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

**COMMENTS OF THE GOVERNMENT OF GEORGIA
ON THE SECOND OPINION OF THE ADVISORY COMMITTEE ON THE
IMPLEMENTATION OF THE FRAMEWORK CONVENTION FOR THE PROTECTION
OF NATIONAL MINORITIES BY GEORGIA**

(received on 11 January 2016)

**Comments by Georgia on the Second Opinion on Georgia of the Advisory Committee on
the
Framework Convention for the Protection of National
Minorities**

**Comments by the Office of the State Minister of Georgia for Reconciliation and Civic
Equality:**

P. 4, Para. 8 – De- facto Abkhaz authorities pose difficulties and problems to the process of teaching Georgian language. Since September 1st, 2015 education in native Georgian language for ethnic-Georgians was suspended for 1-4 grades students at 11 Georgian schools of Gali district; it was substituted by Russian language, respectively. Since 2008, according to Abkhazian curriculum, Georgian language is taught as an ordinary subject and Georgian textbooks are forbidden in those schools that are located in Tkvarcheli and Ochamchire districts. Academic process runs by using textbooks prepared for Russian schools. Similarly, Tskhinvali region/South Ossetia faces serious problem- Ossetian language is gradually replaced by Russian. In terms of receiving appropriate education, ethnic-Georgians of Akhgori district have problems as well.

P. 16, Para. 50 - State Strategy for Civic Equality and Integration and Action Plan for 2015-2020 was adopted by the Government of Georgia on August 17, 2015. The new Strategy is based upon the principle of equality and “*more diversity, more integration*” approach and aims at contributing to the provision of equality; ensuring ethnic minorities’ full-fledged participation in all spheres of public life; and preserving national minorities’ culture and identity. The process of elaboration of the document has been open and transparent and allowed active participation of the stakeholders interested and working in the field. The strategy and action plan were considered and discussed with the Council of National Minorities, representatives of local civil society and international organizations, Human Rights and Civic Integration Committee of the Georgian Parliament, political parties and experts, also the representatives of ethnic minorities especially in the regions. International expertise of the document was provided by the Office of the OSCE High Commissioner on National Minorities.

P. 23, Para. 75 - In July 2015 the Georgian Government adopted the **Law on State Language**. Prior to this, the document was widely considered and discussed among state agencies, civil society organizations, also experts and international organizations. The adopted Law includes the definition of the “language of national minorities” and the provisions for the use of minority languages in the municipalities compactly populated by ethnic minorities.

**Comments by the Ministry of Justice of
Georgia:**

P. 9, Para. 25 - the Government of Georgia (GoG) kindly clarifies that the State Strategy on Civic Equality and Integration and its respective Action Plan for 2015-2020 includes the activity ensuring the awareness raising amongst the Public officials on the antidiscrimination standards and the relevant redress mechanisms in order to promote the effective implementation of the antidiscrimination law. The Ministry of Justice of Georgia has targeted the regions compactly settled by minority communities where the trainings on antidiscrimination law will be conducted (objective: 1.6.2.)

P. 10, Para. 30 - the Government of Georgia (GoG) kindly clarifies that since 2011 the Public Service Development Agency of the Ministry of Justice of Georgia in cooperation with Innovation and Reform Center (IRC) and European Center for Minority Issues (ECMI) has been implementing activities in order to

manage with the problem of Roma population registration and therefore to ensure legal support to respective Roma people.

According to the statistical data for 2011-2015 provided by the IRC, the Public Service Development Agency of the Ministry of Justice of Georgia registered up to 63 Roma.

In addition the special Working Group composed of the representatives of all relevant ministries, international organizations and NGOs working on the problems of children was established by the Inter-agency Council on Combating Trafficking in Persons in November, 2014. The purpose of the working group was to identify main threats faced by children working and living in the streets and propose effective measures to tackle with these threats. The working group elaborated the legal amendments that address main problems related to the children living and working in the street. As a result, legislative framework for the identification of children and providing them with identification documents will be put in place.

The amendments were approved by the Council on 23 December 2015 and will be initiated in January 2015.

