



TOLERANCE

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**On the implementation by Georgia of the Framework Convention for the
Protection of National Minorities in the region of Kvemo Kartli (Georgia).**

Alternative NGO report

Tbilisi 2008

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Introduction

This report reflects the coordinated position of a number of Georgian non-government organizations (hereafter – NGO) involved in counteracting ethnic discrimination and protecting national minorities. The report was prepared by the “Tolerance” Public Association for Human Rights Protection. Materials presented by other NGOs, international organizations and individual experts were used as well.¹

2. The report focused on the situation in 2005-2008 (the first four months of 2008), i.e. the period covered by Georgia’s first report on the implementation of the Framework Convention for the Protection of National Minorities (hereafter, the FCNM) in the region of Kvemo Kartli.

3. The authors of the NGO report welcome Georgia’s official report and share many of its assessments and conclusions. We agree that, in a number of positions, the Georgian government is trying to follow the country’s international obligations in the sphere of protecting national minorities and that recent years have seen some positive changes in national legislation and in domestic policy.

4. The NGO report, nevertheless, is an alternative to the official report. From the very beginning, we did not aim to confront the government’s position or deny official information and official conclusions. The task of the report was to express a view, different from the official view, on the situation, using other sources of information. At the same time, we tried to avoid as much as possible duplicating general information contained in the government’s report. Such a description is meant, in our view, to promote a more comprehensive and deeper understanding among interested international organizations of the problems of national minorities in Georgia, specifically in the region of Kvemo Kartli, as well as interesting and constructive discussions on these subjects inside the country.

5. The report consists of three parts. The first part provides basic information about the situation in the sphere of legislation and domestic policy, which is related to the situation of minorities. The second part contains a review of separate problems in protecting minorities structured in compliance with Articles 1-19 of the FCNM. The third part contains recommendations.

6. This report considers the idea of “protecting national minorities” as the basis of one of the possible approaches to the rethinking and description of ethnic, linguistic and

¹ Materials from the “Cultural Centre of Azerbaijanis” of Georgia, the Azerbaijani Theatre in Georgia Association called the “Congress of Azerbaijanis of Georgia”. “Congress of Azerbaijanis of Georgia” includes more than 10 NGOs, the Public Union “Georgia is My Homeland”, the “Mtredi” non-government organization, the “Qarayazi” youth society (Gardabani), the “Association of Azerbaijani Teachers” of Georgia the apparatus of the People’s Defender (Ombudsman) and many other sources, which were used, will be given at the end of the report.

cultural diversity, as well as the settlement of related problems. The authors are not suggesting their own ideas of how the idea of “minority” should be interpreted, and totally keep to the meaning of “minority” laid in the FCNM.

7. The authors of this report and the NGOs that support it hold equal views on the content of the idea of “minority”. For the purposes of this report, it was recognized provisionally that in the very general meaning, it can be used to designate public relations based on the separation of groups on grounds of ethnicity, origin, language, religion and so on and inequality between these groups, which may be expressed in their number, participation in the administration of power and access to resources. Therefore, the approach based on the idea of “protecting minorities” suggests an analysis of all situations connected with such relations.

8. In this case, we prefer discussing the subject of minorities not just as the “situation” of ethnic groups in this region as such, but also the problems that are faced or may be faced by specific people, and the role of the state in creating or solving these problems. We thought it necessary to reflect four groups of such problems in the report:

- a) Situations involving direct discrimination on ethnic or closely-related grounds;
- b) Regulatory acts, administrative measures or practices that create possibilities or incentives for discriminatory treatment;
- c) Regulatory acts, administrative measures or practices that have or are capable of having a disproportionately unfavourable effect on national minorities;
- d) Norms, measures or practices that do not have a disproportionate effect on minorities, but are perceived as a threat to minorities and are capable of causing hostility or alienation between people of different ethnic, linguistic or religious affiliation.

9. While preparing the report, the authors used the following main sources of information: reports, information and statements by organizations set up on an ethnic basis, complaints from people who regard themselves as victims of discrimination and appealed for help to human rights and other non-government organizations, administrative cases launched on the basis of these complaints, the results of monitoring, an analysis of legislation and judiciary practice, official statistics (wherever possible), official reports and replies to queries from deputies and NGOs and publications in the media.²

² If a certain incident is extensively covered by the media and rights organizations and becomes public, the report does not contain a reference to a specific source of information.

General information about the region

10. The region of Kvemo Kartli consists of five administrative districts: Gardabani, Marneuli, Bolnisi, Dmanisi and Tsalka. The region is populated mainly by national minorities – Azerbaijanis. Ethnic Azerbaijanis make up 45.5 per cent of Kvemo-Kartli's population (6,528 sq.km) – a region which is located south of Tbilisi and borders on Armenia and Azerbaijan.³ According to the 2002 population census, 284,761 ethnic Azerbaijanis are living in Georgia, and 224,606 of them are living in Kvemo-Kartli. Azerbaijanis make up about 83.1 per cent of the population in Marneuli District, 66 per cent in Bolnisi District, 66.8 per cent in Dmanisi District and 43.7 per cent in Gardabani District. In Tsalka, Armenians make up 55 per cent of the population, Greeks – 22 per cent, Georgians – 12 per cent and Azerbaijanis 9.5 per cent. The region of Kvemo Kartli is also populated by small groups of Kurds, Assyrians and Russians.

Resume

11. Georgia is a multinational state that is creating democratic institutions and shaping civil relations. However, the country's success in the integration of ethnic minorities of the region of Kvemo-Kartli is insignificant. In the region of Kvemo-Kartli, which is populated mainly by Azerbaijanis who make up six per cent of Georgia's population, there are clear tensions in relations, which has been clearly demonstrated in the last two years by demonstrations, statements about mistreatment by the police and customs services, the spread of domestic discrimination, hidden and veiled forms of discrimination and finally, open forms of discrimination and xenophobia.

12. The participation of Azerbaijanis and other national minorities represented in the region in all spheres of the country's public life is quite restricted. They are represented especially insufficiently in administrative and regional authorities. This problem affects especially sharply the Azerbaijanis living in Kvemo-Kartli – all important posts here are held by ethnic Georgians. The extent of the participation and representation of minorities in the country's political life, which is the key condition for more effective integration, is alarmingly low. Due to the absence of dialogue with Tbilisi, the sense of discrimination and alienation is increasing in communities. Ethnic minorities are remembered only from elections to elections when the authorities are interested in "getting" as many votes as possible from the region.

13. One of the most important problems facing the minorities is that they do not speak the state language. Under Eduard Shevardnadze, the government introduced a number

³ The traditional Azerbaijani name for Kvemo-Kartli is Borcali.

of laws that compelled minorities to communicate with representatives of the local official authorities in the Georgian language, whether it is registration of official documents, compilation of complaints and receipt of any other services. After Mikhail Saakashvili came to power, these norms remained in force. Knowledge of the Georgian language and newly-introduced qualification exams are a compulsory condition for working in government agencies and getting licences to carry out professional activities. The level of language education remains insufficient at schools, and fewer representatives of minorities continue their education in institutions of higher education.

14. The President Mikhail Saakashvili administration has carried out serious reforms of local government. A new law on self-government was adopted in 2005, and municipal elections were held in October 2006. However, power is still concentrated in the hands of regional and Tbilisi officials and representatives of national minorities that are not represented in the region. Ethnic minorities do not see any convincing evidence that decentralization will allow them to take a more active part in the process of decision-making.

15. Ethnic minorities in the region of Kvemo-Kartli are migrating to Azerbaijan, Greece, Russia and other CIS countries. Youth emigration is quite topical due to the current laws on education which stimulate youth emigration at quite a rapid pace. In turn, youth and students' emigration gives quite a significant impetus to the general emigration of families of ethnic minorities as parents are trying to be closer to their children. On the whole, several reasons that prompt ethnic minorities to leave Georgia have been revealed in the region. The country's authorities explain this only by the presence of economic difficulties in the country. The monitoring group revealed a number of factors that stimulate emigration⁴: the presence of veiled forms of discrimination, direct discrimination, the change of the ethnic and demographic map, a discriminatory approach to the distribution of land plots (the region's population is engaged mainly in agriculture), restricted access to education due to the existing norms on education and restricted representation in the authorities. Most of the region's population from ethnic minorities believes that they have no future in Georgia because of their affiliation with ethnic minorities.

General features of legislation related to minorities

⁴ In the early 1990s, however, ethnic Azerbaijanis emigrated for fear of the national policy of the then President Gamsakhurdia. "Ethnic Confessional Groups and Challenges to Civic Integration in Georgia", the Caucasus Institute for Peace, Democracy and Development, 2002.

16. The main feature of legislation related to minorities and practices of its use are a great distance between symbolic and instrumental policy, in other words, between the authorities' rhetoric and actions.

The part of Georgian legislation which is related to ethnicity by its terminology and contents is quite inlaid and complicated both in terms of structure and contents. Apart from international agreements, which, according to the Constitution, are part of the country's legal system, the source of law in this sphere is the Georgian Constitution itself and other legal acts (specifically, presidential decrees and government resolutions). Among the laws related to this subject, there are almost no special acts on the "ethnic" subject, and we can only talk about ethnic-related provisions of sectoral legislation.

17. At the same time, we have to point out that the Georgian parliament tried to narrow the full implementation of the provisions of the FCNM in its 13 October 2005 Resolution on the Ratification of the Framework Convention for the Protection of National Minorities⁵.

18. Georgian legislation in the sphere of protecting the rights and freedoms of ethnic minorities, despite the presence of many general and declarative formulations, is still characterized by its detachment from democratic law enforcement and effective practical implementation. Although the main principles of protecting ethnic minorities have been reflected in the Georgian Constitution of 1995 and sectoral laws, the country has yet to adopt a law that directly and indirectly regulates the rights and duties of minorities and defines their status.

At present, Georgia has yet to adopt a law that would generalize the domestic legal field in issues of protecting minorities. As a result of efforts by a number of public non-government organizations⁶, the draft laws "On the status of ethnic and religious minorities" and "On the protection of national minorities" have been prepared in Georgia, which would make it possible to detail and deepen the existing legal basis regarding the specific political realities of Georgia. Some international organizations, for example, the Georgian office of the European Centre for Minority Issues (ECMI), also recommended that the Georgian parliament adopt such a law, however, most of the political forces represented in the Georgian parliament and the country's government are still quite critical of the adoption of such a document.

⁵ More details will be given in the FCNM articles below.

⁶ The Multinational Georgia Movement has been lobbying a draft law "On the protection of national minorities" for two years.

Nevertheless, the human rights and civil integration committee of the Georgian parliament considers the preparation of legislative frameworks regulating the legal status of minorities in Georgia to be one of its priorities.

19. Despite the development of the processes of democratization in Georgia, officials (advisers or ministers) engaged specifically in problems of ethnic minorities and civil integration are not efficient enough in such issues because they represent the executive authorities and cannot remain completely independent and impartial due to their status. Moreover, since parliamentarism is not well-developed in modern Georgia, the parliamentary committee on civil integration is not quite efficient in this issue as it encounters certain political problems in its work and is often forced to take account of the electoral moods of the majority with regard to ethnic minorities. In such conditions, the absence of a agency specializing in work with national minorities nullifies the complete protection of the rights and freedoms of national minorities in Georgia.

The European Commission against Racism and Intolerance says in its special report on Georgia: The Commission "...thinks that these problems cannot be tackled properly without establishing a full legislative framework in which every person would be able to lodge in a legal way complaints against cases of illegal discrimination. In connection with the possible establishment of a full system of anti-discriminatory legislation, (the Commission) thinks it necessary to examine the issue of setting up a special agency which would also oversee the implementation of such legislation and ensure effective means of reaction to every individual complaint."

The situation surrounding the implementation of the FCNM

Article 1

The protection of national minorities and of the rights and freedoms of persons belonging to those minorities forms an integral part of the international protection of human rights, and as such falls within the scope of international co-operation.

20. Georgia is a party to many universal and European international agreements on human rights, as well as to a dozen of bilateral agreements on the foundations of interstate relations, some of which contain provisions on the protection of minorities. Taking part in most of the universal and regional international agreements and treaties related to the protection of minorities, Georgia is recognizing the protection of minorities as an integral part of the international protection of human rights.

21. The monitoring groups says regretfully that in 2007, the Georgian government did not make an attempt to consider and ratify the 1992 European Charter for Regional or Minority Languages despite the obligations undertaken by the state. We can say with great confidence that Georgia will not consider this issue in the first half of 2008 either. We can say without exaggeration that many representatives of the national minorities saw the ratification of this document as something that would normalize the situation in the sphere of language policy and ease tensions in regions heavily populated by national minorities, specifically in the region of Kvemo-Kartli.

Article 2

The provisions of this framework Convention shall be applied in good faith, in a spirit of understanding and tolerance and in conformity with the principles of good neighbourliness, friendly relations and co-operation between States.

22. Most of the Georgian legislation corresponds to the requirements of the FCNM, while the authorities are making certain efforts to implement this legislation, first of all, in the sphere of the symbolic recognition of cultural pluralism, although there is no propaganda to ensure ethnic tolerance and citizens' rights to express their ethnic identity. However, legislation contains some norms that run counter to Georgia's obligations within the framework of the Convention. Specifically, the government is not making efforts to establish equal and non-discriminatory relations between various religious confessions. The constitutional agreement Concordat signed on 14 October 2002 (officially – "the Constitutional Treaty between the State of Georgia and the Apostolic Autocephalous Orthodox Church of Georgia") puts all the religious confessions of Georgia in an unequal situation. In this regard, the People's Defender of

Georgia said in his report in the parliament on 23 December 2005: “According to the Constitutional Treaty between the Georgian state and the Orthodox Church of Georgia, Orthodox clerics have been exempted from military service, the state recognizes church marriage, protects the secrets of the confession, declares great church holidays as off-days, the church and the state are cooperating in various spheres of common interest, the church enjoys tax benefits, the state pledges to compensate partially the damage that was inflicted on the church in the 19th and 20th century and so on. The state grants these benefits only to the Orthodox Church of Georgia. In fact, this violates the fundamental principle of equality recognized by the Constitution (Article 38) and international agreements. As long as the state has not granted the same benefits to other confessions, they... are experiencing indirect discrimination, being in an unequal position compared to the Orthodox Church.”⁷

23. The Georgian authorities have adopted a resolution on the ratification of the 13 October 2005 Framework Convention for the Protection of National Minorities. Unfortunately, we have to point out at the same time that the Georgian parliament, in its Resolution on the Ratification of the Framework Convention for the Protection of National Minorities, tried to evade as much as possible the full implementation of the provisions of the FCNM. Specifically, according to the resolution adopted by the Georgian parliament, the FCNM applies only to representatives of the national minorities “living in compact settlements in Georgian territory”. This means that almost half of representatives of Georgia’s ethnic minorities (sparsely populated) do not fall under the jurisdiction of this document.

24. It must be noted that the region of Kvemo-Kartli is populated predominantly by Azerbaijanis, and sparsely populated by groups of other national minorities: Greeks, Armenians, Assyrians, Russians and so on.

25. The resolution of the Georgian parliament runs counter to the spirit of the Framework Convention for the Protection of National Minorities because by the ensuring of the rights minorities, the basic principles of the FCNM first of all imply the individual rights of representatives of ethnic minorities. The whole normative-legal complex of the FCNM system of protecting people belonging to ethnic minorities is first of all mechanisms that guarantee and secure certain individual rights and privileges of every specific person who attributes himself to this group regardless of whether this person lives alone or together with members of his group in a certain region. This

⁷ See for more detail: “Disputed Churches”, A Greek Demonstration and A Missing Mullah: Report by the People’s Defender of Georgia <http://www.regnum.ru/news/569444.html> 7 January 2006

provision is clearly confirmed by Article 3.2 of the FCNM. The FCNM places an emphasis on the protection of the individual rights of ethnic minorities and more detailed and fuller establishment of the collective rights of ethnic minorities. Thus, the Georgian parliament's 13 October 2005 document ratifying the FCNM creates a situation when the Georgian parliament is trying to reduce the volume of its legal obligations to ethnic minorities by diversifying their status, "applying" this legal status only to representatives of minorities living as a group.

26. Through the parliament's resolution, Georgia made an attempt to restrict the force of Article 10 of the FCNM concerning the possibility of using the languages of minorities in areas heavily populated by them in domestic legal procedures, office work and in relations with local administrative authorities by introducing a relevant formulation indicating that the state only "undertakes obligations that guarantee an interpreter's assistance in mutual relations with administrative bodies and legal procedures to people who belong to national minorities".

27. This parliamentary resolution narrows the force of Article 16 of the FCNM which compels the state to refrain from any action to "change the structural composition of the population in any region populated by people belonging to national minorities". A clarification was introduced that in Georgian territory, this article does not apply to "processes of resettlement that might take place after the resettlement of victims of ecological and technical disasters on the country's territory, and to people living in areas that pose a danger to people's lives and health. Additionally, the aforesaid article does not apply to temporary or permanent settlements of refugees and displaced persons..."

28. We should remind you that the Georgian government is making attempts to change the demographic picture in areas heavily populated by ethnic minorities (specifically, in Tsalka, Marneuli, Dmanisi, Gardabani and Bolnisi districts of the region of Kvemo-Kartli), motivating this by the need to resettle victims of "ecological disasters and natural calamities" from Ajaria and Svanetia.

29. The provisions of the Georgian parliament's resolution on the ratification of the FCNM say that Georgia "thinks it unnecessary to sign additional international documents on the aforesaid issue". In this case, they mean Article 18 of the Convention which says that states "the Parties shall endeavour to conclude, where necessary, bilateral and multilateral agreements with other States, in particular neighbouring States, in order to ensure the protection of persons belonging to the national minorities concerned". However, despite all these provisions of the resolution, Georgian members of parliament are trying to assure all of them that this reservation was meant "only for

domestic use”, is not an official document and will not be attached to Georgia’s report on the FCNM.

30. In addition, the monitoring group would like to point out that the Georgian authorities are not making real efforts to create in the country effective anti-discriminatory mechanisms that would be directed at countering veiled forms of discrimination.

Article 3

1. Every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights which are connected to that choice.

2. Persons belonging to national minorities may exercise the rights and enjoy the freedoms flowing from the principles enshrined in the present framework Convention individually as well as in community with others.

31. Private individuals in Georgia have the opportunity to officially confirm and indicate their ethnic origin. The law provides for the opportunity to indicate a citizen’s ethnic origin (nationality) with his consent or choice.

32. On 11 July 2007, the Georgian parliament approved the law “On the repatriation of people deported from the Georgian SSR by force by the former USSR in the 1940s” in its third reading. The law applies mainly to people known as Meskhetian Turks, as well as to other small ethnic groups (Kurds and Khemshils) deported from Southern Georgia in 1944. The law on repatriation bears no direct relationship to problems of ethnic discrimination, but it applies to Meskhetian Turks, Kurds, Batumi Kurmanches and Khemshils who belong to more vulnerable minorities.

33. When this law was adopted, a member of the Industrialists opposition faction, Gia Tsagareishvili, set a condition – they should be settled not in one area, but throughout Georgian territory. Tsagareishvili is also demanding that the Georgian authorities replace the term “Meskhetian Turks” with the term “Meskhetian Muslims”. The chairman of the parliamentary committee for foreign relations, Kote Gabashvili, also agrees that the term “Meskhetian Turks” is not correct. He said that representatives of different nationalities were deported from Georgia in the 1940s. Gabashvili proposed classifying them as “those deported the country in the period 1943-1948”.

