



Strasbourg, 3 September 2013

Public
ACFC/OP/III(2012)005

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

Third Opinion on Azerbaijan adopted on 10 October 2012

EXECUTIVE SUMMARY

Azerbaijani society is characterised by a generally open attitude towards diversity and good relations exist among its different ethnic groups. Most persons belonging to national minorities report that they do not feel discriminated against or excluded based on their ethnic background, and minority representation in civil service, including within municipal authorities, remains substantial. A variety of cultural events are organised by national minority associations and some minority language classes continue to be offered, mainly in primary school, in areas where persons belonging to national minorities reside compactly.

The overall legislative framework pertaining to national minorities, however, continues to be vague and there is only limited understanding of the Framework Convention and its relevant provisions among government entities and society at large. No clear procedures or criteria for the allocation of support to national minority associations exist and only few cultural centres have suitable premises. Despite persistent reports of discriminatory attitudes faced by persons belonging to some minorities, there are only very few cases involving allegations of discrimination brought to the attention of the courts or the Office of the Ombudsperson. Selective criminal proceedings and convictions of persons engaged in the protection of human rights, including minority rights, have a chilling effect on the freedom of expression. There are strong indications that persons engaged in the protection of human rights, including minority rights, are targeted in criminal proceedings and accused of disloyalty, among others, based on their wish to express their minority identity and seek the enjoyment of their rights. A negative public narrative against some minorities in particular, further limits their access to rights. There is no effective consultative mechanism to ensure that the concerns of national minority communities in the regions and at capital level are brought to the attention of the various ministries that deal with issues of their concern.

Issues for immediate action

- **Take all necessary steps to promote the awareness of rights and guarantees under the Framework Convention and ensure a safe environment for persons advocating for these rights, including by guaranteeing their freedom of expression;**
- **Resolutely curb manifestations of intolerance, prejudice and allegations of disloyalty against persons belonging to minorities, including in public discourse;**
- **Ensure that an institutionalised consultative mechanism is put in place to promote the effective participation of persons belonging to national minorities at regional and national level on all issues of concern to them and not limited to culture.**

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

THIRD OPINION ON AZERBAIJAN

1. The Advisory Committee adopted the present Opinion on Azerbaijan in accordance with Article 26 (1) of the Framework Convention and Rule 23 of Resolution (97) 10 of the Committee of Ministers. The findings are based on information contained in the State Report (hereinafter the State Report), received on 21 November 2011, and other written sources and on information obtained by the Advisory Committee from governmental and non-governmental contacts during its visit to Baku and regions of Azerbaijan (Quba, Qusar, Khachmaz) from 9 to 12 July 2012.

2. Section I below contains the Advisory Committee's main findings on key issues pertaining to the implementation of the Framework Convention in Azerbaijan. These findings reflect the more detailed article-by-article findings contained in Section II, which covers those provisions of the Framework Convention on which the Advisory Committee has substantive issues to raise.

3. Both sections make extensive reference to the follow-up given to the findings of the monitoring of the Framework Convention, contained in the Advisory Committee's first and second Opinions on Azerbaijan, adopted on 22 May 2003 and 9 November 2007, and in the Committee of Ministers' corresponding Resolutions, adopted on 13 July 2004 and 10 December 2008.

4. The concluding remarks, contained in Section III, could serve as the basis for the Committee of Ministers' forthcoming conclusions and recommendations on Azerbaijan.

5. The Advisory Committee looks forward to continuing its dialogue with the authorities of Azerbaijan as well as with representatives of national minorities and others involved in the implementation of the Framework Convention. In order to promote an inclusive and transparent process, the Advisory Committee strongly encourages the authorities to make the present Opinion public upon its receipt. The Advisory Committee would also like to bring to the attention of State Parties that on 16 April 2009, the Committee of Ministers adopted new rules for the publication of the Advisory Committee's Opinion and other monitoring documents, aiming at increasing transparency and at sharing the information on the monitoring findings and conclusions with all the parties involved at an early stage (see Resolution CM/Res(2009)3 amending Resolution (97) 10 on the monitoring arrangements under Articles 24-26 of the Framework Convention for the protection of National Minorities).

I. MAIN FINDINGS

Monitoring process

6. Azerbaijan continues to maintain a co-operative approach towards the Framework Convention's monitoring process. The authorities were flexible, constructive and helpful in the organisation of the third country visit which provided opportunities for interesting meetings in and outside of the capital. However, the Advisory Committee regrets deeply that its second Opinion was not translated into Azerbaijani, nor into minority languages, and that no follow-up seminar was organised to distribute the findings. The Advisory Committee welcomes the commitment undertaken by senior officials during the visit to translate this third Opinion into Azerbaijani in due course.

7. The Advisory Committee notes with concern that the Framework Convention and the results of previous monitoring cycles are only superficially known in society, including among minority communities, as well as within relevant government entities. Furthermore, it is of deep concern that few of the recommendations from the second cycle of monitoring seem to have been implemented. In addition, consultation or involvement of regional authorities and civil society representatives in the development of the third State Report has been very limited.

8. The Advisory Committee further acknowledges that it was, as in previous monitoring cycles, not in a position to monitor implementation of the Framework Convention in the areas outside the control of the government. The unresolved conflict over Nagorno Karabakh and the continued occupation of parts of Azerbaijan's territory still have a considerable impact on the situation of persons belonging to national minorities and hamper efforts to implement the Framework Convention in Azerbaijan. The Advisory Committee further notes that the conflict appears to play a predominant role in all discussions related to minority protection, sometimes to the detriment of other issues related to the implementation of minority rights in Azerbaijan.

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

9. The Advisory Committee acknowledges the general appreciation for diversity and the overall good relations among different ethnic groups in Azerbaijan. During its visit, it gained the sense that most persons belonging to national minorities do not feel discriminated against or excluded based on their ethnic background. At the same time, the Advisory Committee observed that all issues related to minority protection appear closely linked to bilateral relationships with neighbouring countries. While a number of minority communities experience no obstacles and obtain unhindered support from foreign Embassies, other communities, due to the delicate nature of diplomatic relations with a country seen as affiliated with them, cannot advocate for support or express their concern about protection of their rights without being suspected of anti-government and pro-foreign sentiment. In this context, the Advisory Committee reminds the authorities that such dependence on bilateral relations jeopardises the general principle of full and effective equality underlying the Framework Convention. Its adoption aims precisely at lifting minority protection out of the bilateral context into a multilateral and rights-based monitoring system, which requires the member states to incorporate the Convention standards into their domestic legal system.

10. The Advisory Committee further notes with concern that the general working environment for non-governmental organisations engaged in human rights protection issues, including those promoting the rights of national minorities, continues to be difficult and,

according to many reports, appears to have further deteriorated since the last monitoring cycle. In addition, the Advisory Committee observes a strong public narrative against some minority communities in particular, such as those of Armenian background. While aware of the suffering endured by the population in the context of the Nagorno Karabakh conflict, the Advisory Committee notes with deep concern the extent to which this experience determines public sentiment today, to the point that any negative national development appears to be publicly linked to external aggression from neighbouring countries. The environment appears to be particularly difficult for minorities who are associated with some neighbouring countries.

11. Given the above situation and the fact that persons promoting the rights of some minorities are prone to prejudice and a general suspicion of anti-government sentiment from officials and parts of society alike, full respect for the rule of law and constitutional due process guarantees have particular significance. The Advisory Committee is concerned in this regard by the alarming reports of other organisations engaged in the monitoring of judicial processes in Azerbaijan.

General legislative and institutional framework

12. There have been no significant changes to the legal and institutional framework pertaining to minority protection since the previous monitoring cycle. Most relevant provisions are contained in the Constitution or the 1992 Presidential Decree related to national minority protection and no efforts have been made to incorporate the standards of the Framework Convention into the domestic legislation. The guarantees are vaguely phrased and no legal or procedural mechanisms are in place to give them effect. A National Program for Action to raise the effectiveness of human rights protection, adopted in December 2011, includes references to the preservation and development of the cultural heritage of national minorities. No concrete steps for its implementation appear to have been taken. There has been no progress towards the development of comprehensive antidiscrimination legislation.

Full and effective equality

13. There is no monitoring of the specific obstacles faced by persons belonging to national minorities in accessing rights, nor a gathering of relevant statistics or other data outside the census. The Advisory Committee regrets that no progress has been made with regard to efforts to promote equal opportunities for persons belonging to national minorities, as special measures are still considered discriminatory and therefore not in line with the Constitution. Such measures, however, have been taken to promote the rights of displaced persons, including as regards access to the labour market. Some groups among the national minority population are still facing considerable disadvantages and obstacles with regard to their access to rights. This includes an uncertain number of stateless persons, *inter alia* of ethnic Armenian origin, as well as a remaining group of internally displaced persons who are not able to obtain legal documents.

Support for minority cultures

14. A variety of cultural activities continue to be organised by national minority associations, often also with the support of Embassies or international organisations. While ad hoc project support remains available from local authorities as well as the Ministry of Culture, there are no clear procedures or criteria for the allocation of public support for such initiatives. Many minority communities report their need for longer-term funding as well as appropriate premises to carry out activities aimed at the preservation of their language and culture, such as the

organisation of Sunday schools. A special fund created under the President to provide support to non-governmental organisations appears not to be widely known among minority communities.

Protection against discrimination and efforts to combat intolerance

15. Discrimination and intolerance are not generally considered an issue of concern within broader society in Azerbaijan, including minority communities. Yet, there are persistent reports of generally discriminatory attitudes, including instances of hate speech, against some groups. The fact that only very few cases involving charges of discrimination are brought to the attention of the courts or the Office of the Ombudsperson reflects that knowledge of and trust in the independence and effectiveness of available legal remedies are still very limited.

Freedom of expression and assembly

16. Organisations promoting the right of persons belonging to national minorities or wishing to disseminate information in this regard continue to face difficulties when wanting to gather publicly, including at local level. There are disturbing cases of criminal proceedings against persons engaged in the promotion of minority rights for seeking to enjoy rights that are expressly granted by the Framework Convention, including the freedom of expression. According to a number of interlocutors, persons belonging to certain national minorities are habitually considered as having an affiliation with neighbouring countries and seen as disloyal to Azerbaijan when seeking to exercise and promote their rights. Selective criminal prosecution, including violence and threats of violence, continue to be directed against journalists and others who express critical opinions. Such practices deter persons belonging to national minorities from exercising their right to express their views related to minority rights protection in Azerbaijan, including through the media. Resolute steps must also be taken to ensure that persons belonging to all national minorities can freely express and manifest their religious beliefs, individually or in community with others.