P. 10, Para. 31 - the GoG kindly clarifies that the number of voluntary repatriates who returned to Georgia on their own, not under the repatriation law, is unknown as they did not apply for the repatriate status before the Public Service Development Agency (PSDA) under the Ministry of Justice. However, underage voluntary repatriates are being granted the special residence permits upon the motion of the Minister of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees.

With respect to the second part of the para. 31, which concerns acquiring citizenship by the persons with a repatriate status, the Organic Law of Georgia on Georgian Citizenship specifically stipulates (article 14, para. 2), that persons with a repatriate status are entitled to apply for the Georgian citizenship under the simplified procedure. Those persons shall be granted Georgian citizenship under the simplified procedure in accordance with the Decree of the President of Georgia. Therefore, the general requirements for acquiring citizenship set forth in Article 12 (an adult can be granted Georgian citizenship if (s)he has lawfully resided in Georgia for the last 5 consecutive years; the applicant knows the official language of Georgia, the history of Georgia and basic principles of law; the applicant has a job and/or real estate in Georgia, or carries out business on the territory of Georgia or holds an interest or shares in a Georgian enterprise) do not apply to the people having repatriate status.

According to the article 31 of №237 Decree of the President of Georgia of 10 June, 2014 persons with a repatriate status will obtain Citizenship of Georgian pursuant to the following procedures:

1. A person having a repatriate status can apply to the relevant state agency with a request to receive Georgian citizenship under the simplified procedure within two years after receiving the repatriate status. The following documents shall be enclosed with the application:
 - a. A copy of birth certificate (if the person, who seeks Georgian citizenship is underage and born in foreign country)
 - b. Document verifying repatriate status
2. If the person having a repatriate status does not speak Georgian or English and is not physically present in Georgia, the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia fills up the application for granting Georgian citizenship under the simplified procedure on the basis of existing information in the electronic database and

sends this application electronically to the Ministry of Foreign Affairs of Georgia, which delivers this application to the relevant Georgian diplomatic missions or consulates in the foreign country.

3. Within the two-year period after issuance of the Decree on granting Georgian citizenship under the simplified procedure, a person having a repatriate status should present to PSDA or to the Georgian diplomatic mission or consulate abroad, an official document verifying termination of that person's citizenship of the foreign country. If the person fails to present the official document verifying termination of that person's citizenship of the foreign country within this time period without providing reasonable justification, the Decree of the President of Georgia will be considered void.
4. In case of violating the time period indicated in the first and third paragraphs of this Article without having reasonable justification, a person with repatriate status will no longer be eligible to receive Georgian citizenship under the simplified procedure.

Statistics

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2013 - 7 repatriates

2014 - 376 repatriates

2015 - 96 repatriates granted citizenship and 15 applications are still being processed

Total of 472 repatriate applicants were granted Georgian citizenship.

P. 11, Para. 32 - the GoG kindly clarifies that currently the Commission on Citizenship Issues is mandated to assess whether granting Georgian citizenship to foreign nationals under the exceptional procedure is in compliance with the Constitution of Georgia. In particular, if there is any special circumstance, such as an outstanding contribution to Georgia made by the foreign citizen or that the granting Georgian citizenship to the person is in the national interests of the country. According to the practice established by the Commission, granting Georgian citizenship to persons currently living/have previously lived in the occupied territory of Tskhinvali region/South Ossetia and Abkhazia, is considered to be in the national interest of Georgia and they are able to acquire citizenship of Georgia through the exceptional procedure.

P. 12, Para. 37 - the GoG kindly clarifies that information bulletins in Georgian, Azeri and Armenian languages on the regulations of the Law of Georgia on the Legal Status of Aliens and Stateless Persons were distributed in the regions populated by the ethnic minorities. Furthermore, the Minister of Justice, Ms. Tea Tsulukiani, held a number of informational meetings with the local population in Samtskhe- Javakheti region explaining the procedures of the acquiring Georgian citizenship and issuing Georgian residence permits. In Addition, the local self-government official as well as the members of the Parliament representing the region, actively collaborated with the Ministry of Justice in conducting the campaign.

p.24, para. 84 - the GoG kindly clarifies that the Georgian legislation is accessible to any interested person through official Internet portal www.matsne.gov.ge. Most of the legal acts are also in English and Russian languages. In addition, information on the regulations of restoration procedures of historical surnames can be obtained from PSDA's remote service units, telephone consultation centers of the Public Service Hall, as well as from the local branches of Public Service Hall and territorial units of PSDA.

