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# FIFTH OPINION ON ARMENIA

Advisory Committee  
on the Framework  
Convention for  
the Protection of  
National Minorities  
(ACFC)

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## SUMMARY OF THE FINDINGS

1. The Advisory Committee has been pleased to hear from persons belonging to the eleven national minorities about the prevailing climate of tolerance in Armenian society. It remains concerned about the limited awareness of the content of the rights of national minorities enshrined in the Framework Convention, among the authorities, the majority and persons belonging to national minorities. Consequently, the authorities do not take sufficient action to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture and identity. The Advisory Committee has also observed that a stereotypical or folkloristic image of minorities is hampering genuine intercultural dialogue. Moreover, awareness of the numerically smaller national minorities is lower still, and there is a risk of assimilation of these groups in the future. Targeted efforts for these minorities to preserve and develop these cultures and identities are needed.

2. Limited progress has been observed in the realm of national minority rights legislation and its effective implementation over the last monitoring cycle. The authorities have emphasised that the combined effect of the Covid-19 pandemic and the outbreak of hostilities in the Nagorno-Karabakh conflict in 2020 have contributed to this legislative stasis in the field of national minority protection. In addition, the Advisory Committee has observed that the conflict has had a negative impact on the implementation of human rights, including minority rights.

3. The Advisory Committee joins with other international organisations and civil society in its alarm at the stark situation facing Yezidi girls in terms of early and forced marriages and school drop-out rates. It can only praise those Yezidi organisations working to address this problem, but sees a clear need for the authorities to step up their efforts on these issues. In this context, the prosecution of a Yezidi human rights defender is alarming. Linked to this, the Advisory Committee is concerned that the societal comprehension of discrimination is lacking, which hinders the achievement of full and effective equality.

#### Law on national minorities, census

4. There is no comprehensive legislation on national minorities in Armenia. In 2016 the Draft Law on National Minorities was elaborated but not adopted. The next census will take place in October 2022.

#### Legislative and institutional framework on discrimination; equality data

5. There is no comprehensive legislative framework prohibiting discrimination. The

concept of “discrimination” and the forms of discrimination are not defined in Armenian legislation. In 2016 the Draft Law on Ensuring Equality was elaborated but not adopted. There are no reliable statistics, disaggregated by age, gender and geographical distribution, especially in the fields, *inter alia*, of education, employment, healthcare services, the beneficiaries of social welfare services, domestic violence affecting women and children belonging to national minorities.

#### Intercultural dialogue

6. Besides the numerically larger and ‘visible’ minorities in Armenia, there is very little knowledge of the existence of national minorities. Acceptance or tolerance of such national minorities characterises Armenian society, but genuine engagement with national minorities’ history, culture, and traditions is absent. This in turn is a barrier to genuine intercultural dialogue.

#### Protection from gender-based violence

7. Early and forced marriage of Yezidi girls continues to be a concern in Armenia, and the Yezidi minority itself brought this issue to the attention of the Advisory Committee. Actions have been taken to combat this harmful practice, but emphasised that more needs to be done by the authorities to tackle it.

#### Freedom of expression

8. Since 2020, a number of legislative amendments restricting the right to freedom of expression were introduced, some of which are concerning. In this context, criminal proceedings against Yezidi human rights defender Sashik Sultanyan also brought about concerns from international and national human rights bodies, highlighting the chilling effect on human rights defenders and those defending minority rights.

#### Education

9. There is very little information about national minorities in school curricula, with the only possibility for intercultural education through attending classes together with minorities. Increasing the presence of national minorities in curricula would foster a greater sense of belonging and be one part of a strategy to tackle drop-out rates. The development and piloting of a new curriculum in Tavush offers the chance to make a positive change in this respect.

10. The Advisory Committee is alarmed at the high drop-out rates affecting Yezidis, and especially at the gender bias with girls dropping out more than boys. Too little effort is going into resolving these problems on the part of the authorities. There is a complex web of factors which each contribute to this situation, which cannot be addressed in isolation. A

comprehensive strategy designed with and for Yezidis is necessary to tackle this problem.

11. Education in Yezidi language is only offered as an extra-curricular subject, whilst provision of Assyrian is taught in the general Russian-language curriculum, but only for three hours per week. Sunday schools of numerically smaller minorities may require further support from the authorities. Improving the offer of Yezidi-language education requires more teachers, and this is difficult to solve while the existing offer in this language is so low. Some initial positive measures to break this vicious circle are required on the part of the authorities.

#### Effective participation

12. The Council of National Minorities continues to be the vehicle through which national minority representatives have an official dialogue with the authorities. The requirements to join this Council may be exclusionary to any

minorities claiming recognition more recently. At parliamentary level four MPs from among the numerically largest national minorities are elected, although the Advisory Committee has heard some criticism of this system. The negative impact of the recent administrative changes on local representation has been highlighted. A lack of consultation on administrative and territorial reform in the 'consolidation' process is concerning. The Advisory Committee considers that effective consultation with national minorities is essential when such decisions are taken.

13. Economic deprivation is an issue which persists across Armenian society, but which affects national minorities, in particular in rural municipalities. There is no data on unemployment of national minorities, but an accurate picture of the socio-economic situation and any discrimination on the job market is needed.

## RECOMMENDATIONS

14. The Advisory Committee considers that the present concluding remarks and recommendations could serve as the basis for the resolution to be adopted by the Committee of Ministers with respect to the implementation of the Framework Convention by Armenia.

15. The authorities are invited to take account of the detailed observations and recommendations contained in the present opinion of the Advisory Committee. In particular, they should take the following measures to improve further the implementation of the Framework Convention:

#### Recommendations for immediate action

16. The Advisory Committee urges the authorities to effectively protect the right to freedom of expression of persons belonging to national minorities and their representatives according to international human rights standards and take effective measures to combat the chilling effect on freedom of expression.

17. The Advisory Committee urges the authorities to ensure that information about the culture, traditions, history, religion and language of national minorities and their contribution to society is included in school curricula, and accompanying teacher training and teaching materials. In this context, evaluation of the outcome of the pilot curriculum in Tavush should be carried out in consultation with persons belonging to national minorities.

18. The Advisory Committee urges the authorities to take priority measures to address the disproportionately high drop-out rate affecting Yezidi students, especially girls. The authorities should gather data and cooperate with civil society and minority representatives to design and implement a strategy with concrete indicators and outcomes for addressing drop-out rates, taking into account the full range of contributing factors.

