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

Second Opinion on Armenia, adopted on 12 May 2006

EXECUTIVE SUMMARY

Armenia has continued to show commitment to the implementation of the Framework Convention. It has taken a number of legal and institutional steps to improve protection of persons belonging to national minorities and a general climate of tolerance continues to prevail in the country.

The setting up of the position of Human Rights Ombudsperson is an important step forward, including for national minorities. A Department for Ethnic Minorities and Religious Affairs was also established, with a view to strengthening policy-making in favour of national minorities, and, in general, there is increased awareness of the needs of persons belonging to national minorities.

However, shortcomings persist in the implementation of some legal provisions, partly due to economic constraints. Further efforts are needed to overcome persisting difficulties in the field of education, participation in public life and elected bodies and access to the media.

It is also important that current legislative efforts in the area of minority protection take due account of the existing standards in this respect.

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

SECOND OPINION ON ARMENIA

1. The Advisory Committee adopted the present Opinion on Armenia 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 second State Report (hereinafter the State Report), received on 24 November 2004, and other written sources and on information obtained by the Advisory Committee from governmental and non-governmental contacts during its visit to Yerevan and the region of Aragatsnots from 28 to 30 March 2006.
2. Section I below contains the Advisory Committee's main findings on key issues pertaining to the implementation of the Framework Convention in Armenia. These findings reflect the more detailed article-by-article findings contained in Section II, which covers those provisions of the Framework Convention on which the Advisory Committee has substantive issues to raise.
3. Both sections make extensive reference to the follow-up given to the findings of the first cycle of monitoring of the Framework Convention, contained in the Advisory Committee's first Opinion on Armenia, adopted on 16 May 2002, and in the Committee of Ministers' corresponding Resolution, adopted on 15 January 2003.
4. The concluding remarks, contained in Section III, could serve as the basis for the Committee of Ministers' forthcoming conclusions and recommendations on Armenia.
5. The Advisory Committee looks forward to continuing its dialogue with the authorities of Armenia as well as with representatives of national minorities and others involved in the implementation of the Framework Convention. In order to promote an inclusive and transparent process, the Advisory Committee strongly encourages the authorities to make the present Opinion public upon its receipt.

I. MAIN FINDINGS

Monitoring process

6. Armenia has adopted a positive approach to the Framework Convention's monitoring process. It organised a follow-up seminar in June 2003 to discuss with representatives of national minorities and of the Advisory Committee ways of implementing the conclusions set out in the first Opinion. The Advisory Committee takes note of the fact that some of the representatives of national minorities were consulted in the preparation of the State Report and that a working group composed of representatives of national minorities and of staff of the Department for Ethnic Minorities and Religious Affairs was set up in the course of the drafting process.

7. The Advisory Committee welcomes the fact that its first Opinion, together with the Resolution of the Committee of Ministers and the text of the Framework Convention, have been translated into Armenian and Russian and disseminated among national minorities.

General legislative and institutional framework

8. Since the adoption of the first Opinion of the Advisory Committee, Armenia has developed its legislative and institutional framework of relevance to the protection of national minorities. The Law on Culture of 2002 contains provisions for the preservation of the culture of national minorities, the new Criminal Code adopted in 2003 prohibits incitement to racial hatred and the position of Human Rights Ombudsperson was established by law in 2003. The establishment of the Department for Ethnic Minorities and Religious Affairs in 2004 constituted an important positive step in policy-making for national minorities.

9. The process of drafting a specific law on the protection of national minorities, that was already under preparation at the time of the first visit of the Advisory Committee to Armenia, is continuing. A number of representatives of minorities have voiced concerns with respect to some provisions of the draft law. The Advisory Committee held preliminary discussions on the draft with the authorities and it welcomes the intention expressed to request an international expertise on the draft law's compliance with the principles of the Framework Convention.

Policies in support of national minorities

10. Armenia has increased its support for projects aiming at the preservation of the identity, culture, traditions and language of national minorities despite the fact that it is still facing difficult economic conditions. For example, a cultural centre for national minorities has been established in Yerevan. However, most of the representatives of national minorities remain dissatisfied with the level of State support for activities aiming at preserving their culture and language.

Combating discrimination

11. A general climate of tolerance continues to prevail in Armenia and there is no systematic discrimination based on ethnic origin. The establishment of the institution of the Human Rights Ombudsperson, after lengthy delays, was a landmark for Armenia. The Ombudsperson's Office has become an important remedy for citizens, including persons belonging to national minorities, as well as a source of awareness-raising on human rights and minority rights. The

changes introduced to the Criminal Code in 2003 also increased possibilities to combat racial hatred.

Education

12. Education is the main issue of concern among the representatives of national minorities met by the Advisory Committee, and the authorities have taken new steps to address the educational needs of persons belonging to national minorities since the first Opinion. Teaching of Yezidi, Kurdish and Assyrian languages at school has developed in settlements where persons belonging to these national minorities live in substantial numbers. However, there remain shortcomings in the supply of quality textbooks and other literature in minority languages as well as in the field of teacher training and in the availability of pre-school education.

13. Drop-out rates among girls from certain national minorities are disconcertingly high.

14. The authorities have taken measures to avoid minority education being harmed by the ongoing process of “rationalisation” of schools, by granting schools with minority education the status of “protected schools” and by applying exemptions to the threshold of 30 students to open a class where a minority language is taught. Still, the process of “rationalisation” could have adverse effects on minority education in schools that are not “protected”.

15. Persons belonging to some national minorities identify Russian as their preferred minority language and would like Russian to continue to be used as the language of education for their children. It is important that the legitimate increasing emphasis on education in Armenian is pursued so that it does not affect efforts to preserve their preferred minority language.

Participation of national minorities in the media

16. Despite some progress since the first cycle of monitoring, the presence of minority languages in the media is still limited, especially on television. There remain legal limitations to the amount of airtime allocated to minority language broadcasting on public radio and television.

