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

**COMMENTS OF THE GOVERNMENT OF THE
REPUBLIC OF ARMENIA ON THE OPINION
OF THE ADVISORY COMMITTEE ON THE
IMPLEMENTATION OF THE FRAMEWORK
CONVENTION FOR THE PROTECTION OF
NATIONAL MINORITIES IN THE REPUBLIC
OF ARMENIA**

1. General Remarks

The Advisory Committee established in accordance with the Framework Convention for Protection of National Minorities (hereinafter “the Committee” or “the Advisory Committee”) submitted to the Committee of Ministers of the Council of Europe on 10 June 2002 its Opinion on the implementation of the above mentioned Convention in Armenia.

The Armenian Authorities highly appreciate the Opinion of the Advisory Committee and believe that the valuable, actual and useful proposals of the Committee will immensely contribute to the efforts made by the Republic of Armenia in order to implement its obligations foreseen by the Framework Convention.

According to the principle *pacta sunt servanda* the Republic of Armenia reiterates its determination and readiness to implement its international obligations arising from the Framework Convention.

Meanwhile, the Armenian Authorities would like to emphasize one more time, that some observed shortcomings are the direct consequence of difficulties related to serious social-economic and demographic situation as well as structural changes which are characteristic for the newly independent developing state in transition. With regard to the Republic of Armenia, the implementation of the Framework Convention should be considered in the context of political, demographic, historical, social-economic distinctiveness of Armenia and some difficulties imposed by the geographical situation of Armenia.

It is necessary to take into account that the obligations taken within the Framework Convention, are being further strengthened by the other international treaties of the Council of Europe, which are in force for Armenia, namely, the Convention for the Protection of Human rights and Fundamental Freedoms, its Additional Protocols No1, No 4 and No 7, as well as European Charter For Regional or Minority Languages.

As it was mentioned in the State Report of the Republic of Armenia and reiterated during the meeting of Armenian authorities with the Advisory Committee, and by Advisory Committee itself, the Armenian Authorities attach great importance to the establishment of appropriate legislative framework, to the reforming of the existing legislation (in particular the adoption of Law on National Minorities), to undertaking of institutional measures aimed at creating of the appropriate governmental body and to expanding related activities for making some practical advances.

2. The Comments and Objections of the Republic of Armenia, related to the Main Findings and Comments of the Advisory Committee

In respect of Article 3

(a) Law on “National Minorities”

In order to guarantee the successful implementation of the Framework Convention, Armenia will create the relevant legislative framework.

The legislative regulations will provide an opportunity to solve many problems, which Armenian Authorities are practically addressing for the preservation and protection of the languages, culture and history of national minorities.

As a result of long discussions, the amended draft of the Law on “National Minorities” has been submitted to the Government of the Republic of Armenia¹.

Taking into account the concern of the Committee, that the expression of “national minorities” is not clearly defined in Armenian legislation, this problem has been appropriately addressed in the draft².

With regard to the protection of the rights of national minorities, the Armenian Authorities would like to stress that the relevant provision has been foreseen in the draft, where the rights of the persons, belonging to the national minorities, are divided into 2 groups:

- General rights, by which they have absolutely the same rights as every citizen of the Republic of Armenia,
- Ethnic-specific rights, for the realization of which the draft provides full guarantees. The ethnic-specific rights are defined as those related to national (ethnic) traditions, customs, religious beliefs and conscience, preservation of national language, as well as the rights of organizing and participating in the ceremonies as per their national (ethnic) traditions, customs and religious beliefs etc.

The specific provisions of the draft stipulate that the national minorities may exercise all above-mentioned rights, provided that they do not violate the relevant rights of the representatives of the other nations.

b) The issue of national identity of Kurds and Yezidis.

In Armenia no nation has ever been forced to declare itself as belonging to other nation nor to be assimilated. It was a matter of policy of all successive Governments and this attitude was reflected on non-governmental level as well. One of the specific features of Armenian ethno-policy has always been the tolerance of title population in respect to the national minorities.

¹ It is important to note, that the representatives of national minorities have participated in discussions. So, the Armenian authorities could not accept the opinion of the Committee, that the national minorities were not involved in the preparation work of the governmental draft (see the para. 23 of comment).

² The date of entry into force of the CIS Convention on Protection of Rights of Persons Belonging to National Minorities for Armenia is 10 January 1997.

With regard to the existence of a controversy as to the national identity of the Kurds and Yezidis, it must be mentioned that the problem does exist, but it is just a problem between these two ethnic groups. From the Armenian society's viewpoint, there should be no interference by the Armenian authorities with respect to one person identifying himself/herself to any particular nationality.

