonomy, p. 8, available at <http://unpo.org/downloads/621.pdf>.

⁹¹ Ibid.

character of this region and it would help to promote tolerance and respect for diversity and as an equal and integral part of Azerbaijan's society.⁹²

Recommendation

71. The Advisory Committee calls on the authorities to bring their legislative framework in line with the Framework Convention and allow the display of minority languages in the public space in areas traditionally inhabited by substantial numbers of persons belonging to a national minority.

Article 12 of the Framework Convention

Cultural diversity, teaching and learning materials and teacher training

72. The Advisory Committee welcomes the measures taken by the authorities to educate young persons on multiculturalism and tolerance in the framework of the project "We are all humans and we are all equal". According to the State Report, trainings on this subject were held in six schools by the end of 2016 and more were planned for 2017, including in regions inhabited by persons belonging to minorities in substantial numbers. The courses target not only students, but also their parents and teachers and will be organised in co-operation with minority organisations.⁹³ The Advisory Committee notes that the courses contain information about "the Constitution of the Republic of Azerbaijan and the ideology of Azerbaijanism", the Framework Convention, and the development of a "pluralistic and democratic society in Azerbaijan based on respect for the uniqueness of the ethnicity, religion, culture and language of its citizens".⁹⁴ While the Advisory Committee welcomes these trainings, it considers that such initiatives have yet to translate into a systematic approach to education on national minorities and intercultural tolerance, which demands a thorough review of education materials, school curricula and teacher training.

73. The Advisory Committee regrets to note that according to most interlocutors from minorities, information about minority cultures, history and languages is not sufficiently represented in teaching and learning materials and in school curricula, which leads to a limited awareness of this diversity in the society as a whole. The Advisory Committee considers it essential that all students learn about the wealth of cultures, languages, traditions and identities present in Azerbaijan, including those of the numerically smaller minorities. Minority cultures and languages should be promoted as an integral part of mainstream society rather than as "marginal", which can lead to the isolation of minority cultures and the assimilation of persons belonging to minorities into the majority culture.⁹⁵ Close consultation of national minorities in the preparation of history textbooks is important to encourage the accommodation of multiple perspectives in historic research.

⁹² 3rd Advisory Committee Thematic Commentary on Language Rights (2012), para. 32, available at <https://rm.coe.int/16800c108d>.

⁹³ State report, pp. 4-5.

⁹⁴ State report, p. 5.

⁹⁵ 3rd Advisory Committee Thematic Commentary on Language Rights (2012), para. 34.

Recommendation

74. The Advisory Committee calls on the authorities to ensure, in consultation with minority representatives, that the multicultural character of society is adequately reflected in school curricula and teaching and learning materials and that minority cultures and languages are promoted as an integral part of mainstream society.

Article 13 of the Framework Convention

Private educational and training establishments

75. The Advisory Committee welcomes the fact that a variety of Sunday Schools run by minority associations exist where children and adults belonging to national minorities can learn their minority language and about their culture. During its visit, the Advisory Committee learned for instance that the Ukrainian and the Tatar communities in Baku organise language courses on a voluntary basis because their languages are not taught in schools. Some communities said they receive support from respective embassies, but most have to rely on their own resources. The Baku International Multiculturalism Centre and local cultural centres allocate premises for these activities. The Advisory Committee further notes that the Jewish Community runs the private Ohr Avner Chabad Day School with approximately 400 students.⁹⁶

Recommendation

76. The Advisory Committee encourages the authorities to maintain and extend their organisational and material support to private Sunday schools and other educational institutions run by minority communities that at present do not benefit from minority language education in public schools.

