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

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### **Second Opinion on Azerbaijan, adopted on 9 November 2007**

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#### **EXECUTIVE SUMMARY**

Since the adoption of the Advisory Committee's first Opinion in May 2003, Azerbaijan has continued to pay attention to the protection of national minorities. Minority language education continues to be available in regions where persons belonging to national minorities live in substantial numbers. The Ombudsperson's office has set up regional branches and an Action Plan on the Protection of Human Rights was adopted in 2006.

However, there is at present no governmental structure dealing specifically with national minorities issues and no mechanism to enable consultation and effective participation of persons belonging to national minorities. The discussions on a draft law on national minorities have not yet resulted in the adoption of new legislation. Legal obstacles to the participation of persons belonging to national minorities in the media persist.

Resolute measures need to be taken to tackle serious cases of discrimination against persons belonging to some national minorities, in particular persons belonging to the Armenian minority. Efforts should also be made to raise awareness on discrimination in the population at large, in the judiciary and the law enforcement bodies. Serious problems persist as regards the freedom of association, freedom of expression and freedom of peaceful assembly.

Increased resources should be provided for the preservation and development of minority culture and languages.

## TABLE OF CONTENTS

I. MAIN FINDINGS.....	4
Monitoring process.....	4
General legislative and institutional framework .....	4
State Support to persons belonging to national minorities.....	5
Protection against discrimination and efforts to combat intolerance .....	5
Freedom of expression, association and peaceful assembly .....	6
Participation of persons belonging to national minorities in the media .....	6
Minority education .....	6
Participation in public affairs .....	6
II. ARTICLE-BY-ARTICLE FINDINGS .....	7
Article 3 of the Framework Convention .....	7
Article 4 of the Framework Convention .....	8
Article 5 of the Framework Convention .....	11
Article 6 of the Framework Convention .....	13
Article 7 of the Framework Convention .....	16
Article 8 of the Framework Convention .....	18
Article 9 of the Framework Convention .....	19
Article 10 of the Framework Convention .....	21
Article 11 of the Framework Convention .....	22
Article 12 of the Framework Convention .....	23
Article 13 of the Framework Convention .....	24
Article 14 of the Framework Convention .....	25
Article 15 of the Framework Convention .....	26
Article 16 of the Framework Convention .....	28
Article 17 of the Framework Convention .....	29
Article 18 of the Framework Convention .....	30
III. CONCLUDING REMARKS .....	31
Positive developments.....	31
Issues of concern .....	31
Recommendations .....	32

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

**SECOND 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 10 January 2007, and other written sources and on information obtained by the Advisory Committee from governmental and non-governmental contacts during its visit to Baku and Lenkoran from 10 to 14 September 2007.
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 first cycle of monitoring of the Framework Convention, contained in the Advisory Committee's first Opinion on Azerbaijan, adopted on 22 May 2003, and in the Committee of Ministers' corresponding Resolution, adopted on 13 July 2004.
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.

## **I. MAIN FINDINGS**

### **Monitoring process**

6. Azerbaijan has adopted a positive approach to the Framework Convention's monitoring process. In December 2005, the authorities organised a follow-up seminar in Baku with representatives of the national minorities and the Advisory Committee, to discuss ways of putting in practice the findings of the first monitoring cycle. The first Opinion of the Advisory Committee and the subsequent Resolution of the Committee of Ministers have been translated into Azerbaijani and Russian. However, awareness on the principles contained in the Framework Convention seems to remain limited, including among persons belonging to national minorities.

7. The Advisory Committee notes that national minorities do not seem to have been involved or consulted in the preparation of the second State Report of Azerbaijan. The recently adopted National Action Plan on the Protection of Human Rights stipulates that human rights non-governmental organisations should take part in reporting to specialised United Nations committees. The Advisory Committee hopes that this provision of the Action Plan will result in effective involvement of national minority organisations in forthcoming monitoring cycles under the Framework Convention and, in general, in inclusive and open dialogue on national minority issues.

8. Information provided in the second State Report submitted by Azerbaijan on the implementation of the Framework Convention is limited to comments in respect of the specific questions that the Advisory Committee raised with the Azerbaijani authorities in January 2006, when preparing the second cycle of monitoring. The work of the Advisory Committee would have benefited from more comprehensive and updated information in respect of the various articles of the Framework Convention.

9. The Advisory Committee could complement the information provided in the State Report during its visit to Azerbaijan. It held helpful meetings with the authorities at national and local level and with representatives of national minorities and non-governmental organisations in Baku. The Advisory Committee nonetheless regrets that it was not given the opportunity to meet with non-governmental and national minority organisations during its visit to Lenkoran.

10. It should be noted that, as in the first cycle of monitoring, the Advisory Committee was not in a position to evaluate the implementation of the Framework Convention in areas that are outside of the effective control of the Government as a result of the Nagorno-Karabakh conflict. The unresolved conflict over Nagorno-Karabakh and the occupation of parts of the territory of Azerbaijan continue to have a considerable impact on the situation of persons belonging to national minorities and to hamper efforts to implement the Framework Convention in Azerbaijan.

### **General legislative and institutional framework**

11. The legal and institutional framework for national minority protection is very limited in Azerbaijan. The main legal basis for minority policies remain the Presidential Decree of 1992 on the rights and liberties of national minorities and Article 45 of the Constitution of Azerbaijan, which establishes the right to learn in minority languages. This situation does not reflect the fact that Azerbaijan is a multiethnic, multicultural and multi-religious country. Moreover, institutions in charge of dealing with national minority-related issues in the past, such as the

State Committee for Work with National Minorities and the Consultative Council for National Minorities, no longer operate. Therefore, there is no institutional structure left to deal specifically and on a regular basis with issues related to the protection of national minorities.

12. There were no major developments in the legislation concerning national minorities since the first Opinion of the Advisory Committee, with the exception of the adoption of restrictive regulations on the use of minority languages in radio and television broadcasting. The protection of persons belonging to national minorities could be substantially increased by the adoption of a law on national minorities, as already foreseen in the 1992 Presidential Decree on the rights and liberties of national minorities and in Azerbaijan's commitments upon accession to the Council of Europe. A draft law on national minorities has been in discussion for a number of years but it has not been adopted so far. Such a law could, *inter alia*, help balance the effects on the preservation and development of minority cultures, languages and traditions of the Law on State Language of 2002, which promotes the use of the Azerbaijani language in most areas of life.

### **State Support to persons belonging to national minorities**

13. Support for policies in favour of national minorities and for activities of national minorities' organisations remains very scarce, despite some efforts to maintain national minorities' cultural monuments, such as religious buildings. Moreover, there is no institutional system of allocation of support and representatives of national minorities are not consulted on this issue. The Advisory Committee hopes that organisations of national minorities will benefit from the new Presidential Decree of July 2007 on support to non-governmental organisations.

14. The Advisory Committee understands the legitimate emphasis put by the authorities on strengthening the national identity, language, culture and social cohesion of the country and it takes note of the subsequent policy of promotion of the State language that was put in place in different spheres, notably by means of the Law on State Language of 2002. However, it considers that it is important to ensure that this policy is implemented in a way that does not harm the preservation and development of minority languages, cultural heritage and identities.

15. Specific legislation and practical programmes and measures are needed to promote equal opportunities of persons belonging to national minorities in various fields, to preserve and develop their culture and languages and enhance their effective participation in public affairs, social, economic and cultural life. The Advisory Committee stresses that the promotion of the numerous ethnic, cultural and religious identities in the country, as well as the adoption of a more proactive minority policy and of a law on national minorities, should not be considered as a potential threat to the social cohesion and integrity of the country. On the contrary, such an approach can but contribute to enhancing stability and social cohesion.

### **Protection against discrimination and efforts to combat intolerance**

16. Persons belonging to some national minorities, and especially those belonging to the Armenian minority, continue to face widespread discrimination in various fields and hostility, often triggered by the media. Access of these persons to effective remedies, including legal remedies, against discrimination is very limited as there seem to be very limited awareness on discrimination-related issues in the judiciary and in the police, but also in the population at large. The legislation against discrimination does not seem to be applied and the case-law related to discrimination on grounds of ethnic origin is non-existent.