Media and language rights

17. No changes have been made to the existing legislation on radio and television broadcasting in minority languages. There are no state television or radio programmes in minority languages, apart from a 15 minutes news edition in Russian which is broadcasted daily. No public support has reportedly been provided to minority language newspapers or brochures since 1997. There is limited participation and presence of national minorities in the media. While cultural or music programmes may include minority language performances, there is little coverage of issues of relevance to national minorities, particularly the numerically smaller ones. The media environment generally is marked by a lack of pluralism. As judicial penalties on journalists and media providers have reportedly intensified, self-censorship is increasing, including among media professionals with minority background.

18. The legislative framework still provides that all communication with and within the administration shall be in the state language, and there are no provisions for the use of minority languages either in official contacts or regarding bilingual signposting. Russian language may still be used orally in some regions, depending on the discretion and language proficiency of the civil servant involved. However, the Advisory Committee is concerned by reports from representatives of other national minorities that the use of their languages is increasingly discouraged, particularly as regards numerically smaller national minorities.

Education

19. Persons belonging to national minorities continue in principle to have access to two hours a week of minority language education in primary school in areas of compact settlement. Elgin language continues to be taught in seven secondary schools up to the ninth grade. Minority representatives report that information on their specific language, traditions or history is either not included in textbooks or limited to folkloristic stereotypes with partially negative connotations. Moreover, minority language classes are reportedly cancelled with increasing frequency, due to a lack of qualified teachers and appropriate education materials, including textbooks. While authorities continue their efforts to develop textbooks in minority languages for the lower grades, opportunities for adequate teacher training have diminished, due among other reasons, to low demand.

Effective participation

20. The representation of persons belonging to national minorities in civil service continues to be substantial, including in some elected bodies. However, there is reportedly some hesitation by minority representatives in public office to promote issues of concern to their communities as this, in a generally restrictive political environment, could be viewed as a sign of disloyalty against the state and its general promotion of unity. The Co-ordinating Council of cultural centres of national minorities seldom meets to discuss the organisation of cultural events. There are no institutional channels to relate concerns of national minority communities, including from the regions, to the different ministries dealing with issues that affect them, or to facilitate participation in decision-making on relevant policies or legislative initiatives.

21. Azerbaijan experiences high levels of unemployment throughout the country, which is particularly critical in rural areas where many minority communities reside compactly. While some efforts have been made by the authorities to ease the economic hardship, close attention must be paid to promote access to the labour market also in the remoter regions of Azerbaijan. In addition, efforts should be made to ensure that the particularly vulnerable parts of the population, including persons belonging to national minorities, have effective access to available assistance measures.

II. ARTICLE-BY-ARTICLE FINDINGS

Article 3 of the Framework Convention

Scope of application of the Framework Convention

Recommendations from the two previous cycles of monitoring

22. In the previous monitoring cycles, the Advisory Committee encouraged the authorities to maintain their inclusive approach with regard to the scope of application of the Framework Convention, among others by reflecting it in any new legislation pertaining to national minorities that was being drafted. In addition, it noted that consultations should be held with representatives of other relevant groups with a view to considering their inclusion in the Framework Convention's scope of application.

Present situation

23. The Advisory Committee notes no changes in the overall inclusive approach of the authorities towards the scope of application of the Framework Convention. In practice, the Advisory Committee is unaware of any requests by the small number of persons belonging to Roma communities living among others in the Baku and Khachmaz areas, as well as in the border region with Georgia, to be protected under the Framework Convention. It was, however, informed that numerically small communities have faced difficulties when attempting to register national minority cultural organisations, which effectively limits their ability to benefit from the protection afforded by the Framework Convention. While persons belonging to national minorities are thus reportedly free to identify as such, this identification, even if officially recognised, appears not to automatically grant them access to rights under the Framework Convention (see comments hereafter and in Article 7 below).

Recommendation

24. The Advisory Committee encourages the authorities to pursue their inclusive approach and to ensure that all persons who may benefit from inclusion into the scope of application of the Framework Convention are made aware of this possibility and are effectively granted access to protection under the Framework Convention in line with its Article 3.

Census questionnaires and the right of self-identification

Recommendations from the two previous cycles of monitoring

25. In the previous monitoring cycles, the Advisory Committee reminded the authorities that all questions related to an individual's ethnic and national origin in the census should be optional and that the choice not to answer the question should not result in a count as member of the majority population. It underlined that in the preparations for the census of 2009, minority representatives should be comprehensively consulted and informed of their rights, including through the use of questionnaires in minority languages.

Present situation

26. The Advisory Committee is pleased to note that the census of 2009 appears overall to have been prepared and conducted in line with international standards, notably those prepared by

the Eurostat office.¹ Enumerators were reportedly trained to inform respondents of the voluntary nature of any questions related to ethnic background as well as of the principle of free self-identification. Minority representatives confirmed during the visit that they had been encouraged during the 2009 census to freely indicate their ethnic background and numerically smaller minorities, such as Quiz, Khanbalik and Budge, indeed registered for the first time as a separate ethnic group.²

27. At the same time, the Advisory Committee was surprised to learn that only 306 persons indicated an ethnic Armenian origin in the 2009 census, particularly considering the regularly cited official estimate that some 30,000 ethnic Armenian citizens of Azerbaijan live in the territory outside the Nagorno Karabakh region.³ This raises obvious questions as to why only one per cent of this group feel inclined to indicate their ethnic background in line with the right to free self-identification contained in Article 3 of the Framework Convention, or whether, indeed, the group is smaller than estimated.

Recommendation

28. The Advisory Committee encourages the authorities to continue their active co-operation with Eurostat and to ensure that all persons belonging to national minorities are aware of their right to freely self-identify and encouraged to make use of it, in line with Article 3 of the Framework Convention.

Article 4 of the Framework Convention

Legislation, policies and practice to combat discrimination

Recommendations from the two previous cycles of monitoring

29. In the previous monitoring cycles, the Advisory Committee encouraged the authorities to develop detailed and comprehensive antidiscrimination legislation providing effective remedies to potential victims of discrimination in all spheres of life, and noted that such legislation should permit the adoption of specific positive measures aimed at the full and effective equality of persons belonging to national minorities, in particular numerically smaller ones. In addition, the Advisory Committee underlined the necessity to conduct comprehensive training and awareness-raising among relevant officials as well as society at large to ensure that the available remedies were effectively used.

Present situation

30. The Advisory Committee notes that there are no current plans to adopt comprehensive antidiscrimination legislation. According to officials in the Human Rights Committee of the Mille Mimili's (Parliament) as well as the Ministry of Justice, there is no need for such legislation given equality and non-discrimination guarantees contained in Article 25 of the Constitution. While acknowledging that most interlocutors, including minority representatives, indicated that they don't feel affected by discrimination based on ethnic grounds, the Advisory

¹ See, for instance, Conference of European Statisticians Recommendations for the 2010 Censuses of Population and Housing, prepared in co-operation with the Statistical Office of the European Communities (Eurostat) and the United Nations Economic Commission for Europe.

² The results of the 2009 census show 4,344 Quiz, 2,233 Khinalig and 1,001 Budug who did not register in the 1999 census. All figures were provided by the Azerbaijan Statistics Committee.

³ Based on available data regarding citizens of Armenian ethnicity living in the Nagorno Karabakh region at the end of 1988, the authorities have included 120,000 ethnic Armenians in all census exercises since. The official result of the 2009 census thus indicates 120,306 ethnic Armenians living in Azerbaijan. This is a decrease from the 120,745 who were registered in the last census of 1999.

Committee observed an only limited understanding among officials as well as society at large of the definitions of direct and indirect discrimination and their multiple manifestations. Indeed, the very low number of reported cases based on discrimination, for instance under Article 154.1 of the Criminal Code which expressly prohibits discrimination based, among others, on ethnic background, appear to attest to a significant lack of awareness among the population as well as law enforcement officials of the legal remedies available in this regard.⁴

31. The Advisory Committee further notes that the Ombudsperson continues to pursue her mandate as an independent human rights protection agency. This mandate was expanded in December 2011 to include leading the working group on coordination of the implementation of the 'National Program for Action to Raise Effectiveness of the Protection of Human Rights and Freedoms in the Republic of Azerbaijan'.⁵ The Office of the Ombudsperson has 58 staff members as well as four regional branch offices with three staff each who mainly liaise with the capital to facilitate contact of the rural population with the Office. The Office receives an increasing number of appeals;⁶ roughly half, however, are deemed inadmissible which seems to indicate that the precise mandate and functions of the Office are still not well understood by the population. While no disaggregated data concerning the background of complainants or the nature of their allegations is collected, the Advisory Committee was informed that no complaint had been received based on racial or ethnic discrimination. This contradicts the reports received by the Advisory Committee and noted also by other monitoring bodies of continued discrimination and intolerance against persons belonging to some national minorities, notably ethnic Armenians.⁷

32. The Advisory Committee was also made aware that the number of complaints received in the regional offices remains small compared to those received by non-governmental human rights organisations. While a number of activities related to general human rights awareness and education are being conducted by the regional offices in co-operation with the local administration, the broader role and importance of an independent Ombudsperson to combat all forms of discrimination in society appear still to be only little understood. In addition, trust in the independence and effectiveness of the Ombudsperson and her office among broader society is, according to a number of interlocutors of the Advisory Committee, still very limited.

Recommendations

33. The Advisory Committee reiterates its recommendation to adopt and implement comprehensive and detailed antidiscrimination legislation and urges the authorities to ensure that relevant officials and society at large are made aware of the multiple forms of discrimination that exist today. Efforts to train law enforcement services and the judiciary in this regard must be strengthened.

34. The Advisory Committee calls on the Ombudsperson to actively and independently pursue her mandate and enhance efforts to raise awareness of available remedies against discrimination among the population. It is especially important that persons most exposed to discriminatory attitudes are fully informed of their options and that their trust in the independence and professionalism of the recourse is increased.

⁴ The Advisory Committee was not provided with statistics but informed that 'almost no such cases' had been processed under Article 154.1 of the Criminal Code.

⁵ See Order of the President of the Republic of Azerbaijan, 27 December 2011, <http://en.president.az/articles/4089>.