34. The monitoring group believes that Georgia is imposing at the state level affiliation with another ethnic group on the Meskhetian Turks, in this case, to the titular ethnic group. This situation runs counter to Point 1 of Article 3 of the FCNM.

35. During a poll conducted among Meskhetian Turks, it was pointed out that they regard themselves as Turks and their culture, traditions, religion, way of life and mentality as identical to those of other Turkic-speaking peoples.⁸

36. There appears a legal question about the justifiability and quality of the repatriation of Meskhetian Turks regarding Georgia's obligations to the Council of Europe to implement the Framework Convention for the Protection of National Minorities.

37. Many Meskhetian Turks are against such a state of affairs when someone decides for them which ethnic group they should belong to, and many of them refuse to return to Georgia. There appears a situation in which bypassing their obligations to the Council of Europe, the Georgian authorities have set conditions that are unacceptable to many Meskhetian Turks, to the detriment of Point 1 of Article 3 of the FCNM.

38. The monitoring group believes that the rights and freedoms of repatriates are artificially restricted, because they are being put in a position when, in the process of repatriation, the Georgian authorities do not intend to allow all of them to settle in one area on Georgian territory. Such information is widespread among repatriates. It is not clear whether two or more families should be regarded as heavily settled. This was clear from speeches in the Georgian parliament. A representative of the Right Opposition faction, Pikria Chikhradze, thinks that Georgia's obligation to the Council of Europe to repatriate Meskhetian Turks was a political mistake. "Their repatriation entails numerous problems and may create a new threat to Georgia," Chikhradze said. If they return, they should settle in the whole country, not in one place," she added. In response to the opposition's allegations, one of the leaders of the parliamentary majority, the deputy chairman of the committee for legal issues, Giga Bokeria, pointed out that by adopting the law on repatriation, Georgia will not undertake any financial and housing obligations, and the resettlement of Meskhetian Turks will not be funded from the state budget. He also said that the law will allow only the settlers of the 1940s and their descendants to return home, and they will have a settler's ID. Those who want to return to Georgia and adopt its citizenship should know the history of the country, its constitution and the Georgian language at the minimum level. This provision runs counter to Point 2 of Article 3 of the FCNM.

⁸ Baku, 23 July 2007 – Novosti Azerbaijan, Parvana Mammadova. An exclusive Novosti Azerbaijan interview with the chairman of the Society of Akhyska Turks of Azerbaijan Vatan (Homeland), Ibrahim Burhanov.

39. The law establishes only a general scheme for granting the status of a “repatriate”, but does not define the contents of this status and the rights of repatriates. The law does not say a word about any legal and social obligations of the Georgian state to these people. At the same time, it is maximally difficult to get the status of a repatriate, and there are numerous artificial obstacles (for example, the requirement to submit documents in Georgian or English! – Point 3 of Article 7). The state has full freedom to decide whether it should or not accept applications from applicants or whether it should or not grant the status. It is even worse that the status that is granted, according to Points G and D of Point 2 of Article 10 of the law, can be annulled under an arbitrary pretext. According to Point 5 of Article 7 and Point 3 of Article 8, the authorities’ decisions related to the processing of applications cannot be appealed in court (Articles 177 and 178 of the Administrative Code of Georgia establish the possibility and procedure of appeals). According to the law, the entire content of a repatriate’s status boils down to the duty to renounce his citizenship within six months and submit his papers to receive Georgian citizenship which will be granted individually on the basis of a decree by the Georgian president. No-one can have a clear idea of the consequences of their application for the status of a repatriate, since the law clearly links it to the duty to renounce one’s existing citizenship. People are asked to make a decision that defines all their future life with a full absence of necessary information and in a very short time – during 2008. The purpose in establishing such a scheme is clear – to reduce the number of applicants and create a possibility for arbitrary rejections. The monitoring group thinks that such a situation does not correspond to the spirit and letter of the FCNM.

Article 4

1. The Parties undertake to guarantee to persons belonging to national minorities the right of equality before the law and of equal protection of the law. In this respect, any discrimination based on belonging to a national minority shall be prohibited.

2. The Parties undertake to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority. In this respect, they shall take due account of the specific conditions of the persons belonging to national minorities.

3. The measures adopted in accordance with paragraph 2 shall not be considered to be an act of discrimination.

40. The monitoring group points out that the Georgian Constitution grants all citizens the right of equality before the law and equal protection by the law without discrimination, as well as guarantees to protect their rights. Georgian criminal law contains provisions that prohibit any discrimination on the part of government agencies and private organizations and imposes sanctions against violations of equality on racial or ethnic grounds.

41. Regarding protection from discrimination in a diverse public environment (including work, service and housing conditions), guaranteed by civil and administrative law, the monitoring group points out that the authorities should examine the state of affairs in the context of the current reconsideration of Georgian legislation in order to fill in the gaps that may remain in this sphere.

42. The monitoring group points out that veiled forms of discrimination, domestic discrimination and discrimination both by politicians in power and opposition political forces are quite topical.

43. Presidential elections were held in Georgia in 2008. According to official information from the Central Electoral Commission, the incumbent president gained more than 70 per cent of the vote from the region heavily populated by Georgia's national minorities – Kvemo-Kartli. The monitoring group witnessed discrimination, certain forms of inflaming ethnic enmity and xenophobia against ethnic minorities during the events of 5 January 2008 to the end of January 2008 by Georgian opposition forces and journalists⁹ during their daily speeches on television, radio and in the media. For example, the Kavkasia channel, while showing speeches by political opponents of the incumbent authorities,

⁹ Magazines by the Kavkasia TV channel.

carried a rolling SMS caption containing words of discrimination against residents of Kvemo-Kartli – Azerbaijanis. Using the media, politicians clearly linked their defeat to “incorrect residents of Kvemo-Kartli and contrasted their votes with the will of the main titular ethnic group. Nationalist rhetoric continued at the large opposition rally (according to some reports, it was attended by 200,000 people) on 13 and 20 January, where former presidential candidate Gachechiladze and activists of the united opposition directly blamed regions populated by national minorities, namely, the region of Kvemo-Kartli, for their defeat and for ballot-rigging. With these remarks and actions, the opposition contrasted national minorities with the will of the titular ethnic group, making the national minorities “culprits in Georgia”. The opposition parties placed an emphasis on the pronounced nature of their speeches – “We are the Georgian people who made their choice” and “they are guests who did not support the Georgian people”. Such facts are unacceptable in the current situation and go beyond the framework of freedom of speech and can be restricted by the state in a democratic state.

44. Unfortunately, the state did not take any appropriate measures that would nullify the opinion which was thrust upon society. This fact shows that for many years, the state has not done anything to ease and soften discriminatory rhetoric and domestic discrimination.

45. Another graphic example of discriminatory rhetoric, intolerance and xenophobia could be a recent statement by one of the leaders of the ruling party, MP Beso Jugeli. Commenting on the draft law “On cultural heritage” which envisages the introduction of new duties for residents of the capital’s historical area, he said in his live appearance on the Imedi (Hope) TV channel and the Utsnobi (Stranger) radio station that “...this law is not against Georgians, these areas are populated mainly by Armenians, Azerbaijanis, Kurds and other ethnic groups”.¹⁰

46. Based on the reports that the Georgian courts did not register complaints about cases of individual discrimination on ethnic grounds, the monitoring group thinks that the authorities have only very restricted information, and the law on countering discrimination is not being enforced in practice. Although according to other sources and polls among the population, there is information about certain cases of covert forms of discrimination.

47. Pointing out in this context, the state is trying to show that there are no statistics of discrimination. But we have to take account of information available in reports by certain

¹⁰ “Ignoring national minorities is a time bomb”, 20 June 2007, <http://nregion.com/txt.php?i=13905>

and numerous sources¹¹, according to which there are still manifestations of discrimination.

48. The monitoring group believes that the current situation in the region of Kvemo-Kartli cannot be assessed as the effective use of anti-discriminatory mechanisms by the authorities, and therefore, the principles that form the basis of Article 4 of the framework convention.

49. The absence of regional offices of the ombudsman's institute for human rights in regions heavily populated by national minorities, a comprehensive network of rights organizations and full civil society in the region of Kvemo-Kartli makes it impossible to react to human rights violations swiftly. There has been no state reaction to numerous appeals by representatives of national minorities about the importance of the presence of representatives of the ombudsman's apparatus in regions heavily populated by minorities. The ombudsman's apparatus says that the funds allocated from the budget are not enough for a regional office to function in Kvemo-Kartli.

50. The monitoring group points out that in order to ensure full and effective equality between people belonging to national minorities and people belonging to the main population, there are no real and effective measures in the sphere of education, culture and participation in public life.

51. The Georgian ombudsman and the ombudsman's council of national minorities of Georgia, which unites the NGOs of national minorities, say in their report¹²: "Regarding issues of national minorities, state policy is not single-minded and consistent in order to solve problems facing the national minorities of Georgia. If there are certain aspects, they are highly ineffective, are not backed up with resources and do not reflect appropriately the current situation of the national minorities. Despite the obligations to the Council of Europe, there is no sufficient legislative basis which would help protect the languages and culture of national minorities and promote their social and civil integration." Although there is currently a number of full draft laws and concepts on the protection of the national minorities and the development of civil integration, none of them have been adopted so far.

¹¹ A) Minorities and the State in the South Caucasus: Assessing the Protection of National Minorities in Georgia and Azerbaijan. A report by the Central Asia and Caucasus Institute and the Silk Road Studies Programme, John Hopkins University (Washington, USA) and Uppsala University (Sweden), September 2006.

B) "Georgia's Armenian and Azeri Minorities", Crisis Group Europe Report No 178, 22 November 2006

C) ECRI: Second report on Georgia adopted on 30 June 2006 made public on 13 February 2007.

D) The Human Rights Information and Documentation Center (HRDIC)

E) Human Rights Committee Ninety First Session Geneva, 15 October to 2 November 2007: CCPR/C/GEO/CO/3/CRP.1 19 October 2007

¹² A report drawn up by the Georgian ombudsman and the Council of National Minorities of Georgian under the ombudsman with the expert support of the European Centre for Minority Issues, ECMI, "On the implementation by Georgia of the Framework Convention for the Protection of National Minorities"

52. Representatives of national minorities are often provided with low quality translation into the language they understand during the preliminary investigation by the law-enforcement agencies and by the courts.

53. Representatives of national minorities and their lawyers often note violations of procedural norms by the law-enforcement agencies and the courts. Their civil rights are frequently violated by the law-enforcement agencies and the courts, which creates a situation when representatives of national minorities do not trust these agencies.

54. According to Article 14 of the Georgian Constitution, all people are free from birth and equal before the law regardless of their race, skin colour, sex, religion, political and other views, national, ethnic and social affiliation, origin, property and class, and place of residence. Unfortunately, the monitoring group says that the law provides equal rights, but the current ethnic policy of Georgia does not provide equal opportunities to exercise these rights and freedoms.

55. For example, the Georgian law "On education" provides for equal access to education, but does not guarantee equal opportunities for people to access their native language and continue their education in an institution of higher education in their native language.

56. The country has no effective administrative mechanisms of countering discrimination, although in theory, the prosecutor's office and executive authorities, which control and supervise the sphere of protecting consumers, housing and labour relations and advertising, can take measures against discriminatory treatment. However, there are no examples of such measures being taken.

57. Not a single legislative act in Georgia provides directly for any special disciplinary responsibility of public servants for discriminatory behaviour or racist remarks. The law only compels them to observe the rights and legal interests of citizens and organizations in general.

58. Georgia has no special agencies that would be in charge of preventing and liquidating discrimination. In theory, the human rights representative in Georgia has the right to deal with any complaint about any human rights violations in case of mass and systematic violations.

59. Up till now, the state has not dealt at the appropriate level with real reports by the apparatus of the human rights representative and has not shown a real interest in the work of the ombudsman. A graphic example of this was a demonstrative walkout by members of parliament when the ombudsman was reporting the human rights situation, especially regarding religious minorities.

60. The state is not just incapable of taking appropriate measures to fight discrimination, in many cases the state itself practices, supports or allows covert veiled discrimination.

61. The editor of the Azerbaijani-language newspaper “Maarif” (Education), Aladdin Qarabagli, said in an interview: “As aboriginal residents of the region, the Azerbaijanis have no opportunity to develop their culture fully. The local authorities have closed cultural centres in most of the Azerbaijani population centres. The authorities are creating obstacles to the construction of prayer houses and are not registering them where they have already been built. Islamophobia is being cultivated in Georgian society.”¹³

62. In 2007, during the season when agricultural produce appears in the region of Kvemo-Kartli, residents of the villages of Algeti, Kesalo, Kapanaktsi, Pirveli Kesalo and Meore Kesalo¹⁴ encountered discriminatory treatment on the part of the patrol police. The staff of the patrol police banned residents from selling their produce at their entrances, although such trading practice is common all over Georgia. The ban on the sale of agricultural produce in these villages was perceived as discrimination and a violation of the rights of national minorities. According to taxi drivers working on the border and in these villages, this was a tangible blow to ethnic Azerbaijanis, which prompted many to seek a job in Azerbaijan¹⁵.

Article 5

¹³ The interview was taken on 2 March 2008

¹⁴ Ethnic Azerbaijanis comprise 100 per cent of the population in these villages. The villages survive by farming and are situated on the border with the Azerbaijan Republic

¹⁵ Taxi drivers working at the Red Bridge border checkpoint asked us not to name their names as they are afraid of arbitrary arrests and persecution by the authorities.

1. The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.

2. Without prejudice to measures taken in pursuance of their general integration policy, the Parties shall refrain from policies or practices aimed at assimilation of persons belonging to national minorities against their will and shall protect these persons from any action aimed at such assimilation.

63. The monitoring group drew the conclusion that the government is not helping and supporting enough the culture, language and traditions of national minorities of the region of Kvemo-Kartli and is not helping to preserve elements of identity even at the legislative level.

64. In Georgia there is no state programme that would reflect the protection of the language, traditions and culture of national minorities. It must be noted that while recognizing this or that cultural or other object of worship belonging to this or that ethnic group, the titular ethnic group lends a political slant to this fact in society. Unfortunately, during discussions they forget that this event concerns Georgia, not its individual ethnic groups and certain values.

65. The editor of the Azerbaijani-language newspaper “Maarif” said in his interview: “Despite the rights and freedoms confirmed by the Constitution, the ethnic minorities of the region of Kvemo-Kartli have restricted access to education and study of national history, and access to the language and religion is totally restricted and banned in some respects. This process of imposing restrictions “in a cultural form” is constantly carried out against the ethnic minorities of the region of Kvemo-Kartli.”

66. The monitoring group would like to back up its position that the Georgian authorities are not ensuring sufficient and real conditions required for people belonging to national minorities in order to maintain and develop their culture and identity.

67. For example, there is no representation of ethnic minorities – Azerbaijanis – in the leadership of cultural organizations (theatres, museums and cultural centres) which belong to ethnic Azerbaijanis. The “National Theatre of Azerbaijanis” based in Tbilisi is run by a representative of the titular ethnic group, the stage director of the theatre is a representative of the titular ethnic group and most of its staff are representatives of the titular ethnic group. The director of the “House of Culture” based in Marneuli (where ethnic Azerbaijanis comprise 80 per cent of the population) is a representative of the

titular ethnic group. In the town of Gardabani (in which ethnic Azerbaijanis comprise 50 per cent of the population and which is surrounded by a number of villages of ethnic minorities), the director of the “Azerbaijani-Georgian House of Culture” is a representative of the titular ethnic group. The director of the “Axundov Home Museum” (Axundov was a prominent figure of Azerbaijani origin) is a representative of the titular ethnic group. This means that representatives of the titular ethnic group are even appointed to run cultural centres that should be ideally and logically run by representatives of ethnic minorities.

68. The monitoring group notes that cultural events are rarely organized by various ethnic communities living in Georgia with assistance from the state budget. The monitoring group has repeatedly encountered reports about difficulties, reported by the national minorities of the region of Kvemo-Kartli, in maintaining and developing their culture and identity. Representatives of minorities believe that the financial assistance, which they have received from the state in recent years alone, is not appropriate to any cultural activity.

69. The monitoring group notes shortcomings in cooperation between the authorities and representatives of national minorities. It is obvious that the national minorities are not aware of the legislative measures prepared by the government in the sphere of culture and do not have enough information about their practical opportunities in this sphere.

70. The monitoring group believes that during this period, no legal measures were initiated to offer aid to national minorities in the sphere of culture, no quality coordination was secured between the relevant authorities in this sphere and no consultations were held with interested people from national minorities.

71. There is quite a negative situation when national minorities cannot receive state support for the cultures of the national minorities, inter alia, through special budget subsidies, and state support to maintain and develop their culture and identity is not enough. The Georgian authorities cite economic difficulties facing the country, although they have a chance to make additional efforts in this sphere.

72. The state has guaranteed in a legislative manner the minorities’ right to use cultural rights and full access to culture in order to strengthen and develop the culture of minorities. But there is no real mechanism to protect and maintain the culture of minorities and ensure access to it. Initiative connivance by the state and the lack of political will do not justify access to cultural rights in this situation, and in some cases, restrictions on access to the culture of minorities. There are minimum real opportunities

for the ethnic minorities of the region of Kvemo-Kartli to access, develop and maintain their peculiarities, traditions and culture.

73. In its regular reports, the state says that a certain number of cultural-charity societies of minorities are functioning in the country. It must be noted that this category of societies is not getting any assistance from the state, and they are operating only on the initiative of the activists and with donations.

74. In its regular reports, the state cites the number of theatres in Georgia. Despite their repeated appeals to the authorities in the last few years, the minorities have still not received the necessary state support for the full operation of an Azerbaijani theatre in Tbilisi.

75. The employee of the Azerbaijani theatre, Vaqif Bayramov, (this person is a representative of national minorities) said about the state of the theatre: "Although there is an Azerbaijani theatre, only 22 per cent of the building is held by the administration of the theatre, while 78 per cent is held by commercial organizations which were sold before the building was handed over to the theatre. All complaints and appeals to vacate the premises of the theatre are openly neglected and are not examined by the executive authorities. With the connivance of the state, there is a situation in which no-one can talk about any cultural life in this theatre. Such a situation makes it impossible for the ethnic minority to access cultural life.

76. An employee of this theatre said in an interview that "the budget of the Azerbaijani theatre in 2007 totaled 56,000 US dollars. This money includes everything – the wages, staging of performances, technical support, the renewal of decorations and the refurbishment of the building. 60-70 per cent of this budget is the salary of the staff.

77. At the same time, we would like to say that the theatre employee noted discriminatory aspects with regard of minorities' theatres. Specifically, the interview said that other theatres which do not belong to minorities have budgets worth millions, are refurbished every year and have their technical conditions and decorations updated. That's to say all talk about financial difficulties facing the state is not justifiable and does not withstand criticism. It must be noted that the director of the Azerbaijani theatre is a representative of the titular ethnic group and many representatives of national minorities have a critical attitude to such a situation, motivating this by the fact that if you do not know the language in which the theatre works and the cultural language of the ethnic minority, you cannot lead the cultural life of the theatre appropriately and present the cultural spirit of the ethnic minority.

78. The state says that in Georgia there are numerous home museums of prominent figures and cultural figures of national minorities, including the home museums of M. F. Axundov, N. Narimanov and Mammadquluzada. These home museums used to belong to ethnic Azerbaijanis who lived in Georgia in the 18th, 19th and 20th century. It must be noted regretfully that the status of the current home museum of M. F. Axundov, without any consultation with representatives of the ethnic minority, was lowered from the M. F. Axundov Azerbaijani cultural centre to the Axundov home museum. This caused protests by representatives of ethnic minorities against this kind of veiled discrimination.