19. The Advisory Committee urges the authorities to collect data on gender-based violence against women and children belonging to national minorities, including early and forced marriages, and develop comprehensive policies and measures to prevent and combat this issue, engaging closely with law enforcement and social services and with the participation of national minorities. Such policies should be evidence-based and address the underlying social, economic and cultural drivers of early and forced marriages. They should aim at providing community care for vulnerable persons and strengthening trust between groups, individuals and institutions, and include information

campaigns among parents, in schools and communities.

20. The Advisory Committee urges the authorities to revise the Draft Law on National Minorities in full compliance with international standards including the Framework Convention, having ensured that all those concerned have been effectively consulted on its substance. On that basis the authorities should continue with the process of adoption of the Law.

#### Further recommendations<sup>1</sup>

21. The Advisory Committee calls on the authorities to continue with the process of adoption of a comprehensive legal framework on anti-discrimination without delay, in consultation with representatives of civil society.

22. The Advisory Committee calls on the authorities to adopt measures aimed at collecting reliable equality data for all national minorities, disaggregated by age, gender and geographical distribution, in all relevant fields, including education, gender-based violence and socio-economic participation, based on the principle of self-identification and in accordance with international standards on data protection.

23. The Advisory Committee calls on the authorities to intensify their support for national minorities to preserve and develop their linguistic, religious and cultural identity. Targeted efforts are needed to revitalise the essential elements of the culture of numerically smaller minorities. A comprehensive national strategy on national minorities should be elaborated, implemented and evaluated in close and active cooperation with representatives of national minorities and civil society.

24. The Advisory Committee calls on the authorities to take active steps to raise awareness of Armenia's ethnic diversity and of the culture, history, traditions, religions and languages of national minorities in society, counter ethnic and religious stereotypes and promote the conditions necessary for intercultural dialogue.

25. The Advisory Committee calls on the authorities to extend the offer of teaching in minority languages, in particular Assyrian, to provide for adequate teacher training and updated teaching materials to support this, and to support further national minority organisations in offering Sunday schools and minority language preschool initiatives.

26. The Advisory Committee calls on the authorities to take steps to increase the offer of teaching in Yezidi in the general curriculum at

<sup>1</sup> The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

primary and secondary levels, including through increased teacher training and financial incentives for Yezidi students to train and work as teachers. At the same time, the authorities should introduce further vocational, adult and continuing education in Yezidi.

27. The Advisory Committee calls on the authorities to take a flexible approach to representatives of minority groups self-identifying as national minorities and interested in joining the Council of National Minorities, and to raise awareness of the existence, mandate and activities of the Council.

28. The Advisory Committee calls on the authorities to gather data on the socio-economic situation of national minorities, especially in the fields of employment, access to proper infrastructure and the impact of climate change. Positive measures to address the disparities identified should be designed on this basis and in close cooperation with persons belonging to national minorities, with a view to actively promoting participation in socio-economic life.

29. The Advisory Committee calls on the authorities to engage in a dialogue with persons belonging to national minorities on matters relating to territorial or administrative reform and ensure prior and meaningful consultation before any future consolidation. The authorities should also ensure that the current separate municipalities have access to sufficient funds on an equal basis with consolidated municipalities, with a view to ensuring continued access to minority rights in the municipalities concerned.

#### Follow-up to these recommendations

30. The Advisory Committee encourages the authorities to organise a follow-up event after the publication of this fifth cycle Opinion. It considers that follow-up dialogue to review the observations and recommendations made in this Opinion would be beneficial. Furthermore, the Advisory Committee stands ready to support the authorities in identifying the most efficient ways of implementing the recommendations contained in the present Opinion.

MONITORING PROCEDURE

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**Follow-up activities related to the recommendations of the fourth opinion of the Advisory Committee**

31. A roundtable discussion on the Draft Law on National Minorities took place with participation from Advisory Committee experts in October 2019.

**Preparation of the state report for the fifth cycle**

32. The state report was received on 15 June 2020. Organisations representing and promoting the rights of persons belonging to national minorities were consulted in its preparation. Some gender-related aspects of minority rights were addressed in the report.<sup>2</sup>

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<sup>2</sup> See state report, paras. 9, 34 and 67.



### Country visit and adoption of the fifth opinion

33. This fifth-cycle opinion on the implementation of the Framework Convention for the Protection of National Minorities (hereinafter “the Framework Convention”) by Armenia was adopted in accordance with Article 26(1) of the Framework Convention and Rule 25 of Resolution (2019)49 of the Committee of Ministers. The findings are based on information contained in the fifth state report, other written sources, as well as information obtained by the Advisory Committee from governmental and non-governmental sources during its visit to Yerevan, Ararat province and Armavir province from 21 to 25 February 2022. The Advisory Committee expresses its gratitude to the authorities for their excellent co-operation before, during and after the visit. The draft opinion, as approved by the Advisory Committee on 20 May 2022 was transmitted to the Armenian authorities on 24 May 2022 for observations, according to Rule 37 of Resolution (2019)49. The Advisory Committee welcomes the observations received from the Armenian authorities on 27 July 2022.

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34. In the following part of the opinion, one article of the Framework Convention is not addressed. Based on the information currently at its disposal, the Advisory Committee considers that the implementation of this article does not give rise to any specific observations. This statement is not to be understood as signalling that adequate measures have now been taken and that efforts in this respect may be diminished or even halted. Rather, the Advisory Committee considers that the obligations of the Framework Convention require a sustained effort by the authorities. Furthermore, a certain state of affairs which may be considered acceptable at this stage may not necessarily be so in further cycles of monitoring. Finally, it may be that issues which appear at this stage to be of relatively minor concern prove over time to have been underestimated.