Participation in public affairs and consultation of national minorities

17. Persons belonging to national minorities are represented in local elected bodies, particularly in areas where they live in substantial numbers, but it is difficult for them to gain access to national elected bodies.

18. Communication between the authorities and representatives of national minorities seems to be at times difficult, despite the existence of consultative organs, such as the Co-ordinating Council for National Minorities. Representatives of minorities are concerned by attempts to limit the channels of communication with minority interlocutors, especially in the context of the draft law “on the Republic of Armenia citizens of non-Armenian ethnicity and ethnic minorities”.

II. ARTICLE-BY-ARTICLE FINDINGS

Article 3 of the Framework Convention

Personal scope of application of the Framework Convention

Findings of the first cycle

19. In its first Opinion, the Advisory Committee noted that there was some degree of uncertainty with regard to the concept of national minority, especially for groups not having representative organisations.

20. The Advisory Committee also took note of the dispute over the national identity of Kurds and Yezidi.

21. Finally, it recommended that the Armenian authorities consider a possible inclusion of persons belonging to other groups, including non-citizens, in the application of the Framework Convention on an article-by-article basis.

Present situation

a) Positive developments

22. The Advisory Committee welcomes the inclusive approach taken by the Armenian authorities, as expressed in their Comments to the first Opinion of the Advisory Committee, with regard to the scope of application of the Framework Convention, especially the possibility of including non-citizens in the personal scope of application. The Advisory Committee also considers as a positive step the amendment of former Article 37 of the Constitution of Armenia (now Article 41 following the reform of the Constitution in 2005), according to which the enjoyment of the constitutional right to preserve and develop their traditions, religion, language and culture is granted to “persons belonging to national minorities”, and no longer to citizens only.

23. The Advisory Committee welcomes the position taken by the Armenian authorities, according to which the principle of self-identification should prevail in the context of the ongoing controversy over the ethnic identity of Kurds and Yezidi. The Advisory Committee indeed notes that some of the Yezidi leaders it met during the visit to Armenia consider that the Yezidi religious, ethnic and linguistic identity is distinct from the Kurdish one, whereas the Kurdish leaders it met claim that the Yezidi and Kurds share the same ethnic identity and language and that the term Yezidi defines only the religion.

b) Outstanding issues

24. The Advisory Committee notes that the 11 national minorities included in the application of the Framework Convention have representative organisations and a seat in the Co-ordinating Council for National Minorities, as was the case during the first monitoring cycle. According to information available to the Advisory Committee, there are persons from other ethnic backgrounds in Armenia, in particular a small number of persons of Roma and Azeri origin, who are currently not included in the scope of application of the Framework Convention. While these persons have for the time being not indicated interest in benefiting from the protection of the Framework Convention, the Advisory Committee considers that this protection should remain available to them, should they request it in the future.

Recommendations

25. The Advisory Committee encourages the Armenian authorities to maintain their inclusive approach with regard to the scope of application of the Framework Convention and to envisage, where appropriate, the possibility of including persons belonging to other groups, including non-citizens, in the application of the Framework Convention, in consultation with those concerned.

The draft law “on the Republic of Armenia citizens of non-Armenian ethnicity and ethnic minorities”

Findings of the first cycle

26. The Advisory Committee found in its first Opinion that it would be important to establish a legal framework capable of securing appropriate protection for persons belonging to national minorities, in consultation with those concerned.

Present situation

a) Positive developments

27. The Advisory Committee notes that a new draft law “on the Republic of Armenia citizens of non-Armenian ethnicity and ethnic minorities” (hereinafter referred to as the draft law on minorities) is being prepared by the Department for Ethnic Minorities and Religious Affairs and that the authorities have indicated their intention to submit it to the Council of Europe for an expert opinion on its conformity with international standards on minority protection. The Advisory Committee welcomes the fact that minority representatives were consulted on the draft text at an early stage.

b) Outstanding issues

28. The Advisory Committee notes that the vast majority of the representatives of national minorities in the Co-ordinating Council for National Minorities expressed dissatisfaction with regard to the draft law and were no longer in favour of adopting legislation on national minorities. The current draft does not, in their view, provide any added value in relation to the existing situation.

29. The Advisory Committee notes that the draft law includes a citizenship criterion for protecting and promoting the ethnic identity of persons belonging to minorities. The Advisory Committee considers that such an approach does not adequately reflect the spirit of openness and flexibility required in relation to Article 3 and other provisions of the Framework Convention. It believes that the citizenship criterion is a legitimate requirement in some areas, such as representation in Parliament, but that its application can generate problems in relation to provisions contained in other key areas covered by the Framework Convention, such as non-discrimination and equality.

30. The Advisory Committee also notes that the draft law, as it stands, contains a definition of the concepts of “ethnic minorities” and of “citizens of non-Armenian ethnicity”. The distinction between “citizens of non-Armenian ethnicity” and “ethnic minorities” introduces two different levels of protection. The conditions for being recognised as an “ethnic minority” are as follows: to belong to a group; to constitute at least 3,000 persons for groups dispersed on the territory, or at least 15% of the population in municipalities of at least 2,000 inhabitants, or to form the majority of the population of municipalities of at least 300 persons; and to have a presence in Armenia of at least 50 years. Those not meeting these criteria and who do not belong to the

majority population will be considered “citizens of non-Armenian ethnicity” and will benefit from different guarantees than the persons belonging to “ethnic minorities”. The Advisory Committee is of the opinion that this distinction might result in unjustified differences of treatment of persons or groups. Therefore, while noting that the intention expressed by the authorities is not to exclude persons or groups from the protection of the draft law, the Advisory Committee is of the opinion that this distinction needs to be reconsidered, taking due account of the principles of the Framework Convention.