79. A cultural worker said in an interview: “A ‘budget merger’ and reduction of all museums are under way now, to an extent that threatens the very existence of these museums.”¹⁶ For example, by the decision of the Georgian executive authorities, the ‘budget merger’ of the three home museums – M. F. Axundov, N. Narimanov and Mammadquluzada – was carried out, and at the same time, the budget and staff of the museums were reduced to the minimum. It must be noted that the question is not about whether the state intends to increase the budget or systemize the work of museums under one leadership. It is obvious that the budget of these museums is being reduced stage-by-stage, it is not being increased, and they will fall into disrepair in the long-term and may be closed.”

80. This situation cannot be justified by economic difficulties facing the state at a time when the state budget is increasing from year to year and when refurbishment work is expanding in the country, especially in the capital Tbilisi. This excuse cannot be accepted in this case, because there is clear disregard for these museums against the background of restoration work in other museums and the opening of other museums in the country. The “museum of Soviet occupation” can serve as an example.

81. The state notes economic difficulties facing the country at the moment. But the monitoring group thinks that the authorities have an opportunity to make additional efforts in this sphere and allocate money with a discriminatory approach, which is unfortunately the case. The economic indicators and the country’s budget allow us to say that.

82. Georgia has a great variety of religious communities and religious minorities. There are mosques, synagogues and churches operating in Georgia. There are also prayer houses for other religious communities. However, the state is not considering the need to create favourable conditions to maintain the religious identity of national minorities. In Georgia, only the Georgian Orthodox Church is an organization recognized by the state

¹⁶ The interview was taken in 2007

and has status as a religious organization of public law, whereas all the others do not have relevant recognition and the same status as religious organizations. Such a discriminatory approach violates the principle of equality which forms the basis of the Georgian Constitution.

83. The secondary school curriculum does not contain lessons of religion for ethnic minorities. Lessons of religion are given unilaterally and concern only Orthodox Christianity. In a number of Georgian-language schools of the region of Kvemo-Kartli, sometimes up to 90 per cent of children do not profess Orthodox Christianity, but are children of representatives of another religion. For example, children of ethnic Azerbaijanis in the village of Mugalno in Gardabani District study in Georgian-language secondary schools in the village of Sartichala. In these schools, Muslim Azerbaijani children comprise 80-90 per cent of all children in some forms and they are taught optional lessons of Orthodox Christianity. Unfortunately, Georgia has no curriculum that would provide general information about all the religions represented in Georgia.

84. Unfortunately, ethnic Azerbaijanis cannot fully profess their religion because they often encounter obstacles created by the authorities and bureaucracy due to the affiliation of this ethnic minority with another faith. For example, despite numerous attempts, there is still no house of prayer for Muslims in Dmanisi District of the region of Kvemo-Kartli. Residents say that they are not given an opportunity¹⁷ to do so and say that the purpose is to make the population forget their religion and assimilate in the end.

85. The editor of the Azerbaijani-language newspaper Maarif said in his interview: “Historical monuments – the bearers of national self-consciousness – are being destroyed or have already been destroyed. All these processes are aimed at assimilating the ethnic minorities not just of ethnic Azerbaijanis in the region of Kvemo-Kartli, but also of Greeks, Armenians and Assyrians.

86. Ethnic Azerbaijanis are not opposing the tendency of assimilation both politically and practically. The authorities lend a political slant to any remarks against such a policy of assimilation and talk about “separatism”, whereas in fact the situation is absolutely different. For example, in Gardabani District of the region of Kvemo-Kartli, which is populated mainly by ethnic Azerbaijanis, activist Telman Hasanov, who worked in the sphere of the legal protection of national minorities of the region of Kvemo-Kartli, was convicted.

87. The Georgian authorities are taking practical measures in order to assimilate people belonging to national minorities – Meskhetian Turks, because the process of repatriation

¹⁷ The interview with the editor of the Azerbaijani-language newspaper Maarif, 2008

is accompanied by a policy of blocking their joint settlement and an arbitrary change of their affiliation with their nation. The parliamentary majority and the opposition minority in the parliament have made it quite clear in their speeches.

88. The parliamentary faction “The National Movement – Democrats” and the Georgian Ministry for Affairs of Refugees and Resettlement in 2007 drew up a draft law on the repatriation of Meskhetian Turks. The draft law provided for the establishment of legal conditions for the return to Georgia of Meskhetian Turks who were deported from the Georgian SSR to Central Asian countries in the 1940s. Georgia pledged the Council of Europe to return them: the deadline is 2011. The opposition calls the draft law initiated by the parliamentary majority “an anti-state and treacherous law”. According to one of the leaders of the Democratic Front faction, conservative Zviad Dzidziguri, the repatriation of Meskhetian Turks violates the state interests of Georgia and their resettlement in the region of Samtskhe-Javakheti creates serious problems for the local population. According to Dzidziguri, the conservatives suspect that the Georgian authorities are more concerned about the millions which the Council of Europe has allocated for this project, not about the restoration of so-called historical justice. According to his colleague from the faction, MP Kakha Kukava, the subject of Meskhetian Turks is a time bomb laid under the territorial integrity of Georgia and is aimed at changing the demographic balance in Samtskhe-Javakheti. Kukava said that the change of the demographic balance in Abkhazia and Samachablo has already caused ethnic conflicts. The deputy also said that the draft law does not indicate an annual immigration quota and the regions where these people will be repatriated. The conservatives also regard as a problem the fact that the Meskhetians do not speak the state language of Georgia, which means that they will be granted citizenship as an exception. The conservatives reminded President Saakashvili that as justice minister, he had promised that such immigrants would never return to Georgia.

89. The member of the opposition Industrialists faction, Gia Tsagareishvili, agrees on the whole with the initiative to return the Meshkhetians, but sets a condition – they should be settled not in one area, but throughout Georgian territory. Tsagareishvili is also demanding that the Georgian authorities replace the term “Meskhetian Turks”, which “Russia has planted as a mine”, with the term “Meskhetian Muslims”. The chairman of the parliamentary committee for foreign relations, Kote Gabashvili, also agrees that the term “Meskhetian Turks” is not correct. He said that in the 1940s, representatives of different ethnic groups were deported from Georgia. Gabashvili proposed classifying them as “those deported from the country in the period 1943-

1948". A representative of the Right Opposition faction, Pikria Chikhradze, thinks that Georgia's obligation to the Council of Europe to repatriate Meskhetian Turks was a political mistake. "Their repatriation entails numerous problems and may create a new threat to Georgia," Chikhradze said. If they return, they should settle in the whole country, not in one place," she added¹⁸.

90. As Georgia's state ministers for settlement of conflicts and chairman of the government commission to study the issue of repatriating Meskhetian Turks who were deported from Southern Georgia in 1994, Giorgi Khaindrava, just like all the other representatives of the Georgian authorities, thinks it necessary to call them Meskh Muslims, not Meskhetian Turks¹⁹.

91. The Turkish TV channel TGRT showed outraged members of the public protesting against the Georgian authorities avoiding international terminology and calling Meskhetian Turks "Meskh Muslims".

92. It is notable that all the political forces of Georgia, both the ruling elite and opposition, aim to maximize the assimilation of repatriates – Meskhetian Turks. The monitoring group regards this as a violation of Point 2 of Article 5 of the FCNM.

Article 6

1. The Parties shall encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory, irrespective of those persons' ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media.

2. The Parties undertake to take appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity.

93. The monitoring group thinks that regarding measures to maintain full and effective equality between people belonging to national minorities and people belonging to the main population, the state is not making efforts in the sphere of education, culture and participation in public life in the sense that forms the basis of Point 1 of Article 6 of the FCNM.

¹⁸ 24 Saati newspaper

¹⁹ The Georgian state minister is trying to Georgianize the name of Meskhetian Turks, Regnum news agency

94. The regional and municipal authorities are not carrying out and are not encouraging any activity that could be seen as strengthening of friendship and ethnic tolerance and inter-cultural communication. The authorities are not participating in the process of the positive representation of various ethnic groups and in initiating a dialogue between various ethnic organizations with the participation of the authorities themselves. One-off cases where ethnic minorities can be represented are celebrations to mark City Day in Tbilisi, but unfortunately, only two ethnic minorities – Azerbaijanis and Armenians – are represented there. The remaining groups of national minorities – Greeks, Kurds, Meskhetian Turks, Ossetians and others – are absent.

95. The state is not basing its activity on the fact that various ethnic groups should be represented and should be perceived by each other and the wider public not as social rivals or a threat to security, but as bearers of unique ethnic cultures. Familiarization with original traditional cultures and understanding of the community of interests in maintaining these cultures should, according to supporters of such a policy, promote integration and social stability. Such a policy is simple and understandable to representatives of the authorities and the public, which is why they take it positively. On the other hand, it continues to strengthen in public consciousness ethnic borders and the habit of rethinking social interaction and social problems as “ethnic relations”.

96. The monitoring group notes the presence of powerful factors: many components of domestic policy actively encourage ethnic and religious xenophobia and intolerance. Intolerance is also increasing because of the state’s asymmetric attitude to various confessions, preferences given to Orthodox Christianity and the state’s concern about the country’s vague “spiritual security”.

97. In 2007, the organization CIMERA prepared a report on “History Teaching in Georgia: Representation of Minorities in Georgian History Textbooks”, which analyzed how minorities are represented in Georgian history textbooks and assessed possible and potential sources of conflict. The survey showed that “there is no sign of a conscious attempt to discover and analyze the presence of non-Georgians in the country’s history”. History books for secondary schools quite rarely mention other ethnic groups and their role in the history of the establishment of Georgian statehood. The textbooks that were analyzed do not discuss minorities individually. When conflicts between countries and nations are discussed, then minorities are mentioned and shown not as residents of Georgia, but as foreigners. If ethnic minorities – non-Georgians living in Georgia are mentioned, they are mainly called ‘neighbours’. The description of other peoples is quite prejudiced. For example, nomad attacks are described as “the noise of

savage nomads”, though such comparisons are quite rare. It must be noted that ethnic Azerbaijanis are still called in a discriminatory way - “nomad Tatars” who conquered and ruined Georgia in the Middle Ages. Some textbooks include such important subjects as subjects of minorities as migrants. The media and many books by Georgian historians present the Azerbaijanis as a group that was settled in the region of Kvemo-Kartli in the 16-17th century by Persian Shah Abbas, one of the conquerors of Georgia, who caused Georgia a lot of suffering.

100. A number of secondary school textbooks contain anti-Russian information. On the whole, certain circles promote the image of Russia and Russians as enemies of Georgia. Pupils are given information that poses a question as to whether ethnic Azerbaijanis are aboriginal residents of the region of Kvemo-Kartli and true residents of the region.

101. It is clear that in order to persuade everyone that this region is a truly Georgian territory and ethnic Azerbaijanis are “guests”, Azerbaijani village names were replaced with Georgian names in the 1990s.²⁰ Officials from the Ministry of Education say that the situation in secondary school textbooks regarding the presence of ethnic minorities will be rectified in the near future.

102. Meanwhile, Oliver Reisner who worked at the GTZ international fund in October 2006 doubts “readiness to seriously include minorities in the history of Georgia”²¹.

103. The Georgian authorities are not encouraging the spirit of tolerance between cultures and are not taking effective measures to promote mutual respect. The CIMERA report and other publications say that a monument to the 12th century Azerbaijani poet, Nizami Ganjavi, was desecrated in Marneuli District. “It is clear that there is evidence of tensions between Azerbaijanis and Georgians,” CIMERA says.

104. Ethnic minorities of the region of Kvemo-Kartli mostly think that a policy of veiled discrimination is being carried out against them: in education, culture and possible participation in public life. Some activists believe that a process of the “cultured and soft” expulsion of the ethnic minorities from the region of Kvemo-Kartli has been going on for many years. As an example, they cite the fact that people have deserted villages in Bolnisi and Dmanisi districts of the region of Kvemo-Kartli which were populated mainly by national minorities – Azerbaijanis most of whom have emigrated. They also cite the confrontation between ethnic Georgians and Azerbaijanis in 1989-1995,

²⁰ For example, the names of 32 ethnic Azerbaijani villages, rivers and mountains were replaced with Georgian names in the early 1990s, Stuart Kaufmann “*Modern Hatreds: The Symbolic Politics of Ethnic War*” (Ithaca, 2001), p. 127; Elizabeth Fuller “Azerbaijani Exodus from Georgia Imminent?”, RL, 15 February 1991

²¹ Oliver Reisner is currently working at the representative office of the European Commission in Georgia.

unbridled crime and the insufficient protection of ethnic Azerbaijanis from criminals. All these events caused the mass emigration of Azerbaijanis and emptied villages in the aforesaid districts²².

105. The Georgian media rarely show any interest in the artistic, cultural and religious events of national minorities of which they are trying to inform the public. The only exception could be the “Novruz” holiday marked by Azerbaijanis. These short news programmes about the presence of such a national holiday were broadcast because this region was visited by Georgian and Azerbaijani state officials. Azerbaijan and Georgia are strategic partners on the main oil pipeline that goes from Azerbaijan through Georgian territory – through a region populated by national minorities. Such “forced” addresses are quite exceptional and rare.

106. The monitoring group points out that there are shortcomings in the sphere of religious tolerance. The monitoring group thinks that the authorities are not directing their efforts at improving dialogue and tolerance in this sphere. The monitoring group thinks that the state is not trying to promote ethnic tolerance and cultural dialogue. History and geography textbooks for secondary schools sometimes discriminate against Muslims and other ethnic groups and develop Islamophobia. It is enough to mention the demonstration staged in 2006 by representatives of the titular ethnic group in Kvemo-Kartli (former Kapanaktsi) around a new mosque and open calls by the demonstrators to knock down the mosque.

107. Although the Constitution prohibits incitement to ethnic, racial or religious hate and other legislative acts prohibit manifestations of discrimination, hostility and violence on racial and ethnic grounds, this category of legislation is not being enforced. There are veiled forms of discrimination on ethnic grounds, and the state is not trying to recognize and solve this category of violations. According to the monitoring group, about 100 ethnic Azerbaijanis have been educated in the Zhvania school which trains officials from ethnic minorities. The authorities took this step under pressure from international organizations and following statements by politicians of the Azerbaijan Republic since ethnic Azerbaijanis were almost not represented in the authorities in the region they populate.

108. The educated ethnic Azerbaijanis were appointed to various non-administrative posts²³, and as soon as tensions subsided regarding this issue, some of the aforesaid

²² An interview with the editor of the Azerbaijani-language newspaper Maarif (Education) by activists of the NGO Georgia is My Homeland.

²³ Mainly in the posts of deputies in the local and municipal authorities who have no real levers for decision-making in the region.

educated ethnic Azerbaijanis were fired for this or that reason. The interval between their appointment and dismissal was 3-5 months. The trained group believes that this fact is a veiled form of discrimination by the regional authorities. "Ethnic Azerbaijanis are represented in nine territorial units of Georgia. Although official reports put the number of ethnic Azerbaijanis at 285,000, their representation in government agencies does not exceed 50-60 people."²⁴

109. On the whole, Georgian legislation bans the transmission of programmes that call on viewers and listeners for violence and hostility on ethnic and religious grounds and promote discrimination and xenophobia against national minorities.

110. Many NGOs have noted the fact that some media often put out information characterized by ethnic intolerance and xenophobia.²⁵ If ethnic tolerance was relatively high before, now it must be noted that there is a need to establish new tendencies which may help develop cultural pluralism. This is proved by tensions between representatives of various cultures, which are promoted by the media and certain political leaders. Such facts are naturally a matter of concern both for national minorities and the state. Although ethnic strife is a criminal offence in Georgia, norms of the Criminal Code regarding discrimination are not being enforced appropriately.

111. The Georgian media very often negatively describe people belonging to national minorities. For example, this was the case on state-run channels and on the Imedi channel with regard to Meskhetian Turks, Turks and Azerbaijanis during 2006 and 2007. The channels repeatedly showed nationalist figures speaking with nationalist rhetoric. An example could be the campaign regarding the Davud Qaraca monastery in the Boyuk Cekikci area on the Azerbaijani-Georgian border. Part of the monastery is on Azerbaijani territory and the other part is on Georgian territory. We are not going to analyze to which side this monastery belongs. For several years, the Georgian media, regularly and with certain intervals, have been conducting an information campaign regarding this complex to the detriment of the policy of tolerance and non-discrimination of national minorities in Georgian territory. This is expressed in actions where the Azerbaijan Republic and Georgian citizens of Azerbaijani origin are negatively shown as a side to the dispute.

²⁴ An interview with the editor of the Azerbaijani-language newspaper Maarif (Education) by activists of the NGO Georgia is My Homeland.

²⁵ The recommendations were drawn up by members of working groups of the Council of National Minorities (CNM) in the apparatus of the People's Defender of Georgia with the technical assistance of the European Centre for Minority Issues (ECMI) and reflect the opinions and views of both members of the working groups and members of the Council.

112. Another example is the information campaign about two districts of the Azerbaijan Republic – Qax and Zaqatala, which are populated by ethnic Georgians and Ingiloyls. Here, the media play their negative role again, which runs counter to the policy of tolerance and non-discriminatory approach to the issue. Reporting this or that violation of the rights of the local population in Azerbaijani territory, the media show “the high living standards of Azerbaijanis” living in Georgia, create public opinion about the hospitality of the Georgian people with regard to “guest Azerbaijanis” and about “the Azerbaijanis’ bad attitude towards Georgians in Azerbaijani territory”. The monitoring group thinks it unacceptable to make such comparisons which are inapplicable in such situations and believes that their spread should be restricted to an extent required in a democratic society.

113. The main means of state influence on the media are warnings issued by the prosecutor’s office or the executive authorities. The monitoring group did not notice the warnings having any influence on the work of radical publications that engage in xenophobia and discriminatory reporting.

Article 7

The Parties shall ensure respect for the right of every person belonging to a national minority to freedom of peaceful assembly, freedom of association, freedom of expression, and freedom of thought, conscience and religion.

114. Basically, the national minorities are encountering in these spheres the same problems as all the other residents of Georgia. Only in one-off cases, have the rights of assembly been arbitrarily restricted due to citizens’ affiliation to a certain national minority.

115. On 28 June 2005, a villager and cleric, Molla Qara – Saradin Palangov, an ethnic Azerbaijani, went missing in the village of Sadakhlo in Marneuli District. In this regard, about 400 people staged a protest rally near the Marneuli gamgeoba (a local government body) in the town of Marneuli (the district centre of the region of Kvemo-Kartli where ethnic Azerbaijanis comprise 80 per cent of the population). The population demanded that the reason why Molla Qara went missing be established. On 28 June, Molla Qara took his cattle to a pasture and went missing. Gunshots were heard in the village at the time, Molla Qara’s blood-stained clothes and bullet casings were found at the site where he went missing. The rally which was staged in Marneuli in this connection was dispersed by a special police force. After that, five Azerbaijani members

of the Sadakhlo Sakrebulo (a local government body) appealed to President Saakashvili. The appeal said that the lack of professionalism of representatives of the village law-enforcement agencies and the unsuccessful personnel policy had put the village in a difficult situation and that the inaction of the law-enforcement agencies regarding Molla Qara's disappearance could not be ignored. Apart from this appeal, some residents of Sadakhlo issued a joint statement to the People's Defender and demanded that he visit the region. Some residents of Sadakhlo staged protests in Tbilisi. They demanded that the disappearance of Molla Qara be investigated as soon as possible in order to establish whether he was alive or not, otherwise, they threatened to deal themselves with those whom they regarded as the culprits of Molla Qara's disappearance. After this incident, the chief of the local police station, Amiran Shubitidze, was dismissed. Molla Qara was the leader of an ethnic community and organized protests in 2004 and March 2005, in which the Azerbaijani population demanded a solution to problems related to the redistribution of land plots between representatives of the region's national minorities and the titular ethnic group, as well as a solution to murders committed in the region. The Azerbaijani population staged a rally in front of the Georgian embassy in Baku, demanding that the truth and justice be established.