## ARTICLE-BY-ARTICLE FINDINGS

**Scope of application (Article 3)**

35. Armenia's interpretation of the personal scope of application of the Framework Convention has not changed since the previous monitoring cycle. The Armenian legislation does not contain a definition of the term "national minority". At the same time the first state report denotes "the nationals of the Republic of Armenia permanently living in the Republic of Armenia who are different from the basic population by ethnic origin".<sup>3</sup> Eleven national minorities are represented in the Council of National Minorities, namely the Assyrian, Belarusian, Georgian, German, Greek, Jewish, Kurdish, Polish, Russian, Ukrainian and Yezidi minorities. The authorities state that other groups can also claim and receive state funding for their activities, even if they are not members of the Council.<sup>4</sup>

36. Following the constitutional amendments of 2015,<sup>5</sup> the Co-ordinating Council for National and Cultural Organisations of National Minorities, the main forum of representatives of 11 larger national minorities, terminated its activities under the staff of the President of Armenia. On 3 May 2019 the Government adopted Decree no. 486-L establishing a Council of National Minorities (hereinafter "the Council") and approving its composition.<sup>6</sup> According to the Decree, the Council functions under the supervision of the Chief Adviser to the Prime Minister, and the technical maintenance for organising its activities are carried out by the Office of the Prime Minister.<sup>7</sup> The Council is the main vehicle for specific consultation with persons belonging to national minorities. The composition of the Council, the procedure for election of its members, its functions and goals remained unchanged as compared to the previous Coordinating Council. The Advisory Committee observes again that this composition gives them increased visibility and access to regular funds compared to other minorities which are not represented in the Council, such as Udins, who have requested to be on the Council in order, *inter alia*, to have access to some level of funding,

but were reportedly informed of the need to have proof of five years of activities to be a member of the Council, raising questions about the potential inclusivity of the Council according to the provisions of Decree 486-L (see Article 15).<sup>8</sup> The Udins are reportedly in the process of being recognised as a national minority – by being a member of the Council - by the authorities, and they also state that funding has been given for Udins' activities in 2018, although they are not included in the list of the Draft Law. The Advisory Committee was also informed that other groups may be interested in recognition as national minorities in the future.

37. Article 56 of the Constitution, introduced as a result of the amendments of 2015, calls for the adoption of a law on national minorities. Accordingly, in the course of 2016 the Draft Law on National Minorities was elaborated but not adopted. The Advisory Committee observes that a number of consultations took place in view of the elaboration of the Draft Law. For the purposes of public discussion, it was published on a website for the publication of legal acts.<sup>9</sup>

38. As regards the consultation process with civil society and national minority organisations prior to and in the course of the drafting of the Law on National Minorities, the Advisory Committee notes that some representatives of national minorities and those unrecognised groups seem not to be aware of the scope, both material and personal of the Draft Law. Furthermore, while some national minority representatives welcomed the legal protection offered by the Draft Law, and indicated a wish to see it adopted, others were dissatisfied at not having been meaningfully consulted, and considered that its contents needed further consultation with national minorities. Others also questioned its added value.

39. As to the substance of the Draft Law, it refers to citizenship as an element of the definition of national minority<sup>10</sup> and contains a closed list of national minorities.<sup>11</sup> In this

<sup>3</sup> See "First Report submitted by the Armenia Pursuant to Article 25, Paragraph 1 of the Framework Convention for Protection of National Minorities", paragraph 19, doc. ref.: ACFC/SR (2001)4 at

<http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168008aed0>. According to the 2011 census, there were over 35 000 Yezidis, 12 000 Russians, 3 000 Assyrians, 1 000 Ukrainians, and smaller numbers of other national minorities.

<sup>4</sup> For example, in 2018, Udins received funding for cultural activities.

<sup>5</sup> As a result of the constitutional amendments of 6 December 2015, Armenia shifted from a semi-presidential system to a parliamentary system.

<sup>6</sup> Decree of the Prime Minister of the Republic of Armenia "On establishing a Council of National Minorities and approving the composition of the Council" entered into force on 3 May 2019, available only in Armenian at <https://e-gov.am/decrees/item/20169/>.

<sup>7</sup> Ibid.

<sup>8</sup> According to the Decree, an NGO must have been active for five years in order to be able to be elected to the Council.

<sup>9</sup> [www.e-draft.am](http://www.e-draft.am).

<sup>10</sup> According to Article 3 § 1 of the Draft Law on National Minorities, persons belonging to a national minority are those citizens of the Republic of Armenia who consider themselves to be members of historically formed group in the Republic of Armenia with certain ethnic or national identity.

<sup>11</sup> According to Article 3 § 2 of the Draft Law on National Minorities, in the Republic of Armenia, national minorities shall be deemed to be: Assyrians, Belarusians, Georgians, Germans, Greeks, Jews, Kurds, Poles, Russians, Ukrainians and Yezidis.

connection, the Advisory Committee reiterates that the inclusion of the citizenship requirement may be a legitimate requirement in fields such as representation in parliament and certain public offices. A general application of this criterion nevertheless would act as a constraint in relation to the guarantees associated with other important fields covered by the Framework Convention, such as non-discrimination and equality, as well as certain cultural and linguistic rights.<sup>12</sup>

40. The Advisory Committee welcomes the existing flexible approach of the Armenian authorities to the scope of application, especially the article-by-article approach available to groups not presently on the Council. It considers that this provides maximum benefit of minority rights to the widest number of persons belonging to national minorities. The Advisory Committee reiterates that access to minority rights is more important than questions related to the official recognition of a group as a “national minority”.<sup>13</sup> Although the presence of a list of national minorities per se is not incompatible with the provisions of the FCNM, the Advisory Committee encourages the authorities to include an open list in any upcoming law on minorities or to establish a mechanism allowing for future recognition of other groups which want to apply for the status of a national minorities, and to maintain and enhance the current flexible approach and the authorities’ dialogue with minorities which are not in the closed list should be maintained and enhanced.

41. Furthermore, the Advisory Committee is concerned that the degree of effectiveness of consultations encouraged by the Committee in its previous opinion was not sufficiently addressed. In particular, the consultations that took place only included the groups already represented in the Council, without involving other groups present in Armenia. The Advisory Committee regrets that consultations with national minority representatives in the elaboration of the Draft Law did not result in national minorities having a substantive influence on the Draft Law. That the process of adoption of the Draft Law has stalled is also to be regretted, and the Advisory Committee considers that the authorities should resume this process, ensuring that the Draft Law contains provisions in line with Armenia’s commitments under the Framework Convention.

42. The Advisory Committee urges the authorities to revise the Draft Law on National Minorities in full compliance with international standards including the Framework Convention, having ensured that all those concerned have been effectively consulted on its substance. On

that basis the authorities should continue with the process of adoption of the Law.

### Population Census (Article 3)

43. The population census, due to take place in 2020, had to be postponed and will now take place from 13-22 October 2022. The draft census form presents open questions on ethnic and linguistic affiliation although interviewers will use a list to record responses – and no possibility for declaring multiple ethnic affiliations. The authorities have indicated that preference will be given to persons belonging to national minorities when recruiting census interviewers.