⁶ According to the 2010 Annual Report of the Commissioner for Human Rights (Ombudsperson) of the Republic of Azerbaijan, 11,660 appeals were received in 2010 and 8,800 in 2009, bringing the total of applications since 2002 to 62,770.

⁷ See, among others, Third ECRI Report on Azerbaijan, 23 March 2011.

Collection of ethnic data

Recommendations from the two previous cycles of monitoring

35. In the previous monitoring cycles, the Advisory Committee urged the authorities to develop further means of collecting relevant information on the situation and access to rights of persons belonging to national minorities, while fully respecting international data protection standards, in order to facilitate the adoption of adequate and effective measures to meet the needs of these persons.

Present situation

36. The Advisory Committee notes with regret that there is no progress concerning the readiness of the authorities to collect data related to ethnic, national, and linguistic affiliation of the population outside the census. While the number of students learning minority languages, for instance, is recorded, there is no monitoring of the specific obstacles faced by persons belonging to national minorities in accessing rights. The authorities' understanding of the particular problems faced by parts of the population (see below) is therefore limited. The Advisory Committee recalls again that up-to-date and accurate data on the socio-economic and educational situation of persons belonging to national minorities, including the numerically smaller ones, is indispensable to devise effective policies aimed at responding to their needs and promoting their full equality.

Recommendation

37. The Advisory Committee urges the authorities to collect, in line with international data protection standards⁸ further information on the situation of persons belonging to national minorities so as to be able to respond effectively to their needs.

Promotion of full and effective equality

Present situation

38. The Advisory Committee notes with concern that some groups among the national minority population are still facing considerable obstacles with regard to their access to rights. This includes an uncertain number of stateless persons, *inter alia* of ethnic Armenian origin, who were not able to obtain national passports when the old USSR passports were replaced in 2003.⁹ According to information at the disposal of the Advisory Committee, persons belonging to this group face substantial difficulties in obtaining documents despite lengthy court proceedings, while their lack of legal status prevents their access to social and economic rights. Persons belonging to other national minorities have also reported unequal opportunities for them in accessing the labour market, particularly at senior level, as well as unequal treatment in obtaining funds and other public support that is available to persons belonging to the majority population.

39. The Advisory Committee regrets that no progress has been made with regard to efforts to promote equal opportunities for persons belonging to national minorities. Indeed, the legislative conditions for specific measures to promote access to rights for some groups have become less

⁸ See the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108) and the Committee of Minister's Recommendation Rec(97)18 concerning the protection of personal data collected and processed for statistical purposes.

⁹ The non-governmental organisation 'Azerbaijani Migration Centre' has collected data on some 3,000 families affected by statelessness. The United Nations High Commissioner for Refugees (UNHCR) started to register stateless persons in November 2011. Until June 2012, the office had registered 164 persons whom it is providing with legal aid to obtain documentation.

favourable, following the addition of two new paragraphs to Article 25 of the Constitution in 2009 that prohibit the granting of privileges or the refusal of advantages to anyone based on, *inter alia*, nationality. The Advisory Committee was informed repeatedly that any special measures for particular groups would not be in line with the Constitution as such privileges would be considered discriminatory. It reiterates its position that such an approach is not compatible with Article 4.3 of the Framework Convention, which explicitly provides that adequate measures to promote full and effective equality between persons belonging to a national minority and those belonging to the majority shall not be considered to be an act of discrimination.

40. The Advisory Committee was pleased to learn, however, of the substantial progress that has been made to promote the living conditions and access to rights of the large population of persons displaced by the Nagorno Karabakh conflict. The Government of Azerbaijan and international donors have made available generous funds to build appropriate new housing for the remaining residents of 16 villages and the resettlement of all displaced persons into new premises is expected to be completed in 2013. At the same time, the Advisory Committee welcomes the other measures taken in favour of internally displaced persons such as the exemption from all tax and utility fees, educational subsidies as well as special employment advantages. It notes with concern, however, that a significant proportion of this population, particularly in rural areas, do reportedly not possess displacement certificates, which prevents them from accessing these advantages.¹⁰ The Advisory Committee is concerned that internally displaced persons of minority background, such as Kurdish or Armenian, reportedly face particular problems in obtaining certificates or indeed other legal documents.

Recommendation

41. The Advisory Committee reiterates its call on the authorities to facilitate the adoption of special measures with clear targets and associated resources to promote the full and effective equality of persons belonging to national minorities, including those within the displaced population, in line with Article 4 of the Framework Convention. The effectiveness of any such measures should be regularly monitored and evaluated, in consultation with national minority communities themselves.

Article 5 of the Framework Convention

State support for the preservation and development of minority cultures

Recommendations from the two previous cycles of monitoring

42. In the previous monitoring cycles, the Advisory Committee urged the authorities to increase their support for activities aimed at the preservation and promotion of national minority cultures and languages, including through direct support to national minority organisations. The Advisory Committee recommended the creation of an institutionalised scheme entailing clear criteria for the allocation of public funds to the activities of national minority organisations, and providing for the effective participation of minority representatives in all decisions pertaining to the preservation and development of their national minority identity.

¹⁰ See also Report of the Representative of the UN Secretary General on the human rights of internally displaced persons, Walter Kälin, on his follow-up visit to Azerbaijan, A/HRC/16/43/Add.2, 23 December 2010.

Present situation

43. The Advisory Committee acknowledges the variety of cultural activities that take place every year involving national minority cultural centres as well as the number of music and folklore groups of national minorities. These are also referred to in the State Report as a means of implementing the 1992 Presidential Decree on “State assistance for the protection of rights and freedoms of national minorities, minority people and ethnic groups living in Azerbaijan and promotion of their language and culture”.¹¹ While welcoming the multiple channels of support being provided through local authorities and the Ministry of Culture, the Advisory Committee regrets the continued lack of clear procedures or criteria for these support allocations. This contributes not only to inequalities in terms of support received among the various minority organisations and cultural centres but also to high levels of uncertainty for the groups themselves. The Advisory Committee is also concerned by the lack of consultation with the minority communities who do not seem to have any impact on decisions taken related to their projects (see comments on Article 15 below), as well as by the overall lack of clarity as to what type of support is provided. It remained, for instance, unclear from the contradicting information given by various levels of authority what, if any, support is provided to a Georgian language theatre in the Zaqatala region.

44. While some cultural centres reportedly have obtained premises and receive some support, others report that they have not received any assistance since 1997, when the Council for National Minorities under the President ceased to exist. Overall, the support provided by local authorities appears mainly limited to organisational support while financial resources are often obtained through Embassies, international donor organisations such as the International Network of Mountain Jews, or private means. Given the delicate relations of Azerbaijan with some of its neighbours, this situation creates a disadvantage for those minority groups that do not wish to or cannot access funds from outside Azerbaijan without raising suspicions regarding their loyalty to the state. The Advisory Committee finds this situation not in line with Article 5 of the Framework Convention nor, indeed, with the explicit entitlement to public support for national minority organisations established by the 1992 Presidential Decree. It recalls that an item concerning the “continuation of activities to preserve and develop the cultural heritage of ethnic minorities” has been inserted into the National Program for Action¹² (see comments on Article 4 above) and expects that financial and other support to national minority cultural centres will be increased accordingly.

45. The Advisory Committee further notes the creation of the Council of State Support to NGOs under the President which was created through a Presidential Decree in 2007 and has disbursed some 9 Million Manat,¹³ supporting 1,400 projects since 2008. The Advisory Committee welcomes this additional source of funds, including for national minority cultural organisations. It, however, regrets that the procedure and criteria for obtaining grants under this fund remain unknown to most minority communities. In addition, the fund provides targeted and ad hoc contributions to individual projects and is therefore unlikely to offer the kind of longer-term organisational support that many minority cultural centres, particularly those representing

¹¹ See Presidential Decree on the protection of the rights and freedoms and on state support for the promotion of the languages and cultures of national minorities, numerically small peoples and ethnic groups living in the Republic of Azerbaijan of 16 September 1992.

¹² See point 2.2. of the National Program for Action to Raise Effectiveness of the Protection of Human Rights and Freedoms in the Republic of Azerbaijan of December 2011, <http://en.president.az/articles/4017>.

¹³ 9 Million Azerbaijani Manat are the equivalent of roughly 9,341,000 EUR.

numerically smaller minorities, would need in order to effectively and sustainably preserve and promote their identity, language and culture in line with Article 5 of the Framework Convention.

46. While the Advisory Committee welcomes that the Udi Christian church reportedly continues to receive some support since its rehabilitation in 2003, it learned with concern that the Lezgin Cultural Centre ‘Samur’ was instructed in 2009 to rename the Lezgin Mosque, built in 1169 in the old town of Baku and historically referred to as Lezgin Mosque. The Lezgin Mosque was officially registered in 1993 under the Lezgin Cultural Centre and has since been in operation as a centre of worship for a variety of communities. The name plate of the Mosque, indicating ‘Lezgin Mosque,’ has been removed from its front and the Lezgin Mosque requested to re-register under a different name. The Advisory Committee underlines that the religious monuments of national minority communities form an integral part of their specific identity, traditions and culture and are therefore subject to the protection of Article 5 of the Framework Convention.

Recommendations

47. The Advisory Committee again urges the authorities to increase the financial support available for the cultural activities of national minority associations and ensure that an institutionalised scheme with clear and transparent procedures for the allocation of funds is put in place. Attention must be paid to guarantee that all national minority communities have equal access to public support and that they are effectively consulted on all decisions taken with regards to the allocation procedure.

48. The Advisory Committee further calls on the authorities to ensure that the religious monuments of national minority communities are preserved as such and that the crucial importance they have for the maintenance of the cultural and religious identities of the national minorities concerned is effectively taken into account in all relevant decision-making.

Article 6 of the Framework Convention

Intolerance against persons belonging to national minorities and hate speech

Recommendations from the two previous cycles of monitoring

49. In the previous monitoring cycles, the Advisory Committee urged the authorities to combat all manifestations of intolerance against persons belonging to national minorities, in particular those of Armenian origin, and to monitor closely the dissemination of hate speech, prejudice and stigmatisation through the media. The authorities were further invited to promote efforts made by civil society to maintain a climate of inter-ethnic and inter-religious tolerance and mutual dialogue and to promote relevant human rights standards throughout the country.