### **Freedom of expression, association and peaceful assembly**

17. The free and unhindered exercise of the freedom of expression, association and peaceful assembly continues to be hampered by legislative and practical obstacles. These obstacles sometimes specifically affect persons belonging to national minorities. Persons and organisations disseminating information on the standards of the Framework Convention have, reportedly, faced problems at the local level. Persons advocating minorities' rights and concerns have on some occasions been accused of separatism or "disloyalty". Difficulties connected with the registration of associations and grants persist.

### **Participation of persons belonging to national minorities in the media**

18. Participation of persons belonging to national minorities in the media, and especially as regards television, remains limited. Efforts have been made to support broadcasting in minority languages on public radio but they are insufficient to ensure effective participation of persons belonging to national minorities in the media and to promote cultural pluralism, involving national minorities.

19. The combined requirements of the Law on State Language and of the revised legislation on radio and television broadcasting seriously limit possibilities for persons belonging to national minorities to create private media outlets in minority languages.

### **Minority education**

20. The Advisory Committee welcomes the fact that schools with the entire curriculum in Russian or in Georgian continue to be available, besides schooling in Azerbaijani. Moreover, it is possible to study other minority languages as part of primary education in regions where persons belonging to national minorities live in substantial numbers. In order to build upon the results already achieved, there is a need to expand possibilities to learn minority languages and to improve the quality of textbooks and teacher training.

### **Participation in public affairs**

21. Persons belonging to national minorities are, reportedly, present in various elected bodies, including in Parliament, as well as in ministries and other administrations. However, the Advisory Committee notes that this does not imply that they can effectively advocate minority interests and concerns and take part, as minority representatives, in decision-making, including on issues of particular interest to them. Moreover, there is no longer a consultative structure for national minorities, either at the national or local levels.

## II. ARTICLE-BY-ARTICLE FINDINGS

### Article 3 of the Framework Convention

#### Scope of application of the Framework Convention

##### *Findings of the first cycle*

22. The Advisory Committee welcomed in its first Opinion the inclusive approach taken by the authorities regarding the scope of application of the Framework Convention and invited the authorities to reflect this positive stance in all pertinent practice as well as in the new law on national minorities being drafted.

##### *Present situation*

#### a) Positive developments

23. The Advisory Committee notes that the authorities have maintained an inclusive approach with regard to the scope of application of the Framework Convention and continue to consider a large number of groups to fall within this scope.

#### b) Outstanding issues

24. The Advisory Committee was informed of the existence of groups of Roma in Azerbaijan who, according to the authorities, have not formally claimed to be recognised as a national minority. The authorities could raise further awareness on the Framework Convention among Roma and persons belonging to other groups and check whether these persons wish to be included in its scope of application. It is important that they remain open to possible future expressions of interest of such groups with regard to the application of the Framework Convention.

##### *Recommendations*

25. The Advisory Committee encourages the authorities to continue to take an inclusive approach with regard to the application of the Framework Convention. They should also start a dialogue with persons belonging to groups that could be covered by the Framework Convention. In this regard, the Advisory Committee notes that State Parties should promote mutual respect, understanding and cooperation among all persons living on their territory.

26. The Advisory Committee encourages the authorities to reflect their inclusive approach with regard to the scope of application of the Framework Convention in any new legislation on national minorities, particularly the draft law on national minorities which has been under consideration since the accession of Azerbaijan to the Council of Europe.

#### Census questionnaires and the principle of self-identification

##### *Findings of the first cycle*

27. In its first Opinion, the Advisory Committee recalled that replying to a question on individual's ethnic/national origin in census should be optional. It also expressed the view that those who choose not to answer a question on one's ethnicity should not be categorised as ethnic Azerbaijani in the resulting statistics.

*Present situation*

a) Positive developments

28. The Advisory Committee notes that the next population census is to take place in 2009 and that the census will include an optional question on the ethnic origin (nationality) as well as on the language that is best known by the interviewees. It also notes that the optional question on the ethnic origin/nationality will be open as there will be no list from which to select one ethnic origin/nationality.

29. The Advisory Committee was informed by the authorities that those who will not declare a specific ethnic origin/nationality will not be categorised as ethnic Azerbaijani but as persons with non-identified ethnicity.

b) Outstanding issues

30. It is important that, for the next population census in 2009, the authorities ensure that persons belonging to national minorities be sufficiently aware of the existing possibilities to freely declare ones' ethnic identity/nationality without this resulting in any disadvantage. Enumerators should be adequately trained to allow free and informed declaration by persons belonging to national minorities of their ethnic identity/nationality. The involvement of minority representatives in the preparation of the census, especially in connection with the questions on ethnic origin and language, could contribute to increased awareness among persons belonging to national minorities and more transparency.

*Recommendations*

31. The Advisory Committee encourages the authorities to conduct awareness-raising campaigns ahead of the 2009 population census to ensure free and informed choice by persons belonging to national minorities with regard to the declaration of their ethnic identity.

32. Minority representatives should be consulted on the questions regarding ethnic/national origin and languages during the phase of preparation of the census. The Advisory Committee also encourages the authorities to consider translating the census questionnaire in minority languages and to recruit enumerators with appropriate command of the respective minority languages.

**Article 4 of the Framework Convention**

**Legislation, policies and practice to combat discrimination**

*Findings of the first cycle*

33. In its first Opinion, the Advisory Committee encouraged the authorities to develop detailed and comprehensive legal provisions pertaining to discrimination in certain key fields.

34. The Advisory Committee expressed concern regarding credible reports indicating the existence of incidents of hostility and discrimination against persons belonging to the Armenian minority. It considered that the authorities should better monitor developments in this field, raise awareness on discrimination-related issues and encourage individuals to seek remedies when they consider that their rights have been violated.



*Present situation*

## a) Positive developments

35. The Advisory Committee welcomes the establishment of five regional branches of the Ombudsperson's Office, including in regions where minorities live compactly, which should contribute to increase accessibility to this institution.

36. The Advisory Committee also welcomes the adoption in 2006 of a National Action Plan on the Protection of Human Rights in Azerbaijan and the subsequent adoption of an Order on the implementation of the Action Plan. It is hoped that the implementation of this Action Plan will contribute to increased awareness on discrimination-related issues and existing remedies, both among the judiciary and in the population at large.

## b) Outstanding issues

37. The Advisory Committee regrets that no further legislation pertaining to discrimination has been developed since its first Opinion<sup>1</sup>. The authorities have informed the Advisory Committee that they do not see a need for additional anti-discrimination legislation as existing provisions contained in various laws are, in their view, sufficient. They also highlighted the absence of claims related to discrimination, including on grounds of ethnic origin. However, the Advisory Committee is concerned that the existing legislation is scattered and not easily accessible.

38. Moreover, the relevant provisions do not seem to be applied. The Advisory Committee was informed that there continue to be no case-law related to discrimination on grounds of ethnic origin, including at the level of the Constitutional Court, and that the Ombudsperson's Office has never received any claim on this ground. The Advisory Committee takes the view that the absence of case-law and claims of discrimination on grounds of ethnic origin can also result from a lack of awareness of discrimination, in the judiciary and society at large. Moreover, there might be insufficient knowledge among persons belonging to national minorities of existing legal remedies in cases of discrimination as well as a lack of confidence in the justice system.

39. Despite this absence of case-law and reported claims, the Advisory Committee has, however, collected information from various sources indicating that persons belonging to the Armenian minority are facing widespread discriminations in various spheres. These include obstacles in access to public employment, housing, public services, payment of pensions and other social benefits and difficulties in restitution of properties. The Advisory Committee is deeply concerned by statements made during its visit by representatives of the authorities. They have either denied that ethnic Armenians face discrimination problems in Azerbaijan, or attempted to justify discriminations against them by the absence of a solution to the conflict of Nagorno-Karabakh.