31. Furthermore, the Advisory Committee notes that the draft law uses the term “mother tongue” when it refers to the protection of linguistic identity. The term “mother tongue” is not used in the Framework Convention. The use of this term in the law might be problematic for persons who prefer Russian as their minority language and who, while not belonging in ethnic terms to the Russian minority, wish their children to receive education in this language. In this respect, the Advisory Committee would like to stress that the principle of self-identification should also apply to the choice of one’s minority language (see also the remarks in respect of Article 14).

Recommendations

32. It is important that the authorities pursue the consultations on the draft law on minorities with the representatives of national minorities with a view to obtaining a higher degree of agreement on the main principles to be enshrined in the law.

33. The authorities should ensure compliance of the draft law with international standards in the field of minority protection. The Advisory Committee welcomes the intention expressed by the Armenian authorities to request an international expert opinion on the compliance of the draft law with the principles of the Framework Convention.

34. The Advisory Committee urges the Armenian authorities to ensure that the provisions contained in the draft law on minorities do not go against the inclusive approach adopted by the Armenian authorities in the context of the first cycle of monitoring. In particular, they should keep open the possibility of including other groups in the future, including non-citizens where appropriate, in the application of the Framework Convention. They should also ensure that the provisions of the draft law do not lead to undue differences in the treatment of different persons or groups which could benefit from the protection of the Framework Convention.

Article 4 of the Framework Convention

Combating discrimination and promoting equal opportunities

Findings of the first cycle

35. In its first Opinion, the Advisory Committee urged the Armenian authorities to set up the institution of the Human Rights Ombudsperson in a timely manner.

36. It also recommended a more systematic monitoring of the implementation of the anti-discrimination legislation.

37. Finally, it considered that the authorities should step up their efforts to secure full and effective equality of persons belonging to national minorities by implementing additional measures in the fields of education, culture and participation in public life.

Present situation

a) Positive developments

38. The first Human Rights Ombudsperson was appointed in 2003. During her mandate (2003-February 2006), the Ombudsperson put specific emphasis on discrimination issues, including discrimination based on ethnicity, in order to raise awareness of the need to promote positive measures in favour of equal treatment of persons belonging to national minorities. The Advisory Committee welcomes the fact that, despite limited resources, the Ombudsperson's Office paid particular attention to possible abuses against members of national minorities, including by means of preventive action. The Advisory Committee also commends the efforts made to include persons with a minority background in the staff.

39. The Advisory Committee welcomes the fact that problems encountered by the Yezidi community in Zovuni regarding the legalisation of their settlement prompted the authorities to take measures to resolve the issue, following the filing of a complaint to the Ombudsperson.

40. The Advisory Committee welcomes the fact that the new Criminal Code enacted in 2003 now makes incitement to racial hatred a crime.

b) Outstanding issues

41. The Advisory Committee notes the views expressed by the majority of the representatives of national minorities met during its visit that very little support is provided by the authorities in order to ensure equal opportunities of persons belonging to national minorities, especially with regard to effective participation in public affairs (see also comments with respect to Article 15).

42. Allegations of discrimination in the process of land privatisation, particularly with regard to persons belonging to the Yezidi national minority, were brought to the attention of the Advisory Committee.

43. The Advisory Committee was also informed of allegations of discrimination in access to social benefits and employment in the case of the Yezidi, although it noted that there seem to be no patterns of systematic exclusion of persons belonging to minorities from the labour market or from social benefits. Some minority representatives expressed the wish to see positive measures to promote the inclusion of persons belonging to national minorities in the labour market.

44. The Advisory Committee notes the lack of data based on ethnic origin, in particular concerning the socio-economic situation of persons belonging to national minorities, which is an obstacle to informed and effective policy-making in favour of minorities. However, it takes note of the results of the census of 2001, that provide some data broken down by ethnicity and of the fact that there are no formal obstacles in Armenia to the collection of such data. It also notes that, in conversations with the Advisory Committee, the statistical authorities recognised the relevance of further collection, for policy-making purposes, of socio-economic or educational data on the situation of national minorities, in particular in the case of the Yezidi. It also notes with interest that the draft law on minorities envisages the possibility of collecting information on ethnic minorities, provided all rules concerning personal data protection are respected.

Recommendations

45. The Advisory Committee encourages the authorities to secure further resources for the Ombudsperson's Office. It also encourages the newly appointed Ombudsperson to continue to pay particular attention to possible discrimination and violations of the rights of persons belonging to national minorities.

46. Despite the limited number of reported incidents of discrimination, the Advisory Committee encourages the authorities to continue to carefully monitor the situation in this respect. It also encourages the authorities to further promote awareness among persons belonging to national minorities of their rights and of existing remedies for dealing with incidents of discrimination.

47. The Advisory Committee invites the authorities to remain vigilant with regard to possible cases of discrimination in access to social and economic rights. Allegations of discrimination in the process of land privatisation should also be carefully investigated.

48. The Advisory Committee encourages the authorities to pursue their efforts towards mainstreaming minority issues into all relevant sectors of policy-making, and in particular education, so as to ensure the effectiveness of measures to promote equal opportunities of persons belonging to national minorities. It also encourages them to adopt positive measures in favour of persons belonging to national minorities, including as regards access to the labour market.

49. The Advisory Committee encourages the authorities to undertake further collection of statistical data on national minorities, in order to facilitate the development of effective positive measures targeting persons belonging to national minorities.

Article 5 of the Framework Convention

Support policies for national minorities

Findings of the first cycle

50. In its first Opinion, the Advisory Committee considered that the authorities should make additional efforts for the preservation and development of minorities' culture and identity, including by supporting the establishment of a cultural centre for national minorities.

51. It also found that some institutional and legislative measures, designed to provide support for national minorities in the field of culture, should be promptly implemented, in consultation with the persons concerned.

Present situation

a) Positive developments

52. The Advisory Committee welcomes the provisions of the Law on Culture of 2002, which aim at preserving and developing the cultural identity of national minorities. It takes note of the support provided to a number of cultural and artistic initiatives of national minorities. Finally, it welcomes the fact that minority cultures form part of the national cultural policy plan for 2005-2008.