Present situation

50. The Advisory Committee notes again the general sense of tolerance and understanding prevailing in Azerbaijani society, as well as the attention paid by the authorities to multi-ethnicity and diversity. At the same time, the Advisory Committee notes a very persistent public narrative surrounding the Nagorno Karabakh conflict that identifies variably ‘Armenia’ or ‘Armenians’ as “the enemy” and openly promulgates hate messages, in particular on the Internet.¹⁴ While aware of the extent to which the conflict and the related loss of life and

¹⁴ A study carried out by International Alert in 2011 on how people on opposite sides of the conflict perceive each other in the South Caucasus revealed high levels of hate speech and ‘dehumanisation’ vis-à-vis Armenia in the

livelihoods has traumatised society, the Advisory Committee is deeply concerned by the levels of official involvement in endorsing and disseminating such views, as they are often directed also against Azerbaijani citizens of ethnic Armenian origin as well as anybody else who may be seen as affiliated with Armenia.¹⁵ The term ‘Armenian’ indeed appears to be used and understood as an insult,¹⁶ which may contribute to the fact that very few ethnic Armenians identify themselves as such by, for instance, registering their ethnicity in the census (see comments on Article 3 above). The Advisory Committee deplores the impact this public discourse has on parts of the population, as it reportedly continues to give rise to widespread discriminatory behaviour against persons of Armenian origin. Given the difficult relations that Azerbaijan holds also with other neighbouring states, the Advisory Committee fears that official and media identification of ethnic minorities as “traitors” and “enemies” could spread to other groups as well.

51. In view of the above and based on its discussions with various interlocutors, the Advisory Committee is disconcerted by the perception that individuals may be insulted or even charged with criminal offences based on their belonging to a certain minority group or their engagement in advocating for the rights of such groups. In this context, the Advisory Committee considers it of particular importance that international and national human rights and fair trial standards are not only well-understood among society at large and relevant officials, but also scrupulously applied. It notes with deep concern that there continue to exist significant gaps as regards the due process guarantees of the accused, especially related to the presumption of innocence, effective legal representation, and the right to an impartial and independent tribunal,¹⁷ which appears to particularly affect persons engaged in human rights related work, including minority rights (see comments on Article 7 below).

Recommendation

52. The Advisory Committee strongly urges the authorities to abstain from all manifestations of intolerance and prejudice against persons belonging to some minority groups, including in official discourse. No one must be suspected or accused of disloyalty to the state based on his or her affiliation with a national minority and all efforts must be made to ensure that the justice system adequately guarantees due process of law.

Relations with the police

Recommendations from the two previous cycles of monitoring

53. In the previous monitoring cycles, the Advisory Committee urged the authorities to raise the awareness and accountability of law enforcement agencies in their treatment of individuals, including persons belonging to national minorities, to ensure that they feel free to report possible cases of discrimination and other abuses to the police. It noted that minority rights standards should be enhanced, among others, through their inclusion in the training curriculum of the Police Academy.

Azerbaijani blogosphere. See Arzu Geybullaeva *How do Azerbaijani bloggers perceive Armenians? Introducing Hate 2.0* in <http://www.ejc.net/magazine>, 3 March 2012.

¹⁵ The Advisory Committees shares in this context the deep concern expressed by the Commissioner for Human Rights related to the presidential pardon of Ramil Safarov, who was convicted of murdering an Armenian national. His Press Statement of 4 September 2012 points out, “such glorification of hate crimes can only send a message that others belonging to the same ethnic group as the victim, or indeed other members of vulnerable groups are ‘fair game’. This is an extremely dangerous message.”

¹⁶ See Third ECRI report of 23 March 2011 referring to a case where the Press Council considered the identification as Armenian as humiliating.

¹⁷ See, among others, Azerbaijan Freedom House Report 2012 and OSCE Trial Monitoring Report Azerbaijan 2010.

Present situation

54. The Advisory Committee welcomes increased efforts by the Ministry of the Interior to provide initial and ongoing training to the police forces in international and national human rights protection standards, including within the context of international exchanges of best practices. An internal review commission has been created to monitor complaints regarding police misbehaviour and has received over 600 such complaints, 136 of which resulted in disciplinary action taken against the officer concerned. The Advisory Committee refers with deep concern however, to the persistent reports of ill-treatment and police brutality, which appear to occur with particular frequency in the investigative and pre-trial phases and are directed especially against human rights defenders and political detainees (see comments on Article 7 below).¹⁸ While noting efforts by the Office of the Ombudsperson regarding the conditions in the penitentiary system as well as the creation of a national preventive mechanism on Torture or other Cruel, Inhuman or Degrading Treatment or Punishment at the end of 2010, the Advisory Committee remains alarmed by the situation which, reportedly, is deteriorating.¹⁹ It further understands that the above conditions give rise to a marked distrust of the population, including persons belonging to national minorities, in the independence and professionalism of the police and national security services.

Recommendation

55. The Advisory Committee again urges the authorities to ensure without delay that all law enforcement agents are trained and instructed to abide by the law and that they refrain from any cruel, degrading or inhuman treatment against persons under arrest or detention, irrespective of the type of accusation. Particular efforts must be made to restore the trust of the population in the professionalism of its law enforcement agents, among others by ensuring that any misconduct is swiftly investigated and appropriately sanctioned.

Situation of refugees and asylum-seekers*Recommendations from the two previous cycles of monitoring*

56. In the previous monitoring cycles, the Advisory Committee called on the authorities to increase their efforts towards the protection of asylum seekers and refugees in co-operation with the United Nations High Commissioner for Refugees (UNHCR), and to consider ways of ensuring equal access of these groups to fundamental rights, including education.

Present situation

57. The Advisory Committee notes that thus far only two cases have been recognised as refugees out of 327 applications pending with the State Migration Service since it started functioning in 2007. Altogether, the refugee and asylum seeker population comprises 1756 persons; roughly half are UNHCR mandate refugees from Chechnya who are protected against deportation and tolerated on the territory but who do not receive any support from the authorities aside from the continued access to schools for Chechen refugee children. Recognised refugees have no right to seek employment and are, thus, entirely reliant on UNHCR support. Overall, the majority of refugees are reported to live in dire economic and housing conditions, with widespread malnutrition and poor hygiene leading to multiple health complications. In addition, Chechens continue to face prejudice and discrimination from parts of the local population as well

¹⁸ See, among others, Council of Europe Parliamentary Assembly (PACE) Monitoring Committee *Honouring of obligations and commitments by Azerbaijan*, 25 April 2012.

¹⁹ See Human Rights Watch World Report 2012 on Azerbaijan. See also Observatory for the Protection of Human Rights Defenders, Annual Report 2011, Azerbaijan, 26 January 2012.

as more frequent checks and abuse from law enforcement officers. An additional concern regards the civil rights of refugees and asylum seekers, as they reportedly face obstacles and delays in the issuance of legal documents, including as regards the registration of marriage or birth of children.

Recommendation

58. The Advisory Committee reiterates its call on the authorities to urgently increase their efforts to protect the rights of refugees and asylum seekers in line with their international and national commitments and in close co-operation with UNHCR.

Article 7 of the Framework Convention

Legislation on non-governmental organisations and freedom of association

Recommendations from the two previous cycles of monitoring

59. In the previous monitoring cycles, the Advisory Committee expressed its concern over the process of registration of non-governmental organisations which, among others, caused difficulties for organisations dealing with the protection of national minorities in the effective enjoyment of their freedom of association, as enshrined in Article 7 of the Framework Convention.

Present situation

60. The Advisory Committee notes with deep concern that the overall working environment for non-governmental organisations engaged in the protection of human rights, including those of persons belonging to national minorities, continues to be very difficult. The Advisory Committee refers to the opinion of the Venice Commission on the compatibility with human rights standards of the legislation on non-governmental organisations after the 2009 amendments, which considers the registration process still as lengthy and costly, as well as complicated and unpredictable.²⁰ The Advisory Committee notes with concern that registration formalities continue to pose particular difficulties for non-governmental organisations engaged in the protection of human rights, including minority rights, who are viewed as critical of the government or even as “enemies of the government”.²¹ The Advisory Committee welcomes the fact that a number of organisations continue to perform important functions in the area of human rights promotion and defence and maintain working relations with relevant government agencies despite not being legally registered. It is concerned by the lack of legal certainty for these organisations as well as by the impression shared by a number of civil society representatives that the registration process functions as a ‘performance review tool’ rather than a clear and transparent legal procedure for acquiring the status of a legal entity. It further notes with concern reports from representatives of various minority communities that young persons belonging to

²⁰ See Opinion of the Venice Commission on the compatibility with human rights standards of the legislation on non-governmental organisations of the Republic of Azerbaijan, October 2011. See also European Court of Human Rights *Ramazanova and others v. Azerbaijan* (2007) and *Tebieti, Mühafize Cemiyeti and Israfilov v. Azerbaijan* (2009), finding that disproportionate restrictions were imposed by Azerbaijani legislation on the freedom of association under Article 11 of the ECHR.

²¹ This is particularly assumed in the case of organisations that receive international support or want to open branches of foreign NGOs. Since March 2011, all foreign NGOs have to apply to the Ministry of Justice, demonstrating that they support the “Azerbaijani people’s national and spiritual values”, before entering into bilateral agreements with the Republic of Azerbaijan. The tightening of restrictions has led to the closure of a number of international organisations. See also Commissioner of Human Rights *Observations on the human rights situation in Azerbaijan. Freedom of expression, freedom of association, freedom of peaceful assembly*, 29 September 2011.

national minorities face particular obstacles when wishing to register national minority youth organisations, despite assurances from the authorities that particular support is afforded to organisations representing the interests of youth.

Recommendation

61. The Advisory Committee calls on the authorities to ensure without delay that all persons belonging to national minorities can effectively and without undue obstacles enjoy the freedom of association, including as regards the promotion of minority rights or the representation of special interests, such as those related to young persons, within the national minority.

Freedom of assembly

Recommendations from the two previous cycles of monitoring

62. In the previous monitoring cycles, the Advisory Committee urged the authorities to ensure, including through legislative measures, that persons belonging to national minorities can effectively enjoy the freedom of assembly. Activities and public gatherings aimed at promoting the standards of the Framework Convention and other aspects of minority protection should be encouraged by the authorities at central and local level, with any restriction being narrowly construed and proportionate in each case.