116. A poll conducted by the monitoring group among the population showed that most ethnic Azerbaijanis believe that Molla Qara went missing because of his ethnic origin and public activity in the region.

117. There are certain problems related to the exercise of rights of assembly in the region of Kvemo-Kartli, just like in the whole of Georgia. The organizers of peaceful assemblies encounter counteraction when their public action causes special dissatisfaction by the authorities in connection with the inaction or assistance of local officials directed against the legal interests of national minorities in the region. For example, the founders of the "Congress of Azerbaijanis of Georgia" encountered quite strong pressure. During a meeting of heads of non-government organizations in Tbilisi on 2 December 2007, information was disseminated that this meeting would be banned. Many participants from Marneuli, Gardabani and Bolnisi (the region of Kvemo-Kartli populated by ethnic Azerbaijanis) were clearly told by the local authorities that they should not take part in the constituent assembly. Rumours were circulating about mobile telephones being tapped and other types of psychological pressure were exerted. Pressure was exerted on Sabina Talibova (Mtredi NGO), Baxtiyar Zeynalov (the Tolerance Public Union to Protect Human Rights), the youth centre of Marneuli and

others. Such pressure bore fruit, and many participants who were planning to take part in the founding of the regional public organization refused to go to the founding assembly. On 17 March 2008, many Azerbaijani delegates, mainly founders from Marneuli District, were barred by the local authorities from participating in the first assembly of the “Congress of Azerbaijanis of Georgia”. The Congress of Azerbaijanis of Georgia is an organization which was set up in order to promote the integration of the Azerbaijani-speaking population into Georgian society.

Article 8

The Parties undertake to recognize that every person belonging to a national minority has the right to manifest his or her religion or belief and to establish religious institutions, organizations and associations.

118. The right to freedom of religion is part of the legal complex of protecting human rights and freedoms. When the religious rights of an ethnic minority are violated, this shows the unlawful nature of this state and its undemocratic environment. Religious tolerance is especially topical and required at the present time²⁶.

119. The 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms says: “1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance. 2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.”

120. Article 8 of the 1995 Framework Convention for the Protection of National Minorities confirms in an imperative manner the responsibility of states in the sphere of protecting freedom of religion.

²⁶ According to Article 6 of the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, the right to freedom of thought, conscience, religion or belief shall include, inter alia, the following freedoms: to worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes; to make, acquire and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief; to write, issue and disseminate relevant publications in these areas; to teach a religion or belief in places suitable for these purposes; to observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief; to establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels, and others.

121. Georgia is represented by a variety of religious communities and religious minorities. Mosques, synagogues and churches are operating in Georgia. There are also houses of prayer for other religious communities. However, the Georgian authorities are not taking account of the need to create favourable conditions promoting the maintenance of the religious identity of national minorities.

122. The analysis both of the normative-legal field and political realities of Georgia shows that the situation surrounding freedom of conscience and the protection of the rights of religious minorities in this country is not good. At the same time, according to the Georgian Constitution of 1995 (Article 9), the state recognizes the exceptional role of the Georgian Orthodox Church in the country's history and at the same time, declares full freedom of faith and the independence of the church from the state.

123. Georgia is the only country in the post-Soviet area which has no separate law on religion and religious communities.

124. The Concordat (officially – “The Constitutional Treaty between the Georgian State and Apostolic Autocephalous Orthodox Church of Georgia”) was signed on 14 October 2002. In connection with preparations for the signing of this treaty, the Georgian parliament adopted a law “On making changes and addenda to the Georgian Constitution”, according to which Article 9 of the Constitution was supplemented with Point 2 which regulates the special status of the Georgian Orthodox Church.

125. The situation surrounding other religious confessions of Georgia is such that the establishment and regulation of religious organizations in Georgia is regulated by Article 1509 of the Georgian Civil Code, according to which religious organizations have the opportunity to register as non-commercial legal entities of private law.

126. National minorities regard such a situation as a form of discrimination and think it unacceptable to exist as some kind of foundation or union, especially as the Georgian Orthodox Church is a legal entity of public law. Therefore, they are demanding the adoption of a clear-cut law on religious associations or the signing of a separate agreement with this or that confession (like the Concordat). Leading Georgian rights champions and experts, as well as Georgian ombudsman S. Subari, hold the same view²⁷. The lack of legal mechanisms for the registration of religious associations in Georgia is closely linked to the property rights of a number of traditional non-Orthodox confessions of Georgia. The People's Defender of Georgia said in his report to the parliament on 23 December 2005: “According to the Constitutional Treaty between the

²⁷ From the interview to the author by the well-known Georgian expert P. Zakareishvili (7 February 2006) and the People's Defender of Georgia S. Subari (6 February 2006)

Georgian state and the Orthodox Church of Georgia, Orthodox clerics have been exempted from military service, the state recognizes church marriage, protects the secrets of the confession, declares great church holidays as off-days, the church and the state are cooperating in various spheres of common interest, the church enjoys tax benefits, the state pledges to compensate partially the damage that was inflicted on the church in the 19th and 20th century and so on. The state grants these benefits only to the Orthodox Church of Georgia. In fact, this violates the fundamental principle of equality recognized by the Constitution (Article 38) and international agreements. As long as the state has not granted the same benefits to other confessions, they... are experiencing indirect discrimination, being in an unequal position compared to the Orthodox Church.”²⁸ It must be noted that before the signing of the Concordat, many rights organizations and NGOs of Georgia actively criticized the adoption of such a legal act.

127. In his report on 23 December 2005, the Georgian ombudsman recommended changing the approach to the issue of registering religious confessions operating in the country: “It is necessary to sign an agreement with religious associations that do not want to register according to the existing rules, which will define their legal status and provide for the application of benefits granted to the Orthodox Church according to the Constitutional Treaty to other confessions as well.”²⁹

128. The current situation generates many problems that have a negative impact of minorities’ right to profess their religion and administer their religious rites. Such a discriminatory approach runs counter to Article 8 of the FCNM. It is very important to grant official status to a religious community, because religious centres and buildings are being restored in the country. In this case, there appears the problem of returning religious centres, premises and property confiscated under the Soviets from the religious communities represented in Georgia at the time. For example, there used to be 11 mosques in the Georgian capital Tbilisi until 1956. The last mosque was blown up in 1956. Currently, there is only one mosque which was restored after the breakup of the Soviet Union. It is extremely difficult to restore any of them because the Muslim religious community has no status and due to the legal succession of areas where these mosques used to stand.

129. The lack of a sufficient number of premises to administer religious rites restricts minorities’ rights to profess their religion and administer their rites together with other

²⁸ See for more detail: “Disputed Churches”, A Greek Demonstration and A Missing Mullah: A report by the People’s Defender of Georgia, <http://www.regnum.ru/news/569444.html>, 7 January 2006.

²⁹ See for more detail: “Disputed Churches”, A Greek Demonstration and A Missing Mullah: A report by the People’s Defender of Georgia, <http://www.regnum.ru/news/569444.html>, 7 January 2006.

members of the same group. This problem is directly linked to the lack of public status for religious minorities.

130. It is very difficult for religious minorities to receive permission to build new premises. In most cases, minorities encounter groundless bans on construction work. Most of houses of prayer were built as private houses, not as mosques. A number of Muslim religious figures said in interviews that the state has a different attitude to representatives of religions other than the Georgian Orthodox Church. They said that the notification which should be sent to the Georgian Orthodox Eparchy for building a mosque in fact implies permission from the Georgian Orthodox Eparchy. They regard this situation as discriminatory and running counter to the principle of equality.

131. The most common type of arbitrary restrictions on religious organizations is the creation of obstacles by the authorities to the construction of religious buildings. Muslims encounter such difficulties most of all. These obstacles vary from bureaucracy that lasts many years to direct refusal. As a rule, these problems are connected not just with the position of officials, but also with protests from the population and religious leaders of the regional religious majority.

132. On 25 January 2008, the local government bodies in the village of Mugalno (ethnic Azerbaijanis comprise 100 per cent of the village population) in Gardabani District of the region of Kvemo-Kartli banned the construction of a new house of prayer instead of the old small one. It must be noted that the religious rite of Shi'a Muslims – Ashura – has been held in this place for more than 100 years. This rite was not banned either under the Soviets or after Georgia gained its independence. The house of prayer, where this religious ritual had been held for many years, has now become too small for the growing population of the village and a decision was made to build a new more spacious one. The local executive authorities imposed the ban without studying and clarifying the situation on the spot. Most of the population saw this fact as discrimination against their rights and freedom of faith.

133. The monitoring group believes that such a situation runs counter to people's right to profess their religion and express their convictions, as well as to their right to set up religious institutions, organizations and associations.

134. **The law on education and mutual relations between the school and the church.** On 8 April 2005, the parliament adopted a law "On general education". Article 13 of Chapter 1 of the old law envisaged cooperation with the Orthodox Church. According to the new law, proselytism, indoctrination and putting up of religious symbols for non-academic purposes are banned in public schools. This means that during the

educational process, not a single representative of a religious association or teacher will have the right to propagate this or that religion or involve pupils in any religious ritual. The state and religion are separate from each other, according to the Constitution and the Constitutional Treaty, and therefore, a public school or a religious association is not allowed to propagate, support and campaign against this or that faith during teaching hours. According to the law, pupils themselves have full freedom in this sphere.

135. The Memorandum between the Ministry of Education and the Georgian Orthodox Church. Three months before the adoption of the law, on 22 January, on the basis of the Treaty between the State and the Georgian Patriarchate, the Ministry of Education signed a memorandum to set up a joint commission. The commission started working on the following issues: Creating Orthodox Christian textbooks and curriculums; Developing procedures for selecting, training, appointing and dismissing teachers; Developing procedures for the participation of representatives of the Autocephalous Apostolic Orthodox Church of Georgia in compiling curriculums and examining relevant textbooks regarding the Orthodox faith; Legal support for the financing and property issues of educational institutions of the Autocephalous Apostolic Orthodox Church of Georgia; Identifying forms and conditions of cooperation between the State and Autocephalous Apostolic Orthodox Church of Georgia in the issue of nurturing students.

136. The memorandum violates the principle, recognized by the Constitution, of separation between the state and the church and suggests discrimination against followers of other confessions, because: According to the memorandum, the state can finance the study of Orthodox Christianity in both public schools and church institutions of education; the Patriarchate can participate in the process of selecting, training, appointing and dismissing religion teachers (the title of the subject has not been identified yet) in public schools. In this case, the faith of the teacher will probably be the decisive factor, as a result of which the principle of academic freedom may be violated and non-Orthodox teachers may face discrimination; the memorandum does not say that the study of the subject on Orthodox Christianity is optional (the Constitutional Treaty recognizes this – 5.1); the subjects and textbooks that include Orthodox Christianity may be religion, literature, history and natural subjects. Therefore, if the Patriarchate takes part in their compilation, this: a) will violate the scientific nature of education (the study of the theory of creationism at school); b) may generate an element of religious censorship in the education system; c) may cause education on other faiths to have a non-pluralistic and tendentious nature. The memorandum runs counter to the law on education, according to which the state secures the independence

of public schools from religious and political associations, aims to form in pupils a way of thinking based on liberal-democratic values and pledges, as a law, not to allow non-scientific views or theories to be taught as scientific facts or scientific theories.

137. The media and religious minorities.

The mass media may play a decisive role in introducing a culture of tolerance. Society should be impartially informed about issues that are topical in terms of religious relations. Cooperation between minorities and the mass media will promote the “disclosure” of subjects tabooed in society and provide real information related to various faiths. In this sphere, it is necessary to be especially delicate and correct, however, unfortunately, the Georgia media has been for many years one of the main sources of negative stereotypes against religious and national minorities.

Article 9

1. The Parties undertake to recognize that the right to freedom of expression of every person belonging to a national minority includes freedom to hold opinions and to receive and impart information and ideas in the minority language, without interference by public authorities and regardless of frontiers. The Parties shall ensure, within the framework of their legal systems, that persons belonging to a national minority are not discriminated against in their access to the media.

2. Paragraph 1 shall not prevent Parties from requiring the licensing, without discrimination and based on objective criteria, of sound radio and television broadcasting, or cinema enterprises.

3. The Parties shall not hinder the creation and the use of printed media by persons belonging to national minorities. In the legal framework of sound radio and television broadcasting, they shall ensure, as far as possible, and taking into account the provisions of paragraph 1, that persons belonging to national minorities are granted the possibility of creating and using their own media.

4. In the framework of their legal systems, the Parties shall adopt adequate measures in order to facilitate access to the media for persons belonging to national minorities and in order to promote tolerance and permit cultural pluralism.

138. The monitoring group thinks that although access to the mass media by people belonging to national minorities is guaranteed by the law, it is still insufficient both at the legislative level and in practice.

140. The authorities are not making quality efforts to expand minorities' access to the media in the language of minorities and ensure their presence in them in order for them to fully exercise their rights protected by the Framework Convention in this sphere. The lack of such efforts causes an information vacuum and in the end, problems that take on an ethnic nature.

141. Despite the authorities' assurances that national minorities have access to information, in reality there are restrictions on the use of minority languages in the public electronic environment, especially on state television.

142. The authorities are not taking necessary and possible measures, including at the legislative level, in order to increase the broadcasting time in minority languages on public television and radio. The monitoring group notes that there is no effective and consistent policy to inform representatives of national minorities in areas they populate. Apparently, this happens partly due to the very low level of support from the state and partly due to the insufficient activity of interested people. For example, despite the aforesaid legal guarantees and some openness of the position taken by the authorities, the monitoring group notes the absence of programmes in the languages of national minorities on public television, except for a 30-minute news bulletin in the languages of several national minorities broadcast on public television once a week, although the population of national minorities is more than one million.

143. The council of national minorities under the Georgian ombudsman says: "The Georgian mass media, especially the central media, are not making reports that would familiarize the population with the culture, history and achievements and problems of national minorities represented in Georgia. They are not familiarizing the main population with people from the national minorities who made a great and positive contribution to the building of Georgian statehood. The Georgian mass media are not covering well enough the problems of representatives of national minorities and the initiation of dialogues to integrate national minorities. The number of categories of information which make it possible to disseminate misinformation among various ethnic groups, encourage false rumours and have a negative impact on civil integration is not being reduced."³⁰

144. We have to say regretfully that there is no high quality media product that would help cover the culture, history and etc. of Georgia's national minorities. There is no state support for such media.

³⁰ A report drawn up by the Georgian ombudsman and the Council of National Minorities of Georgia under the ombudsman with the expert support of the European Centre for Minority Issues, ECMI, "On the implementation by Georgia of the Framework Convention for the Protection of National Minorities"

145. “There is no TV and radio broadcasting in an understandable language for national minorities, especially in areas heavily populated by them, and print publications are rare and are distributed with great delays or are not distributed at all.

146. There is no human and technical support to supply full information to areas heavily populated by national minorities.”³¹ No-one is training personnel from national minorities who could be working in this sphere.

147. Public television does not have enough programmes in the languages of national minorities, and the existing time limit makes information programmes for national minorities absolutely ineffective. There is no information of public importance for national minorities because of the language barrier.

148. The monitoring also showed that representatives of national minorities have complained about the lack of any state support for the establishment of private media companies by people belonging to minorities. Although, according to a poll conducted among representatives of minorities, they have specialists in their national minorities who could ensure the work of such media, they have insufficient opportunities for special training and career growth and have no real support from the authorities. For example, in the town of Marneuli in the region of Kvemo-Kartli, an Azerbaijani-language magazine called “Qarapapaqlilar” was founded with the efforts of the NGO - the Cultural Centre of Azerbaijanis - and a number of activists and journalists. It was pointed out during an interview that they did not and do not have any support from the state. Asked about funding for two editions of the magazine, we received an answer that shows the real state of affairs and the situation surrounding access to the print media – the editor-in-chief of the magazine sold two cows from his own farm. This situation itself is ridiculous and at the same time, significant.

149. The monitoring group notes the presence of several publications some of which are published in the languages of interested ethnic minorities in the region of Kvemo-Kartli, but their circulation and area of distribution are quite restricted and they are distribution with great delays when information in this publication is no longer of public importance.

150. For example, the state report mentions that by 2006, there were a number of publications belonging to ethnic minorities. However, the monitoring revealed that representatives of national minorities are absolutely dissatisfied with the current state of

³¹ The report was drawn up by members of working groups of the Council of National Minorities (CNM) in the apparatus of the People’s Defender of Georgia with the technical assistance of the European Centre for Minority Issues (ECMI) and reflects the opinions and views of both members of the working groups and members of the Council.

affairs and insist that the level of state assistance to the press of national minorities is far from being sufficient.

151. Many activists of the region believe that they do not see the Georgian authorities' efforts to assist and support national minorities in establishing private electronic or print media. The authorities are almost not examining the situation and have still not identified any ways and means of increasing such support. The monitoring group notes the absence of applications to license audio and video broadcasting from people belonging to national minorities in the region of Kvemo-Kartli. One of the main reasons is linked to the authorities' lack of interest in solving this issue and rendering assistance.

152. The authorities are not interested in organizing consultations with national minorities in this sphere.

153. The head of the "Mtredi" NGO, Sabina Talibova, said: "Public television and other channels do not have analytical and scientific-popular programmes on the culture of national minorities, and no programmes are being translated into the languages of national minorities. All this is a matter of concern for ethnic minorities, specifically, for ethnic Azerbaijanis."

154. There is no doubt that certain efforts by the state can be seen as a sign of the authorities' increasing interest in ethnic integration, but there is no point in talking about its practical effect.

155. "The lack of encouragement for information about tolerance and ensuring of cultural pluralism promotes the process of disintegration between various ethnic groups of Georgian citizens, creates a favorable environment for ethnic intolerance and has a negative influence on the civil and social-cultural integration of Georgian citizens."³²

Article 10

1. The Parties undertake to recognise that every person belonging to a national minority has the right to use freely and without interference his or her minority language, in private and in public, orally and in writing.

2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties shall endeavour to ensure, as far as possible,

³² The report was drawn up by members of working groups of the Council of National Minorities (CNM) in the apparatus of the People's Defender of Georgia with the technical assistance of the European Centre for Minority Issues (ECMI) and reflects the opinions and views of both members of the working groups and members of the Council.

the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities.

3. The Parties undertake to guarantee the right of every person belonging to a national minority to be informed promptly, in a language which he or she understands, of the reasons for his or her arrest, and of the nature and cause of any accusation against him or her, and to defend himself or herself in this language, if necessary with the free assistance of an interpreter.

156. The monitoring group welcomes the fact that the Constitution grants citizens belonging to national minorities the right to maintain their traditions and develop their languages and cultures, as well as guarantees national minorities freedom to use their language in the country's territory.

157. The monitoring group notes regretfully that maintaining the identity of minorities by means of the minorities' languages is one of the main problems voiced by all representatives of national minorities. They think that the state should invest more in this sphere in order to facilitate the opportunity for all people belonging to national minorities to use their language rights.