We would like to emphasize that as per the provisions of the Convention quite democratic solution was given in the draft (Article 4), where it is provided: "Each citizen of the Republic of Armenia freely decides his/her national belonging by himself/herself". The same Article provides also the following: "Nobody has the right to demand from the citizen of the Republic of Armenia to provide a proof of his national belonging or to demand from him/her to revoke his/her national belonging".

c) Providing the status of national minorities to the non citizens

The Article 37³ of the Constitution of the Republic of Armenia guarantees the right of citizens belonging to national minorities to preserve their traditions and to develop their language and culture. In the meantime, according to the Article 43 of the Constitution of the Republic of Armenia /the right and freedoms are not exhaustive and shall not be construed to exclude other universally accepted human rights and freedoms/ and in light of its obligations, the Armenian Authorities are ready to discuss the issue, including those of non citizens in the scope of implementation of Framework Convention.

d) The Data of the Census

It must be noted, that the results of the Census-2001 with regard to the description of current make-up of Armenia's population, would not be published on previously declared date. It is planned to be finalised later, namely in 2003. During September-October 2002, only the parameters of the number of constant population on a state level will be published.

In respect of Article 4

i) With regard to the adoption of law on Ombudsman

The Armenian authorities are interested to adopt the law on Ombudsman. The delay of this adoption is connected with the constitutional reforms. The draft law on Ombudsman is currently on the agenda of the National Assembly.

Relevant amendments¹ to the Constitution of RA should be made in order to pass a law on Ombudsman, ensuring the higher level of independence and credibility of the investigations of Ombudsman.

³ In according to the Draft Constitution "citizen" replaced with the "person", which is actually means right of each person belonging to the national minorities.

¹ Particularly, the present Constitution does not allow the Ombudsman to be elected at the National Assembly. At the same time, it is not provided for the Ombudsman to apply to the Constitutional Court.

ii) Discrimination

The Armenian Authorities do not agree that some particular complaints, which come from the representatives of national minorities, are connected with the fact of their belonging to national minority.

The Ministry of Internal Affairs has always filed criminal cases in accordance with the Law in every case of conflicts, which have arisen for the different reasons between any Armenian and Yezidi. The facts are quite clear, that all registered criminal cases were not of discriminatory nature and did not have ethnic character, as it was proven that they all were cases of domestic violence /the paragraphs 41 and 97 of the Opinion/.

It is necessary to note, that the Ministry of Internal Affairs investigates each reported case of discrimination. In respect of requests of Mr. A. Tamoyan, President of the National Union of Yezidis, the Ministry of Internal Affairs has made an impartial investigation, during which the governors /marzpets/ of Armavir, Kotaik and Ararat regions provided necessary explanation by request from the Ministry of Internal Affairs. An additional clarifications were sought from the citizens of Armenia belonging to the Yezidi minority, in respect of alleged discrimination.

As a result of investigations, it was found out that the arguments, provided by Mr. A. Tamoyan in his request, were one-sided.

Furthermore, Mr. A. Tamoyan has applied to the Prime Minister and to the Minister of Internal Affairs of Armenia that the Yezidis of Kotaik region have been discriminated in providing of a grazing ground. The investigations are currently under way and the outcome will be finalised soon.

3. In respect of Article 5

The National Assembly adopted the draft law on “Principles of the Cultural Legislation” by the first reading. The draft law especially provides support within the state programme to the culture of national minorities.

It is necessary to note that during the year 2002 an additional financial assistance will be given to the cultural activities of national minorities by the Government, as compared with the previous years.

The Armenian authorities are seeking funds for establishment of the cultural centre for national minorities.

4. In respect of Article 6

In Armenia does not exist religious intolerance. However, such kind of intolerance can not be excluded in any country. The Armenian Government is firmly conducting the policy of preventing and abolishing the intolerance towards the religious minority.

5. In respect to Article 9

There is no law in the Republic of Armenia, which restricts the rights of any national minority group to establish a TV company, operate a radio channel, issue periodicals and material in their

appropriate languages or to exercise any other right in all fields of state and public activities. The Government, whenever possible, provides the transmission channels for the programmes in the languages of national minorities on public TV and radio, which, in our opinion, does not contradict the provisions of the Framework Convention, merely because of limited time provided for such programmes.

With regard to expansion of the broadcastings in the national minorities languages, it should be noted that Article 28 of the Law on TV and Radio, along with the production of special programmes in the national minorities languages (with duration of up to one hour weekly), also provides opportunity for various broadcasts, which take into consideration the needs of national minorities and different social groups.

Meanwhile, the Article 28 envisages the possibility of providing of 2/3rd of the public TV and radio daily transmissions for the national production programmes. That creates an additional opportunity for broadcast of programmes in the national minorities' languages, since article 5 of the Law on TV and Radio envisages, that limitations on TV and radio programs in foreign languages do not affect programmes in the national minorities' languages.

In this regard, the provisional requirements, according to Article 59 of the Law on TV and Radio (55% until 2004), do not limit the national minorities-language broadcasts, but, moreover, extend such possibilities, taking into account that mentioned requirements consider national minorities-language or national minorities related programmes as "national production programs". It is worth to mention, that besides production of programmes on national minorities, public TV provides for daily broadcast of the "Hailur" news channel in Russian and English. National radio broadcast daily 15-minute programs in Russian, Georgian, Kurdish, Yezidi, Persian, Arabic, Azerbaijani, Turkish, Spanish, German, French and English.⁴

In such a variety, the most dominant are Russian-language broadcasts. The Russian language was stated as a mean of communication by the national minorities themselves to the Committee.