Article 14 of the Framework Convention

Access to education

77. The Advisory Committee notes the continued existence of two schemes for minority language education: full-scale education in Russian and Georgian, and two weekly hours in other minority languages. Education in Russian is provided in 325 primary and secondary schools.⁹⁷ During the reporting period, the number of children studying in Russian has increased by 16% to 104 288. Another 17 000 university students study at Russian-language faculties. Education in Georgian is provided in 10 schools, down from 12 in 2011. The Advisory Committee notes the continued strong interest in the Russian language, which is also reflected in the fact that an increasing number of students choose Russian as a foreign language.⁹⁸

78. For seven other minority languages (Talysh, Lezgin, Avar, Sakhur, Udi, Kurdish and Khinalig), two hours of language and culture per week are taught as a subject in “regions

⁹⁶ Jerusalem Post (5 October 2010), Jewish school opens new campus in Azerbaijan, available at www.jpost.com/Jewish-World/Jewish-News/Jewish-school-opens-new-campus-in-Azerbaijan.

⁹⁷ State report, annex 3, and ACFC calculations. Figures for the 2015/2016 academic year.

⁹⁸ The number of students enrolled in Russian as a foreign language doubled from 247 482 in the 2012/2013 academic year to 530 051 in the 2016/2017 academic year. Submission to the Advisory Committee from the Ministry of Education of Azerbaijan.

densely populated by minorities”.⁹⁹ This offer exists from grade 1 to grade 4, with the exception of the Lezgin language, which is taught up to grade 9. The Advisory Committee welcomes the fact that persons belonging to some numerically smaller minorities (Kurds, Udins, Khinalig) also have access to these two weekly hours. No minority language education exists for Armenian, Budukh, German, Juhuri (the language of the Mountain Jews), Kryzs, Tat, Tatar and Ukrainian languages.¹⁰⁰ The Advisory Committee regrets that with the exception of Lezgin language, minority language lessons are only provided from grade 1 to 4. The lack of such continuity can lead to concern that the learners, despite attending minority language classes, remain without proper knowledge and sufficient proficiency of and literacy in their first language that are needed to make use of the first language in different realms of life.

79. As regards access to minority language education, the Advisory Committee is furthermore concerned that there are no defining criteria for the notion of “regions densely populated by minorities”, also referred to “areas of compact settlement” by the Advisory Committee’s interlocutors, including the authorities. It appears that this concept is used in a rather static way and it is not clear how the demand for teaching in or of minority languages in areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, stemming from Article 14.2 of the Framework Convention, is regularly assessed. The Advisory Committee notes, for example, that Talysh is taught at 71 out of the 89 public village schools in the Lankaran region, but at no school in Lankaran town, although according to the census about 26% of the population identify as Talysh. Moreover, the Advisory Committee received conflicting information about a minimum number of children that would trigger the provision of minority language education. The Ministry of Education said that a minimum of 20 students was needed to open a new minority language class, though some village schools operate with a smaller number of students. While the Ministry of Education mentioned a possibility for parents to apply to the local education authorities for the opening of classes in minority languages under these conditions, Advisory Committee observed during its visit to Lankaran and Massali that minority representatives were not aware of this right. The Advisory Committee finds that this lack of awareness puts persons belonging to minorities in a weak position because it gives considerable room for arbitrary decisions and does not take account of shifts in the population, for instance through urbanisation. It is important to assess the demand and existing needs for the provision of minority language education in the geographical areas where there is substantial or traditional settlement of persons belonging to minorities, taking also into account the specific situation of different minority groups and functions and needs of different languages and speakers.¹⁰¹ It is also important that the authorities make sure that parents and students are informed about their rights in this regard.

⁹⁹ State report, p. 22. See also Annex 4, providing the following information for 2016: Talysh (225 schools), Lezgin (98), Sakhur (5 schools), Avar (22 schools), Udi (3 schools), Khinalig (1 school), and Kurdish (2 schools).