53. The Advisory Committee commends the allocation by the Government of a building in the centre of Yerevan in 2004, to be used as a cultural centre for minorities, and the support given for its refurbishment. It hopes that the centre will soon be able to operate.

b) Outstanding issues

54. Representatives of national minorities informed the Advisory Committee that they consider funding and other forms of support for cultural and artistic events aiming at the preservation of their culture and identity insufficient. Funds have been allocated every year since 2001 to national minorities through the Co-ordinating Council of National Minorities and shared equally between the 11 minority groups, which is, according to some representatives, detrimental to the largest minorities.

Recommendations

55. While taking note of the continuing economic difficulties facing Armenia, the Advisory Committee invites the authorities to further support projects for the preservation and development of minority cultures, in close co-operation with the representatives of minorities, and to allocate support in accordance with the needs of the various groups.

Article 6 of the Framework Convention

Fighting racism and intolerance

Findings of the first cycle

56. The Advisory Committee found that a spirit of tolerance and dialogue prevailed between the ethnic groups living in Armenia. Nonetheless, it considered that the authorities should pursue their efforts to improve religious dialogue and tolerance.

57. The Advisory Committee noted sporadic discriminatory attitudes against persons belonging to the Yezidi national minority and it encouraged the authorities to prevent such attitudes and ensure adequate protection of the victims.

Present situation

a) Positive developments

58. The Advisory Committee notes with satisfaction that a general climate of tolerance seems to continue to prevail in Armenia and that only few cases of discrimination have been recorded. It also notes that during her mandate, the Ombudsperson received only five complaints from persons belonging to national minorities linked to allegations of discrimination based on ethnicity. Most of them related to persons belonging to the Yezidi community.

59. The Advisory Committee welcomes the prompt reaction of the authorities in a reported case of public expression of antisemitism in 2004¹.

b) Outstanding issues

60. The Advisory Committee was informed that Yezidi are more likely to be affected by cases of mistreatment in the military service. In this respect, the Advisory Committee welcomes the

¹ The author of antisemitic statements was prosecuted and sentenced to three years of conditional imprisonment for inciting ethnic hatred.

fact that the Department for Ethnic Minorities and Religious Affairs started to pay particular attention to this problem.

61. The conditions prevailing in the alternative civil service were also brought to the attention of the Advisory Committee as they could affect certain persons belonging to national minorities more than the majority population. Some persons belonging to the Russian-speaking Molokans, who for religious reasons refuse military service, consider that the alternative service, as it is now, does not provide a suitable alternative to military service as it is not adequately separated from the military-control structure.

Recommendations

62. The Advisory Committee invites the authorities to pay particular attention to allegations of discrimination against persons belonging to national minorities and to carefully investigate possible cases.

63. The Advisory Committee encourages the authorities to remain vigilant with regard to possible abuses, motivated by ethnic origin, in the context of the military service. It also recommends careful monitoring of possible cases of incitement to ethnic hatred in the media.

64. Finally, the Advisory Committee encourages the authorities to further develop programmes of awareness-raising on national minority culture and identity and on cultural diversity in general.

Article 9 of the Framework Convention

Access of minorities to the media and their presence in the media

Findings of the first cycle

65. In its first Opinion, the Advisory Committee considered that the authorities should step up their efforts to broaden the possibilities of minority access to the media and their presence in the media. It also found that the Law on Television and Radio was too restrictive with regard to the use of minority languages in public television and that broadcasting time allocated to minority languages in public radio and television was to be increased. Finally, it found that more state support should be provided for national minorities to set up private electronic or print media.

Present situation

a) Positive developments

66. Radio programmes are broadcast on public radio in Yezidi, Kurdish, Georgian, Russian and Assyrian. The Advisory Committee welcomes the fact that the programmes in Assyrian, which were interrupted in 2003, were restarted in 2006, with support from the State. It also welcomes the fact that programmes in national minority languages are planned and prepared by journalists from national minorities and minority leaders.

b) Outstanding issues

67. The Advisory Committee remains concerned by the provision of Article 28 of the Law on Radio and Television which establishes that the total length of the programmes in minority languages should not exceed one hour per week on TV and one hour per day on the radio.

68. The Advisory Committee notes that the presence of minority languages in the media remains limited, although there are a number of programmes devoted to and dealing with national minorities.

69. Moreover, it notes that there are no institutional arrangements for the involvement of persons belonging to national minorities in the work of the supervisory bodies of the media, the Public Radio and Television Council and the National Broadcasting Commission.

70. The Advisory Committee was informed during its visit that priority could be given to programmes in minority languages and programmes run by national minorities in tenders, even though the law does not allow for preferential treatment. However, the Advisory Committee was informed that due to a lack of economic capacity to engage in the creation of minority television or radio channels and broadcasting, no representatives of national minorities have so far competed for tenders, even though a tender was launched for the mainly Kurdish and Yezidi populated villages in the Aragatsnots region.

71. The Advisory Committee was informed by the authorities that one envisaged way of compensating for the lack of economic capacity of the national minorities could be the use of existing channels to broadcast in minority languages and to re-broadcast programmes from kin-states and neighbouring countries. However, this option would be difficult to implement for minorities without a kin-state. Furthermore, the Advisory Committee recalls that broadcasting of programmes produced in kin-states does not always sufficiently cover the needs of persons belonging to national minorities.

72. The Advisory Committee was also informed that, in addition to scarce economic resources, the lack of necessary training among persons belonging to national minorities prevents a more active participation in the media.

Recommendations

73. The Advisory Committee invites the authorities to remove possible obstacles to further broadcasting in minority languages, in particular the legal limitations of airtime for broadcasting in minority languages on public radio and television, and it encourages them to look for ways to increase participation of minorities in the media.