Representatives of the Yezidi community living in Georgia, along with other Georgian citizens, have the right to apply for restoration of their historical surnames, provided that they present sufficient evidence,

which verifies their belonging to that surname. Representatives of PSDA held a number of informational meetings for the Yezidi community, where the latter received detailed information about required procedures and documents, which have to be submitted for restoration of the historical surname.

As to the change of the first name, it has to be noted, that upon receipt of the identification document, a person has an opportunity to request his first name to be spelled with the Georgian characters in accordance with transliteration specific to his own ethnic or language group. Moreover, any adult Georgian citizen and non-citizen, who has legal status in Georgia and whose birth is registered in Georgia, has the right to change his/her first name once.

P.25, Para. 86 - The GoG kindly clarifies that currently when registering civil acts in regions populated by ethnic minorities, where previously civil acts were issued in foreign (primarily Russian) language in accordance with transliteration specific to particular ethnic or language group, PSDA takes citizen requests into consideration and issues documents in the Georgian language with the spelling as close to the language characteristics of that ethnic group as possible.

P.30, Para. 108 - The Government of Georgia (GoG) affirms that the Georgian language proficiency is significant for the full integration of persons belonging to national minorities in the society. The authorities have undertaken appropriate measures towards promoting the learning of Georgian language. In particular, in 2015 under the initiative of the Minister of Justice of Georgia, a Georgian Language Course for ethnic minorities commenced in four Community Centers (Poka, Kabali, Sartichala, Kvaretskali). The Project was implemented with the financial support of United Nations Development Programme (UNDP). The Course is tailored to the needs of the local population and mainly uses the methods that assist the participants in developing speaking skills. After the successful completion of the course, up to 90 participants received special certificates from PSDA and Training Center of Justice.

The Ministry of Justice of Georgia plans to continue Georgian Language Courses for ethnic minorities.

P. 32, Para. 120 -The Government of Georgia (GoG) kindly clarifies that the necessity of positive measures for promoting the representation of national minorities in public administration as a part of the State responsibilities set out in the State Strategy on Civic Equality and Integration and its respective Action Plan for 2015-2020 (objective: 1.3.4.). In particular, the Ministry of Justice of Georgia is organizing the Internship Programme for the national/ethnic minorities in the Community Centers located in the minority inhabited regions of Georgia. The Programme will be implemented in 2016-2017.

P.34, Para. 127 - The GoG states that access to social services for persons belonging to national minorities is being facilitated by the authorities. The development of community centers in the minority inhabited regions of Georgia is one of important and large-scale initiatives of the Public Service Development Agency of the Ministry of Justice of Georgia. Community centers enable local population to get more than 200 public and private services without leaving their villages. However, the Government acknowledges the language barriers that sometimes hinder the access to the public services for persons belonging to national minorities. In order to address this challenge, the Ministry of Justice of Georgia under the State Strategy on Civic Equality and Integration and its respective Action Plan for 2015-2020 (objective: 1.3.3) is undertaking a responsibility to spread the informational leaflets (prepared by the relevant authorities) on public services and ongoing state programs (Psycho-social programs, educational programs, new legal regulations) in the minority languages through the Community Centers.

Comments by the Ministry of Culture and Monument Protection of Georgia

PP. 12-13, Para 40, 41. -The culture of the ethnic minorities living in Georgia has an ancient history of co-existence with the Georgian culture. Representatives of Jewish, Russian, Armenia, Azeri and other nationalities have had professional and amateur theatres, folk ensembles, periodicals, libraries, art schools, and cultural centers in Georgia. The above organizations facilitate the retention of cultural diversity of the national minorities, the existence of intercultural dialogue, and protection of personal rights and freedoms, including the right of expression, as stipulated by the Constitution of Georgia.