Present situation

63. The Advisory Committee regrets that organisations promoting the right of persons belonging to national minorities or wishing to disseminate information in this regard have reportedly continued to face difficulties when wanting to gather publicly, including at local level. Given the Advisory Committee's above-mentioned concern that the standards and provisions of the Framework Convention are insufficiently understood in society in general as well as among officials in charge, it points to the particular role played by minority organisations and civil society to improve that understanding and disseminate knowledge. Their activities, including as regards public gatherings, should be supported by the authorities rather than hindered. In this context, the Advisory Committee also refers to the multiple reports on the wave of arrests of activists and political opponents in connection with protests held in Baku in spring of 2011 and within the 'Sing for Democracy' context in 2012.²² These negative developments relating to the freedom of assembly in Azerbaijan generally can only have an intimidating effect also on minority organisations that would wish to jointly promote their rights under the Framework Convention.

Recommendation

64. The Advisory Committee again urges the authorities to take resolute steps in order to effectively and systematically guarantee the freedom of assembly of persons belonging to national minorities at central and local level, including as regards public gatherings aimed at promoting the standards of the Framework Convention.

Freedom of expression

Recommendations from the two previous cycles of monitoring

65. In the previous monitoring cycles, the Advisory Committee urged the authorities to take all necessary measures to ensure that no undue limitations were placed on the freedom of

²² See, among others, Human Rights Watch World Report 2012: Azerbaijan; Freedom House Nations in Transit 2012, Azerbaijan; Statement of Article 19 Azerbaijan: *Freedom of expression situation worse in aftermath of Eurovision*, 25 June 2012.

expression of persons belonging to national minorities, which would prevent them from conducting legitimate activities to preserve and develop their culture, language or identity, as protected by the Framework Convention.

Present situation

66. The Advisory Committee learned with profound sadness in August of 2009 that Professor Novruzali Mammadov, Editor in Chief of the Talysh language newspaper ‘Tolishy Sado’) had died in prison, after having been convicted and sentenced to ten years in prison for high treason.²³ The Advisory Committee notes with deep concern that the sentence of the Grave Crime Court of 24 June 2008 under Article 274 of the Criminal Code found Mr Mammadov guilty of having conducted activities that, indeed, he was entitled to carry out under the Framework Convention as well as the 1992 Presidential Decree. The Advisory Committee refers in particular to activities related to the promotion of the Talysh language and culture, including his appeals for the creation of a Talysh language TV programme and his application to the Ministry of Justice to register the Talysh Cultural Centre as well as the Talysh language newspaper ‘Tolishy Sado’. It is inconceivable that these activities, which the authorities through their ratification of the Framework Convention have committed not only to permit but to actively support (see Articles 5, 7 and 9 of the Convention), could be interpreted as acts of treason against the government. The Advisory Committee reiterates that the freedom of expression, as provided in Article 7 of the Framework Convention, is a fundamental human right which, necessarily, includes the freedom to express criticism or diverging opinions. The additional ground for conviction of Mr Mammadov contained in the sentence of the Grave Crime Court, for having “appealed to international organisations based on violations of human rights of Talysh people” constitutes a direct violation of Article 7 of the Framework Convention.

67. The Advisory Committee is moreover deeply concerned about the recent arrest and indictment of Mr Hilal Mammedov, who succeeded Mr Novruzali Mammadov as Editor in Chief of the ‘Tolishy Sado’, under very similar charges, shortly before the Advisory Committee’s country visit.²⁴ The indictment against Mr Hilal Mammedov of 3 July accuses him of having attended conferences in Iran in April and October 2006 and having spoken in that context on public Iranian TV about the Talysh population in Azerbaijan, allegedly with the aim of inciting ethnic hatred in Azerbaijan.²⁵ The Advisory Committee is deeply concerned by this case as it appears again to incriminate a person for seeking to enjoy rights that are expressly granted by the Framework Convention, including the freedom of expression. According to a number of interlocutors, the case demonstrates the extent to which persons belonging to certain national minorities are habitually considered as having an affiliation with neighbouring countries, and seen as disloyal to Azerbaijan when seeking to express their minority identity. In addition, the Advisory Committee is alarmed by credible allegations of ill-treatment of Mr Mammedov during arrest and in pre-trial detention (see also comments under Article 6 above).

68. The Advisory Committee notes with deep concern, however, that practices of unjustified or selective criminal prosecution, including violence and threats of violence, directed against

²³ The Advisory Committee previously expressed its deep concern in its second Opinion of November 2007 about the circumstances of Mr Mammadov’s arrest in November 2007, *inter alia* on grounds of allegedly spying for Iran and for inciting national, racial and religious hatred.

²⁴ In early June Mr Mammedov had reportedly committed to revive the Talysh language newspaper which had been out of print since the death of Mr Novruzali Mammadov. He was arrested on 21 June, initially on drug charges, which were subsequently elevated to accusations of high treason under Article 274 of the Criminal Code as well as incitement of national, racial or religious hatred under Article 283.2.2.

²⁵ By way of evidence, the indictment refers to the fact that a reputable Iranian professor of Talysh philology is allegedly also working as agent of the Iranian Secret Service.

journalists and others who may express critical opinions are continuing or even intensifying, as reported by multiple international bodies.²⁶ The European Court of Human Rights has repeatedly held against Azerbaijan with regard to unjustified convictions that are capable of dissuading the press from openly discussing matters of public concern.²⁷ In this context, the Advisory Committee reiterates its concerns about the above-mentioned case of Mr Hilal Mammedov, which is likely to deter other persons belonging to national minorities from exercising their right to express their views related to minority rights protection in Azerbaijan, including through the media. The Advisory Committee notes in this context plans to amend national legislation to decriminalise defamation which, according to the National Program of Action, shall be completed by the end of 2012.²⁸

Recommendations

69. The Advisory Committee reiterates its urgent call on the authorities to abstain from unduly limiting the freedom of expression of persons belonging to national minorities, including as regards criticism regarding the implementation of minority rights in Azerbaijan. Resolute efforts must be made to raise the awareness of officials in charge, particularly within the judiciary, of international minority rights standards and the legitimacy of demanding adequate conditions to preserve and develop minority language, culture and identity.

70. The Advisory Committee urgently appeals to the authorities to ensure that persons belonging to national minorities who, in connection with their work as minority rights activists, have been charged with criminal offences are granted a fair trial in front of an independent and impartial court. All allegations of ill-treatment must be effectively investigated without delay.

Article 8 of the Framework Convention

Manifestation of religious belief

Recommendations from the two previous cycles of monitoring

71. In the previous monitoring cycles, the Advisory Committee invited the authorities to ensure that legislative provisions related to the freedom of religious beliefs and the importation of religious literature did not undermine the right of persons belonging to national minorities to manifest their religion. In addition, the Advisory Committee urged the authorities to ensure that persons belonging to national minorities could freely manifest their religious beliefs individually or in community with others, including as regards non-traditional religious communities.

Present situation

72. The Advisory Committee notes that, following amendments to the Law on Freedom of Religion in 2009, a number of further restrictions have been imposed on religious communities. Apart from a requirement for all communities to re-register in order to continue functioning, higher fines have been introduced for disseminating religious literature without prior authorisation or carrying out religious activities such as worship in places other than where registered. The authorities explain that the re-registration exercise is only a formality and does not alter the legal status of the community concerned. However, the Advisory Committee was

²⁶ See, among others, Media Rights Institute *Freedom of Speech in Azerbaijan* Semi-annual Report January to June 2012, Baku, July 2012, providing details on multiple cases where journalists were harassed and beaten by police and other law enforcement agents in connection with their work. See also Commissioner for Human Rights *Observations on the human rights situation in Azerbaijan. Freedom of expression, freedom of association, freedom of peaceful assembly*, 29 September 2011.

²⁷ See, for instance, *Fatullayev v. Azerbaijan* (2010).

²⁸ See paragraph 1.2.7. of the National Program for Action, December 2011, <http://en.president.az/articles/4089>.

officially informed during its visit that the authorities had the right to abolish all organisations that had not re-registered, although it had never used that right. The Advisory Committee is concerned by this lack of legal certainty for communities that have not been able to re-register, even following application to the courts. In addition, the Advisory Committee learned of lengthy and unpredictable proceedings and the closure of mosques or churches by local authorities in cases where the re-registration had not been completed.²⁹ According to the authorities, 576 communities had been re-registered in July of 2012, out of some 900 applications.

73. The Advisory Committee notes that Muslim communities have to go through a double-registration process, as, in addition to the procedure described above, their applications have to go first through the Caucasian Spiritual Board of Muslims. The process is reportedly particularly difficult for communities belonging to the Sunni faith, including those of persons belonging to national minorities such as the Lezgin and Avar, as approval of their applications appears to be selectively delayed or denied by the Board. While the Lezgin Mosque in Baku was de-registered and asked to re-register under a different name (see comments under Article 5 above), most of the mosques that were closed or since 2009 have reportedly been Sunni mosques, including the so-called Albanian mosque in Ganja.³⁰

74. The Advisory Committee also heard reports of persons being arrested for praying ‘at unauthorised places’, including in private homes, and of being forced to sign statements that they would not meet for joint prayers. Even cases of forced shaving of beards of certain Muslims by the police have been reported.³¹ In addition, the Advisory Committee is concerned by reports regarding difficulties experienced by members of the Georgian Orthodox Church seeking to import small amounts of religious literature for worship and educational purposes. In December 2010, women were banned from wearing headscarves in schools and universities which reportedly led to a considerable number of drop-outs. This development is reported to have affected in particular some of the more pious national minority communities.

75. While the Advisory Committee acknowledges widespread anxiety among the population towards non-traditional religious groups and possible extremist tendencies and appreciates the efforts of the authorities to monitor religious activities, it cautions that all registration procedures have to be implemented fairly and transparently and with due regard to the fundamental right to manifest one’s religious belief, including in community with others. In this regard, it notes with regret reports that the study of Islam has been considerably reduced, which, according to some observers, has led to lack of understanding and tolerance towards the beliefs of some, including non-traditional, communities in society, and contributes to the creation of inter-religious tension as well as miscommunications between different branches of one faith.

Recommendation

76. The Advisory Committee calls on the authorities to take resolute steps to ensure that persons belonging to all national minorities can freely express and manifest their religious beliefs, individually or in community with others, and that the ongoing re-registration exercise is implemented fairly and transparently. All rejections must be open to swift and effective legal redress.