158. The monitoring group notes that representatives of national minorities think that except for the aforesaid guarantee to use freely and without interference their minority language, in private and in public, orally and in writing, Georgian legislation does not ensure proper protection for minority languages.

159. The monitoring group notes regretfully that the access of people belonging to national minorities and their presence in public electronic media are quite restricted. Regarding programmes or media in minority languages, the last few years have seen a tendency to reduce them.

160. The ombudsman's report says: "In the regions heavily populated by national minorities, the languages of the national minorities are often used by the population in communication with the local authorities, but despite these realities, there is no legislative base that would bring local legislation in line with the Framework Convention for the Protection of National Minorities.

161. In areas sparsely populated by national minorities, state officials, according to the current law on the language, are demanding that the national minorities which do not speak Georgian, the state language, file their written applications in Georgian, which makes communication with the local and regional authorities more difficult. In areas heavily populated by national minorities where employees of the local and regional

authorities are often representatives of national minorities, communication is conducted in the language of the national minority or in Russian whereas the law does not provide for such a right and makes this practice illegal³³.

162. The Georgian government has adopted a resolution on the ratification of the 13 October 2005 Framework Convention for the Protection of National Minorities, which the authorities used to try to restrict the force of Article 10 of the FCNM concerning the possibility of using minority languages in areas heavily populated by national minorities in internal legal procedures, office work and in relations with the local administrative authorities (see more details in the commentary on Article 2 of the FCNM).

163. The law does not contain any details on the use of minority languages in relations with the administration and does not help most of the national minorities to communicate, since the law says directly that all participants in state relations should use only the state language – Georgian, whereas most of the national minorities do not speak Georgian in areas heavily populated by national minorities.

164. Due to the current state of affairs, the Georgian authorities say that in the regions populated by a considerable number of people belonging to national minorities, the local authorities usually consist of representatives of national minorities, which de facto prompts society to use the language of the minority in relations with the administrative authorities, i.e. the local executive authorities use Russian or the language of the national minority in their mutual relations with representatives of national minorities. But the main language of communication for the local administration, when officials are from the titular ethnic group and national minorities, is Russian. The situation in regions is very contradictory. This means that the local executive authorities break the law on the state language due to the situation and this happens on a mass scale³⁴.

165. The monitoring group welcomes the fact that at the legislative level, the state gives all people from national minorities involved in criminal legal procedures the necessary guarantees to exercise their right to know about the causes of their arrest and defend themselves in the language they understand.

166. Alla Bezhentseva, head of the “Etno” NGO, said: “The extremely low quality of translations and untimely supply of interpreters guaranteed by the law have repeatedly caused problems for people involved in criminal legal procedures, and there have been

³³ A report drawn up by the Georgian ombudsman and the Council of National Minorities of Georgia under the ombudsman with the expert support of the European Centre for Minority Issues, ECMI, “On the implementation by Georgia of the Framework Convention for the Protection of National Minorities”

³⁴ An interview granted by representatives of the Georgian authorities at the human rights committee of the 91st UN session, Geneva 15 October – 2 November 2007. Consideration of reports submitted by states according to Article 40 of the Covenant on Civil and Political Rights

a great number of cases when representatives of national minorities were not provided with interpreters.”

167. The monitoring group notes that there is a great need to develop special education programmes and open special courses to train interpreters who specialize in administrative terminology in the state language and in the languages of national minorities. The authorities do not think it necessary to certify these interpreters through tests. The Georgian government has not provided funding for a necessary number of certified interpreters in Georgian administrative bodies, especially in regions heavily populated by the national minorities of Georgia in order to ensure the high quality translation into the state language of appeals from representatives of national minorities or office work in administrative bodies of regions and districts populated by national minorities.

Article 11

1. The Parties undertake to recognize that every person belonging to a national minority has the right to use his or her surname (patronym) and first names in the minority language and the right to official recognition of them, according to modalities provided for in their legal system.

2. The Parties undertake to recognize that every person belonging to a national minority has the right to display in his or her minority language signs, inscriptions and other information of a private nature visible to the public.

3. In areas traditionally inhabited by substantial numbers of persons belonging to a national minority, the Parties shall endeavour, in the framework of their legal system, including, where appropriate, agreements with other States, and taking into account their specific conditions, to display traditional local names, street names and other topographical indications intended for the public also in the minority language when there is a sufficient demand for such indications.

168. Georgian legislation does not contain bans on the use of any languages in this sphere. Georgian legislation does not regulate issues of using languages in private informal relations, as well as in the activities of public associations and organizations. In this regard, public organizations, cultural associations and enterprises set up by national minorities have the right to use their name in their own language in informal relations at their own discretion.

169. The monitoring group notes that Georgian legislation does not contain provisions on the possibility of using minority languages for local names, street names and other topographical names meant for the public.

170. The monitoring group notes that in Georgian legislation there is no accuracy regarding the possibility of using minority languages in topographical indications³⁵.

171. Up till now, legislation does not contain a norm that would make it possible for representatives of national minorities to display their geographical topographical indications in their own language.

172. Although there is a need for geographical and topographical indications in the language of national minorities in areas heavily populated by them, there is still no fair norm that would regulate this issue.

173. It is logical that while ratifying the FCNM, it was necessary to adopt and amend a number of organic norms in the internal legislation of the state. But the Georgian parliament did not adopt any legal norm regulating the use of geographical names, topographic indications, signs and inscriptions in the language of national minorities in regions heavily populated by them. The local government bodies, even if there is a sufficient need for that, do not solve the issue of using topographical indications and geographical names in the language of national minorities together with the state language. Many officials of the local authorities do not see the FCNM as an integral part of Georgian legislation. The monitoring group has repeatedly witnessed that the level of awareness of the FCNM is very low. It is so low that local officials are not familiar with the contents of the FCNM and do not know that Georgia has ratified this convention, although they run population centres populated by ethnic minorities.

174. On 27 August 2007, an initiative group from the village of Mugalno in Gardabani District of the region of Kvemo-Kartli (ethnic Azerbaijanis comprise 100 per cent of the village population) filed a request to install a stencil indicating the name of the village in the state language and in the language of the national minority living in this area, in this case, in Azerbaijani. The local executive authorities of Gardabani District did not reply to this letter officially in the first six months, and during daily meetings³⁶ with members of the initiative group, they unofficially said that they did not think it expedient to display the name of this village in the language of the national minority and that it was impossible to install a stencil in any language but the state language. On behalf of the Tolerance

³⁵ For example, the names of 32 ethnic Azerbaijani villages, rivers and mountains were replaced with Georgian names in the early 1990s, Stuart Kaufmann *“Modern Hatreds: The Symbolic Politics of Ethnic War”* (Ithaca, 2001), p. 127; Elizabeth Fuller *“Azerbaijani Exodus from Georgia Imminent?”*, RL, 15 February 1991

³⁶ The distance between the district centre and the village is 60 km, which makes up 120 km every time

NGO, a letter was sent to Rtsmunebuli (head of the region of Kvemo-Kartli) and to the head of the Gardabani District executive authorities, which quoted Article 11 of the FCNM and asked for permission to install this stencil. The authorities showed no interest in solving this issue. Only on 28 January 2008, was an unofficial response received from the head of the local administration, Zura Burtikashvili, who said that this was not in their interests and in the interests of the village of Sartichala³⁷ (where representatives of the titular ethnic group comprise 99 per cent of the population) which borders on the village of Mugalno. That's to say he let it be known that there was an intention to abolish the name of the village of Mugalno, populated by ethnic Azerbaijanis, and to merge it with the village of Sartichala where most of the population represent the titular ethnic group. Only six months later, on 28 January 2008, was a reply received from the Gardabani District executive authorities that this issue can be solved by the municipal assembly of the district. At present, the request has been forwarded to the municipal authorities. No reply has been received yet.

175. The protracted nature of the reply to the request to install a stencil and unwillingness to render any assistance, and the possibility of the district municipal assembly, staffed mainly with representatives of the titular ethnic group, solving the issue make it impossible and unrealistic to implement Point 3 of Article 11 of the FCNM.

176. This example shows that the ratification of and familiarization with the Framework Convention for the Protection of National Minorities were not carried out in the regions at the appropriate level.³⁸

177. The public association The Congress of Azerbaijanis of Georgia, which unites 12 NGOs and more than 100 activists from three regions of Georgia, announced its own view of the situation surrounding Article 11 of the FCNM in the region of Kvemo-Kartli: "Regardless of what ethnic minorities in the region are demanding, the Georgian authorities are not allowing information posters to be displayed and the area and population centres of ethnic minorities to be indicated (even if ethnic minorities comprise 100 per cent of the population). In areas populated by ethnic Azerbaijanis (according to some information, for more than 1,000 years) there are names for areas, population centres, villages and rivers. These names reflect the history of these population centres

³⁷ Until 2003, the name of the village of Mugalno was written in passports issued to the residents of Mugalno, but after that, the passport office of the region of Kvemo-Kartli removed the name of the village of Mugalno and started writing the name of the village of Sartichala in new passports. This is clear assimilation and indicates plans to erase the name of the national minority's village from the map of Georgia.

³⁸ During their meeting with employees of the Tolerance NGO, lawyers of the Gardabani District executive authorities were surprised when they learnt about the presence and ratification by Georgia of the Framework Convention for the Protection of National Minorities.

and ethnic minorities living there. Unfortunately, the Georgian authorities have taken the path of changing these names to Georgian names that are unclear to the local population. All this is being done in order to erase the history of the region and make the aboriginal population – Azerbaijanis – lose their identity. For example, this process can be clearly seen in Bolnisi District, and these processes are also under way in Dmanisi, Marneuli and Gardabani districts. Such a policy by the Georgian authorities is perceived negatively by the local population and serves as a reason for ethnic tensions in the region. There have been cases when agsaqqals (community leaders – elders respected by society) appealed to the authorities over this problem, but unfortunately, there was no reaction. Ethnic minorities, specifically ethnic Azerbaijanis, believe that the authorities are interested in changing place names and have created conditions for this process. All this creates distrust between the Georgian authorities (both central and local) and ethnic minorities.

Article 12

- 1. The Parties shall, where appropriate, take measures in the fields of education and research to foster knowledge of the culture, history, language and religion of their national minorities and of the majority.*
- 2. In this context the Parties shall inter alia provide adequate opportunities for teacher training and access to textbooks, and facilitate contacts among students and teachers of different communities.*
- 3. The Parties undertake to promote equal opportunities for access to education at all levels for persons belonging to national minorities.*

178. The monitoring group notes that there are no programmes that would teach the culture, history, religion and traditions of people belonging to the national minorities of the region, either in Sunday classes or in ordinary curriculums.

179. According to the Constitution, every Georgian citizen is guaranteed the right to education. However, with regard to people belonging to national minorities, regardless of the general guarantee, the state is not conducting an active education policy that would meet the interests of national minorities. With regard to such people, there is little and in some cases, no support for national minorities in the sphere of culture, national history, language and religion. Representatives of national minorities in the region of

Kvemo-Kartli say that the authorities have let things take their course or rely on the actions of interested people and aid from kindred states³⁹.

180. The state justifies this situation and cites serious economic difficulties facing the country. The Georgian authorities justify the lack of their full participation in this sphere by practical measures, and there is no support to allow these people to exercise their right to education and help them understand the culture, history, languages and traditions of both national minorities and the main population. However, many representatives of national minorities describe such a justification as an attempt to hide the real reasons and talk about veiled forms of discrimination.

181. Among the shortcomings voiced by representatives of national minorities, there is the lack of teachers for schools of national minorities, the lack of kindergartens for children belonging to national minorities and the lack of state support for this sphere, as well as the lack of suitable textbooks and curriculums. An education expert and the editor of the Azerbaijani-language newspaper Maarif, Aladdin Qarabagli, said: “Currently, there are no teachers below 35 in Azerbaijani-language schools. This shows that the training of personnel for schools of ethnic Azerbaijanis has been stopped now. More than 90 per cent of teachers are above 45. No-one is applying to enter pedagogical institutions of higher education, because they have been put in unequal conditions and have unequal access to higher education – the obstacle is that they do not speak the Georgian language which has been taught quite superficially in the region for many years. There is no hope on a new generation of Azerbaijani teachers for Azerbaijani-language schools. The situation is almost the same in all parts of the region of Kvemo-Kartli. For example, 20 teachers are working in the secondary school in the village of Agtekle in Gardabani District. Ethnic Azerbaijanis comprise most of the village population, and there is an Azerbaijani school. Seven teachers are Georgians who do not speak the language of the ethnic minority and are unaware of the mentality and cultural features of the national minority. Of the 13 teachers working here, 10 are at the retirement age and three are above 50. A question mark will be hanging over the belonging of the school in the future, because there will be no-one to physically replace the ethnic Azerbaijani teachers. If we carry out a statistical survey in secondary schools among ethnic minorities of the region, we will see that 90 per cent of teachers are at the retirement or pre-retirement age. Their departure from the school in the near future will deprive the schools of their ability to work. In the long-term, it is expected that teachers in schools of ethnic minorities will be replaced by Georgian-speaking teachers, which

³⁹ Crisis Group Europe Report No 178, 22 November 2006

will mean an automatic switch to Georgian-language schools and deprive people of access to education in their native language.

182. Kindergartens which nurtured children in the languages of national minorities have been closed down in the region of Kvemo-Kartli.

183. In Georgia there is an acute and widely recognized need for education systems, programmes and methods that would make it possible to solve two tasks: First, it is necessary to train teachers to work in ethnically mixed forms and develop skills of communication and conflict settlement in such an environment, and second, it is necessary to develop methods and programmes of cultural communication and tolerance. The authorities are not doing anything in connection with these tasks.

184. It must be said that relevant programmes and methods are developed and introduced within the framework of isolated projects and remain the business of individual non-government organizations, not one of the recognized directions of the state education policy.

185. The Georgian ombudsman and the council of national minorities of Georgia under the ombudsman say in a report prepared with the expert assistance of the European Centre for Minority Issues, ECMI: "Although there is a state programme on the teaching of the state language in Georgia, most of the national minorities, especially in areas heavily populated by them, do not speak the state language. Their lack of knowledge of the state language delays the social and cultural integration of representatives of national minorities, creates conditions for the social, political and cultural isolation and rules out their effective participation in the state, public, political and economic life of the state... The low level of knowledge of the state language often prevents the national minorities from getting higher education.

186. The chairman of the Association of Azerbaijani Teachers of Georgia, Shirvan Zeynalov, said: "The teaching of the state language in non-Georgian schools, their programme and quality do not provide those who graduate from these schools with the level of language skills that would give them a chance to continue their education in institutions of higher education, especially in areas heavily populated by ethnic minorities. Therefore, university entrants from national minorities cannot study in Georgian institutions of higher education, and very often, it serves as a reason for young people to go abroad, which increases emigration among national minorities, especially young people."

187. In areas heavily populated by national minorities, the quality and level of the teaching of the state language are extremely low in secondary schools, and Georgian

language teachers, with little exception, do not have the required qualification to teach representatives of national minorities. Apart from great financial, administrative and technical difficulties, one of the most acute problems is the lack of teachers with relevant qualifications⁴⁰.

188. Although there is a law that allows Sunday schools and other optional classes in order to teach the language and history of national minorities, such activity is still at a very low level due to the lack of state support.

189. It must be noted regrettably that there is still no real operating structure that would help draw up curriculums for national minorities in state schools, draw up textbooks and find financial means jointly and in cooperation with people belonging to national minorities and their associations. Alla Bezhentseva of the “Etno” NGO said: “If the authorities refer to such an agency, for example the Ministry of Education, I can say that such agencies have a purely formal nature and nothing depends on them.”⁴¹

190. Various ethnic groups in the region are little involved in cultural dialogue, and the state is not stimulating them and is not carrying out programmes to popularize and promote the culture, history, language and religion of national minorities represented in Georgia. Such a state of affairs paves the way for discrimination, xenophobia and ethnic strife on grounds of ethnic affiliation⁴².

191. The project “Italian Courtyard” on Georgia’s Public TV channel can serve as a negative example. In this case, public television tried to talk about national minorities – Azerbaijanis – in a talk show. The talk show featured people who do not represent the intelligentsia or prominent cultural figures or artists, but 15-19-year-old young people. This fact caused stormy protests from most of the Azerbaijanis due to its bias and disparagement of the cultural values of ethnic Azerbaijanis.

192. Georgian institutions of higher education do not provide knowledge and information about national minorities living in Georgia, about their culture, history, religion and other important issues. This problem increases ethnic tensions, the negative attitude, stereotypes and ethnic strife. It also has a negative impact on civil integration and on the establishment of an atmosphere of tolerance⁴³.

⁴⁰ This information was made public at a meeting with more than 30 Azerbaijani school principals from the region populated by ethnic Azerbaijanis in the office of the NGO Georgia is My Homeland in October 2007.

⁴¹ Interview with Alla Bezhentseva, February 2008

⁴² A report drawn up by the Georgian ombudsman and the Council of National Minorities of Georgia under the ombudsman with the expert support of the European Centre for Minority Issues, ECMI, “On the implementation by Georgia of the Framework Convention for the Protection of National Minorities”

⁴³ A report drawn up by the Georgian ombudsman and the Council of National Minorities of Georgia under the ombudsman with the expert support of the European Centre for Minority Issues, ECMI, “On the implementation by Georgia of the Framework Convention for the Protection of National Minorities”

193. The monitoring group states with anxiety that there is no active state support for people belonging to national minorities in the sphere of education, and that the assistance rendered by the state to the initiatives of the latter is not enough. The authorities are not making efforts in this sphere in order to allow these people to use their right of equal access to education and their right to understand the culture, history, languages and traditions not just of minorities, but also of the main population, except for ethnic minorities from the higher education system.

194. We would like to draw special attention to the fact that there are problems regarding equal educational opportunities for people belonging to national minorities. The state is not securing equality that ensues from the essence of the Framework Convention which requires active and real state involvement⁴⁴.

195. In this context, it must be noted that 95 per cent of university entrants from national minorities in areas heavily populated by national minorities have no right to education due to the introduction of nationwide exams, which gave a large-scale boost to the emigration of students from ethnic minorities.

196. In Georgia, there is a need for higher education in the language of minorities and such a need is substantiated by the number of those who wish it. Representatives of national minorities should have access to higher education in their native language. Over the last two or three years, this right has become more transparent and inaccessible year by year. Higher education in the language of minorities becomes accessible if there are necessary conditions in relevant educational organizations⁴⁵. In reality, there is a tendency to destroy the already existing conditions and replace them at an unjustifiably rapid pace, which does not meet the interests of minorities and the requirements of representatives of this national minority.

197. In order for minorities to be actively involved in all spheres of the country's public life, many of their representatives must have higher education. Nationwide entrance exams were launched in 2005.⁴⁶ Extremely superficial measures were taken to meet the requirements of the minorities: university entrants who applied to non-Georgian

⁴⁴ Certain sources at the Ministry of Education reported that there was an intention to simplify the acceptance of university entrants from ethnic minorities in 2008.