40. Moreover, reports brought to the attention of the Advisory Committee indicate that persons belonging to other national minorities, in particular the Russians, have also been facing discriminatory treatment, notably in the field of housing (forced evictions and violations of

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<sup>1</sup> See in this respect the second report on Azerbaijan prepared by the European Commission against Racism and Intolerance, adopted on 15 December 2006: doc. CRI (2007)22.

property rights). The Advisory Committee is concerned by the absence of official monitoring of such acts of discrimination.

41. The Advisory Committee was informed during its visit that the adoption of measures to promote equal opportunities for persons belonging to national minorities, including in the framework of a law on national minorities, is considered inappropriate as such measures could be interpreted as a sign that there exist differences in society and could, therefore, go against the overall objective of integration in society. The Advisory Committee recalls that non-discrimination provisions are in most cases not sufficient to ensure equal opportunities and effective equality for persons belonging to national minorities. In particular, persons belonging to the numerically smaller national minority groups living in Azerbaijan, such as the Kryz, the Khynalygs or the Udins, are facing increasing difficulties to preserve their distinct identity, culture and language. This is due *inter alia* to socio-economic difficulties and internal migrations.

#### *Recommendations*

42. The Advisory Committee calls on the Azerbaijani authorities to develop a more comprehensive and detailed anti-discrimination legislation, so as to complement existing acts and ensure that potential victims of discrimination in various spheres of life are adequately protected. Such legislation should permit the adoption of specific measures aiming at full and effective equality of persons belonging to national minorities.

43. The authorities and the Office of the Ombudsperson should implement awareness-raising campaigns in the society at large on discrimination on grounds of ethnicity and on existing remedies, possibly as part of the new Action Plan on the Protection of Human Rights, in particular among persons belonging to national minorities. Awareness raising and specific training of the judiciary on this issue should be particularly emphasised.

44. The Advisory Committee urges the authorities to take measures to prevent and remedy discrimination against persons belonging to the Armenian minority. It is essential for the authorities to undertake adequate monitoring of developments in this regard.

45. Specific measures should be designed to promote equal opportunities for persons belonging to numerically smaller national minorities in all areas of life while enabling them to maintain and develop their culture and language.

### **Collection of ethnic data**

#### *Findings of the first cycle*

46. In its first Opinion, the Advisory Committee invited the Azerbaijani authorities to collect additional data on the situation of persons belonging to national minorities in different spheres, so as to be able to adopt adequate measures to meet the needs of these persons.

#### *Present situation*

##### a) Positive developments

47. The Advisory Committee was informed by the authorities that, in addition to data resulting from the 1999 population census, some data on the educational situation of persons belonging to national minorities are available, based on attendance in schools/classes with instruction in minority languages.

## b) Outstanding issues

48. The Advisory Committee notes that there are large discrepancies between figures resulting from the 1999 population census regarding numbers of persons belonging to national minorities and estimates by national minorities themselves.

49. The authorities have informed the Advisory Committee that they do not plan to collect data on the situation of national minorities outside of the context of population census (see also remarks in respect of Article 3), although the existing legislation does not prevent the collection of data related to ethnic, national and linguistic affiliation. However, the Advisory Committee recalls that the availability of up-to-date and accurate data on the socio-economic and educational situation of persons belonging to national minorities could contribute to better responding to the needs of these persons and promote more effectively their equal opportunities. In fact, such data are indispensable to monitor and adjust existing policies as well as to identify and fight against potential discrimination. (see also remarks under Article 15).

*Recommendation*

50. The Advisory Committee urges the authorities to consider ways and means of collecting further data on the situation of persons belonging to national minorities, while respecting international standards of protection of personal data<sup>2</sup> as well as the principles contained in Article 3.1 of the Framework Convention.

**Article 5 of the Framework Convention****State support for the preservation and development of minority cultures***Findings of the first cycle*

51. In its first Opinion, the Advisory Committee encouraged the authorities to increase state support for cultural activities of national minorities. It also recommended the creation of a support scheme that ensures involvement of representatives of national minorities in decision-making.

*Present situation*

## a) Positive developments

52. The Advisory Committee notes that the new National Action Plan on the Protection of Human Rights in Azerbaijan (see also remarks in respect of Article 4) includes in its goals the protection and development of the cultural heritage of national minorities. It observes, however, that the subsequent Order of the President on “approval of the Action Plan” (see paragraph 36 above) contains no specific tasks regarding the implementation of this goal. The Advisory Committee hopes that this new framework will nonetheless strengthen possibilities to protect and promote the cultural heritage of national minorities.

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<sup>2</sup> See for instance the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS 108) and the Committee of Ministers Recommendation (97) 18 on the protection of personal data collected and processed for statistical purposes.

53. The Advisory Committee welcomes the establishment in 2004 of a Coordination Council of the Cultural Centres of national minorities, composed of 11 representatives of national minorities and with a consultative role to the Ministry of Culture.

b) Outstanding issues

54. The Advisory Committee is concerned by the lack of support provided for activities aiming at preserving and developing the cultural heritage and the languages of national minorities. Although the Advisory Committee was not, in view of the information available, able to evaluate the amounts provided after 1997 by the State to support minority cultures, various interlocutors of the Advisory Committee have underlined that State financial support for national minorities' activities is extremely limited and for some activities, was completely stopped after 1997.

55. Moreover, there is no regular scheme for the allocation of support and support seems to be provided on an *ad hoc* basis and according to criteria that are not known to minority representatives that the Advisory Committee met. The Coordination Council of the Cultural Centres of national minorities can propose projects for funding by the State but, according to the authorities, it does not take part in decisions on funds allocation, which are taken by the Ministry of Culture (see also remarks in respect of Article 15).

56. The Advisory Committee understands the legitimate emphasis put by the authorities on strengthening the common national identity, language and culture and takes note of the subsequent policy of promotion of the Azerbaijani language that was put in place in different spheres. However, it is of the opinion that this policy should be implemented in a way that does not hamper the preservation and the development of minority cultures (see also remarks in respect of Article 4) and bearing in mind that Article 5 (2) of the Framework Convention prohibits policies of assimilation of persons belonging to national minorities.

57. The Advisory Committee notes that a new Presidential Decree on support to NGOs, including those representing national minorities, has been adopted in 2007 (see also remarks in respect of Article 7 below). It takes note, in this context, of the intention to emphasise certain fields of activities when allocating State support to NGO's, including activities aimed at promoting the national identity. It is important that the authorities also pay adequate attention to the preservation, as well as to the development, of minorities' identity and culture and that minorities' organisations will equally benefit from any new source of State support for NGO's.

58. Furthermore, the obligation for non-governmental organisations to register with the Ministry of Justice the grants they receive from other sources than the State is still in force. The Advisory Committee notes that, if not implemented in a transparent manner, it may constitute an obstacle for the activities of the national minorities' organisations. Consideration could be given, possibly in the context of the implementation of the new Presidential Decree, to amending the provision of the Law on grants concerning registration of the latter.

59. The Advisory Committee notes with concern that the State Committee for National Minorities, the only specific institutional structure devoted to minority issues, is no longer operating. This results in a lack of institutional framework for policies and measures to preserve and promote national minorities' cultures and heritage. Nonetheless, there is a need for specific institutions in charge of promoting minority cultures, that include adequate opportunities for participation of the national minorities in decision-making. Discussions on the draft law on the protection of national minorities, whose adoption forms part of the commitments undertaken by

Azerbaijan upon accession to the Council of Europe, could be an opportunity to consider new structures devoted to minority protection.

*Recommendations*

60. The Advisory Committee urges the authorities to consider ways of increasing support for activities aimed at protecting and promoting national minorities' cultural and linguistic heritage, including through direct support to the activities of national minorities' organisations.

61. Institutionalised schemes for State funds allocation for national minorities' activities should be set up, that should provide for effective participation of national minorities' representatives in decision-making. Information on criteria for the allocation of State support should be made available to national minority organisations and representatives.