²⁹ See also Council of Europe Parliamentary Assembly (PACE) Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe: *Honouring of obligations and commitments by Azerbaijan*, 25 April 2012.

³⁰ See, *inter alia* Human Rights Without Frontiers International *Azerbaijan Religious Freedom Survey*, April 2012.

³¹ See, among others, Third ECRI report on Azerbaijan, 23 March 2011.

Article 9 of the Framework Convention

Minority language television and radio broadcasting and print media

Recommendations from the two previous cycles of monitoring

77. In the previous monitoring cycles, the Advisory Committee urged the authorities to review the existing legislation on radio and television broadcasting to ensure that obstacles to broadcasting in minority languages were removed, especially with regard to the private sector, and that persons belonging to national minorities could effectively enjoy the rights enshrined in Article 9.1 and 9.3.

Present situation

78. The Advisory Committee regrets that no progress has been made concerning the existing legislation on radio and television broadcasting in minority languages. On the contrary, according to regulations adopted by the National Broadcasting Council, all films shown on public television since 2008 must be broadcasted in the state language or in Turkish. There are no state television or radio broadcasts in minority languages, apart from a 15 minutes news programme in Russian language which is broadcast on public television in the early afternoon from Monday to Friday. The Advisory Committee is further not aware of any private radio or television channels that broadcast programmes in minority languages.

79. As regards print media, the Advisory Committee learned that no public support has been provided to minority language newspapers or brochures since 1997 but that cultural centres may obtain funds from private donors or international organisations, provided they ask for prior authorisation (see comments on Article 5 above). Those responsible for the special fund created under the President to allocate support to mass media confirmed that they do not provide support to minority language media and that the fund for support to non-governmental organisations was responsible. That fund, however, referred to the mass media fund as the appropriate institution. These contradicting statements testify to the level of confusion among the various funds regarding their concrete responsibilities. The Advisory Committee regrets the complete absence of awareness of the significance of minority language media for persons belonging to national minorities to preserve and develop their specific identity, and of their rights to create and use their own media in line with Article 9.3 of the Framework Convention.

Recommendation

80. The Advisory Committee again calls on the authorities to remove the existing obstacles to radio and TV broadcasting in minority languages, and create effective opportunities, including with regard to funding, for national minority organisations to develop print and broadcast media in their own language.

Minorities in the media

Recommendations from the two previous cycles of monitoring

81. In the previous monitoring cycles, the Advisory Committee invited the authorities to expand available broadcasting in minority languages on public service radio and television in close co-operation with minority representatives and without prejudice to the editorial independence of the media, and to increase programming related to national minorities and issues of their concern in the mainstream media. In addition, the authorities were requested to eliminate obstacles to the publication and distribution of print media in minority languages and to provide additional support to such endeavours.

Present situation

82. The Advisory Committee notes no changes in the situation as regards the participation and presence of national minorities in the media. While cultural or music programmes may include minority language performances or broadcast special folklore events, there is reportedly limited coverage of issues of relevance to national minorities. A number of minority communities, particularly numerically smaller ones such as the Avar or Qriz, regret that their distinct history and culture remains largely unknown among the majority population. In a generally restrictive media environment where self-censorship continues to be broadly applied by journalists,³² many media professionals with minority background have been careful not to draw attention to themselves to avoid possible accusations of disloyalty. The Advisory Committee further notes continued reports regarding partiality in the media, particularly as regards the conflict over Nagorno Karabakh, which contributes to the negative image of the Armenian minority. While a Press Council has been established to review incidents of possible intolerance or hate speech in the media, no complaints related to inter-ethnic relations have reportedly been received, apart from one incident in 2009 where the identification of a woman as Armenian was considered humiliating by the Council and the newspaper asked to retract the statement.³³

Recommendation

83. The Advisory Committee reiterates its call on the authorities to encourage the development and broadcasting of more programmes related to issues of concern to national minority communities and to ensure, in close consultation with minority representatives, that no harmful images against minorities are spread via the media.

84. The Advisory Committee calls upon the authorities to effectively guarantee the freedom of the media, including for journalists with a minority background.

Article 10 of the Framework Convention

Use of minority languages in relations with administrative authorities

Recommendations from the two previous cycles of monitoring

85. In the previous monitoring cycles, the Advisory Committee called on the authorities to introduce, in close co-operation with representatives of the national minorities, norms specifying the conditions for the use of minority languages in relations with administrative authorities in all areas where the criteria established by Article 10.2 of the Framework Convention were met, including by considering to supplement the Law on State Language with specific legislation pertaining to the use of minority languages.

Present situation

86. The Advisory Committee regrets to note that no progress has been made with regard to the use of minority languages in contacts with administrative authorities; the legislative framework still provides that all communication with and within the administration shall be in the state language. The Advisory Committee was informed that the regional offices of the Ombudsperson accept correspondence in Russian but prepare their responses in the official language. In addition, Russian may reportedly still be used orally in some regions, depending on

³² See, among others, OSCE Representative on Freedom of the Media Press Release: *OSCE media representative concerned about negative developments in Azerbaijan*, 14 June 2012.

³³ See also Third ECRI report on Azerbaijan, 23 March 2011.

the discretion and language proficiency of the civil servant. However, the Advisory Committee is concerned by reports from representatives of other national minorities that the use of their languages is increasingly discouraged and that they feel uncomfortable using minority languages in public, particularly in urban centres. The Advisory Committee reiterates that the use of minority languages must be actively promoted in order to ensure that persons belonging to national minorities can effectively enjoy the rights contained in Article 10 of the Framework Convention.

87. The Advisory Committee is particularly concerned about the rights of persons belonging to numerically smaller national minorities, such as the Tats, Tsakhurs and Budugs, as the number of active speakers of their languages has reportedly decreased sharply. Targeted positive measures are required to ensure that representatives of numerically small minorities are encouraged to use their language, including in public, so as to promote lesser-used minority languages. In this regard, the Advisory Committee regrets that no progress has been made towards the ratification of the European Charter for Regional or Minority Languages, despite this being one of the commitments undertaken when acceding to the Council of Europe.³⁴

Recommendations

88. The Advisory Committee urges the authorities to ensure, including through legislative measures, the right of persons belonging to national minorities to effectively enjoy the right to use their languages in contacts with administrative authorities, under the conditions set out in Article 10 of the Framework Convention.

89. Particular efforts must be made to ensure the linguistic rights of persons belonging to numerically small minorities. In this regard, the Advisory Committee calls on the authorities to comply with their post-accession commitment and ratify the European Charter for Regional or Minority Languages.

Article 11 of the Framework Convention

Bilingual topographical indications and other inscriptions

Recommendations from the two previous cycles of monitoring

90. In the previous monitoring cycles, the Advisory Committee urged the authorities to take steps, including at the legislative level, to ensure that persons belonging to national minorities were allowed to display topographical indications and other inscriptions in minority languages in line with Article 11 of the Framework Convention.

Present situation

91. The Advisory Committee regrets that no significant progress has been made with regard to opportunities for persons belonging to national minorities to portray topographical indications and other, including private signs, in minority languages, even in areas where they constitute the vast majority of the population. The legal framework, providing for the state language as the only language to be used, continues not to be in line with the corresponding provisions of the Framework Convention. The Advisory Committee was informed that some bilingual signs exist, but mainly in Azerbaijani and English languages. According to government and most minority representatives, there is no need for topographical indications in minority languages because practically everyone speaks Azerbaijani. The Advisory Committee regrets this unawareness of

³⁴ Azerbaijan committed itself to signing and ratifying the European Charter for Regional or Minority Languages by 25 January 2002. It signed the instrument on 21 December 2001.

the positive effects that the use of minority languages in public, including through bilingual signposting, can have on the overall levels of tolerance and appreciation of diversity in society.³⁵

Recommendation

92. The Advisory Committee again calls on the authorities to bring their legislative framework in line with the Framework Convention and allow the display of minority languages in public and in private, where the conditions of Article 11 are met.

Article 12 of the Framework Convention

**Fostering knowledge of the culture, languages,
history and religions of national minorities**

Recommendations from the two previous cycles of monitoring

93. In the previous monitoring cycles, the Advisory Committee called on the authorities to develop history textbooks and other educational material that provided broad information on national minorities and their identity and culture without fostering negative stereotypes. It further encouraged the authorities to ensure that the emphasis placed on the state language in the education system should not prevent adequate support being allocated to research on minority languages, history and other aspects of their cultural heritage.

Present situation

94. The Advisory Committee notes the efforts mentioned in the State Report to promote knowledge on national minorities and foster respect and mutual understanding via the organisation of training and roundtable events, as well as the publication of a book on national minorities living in Azerbaijan. While welcoming these steps, it understands that they are ad hoc initiatives, linked to general human rights and tolerance training projects to improve human rights awareness, but have yet to translate into a systematic review of textbooks and school curricula. According to representatives of most minority communities, information on their specific language, traditions or history is either not available or limited to folkloristic stereotypes, partially with negative connotations such as ‘mountainers’, ‘peasants,’ or worse in the case of Armenians. The Advisory Committee was further informed by government officials that two hours per week of national minority language and culture are being taught in ‘relevant’ schools, which seems to imply that only students belonging to national minorities themselves are taught about their culture, but that such teaching is not mainstreamed in general schooling. In addition, no special funds or programmes are available to promote research on or in minority languages and cultures at school or in university (see also below).

95. The Advisory Committee is further concerned that history textbooks are reportedly still construed narrowly and without possibility to accommodate other perspectives, which is likely to further strengthen and multiply stereotypes and prejudice against some minorities. The organisation of minority language schooling in a few areas of compact settlement only, where students belonging to a given national minority are taught separately in their language and culture, deepen this divide as there are practically no possibilities for students of minority and majority background to meet and jointly discuss the issues of concern to one or several national minorities. Given the level of intolerance and negative public discourse against some groups in particular, the Advisory Committee regrets that no initiatives appear to be in place to foster

³⁵ See ACFC Third Commentary on Language Rights of Persons Belonging to National Minorities, May 2012.

mutual understanding and respect in the younger generations, thereby promoting sustainable peace in the region.

Recommendation

96. The Advisory Committee calls on the authorities to ensure that adequate information on national minority identity and culture is contained in educational materials and that curricula and school administration promote positive exchanges between pupils of different background with a view to foster tolerance and mutual understanding, including through efforts to promote the understanding of multiple perspectives in the teaching of history.