⁴⁵ Azerbaijani MP Qanira Pasayeva: "Saakashvili is not keeping his promise to finance the education of talented Azerbaijani youth". Pasayeva said that Georgian President Mikhail Saakashvili, during a meeting with local Armenians while in Javakheti, promised them that every year 100 talented young girls and boys will be selected to study at the expense of the State Fund. "The same thing was promised to our countrymen before the elections. But nothing has been done yet," Pasayeva said. "Our youth in Georgia have a lot of social and economic problems. If they can study in good universities, this will help them integrate into Georgian society," the MP said in conclusion. 14 July 2007 [16:15] Day.Az

⁴⁶ The exam covered four compulsory subjects: Georgian language and literature, foreign language, common skills and mathematics.

language faculties were allowed to sit a simplified Georgian language exam. However, the level of knowledge of the Georgian language in minority school was so low that university entrants could not pass even the simplified tests. In 2005, only 17 of the 1,012 Azerbaijani school-leavers in the town of Marneuli (in the region of Kvemo-Kartli populated by ethnic Azerbaijanis) managed to enter Georgian institutions of higher education.⁴⁷ In 2006, these privileges were abolished and all university entrants were put in an equal position. As a consequence, in 2007 only 47 of the 9,000 ethnic Azerbaijanis who left school managed to enter institutions of higher education. The remaining university entrants were forced to go abroad and enter universities in the Azerbaijan Republic and other countries.

198. Being incapable of passing the Georgian nationwide exam, school-leavers go to study in Azerbaijan. In September 2006, the Azerbaijani government launched a programme to pay annual stipends to 40 ethnic Azerbaijanis from Georgia – students of Baku Pedagogical University. Many students never go back to Georgia, which causes a “brain drain”. Kvemo Kartli, where there are very few Azerbaijanis who have higher professional education and work for the state, can hardly afford to allow this to happen.⁴⁸

199. Unfortunately, the Georgian authorities do not look on such a tendency as something that threatens people’s culture and right to use their native language and as unequal and discriminatory access for ethnic minorities to higher education.

200. According to our sources, the problem of low or nonexistent state support, which cannot be compensated by aid from a kindred state, is supplemented with high levels of truancy, partly for economic reasons and partly due to the lack of textbooks, books, the Internet and so on.

201. In society, ethnic minorities are holding heated discussions as to whether it is necessary to review legislation in the sphere of education in order to foil deliberate discriminatory practices with regard to minorities and improve their access to higher education in their native language.

202. The monitoring group also notes that university entrants and in most cases, pupils belonging to national minorities regard as discriminatory the fact that information about university entrance exams is printed only in Georgian, just like the organization of school exams and nationwide entrance exams to institutions of higher education.

⁴⁷ In 2005, only 26 Azerbaijanis of the 32,000 university entrants (in the whole country) successfully passed the exam. Information from the National Centre for Appraisal and Exams is cited by Sevinc Huseynzada in “Integration of Azerbaijani Population to the society of Georgia”, *Brosse Street Journal*, 14 September 2006.

⁴⁸ See Denise Defflon’s “Managing Ethnic Diversity in Javakheti: Two European Models of Multilingual Tertiary Education”, Working Report No 25 of the European Centre for National Minorities, February 2006, pp. 4-5

203. The monitoring group discovered that no quotas had been established to guarantee the access of students belonging to national minorities to higher education, specifically to courses for people who wish to teach the minority language in their own community⁴⁹.

204. It must be noted regrettably that professional education in the minority language is not accessible enough, although representatives of national minorities have repeatedly expressed their desire and demand for it and such a need is substantiated by the number of those who wish it. There is no point in talking about the presence of some educational programmes for professional colleges teaching in the native language, guaranteeing that after completing these programmes, students will be able to work on their speciality both in their native and state language.

205. The monitoring group notes with anxiety the lack of resources for the normal work of schools of national minorities and the related lack and reduction of such schools. This is another factor that deprives people of equal opportunities to get their education in their native language.

Article 13

1. Within the framework of their education systems, the Parties shall recognize that persons belonging to a national minority have the right to set up and to manage their own private educational and training establishments.

2. The exercise of this right shall not entail any financial obligation for the Parties.

206. According to Article 12 of the Georgian law “On higher education”, national minorities can set up and manage their own private institutions in the sphere of education and teaching – both a legal entity of private law and an institution of higher education in the form of a legal entity of private law can be set up in compliance with the Georgian law “On entrepreneurship” and the Georgian Civil Code. This activity is regulated by Article 57 on the licensing of higher education activity, which says that an institution of higher education is licensed in compliance with this law and the Georgian law “On the licensing of entrepreneurial activity and grounds to issue permission”.

207. At the same time, the law on higher education bans any discrimination in the sphere of higher education, including because of people’s academic, religious or ethnic affiliation, or/and because of their views, sex, social origin and other signs (Point G of Article 3 of the law “On higher education”) and ensures the accessibility of higher

⁴⁹ The situation is described on the basis of information available before March 2008.

education and its open nature... and the possibility of getting higher education... and bans any discrimination in the sphere of higher education, including because of people's academic, religious and ethnic affiliation or/and their views, sex, social origin and other signs. (Point I of Article 3 of the law "On higher education")

208. However, according to Article 4 of the Georgian law "On higher education", the language of teaching in institutions of higher education is Georgian and in Abkhazia – Abkhaz. Teaching in other languages, except for individual training courses, is allowed if it is envisaged by an international agreement or agreed with the Georgian Ministry of Education and Science.

209. The small number of private schools for minorities is explained by several reasons. A considerable number of people who regard themselves as representatives of national minorities are trying first of all to secure the integration of their children into modern urban life. They want to get their children educated on the most needed and prestigious specialties and do not want their children to emigrate to other countries due to education problems. Going to school "with an ethnic component", which, as a rule, is forced to accept children from the whole region is extremely inconvenient for those who live far away. The reason is the lack of certain status for private schools "with an ethnic-cultural component" and the fact that state does not recognize the equality of the school leaving certificate issued by private schools.

210. The education activity of ethnic NGOs is mostly limited to language courses and summer language camps for children. There have been no cases when pre-school or general education institutions would be founded or co-founded by ethnic NGOs.

211. Activists of the region of Kvemo-Kartli repeatedly said in their interviews that in the current situation, people who could open private institutions of education in the native language of ethnic minorities have no interest in this because they do not see any prospects. The parents of children from ethnic minorities are forced to send their children to schools that do not teach in their native language. In an interview in the village of Mugalno, parents said that if they want to get their children educated in their native language, they will be forced to send them to Azerbaijan, which means that they will have to part with the loved ones and relatives and that they might stay and work outside Georgia – away from their homeland – which they do not want to allow.

Article 14

1. The Parties undertake to recognize that every person belonging to a national minority has the right to learn his or her minority language.

2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if there is sufficient demand, the Parties shall endeavour to ensure, as far as possible and within the framework of their education systems, that persons belonging to those minorities have adequate opportunities for being taught the minority language or for receiving instruction in this language.

3. Paragraph 2 of this article shall be implemented without prejudice to the learning of the official language or the teaching in this language.

212. The right to education mostly proclaims the right of minorities to maintain their collective identity by means of studying their native language. The right of minorities to maintain their collective identity through their language should be balanced with their responsibility for integration and participation in a wider civil society. Such integration requires the acquisition of appropriate knowledge of this society and the state language.

213. The issue of access to the native language by means of education for ethnic minorities, especially education in the language of minorities and its teaching, is a top priority among problems related to ethnic minorities in Georgia. It has become obvious that education is an exceptionally important factor to maintain and deepen the identity of representatives of national minorities and their access to their native language.

214. In Georgia the right of representatives of national minorities to maintain their identity and access to their native language can be fully exercised only if they get proper knowledge of their native language during the educational process. It is clear that at the same time, representatives of national minorities are responsible for integration into the society of their state by acquiring sufficient knowledge of the state language.

215. The principle of giving people belonging to national minorities an opportunity to maintain their identity “only if they receive proper knowledge of their native language during the educational process” and the principle of responsibility for “integration into the wider national society by acquiring sufficient knowledge of the state language” should be merged.

216. It is the duty of the state to take special measures, whenever required, to ensure the active implementation of the language rights of minorities in the sphere of education, using maximum available resources, both independently and by means of international aid and cooperation. The regional and local authorities should be granted relevant powers in the sphere of education for minorities, which implies assistance to “minorities’ participation in the process of forming a policy at the regional and (or) local level”.

217. In Georgia there used to be a well-established (Soviet legacy) system of primary and secondary education in minority languages.⁵⁰ This is praiseworthy, but at the same time, this system promotes language segregation.

218. Georgia is now trying to solve this task, but unfortunately, it does not take account of the rights and freedoms of minorities – in some cases, it belittles the rights of minorities. According to the head of the NGO Georgia is My Homeland, Ali Babayev: “The authorities are taking measures to use the restriction on education in the native language as an instrument of the veiled form of assimilation”.

219. Comprehensive reforms in this sphere have begun, but the existing normative-legislative base on issues of education in Georgia causes great concern among representatives of ethnic minorities and doubts among experts about the effectiveness of such methods of the accelerated introduction of the Georgian language in the sphere of general and higher education.

220. The previous Georgian education law of 1997 granted people belonging to ethnic minorities the right to receive instruction in their native language. Article 4 of the law said that “following recommendations from the local government bodies, the state creates conditions for Georgian citizens for whom the Georgian language is not their native language, to set up institutions or sectors of basic or secondary education where teaching will be conducted in their native language”. Currently, Georgia has adopted some new normative-legal norms in the sphere of general and higher education, which try to regulate the problem of using the state language and minority languages in a somewhat different way. According to the new law on general education adopted in 2005, “the language of teaching in general institutions of education is Georgian and in the Abkhaz Autonomous Republic – Georgian and Abkhaz” (Article 4.1), although at the same time, “citizens whose native language is not Georgian have the right to receive full general education in their native language” (Article 4.3). This, of course, shows that education in minority languages in Georgia is allowed for the time being, but the at the same time, the new law envisages that all ethnic schools should switch to new Georgian curriculums, according to which by the 2010-2011 academic year, the Georgian language and literature, the history and geography of Georgia, as well as “other public sciences” should be taught in these schools only in Georgian (according to Articles 5.4 and 58.5). The sphere of higher education is regulated by the 2004 law on higher education. Article 4 of this law also says that “the language of teaching in institutions of

⁵⁰ According to the 2005 law on general education (Article 4.3), “Georgian citizens for whom Georgian is not their native language have the right to receive full education in their native language in compliance with the national curriculum. The teaching of Georgian, the state language, is compulsory at such institutions.”

higher education is Georgian and in Abkhazia – also Abkhaz”, although the same article contains quite a vague formulation that “teaching in other languages, except for individual language courses, is allowed if it is envisaged by international agreements or agreed with the Ministry of Education and Science of Georgia”. Moreover, Article 89 of the law establishes single national entrance exams in Georgian for all the institutions of higher education accredited by the state in Georgia and defines four subjects on which it is necessary to pass tests for entrance exams to these institutions of higher education: the Georgian language and literature, general development, a foreign language (English, German, French or Russian) and mathematics. The same article of the law stipulates that in the following years, the single national exam in Georgia will also include new subjects.

221. The parliamentary committee for issues of education said that teaching in non-Georgian languages is “anti-constitutional”. According to the chairman of the committee, in the long-term it is necessary to secure full transition to teaching in the Georgian language.⁵¹

222. The head of the “Mtredi” NGO, Sabina Talibova, said: “Today the Georgian authorities are not taking seriously the problem of minorities’ rights in the sphere of education. The state is not taking necessary measures, is not using available means and is resorting to international assistance and cooperation in order to actively implement minorities’ right to education in their native language and to teach and develop it, and maintain the culture and traditions of ethnic minorities.”⁵²

223. The state is taking limited measures to encourage parental participation and possibilities of choice in the education system at the local level, including in the sphere of education in the language of minorities and its teaching. The powers that were given to parents while electing the principals of secondary institutions of education have a strictly representative function and the final result of the election does not depend on their decision. This prerogative is given to the Ministry of Education. According to the rules introduced by the Ministry of Education, if candidates to the post of school principal are not approved by the Council of Guardians of an institution of education twice, the Ministry of Education appoints them to this post the third time.

224. The number of native language and literature lessons is gradually being reduced in Azerbaijani schools. Weekly hours are being reduced and given to teaching in Georgian (the state language). People’s right to access their native language cannot be reduced

⁵¹ Kort, Stepanyan and Muskhelishvili, “Language Policy”, op. cit.

⁵² The interview was taken in January 2008.

by boosting teaching in the state language. Unfortunately, very often such intentions are accompanied by the involvement of unprofessional teachers in teaching children from ethnic minorities, and they do not know the language, culture, mentality of the ethnic minority they are teaching. Very often, the teachers themselves do not know very well the Georgian language the level of which could help the teaching process⁵³.

225. The first years of education are of decisive importance to the development of a child. According to surveys conducted in the sphere of education, a child's native language is a perfect means of education in the pre-school period and in the kindergarten. The state is gradually reducing the number of kindergartens in the language of national minorities and transforming them into Georgian-language kindergartens. At present, there is a very restricted number of kindergartens left which are working in the language of the minority, compared to what we had five years ago. As a result of this, there are no conditions in the regions which would allow parents to have a choice to give their children the education and primary pre-school training in their native language.

226. It is well-known that the curriculum in a primary school should be taught in the language of the minority. The language of the minority must be taught as a subject on a permanent basis. But in fact, the language of the minority in primary and secondary schools of national minorities is being replaced with the state language on a mass scale. Monolingual teachers and principals who speak only the state language are being appointed. In this situation, one very important factor is being ignored – when the teachers and principals have a very superficial idea of the cultural and language peculiarities of children from ethnic minorities. For example, according to official information, principals who do not speak Azerbaijani have been appointed to Azerbaijani schools in the villages of Nahaduru in Bolnisi District, Asagi Saral and Candar in Marneuli District and Tazakand, Agtekle, Muganli and Vakhtangisi in Gardabani District in the region of Kvemo-Kartli.⁵⁴

227. By 2010, the Georgian government is planning to transfer a considerable part of the curriculum to teaching in the official language, not in the language of the minority. Many teachers and principals of Azerbaijani schools said in an interview: “We fear that the language of the ethnic minority may be left in the curriculum as a foreign language.”

⁵³ The interview with the editor of “Maarif” newspaper, Aladdin Qarabagli, 2008

⁵⁴ The Azerbaijani ambassador to Georgia: “Principals who do not speak Azerbaijani have been appointed to Azerbaijani schools in Georgia”, 22 December 2007 [12:36] – Day.Az, <http://www.day.az/news/georgia/102171.html>

228. Everyone agrees that the state language should also be taught as a subject on a permanent basis, preferably by bilingual teachers who understand very well the cultural and language peculiarities of the origin of children. During this period, the number of subjects taught in the state language should remain stable. But this is not the case, and the number of subjects taught in the state language in secondary schools is increasing, while the subjects in the language of minorities are decreasing. Unfortunately, this is happening at quite a spontaneous and uneven pace. Such a pace leaves a great number of people from ethnic minorities without the right to study in their native language, to participate in the public-political life of the country and stimulates not just students' emigration, but also general ethnic emigration.

229. In Georgia the number of secondary schools for ethnic minorities is being reduced. An interview with the chairman of the non-government organization Georgia is My Homeland, Ali Babayev, showed that "before 1990, there were 254 secondary schools for ethnic Azerbaijanis in Georgia. By 2007, the number of these schools was reduced to 114.⁵⁵ About 140 Azerbaijani schools were closed under this or that pretext or were re-qualified. As a consequence, ethnic minorities are losing their right to education in their native language and access to their native language⁵⁶." Noting the cuts of schools for ethnic Azerbaijanis, the Azerbaijani NGOs of Georgia said that "in 2006-2007, the process of merging secondary schools was launched. But this process affected mainly ethnic schools in the region of Kvemo-Kartli. If under the Soviets there were 54 schools for ethnic minorities – Azerbaijanis – in Dmanisi District, in 1998 there were only 29 secondary schools left. By 2008, their number fell to 17 secondary schools. On the whole, 37 schools were closed in Dmanisi District alone. Similarly, the stimulation of ethnic migration has affected Bolnisi District which is populated mainly by ethnic Azerbaijanis. By 1998, there were about 39 schools for ethnic Azerbaijanis, and by 2007, their number fell to 18. Activists from these districts, who now live in the Azerbaijan Republic, describe these facts as a consequence of the cultural expulsion of ethnic minorities from the region."

230. In 2005-2006, secondary schools adopted a system of vouchers (every pupil is given a certain sum from the state budget, and the more pupils a school has, the more money it gets for logistic expenses, wages and other expenses). The work of schools with few children has been paralyzed. In principle, the deficit should be covered by the

⁵⁵ Azerbaijan, Baku (Trend correspondent A. Ismayilova): "The Georgian government is against the sudden closure of numerous schools and says that this process should take place stage-by-stage until 2010. Currently, there are 123 Azerbaijani schools in Georgia. (This information was outdated by that time, as the Maarif newspaper editor said that the number of schools was 114)

⁵⁶ This information was confirmed by a number of other NGOs, including Maarif, Turan and Mtredi

Ministry of Education, but the ministry has no money for this. As a result of such selection, the number of schools for ethnic Azerbaijanis has fallen. The issue connected with the restricted number of pupils tops the agenda in regions heavily populated by ethnic minorities due to the small population of certain villages as a result of discriminatory pressure by the nationalist authorities of Georgia in the 1990s. Currently, there are discussions on the issue of uniting schools in zonal groups, which will reduce the number of schools for ethnic minorities even more.

231. According to a source from among the teachers, this situation has become even more deplorable due to innovations introduced by the state, according to which it is planned to close all secondary schools where the number of pupils is below 300. In many population centres populated by minorities, the number of pupils is below 300. Such a situation does not create favourable conditions for access to education at all and restricts education opportunities for minorities. The state is redirecting the pupils of these schools to other schools without considering the distance, relief and financial difficulties facing pupils and their parents.

232. The ensuring of primary and secondary education in the language of minorities or its teaching depends significantly on the presence of teachers who have undergone training on all subjects in their native language. For this reason, the ensuing duty of the state is to ensure relevant opportunities for education in the language of minorities or its study, to provide sufficiently favourable conditions for the relevant training of teachers and to promote access to such training.

233. In Georgia it is becoming obvious that the number of teachers from national minorities is being reduced and departments and faculties meant to train education personnel for secondary schools are gradually being closed in all universities. The gradual reduction of personnel – teachers – creates a situation when ethnic minorities will face a shortage of personnel and a natural and forced replacement with Georgian-speaking teachers. This will help increase the transition of all secondary schools for minorities from the language of the minority to the state language. Currently, the teams meant to train personnel for secondary schools of Georgia's ethnic minorities have been put on the verge of closure in universities and institutes with the total connivance of the government.

234. The Georgian ombudsman and the council of national minorities of Georgia under the Ombudsman says in a report prepared with the expert support of the European Centre for Minority Issues, ECMI, "On the implementation by Georgia of the Framework Convention for the Protection of National Minorities": In some cases, some

representatives of national minorities have had their education in schools in their native language restricted. The state has not prepared any programme and has not created conditions for a certain category of national minorities to teach their language. Assyrians, Kurds, Ossetians, Kistins, Greeks and others have lost this right. The absence of native language teaching because this group of ethnic minorities is “too small” was not perceived by these national minorities as an excuse for this situation. Assyrians and Yazidi Kurds who do not have kindred states are in an unfavourable position in this issue, and for this reason, the situation in the sphere of education is even more problematic. The state is not considering this fact and is not taking measures to help them protect and assert their linguistic affiliation.

Article 15

The Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.

235. Article 15 of the FCNM compels states to “create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular, those affecting them”. A considerable number of representatives of Georgia’s ethnic minorities do not speak the state language, especially in areas heavily populated by ethnic minorities in the region of Kvemo-Kartli. The isolation of the region heavily populated by ethnic minorities from the centre of the country is not just geographic, but also socioeconomic. The lack of knowledge by a considerable number of representatives of national minorities in this region distances them from the state if the state is not creating incentives for the voluntary study of the Georgian language.