62. The Advisory Committee urges the authorities to set up effective institutional structures to deal on a regular basis with minority issues. Participation of national minority representatives in decisions regarding the preservation and development of their cultures and languages should be ensured.

**Article 6 of the Framework Convention**

**Intolerance against persons belonging to national minorities and hate speech**

*Findings of the first cycle*

63. In its first Opinion, the Advisory Committee invited the authorities to counteract manifestations of intolerance against persons of Armenian origin and the dissemination of hate speech and intolerance through the media and to promote a more measured approach to the questions at issue.

64. It was also concerned by manifestations of intolerance towards certain non-governmental organisations active in the field of minority protection.

*Present situation*

a) Positive developments

65. The Advisory Committee observes that initiatives have been taken, notably by the Ombudsperson, to develop further inter-religious dialogue in the country.

b) Outstanding issues

66. While acknowledging the existence of a climate of mutual respect between different groups living in the country, the Advisory Committee is of the opinion that it could be further enhanced through institutionalised ways, and notably through education. There is a lack of adequate information on the history, cultural heritage and languages of national minorities in textbooks and other teaching material.

67. The Advisory Committee is deeply concerned by the widespread manifestations of intolerance, and even hate speech, against persons of Armenian origin. It notes that the media actively contribute to disseminating hostility against them. Moreover, these manifestations seem to be tolerated by the authorities, with the justification of the unsettled conflict over Nagorno-Karabakh. The Advisory Committee also finds it disconcerting that the mere fact of being

suspected of being of Armenian origin, or of having contacts with Armenia, can be problematic and lead to being suspected of ‘disloyalty’.

68. According to the information received by the Advisory Committee, some prejudices exist against other minorities. The Advisory Committee notes with concern that, in general, there is a tendency for the authorities, and at times for some media, to associate persons belonging to certain national minorities with separatism and ‘disloyalty’ towards the State<sup>3</sup> (see also remarks in respect of Article 7 below).

69. The Advisory Committee is disconcerted by reported manifestations of intolerance against some NGO’s involved in human rights and minority rights protection. It is deeply concerned by allegations of harassment against persons involved in the dissemination, at the local level, of information on the Framework Convention for the Protection of National Minorities (see also comments in respect of Article 7).

#### *Recommendations*

70. The Advisory Committee urges the authorities of Azerbaijan to combat all manifestations of intolerance at the central and local levels, including those directed against persons of Armenian origin. Regular monitoring by the authorities of the situation in this respect is also needed.

71. The authorities should also prevent the dissemination of prejudices against some groups and their stigmatisation. The media have a particularly important role to play in this respect and the existing provisions prohibiting the dissemination of national or racial hatred and intolerance should be fully implemented.

72. The authorities should promote efforts made by NGO’s and civil society to maintain a climate of inter-ethnic and inter-religious tolerance and mutual dialogue in the country. Substantial efforts should be made to encourage the dissemination and promotion of Council of Europe human rights standards, including the Framework Convention.

### **Relations with the police**

#### *Findings of the first cycle*

73. The Advisory Committee invited the authorities to keep under constant review the stance and practice of law-enforcement authorities. It welcomed the Government’s commitment to have the protection of national minorities included as a theme in the staff training system of the Police Academy.

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<sup>3</sup> See also the Parliamentary Assembly report of 30 March 2007 on honouring the commitments and obligations of Azerbaijan, paragraph 216: “The recent arrest and subsequent charges with “high treason” (for alleged links with Iran) of Mr Novruzali Mammadov, a prominent member of the Talysh ethnic minority, on 2 February 2007, has given rise to concerns within this minority group. (...) Mr Mammadov is the Chairman of the Talysh Cultural Center, Head of the Academy of Science of the Azerbaijan’s Institute of Philology and editor-in-chief of a newspaper published in the Talysh language (“Tolishi Sedo” which means “Voice of Talysh”). On 16 February 2007, the secretary of the same newspaper, Mr Elman Quliyev, was also arrested. An investigation against the two men is on-going.”

*Present situation*

## a) Positive developments

74. The Advisory Committee welcomes the fact that a code of conduct of the police was adopted. Moreover, the police established an emergency line to which individuals can report human rights abuses by the police, including motivated by racial or ethnic hatred.

## b) Outstanding issues

75. The Advisory Committee notes that the police has, according to the authorities, not recorded any racially-motivated incidents. The Advisory Committee is of the opinion that this may result from a lack of confidence in the law-enforcement bodies as well as from inadequate training of the police to deal with such cases. Moreover, it notes that no specific training on national minorities has been included yet in the curriculum of the Police Academy. The authorities informed the Advisory Committee that they do not consider it necessary to include such an element in the police training programmes, despite earlier commitments to do so.

*Recommendations*

76. The Advisory Committee encourages the authorities to take further measures to ensure that individuals feel free to report possible cases of discrimination and other abuses on grounds of ethnic origin to the police.

77. The Advisory Committee also urges the authorities to raise awareness of the police on discrimination and crime on grounds of ethnic origin, *inter alia* through enhancement of the training curriculum of the Police Academy and training of the police officers.

**Situation of refugees***Findings of the first cycle*

78. In its first Opinion, the Advisory Committee was concerned by the lack of access to education for children of Chechens living in Azerbaijan and who have not been recognised as refugees.

*Present situation*

## a) Positive developments

79. The Advisory Committee notes with satisfaction that since 2003, Chechen children have access to local state schools and that, according to the UNHCR, around 80% of children of refugees and asylum seekers receive education.

## b) Outstanding issues

80. The Advisory Committee is concerned by the difficulties faced by Chechen asylum seekers in accessing health care, employment and social protection. These difficulties have been exacerbated by the fact that they are denied access to the asylum procedure, that entered into force in 2004. In practice, it makes it very difficult for them to make a living and they have to rely heavily on foreign assistance for meeting their basic needs (accommodation, food, health care). Furthermore, reports received by the Advisory Committee mention instances of

discrimination and police harassment against them, as well as the fact that they are sometimes depicted as terrorists or criminals in the media.

81. Moreover, the Advisory Committee notes that many asylum seekers and refugees encounter difficulties in obtaining residency registration, which seriously hampers their access to basic rights, including birth or marriage registration, enrolment in school, etc.

*Recommendation*

82. The Advisory Committee calls on the authorities to pay increased attention to the situation of asylum seekers and refugees and to cooperate further with the United Nations High Commissioner for Refugees on the best way forward. They should also consider ways of ensuring that asylum seekers and refugees have equal enjoyment of fundamental rights.

**Article 7 of the Framework Convention**

**Legislation on non-governmental organisations**

*Findings of the first cycle*

83. In its first Opinion, the Advisory Committee expressed concerns over shortcomings in the process of registration of non-governmental organisations, which have caused difficulties *inter alia* for organisations dealing with the protection of national minorities.

*Present situation*

a) Positive developments

84. The Advisory Committee takes note of the signature by the President of Azerbaijan, in July 2007, of a Decree on the promotion of State assistance to non-governmental organisations, including through a planned State Fund for NGOs (see also remarks in respect of Article 5 above).

b) Outstanding issues

85. Information brought to the attention of the Advisory Committee indicate that some organisations involved in minority protection have faced difficulties during the process of registration with the Ministry of Justice, in particular in the form of undue delays in receiving a reply to their requests for registration. The absence of proper registration is likely to have a negative impact on the activities of non-governmental organisations<sup>4</sup>.

86. While hoping that the new legislative and institutional framework introduced by the Presidential Decree of June 2007 (see paragraph 84 above) will allow national minorities' organisations and those involved in national minority protection to have access to increased support, the Advisory Committee recalls that it is important for the authorities to ensure that the freedom of association, as guaranteed in Article 7 of the Framework Convention and Article 11 of the European Convention on Human Rights, is safeguarded.

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<sup>4</sup> See European Court of Human Rights, Chamber Judgment *Nasibova v./ Azerbaijan*, 18.10.2007.