Textbooks and teacher training

Recommendations from the two previous cycles of monitoring

97. In the previous monitoring cycles, the Advisory Committee invited the authorities to address identified shortcomings in the field of textbooks and teacher training for national minority languages, in close consultation with representatives of the national minorities concerned.

Present situation

98. The Advisory Committee welcomes the efforts made by the authorities regarding the development and printing of minority language textbooks. It regrets, however, to have learned that available quantities are still insufficient to meet the needs of minority language pupils and that many schools appear not to have any minority language textbooks past the second grade. The Advisory Committee further understands that bilateral agreements with Georgia and the Russian Federation still exist regarding the exchange of relevant textbooks but that they have recently been limited to apply only to textbooks for minority language and literature classes. Minority representatives confirm, however, that substantial problems concerning the availability of textbooks in minority languages are encountered, in particular as regards other subjects such as mathematics or biology. The experienced lack of suitable textbooks further diminishes the quality of teaching in these subjects.

99. As to the availability and quality of teacher training, the Advisory Committee understands from its interlocutors, including representatives of the responsible authorities, that the opportunities for pedagogical training in minority languages are diminishing. The philological department of Lezgin at Baku University, for instance, was closed recently, due among other reasons to limited interest among students and the resulting increase in cost per student for the university. Despite the large number of Talysh living in Lenkoran district and the fact that the language is taught in primary schools in the region, there is no Talysh language department at Lenkoran State University. As a result, teaching in minority languages is often provided by teachers who lack the proper training. According to representatives of a number of minority communities, minority language classes are increasingly cancelled, as teachers are no longer available. While acknowledging the operating costs of suitable minority language teacher training, the Advisory Committee underlines that concerted efforts are indispensable to ensure that a sufficient number of adequately trained teachers are available. Bilateral agreements with neighbouring countries regarding exchanges of students or young professionals in the academic field may also be a means of easing the situation, which appears to be deteriorating rapidly.

Recommendations

100. The Advisory Committee calls on the authorities to expand their efforts in the development and distribution of minority language textbooks to ensure that quality teaching is provided in relevant schools.

101. The Advisory Committee urges the authorities to increase their efforts and consider all available options to provide adequate minority language teacher training to ensure that a sufficient number of suitably trained minority language teachers is available to relevant schools.

Access to education for national minorities

Present situation

102. The Advisory Committee was pleased to learn that persons belonging to national minorities generally face no obstacles in accessing education. One year of pre-schooling is offered to children who are not proficient in the main languages of education, Azerbaijani, Russian or Georgian. Significant numbers of early drop-outs from school are, however, reported from rural and mountainous areas of Azerbaijan, where many minority communities reside. The situation in the south appears to be worse, with girls disproportionately affected due to early marriages as well as to a possible preference among low-income families to support the education of boys. In addition, the Advisory Committee was made aware of concerns of some minority communities that the scholarship programme 'Young Azerbaijanis abroad', which opens opportunities for young graduates to study abroad, may be disfavoursing students with a minority background and accepting mainly those of Azeri origin.

Recommendation

103. The Advisory Committee invites the authorities to strengthen their efforts to ensure that equal access to education is provided to all persons belonging to national minorities, including those residing in remote areas of the country.

Article 13 of the Framework Convention

Private minority schools

Recommendations from the two previous cycles of monitoring

104. In the previous monitoring cycles, the Advisory Committee encouraged the authorities to ensure continued support for the establishment and operation of private educational institutions that contribute to the preservation and development of minority languages and cultures, such as the Jewish school in Baku.

Present situation

105. The Advisory Committee welcomes the fact that a variety of Sunday Schools exist throughout the country where national minority communities may learn about their language and culture. It notes, however, that these initiatives, while permitted by the local authorities, usually do not receive any financial support but depend on the communities themselves and on the ability and availability of individual members to provide lessons in the minority language. Representatives from a number of national minorities report that they have repeatedly and unsuccessfully requested the authorities to provide premises for Sunday schools (see also comments on Article 5 above), while other communities are provided with suitable buildings. The Advisory Committee observes also in this regard the lack in equality among national minority communities in their access to support for private educational institutions, as no clear procedures or transparent criteria for such public support appear to exist. Sponsorship is reportedly only received from private donors or via Embassies of neighbouring states which, due to the obligation to obtain prior permission, again disfavours some minority communities.

Recommendation

106. The Advisory Committee encourages the authorities to extend their organisational and material support to private educational institutions that contribute to the preservation and development of minority languages and cultures as far as possible and based on objective and transparent criteria. The rights of all national minorities to maintain their private education institutions must be equally respected.

Article 14 of the Framework Convention**Minority language teaching***Recommendations from the two previous cycles of monitoring*

107. In the previous monitoring cycles, the Advisory Committee urged the authorities to provide adequate legal guarantees for persons belonging to national minorities to receive education in their minority languages as enshrined in Article 45 of the Constitution of Azerbaijan and Article 6 of the Law on Education of 1992. It further urged the authorities to extend existing possibilities to learn minority languages in the education system beyond primary school, taking into account the local demand.

Present situation

108. The Advisory Committee notes no significant changes in the situation regarding the teaching in and of minority languages in schools. Persons belonging to the Russian and Georgian minorities have the possibility to attend primary and secondary education in their languages, with obligatory weekly classes in the official language, literature and geography. Other national minorities may, in areas of compact settlement, attend two hours a week of their national minority language and culture. The Advisory Committee learned that weekly classes are provided at 232 schools in Talysh, at 107 schools in Lezgin, at 37 schools in Tat, at 23 schools in Avar, at six schools in Tsakhur, at two schools in Kurdish and at one school in Khinalig. Representatives of these minorities report, however, that the quality of education continues to deteriorate, as adequate textbooks and professional teachers are scarce (see comments under Article 12 above), and that classes are frequently cancelled. The Advisory Committee further understands that these classes are only offered in villages where the national minority constitutes the vast majority of the population. Inconsistent information received from various levels of authority revealed a lack of clarity on procedures in place to introduce minority language classes in additional villages, or the minimum number of pupils required to exercise their right.

109. The Advisory Committee further understands that the above minority language classes are only offered in primary school, from first to third grade. Extension of the classes in fourth grade is voluntary, if a teacher is available, but reportedly does not usually take place. As regards secondary education, only Lezgin continues to be offered until 9th grade on a voluntary basis in some regions; reportedly pupils at seven schools have taken advantage of this possibility. Minority representatives have expressed their concern that the quality of the minority language teaching is so low that interest from parents and students has been diminishing. In addition, many parents are reportedly unaware of the possibility of demanding minority language education based on national legislation. The Advisory Committee shares these concerns and reiterates the high importance of quality teaching in national minority languages, including those of numerically smaller minorities, in order to ensure that persons belonging to national minorities can effectively preserve their languages and national minority identity.

Recommendation

110. The Advisory Committee urges the authorities to expand possibilities of minority language teaching for persons belonging to national minorities, including numerically smaller ones. Clear procedural rules must be put in place to clarify under what conditions the constitutional and legislative guarantees may be exercised, including at secondary level.

Learning of the official language

Recommendations from the two previous cycles of monitoring

111. In the previous monitoring cycles, the Advisory Committee urged the authorities to take steps to increase opportunities for persons belonging to national minorities to adequately learn the official language.

Present situation

112. The Advisory Committee is pleased to note that the overall level of proficiency in the official language of persons belonging to national minorities appears to have improved considerably and that minority representatives generally report no difficulties in acquiring sufficient levels, even if they attend minority language schools where Azerbaijani language learning is limited to two hours a week. The Advisory Committee was informed that a significant number of persons belonging to the elderly minority population still have only very limited understanding of the official language.

Recommendation

113. The Advisory Committee invites the authorities to pursue their efforts to ensure that all persons belonging to national minorities are enabled to gain proficiency in the official language.

Article 15 of the Framework Convention

Effective participation of persons belonging to national minorities in decision-making

Recommendations from the two previous cycles of monitoring

114. In the previous monitoring cycles, the Advisory Committee urged the authorities to re-establish the Council for National Minorities or to set up another consultative body to ensure that national minority representatives could effectively participate in decision-making processes, especially on issues of concern to them.

Present situation

115. The Advisory Committee regrets to note that there is currently no institutional mechanism facilitating effective consultation of national minorities on issues of their direct concern. The Co-ordinating Council of cultural centres of national minorities that continues to be referred to as means of regular consultation has, in effect, not met more than once in two years. Meetings are reportedly adjourned ad hoc and various issues discussed, however, without any follow-up or notable consequence for national minority representatives. While channels to the Ministry of Culture do appear to exist for some national minority communities in Baku and representatives are invited to a number of cultural events, there are no institutional channels to relate concerns of national minority communities, including from the regions, to the different ministries dealing with issues that affect them, or to facilitate participation in decision-making on relevant policies or legislative initiatives. A number of national minority representatives as well

as other interlocutors of the Advisory Committee raised this absence of an effective consultation mechanism as one of the important problems of minority protection in Azerbaijan since the Council for National Minorities under the President ceased to exist after 1997.

116. The Advisory Committee welcomes, however, that national minorities continue to be strongly represented in civil service, including among municipal authorities in the areas of compact settlement. While persons belonging to national minorities may thus have a certain level of influence on decisions taken at local level, the Advisory Committee reiterates its concern that the mere presence of persons belonging to national minorities in the civil service or within municipal bodies does not guarantee that concerns of the national minority communities will be effectively taken into account. In addition, it notes that few women belonging to national minorities appear to be engaged in civil service. National minority representatives elected to stand on local representative bodies are elected in their personal capacity and, reportedly, hesitant to promote the issues of concern to their communities as this, in a generally restrictive political environment, could be viewed as a sign of disloyalty against the state and its general policy of promoting unity.

Recommendation

117. The Advisory Committee urges the authorities to establish effective consultative mechanisms for national minority communities, including women from these communities, to ensure that their concerns are regularly discussed and their views effectively taken into account in relevant decision-making processes at central and local level.

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

Recommendations from the two previous cycles of monitoring

118. In the previous monitoring cycles, the Advisory Committee urged the authorities to ensure that the existing language requirements contained in the State Language Law did not have a disproportionate impact on the access to the labour market and socio-economic situation of persons belonging to national minorities.