236. The monitoring group notes that legal norms and their applicability in the education system of Georgia cause serious concern among ethnic minorities because in fact they prevent the integration of the young generation of representatives of ethnic minorities living in Georgia into the public-political and cultural life of the country. At the same time, they pose a threat to the formation of a personality, effective education for representatives of minorities in Georgia and maintenance of their national identity.

237. Young people from national minorities prefer learning English, Russian and Turkish rather than Georgian, which increases their emigration opportunities, “explaining this by the fact that they are regarded as ‘second class citizens’ in Georgia and do not see any

future for themselves in Georgia”. Staking only on administrative-coercive methods of teaching the Georgian language in regions heavily populated by ethnic minorities and insisting that there is no alternative to the use of the Georgian language in the sphere of local government, education and legal procedures, the Georgian authorities are actually getting the opposite result. The gradual reduction of education in the native language of minorities and attempts to introduce only the Georgian language by force in the system of office work, legal procedures, general and higher education in regions heavily populated by ethnic minorities increase the ethnic mobilization of the non-Georgian population, stimulate youth emigration and boost the stereotype that they are “second class citizens” and have no future in Georgia.

238. The monitoring group notes that the chances of persons belonging to national minorities to participate in public life, especially in the process of making decisions that concern them, are very slim. Welcoming the fact that several people belonging to national minorities hold posts in the local and regional authorities, the monitoring group believes that the Georgian authorities have not created conditions for ensuring the effective participation of national minorities in public life.

239. The Georgian ombudsman and the council of national minorities of Georgia under the ombudsman says in a report prepared with the expert support of the European Centre for Minority Issues, ECMI, “On the implementation by Georgia of the Framework Convention for the Protection of National Minorities”: “The national minorities are not participating well enough in cultural, social and economic life, as well as in separate processes, for objective and subjective reasons... Representatives of national minorities have quite restricted chances to make certain regional decisions. Specifically, participation and decision-making by national minorities in the legislative and executive authorities is restricted, and the authorities often neglect any consultations regarding this or that decision which concerns the national minorities.” Most of the NGOs affiliated with ethnic Azerbaijanis hold this view.

240. The aforesaid report by the Georgian ombudsman says: “Representatives of national minorities are not well-informed about their civil and other rights. Representatives of national minorities do not have access in the language they understand to legislation and international norms, to which Georgia is a signatory, and there is no state programme that would help solve this problem.”⁵⁷

⁵⁷ A report drawn up by the Georgian ombudsman and the Council of National Minorities of Georgia under the ombudsman with the expert support of the European Centre for Minority Issues, ECMI, “On the implementation by Georgia of the Framework Convention for the Protection of National Minorities”

241. Although some percentage of representatives of national minorities work in areas they populate, their representation in the central and regional authorities is very restricted. You can rarely see representatives of national minorities in a high post. This problem delays the participation of national minorities in cases that concern their problems. For this reason, it is impossible to consider their views and take account of their recommendations.

242. The monitoring group thinks that there is no genuine state policy to protect national minorities and notes difficulties in mutual relations between representatives of national minorities and the local authorities. The monitoring group discovered a number of difficulties in the dialogue between the authorities and organizations of national minorities whose representatives believe that the current measures to hold consultations are extremely ineffective. The monitoring group notes that the Georgian authorities maintain in a very limited manner and without any interest the direct dialogue with organizations that represent ethnic minorities in order to study their specific concerns and act accordingly.

Article 16

The Parties shall refrain from measures which alter the proportions of the population in areas inhabited by persons belonging to national minorities and are aimed at restricting the rights and freedoms flowing from the principles enshrined in the present framework Convention.

243. In certain periods beginning from 1988, displaced persons and ecological emigrants have appeared in Georgia. Ecological migrants were settled in the Georgian region of Kvemo-Kartli which is heavily populated by ethnic minorities. Due to social and material disputes, national minorities believe that their rights were violated because of their ethnic affiliation. Unfortunately, the state has still not developed and launched any programme that would take account of the opinion of the local population while settling ecological migrants in the region heavily populated by national minorities. This region was settled and is being settled without any joint consultations both with representatives of national minorities and the settlers. The national minorities assessed this as an artificial change of the demographic situation.

244. In the region, representatives of national minorities believe that a policy is being pursued to change the demographic balance in the region. By way of confirmation, they cite information that in the period 1997-2006, thousands of ethnic Georgians were

settled in Tsalka District⁵⁸, and mention the government's plans to allocate 700,000 dollars to buy housing for 220 families of ecological migrants.⁵⁹

245. Ethnic Georgian ecological migrants – Svans – were settled in the village of Jandari in Gardabani municipal district (the region of Kvemo-Kartli) which borders on the Azerbaijan Republic. It must be noted that no consultations were held with ethnic Azerbaijanis. In the period 1992-2007, a number of clashes on ethnic grounds occurred in this area, the crime situation was tense and robberies, burglaries and theft of cattle belonging to ethnic minorities were common. However, the state did not pay any attention to the situation surrounding ethnic tensions caused by ecological migrants and assessed this confrontation between the Azerbaijanis and Svans as petty hooliganism and criminal actions. While analyzing interviews with residents of Candari, the monitoring group drew the conclusion that ethnic Azerbaijanis are actually being ousted through changes in the demographic situation and through active pressure from ethnic Svans. As a result, 80 per cent of Azerbaijani residents of Candari were forced to emigrate. Similar situations can be witnessed in Tsalka District where more than 60,000 ethnic Greeks lived.

Article 17

1. The Parties undertake not to interfere with the right of persons belonging to national minorities to establish and maintain free and peaceful contacts across frontiers with persons lawfully staying in other States, in particular those with whom they share an ethnic, cultural, linguistic or religious identity, or a common cultural heritage.

⁵⁸ Under the Soviets, there was only one Georgian village in Tsalka (180 families). Beginning from 1997, within the framework of the government programme on resettlement (according to a 1997 presidential decree on the resettlement of ecological migrants), 297 houses were bought there and it is planned to buy another 400 in 2006. According to official reports, 1,500 Georgian families have been settled there. A Crisis Group interview with the Gamgebeli of the Tsalka municipality, June 2006. However, in reality the Georgian population of this territory seems to be from 6,000 to 9,000. Many bought or illegally occupied houses belonging to Greeks who had emigrated to Greece. A Crisis Group interview with Armenian and Greek activists, June 2006.

⁵⁹ “The Government of Georgia plans to settle Georgian families in Javakheti”, Regnum, 12 May 2006, at www.regnum.ru/news/639074.html. According to the Ministry for Affairs of Refugees and Resettlement, the government, in cooperation with Greece, has started paying compensation to ethnic Greeks whose houses were occupied by people who lost their houses as a result of floods and other natural disasters. “In Tsalka, there are no ethnic problems... but only financial problems. As long as there are houses, we will continue implementing resettlement programmes,” from a Crisis Group interview with a top ministry official, June 2006.

246. On the whole, there is no sign of any activity through which the authorities would be trying to prevent the free and peaceful contacts of persons belonging to minorities across frontiers, although there are numerous violations and restrictions, and violations of the rights of national minorities in villages bordering on Azerbaijan and Armenia.

247. In a number of border checkpoints on the border with Azerbaijan and Armenia, there has been discrimination against representatives of national minorities on the part of customs services. There have been dozens and hundreds of such cases. A poll showed that cases of discrimination and humiliation against people's honour and dignity have been and are quite common every day at the Mtkvari customs and border checkpoints (in the village of Vakhtangisi) which border on Azerbaijan. There have been cases of disproportionate and indiscriminate use of force against representatives of national minorities. Many citizens are afraid to lodge complaints or go to court because they are frightened and are afraid of the customs service, and are afraid of unofficial threats that they may lose their chance to travel through this border and customs checkpoint. Many witnesses talk about cases when fear was fomented.

248. On 23 November, Baxtiyar Zeynalov accompanied his wife who was in her eighth month of pregnancy and his one-year-old child to Azerbaijan. They crossed the border at the Vakhtangisi customs checkpoint. Having approached the border, the family encountered inappropriate, rude and brutal treatment from one of the members of staff of the customs service who insulted the honour and dignity of the family. According to Baxtiyar Zeynalov, the customs officer placed an emphasis on the fact that the family was not Georgian and shouted clearly discriminatory statements about their affiliation with an ethnic minority – Azerbaijanis. The family was not allowed to cross the border for two hours without any explanation. His pregnant wife carrying her one-year-old son experienced humiliation, fear and great stress in rainy and cold weather, which may have caused premature birth and an illness. A complaint about this incident was sent to the acting president, Nino Burjanadze, and to the Georgian customs service. But most of the violations remain unnoticed, are never submitted to court and are never investigated publicly, not to mention the punishment of an official or prevention of such a practice.

249. The border at the checkpoint in the village of Vakhtangisi, which borders on the Azerbaijan Republic (the village is divided into two sectors – Georgian and Azerbaijani), is regularly closed from the Georgian side from 2200 to 0800. Vehicles with Azerbaijani registration numbers are not allowed to cross the border and are forced to make a

detour of more than 150 km to cross the border at another checkpoint called The Red Bridge⁶⁰. There have been cases when people could not travel two kilometers in order to see the ill relatives and go to a funeral because the border was closed. Both Azerbaijani and Georgian citizens have to make a detour of more than 150 km.

250. The daily discriminatory approach by customs services has made the local population feel feared and humiliated every day. It has also created a number of ridiculous situations when Georgian or Azerbaijani citizens threw out their presents and other things in front of the staff of the Georgian customs service near the Georgian border in Vakhtangisi because they would be turned back, or in protest. The customs services in the village of Vakhtangisi are not letting in any new thing that is packed even if there is just one package. 99 per cent of people using this customs checkpoint are ethnic Azerbaijanis, mainly Georgian citizens.

251. The monitoring group thinks that such an attitude from the authorities shows that there is a veiled form of discrimination and restrictions on trans-border trade, which narrows the trans-border development of national minorities. The monitoring group believes that such a practice violates Article 17 of the FCNM.

252. The monitoring group notes that there have been cases when the local authorities prevented the founding of ethnic non-government organizations. Pressure was unofficially exerted when the Congress of Azerbaijanis of Georgia was founded. This pressure was expressed in the fact that a number of non-government organizations which intended to participate in the founding of the Congress of Azerbaijanis of Georgia were intimidated by officials of the municipal and local authorities in Marneuli and Gardabani Districts (districts populated mainly by ethnic Azerbaijanis). A number of officials said that they should not participate in the founding or in any activity of this organization, otherwise, they would have problems. Some officials of the local authorities foment a feeling of fear among some NGOs of national minorities, specifically, representatives of the NGO "Georgia is My Homeland", the "Tolerance" Public Association for Human Rights Protection, the "Mtredi" NGO and other regional activists had been invited to informal "interviews".

Article 18

1. The Parties shall endeavour to conclude, where necessary, bilateral and multilateral agreements with other States, in particular neighbouring States, in order to ensure the protection of persons belonging to the national minorities concerned.

⁶⁰ Interview with taxi drivers working on the border, 2008

253. Georgia is a signatory to more than 10 bilateral agreements on the foundations of interstate relations and international norms which contain provisions on the protection of minorities. Moreover, a number of departmental agreements have been signed in the sphere of education and culture with CIS countries.

254. It must be noted that the presence of agreements and the signing of agreements do not guarantee that the implementation of interstate and international norms will be flawless. The process of introducing the FCNM in the region of Kvemo-Kartli could serve as an example of this. The monitoring group says with full responsibility that the implementation of the FCNM by the Georgian authorities has been superficial and without any interest.

255. Trans-border cooperation in the humanitarian sphere on issues that concern national minorities should be developed mainly by the regional authorities – the Rtsmunebuli of the region of Kvemo-Kartli. The central authorities assist trans-border cooperation concerning the ethnic minorities of Kvemo-Kartli. For example, there is an inter-parliamentary committee of friendship between Azerbaijan and Georgia.

Article 19

The Parties undertake to respect and implement the principles enshrined in the present framework Convention making, where necessary, only those limitations, restrictions or derogations which are provided for in international legal instruments, in particular the Convention for the Protection of Human Rights and Fundamental Freedoms, in so far as they are relevant to the rights and freedoms flowing from the said principles.

256. The state acts mainly within the framework of the FCNM, but separate interstate deviations run counter to the FCNM, specifically, in the 13 October 2005 Resolution on the Ratification of the Framework Convention for the Protection of National Minorities, the state tried to narrow the full implementation of the provisions of the FCNM.

257. Experience in observing and implementing Georgian legislation demonstrates multiple violations of the country's international obligations which are related mainly to veiled forms of discrimination, and these facts are described in detail in the following reports and recommendations:

- Minorities and the State in the South Caucasus: Assessing the Protection of National Minorities in Georgia and Azerbaijan. A report by the Central Asia and

Caucasus Institute and the Silk Road Studies Programme, John Hopkins University (Washington, USA) and Uppsala University (Sweden), September 2006.

- “Georgia’s Armenian and Azeri Minorities” – Crisis Group Europe Report No 178, 22 November 2006.
- ECRI: Second Report on Georgia adopted on 30 June 2006 made public on 13 February 2007.
- The Human Rights Information and Documentation Center (HRIDC).
- Human Rights Committee Ninety First Session Geneva, 15 October to 2 November 2007: CCPR/GEO/CO/3/CRP.1, 19 October 2007.
- History Teaching in Georgia: Representation of Minorities in Georgian History Books, CIMERA Geneva, February 2007.
- International Federation for Human Rights (FIDH), *Report: International Fact-finding Mission: Ethnic Minorities in Georgia*, April 2005, p. 6, at www.fidh.org
- IHF REPORT 2006 HUMAN RIGHTS IN THE OSCE REGION
- NATO Parliamentary Assembly 166 CSCDG 05 E.
- Selected chapters from the report of the International Helsinki Federation “Human Rights in the OSCE Region: Europe, Central Asia and North America” 2006.
- The PACE committee for the observance of obligations by member countries of the Council of Europe, the implementation of Resolution 1415 (2005) on the honouring of Georgia’s obligations (DOC 10799), 5 January 2006.
- FIDH Report: International Fact-finding Mission: Ethnic Minorities in Georgia, April 2005.
- The Institute for War and Peace Reporting, Caucasus Reporting Service (Fati Mamiashvili), “Georgia: Minorities Tested to the Limit”, No 295, 14 July 2005, at <http://www.iwpr.net>

Recommendations

- To create a body having a definite and assured independency of executive power and including more representatives from ethnic minorities, acting on elective base, and also based on a corresponding legal basis. By the effective system of protection of minorities’ rights in Georgia can be a foundation of a particular independent body (for example, “Office of Protector of Rights of Ethnic and Religious Minorities”)

which is able to work on national level with a high level of competence. The indicated body should not duplicate the part of the Protector of human rights of Georgia, but specialize in concrete rights of ethnic and religious minorities of the country.

- To make real efforts in creation some efficient anti-discriminating mechanisms in the country which are directed on counteraction of covert forms of discrimination.
- To change discriminating methods in registration of religious organizations and to make real efforts for establishment of equal in rights and nondiscriminatory relations with different religious confessions. To pass a separate law about religion and religious unions in Georgia taking into account fundamental international legal standards.
- Totally implement of European Framework Convention for the Protection of National Minorities of 1995, with legislative appearance of dissemination of the Convention on all representatives of minorities independently of their dwelling.
- To strengthen struggle against domestic discrimination, secret and covert forms of discrimination and discrimination from the side of politicians including opposition power.
- Concerning the Ministry of Culture, Protection of Monuments and Sport: to elaborate and implement particular governmental program of preservation and development of languages, traditions and cultural heritage of national minorities.
- To refrain from any political and practical actions which have goals to assimilate persons belonging to national minorities.
- To eliminate components of inner policy actively encouraging ethnic and religious xenophobia and intolerance, straitening from asymmetric relation of government towards different ethnic minorities.
- To give a real possibility in realization of right for peaceful meeting for national minorities and elimination of private counteraction from the side of local officials which is directed against legal interests of national minorities in the region.
- The State should take into consideration necessity for creation of auspicious conditions helping to support religious originality of national minorities.
- To establish a legal and proper protection of minorities' languages in Georgia.
- To create a structure which should assist in preparation of curriculum assigned for national minorities in state schools; to elaborate financial means mutually and in cooperation with persons belonging to national minorities and their associations.

- To stimulate creation of governmental programs on popularization and familiarization of culture, history and religion of the minorities represented in Georgia. For Georgian government: to find proper resources for implementation of concrete programs of state grants assisting to lightening via printed and electronic mass media the culture, history, problems and positive contribution of national minorities in building of Georgian state. This action will assist in constructive dialog about problems national minorities, social and cultural and civil integration.
- To support tele/radio casts conducive to social and cultural and civil integration. For Georgian government: to implement system of state grants with the goal to financing of providing regular festivals, and materials for mass media introducing the population of the country with ethnic groups of Georgia with their history, culture and contribution in development of Georgian state.
- For Georgian government: to give to Ministry of Education and Science proper budget means for publication of secondary manual for public schools with a conditional name "Cultural Diversity of Georgia". The manual should contain information about traditions, religions and cultural heritage of different ethnic groups of Georgia, the information about their positive contribution in building of Georgian state and other important events. The manual should promote straitening of principals of cultural diversity, intercultural dialog and tolerance. Besides, it is necessary that representatives of national minorities of the country participate in elaboration of the manual.
- To stop the policy directed on change of demography balance and map in the region to the prejudice of ethnic minorities living in the region.
- To create tolerant and nondiscriminatory conditions in frontier points of frontiers between Georgia and Azerbaijan Republic from the side of Georgia.
- For parliament of Georgia: to accept "Conception of protection and integration of national minorities" and law "About protection of national minorities". To invite experts from European Council and representatives of national minorities both from regions and the capital for elaboration and examination of the law about "Protection of national minorities" and Conception of Protection and integration of national minorities".
- For Georgian government: to provide with creation of special programs of preparation of interpreters during testimonies with specialization on languages of national minorities and to involve the rule of certification of interpreters for testimonies.

- To establish a target group consisting of representatives of governmental departments, mass media and national minorities for elaboration basic directions and strategy in the field of informing of national minorities.
- For Georgian government: to elaborate and implement a program of governmental grants with aiming to light via mass media some important issues concerning national minorities.
- For Georgian government: to appropriate proper resources for providing accessibility of tele/radio casts in the place of national minorities' dwelling, prepared by Georgian mass media with a proper translation.
- For Public TV: to take into consideration expectations, opinions and recommendations of public in the regions of compact dwelling of national minorities in process of definition of program priorities, editorial policy and preparation of programs about religious/ethnic minorities. Aiming the mentioned above to hasten formation of public unions of public messenger of Georgia in the regions.
- For mass media council on Ethics, Ombudsman, Ministry of State on the questions of civil integration: to provide annual monitorings with the goal to elicit facts of use of hostile, offensive expressions from ethnic point of view reflecting in publications of mass media.
- To Ministry of Education: to find proper resources and establish an separate component of training course for students studying journalism in Universities of Georgia, which can be named "Lightening of issues of cultural diversity and minorities", where the information about international practice used in the sphere and Georgian and international legislation will be reflected.
- For the Government of Georgia: to appropriate proper resources for providing trainings and seminars for journalists concerning the questions about minorities and cultural diversity.
- For the Parliament of Georgia: to make changes in legislation of Georgia providing accordance of legislative base with practice which exists in the regions of compact dwelling of national minorities.
- To Parliament of Georgia: to accept a proper legal rule fro regulation of usage of geographical names, topographic pointers, signs and inscriptions in languages of minorities in the places of their compact dwelling.