*Recommendation*

87. The Advisory Committee invites the authorities to ensure, including through legislative measures, that national minorities can effectively enjoy freedom of association, as enshrined in Article 7 of the Framework Convention.

**Freedom of assembly***Findings of the first cycle*

88. In its first Opinion, the Advisory Committee noted with concern that the authorities have put limits on the freedom of assembly when it has concerned the distribution of and discussions on texts containing standards on the protection of national minorities, such as the Framework Convention.

*Present situation*

## Outstanding issues

89. The Advisory Committee was informed that persons active in the promotion of standards on the protection of national minorities have continued to face difficulties and sometimes harassment, especially at the local level, when carrying out activities and convening public gatherings to disseminate information on international human rights and minority rights standards (see also remarks in respect of Article 6 above).

*Recommendation*

90. The Advisory Committee urges the authorities to take resolute steps to guarantee that freedom of assembly is fully respected and protected, at the central and local levels, and that activities and public gatherings aiming at promoting the standards of the Framework Convention and other aspects of minority protection should be encouraged by the authorities<sup>5</sup>. Restrictions placed on such public gatherings should be narrowly construed and always pass the proportionality test.

**Freedom of expression***Findings of the first cycle*

91. In its first Opinion, the Advisory Committee noted that excessive limits on the exercise of the freedom of expression were imposed on media reporting, affecting also persons belonging to national minorities.

*Present situation*

## Outstanding issues

92. The Advisory Committee is concerned that the use of the existing penal legislation on high treason and other motives, including libels and defamation, may be applied so as to put disproportionate limits to the freedom of expression, including of persons active in the field of national minority protection (see also remarks in respect of Article 6, paragraph 68).

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<sup>5</sup> See also in this respect the Opinion of the Venice Commission on the Law on the freedom of assembly in Azerbaijan, adopted in October 2006 (CDL-AD (2006) 034).

93. Information brought to the attention of the Advisory Committee indicates that some minority newspapers have not obtained registration with the Ministry of Justice (see also comments in respect of paragraph 85 above) and that consequently, the distribution of these newspapers is limited. Moreover, those publishing these newspapers have allegedly faced obstacles when distributing them. The Advisory Committee takes the view that such limitations could amount to disproportionate limitations of the freedom of expression of persons belonging to national minorities.

*Recommendation*

94. The Advisory Committee urges the authorities to take all necessary steps to ensure that no undue limitations are placed on the freedom of expression of persons belonging to national minorities, at the central and local levels, which would prevent them from implementing legitimate activities to preserve and develop their culture, language or identity.

**Article 8 of the Framework Convention**

**Manifestation of one's religion**

*Findings of the first cycle*

95. In its first Opinion, the Advisory Committee noted that certain non-registered religious communities had been prevented from holding meetings. It also invited the authorities to ensure that the provisions of the Law on Freedom of Religious Beliefs (1992) on the importation of religious literature do not undermine the right of persons belonging to national minorities to manifest their religion.

*Present situation*

a) Positive developments

96. The Advisory Community notes that tolerance and peaceful dialogue continue to characterise relations between the traditional religious groups present in the country.

b) Outstanding issues

97. Information brought to the attention of the Advisory Committee indicated that some persons belonging to the Ingiloy national minority were denied the change of their names into Christian names by the local authorities following conversion to the Baptist Church.

98. The Advisory Committee also observes that the importation of religious literature and material continues to be strictly controlled and that this also has an impact on persons belonging to national minorities.

*Recommendation*

99. The Advisory Committee invites the authorities to ensure that, in practice, persons belonging to national minorities can freely express their religious beliefs individually or in community with others, including when they belong to non-traditional religious communities.

## Article 9 of the Framework Convention

### Legislation on television and radio broadcasting and minority languages

#### *Findings of the first cycle*

100. In its first Opinion, the Advisory Committee recommended that Article 6 of the Law on State Language imposing the use of the State Language for all radio and television broadcasting be amended, so as to enable broadcasting in minority languages.

#### *Present situation*

##### a) Positive developments

101. The Advisory Committee welcomes the amendment by the Parliament, on 10 June 2003, of Article 6 paragraph 1 of the Law on State Language of the Republic of Azerbaijan, which previously stated that the Azerbaijani language shall be used in all radio and television programmes broadcasted on the territory of Azerbaijan.

##### b) Outstanding issues

102. The Advisory Committee notes, however, that a regulation on the use of the State language in television and radio broadcasts was adopted in June 2003 by the National Council for Radio and Television, which introduced an obligation to broadcast for at least 75% of the time in the State language. This applies to all channels of public and private radio and television. The Advisory Committee observes with concern that such regulation, which applies to the private media sector, severely limits possibilities for broadcasting in minority languages and prevents the setting up of a private media outlet in minority language. Such a quota, therefore, raises issues of compatibility with the provisions of Article 9 (1) and (3) of the Framework Convention. Furthermore, the authorities informed the Advisory Committee during its visit that 24 hours broadcasting in a minority language would, in their view, be problematic for the National Council on Radio and Television, whose task of supervising programmes would be further complicated by the need to hire staff with a good command of minority languages.

#### *Recommendations*

103. The authorities of Azerbaijan should review, as a matter of priority, the existing legislation on radio and television broadcasting. In doing so, they should take measures to ensure that obstacles to broadcasting in minority languages are removed, especially with regard to the private sector, and that persons belonging to national minorities can effectively enjoy the rights enshrined in Article 9 (1) and (3).

104. The adoption of legislation on the protection of national minorities, with specific provisions on access to the media by persons belonging to national minorities, could substantially contribute to enhance their participation in the media, both mainstream and own media.

## **Participation and presence of minorities in the media**

### *Findings of the first cycle*

105. The Advisory Committee recommended that broadcasting in minority languages on public radio be expanded further. Moreover, it encouraged the authorities to provide more support to newspapers of national minorities.

### *Present situation*

#### Outstanding issues

106. The Advisory Committee notes that 15 to 20 minutes programmes in a number of minority languages (among which Georgian, Kurdish, Lezgin and Talysh) continue to be broadcasted twice a week on the public radio. However, the frequency and length of these programmes is considered to be too limited by representatives of national minorities which the Advisory Committee met. They would like these programmes to be expanded and further supported, so as to enable them to promote effectively their language and culture through the media. Moreover, the Advisory Committee was informed that the quality of these programmes could be improved and that there is a need for more trained journalists with a national minority background. Lastly, to the knowledge of the Advisory Committee, there are very few radio programmes at the local level in minority languages or run by persons belonging to national minorities, even in regions where minorities live in substantial numbers.

107. There is, at the moment, no television programme, whether public or private, in minority languages, except in the Russian language. The Advisory Committee, however, learnt during its visit that there is a demand for such programmes among persons belonging to national minorities. Moreover, the Advisory Committee notes that there is no representative of national minorities on the National Council for TV and Radio.

108. As for print media, the Advisory Committee was informed that due to the very limited financial support available, it is increasingly difficult for minority organisations to publish newspapers in minority languages. Moreover, the Advisory Committee regrets that some minority newspapers did not obtain official registration (see also remarks in respect of Article 7) and that the distribution of others has, reportedly, been hampered by the authorities. The existence of media in minority language is an important tool for the preservation and promotion of minority languages and cultures and these media should therefore be actively supported by the authorities.

109. The Advisory Committee notes that the presence of persons belonging to national minorities in mainstream media is also limited. There are programmes dealing with national minorities issues, but they are, reportedly, limited to issues connected with the folklore and some cultural aspects of the life of minorities.

### *Recommendations*

110. The Advisory Committee invites the authorities of Azerbaijan to find ways of encouraging the further development of radio programmes in national minority languages, in close cooperation with representatives of the national minorities.

111. The Azerbaijani authorities should eliminate obstacles to the publication and distribution of newspapers in minority languages. They should also provide additional support to these publications.