44. Minority representatives expressed concern at the previous practice of the census, whereby the interviewers conducting the census may have wrongly interpreted and recorded a refusal to respond by a person belonging to a national minority to the nationality/ethnicity question as the response “Armenian”, leading to a skewing of the figures of persons belonging to national minorities. Nevertheless, they stated their expectation that the number of persons belonging to national minorities would be markedly decreased at this census – owing to emigration. They indicated a lack of awareness among persons belonging to national minorities of the possibilities to self-identify, and stated that this could have been misinterpreted as not identifying as an Armenian citizen – thereby indicating some disloyalty to the country. To tackle this issue at this upcoming census, minorities, particularly from the Yezidi minority, stated that it would be useful to recruit and train persons belonging to national minorities as interviewers for the census.

45. In advance of the final adoption of the census form, the Advisory Committee wishes to remind the authorities of the importance of the possibility of declaring multiple affiliations in the census and regrets its current absence in the Armenian census. It considers that, in Armenia, multiple affiliation would better capture the character of the population, where national minorities are also characterised by their strong sense of belonging to Armenian society – and may therefore wish to state that they are Armenian in addition to their minority affiliation. Furthermore, it reminds the authorities the list of possible responses to the ethnicity and language questions of the census should be open and not closed. The Advisory Committee also reiterates its conviction of the importance of recruiting and training persons belonging to national minorities as interviewers, and expects the authorities to take active steps to achieve this. Other interviewers should also be appropriately trained to ensure that interviewees give free and

<sup>12</sup> See [Thematic Commentary No. 4](#), The Framework Convention: a key tool to managing diversity through minority rights. The scope of application of the Framework Convention for the Protection of National Minorities, adopted on 27 May 2016, paras. 29-30.

<sup>13</sup> See ACFC, Thematic Commentary No. 4, para. 28.

informed replies to the questions, especially concerning ethnic affiliation. Lastly, the Advisory Committee considers that the census should be preceded by an awareness raising campaign explaining to the population the significance of collecting accurate information on the diversity of society with a view to guiding a well-informed national minority policy.

46. The Advisory Committee asks the authorities to include the possibility of multiple affiliation in the upcoming census and all data collection exercises, to launch an awareness-raising campaign on the importance of collecting accurate information in advance of the census, especially targeting national minorities in the areas where they live, and to recruit persons belonging to national minorities as census interviewers. The authorities should also ensure the appropriate training of all census interviewers to ensure interviewees are able to provide accurate responses which are recorded appropriately.

#### Legislative and institutional anti-discrimination framework (Article 4)

47. According to Article 29 of the Constitution, everyone shall be equal before the law and discrimination based on any ground, such as sex, race, colour, ethnic, origin, language, religion or belief, belonging to a national minority, or other personal or social circumstances shall be prohibited. This provision may be directly invoked before the domestic courts. Furthermore, several sectorial laws, also contain discrimination provisions.<sup>14</sup> In 2021 the new Criminal Code was adopted by the National Assembly and entered into force on 1 July 2022. The new Code criminalises discrimination as a distinct offence, providing detailed and extensive definition of the offence, including the aggravating grounds.<sup>15</sup> However, the Advisory Committee notes that there is no comprehensive legislative framework prohibiting discrimination. The concept of “discrimination” and the forms of discrimination are not defined or referred to in Armenian legislation, which makes no distinction between discrimination in public and private sector and no legislative act provides how the burden of proof should be applied in discrimination cases – for instance whether the burden of proof is shared. Finally, the remedies available for claiming non-pecuniary damage in cases of discrimination are ineffective.

48. Pursuant to the Constitutional Law on the Human Rights Defender, the Human Rights Defender (also called “the Ombudsperson”) is competent for the protection of the fundamental rights and freedoms of individuals from breaches

by public authorities and local self-government bodies and officials as well as by organisations exercising the powers delegated thereto by state.<sup>16</sup> Although the Law in question does not entitle the Human Rights Defender an express competence in discrimination-related cases, the Defender’s Office carries out some activities to prevent and combat discrimination. In particular, the Defender deals with complaints concerning the alleged breaches of the fundamental rights and freedoms by public actors. However, the Human Rights Defender does not have the competence to examine complaints pertaining to the alleged discrimination in the private sector. Furthermore, the Defender’s recommendations are of a non-binding character.

49. Following amendments to the Constitutional Law on the Human Rights Defender in 2020, the former Defender requested an opinion from the European Commission for Democracy through Law as to the legislation relating to the Defender’s staff. The opinion raised concerns about the independence of the institution, particularly defining the staff as civil servants, insufficiently defined processes for the Defender to recruit his or her own staff, and the necessity for the Defender to negotiate with the government for its annual budget.

50. During the visit of the Advisory Committee, the Human Rights Defender indicated that the absence of comprehensive legislation on non-discrimination on the one hand hinders the Defender’s scope of possible actions in the field of alleged discrimination cases, and on the other hand this legislative lacuna discourages and even prevents persons belonging to national minorities from submitting complaints of alleged discrimination to the Defender. In particular, due to the lack of the basic definitions and procedural rules, the examination of discrimination complaints falls under the same rules as any other complaints. This constitutes one of the main reasons for the low number of reported cases related to national minorities to the Human Rights Defender. Moreover, the lack of a specific mandate in this field constitutes another statutory obstacle for the Defender for dealing with discrimination cases. Hence, the latter’s competence is limited to documenting the facts of discrimination without any effective enforcement mechanisms. The Defender receives a substantial number of complaints (21 181 in 2021).<sup>17</sup> The Advisory Committee notes that these complaints were of a general nature and did not allege violations of specific rights of persons belonging to national minorities. It was further observed that there was a general lack of

<sup>14</sup> Such as the Labour Code, the Law on Education, the Law on the Police, the Law on Audiovisual Media, the Code of Administrative Offences, the Judicial Code, Medical Care and Services of the Population Act, the Criminal Code, the Civil and Criminal Procedure Codes.

<sup>15</sup> Article 203 of the Criminal Code of 5 May 2021.

<sup>16</sup> Article 15 § 1 of the Constitutional Law on Human Rights Defender, available at [https://www.ombuds.am/en\\_us/site/AboutConstitution/79](https://www.ombuds.am/en_us/site/AboutConstitution/79).

<sup>17</sup> See annual report of the Human Rights Defender, available at: <https://www.ombuds.am/am/site/SpecialReports>, p. 90.

awareness on the part of the population about the definition of discrimination.

51. The Advisory Committee observes that in 2016 Armenia elaborated the Draft Law on Ensuring Equality to remedy the legal vacuum in the domestic legal order pertaining to discrimination cases but which was not adopted. It set out the definitions of discrimination, including the types of discrimination as well as the principle of shared burden of proof in discrimination-related cases. It further provides for setting up of an Equality Council within the structure of the Human Rights Defender's Office, entrusted with the competence to examine individual complaints and issue binding decisions. Although some public consultations were held, the Draft Law has not been adopted.