Present situation

119. The Advisory Committee notes with concern the high levels of unemployment throughout the country, but particularly critical in rural areas where many minority communities reside compactly. The Khachmaz area, for instance, suffers from unemployment of reportedly up to 70% of its workforce. While acknowledging the efforts made by the authorities to support infrastructure development and attract investment in parts of the country, the Advisory Committee is concerned that the capital region may have grown disproportionately to the rest of the country where most of the national minorities, particularly the numerically smaller ones, reside, often in remote or mountainous areas. The Advisory Committee further heard that women continue to face particular obstacles when attempting to access the labour market, due to a number of societal prejudices that are reportedly particularly prevalent among certain minority communities.

120. The Advisory Committee was pleased to learn that the Ministry of Social Policy has engaged in an effort to compensate citizens for the loss of their savings suffered after the break-up of the Soviet Union. While appreciating the administrative difficulties related to such an initiative, the Advisory Committee heard that elderly members of minority communities face particular difficulties due to language barriers when attempting to fill out the relevant forms. In

addition, the criteria used for affording compensation are reportedly unclear, adding to a sense of legal uncertainty surrounding the procedure.

Recommendations

121. The Advisory Committee calls on the authorities to redouble their efforts to curb the substantial levels of unemployment in the country, focusing their attention in particular on remoter areas of the country where the lack of infrastructure exacerbates the situation of the affected population, including national minority communities.

122. The Advisory Committee further invites the authorities to ensure that all measures intended to ease the economic hardship faced by parts of the population are implemented transparently and based on clear criteria, and that the specific language needs of persons belonging to national minorities in their access to these measures are effectively accommodated.

Article 16 of the Framework Convention

Displaced persons

Recommendations from the two previous cycles of monitoring

123. In the previous monitoring cycles, the Advisory Committee noted that the Nagorno Karabakh conflict had substantially altered the proportions of the population in a number of areas inhabited by persons belonging to national minorities, and emphasised its support for efforts to find a peaceful and durable solution to the conflict which could then hopefully initiate a process of voluntary return, including for persons belonging to national minorities.

Present situation

124. The Advisory Committee regrets that there has been no change with regard to the Nagorno Karabakh area and that it has not been possible to promote any voluntary return of persons displaced by the conflict, including those belonging to national minorities, to the area. It commends the substantial efforts by the authorities to cope with the massive internal displacement caused by this conflict (see comments on Article 4 above) and reiterates its support for a peaceful and sustainable solution that allows for the voluntary return of the affected population.

Recommendation

125. The Advisory Committee strongly encourages the authorities to continue to strive for lasting peace in the region so that the voluntary return of all persons displaced by the conflict may commence.

Article 17 of the Framework Convention

Crossborder contacts

Recommendations from the two previous cycles of monitoring

126. In the previous monitoring cycles, the Advisory Committee encouraged the authorities to pursue further efforts to improve the possibilities of Lezgins to maintain contacts in Russia and to pay specific attention to the needs of members of the Talysh and Armenian minorities with regard to their wish to develop and maintain contacts across borders.

Present situation

127. The Advisory Committee notes that Azerbaijan continues to maintain bilateral agreements with the Russian Federation and Georgia which facilitate cross-border contacts for persons belonging to national minorities, as well as the exchange of some textbooks in the languages of national minorities. Members of the Meshketian community, seeking to repatriate to Georgia, would, according to some interlocutors, benefit from facilitated customs and border crossing procedures with Georgia. Persons belonging to the Talysh minority continue to face significant problems when wishing to develop and maintain contacts across borders, or to participate in the activities of non-governmental organisations, including at international level.

Recommendation

128. The Advisory Committee calls on the authorities again not to interfere with the rights of persons belonging to national minorities to develop and maintain contacts across borders, especially with communities who share the same ethnic, cultural, linguistic or religious identity. These rights include the participation in activities of non-governmental organisations at international level, as explicitly provided in Article 17 of the Framework Convention.

Article 18 of the Framework Convention**Crossborder co-operation***Recommendations from the two previous cycles of monitoring*

129. In the previous monitoring cycles, the Advisory Committee welcomed the fact that Azerbaijan was party to bilateral agreements with neighbouring countries touching upon the protection of national minorities and encouraged the authorities to pursue such co-operation.

Present situation

130. The Advisory Committee welcomes the fact that Azerbaijan continues to co-operate with neighbouring countries, including on issues related to national minority protection, and encourages the authorities to consolidate regional co-operation in the area of minority language education (see comments on Article 12 above). It notes with concern, that incidents on the border between Armenia and Azerbaijan and on the Line of Contact continue to mar the efforts to bring peace to the region, and refers to the recent call of the OSCE Secretary General on all parties to refrain from the use or threat of force and to make all efforts to implement the confidence-building measures agreed in Sochi in 2011.³⁶

Recommendation

131. The Advisory Committee invites the authorities to pursue their co-operation with neighbouring countries on all issues related to national minority protection, and to continue to strive for lasting peace in the region.

³⁶ See *OSCE Secretary General, in Azerbaijan, stresses need for political will in conflict resolution, pledges continued co-operation*. Press Release OSCE Baku 9 July 2012.

III. CONCLUDING REMARKS

132. 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 Azerbaijan.

Positive developments following two cycles of monitoring

133. The overall approach of the authorities towards the monitoring process of the Framework Convention remains co-operative. Azerbaijani society continues to be marked by a generally open attitude towards diversity and good relations among different ethnic groups. Some numerically small national minorities were registered as separate groups for the first time in the census of 2009, which was prepared and conducted in line with internationally accepted standards and recommendations, including as regards the principle of free self-identification.

134. A variety of cultural events continue to be organised by national minority associations with the support of local authorities, the Ministry of Culture, as well as some international organisations and Embassies of neighbouring states. Two hours per week of minority language classes continue to be offered in primary schools in areas where persons belonging to national minorities reside compactly. Seven secondary schools continue classes in Lezgin until ninth grade. A recently approved National Program for Action to render the implementation of human rights more effective includes a reference to national minorities and the commitment to continue activities to preserve and develop their cultural heritage.

135. Reportedly, most persons belonging to national minorities do not feel discriminated against or excluded based on their ethnic background. A substantial number of persons belonging to national minorities are employed in all branches of the civil service, including within the municipal authorities, and there are also national minority representatives on elected bodies at local level.

Issues of concern following two cycles of monitoring

136. The overall legislative framework pertaining to national minorities continues to be vague and there is only limited understanding of the Framework Convention and the results of its previous monitoring cycles among relevant government entities. There is no system to collect information on the specific obstacles faced by persons belonging to national minorities in accessing rights and no progress has been made as regards special measures to promote their full and effective equality.

137. Despite persistent reports of discriminatory attitudes faced by persons belonging to some minorities and their limited access to rights, there are only very few cases involving allegations of discrimination brought to the attention of the courts or the Office of the Ombudsperson. There appears to be limited knowledge of and trust in available legal remedies against discrimination among the population, including minority communities.

138. No clear procedures or criteria for the allocation of support to cultural activities of national minority associations exist and only few cultural centres have suitable premises. Funding is provided on an ad hoc basis which prevents the engagement in longer-term activities to preserve and develop minority languages and cultures. An obligation to ask for prior permission to use foreign funds disfavors some minorities who, due to delicate bilateral relations of Azerbaijan with some neighbouring countries, cannot access such funds without raising suspicions of disloyalty.

139. A strong public narrative against persons belonging to some minorities in particular, is reinforced by the media and is tolerated and at times officially endorsed. This reportedly gives rise to widespread discriminatory behaviour against persons belonging to certain minorities, thereby further limiting their access to rights. There are persistent reports of misconduct and abusive behaviour by police forces, particularly in the pre-detention phase.

140. Selective criminal proceedings and convictions in particular of persons engaged in the protection of human rights, including minority rights, have a chilling effect on the freedom of expression. There are strong indications that persons belonging to some minorities in particular are being targeted in criminal proceedings and accused of disloyalty based on their wish to express their minority identity and seek the enjoyment of their rights under the Framework Convention.

141. No provisions are in place to promote the use of minority languages in contact with local authorities or on public sign-postings. There is insufficient television and radio broadcasting in minority languages and a very limited presence of national minority languages and cultures in the public media.

142. There is only superficial reference to national minority languages and cultures in school textbooks and curricula. Minority language classes are reportedly subject to frequent cancellations due to a lack of suitably trained teachers and appropriate textbooks.

143. There is no effective consultative mechanism to ensure that the concerns of national minority communities in the regions and at capital level are brought to the attention of the various ministries that deal with issues of their concern. The Co-ordinating Council of cultural centres of national minorities seldom meets and does not constitute a means for persons belonging to national minorities to effectively participate in decision-making on issues that affect them.

Recommendations

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

Issues for immediate action³⁷

- **Take all necessary steps to promote the awareness of rights and guarantees under the Framework Convention and ensure a safe environment for persons advocating for these rights, including by guaranteeing their freedom of expression;**
- **Resolutely curb manifestations of intolerance, prejudice and allegations of disloyalty against persons belonging to minorities, including in public discourse;**
- **Ensure that an institutionalised consultative mechanism is put in place to promote the effective participation of persons belonging to national minorities at regional and national level on all issues of concern to them and not limited to culture.**

³⁷ The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

Further recommendations³⁸

- Develop, in close consultation with national minority representatives, appropriate mechanisms for the collection of data on the situation and access to rights of persons belonging to national minorities, and facilitate the creation of special measures to promote their full and effective equality;
- Increase the financial support available to the cultural activities of national minority associations and ensure, in consultation with national minority representatives, that an institutionalised scheme with clear and transparent procedures for the allocation of long-term funding is put in place;
- Increase efforts to ensure that law enforcement agents are trained and instructed to respect the rights of all persons under arrest, including those belonging to national minorities, irrespective of the type of accusation; swiftly sanction any form of police misconduct;
- Take resolute steps to ensure that persons belonging to national minorities are free to gather and jointly express and disseminate their views, including as regards the enjoyment of their minority rights;
- Remove existing obstacles to radio and television broadcasting in minority languages and increase support to minority language print media; ensure that persons belonging to national minorities can effectively use their languages as provided for in the Framework Convention;
- Expand possibilities of minority language teaching for persons belonging to national minorities, including numerically smaller ones; take all necessary steps to increase opportunities for teacher training in minority languages and ensure adequate supplies with educational materials.

³⁸ The recommendations below are listed in the order of the corresponding articles of the Framework Convention