- For municipalities: to solve the issue, if necessary, about use of , topographic pointers and geographical names in languages of minorities together with state language.
- To Ministry of education and science of Georgia: to recommend and provide afterwards a financial and technical support to suitable universities of Georgia in establishment of programs and foundation of special faculties for strengthening and rehabilitation of preparation of teachers of all levels of secondary education for non-georgian speaking schools.
- Creation of conditions which provide possibilities for organizations representing proper national minorities, to participate in elaboration and implementation of policy and programs regarding to education of minorities.
- To strengthen a support of program of study of the state language by and help of material and staff recourses in the regions of national minorities' dwelling (where there is such kind of necessity)
- For the Cabinet of Georgia: to provide sufficient financial resources for translation and dissemination of functioning legislative acts into languages which national minorities are able to understand, while there is a necessity. Local authorities, mass media, and also resource of other governmental and non-governmental structures can be used for dissemination.
- For government of Georgia and Ministry of Refugees and Settling: to provide participation of representatives of accepting and settling communities during planning and elaboration of governmental programs of settling of forced migrants and ecological migrants in the regions of Georgia, especially in the regions with compact dwelling of ethnic minorities.
- For Ministry of Refugees and Settling of Georgia: to provide obligatory informing and concordance with accepting and settling communities about programs and plans of resettlement. The actions about informing of accepting and settling communities should contain explanations about necessity, goals and schedules of the programs and cultural, ethnic and religious peculiarities of the resettled groups and accepting communities. It is necessary to provide the similar informing actions between migrants included in the programs.
- To ratify European Charter for Regional or Minority Languages.
- To implement positive actions directed on providing of greater representation in central and local authorities.

- To provide consultations about issues which are important for minorities with local Municipality (Sacrebulo), where minorities are more than 20 per cent.
- To continue investigation of allocation of lands in Kvemo-Kartli, in the places of compact dwelling of national minorities, confiscate misappropriation of the lands and deliver them to local farmers for use.
- To pass a law, which allows Azerbaijanis and other national minorities – in the municipalities where their number is more than 20 per cent- to use their own languages during communication with representatives of municipal administration, while making complaints, receiving civil documents and diploma, use by service of state agencies, recording inner management under municipalities.
- To insert amendments into the “Law about general education” of 2005, stressing necessity of involvement of a bilingual system of education and teaching of basic social disciplines in languages of national minorities (in parallel with the Georgian language) in the region of compact dwelling of national minorities. To create equal possibility of access to education of persons belonging to national minorities.
- To increase access of minorities to higher education by reconsideration of functioning rules of reception in universities in order university entrants from the families of national minorities could pass entrance examinations in native languages. To make provision for students who do not pass tests about the Georgian language a possibility of intensive studying of the Georgian language as a second language.

Submitted by "Mtredi" Public Association in cooperation with "Georgia is My Motherland", Appendix to NGO "Tolerance"/NGO "Congress of Azerbaijanis of Georgia" "Tolerance" shadow report

Appendix to the alternative NGO report "On the implementation by Georgia of the Framework Convention for the Protection of National Minorities in the region of Kvemo Kartli"

May 2008

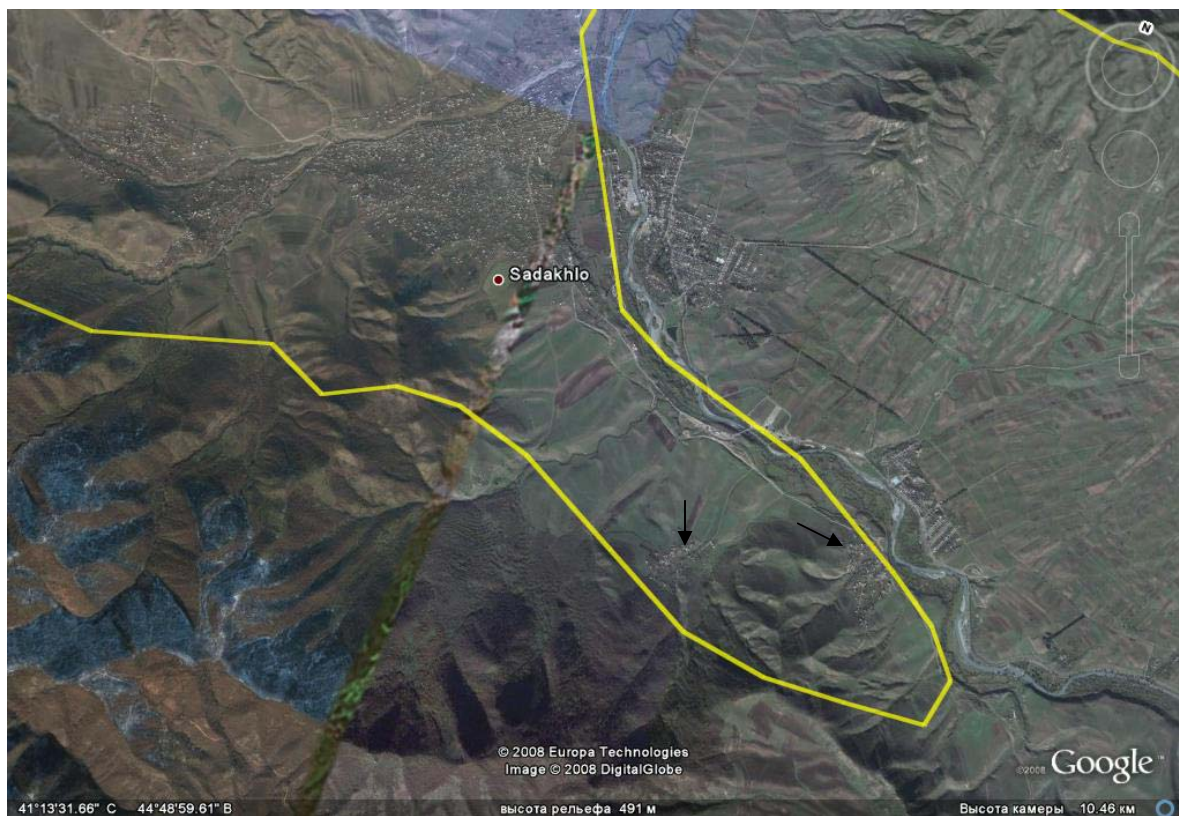
Discrimination against ethnic Azerbaijanis in the villages of Sadakhlo, Burma Tezekend and Tezekend in Marneuli District of Kvemo-Kartli region, in Georgia.

Submitted by "Mtredi" Public Association in cooperation with "Georgia is My Motherland", Appendix to NGO "Tolerance"/NGO "Congress of Azerbaijanis of Georgia" "Tolerance" shadow report

This appendix was prepared on the basis of information collected by activists of Public association "Mtredi" and "Georgia is My Motherland" .

The villages of Sadakhlo, Burma Tezekend and Tezekend - their geographic situation and specific location.

1. The villages of Sadakhlo, Burma Tezekend and Tezekend are situated on the border between Georgia and the Republic of Armenia. Most of their residents are ethnic Azerbaijanis who are Georgian citizens. This border area is wedged into Armenian territory in the form of an "appendix" and the Georgian Azerbaijani-populated villages are tightly surrounded by Armenia from three sides.



2. Sadakhlo is different from the other villages only in its size – it is the biggest village of those populated by ethnic minorities in the Marneuli District of the Kvemo-Kartli region. Burma Tezekend and Tezekend are smaller and are situated deep into the "appendix" (marked with arrows in the picture).

3. Residents of the villages of Sadakhlo, Burma Tezekend and Tezekend believe that, with the complete connivance of the Georgian authorities in the Georgian areas

Submitted by "Mtredi" Public Association in cooperation with "Georgia is My Motherland", Appendix to NGO "Tolerance"/NGO "Congress of Azerbaijanis of Georgia" "Tolerance" shadow report

bordering Armenia, a policy of discrimination is being conducted against those ethnic Azerbaijanis who are Georgian citizens, their rights and freedoms are being violated and that they are being forcibly expelled from their native lands in violation of the FCNM.

4. The residents said that the Georgian authorities have not created, and do not intend to create, favourable conditions that would allow them to remain in this region, and also to maintain and develop their culture, religion, language and traditions.

5. The state is not only incapable of taking appropriate measures to fight discrimination, but also, itself, practises discrimination in many cases and supports or allows secret and veiled discrimination. The police in the village of Sadakhlo forbid residents to sell agricultural produce from their doorway, although such practice is common all over Georgia. The ban on the sale of agricultural produce was perceived in these villages as discrimination or violation of the rights of national minorities. According to human rights activists working in this region, this was quite a significant blow on ethnic Azerbaijanis which made most of them to seek their livelihood in Azerbaijan.

6. It is clear that the Georgian authorities do not encourage real equality with regard to the residents of Sadakhlo, Burma Tezekend and Tezekend. Residents of these villages believe that they are not treated as equal citizens of Georgia.

7. Georgian citizens living in the villages of Sadakhlo, Burma Tezekend and Tezekend believe that their rights to equality before the law and equal protection by the law are not guaranteed. Rafail Khalilov, a Sadakhlo activist, pointed out: "The Georgian authorities are not taking appropriate measures in these villages to encourage full and real equality for persons belonging to the national minority in the economic, social, political and cultural spheres. Moreover, they allow the neighbouring state – Armenia – to violate the rights of their citizens on Georgian territory."

8. The protection of national minorities and the rights and freedoms of people belonging to these minorities is an integral function of the international protection of human rights, as clearly indicated in the FCNM and is a matter for international cooperation. Unfortunately, connivance and gross violations by representatives of a neighbouring

Submitted by "Mtredi" Public Association in cooperation with "Georgia is My Motherland", Appendix to NGO "Tolerance"/NGO "Congress of Azerbaijanis of Georgia" "Tolerance" shadow report

state, in this case Armenia, of the rights of ethnic minorities who are Georgian citizens on Georgian territory, calls into question the full implementation of the FCNM and the introduction of anti-discriminatory mechanisms and, what is more, the lack of international protection is a potential source of ethnic conflict.

9. We must regretfully point out that the lack of a real border between Georgia and Armenia in this area and the absence here of Georgian border guards make the local population – Georgian citizens who are ethnic Azerbaijanis – defenceless against armed Armenian soldiers. It should be noted that the Armenian military illegally seize and remove cattle belonging to the local population on Georgian territory on the pretext of violations of Armenia's state border, which they have moved forward themselves and which they have made more transparent for themselves. One of the examples was arrest of Mamed Guseynov, who was a shepherd, by Armenian military frontier guards, who was at that moment on the territory of Georgia in Sadakhlo village on 21 February 2008. Twelve sheep were illegally taken away from him by the guards. The latest incident occurred in April 2008 when a horse belonging to Georgian citizen Almaz Bediyev, a resident of Sadakhlo, was illegally seized by the Armenian military. The horse is currently being used in the construction of an Armenian military base on the border with Georgia. All appeals from the local resident to the various Georgian government agencies have failed to yield results. For Almaz Bediyev, this horse was his last source of income.

10. Local residents maintain that Armenian armed forces themselves alter the Georgian-Armenian border every year. In 2007, the border passed at a tangent to Sadakhlo and went through the villages of Burma Tezekend and Tezekend and a number of houses belonging to Georgian citizens became "illegal". The illegal alteration of the Georgian-Armenian border by Armenian armed forces deep into the territory of Georgia served as a pretext for declaring three houses in the village of Tezekend: those belonging to Georgian citizens Zakir Rustam oglu Mammadov, Ahmad Ismayilov and Kamal Kamandar oglu Ismayilov, to be on Armenian territory, upon which the Armenian military demanded that these residents leave their houses. Unfortunately, the Georgian authorities did not react to this action and made no effort to defend the rights of their citizens and the inviolability of the state border.

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11. "Our only source of income is cattle-breeding. If the Armenian military continue to seize our lands, we will not be able to engage in cattle-breeding and will not be able to make our living," said a 66-year-old Georgian citizen, Aladdin Madinayev, a resident of the Georgian village of Khudara, which is closest to the border. Shepherd Ali, 23, from the village of Khudara, which is a neighbour of Sadakhlo, confirmed that Armenian border guards do not allow herders to put their cattle out to pasture in areas where they did last year – that is, on Georgian territory.

12. Since the border is indeterminate and there is no strict control by the Georgian authorities, Armenian armed forces have begun to employ direct ethnic discrimination in this area, which has resulted in the arbitrary and illegal arrest of Georgian citizens, ethnic Azerbaijanis, under the pretext that they had violated Armenia's state border. For example, in an area which is in fact Georgian territory, Armenian armed forces arrested and took to Armenia Georgian citizen Qabil Ayatkhan oglu Khanov, resident of Burma Tezekend village. He was held illegally for two days. He said that at the moment of arrest he was on Georgian territory – in an area which he had regarded as Georgian territory for many years. This arrest by the Armenian authorities had no administrative follow up by the "violator", which proves once again that his arrest was illegal. Georgian citizens Allahverdi Ziyadxan oglu Jafarov and Jamal Ismayil oglu Jafarov, from the village of Tezekend, were also arrested and humiliated. These people were taken illegally to Armenia and held for two days without trial or investigation. The intervention of the local authorities allowed them to return home, but the Georgian authorities did not give any legal assessment of the illegal actions of the Armenian armed forces. In many border villages, you can find dozens of cases of Armenian border guards illegally arresting Georgian citizens on Georgian territory. There are many facts testifying that Armenian armed forces have tried to intimidate local residents.

13. According to Suleyman Panangov, a local teacher, resident of Tezekend and Georgian citizen: "Currently, Armenia has cut off drinking and irrigation water supplies to the villages of Burma Tezekend and Tezekend. Their geographical location has created a situation in which drinking and irrigation water can be supplied only from Armenian territory. Unfortunately, the Georgian authorities have not obviated this problem for many years. This makes the life of Georgian citizens – ethnic Azerbaijanis – intolerable." Local residents say: "Such inaction by the Georgian authorities is direct

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evidence of their assistance in discrimination by neighbouring Armenia. Moreover, some sources of drinking water are on illegally-seized Georgian territory and the Armenia military no longer allow us to go there. It is terrible to live like this." Sabir Mekhidev said: "Of 1,200 ha of land, only 50 are irrigated. Water from Armenian territory has been cut off and we have not had irrigation water for many years. All this has a negative impact on the economic life of our fellow citizens." Moreover, residents of neighbouring villages who were attacked by Armenian border guards say that the Armenians are also planning to take over ploughed fields and pastures. According to their word, they have already warned people that this is the last year that they can freely plough and sow this land.

14. Sabir Mehtiyev points out that the Armenian border guards are well-armed and have patrol dogs and there is not a single border guard from the Georgian side. As a result, taking advantage of their impunity, the Armenian border guards have moved the border without permission towards the ploughed and sown land where Azerbaijanis are working. "That is why the residents of the villages feared to plough and sow this land. Our women are afraid to go and work in the field for fear of attacks from Armenian border guards. As a result, it is not clear how we will live and what we will live on," he said.

15. The absence of a real border in this region has created a situation in which Armenian border guards have moved the border towards Georgia without permission – towards the Azerbaijani villages – and advanced into the neutral zone, depriving Georgian citizens of their chance to work on arable land.

16. According to Suleyman Palangov, weapons are often used against Georgian citizens who are ethnic Azerbaijanis, but this has mainly been of a deterrent nature and, luckily, there have been no casualties: "Recently, the Armenian military fired at Eytibar Turkmen oglu Jafarov from Armenian territory, although Eytibar was in Georgian territory. He survived by sheer luck."

17. Rafail Khalilov points out that the Armenian military have illegally seized woods, pastures and some plots of arable land from Georgian citizens deep into Georgian territory. He says that indications of the real border can be found far beyond the line that

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the Armenian military now claim. According to him, "several dozens of years ago, his grandfathers and the local authorities made coal notes" (they buried buckets of coal along the border) in order to identify the border.

18. Sabir Mekhtiyev pointed out that, with indirect support from Armenian border guards, Armenian citizens have illegally seized plots of land belonging to ethnic Azerbaijanis, Georgian citizens, on Georgian territory in a place called "Karyer", near the villages of Burma Tezekend and Tezekend and ousted them from their rightful plantations. Indirect assistance means that they created an atmosphere of fear and intimidated Georgian citizens, which resulted in the plots being abandoned. According to Suleyman Panangov, more than 500 Armenian citizens have illegally occupied and now use plots belonging to Georgian citizens on Georgian territory. Local residents do not see any help or reaction from the Georgian authorities to such discrimination.

19. Residents of Sadakhlo, Burma Tezekend and Tezekend think that the Georgian authorities are pursuing a veiled policy of discrimination and expulsion against them. A number of activists believe that a process of "soft" expulsion of ethnic minorities from the region has been going on for many years. Most of the population has emigrated from these three villages.

20. The seizure by Armenian armed forces of woods and pastures on Georgian territory and the threat of seizure of arable land near the villages of Sadakhlo, Burma Tezekend and Tezekend, which are populated only by Azerbaijanis, has caused most of the population to emigrate from the villages of Sadakhlo, Burma Tezekend and Tezekend. According to some estimates, of the 15,000-18,000 ethnic Azerbaijanis who are Georgian citizens, only 4,000-6,000 remain here.

21. Many non-governmental organizations believe that, with regard to this region, there is a tendency towards changing the structural composition of the population and such a situation violates the rights and freedoms of the ethnic minorities and the FCNM.

22. Unfortunately, the state has not taken any appropriate measures to reduce the ethnic tensions and pre-conflict situation in the region, which persists in the region now.

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23. It must be noted and reported that the Georgian authorities do not provide the real state protection required by persons belonging to national minorities in this region, although there is a police station in the village of Sadakhlo. This police station does not become involved at all in the situation on the Georgian-Armenian border or in the violations committed by soldiers of the Armenian armed forces against Georgian citizens.

24. The regional market in the village of Sadakhlo was closed down after Mikhail Saakashvili's government came to power in Georgia. The closure of the market dealt a serious blow to the village because it deprived the population of its main source of livelihood. More than 400 families who had taken loans from banks to start small businesses in this market went bankrupt or fell into debt. As a consequence, this impoverished the residents and caused an outflow of population. Residents of the village did not hide their outrage at the fact that soon after the closure of the market in Sadakhlo, a similar market opened near Sadakhlo in Armenia – in the former Azerbaijani village of Lambali, currently Bagratashen.

25. The monitoring group did not consider the situation in these villages to be justifiable or reflective of a conscientious application of the FCNM, in a spirit of understanding and tolerance and with the observation of principles of good neighbourliness and friendly relations.

26. Due to active discrimination from the Armenian armed forces on the border and in Georgian territory, the situation has reached a point when Georgian citizens, ethnic Azerbaijanis, are forced to leave their native lands. This discrimination by Armenia against Georgian citizens who are ethnic Azerbaijanis on Georgian territory has intensified over the last 5-6 years, with the complete connivance of both local and central Georgian authorities.

27. Everything that has been stated here and described in reports by human rights organizations clearly shows that a system of inaction and connivance by the Georgian authorities has developed in respect of Georgian citizens, ethnic Azerbaijanis, in the villages of Sadakhlo, Burma Tezekend and Tezekend and surrounding Georgian territories – direct and veiled discrimination against residents of Sadakhlo, Burma

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Tezekend and Tezekend to the detriment and in violation of the Framework Convention for the Protection of National Minorities.