Since 2009, of the above organizations, those founded in the form of Public Law Legal Entities (LEPL), like other state organizations subordinated to the Ministry, have been included on the list of subsidized organizations with a common Code. It must be noted that in 2004-2009, financing national minority organizations, just like other organizations, has shown a trend of increase.

Also in 2009, the Ministry of Culture and Monument Protection of Georgia developed a Program of Support for the Culture of National Minorities, within the framework of which many interesting initiatives are being financed.

On the base of several organizations, which were included on the list of subsidized organizations, founded in the form of LEPL, support for the protection and development, popularization, and self-expression of the minority culture and its further integration into the Georgian space are being implemented. These organizations are: David Baazov Historical Ethnographic Museum of Georgia, Mirza Patali Akhundov Azeri Culture Museum, Smirnov Memorial Museum, Tbilisi Petros Adamyan Armenian Theatre, Tbilisi Heydar Aliyev Azeri Theatre, and LEPL Al. Griboedov Russian Dramatic Theatre.

From 2004-2015 the Ministry of Culture and Monument Protection was responsible for the financial support of a number of periodicals written in the languages of and produced by the national minorities living in Georgia. As the topics contained within these periodicals was often of a non-cultural type, it was decided in 2015 to bring them under the financial umbrella of the Office of the State Minister for Reconciliation and Civic Equality.

We offer the statistics of support for the national minority cultures, sorted by years, from 2007 to 2015. During this period, the Ministry of Culture and Monument Protection of Georgia supported a variety of initiatives and projects.

Support to the Culture of National Minorities is just one of the many priority directions of the Ministry of Culture and Monument Protection of Georgia. According to this specific priority, the Ministry of Culture has financed a large number of initiatives of many non-legal organizations. There are musical performances, exhibitions, books published and more. All information of our finance system is available on the website of the Ministry of Culture: www.culture.gov.ge. In recognition of the need to increase support and further stimulate awareness of national minority cultures, in 2016 numerous competitions and projects, particularly in the regions are planned to be implemented.

Referring to Article 5 of the “Framework Convention, Support for the Preservation and Development of the Culture and Identity of Persons Belonging to National Minorities”, we would like to give more clarification with regards the current condition of the safeguarding of cultural heritage of minorities.

Based on the Cultural Heritage Law of Georgia, the National Agency for Cultural Heritage of Georgia (an operational organization under the Ministry of Culture and Monument Protection, responsible for the implementation of the state policy in the cultural heritage field) implements all relevant actions to study, maintain and preserve the whole cultural heritage existing in the country regardless of the ethnic background of these assets, in particular it:

Regarding the conservation and rehabilitation of the cultural heritage monuments, the main criteria to prioritize in the annual state budget of cultural heritage is the urgency and instability of the structures, as well as the high interest and needs of development of the place from society; high priority is given also to the World Heritage sites to improve their state of conservation and implement World Heritage Convention.

In recent years, the most significant projects aimed to study, conserve and rehabilitate have been implemented in regard of historical Iranian, Turkish (Ottoman), Jewish, Armenian, German, and Azerbaijan cultural heritage. It should underlined that to achieve the best results for the projects, in most cases, the projects are implemented through the active involvement of the best experts invited from these countries.

Comment by the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia

P. 10, Para 31. - It should be mentioned, that Meskhetians who arrived in Georgia disregarding the Law of Georgia on “Repatriation of Persons forcefully sent into exile from the Soviet Socialist Republic of Georgia by the Former USSR in the 40’s of the 20th Century” are under the scope of the Law on “Legal Status of Aliens and Stateless Persons”, governing the basics of their legal stay in Georgia and the procedures for granting of a residence permit. Their citizenship granting issue is regulated by the “Organic Law of Georgia on the Citizenship”.