52. By a Decree of 26 December 2019,<sup>18</sup> the Government approved the National Strategy on the Protection of Human Rights for the period between 2019 and 2023. It establishes a framework for human rights protection, through the adoption of a number of targeted programmes concerning the implementation of numerous fundamental rights and freedoms. However, it did not specifically concern national minority rights.

53. The Advisory Committee wishes to reiterate that the current sectoral approach of the Armenian authorities to anti-discrimination legislation does not guarantee adequate protection against discrimination. It further considers that the authorities should review their approach and should envisage adopting comprehensive legislation against discrimination drawing inspiration from the relevant provisions of the General Policy Recommendations of the European Commission against Racism and Intolerance.<sup>19</sup> In this connection, the Advisory Committee welcomes the authorities' initiative to adopt the Law on Ensuring Equality, which appears to be a comprehensive legal instrument on discrimination.

54. Furthermore, despite the fact that the Human Rights Defender does not have any enforcement competencies under the legislation, currently in force in relation to the cases of alleged discrimination, and the Defender's recommendations are not binding, the Advisory Committee notes with satisfaction that its Office continues to enjoy widespread support from the public, attested to by the number of complaints received. The Advisory Committee considers that under the Draft Law on Ensuring Equality, whereby an establishment of an Equality Council is foreseen within the Human Rights Defender's

Office, the Equality Council should be entitled to make full use of decision-making competences to effectively address the complaints concerning alleged discrimination. It therefore considers that the Human Rights Defender's Office should be equipped with the necessary human and financial resources to carry out this function. The Advisory Committee further considers that the authorities should put in place procedural and institutional guarantees to secure the Human Rights Defender's independence, especially in view of the plans to establish the Equality Council within the Human Rights Defenders' office.

55. The authorities should also step up their efforts to raise awareness among groups most frequently targeted by discrimination of the legislative standards that currently apply and of the avenues of redress available to victims of discrimination. In this connection, The Advisory Committee considers that the implementation of the legislative framework for combating discrimination would be strengthened if the Human Rights Defender's work were the subject of awareness-raising campaigns aimed at society as a whole and especially at the groups most exposed to discrimination. In addition, the Advisory Committee considers that more investment should be made in training programmes, particularly for law enforcement bodies, legal professionals and public officials, so as to overcome discrimination prejudice and structural disadvantages faced by persons belonging to national minorities and increase trust in these institutions. National minority representatives should be systematically involved in such training to provide hands-on experience.

56. The Advisory Committee calls on the authorities to continue with the process of adoption of a comprehensive legal framework on anti-discrimination without delay, in consultation with representatives of civil society.

57. The Advisory Committee encourages the authorities to equip the Human Rights Defender with sufficient human and financial resources to allow it to effectively and independently fulfil its duties, especially awareness-raising activities.

#### Equality data (Article 4)

58. The state report did not provide specific data, more recent than the information obtained in the census of 2011, disaggregated by ethnicity. There is a lack of readily available data disaggregated by age, gender and geographical distribution, especially in the fields, *inter alia*, of education, employment, healthcare services, the

<sup>18</sup> The National Strategy on the Protection of Human Rights, Government Decree of 26 December 2019, available at <https://www.irtek.am/views/act.aspx?aid=152317>.

<sup>19</sup> See <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/>.

beneficiaries of social welfare services, domestic violence affecting women and children belonging to national minorities.

59. The Advisory Committee emphasises the importance of basing “equality promotion policy instruments or special measures on comprehensive data [...], also taking into account the various manifestations of multiple discrimination that may be experienced, including those arising from factors that are unrelated to the national minority background such as age, gender, sexual orientation and lifestyle markers”.<sup>20</sup> Collecting reliable, disaggregated data on the situation of persons belonging to national minorities is important for achieving full and effective equality, not least as it allows the authorities to assess whether steps taken to achieve this have been given effect. It is also important to raise awareness among national minorities of the necessity to collect such data for the elaboration of adequate policies to address their concerns.

60. In the light of the above principles, the Advisory Committee regrets that the Armenian authorities do not collect information on the situation of persons belonging to the various national minority groups, in any of the relevant fields. In this connection, it reiterates that the lack of statistics disaggregated by age, gender and geographical distribution leads to increased difficulties in elaborating targeted policies to remedy the problems that the national minorities are facing. The Advisory Committee therefore considers that collecting such statistical data in compliance with international standards on data protection is indispensable to design well-targeted and sustainable measures, meeting the needs of persons belonging to national minorities.

61. The Advisory Committee calls on the authorities to adopt measures aimed at collecting reliable equality data for all national minorities, disaggregated by age, gender and geographical distribution, in all relevant fields, including education, gender-based violence and socio-economic participation, based on the principle of self-identification and in accordance with international standards on data protection.

#### Support for national minority cultures (Article 5)

62. The state report informs that the Ministry of Education, Science, Culture and Sport cooperates with associations and NGOs of national minorities to organise cultural events, concerts and exhibitions. The main source of funding for national minorities is channelled through the Council for National Minorities (see Article 15), which disburses around 20 million

Armenian drams (AMD) (approximately EUR 35 000<sup>21</sup>) among its members (one or two from each minority represented). Individual minorities can also receive grants to support their projects, which are generally of small amounts totalling around 3 million AMD (approximately EUR 5 000) in 2016, and 2.15 million AMD (approximately EUR 3 800) in 2018. A planned budget increase for 2020 was not realised. The Council of National Minorities also has a premises in Yerevan, usage of which is shared between the national minorities and allows them to hold Sunday schools (see Article 14) and cultural events there. The authorities also state that minority cultural heritage is inscribed on Armenia’s list of intangible cultural heritage.

63. National minority representatives appreciated the support they receive from the Armenian State, even if amounts may be rather small for them to put on as comprehensive a programme of activities as they would like. Many of the national minorities turn to “kin-states” for support therefore. Members of the Council of National Minorities indicated their dissatisfaction at having one floor of the premises taken away from it, thus halving its space. Many national minorities indicated that they could not afford their own offices, or would soon not be able to given increasing private rental costs and the lack of state funds to make up for this, and so relied on this state-provided facility. They also regretted the current poor state of repair of the existing premises, stating that it requires maintenance. The Ukrainian minority also stated that it faced a longstanding threat of eviction from its premises owned by Yerevan city authority.