112. Airtime for broadcasting in minority languages should be allocated on the public service television and adequate programmes should be designed, in close cooperation with persons belonging to national minorities and without prejudice to the editorial independence of the media. Moreover, further steps should be taken to enhance broadcasting on various issues related to national minorities in the mainstream media, in particular on public television.

## **Article 10 of the Framework Convention**

### **Use of minority languages in relations with administrative authorities**

#### *Findings of the first cycle*

113. In its first Opinion, the Advisory Committee expressed concerns about the possible implications of the Law on the State Language of 2002 on the implementation of Article 10 and 11 of the Framework Convention.

114. The Advisory Committee also invited the authorities to introduce, in close cooperation 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 paragraph 2 of the Framework Convention are met.

#### *Present situation*

#### Outstanding issues

115. The Advisory Committee was informed during its visit that no additional legislation on the use of minority languages in relations with the administrative authorities was introduced since its first Opinion. The Law on State Language of 2002 establishes that the language of communication with the administration is Azerbaijani. Hence, the concerns which were expressed by the Advisory Committee regarding other provisions of the Law on State Language and which could infringe the exercise of some rights contained in Article 10 and 11 of the Framework Convention, are still valid. They relate, *inter alia*, to the obligation to use the State language in all services, except for those rendered for foreigners, and to the obligation to keep all registers of non-governmental organisations in the State language. The broad formulation of these provisions of the Law can lead in their implementation to undue limitations of the rights of persons belonging to national minorities.

116. Although persons belonging to national minorities living in areas of traditional and substantial settlement of minorities can, in fact, use minority languages –particularly Russian- in relations with local authorities and the administration, this is left to the discretion and capacity of the civil servant concerned. There are no legal provisions safeguarding the possibility to use minority languages in relations with the local administrative authorities and the present situation may, therefore, not be compatible with Article 10, paragraph 2 of the Framework Convention.

117. The Advisory Committee recalls that the fact that persons belonging to national minorities often have a good command of the State language is not a reason to refrain from encouraging the use of minority languages in the public sphere and from introducing positive measures in accordance with Article 10 of the Framework Convention. Supporting the use of

minority languages in relations with the administrative authorities, when the conditions of Article 10 (2) are met, substantially contributes to the preservation of these languages. Furthermore, it is also a way to ease access of persons belonging to national minorities to a number of public services and therefore, to promote their equal opportunities. This could be achieved in the course of the preparation of a draft law on the protection of national minorities, which should include provisions on the use of minority languages in relations with administrative authorities, in accordance with Article 10 of the Framework Convention.

*Recommendation*

118. The authorities should consider supplementing the Law on State Language with specific legislation on the use of minority languages, with a view to ensuring that persons belonging to national minorities can effectively enjoy the rights contained in Article 10 of the Framework Convention.

**Article 11 of the Framework Convention**

**Bilingual topographical indications and other inscriptions**

*Findings of the first cycle*

119. In its first Opinion, the Advisory Committee stated that provisions of the Law on State Language should not hamper the full implementation of the guarantees contained in Article 11 of the Framework Convention, notably with regard to posters and signs in minority languages and names of the persons belonging to national minorities.

*Present situation*

Outstanding issues

120. The Advisory Committee was informed during its visit that, in accordance with the Law on State Language, there are no topographical signs in minority languages, even in areas where the conditions of Article 10 (3) are met and where minorities live in substantial numbers. However, the Advisory Committee was informed by representatives of some national minorities that they would like to have traditional topographical indications displayed also in minority languages.

121. Moreover, the provision of the Law on State Language stating that all posters, advertisements and announcements should be in the State Language has remained unchanged since the first visit of the Advisory Committee. In the opinion of the Advisory Committee, the legal framework is not in line with the principles contained in Article 11 of the Framework Convention.

122. During the discussions with the Advisory Committee, the authorities underlined that the fact that most persons belonging to national minorities have a good command of the Azerbaijani language makes it unnecessary to have topographical signs and other indications in minority languages (see also comments in respect of Article 10). The Advisory Committee recalls that the visibility of national minorities in public life, which can be enhanced through bilingual signposting and posters, advertisements and other inscriptions displayed in public, is an important instrument for the preservation of the culture and identity of the minorities.

*Recommendations*

123. The Advisory Committee urges the authorities to take steps, including at the legislative level, to ensure that persons belonging to national minorities are allowed to display in a minority language signs, inscriptions and other information of a private nature visible to the public.

124. The Advisory Committee also encourages the authorities to ensure that traditional topographical indications are displayed in the minority language, where the conditions of Article 11 are met.

**Article 12 of the Framework Convention****Fostering knowledge of the culture, language,  
history and religions of national minorities***Findings of the first cycle*

125. In its first Opinion, the Advisory Committee encouraged the authorities to develop history textbooks and other educational material that do not foster negative stereotypes of national minorities.

*Present situation*

## Outstanding issues

126. Interlocutors of the Advisory Committee during its visit reported that information on the identity, cultural heritage, language and religion of national minorities in textbooks and teaching material remains limited and relates mainly to some aspects of the culture and folklore of national minorities.

127. Furthermore, from the information it received, the Advisory Committee observes that there is no policy to foster regular exchanges among pupils and teachers belonging to national minorities and those of the majority and between various minority groups. Regular exchanges could be especially beneficial for those involved in minority language education (see also remarks in respect of Article 14).

128. Interlocutors of the Advisory Committee underlined that there is limited support for research on minority languages and that there is, in general, a lack of attention for these languages in universities. The Advisory Committee reiterates its view that the ongoing process of emphasising the State language, including in the educational system, should be implemented in a way that does not harm the preservation and development of languages and cultures of national minorities. Measures to develop minority languages could form part of a law on national minorities.

*Recommendations*

129. The Advisory Committee invites the authorities to take steps to enhance and widen information on national minorities in educational material.

130. More support should also be allocated by the authorities for research on minority languages, history and other aspects of their cultural heritage.

### **Textbooks and teacher training**

#### *Findings of the first cycle*

131. In its first Opinion, the Advisory Committee invited the authorities to address shortcomings regarding textbooks for minority languages teaching and teacher training.

#### *Present situation*

##### a) Positive developments

132. The Advisory Committee was informed by the authorities that additional textbooks for the teaching of some minority languages have been prepared and disseminated in the last few years.

##### b) Outstanding issues

133. Most of the interlocutors that the Advisory Committee met during its visit highlighted the lack of textbooks for minority language teaching as one of the most problematic issues in this regard. Imported textbooks do not entirely meet the needs of pupils of national minorities and more material in minority languages should, thus, be prepared by specialists in Azerbaijan. The authorities also mentioned that there is a lack of specialist knowledge in the area of educational material for minorities. The quality of the material already produced does, reportedly, not always meet the standards required in this field and representatives of the minorities claim that their views on the draft textbooks were not adequately taken into account.

134. The Advisory Committee notes that there is also a lack of adequately trained teachers for minority language education and limited possibilities to receive such specific training. It seems that, for imparting minority language classes, schools mostly rely on language abilities of teachers with a minority background rather than on specially trained teachers.

135. The lack of trained teachers and textbooks seems to be especially acute for numerically smaller national minority groups, such as the Khynalygs. Although the Advisory Committee recognises that providing adequate training to teachers and preparing specific textbooks for the teaching of the many minority languages existing in Azerbaijan requires a substantial effort from the authorities, it is important for the preservation of these languages that school teaching remains available.

#### *Recommendation*

136. The Advisory Committee invites the authorities to address shortcomings in the field of textbooks and teacher training for national minority languages, in close consultation with representatives of the national minorities concerned.

### **Article 13 of the Framework Convention**

#### **Private minority schools**

#### *Findings of the first cycle*

137. In its first Opinion, the Advisory Committee encouraged the authorities to ensure support for the establishment and operation of educational institutions, such as the private Jewish school in Baku.



*Present situation*

## Positive developments

138. The Advisory Committee was informed during its visit that the private Jewish school in Baku will be provided by the authorities with possibilities (including buildings) to expand its operation.