¹⁰⁰ In Azerbaijan, the following languages comply with the definition of “regional or minority languages” according to the ECRML: Armenian, Avar, Budukh, Georgian, German, Juhuri, Khynalyg, Kryz, Kurdish, Lezgian, Russian, Rutul, Talysh, Tat, Tatar, Tsakhur, Udi, Ukrainian and Yiddish. See Chylinski, Ewa/Hofmannová, Mahulena (eds.) (2011), Azerbaijan, in: Ready for Ratification - Early compliance of non-States Parties with the European Charter for Regional or Minority Languages, European Centre for Minority Issues, Flensburg, p. 23-29.

¹⁰¹ 3rd Advisory Committee Thematic Commentary on Language Rights (2012), paras. 56 and 69.

Recommendations

80. The Advisory Committee urges the authorities to continue investing in minority language education and expand its scope in consultation with persons belonging to national minorities.

81. The Advisory Committee calls on the authorities to regularly assess demand and existing needs for minority language classes, and raise the awareness of persons belonging to national minorities about their rights in this regard.

Teaching and learning materials

82. The Advisory Committee notes that efforts for publishing and updating textbooks for minority languages are being made.¹⁰² During the reporting period, for instance, Udi language textbooks for grades 3 and 4 were published.¹⁰³ The Advisory Committee welcomes that the Ministry of Education is currently developing a more systematic approach to the development of textbooks and quality standards for minority language teaching. In 2017, new grade 1 textbooks for Avar, Lezgin, Sakhur and Talysh languages are being prepared. Textbooks for grade 2 are planned to follow in 2018, grade 3 in 2019, and grade 4 in 2020. In 2016, 24 textbooks for grades 1 to 4 were translated into Georgian; the textbooks for grades 5-10 are due to be translated in 2018. Based on the “Strategy on the Development of Education in the Republic of Azerbaijan”, state standards on minority language education have been defined in the light of the revised state standards on general education. Furthermore, a new curriculum on the instruction of minority languages is currently under revision.¹⁰⁴

83. Textbooks for Russian and partially for Lezgin and Avar languages are imported from the Russian Federation. Furthermore, according to a bilateral agreement with Georgia of 20 December 2011, students studying at Azerbaijani schools with Georgian as the language of instruction (and vice versa) are mutually provided with free language and literature textbooks in the respective minority language. While the Advisory Committee notes this co-operation, it is aware that teaching and learning materials from neighbouring countries cannot completely replace materials produced in the own country and based on effective consultation with minority representatives.

Recommendation

84. The Advisory Committee calls on the authorities to ensure sustained investment in the development and dissemination of minority language teaching and teaching and learning materials and ensure that these are developed in close co-operation with minority representatives.

Teacher training

85. The Advisory Committee regrets that no academic training exists for teachers of national minority languages other than Russian and Georgian. Teachers of the seven minority

¹⁰² According to the state report, a total of 16 textbooks and other teaching and learning materials in minority languages have been published since 1992. See state report, p. 22.

¹⁰³ See state report, p. 22.

¹⁰⁴ Submission by the Ministry of Education to the Advisory Committee.

languages which are taught two hours per week in primary school usually are native speakers of the respective language with a degree in Azerbaijani philology or other specialities. They may benefit from some in-service training,¹⁰⁵ but this does not seem to be carried out systematically. Both Lezgin and Talysh minority representatives informed the Advisory Committee they regret that their languages are not taught at all at university level and hope that such language faculties will be opened in the future so as to guarantee a full vertical line of language teaching and training. There are some sporadic research projects or dissertations on issues related to minority cultures and languages,¹⁰⁶ but the Advisory Committee is concerned that this is not sufficient to protect and develop further the minority languages in question.

Recommendation

86. The Advisory Committee urges the authorities to ensure adequate training of teachers of minority languages and ensure minority language teaching in secondary and tertiary education.