64. The Greek minority has asked that the Pontic Greek language be included on the list of intangible cultural heritage, and that its church in the village of Hankavan (Kotayk province) is given the status of a monument. It was also reported that Yezidis do not get funding for the construction of their shrines or temples.<sup>22</sup> Persons belonging to the Udins also regretted that the funding was mainly available through the Council, and that there was little other support for their cultural events in 2018.<sup>23</sup>

65. Yezidi representatives regretted that much of the authorities’ work to support their culture and minority in general was limited to folkloristic expressions of dance and song, rather than using funds to address other key areas (see Articles 6, 12, 14). Generally, numerically smaller national minorities, among them Udins, expressed their fears for the future; with only around 100 persons left belonging to some national minorities, the assimilation of these minorities is a possibility in the near future. They stated that Armenia’s efforts

<sup>20</sup> ACFC, Thematic Commentary No. 4, para. 66.

<sup>21</sup> In this opinion, conversions into Euros are given as the 15<sup>th</sup> March 2022, and are approximate and indicative only.

<sup>22</sup> Cultural Center of the Caucasus Yezidis, Alternative Report to the Fifth Periodic Report of Armenia, 2022, para. 8.

<sup>23</sup> Shadow report of the Udin community.

to preserve and develop their culture were welcome, but could most likely not avoid this disappearance. For instance, the Greek minority emphasised it was getting smaller as the community gets baptised in the Armenian Apostolic Church (see Article 8). Numerically smaller national minorities also reported that the fact most funding is channelled through the Council puts the minorities into competition with one another, putting an increasing strain on relations between minorities. During the visit, several interlocutors pointed out the necessity of having a national strategy concerning specifically the rights of national minorities, in order to provide the overall approach necessary to resolve many of the issues they face. This is even more crucial when it comes to the protection and social inclusion of the vulnerable persons among national minorities (see Articles 6, 12 and 15).

66. The Advisory Committee reiterates the preamble of the Framework Convention which states that a pluralistic and genuinely democratic society should not only respect the ethnic, cultural, linguistic and religious identity of each person belonging to a national minority but also create appropriate conditions enabling them to express, preserve and develop this culture. The Advisory Committee also stresses in this context the importance it has put on the revitalisation of the languages and cultures of numerically smaller national minorities, with a view to avoiding cultural assimilation and the loss of their identity against their will, and effectively preserving national minority cultures. The Advisory Committee reiterates that “[t]his may often require targeted efforts by the authorities to revitalise essential elements of the minority culture, without which the expression of some aspects of that identity may not be possible.”<sup>24</sup> It is also important to raise awareness among the majority population about the rights of persons belonging to national minorities to preserve and develop their cultures and identities, including religion, tradition, languages and cultural heritage.

67. In this respect, the Advisory Committee welcomes that the funding available is on a transparent and predictable basis for the minorities represented in the Council. It also welcomes the possibility for other initiatives to be funded through the Ministry of Education, Science, Culture and Sport. It nevertheless regrets the situation regarding premises, affecting many national minorities, and considers that the authorities should take steps to return to the Council the premises previously taken from them, or seek to provide new, more suitable venues. In this respect, the Advisory Committee is concerned that minority organisations are

being hampered from exercising their full potential due to high rent or threats of eviction.

68. The Advisory Committee emphasises that the availability of stable and predictable assistance schemes not only to recognised national minorities but also to other groups, such as the Udins, who would otherwise not be able to maintain their distinct features would be welcome.<sup>25</sup> The Advisory Committee reminds the authorities of the particular importance of religious buildings and monuments for the maintenance of the religious and cultural identity of national minorities, and hence regrets the situation with regard to the Greek churches which are still awaiting this specific protection. The Advisory Committee also wishes to emphasise the lack of positive support for places of worship for national minorities from the authorities may contribute to a perception of preferential treatment of the Armenian Apostolic Church (see Article 6).

69. The Advisory Committee emphasises that cultural initiatives and projects should reflect the diversity also of the minority itself, and avoid reinforcing a stereotypical, one-dimensional image of national minorities, which in turn is to the detriment of intercultural dialogue (see Article 6). It furthermore considers that, linked to a national minority strategy, a more structural approach to provide for the long-term preservation and development of linguistic, religious and cultural identities of national minorities, especially the numerically smaller ones, could be envisaged. The Advisory Committee is of the view that authorities should consider the specific financial needs of such minorities and take more active steps to promote the conditions necessary for them to preserve and develop their cultures.

70. The Advisory Committee stresses the importance of the adoption and implementation of a national strategy on national minorities, *inter alia*, to promote full and effective equality in all areas of public life. Such a strategy would form part of a coherent approach, and in addition and complementary to the Law on National Minorities, and should be drawn up, implemented and monitored in close cooperation with persons belonging to national minorities.

71. The Advisory Committee calls on the authorities to intensify their support for national minorities to preserve and develop their linguistic, religious and cultural identity. Targeted efforts are needed to revitalise the essential elements of the culture of numerically smaller minorities. A comprehensive national strategy on national minorities should be elaborated, implemented and evaluated in close and active cooperation with representatives of national minorities and civil society.

<sup>24</sup> ACFC, Thematic Commentary No. 4, para. 67.

<sup>25</sup> ACFC, Thematic Commentary No. 4, para. 67.

## Intercultural dialogue (Article 6)

72. The authorities emphasise that there are generally good intercultural relations between minorities and the majority. A “Day of National Minorities” celebrated in early October has also been introduced over the past monitoring cycle, providing for greater visibility and opportunities for intercultural dialogue.

73. The Advisory Committee also notes that in the Constitution, the “exceptional mission of the Armenian Apostolic Church, as the national church, in the spiritual life of the Armenian people, the development of its national culture, and the preservation of its national identity” is recognised (Article 18 of the Constitution).