74. The Advisory Committee also encourages the authorities to provide support in the form of training of media professionals among national minorities.

Article 10 of the Framework Convention

Use of minority languages in dealings with administrative authorities

Findings of the first cycle

75. In its first Opinion, the Advisory Committee noted that there was a lack of precision in Armenian legislation on the right to use minority languages in relations with administrative authorities and considered that measures should be taken to ensure that this possibility is not left solely to the discretion of the authorities concerned.

76. The Advisory Committee also found that representatives of national minorities considered that the protection afforded to minority languages by the Armenian Language Law was insufficient. It considered that the authorities should examine appropriate measure to be taken to

satisfy the linguistic needs of persons belonging to national minorities, in consultation with those concerned.

Present situation

a) Positive developments

77. The Advisory Committee takes note of the adoption in 2004 of the Law “on the foundations of administration and administrative proceedings”. It welcomes Article 27 of the law, which introduces the right to use minority languages in oral and written dealings with administrative authorities, provided a translation into Armenian, whose cost is to be borne by the authorities, is attached in the case of written applications. Addressing an application in a minority language can in no case be considered a reason for rejecting the request. Moreover, the law establishes the right to use minority languages and to benefit from free interpretation services in courts of justice.

78. The Advisory Committee notes that the draft law on minorities confirms the above-mentioned provisions of the Law “on the foundations of administration and administrative proceedings”. It also provides the legal basis for the use of minority languages in local government bodies of municipalities where a minority forms at least 15% of the population.

79. The Advisory Committee was informed that, in practice, minority languages are often in use in local elected bodies in municipalities where persons belonging to national minorities live in substantial numbers and that the use of minority languages in dealings with administration is not considered a major concern by persons belonging to national minorities.

b) Outstanding issues

80. Notwithstanding the above-mentioned positive developments, the Advisory Committee was informed by the authorities that economic constraints are hindering the implementation of some of the rights with regard to the use of minority languages, including costs of translation of documents.

81. The Advisory Committee also notes that there is no legal obligation in force and no mechanism in place to ensure, where appropriate, that government agencies have the capacity to communicate orally in minority languages, although it was informed that, in a number of villages where persons belonging to national minorities live in substantial numbers, the local authorities are often able to use minority languages.

Recommendations

82. The Advisory Committee encourages the Armenian authorities to continue to pursue an open and pragmatic approach with regard to the use of minority languages in dealings with administration and to further promote full implementation of the rights established by the Law “on the foundations of administration and administrative proceedings”.

Article 11 of the Framework Convention

Use of minority languages in topographical indications

Findings of the first cycle

83. The Advisory Committee considered, in its first Opinion, that despite the fact that there had been no complaints from the persons concerned, the authorities should supplement the

legislation so as to ensure the possibility of using minority languages in topographical indications.

Present situation

a) Positive developments

84. The Advisory Committee notes that road signs and name plates of cities and villages are usually in Armenian as well as in Latin script, and often also in Cyrillic.

85. According to the information provided to the Advisory Committee, a number of topographical indications have at present names in minority languages in areas inhabited by persons belonging to national minorities. Moreover, local authorities as well as legal and natural persons, including persons belonging to national minorities, can propose names for settlements.

86. The draft law on minorities foresees that in municipalities where national minorities form at least 15% of the population, legal guarantees for the use of bilingual signposting will be introduced.

b) Outstanding issues

87. The Advisory Committee notes that for the time being there is no legal obligation concerning bilingual signposting.

Recommendations

88. The Advisory Committee encourages the authorities to have inclusive consultations with national minorities in the process of introducing clearer legal guarantees concerning the use of minority languages in topographical indications and signposting.

Article 12 of the Framework Convention

Equal access to education for persons belonging to national minorities

Findings of the first cycle

89. In its first Opinion, the Advisory Committee was concerned about the absence of an active state policy in respect of persons belonging to national minorities in the field of education, and about the insufficient support provided by the State in this respect. The Advisory Committee considered that the authorities should show greater commitment in order to ensure that persons belonging to national minorities can enjoy equal access to education and gain knowledge of their culture, history, languages and traditions.

90. Moreover, the Advisory Committee found that in some cases Yezidi children were being subject to discriminatory attitudes at school.

Present situation

a) Positive developments

91. Awareness of the needs of persons belonging to national minorities in the field of education has increased since the adoption of the first Opinion. There are more opportunities to study minority languages in public schools, especially Assyrian and Yezidi (see also comments with respect to Article 14). A comprehensive study of the status of school education in respect of

ethnic minorities² was carried out in 2004, which serves as a basis for policy-making in the field of minority education. It provides detailed information, including statistical data, on the educational situation and needs of Yezidi, Kurdish, Assyrian and Molokan children. The Advisory Committee welcomes these positive developments.

92. Efforts have been made to renovate a number of schools in areas where minorities live in compact settlements, although the overall physical conditions of many schools remain substandard.

b) Outstanding issues

93. The Advisory Committee is concerned about the consequences of the near collapse of the pre-school education system, due to a lack of economic resources. Pre-school education used to provide an opportunity for minority children to learn the language in which they would be educated. Currently there are very few kindergarten and pre-school institutions left which cater for the needs of minority children. As a result, many children from Yezidi, Kurdish or Assyrian background do not have a full command of either Armenian or Russian when they enrol in schools, regardless of whether they are enrolled in the Armenian or Russian section³.

94. The Advisory Committee also considers that the high drop-out rates among girls of mainly Yezidi and Kurdish ethnic origin is a source of concern. The Advisory Committee was informed that for cultural reasons and due to early marriages, they are often taken out of school at a very young age, sometimes before the end of the 8 compulsory school years. The Advisory Committee was also informed of problems of absenteeism among Yezidi and Kurdish pupils, due to seasonal migrations to the highlands and among Molokan pupils, who are also often kept home to work.