Taking into account the above mentioned, we consider that there are no obstacles in legislation, which could prevent the national minorities from taking care of their needs.

The Armenian authorities have been advised to increase the assistance for the representatives of national minorities in order to establish the electronic mass media. However, the Law on TV and Radio makes provision for issuance of licence on the basis of competition for legal persons. Representatives of national minorities can obtain the licence in accordance with this provision. So far, there were no such an applications from their side.

There is also intention to draft special procedure for conducting competitions in the areas with compact population of national minorities and to provide a licence with discounts for representatives of national minorities.

It was also proposed to broaden the possibilities of access to and presence in the media by persons belonging to national minorities. But according to the law relating to Television and

⁴ Currently the following programs are fully broadcast in Armenia - CNN, RFI, OPT, MY3-TB (in English, French and Russian), as well as partially broadcast PEH TB, TB "Dinamit FM", "Hit FM", "Mayak", BBC (in Russian), "Europe +", Radio Liberty, Russkoye radio, "Mir", "Mezzo"(in French, English, Russian, Italian), MTV (in Russian and English), and DW (in German) programs. The following programs are also available on cable TV: "HTB+sport", Euro Sport, Fox Sports, MTB. VH1, Animal Planet. The "Radio Van", which produce radio programs in Russian (90% of broadcast) for residents of foreign origin, received a license from the Commission in 2002.

Radio, there is one type of licence, which gives the right to have broadcasting company. This licence can be obtained in competitive rate. During these competitions, the candidates from national minorities have not participated yet.

According to the European Charter For Regional or Minority languages ratified by the National Assembly of the Republic of Armenia on December 2001 and attached declaration of the RA minority languages in the Republic of Armenia are Assyrian, Yezidi, Greek, Russian and Kurdish languages. In this way the legislation of Armenia creates preferential conditions for relatively large communities of national minorities.

In Respect to Article 12

It is difficult to establish schools with national minorities' languages, as the national minorities are scattered in Armenia so it is technically impossible to establish separate classes for any national minority.

The study of the national language /assyrian, yezidi/ of national minorities regulates by the educational curriculum for 2002-2003 educational year. According to the curriculum, in the classes from 1 to 4, two hours are provided for the subjects of Russian language and literature each in the schools/classes/ comprised of national minorities; for the classes from 5 to 10, one hour is provided for national language and literature; in the classes from 7 and 9 the schools /classes/ may decide to give one hour for the study of national minority history, if necessary, from the time foreseen for the study of universal history /para.119 of Comments/.

The paragraph 65 of the Advisory Committee opinion deserves comment as well. The school examinations are not organised only in Armenian. The schools/classes/ where the education is carried out in Russian, the examinations are in Russian.

Besides, in educational system there is no restriction whatsoever for any national minority. They are equal to Armenians and they can have every opportunity to receive any education available for Armenians. The Framework Convention does not oblige to establish institute in minorities' languages, but such opportunity exists for national minorities. The children of the representatives of national minorities are free to choose classes, conducted on their own national language, if such classes exist. Such provision found place in the draft law as well.

In case of absence of such classes, the children belonging to national minorities can study in schools or classes with state language /article 13/.

In article 13 it is also mentioned, that the government must assist the communities with national minorities with providing the teaching methodology and finance.

The fact that the examinations for the University admission are being conducted in Armenian language, is because 98-99% of applicants are Armenians and there is a lack of teachers with the relevant qualifications. There are several international and foreign higher educational institutions, where the studies are carried out in foreign language. Due to their wish the representatives of national minorities may study in such institutions. However, main part of national minorities prefers Russian language as medium of instructions. In this respect, we can not agree with the remark of the Committee, that most of the representatives of national minorities avoid studying in Armenian language by reason of absence of class books. That remark does not reflect the reality.

The issue stressed by the Committee, that the national minorities actually have no opportunity to receive education on their native language, is solved by the above-mentioned draft law.

In Respect of Article 15

The Committee has made a comment that the national minorities are not duly represented in governmental bodies. It should be noted that this is not the result of discriminative policy, but the result of objective reality.

As we have already mentioned, the Constitution of the Republic of Armenia provides absolutely equal rights to all citizens, including suffrage and the right to be elected. The absence of representatives of the national minorities in Parliament is connected with the fact that the national minorities are scattered and are few in numbers. With regard to the granting of the quota, it is supposed, that the definition of special electoral rights and special mechanisms will infringe the rights of the majority.

For executive and other governmental bodies the quota are not provided, because the prime criteria for selection is merit and nothing could hinder the representative of the national minority with professional qualifications to hold any office. Moreover, the new civil service system has been introduced in Armenia, which made the process of selection more transparent and objective for the entry to the civil service.