*Recommendation*

139. The Advisory Committee encourages the authorities to continue to provide support to minority private establishments that contribute to the preservation and development of minority languages and cultures.

**Article 14 of the Framework Convention****Minority languages teaching***Findings of the first cycle*

140. In its first Opinion, the Advisory Committee urged the Azerbaijani authorities to provide adequate legal guarantees for persons belonging to national minorities to receive education in their minority language, possibly as part of the new law on education.

141. The Advisory Committee also urged the authorities to ensure that minority languages teaching is regularly organised in various parts of the country, taking into account the demand in the areas concerned. It also took the view that the volume of such teaching should be increased and that it should be extended beyond the 4<sup>th</sup> grade .

*Present situation*

## a) Positive developments

142. The Advisory Committee became acquainted with the part of the text of the draft law on education related to minority education. It notes with interest that the current draft includes a provision on the possibility to conduct instruction in other languages than Azerbaijani and foresees the setting up of preparatory classes for those who do not have a good command of the language of instruction chosen.

143. The Advisory Committee welcomes the extension of teaching of the Lezgin language from 4<sup>th</sup> to 11<sup>th</sup> grade in certain areas. Moreover, it observes that schools providing education entirely in Russian and in Georgian continue to operate.

## b) Outstanding issues

144. Most of the representatives of national minorities that the Advisory Committee met during its visit expressed the need for increased volume of teaching of minority languages as well as for the extension of such teaching beyond the 4<sup>th</sup> grade. The Advisory Committee notes that, in fact, teaching beyond the 4<sup>th</sup> grade exists only for the Lezgin language in certain areas. However, continuity - throughout the school system - in the teaching of minority languages is important to ensure that the results achieved in the first four years of primary education are build upon.

145. National minority representatives also reported that the scarcity of support provided for activities of the national minorities (see also remarks in respect of Article 5) prevents them from implementing additional activities, such as kindergarten and Sunday schools, to support the preservation of their languages.

*Recommendations*

146. The Advisory Committee encourages the authorities to consider ways of extending possibilities to learn minority languages in the educational system.

147. It also invites the authorities to ensure that any future legislation adequately guarantees the right for persons belonging to national minorities to receive an education in minority language, as enshrined in Article 45 of the Constitution of Azerbaijan and Article 6 of the Law on education of 1992.

**Learning of the official language**

*Present situation*

148. Information received by the Advisory Committee indicates that, since the adoption of the Law on State Language in 2002, there has been no active policy to encourage the learning of the State language to adults who do not have a full command of this language. This is of concern especially for the Russian-speaking population, which includes not only persons belonging to the Russian minority but also persons belonging to other minorities, who chose Russian as a language of education. The change of alphabet introduced in 2001 added to the difficulty of having to learn the State language. As a result, many persons belonging to national minorities have, reportedly, faced difficulties upon access to the labour market, in particular public service jobs, where strict language requirements have been introduced (see also remarks with regard to Article 15).

*Recommendation*

149. The Advisory Committee urges the authorities to take steps to increase opportunities to learn the State language for persons belonging to national minorities who do not have an adequate command of it.

**Article 15 of the Framework Convention**

**Effective participation of national minorities in decision-making**

*Findings of the first cycle*

150. In its first Opinion, the Advisory Committee noted that the working methods of the Council for National Minorities, set up in 1993, should be revised, or that a new body should be set up to promote consultation and dialogue between the authorities and the representatives of national minorities. It also emphasised the need to involve minorities in decision-making on religious issues. Lastly, it recalled that decentralised or local forms of government are often an important factor in creating necessary conditions for effective participation of national minorities in decision-making.

*Present situation*

## a) Positive developments

151. The Advisory Committee notes that persons belonging to national minorities seem to be well represented in many administrations, including in cultural institutions, local authorities, at the level of ministries and in the police, especially in areas where substantial numbers of persons belonging to national minorities live.

152. The Advisory Committee notes with interest the creation in 2004 of a Coordination Council of the Cultural Centres of national minorities, with consultative functions (see also remarks in respect of Article 5).

## b) Outstanding issues

153. The Advisory Committee notes with concern that the Council for National Minorities set up in 1993 no longer operates. Moreover, the Coordination Council of the Cultural Centres of national minorities mentioned in paragraph 152 above has only a consultative role and its field of competence is limited to issues related to culture of the national minorities. Therefore, institutionalised possibilities for persons belonging to national minorities to have their concerns heard and to take effectively part in decision-making on various issues of relevance for them are very limited. Consultation occurs only on an *ad hoc* basis. For example, interlocutors of the Advisory Committee in the Parliament of Azerbaijan informed that consultations on the draft law on minorities should be carried out, on an *ad hoc* basis, at a later stage of drafting. Furthermore, the Advisory Committee is not informed of the existence of consultative structures of national minorities at the local level.

154. Although the Advisory Committee acknowledges that persons belonging to national minorities are present in administrative authorities and elected bodies, including in Parliament, it recalls that the mere presence or representation of national minorities in different institutions does not always mean that they can effectively advocate minorities' interests and concerns and as such, that they can take part effectively in decision-making on issues of relevance for minorities. There is a lack of specific institutionalised mechanisms, through which national minorities can regularly discuss issues of concern with the authorities and can take part in decision-making, particularly on issues of relevance for them (see also remarks in respect of Article 5). Moreover, the Advisory Committee is of the opinion that the consultation of some of the minorities via the Forum of Religious Communities of Azerbaijan is not sufficient to meet the needs of persons belonging to national minorities, whose interests and concerns are wider than religious issues.

*Recommendation*

155. The Advisory Committee urges the authorities to re-establish the operation of the Council for National Minorities, or to set up another consultative body for national minorities. It is also important that this body enables national minority representatives to participate effectively in decision-making, especially on issues of concern to them, and that its composition ensures adequate representation of national minorities.

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

### *Findings of the first cycle*

156. The Advisory Committee was concerned that certain language requirements introduced by the Law on State Language could cause difficulties for persons belonging to national minorities in their attempts to have access to employment.

### *Present situation*

#### Outstanding issues

157. The Advisory Committee notes that the requirement to use Azerbaijani in the provision of services is still in force. This type of requirement could have a detrimental impact on participation in the labour market of some persons belonging to national minorities (see also remarks in respect of Article 14). The Advisory Committee recalls that such requirements should be applied with care and only in specifically defined situations, entailing a strong need to protect a specific public interest.

158. It is difficult for the Advisory Committee to assess the level of participation of persons belonging to national minorities in socio-economic life, in particular in the labour market. Figures that were brought to the attention of the Advisory Committee result from the 1999 census and indicate only employment rates among various minority groups. Therefore, the Advisory Committee reiterates the importance of having updated and reliable data on the socio-economic and educational situation of persons belonging to national minorities, broken down according to age, sex and geographical distribution, in order to be able to adequately evaluate their situation in various fields. Measures to tackle the problems encountered can also be better targeted and more efficient when data are available (see also remarks in respect of Article 4).

### *Recommendations*

159. The Advisory Committee urges the authorities to ensure that the existing language requirements do not have a disproportionate impact on the socio-economic situation of persons belonging to national minorities.

160. In order to enable adequate monitoring of the situation in this field, data on the participation of persons belonging to national minorities in socio-economic life should be regularly collected, while respecting international standards of protection of personal data.

## **Article 16 of the Framework Convention**

### **Displaced persons**

#### *Findings of the first cycle*

161. In its first Opinion, the Advisory Committee noted that the Nagorno-Karabakh conflict had substantially altered the proportion of the population in a number of areas inhabited by persons belonging to national minorities.

*Present situation*

## Outstanding issues

162. The Advisory Committee notes with concern that no lasting and peaceful solution to the conflict has been found yet and that a process of sustainable voluntary return can, under these circumstances, not be envisaged<sup>6</sup>.