95. The Advisory Committee notes that participation in secondary and higher education for Yezidi, Kurds and Molokans remains very low. This is linked to the difficulties finding employment regardless of the level of education, to the fact that having to learn the language of education during the first grades places students at a disadvantage and to the lack of awareness of the importance of education among some groups. The Advisory Committee also received information according to which economic difficulties and instances of harassment of pupils of Yezidi origin also contribute to such a situation.

96. A number of representatives of minorities also drew the Advisory Committee's attention to the fact that no specific assistance is provided in general by the authorities for adults to learn the Armenian language.

Recommendations

97. The Advisory Committee urges the authorities to take steps to allow the reintroduction of pre-school education in settlements where children do not speak the language of education (Armenian or Russian) at home, particularly in isolated and compact Yezidi settlements.

² "The status of school education of the ethnic minorities", report produced by The Armenian Centre for Ethnological Studies, in co-operation with UNICEF Armenia and the Ministry of Education and Science of the Republic of Armenia, 2004.

³ Public schools in Armenia are set up according to a two-track system : where there is a need and a demand for it, there can be both an Armenian section and/or a Russian section, which provides teaching in Russian. In areas where minorities live in substantial numbers, additional classes of minority languages are provided, either in the Armenian or in the Russian section. This concerns mainly teaching of the Assyrian, Yezidi and Kurdish languages.

98. The Advisory Committee strongly encourages the relevant authorities to promote improved school attendance and to create incentives to reduce drop-out rates, paying particular attention to problems encountered by girls and young women belonging to some national minorities.

99. The authorities should also further support teaching of minority languages in higher education.

100. The Advisory Committee invites the authorities to remain vigilant with regard to reported incidents of harassment and discrimination of pupils from minority backgrounds, in particular Yezidi.

Teacher training and textbooks

Findings of the first cycle

101. In its first Opinion, the Advisory Committee expressed concern about the shortage of teachers, special curricula and textbooks for schools offering teaching in and of minority languages and nursery schools for children belonging to national minorities.

Present situation

a) Positive developments

102. A textbook in Yezidi was published by the Ministry of Education and Science and a textbook for teaching Assyrian in elementary school is under preparation.

103. Some support has been provided for the training of teachers of Assyrian language since 2003 and the Ministry of Education and Science informed the Advisory Committee that training of teachers of Kurdish and Yezidi will be organised as of 2007.

b) Outstanding issues

104. The Advisory Committee is concerned about the situation in the field of teacher training. This concern relates both to teachers of minority languages and to teachers working in schools with a large proportion of minority pupils, especially in rural settlements where substantial numbers of persons belonging to the Assyrian, Yezidi, Kurdish and Russian-speaking Molokan minorities live.

105. There are only few teachers with a minority background. They usually teach minority languages but often have only limited training. Ethnic Armenian teachers are often not well-prepared to teach pupils from the Assyrian, Yezidi or Kurdish minorities, most of them lacking a basic knowledge of the relevant minority languages. Most of the teacher training concerning minority languages has to be done by the national minorities themselves.

106. The qualitative and quantitative offer of textbooks for teaching minority languages was raised as an issue of particular concern by various interlocutors met by the Advisory Committee during its visit. Moreover, the Advisory Committee was informed that many teachers use textbooks from kin-states, which do not follow the Armenian curricula. The Advisory Committee also notes that the volume of literature in minority languages available to schools is insufficient.

107. The Advisory Committee notes that the authorities are confronted with the dispute over the ethnic identity of Yezidi and Kurds also with respect to textbooks. The groups concerned

have not been able to agree on a common textbook in one script. It was decided to publish a textbook in Yezidi and in Cyrillic script, which is not well accepted among Kurdish communities.

Recommendations

108. The Advisory Committee urges the authorities to provide teachers working with children from minority background with adequate training at the level of higher education, and with in-service training possibilities. It also urges them to further promote and support the training of teachers from minority groups.

109. The Advisory Committee encourages the authorities to place special emphasis on the preparation and dissemination of quality textbooks. It believes that there is a need for a more proactive approach in this respect.

110. The Advisory Committee is also aware of the complex situation with regard to the publication of textbooks in Kurdish/Yezidi and the related controversy on the use of scripts. However, it encourages the authorities to keep an open and flexible attitude on this issue and to adapt their response as far as possible to the needs expressed by the various communities.

Article 14 of the Framework Convention

Education in minority languages

Findings of the first cycle

111. In its first Opinion, the Advisory Committee considered that the authorities should develop additional support measures in favour of teaching in and of minority languages, including by supporting initiatives taken by national minorities in this respect. It highlighted the particular needs of the Assyrians and Yezidi.

Present situation

a) Positive developments

112. The Advisory Committee welcomes the fact that opportunities to learn the Assyrian, Yezidi and Kurdish languages at school have increased since the first Opinion. Children belonging to these national minorities and living in settlements inhabited by substantial numbers of persons belonging to national minorities can learn their minority language, as well as the history and culture of their group, as compulsory subjects, whether they attend the Armenian or Russian sections of schools.

113. The Advisory Committee welcomes the fact that 19 schools where minority languages are taught have been legally recognised as “protected schools”, and are therefore not subject to the process of “rationalisation” of schools described below. In this context, it commends the fact that the threshold of 30 pupils to open a class has been lowered to 5-7 pupils in areas where there is a demand for minority education, especially in isolated rural areas.

b) Outstanding issues

114. A process of “rationalisation”⁴ of schools was introduced to close down and merge classes, with a view to adjusting the education system to the overall population decrease and to

⁴ “Optimisation” is the term used by the Armenian authorities.

financial constraints. State funding is now granted according to the number of pupils attending a school and no longer according to the number of classes. Moreover, a threshold of 30 pupils to open a class has been introduced. However, exceptions are made for a number of “protected schools”, as mentioned in paragraph 113 above, which continue to receive funding based on the number of classes. Representatives of national minorities have nonetheless expressed concern that not all schools with minority language teaching are considered “protected schools”, which could make it more difficult to obtain resources to maintain classes in which minority languages are taught and would therefore hamper the efforts made to promote instruction in the minority languages.