74. National minority representatives in general stated that they felt a part of Armenia and that Armenia is their ‘homeland’. The lack of knowledge of national minorities in Armenia affects all national minorities negatively and limits prospects for intercultural dialogue. It was reported that even if the majority may be notionally aware that there are groups such as Yezidis or Molokans in Armenia, any knowledge is limited to stereotypical ideas of traditional roles – especially agriculture<sup>26</sup> – which may no longer be relevant for some minorities. Such stereotypes may even be held by those in positions of authority. Civil society representatives also reported to the Advisory Committee that this stereotypical view of minorities coupled with a view of Armenia as homogenous both ethnically and in terms of religion leads to both national and religious minorities being ignored by mainstream society.<sup>27</sup>

75. Yezidi representatives have however stated that they feel a biased and derogatory attitude from some sectors of the population, especially channelled via social media<sup>28</sup> and traditional media.<sup>29</sup> The Committee was also informed of the vandalism of a Holocaust memorial in Yerevan and of increased levels of antisemitism in recent years.<sup>30</sup> The Advisory Committee has been informed also of a Lom or “Bosha” community in Armenia (see also Fourth Opinion on Armenia). It observes that the use of the term “Bosha” to designate persons belonging to the Lom community can be used in a pejorative way (with the sense of “beggars” or “thieves”). Whilst the Advisory Committee did not meet with any Lom representatives, as no organisations exist, it was informed by some interlocutors that persons belonging to this community on the one hand do not feel different from Armenians, but on

the other that they have their own secret language (“Lomavren”) which they use exclusively within their community, and that they use a different term (“kashut”) in Lomavren to designate Armenians and more generally non-Loms; this may tend to indicate that they preserve a distinct ethnic identity, which they might not wish to openly proclaim, given the wider lack of intercultural dialogue, potential fear of negative attitudes from the majority, and absent possibilities to declare multiple affiliations in previous data collection exercises.

76. The Advisory Committee emphasises that Article 6 of the Convention calls for deliberate efforts to foster a climate of mutual respect, understanding and co-operation among all persons in society, where persons belonging to national minorities are recognised as integral elements of society, who effectively enjoy equal access to rights and resources, while being provided with opportunities for social interaction and inclusion across difference. It reiterates the preamble of the Framework Convention which states that cultural diversity ought to be a source and a factor, not of division, but of enrichment for society which should be reflected through legislation and policy.

77. The Advisory Committee is concerned by the view – as outlined critically by its interlocutors - in parts of Armenian society that the country is essentially homogenous, both ethnically and in terms of religion, because this does not accurately represent Armenia’s ethnic and religious diversity. In addition, the Committee is concerned that this may limit the visibility of minorities, and does not leave enough room for the promotion of their cultures and languages.<sup>31</sup> It also positively notes the authorities’ wish to counter this view.<sup>32</sup>

78. The Advisory Committee acknowledges the general acceptance of national minorities prevailing in Armenia. However it is concerned about the stereotypical image of some national minorities – particularly those visible minorities – and considers that further action is needed through the implementation of state cultural programmes and media to counter these stereotypes (see also Article 5).

79. General awareness of minorities and their history, traditions, culture and language needs to be bolstered among the majority population to create the conditions necessary for intercultural dialogue. In the Advisory Committee’s view, until such dialogue is possible mere tolerance of

<sup>26</sup> See also Comments of the Government of Armenia to the Fourth Opinion, p. 6.

<sup>27</sup> See Eurasia Partnership Foundation, ‘Contemporary Issues of Freedom of Religion or Belief in Armenia, Georgia and Beyond, Conference Report 2019’, at: <https://epfarmenia.am/document/EPF-FoRB-2019-Report>, p. 56-59.

<sup>28</sup> Cultural Center of the Caucasus Yezidis, Alternative Report to the Fifth Periodic Report of Armenia, para. 7.

<sup>29</sup> Yezidi Centre for Human Rights, Alternative Report.

<sup>30</sup> US State Department Human Rights Report, p. 49.

<sup>31</sup> ACFC, Fourth Opinion on Armenia, para. 5.

<sup>32</sup> The Government of Armenia referred to ‘the diverse mosaic of the public’. Comments of the Government of Armenia, p. 6.



minorities will characterise minority-majority relations, as opposed to genuine understanding of their ethnic, cultural, linguistic and religious identity. This in turn is a major obstacle to intercultural dialogue. In this context the Advisory Committee is concerned about the potential assimilation of the numerically smaller national minorities, as it appears has already happened with the Lom or “Bosha” community (see also Article 3 and 5).

80. The Advisory Committee calls on the authorities to take active steps to raise awareness of Armenia’s ethnic diversity and of the culture, history, traditions, religions and languages of national minorities in society, counter ethnic and religious stereotypes and promote the conditions necessary for intercultural dialogue.

#### Protection from gender-based violence (Article 6)

81. During the visit, the Advisory Committee’s attention was drawn to some forms of gender-based violence affecting in particular persons belonging to national minorities. According to UNFPA and Yezidi representatives, early and forced marriage is more common among minority ethnic groups more exposed to socio-economic marginalisation, particularly Yezidis.<sup>33</sup> Rigid gender norms and traditional attitudes *vis-à-vis* the role of women reinforce the practice of early marriage.<sup>34</sup> Civil society organisations and Yezidi organisations underlined that this harmful practice had little basis in tradition, causes physical and psychological trauma to girls, and seriously hinders their life chances by effectively bringing a halt to their education. Indeed, in the context of early marriage, the issue and risk of bridal kidnapping was also raised,<sup>35</sup> further contributing to the social limitations on the girls; the risk and fear of being kidnapped when travelling to school has a negative impact on school drop-out rates of Yezidi girls in particular (see also Article 12). Interlocutors criticised the authorities’ permissive approach which resists acting to prevent early marriages for fear of unduly restricting the supposed Yezidi traditions

– viewed as such by the authorities – and contributing to underreporting to the police.<sup>36</sup> The Advisory Committee’s interlocutors stressed the authorities’ positive obligations in this regard, to protect all persons from harm and to uphold the right to education. Several interlocutors stated that even in the presence of *prima facie* evidence, the State fails to implement its positive obligations. Referring among other sources to the Framework Convention, they stated that traditions could only be protected on the condition that they do not contradict other fundamental human rights and freedoms – including, *inter alia*, the right to be protected from harm and the right to education.

82. Linked to these problems, the issue of sex-selective abortion has been raised as a concern in Armenia. In 2011 the Parliamentary Assembly of the Council of Europe highlighted alarming levels of skewed sex ratio at birth in several Council of Europe member countries, including Armenia, where the rate stood at 112/100 compared to a normal sex ratio at birth of 102-106 males to 100 females.<sup>37</sup> A 2013 study found that in national minorities, this stood at around 128 male births per 100 female births.<sup>38</sup> In 2016 new amendments were introduced in the Law on Reproductive Health and Rights,<sup>39</sup> as a result of which sex-selective abortions became illegal – amidst some concern that this could be used by some to ‘screen’ the reasons for accessing such healthcare and thereby limit access (see Article 15).<sup>40</sup> Yezidi representatives have brought the issue of sex-selective abortion to the attention of the Advisory Committee, stating that its knock-on effects – for example playing a role in creating the conditions for early and forced marriage and bridal kidnapping (see Article 12 and 15), due to fewer girls being born. Local authority representatives also drew attention to this issue.