Article 15 of the Framework Convention

Participation of persons belonging to national minorities in decision making

87. The Advisory Committee regrets to note that there is still no institutional mechanism in place to ensure that national minorities can effectively participate in decisions that concern them. The Co-ordination Council which functioned until 2010 under the then Presidential Service on Multiculturalism, Interethnic and Religious Affairs, has still not been re-established. The Advisory Committee regrets that the restructuring of the unit responsible for national minorities in the Presidential Administration in 2014 and 2017 was not used as an occasion to establish a representative body for national minorities. It notes that the Presidential Administration is working on the establishment of a co-ordination council, which is planned to include all registered NGOs representing national minorities and encourages a swift implementation of this initiative, but regrets that the authorities could not provide any details of this plan.

88. The Advisory Committee notes with satisfaction that the Baku International Multiculturalism Centre, according to information received by the centre, has an Advisory Board consisting of representations of national and religious minorities, which meets four times per year. It is of the opinion, however, that an Advisory Board to a cultural centre does not constitute an effective channel for minority representatives to voice their concerns with the government. Furthermore, the Advisory Committee is concerned that this body is again accessible to registered NGOs only, which means that the restrictions on NGO registration (see under Article 7) may exclude certain parts of the national minority population. Finally, the Advisory Committee felt that all minority representatives it met in the Baku International Multiculturalism Centre sought only to accentuate positive outcomes in their references to official minority policy. While the Advisory Committee welcomes the positive messages it

¹⁰⁵ A seminar for approx. 30 teachers of Talysh language was carried out at Lankaran State University in 2016.

¹⁰⁶ The Advisory Committee was informed that some individuals carry out research about Talysh language, folklore or toponyms at Lankaran State University.

received, it is not certain whether the organisations represented in the centre reflect the full spectrum of interests of persons belonging to minorities in the country.

89. The Advisory Committee does not consider the Council of State Support to Non-Governmental Organisations under the Auspices of the President as fulfilling the requirements of Article 15 either. The Council consists of eight persons, six representing different categories of NGOs and two appointed by the Ministry of Finance and the Ministry of Justice, respectively. There is no category for NGOs representing national minorities, however, which means that minority concerns are not represented in the council by default.¹⁰⁷

Recommendation

90. The Advisory Committee renews its call on the authorities to establish a specialised and permanent government body with sufficient financial and human resources to co-ordinate all issues relating to national minority protection and participate in decision-making processes affecting national minorities.

Participation of persons belonging to national minorities in socio-economic life

91. The Advisory Committee notes with concern the economic disparity between the capital region and the rural areas of the country, in some of which persons belonging to national minorities live in substantial numbers. The Advisory Committee acknowledges efforts made by the authorities to develop infrastructure and the difficulties caused by the economic downturn during the reporting period. During its visit to Lankaran and Massali, the Advisory Committee observed notable improvements in particular in the more visible public buildings, including the school in a Talysh village which it visited, and local cultural centres. The Advisory Committee understands from its interlocutors, however, that in particular the numerically smaller minorities living in the mountainous areas are in need of a more substantial investment in basic infrastructure such as streets, water and sanitation.

Recommendation

92. The Advisory Committee calls on the authorities to enhance efforts to improve infrastructure in particular in the remoter areas of the country where persons belonging to national minorities live in substantial numbers.

Article 16 of the Framework Convention

Internally displaced persons

93. The Advisory Committee regrets that the conflict in Nagorno-Karabakh has not yet been settled and that no voluntary return of persons displaced by the conflict, including those belonging to national minorities, has been possible. The Advisory Committee commends the substantial progress made by the authorities in improving the living conditions of internally

¹⁰⁷ The categories are Health and ecology; Human rights and democracy; Fight against drug abuse, corruption, human trafficking and terrorism; Refugees, displaced persons, the disabled and veterans; Family, women and children affairs; Economic and social issues.

displaced persons.¹⁰⁸ It notes that out of the approximately 613 000 persons registered as internally displaced persons, 1 963 belong to the Kurdish minority, which is about one third of the Kurdish population in Azerbaijan.¹⁰⁹ Interlocutors reported that due to the displacement, persons belonging to the Kurdish minority experience difficulties in accessing minority language education as they do no longer settle compactly.