115. The Advisory Committee was informed that a number of persons belonging to national minorities, including of ethnic origin other than Russian, favour education in Russian for their children. The Advisory Committee is aware of the problems linked to emigration to the Russian Federation and the overall demographic decline, including among national minorities. However, it notes that part of them identify Russian as their preferred minority language and that they have expressed fears that emphasis on education in Armenian could negatively affect them.

116. The Advisory Committee notes that there is limited State support for the teaching of minority languages other than Yezidi, Kurdish, Assyrian and Russian. The other minority communities (Greek, Byelorussian, German and Jewish among others) ensure teaching of their language through Sunday schools and other initiatives, which are mainly supported by their kin-states.

117. The Advisory Committee also notes that there is no education with minority languages as the language of instruction, apart from education in Russian, mainly because, according to the authorities, most persons belonging to national minorities are dispersed throughout the territory of Armenia.

Recommendations

118. The Advisory Committee urges the authorities to ensure that the teaching of Yezidi, Kurdish, Assyrian and Russian languages is not hindered by the ongoing process of “rationalisation”. The commendable practice of granting the status of “protected schools” to schools with minority language teaching and of exempting them from the recommended threshold of 30 pupils to open a class should be continued.

119. The Advisory Committee urges the Armenian authorities to duly take into account the preferences of the persons concerned with regard to the language of education. The authorities should make efforts to respond to the specific needs of persons belonging to national minorities who choose Russian as their language of education and ensure that, in making their choice, they are not placed at a disadvantage⁵.

120. The Advisory Committee is aware of the economic constraints facing the Armenian authorities. However, it encourages them to provide more support, where appropriate, to the teaching of minority languages other than Assyrian, Yezidi, Kurdish and Russian and to further support relevant initiatives by national minorities in this respect (see also comments with regard to Article 12).

⁵ See Commentary on Education under the Framework Convention for the Protection of National Minorities, Strasbourg, 2006.

Article 15 of the Framework Convention

Consultative mechanisms

Findings of the first cycle

121. In its first Opinion, the Advisory Committee considered that there was a need for setting up a Government body responsible for minority issues, to help develop a coherent policy in this field. The Advisory Committee also considered that the authorities should maintain a direct dialogue with the organisations representing the different minorities, in addition to communicating through the specific consultative arrangements.

Present situation

a) Positive developments

122. The Advisory Committee welcomes the creation in 2004 of the Department for Ethnic Minorities and Religious Affairs and the fact that efforts have been made to include staff with minority background. Despite limited resources, the Department has played a positive role in raising awareness of the rights of persons belonging to national minorities, including among persons belonging to national minorities, and in mainstreaming minority issues in Government policies. The Advisory Committee was informed that the Department has managed to solve a number of concrete problems, in co-operation with other ministries concerned. The Advisory Committee also welcomes the efforts made by the Department to mobilise women and youth in minority communities.

123. The Advisory Committee welcomes the continued support given to the work of the Co-ordinating Council for National Minorities, placed under the authority of the President of the Republic of Armenia. The role of this Council is to convey the interests and concerns of national minorities towards the authorities. A similar body plays a consultative role within the national Assembly.

b) Outstanding issues

124. Representatives of national minorities have informed the Advisory Committee that their concerns are not always adequately reflected in the decisions taken by the authorities, especially as regards consultations on the draft law on minorities.

125. Concerns were also expressed with regard to the provisions of the draft law on minorities concerning the representation of minorities and their communication with the authorities. Indeed, the draft law on minorities envisages the creation of self-governing bodies, elected by persons belonging to national minorities, while stating that only these elected bodies shall, in future, “be in a position to speak on behalf of the ethnic communities and to represent their interests”. The Advisory Committee is aware of the challenges involved in maintaining a dialogue with a diversity of minority non-governmental organisations. However, it is of the opinion that limiting the channels of communication with minority organisations might hinder the efforts of the authorities to keep in touch with the specific concerns of the minorities. Therefore, it believes that, although these elected bodies should be key partners for the authorities, they should not be exclusive interlocutors.

Recommendations

126. The Advisory Committee encourages the authorities to continue to support the work of the Co-ordinating Council for National Minorities and to ensure that its views are, where appropriate, duly taken into account by the relevant authorities.

127. The Advisory Committee urges the authorities to remain open to dialogue with the representatives of national minorities with due regard for their diversity.

Representation in elected bodies*Findings of the first cycle*

128. The Advisory Committee found that substantial effort was still required in order to ensure the effective participation of persons belonging to national minorities in public affairs.

Present situation

a) Positive developments

129. The Advisory Committee was informed that the process of decentralisation and the possibility of forming a consortium of municipalities can have a positive impact on the opportunities for minorities to take part in local government, in areas inhabited by substantial numbers of persons belonging to national minorities.

130. The Advisory Committee notes with interest that the draft law on minorities intends to solve the representation problem at local level by ensuring that in localities where persons belonging to national minorities form at least 15% of the population, they should have a representative in the local council. Should no representative of minorities be elected, a representative would be appointed.

b) Outstanding issues

131. Representatives of most national minorities met by the Advisory Committee continued to be dissatisfied with their level of participation in public affairs, and in particular with their limited presence in elected bodies, especially at national level. Some representatives were in favour of a system of quotas or reserved seats to ensure the representation of national minorities in the National Assembly.

132. The Advisory Committee takes note of the concerns expressed by representatives of national minorities concerning the above-mentioned procedure of appointment of minority representatives in local councils, as envisaged in the draft law, which might affect the independence of minority representatives.

Recommendations

133. The Advisory Committee encourages the authorities to design measures to improve the representation of national minorities in elected bodies, especially at national level. It also invites the authorities to consider alternative ways to establish democratic systems of appointment of representatives of national minorities in local elected bodies.