*Recommendation*

163. The Advisory Committee supports efforts to find a peaceful solution to the Nagorno-Karabakh conflict, which will result in lasting peace. A process of voluntary return could then hopefully be initiated, including for persons belonging to national minorities.

**Article 17 of the Framework Convention****Crossborder contacts***Findings of the first cycle*

164. In its first opinion, the Advisory Committee encouraged the authorities to pursue further their 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 minority with regard to cross-border cooperation.

165. The Advisory Committee also hoped that solutions could be found to ease limitations on the crossing of border with Armenia, so that persons belonging to national minorities can establish and maintain contacts across borders.

*Present situation*

## a) Positive developments

166. The Advisory Committee takes note of the fact that there is no visa requirement for Azerbaijani citizens to enter Russia and that there is a simplified visa procedure for entering Iran. Moreover, crossborder exchanges between the south of Azerbaijan and Iran are, reportedly, intensifying within a limit of 40 kilometres from the border and that it is useful for persons belonging to the Talysh minority who wish to maintain contacts over the border.

## b) Outstanding issues

167. The Advisory Committee was informed that persons belonging to national minorities who visited Armenia or maintained contacts with persons and organisations in this country have faced adverse public reactions.

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<sup>6</sup> See also Resolution 1497 (2006) of the Parliamentary Assembly of the Council of Europe on Refugees and displaced persons in Armenia, Azerbaijan and Georgia.

*Recommendation*

168. The authorities should ensure that persons belonging to national minorities are not prevented from developing and maintaining contacts across borders, especially with those who share the same ethnic, cultural, linguistic or religious identity<sup>7</sup>.

**Article 18 of the Framework Convention**

**Crossborder cooperation**

*Findings of the first cycle*

169. In its first Opinion, the Advisory Committee welcomed the fact that Azerbaijan is party to bilateral agreements touching upon the protection of national minorities.

*Present situation*

Positive developments

170. The Advisory Committee takes note of the series of bilateral agreements that the Ombudsperson's Office signed with a number of neighbouring countries on national minority protection.

*Recommendation*

171. The Advisory Committee encourages the authorities to pursue the cooperation with neighbouring countries on national minority related issues.

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<sup>7</sup> See also the Parliamentary Assembly report of 30 March 2007 on honouring the commitments and obligations of Azerbaijan, paragraph 225, and the corresponding Resolution 1545 (2007) on Honouring the obligations and commitments by Azerbaijan.

### **III. CONCLUDING REMARKS**

172. 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**

173. Since the adoption of the Advisory Committee's first Opinion in May 2003, Azerbaijan has continued to pay attention to the situation of persons belonging to national minorities. Moreover, the authorities have maintained an inclusive approach with regard to the scope of application of the Framework Convention.

174. Regional branches of the Ombudsperson's Office have been established, which should increase the accessibility of this institution for persons belonging to national minorities. Furthermore, the Ombudsperson's Office is increasingly active in the field of inter-religious dialogue and has developed crossborder cooperation on national minority protection. A National Action Plan on the Protection of Human Rights has been adopted in 2006, which includes among its objectives the preservation and development of the cultural heritage of national minorities.

175. A Presidential Decree on the promotion of assistance to non-governmental organisations was enacted in July 2007. It is hoped that it will also have a positive impact on activities of national minority organisations.

176. A Coordination Council of the Cultural Centres of national minorities, including representatives of national minorities, was set up by the Ministry of Culture in 2004 to serve as a consultative body for this ministry.

177. A Code of Conduct of the Police has been adopted and an emergency line to report on human rights abuses by the police is now available to the public.

178. Teaching of the Lezgin language is now available beyond the fourth grade in schools situated in areas where persons belonging to the Lezgin minority live in substantial numbers. Teaching in Russian and Georgian continues to be available, as well as teaching, at primary education level, of some other minority languages.

#### **Issues of concern**

179. Notwithstanding the positive developments mentioned before, the draft law on the protection of national minorities, under consideration since the accession of Azerbaijan to the Council of Europe, has not been adopted yet. The legal and institutional framework available for the protection of persons belonging to national minorities is very limited.

180. State support to persons belonging to national minorities, including support for the activities of national minority associations, is very limited. Moreover, there is no support scheme in place and no consultation of the representatives of national minorities when funds are allocated. The State Committee for National Minorities, the government structure that was in charge of national minority issues previously, is no longer operating.

181. Persons belonging to national minorities are, reportedly, present in administrative authorities and elected bodies. However, possibilities for national minorities to effectively channel their views and concerns to the authorities are very scarce. Meetings of the Council for National Minorities have not been convened for a number of years and the Coordination Council of the Cultural Centres of national minorities does not play a role in decision-making. There is no specific forum where persons belonging to national minorities can discuss, on a regular basis, issues of relevance for them with the authorities.

182. Persons belonging to some national minorities, and in particular those belonging to the Armenian minority, continue to face discrimination in various fields, as well as hostility, sometimes triggered by the media. However, Azerbaijan has not yet adopted a comprehensive anti-discrimination legislation and there is no case-law related to discrimination on grounds of belonging to a national minority. Awareness of discrimination-related issues seems to be very limited in the law enforcement bodies as well as in the society at large. There is no monitoring of discrimination and, in general, a lack of data on the situation of persons belonging to national minorities.

183. Serious problems persist as regards the freedom of association, freedom of expression and freedom of peaceful assembly. Reported intolerance, and sometimes harassment, faced by persons and organisations advocating human rights and minority rights, as well as by undue restrictions placed on related public gatherings, raise deep concerns.

184. Notwithstanding amendments to the Law on State Language, legal obstacles to broadcasting in minority languages persist in the form of a regulation of the National Council for Radio and Television of 2003, which introduced an obligation for all media outlets to broadcast for at least 75% of the time in the State language. Moreover, participation of persons belonging to national minorities in the media remains limited, despite some broadcasting in minority languages on the public radio.

185. Some provisions of the Law on State Language of 2002, notably the obligation to use the State language in all services and for all signs, posters, advertisements and announcements, continue to raise serious concerns with regard to the rights enshrined in Article 10 and Article 11 of the Framework Convention. Moreover, there is no specific legislation that guarantees the possibility to use minority languages in relations with the administrative authorities in areas where the conditions mentioned in the Framework Convention are fulfilled.

186. Teaching of minority languages, currently available only during the first four grades - except for the Lezgin language as mentioned above, needs to be expanded in order to ensure that the results achieved are build upon. Moreover, there is a continued lack of quality textbooks for minority languages teaching and a need for more specific teacher training.

### **Recommendations**

187. 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:

- Resume efforts to finalise new legislation on the protection of national minorities. Re-establish specific institutional structures devoted to national minority issues.



- Identify ways and means of allowing effective participation of persons belonging to national minorities in decision-making, notably on issues of relevance to them. Set up a consultative body to allow persons belonging to national minorities to channel their concerns and to serve as a forum for dialogue between national minorities' representatives and the authorities on issues of interest for national minorities.
- Increase State support to persons belonging to national minorities, including to activities of the organisations representing them. Consider setting up a specific support scheme, allowing persons belonging to national minorities to take part in decision-making on the allocation of State support.
- Take resolute measures to combat all forms of intolerance and discrimination on grounds of belonging to a national minority. Set up a system of regular monitoring by the authorities of discrimination cases and undertake awareness-raising campaigns on discrimination, including among the judiciary.
- Take all appropriate measures to ensure that persons belonging to national minorities can freely exercise their rights to freedom of expression, of association and of peaceful assembly. Combat all manifestations of hostility directed against persons and organisations promoting human rights and minority rights.
- Consider adopting measures, including legislative, to guarantee that persons belonging to national minorities can effectively use their minority languages in relations with the local administrative authorities.
- Take measures to ensure that persons belonging to national minorities can display all signs and posters, of a private nature and visible to the public, in minority languages.
- Consider taking measures allowing the display, where appropriate, of topographical indications in minority languages.
- Take additional steps to expand teaching of minority languages, including by addressing shortcomings with regard to teaching material and teacher training.