On 12 September, 2014, Georgian Government adopted a decree on the “State Strategy of Repatriation of Persons forcefully sent into exile from the Soviet Socialist Republic of Georgia by the Former USSR in the 40’s of the 20th Century”, which aims to coordinate the process of dignified and voluntary return of the persons with repatriate status and foster integration of repatriates in Georgian civil society. Currently, drafting process of the strategy action plan is completed and internal inter-institutional agreement processes in the Government of Georgia are underway.

Granting citizenship through a simplified procedure for the persons with repatriate status is defined by the Organic Law of Georgia on “Georgian Citizenship” and the “Regulation on Consideration and Resolve of the Issues on Georgian Citizenship”, which is approved by the Edict of the President of Georgia N237 on 10 June, 2014. According to aforementioned Edict, after being granted Georgian citizenship, that person is obliged to relinquish the citizenship of the other country within 2 years. Hence, issues related withdrawal from Azerbaijani Citizenship is beyond the competence of Georgia.

Comment by the Central Election Commission of Georgia

P. 31, Para. 115. - The Central Election Commission (CEC) of Georgia ensured translating the ballot papers, voter’ lists, handbooks for the Precinct Election Commission members and other important electoral documentation for the representatives of national minorities during the general elections, as well as

Parliamentary By-elections, 2015. The CEC actively used media means for the purpose of voter information. In addition, the CEC Training Center issued grants for the non-governmental organizations to ensure information and engagement of national minorities in elections. The CEC offered the voters of national minorities with the important services – receive information related to election issues through the CEC contact center and the opportunity to verify data in the voters' list on their own languages through the CEC official webpage.

Comment by the State Agency for Religious Issues

P. 20, Para. 66 - The State Agency for Religious Issues notes that the narrative part of the Report, includes factual and analytical inaccuracies on some issues that needs clarification. The Agency, in accordance with its statute, represents the recommendatory body between the Religious Organizations and the State, thus the Agency is actively cooperating with all religious organizations, which are represented in the religious council of the PDO, on individual as well as interreligious basis.

Comment by the Ministry of Internal Affairs of Georgia

P. 18, Para. 57 - According to the principle of equality before the law, the state has a positive and negative obligation to prevent (including in private sector) direct or indirect discrimination. It also comprises the state's obligation to declare illegal and prohibit any propaganda for hostility, racial, ethnic, national, religious hatred (hate speech), which, is not protected under the freedom of expression. According to the defensive democracy, paradox of abusing democratic values, which results in destruction of democracy and its liberal values and tolerance itself, should be avoided. Under the Article 17 of the European Convention of Human Rights, "Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention."

Article 4 of "International Convention on the Elimination of All Forms of Racial Discrimination" requires that states parties "Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin." Whereas, article 20 of "International Covenant on Civil and Political Rights" entails signatories to prohibit "advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence." Prohibition of hate speech has also been recommended by European Commission against Racism and Intolerance (ECRI) in its Report on Georgia (2010).

Georgian legal framework provided only for general discriminatory facts to be punishable and did not contain any sanctions for hate speech, which may result in large scale and graver consequences. In order to fill the gap, the MoIA elaborated a draft law, which envisaged a legal liability for inciting the hatred and any advocacy for violence in written or oral form or by other means of expression, which aims at incitement to hostility between racial, religious, national, ethnic, social, political and/or other groups.

Notwithstanding with the fact, that the draft provision envisaged international practice of leading European countries (Germany, Austria, Estonia, Hungary, etc.), it received some critical comments from

NGOs and media organizations on the possibility of extended interpretation. After two months of work, the initial version of the provision underwent some changes, in order to avoid some ambiguities and ensure the clarity of its content. Therefore, under the final version, incitement to violence (aimed to cause a conflict between groups of people with certain racial, religious, national, regional, ethnic, social, political, linguistic, and/or other backgrounds) is punishable only if it creates obvious, direct and substantial threat to commit a criminal act. The term "hostility" was also removed from the provision. Given formulation includes elements which provide sufficient safeguards to exclude its arbitrary interpretation. Suggested provision explicitly states the element of violence and cannot become the ground for state abuse. Above-mentioned draft was passed by Georgian Parliament in June 12, 2015.