Article 17 of the Framework Convention

Access to dual citizenship

Present situation

134. The Advisory Committee welcomes the acceptance of dual citizenship, following the Constitutional reform of 2005. This development should contribute to improving relations of persons belonging to national minorities with their kin-states.

Recommendations

135. The Advisory Committee invites the authorities to favour, in implementing the constitutional reform through legislation, an inclusive and non-discriminatory concept of dual citizenship, also in the interest of persons belonging to national minorities.

Article 18 of the Framework Convention

Transfrontier co-operation

Findings of the first cycle

136. The Advisory Committee expressed, in its first Opinion, the hope that a fair and lasting political settlement would be secured, in order to solve existing problems with neighbouring countries, also in the interest of protecting national minorities through transfrontier co-operation.

137. The Advisory Committee also welcomed the fact that Armenia is party to several bilateral treaties and cultural agreements on the protection of national minorities and it encouraged the authorities to ensure that implementing these agreements would help to improve the protection of persons belonging to national minorities.

Present situation

Outstanding issues

138. The Advisory Committee notes with concern that the conflict related to Nagorno-Karabakh has hampered the overall transfrontier co-operation in the region and regrets that no political solution to the conflict has so far been found.

Recommendations

139. The Advisory Committee hopes that improved relations between the parties and a fair and lasting solution to the conflict will open possibilities for transfrontier co-operation and that it will allow the voluntary return of persons displaced by the conflict back to their native lands.

140. The Advisory Committee encourages the Armenian authorities to continue implementing bilateral treaties and other agreements with a view to improving the protection of persons belonging to national minorities.

III. CONCLUDING REMARKS

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

Positive developments

142. Armenia has adopted a number of measures to improve the implementation of the Framework Convention since the adoption of the Advisory Committee's first Opinion on 16 May 2002 and the Committee of Ministers' Resolution on 15 January 2003. This has included a number of institutional and legislative developments in areas of direct concern to persons belonging to national minorities, as well as changes in practice.

143. Legislative and institutional developments include the establishment of the Human Rights Ombudsperson's Office. The first Ombudsperson paid specific attention to discrimination issues, including discrimination based on ethnic origin, and has become an important remedy and a source of awareness-raising on minority rights.

144. Moreover, a Department for Ethnic Minorities and Religious Issues was set up in the Government in 2004, to initiate and co-ordinate policy-making on issues relevant to national minorities. A draft law "on the Republic of Armenia citizens of non-Armenian ethnicity and ethnic minorities" is being prepared by this Department, in consultation with those concerned.

145. Efforts have been made to raise awareness on minority concerns and to mainstream minority issues in national programmes, especially in the field of culture. Moreover, further support has been provided to activities aimed at promoting the culture, language and traditions of national minorities. The legal basis for the use of minority languages in dealings with the administrative authorities was improved in 2004.

146. Further steps have been taken to respond to the needs of persons belonging to national minorities in the field of education. The authorities have also taken measures with a view to ensuring that the ongoing process of "rationalisation" of schools does not undermine minority language education.

147. The authorities have continued to support the Co-ordinating Council for National Minorities and the Department for Ethnic Minorities and Religious Issues has made efforts to develop further working relations with representatives of national minorities.

Issues of concern

148. Although Armenia has developed its legal and institutional framework for the protection of national minorities, the financial difficulties affecting many fields of relevance to the protection of national minorities have an impact on the effective implementation of the measures adopted by the authorities. Further efforts should be made to promote equal opportunities of persons belonging to national minorities. Existing imbalances in state support to the different national minorities should also be addressed.

149. Although a general climate of tolerance continues to prevail in Armenia, it is important that the authorities remain vigilant with regard to discrimination based on ethnic origin, especially against persons belonging to the Yezidi minority, who have reported occasional

discrimination. More detailed information, including statistical data, would help the process of designing further measures to improve their situation.

150. The presence of minorities and minority languages remains very limited in the media and there remain undue legislative restrictions on the use of minority languages in public radio and television.

151. Despite the efforts made to support the preservation of minority languages through education, some shortcomings continue to be reported with regard to teaching of minority languages. These shortcomings include insufficient availability of qualified teachers and textbooks for education in minority languages, of pre-school education and substantial drop-out rates among students from some minority groups, in particular among girls and young women. Moreover, concerns are raised with regard to the increasing emphasis on education in Armenian by many persons belonging to national minorities, including of ethnic origin other than Russian, who favour education in Russian for their children.

152. Participation of persons belonging to national minorities in public affairs continues to be limited, especially at national level.

153. The draft law “on the Republic of Armenia citizens of non-Armenian ethnicity and ethnic minorities” has received criticism from representatives of national minorities. The aspects of the law which have been criticised include the perceived attempts to limit the channels of communication with minority interlocutors.

154. Problems stemming from the conflict related to Nagorno Karabakh continue to hamper the overall transfrontier co-operation in the region, affecting also persons belonging to national minorities.

Recommendations

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

- Further increase awareness-raising measures among the public, politicians and the media regarding national minorities;
- Find ways to increase the participation of minorities in the media and remove legislative obstacles to broadcasting in minority languages on public radio and television;
- Continue to support mechanisms to consult with national minorities, with due regard for their diversity;
- Increase efforts to ensure the availability of sufficient and qualified teachers and textbooks for education in minority languages; take measures to establish pre-school education, especially in areas where persons belonging to national minorities live in substantial numbers; take more resolute action to reduce drop-out rates affecting some minority students in particular;

- Ensure that the increased emphasis on Armenian language teaching does not undermine the opportunities for persons belonging to national minorities to opt for Russian language education;
- Undertake more systematic monitoring of incidents of discrimination based on ethnic origin;
- Ensure that any forthcoming law on national minorities is fully in line with the provisions of the Framework Convention.