Recommendation

94. The Advisory Committee encourages the authorities to continue its support for internally displaced persons, including those belonging to national minorities, so that their access to minority rights and especially education in minority languages is not negatively affected by their displacement.

Articles 17 and 18 of the Framework Convention

Cross-border contacts and bilateral co-operation

95. The Advisory Committee notes that Azerbaijan continues to maintain bilateral agreements with Georgia and the Russian Federation to facilitate cross-border contacts for persons belonging to national minorities and the exchange of teaching and learning materials in the languages of national minorities. It notes that persons belonging to the Talysh minority report that they face problems when wishing to maintain contacts across borders, namely with Iran and Armenia. The authorities, on the other hand, express their concern about security risks associated with cross-border contacts between persons belonging to national minorities in Azerbaijan and its neighbouring countries.

Recommendation

96. The Advisory Committee calls on the authorities not to interfere with the right of persons belonging to national minorities to develop and maintain contacts across borders. It invites the authorities to pursue their interstate co-operation on all issues related to national minority protection.

¹⁰⁸ Report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani (8 April 2015), Addendum, Follow-up mission to Azerbaijan, A/HRC/29/34/Add.1. As of April 2017, there were 613 129 internally displaced persons registered (information provided by UNHCR).

¹⁰⁹ According to the 2009 census, the total number of persons with Kurdish ethnic affiliation is 6 065.

III. Conclusions

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

98. The authorities are invited to take account of the detailed observations and recommendations contained in Sections I and II of the Advisory Committee's Fourth Opinion on Azerbaijan in the understanding that at present, Nagorno-Karabakh and seven adjacent occupied territories are not under the effective control of the Azerbaijani authorities.¹¹⁰ In particular, they should take the following measures to improve further the implementation of the Framework Convention:

Recommendations for immediate action¹¹¹

- **Ensure that the 2019 population census effectively provides for free and voluntary self-identification and the possibility to indicate multiple affiliations and more than one first language in order to reflect the multicultural character of Azerbaijan's population;**
- **Adopt, in close consultation with persons belonging to national minorities, an adequate legal framework for the protection of national minorities and comprehensive anti-discrimination legislation and establish a specialised body to co-ordinate issues relating to national minority protection and provides the opportunity for national minority representatives to effectively participate in decision-making processes affecting them;**
- **Remove obstacles to freedom of expression and freedom of association and take supportive measures so that persons belonging to national minorities can express their identities, voice their concerns without fear of repercussions, and participate in public decision making, both individually and in community with others;**
- **Expand the scope of teaching of minority languages, inform about the right to learning minority languages, regularly assess the needs and demands for such teaching, and effectively enhance the quality of teaching through introducing teacher training at university level.**

Further recommendations¹¹²

- **Promote respect and intercultural understanding among different groups in society as a whole, including through awareness-raising about national minorities among the majority**

¹¹⁰ A link to the Opinion is to be inserted in the draft resolution before submission to the Rapporteur Group on Human Rights (GR-H).

¹¹¹ The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

¹¹² Ibid.

population, and address any manifestations of intolerance and hate speech against persons belonging national minorities.

- Bring the legislation and practice on NGOs in line with international recommendations and ensure that earmarked financial support including baseline funding is available and effectively accessible.
- Respect the right of persons belonging to national minorities to freely express and manifest their religious beliefs and access places of worship, including as part of their minority identities.
- Expand broadcasting in minority languages, provide support for own minority media, and encourage the development and broadcasting of more programmes on issues relevant to national minorities.
- Ensure the right of persons belonging to national minorities to use minority languages in contacts with public authorities and bring their legislative framework in line with the Framework Convention so as to allow the display of topographical signs in minority languages in regions inhabited by persons belonging to national minorities traditionally and in substantial numbers.
- Ensure sustained investment in the development and dissemination of minority language teaching and learning materials and ensure that the multicultural character of society is adequately reflected in school curricula.