83. According to the Council of Europe Commissioner for Human Rights, “domestic violence remains a serious, widespread, and to some extent still underestimated phenomenon in

<sup>33</sup> UNFPA, “Child Marriages in Armenia”, p. 6, 2014. See also shadow report of Yezidi organisations.

<sup>34</sup> See the research report “Yezidi Girls Are Not Brides”, Ending Child Marriage in Armenia, Parandzem PARYAN and Isabel BROYAN, p. 12. Broyan, Paryan, Martirosyan, Hovhannisyán. See also: Eurasia Partnership Foundation, *Issues related to the rights of and opportunities for Yezidi girls residing in Armenia* <https://epfarmenia.am/document/Issues-Related-to-the-Rights-of-and-Opportunities-for-Yezidi-Girls-Residing-in-Armenia>, p. 6. 2020.

<sup>35</sup> See “Yezidi Girls Are Not Brides”, Ending Child Marriage in Armenia, Parandzem PARYAN and Isabel BROYAN, *loc. cit.*, p. 13, 15. See also Group of Experts against trafficking in human beings (GRETA), 2017, paras. 70, 72, at <http://rm.coe.int/doc/09000016806ff1ad>.

<sup>36</sup> *Ibid.*, p. 13-14.

<sup>37</sup> See PACE Resolution 1829(2011). See also UNFPA, Armenia factsheet on gender-biased sex selections, 2020, at: <https://www.unfpa.org/resources/armenia-gender-biased-sex-selections-explained>.

<sup>38</sup> Eurasia Partnership Foundation, ‘Issues related to the Rights of and Opportunities for Yezidi Girls residing in Armenia’ (2020) p. 18; Guilmo Z.C. IRD/CEPED Paris, *Sex imbalances at Birth in Armenia: Demographic Evidence and Analysis*, Yerevan (2013) p. 57.

<sup>39</sup> The amendments of 29 June 2016, available only in Armenian at <https://www.arlis.am/documentview.aspx?docid=107500>.

<sup>40</sup> UN Women, Armenia Country Gender Equality Brief, p. 7: <https://euneighbourseast.eu/wp-content/uploads/2022/02/armenia-country-gender-equality-brief.pdf>.

Armenia”.<sup>41</sup> She noted in 2019 in her report that Armenia’s National Statistical Service and Ministry of Health found that “10% of women and 23% of men in Armenia agreed that wife beating was justified in certain situations; acceptance of wife beating reached levels as high as 40-41% in some rural regions.<sup>42</sup> According to the interlocutors of the Advisory Committee, domestic violence, particularly affecting women and children, is also a widespread issue for national minority communities. In this context, civil society organisations also raised the problems faced by minority women in their dealings with police, observing that overcoming these cultural and often linguistic barriers to justice was an issue requiring a response from the authorities. It has also been reported that national minority women face greater difficulties in accessing culturally and linguistically competent public services and support.<sup>43</sup> Civil society representatives also underlined that the lack of data on this issue hinders the authorities’ ability to respond effectively.

84. The Advisory Committee reiterates that “Article 6(2) contains the obligation of states parties to protect all persons against violence and discrimination on ethnic grounds”.<sup>44</sup> Whilst recognising that gender-based violence against women and girls may affect also the majority population, the Advisory Committee emphasises the necessity of designing special measures to enable women and girls belonging to national minorities to report violence, in view of the potential risks of multiple discrimination and the barriers to justice they face. In this regard, building linguistic and cultural competences in police forces and social services is vital in protecting from and preventing such harm. In this vein, measures should be taken to combat early marriages with a view to effectively implementing the protection enshrined in Article 6(2) of the Framework Convention.

85. The Advisory Committee reiterates its concerns regarding the damaging consequences of early and forced marriage which is widely acknowledged as a harmful practice that violates, abuses or impairs human rights and is linked to and perpetuates other harmful practices and human rights violations. Such harmful practice has a disproportionately negative impact on Yezidi girls and constitutes a serious threat to multiple aspects of their physical and psychological health. This issue also hinders the right to education to which every child is entitled

(see also Article 12). The Advisory Committee is also concerned, as expressed by its national minority interlocutors, that sex-selective abortions are reflective of gender-bias and are reinforced by disadvantaged socio-economic conditions and the perceived lower status of women in society.<sup>45</sup>

86. Although gender-based violence against women does not only occur in national minority communities, the Advisory Committee has been informed by Yezidi representatives that this issue affects in particular some parts of their minority. The persistent cultural and linguistic barriers between Yezidis and the police are a particular concern, as they may leave persons belonging to the Yezidi minority, especially those at risk, beyond the reach of legal remedies and at heightened risk of violence. Across all these issues, the Advisory Committee considers that training and increasing linguistic and cultural competences across the law enforcement authorities and social services is a necessary step. There is also a need, to talk about such issues more openly in schools to ensure that children have the awareness and the linguistic knowledge to report any abuse. The Advisory Committee regrets that statistical data on criminal proceedings are not disaggregated based on national minority background, sex, gender and geographical distribution and that data on prosecution and stages of proceedings are not broken down by type of violence (see also Article 4). Lastly, the Advisory Committee emphasises the importance and need for authorities to understand the historical and societal context for such harmful practices, to properly acknowledge and the causes and socio-economic factors which contribute, as well as the geographical and familial differences on this issue.

87. The Advisory Committee urges the authorities to collect data on gender-based violence against women and children belonging to national minorities, including early and forced marriages, and develop comprehensive policies and measures to prevent and combat this issue, engaging closely with law enforcement and social services and with the participation of national minorities. Such policies should be evidence-based and address the underlying social, economic and cultural drivers of early and forced marriages. They should aim at providing community care for vulnerable persons and strengthening trust between groups, individuals and institutions, and include information

<sup>41</sup> See the Report of the Commissioner for Human Rights of the Council of Europe Dunja MIJATOVIĆ following her visit to Armenia from 16 to 20 September 2018, p. 9, available at <https://rm.coe.int/report-on-the-visit-to-armenia-from-16-to-20-september-2018-by-dunja-m/168091f9d5>.

<sup>42</sup> National Statistical Service [Armenia], Ministry of Health [Armenia], and ICF. “Armenia Demographic and Health Survey 2015-16”, 2017, p. 248: <https://dhsprogram.com/pubs/pdf/FR325/FR325.pdf>; See also Council of Europe Commissioner, CommDH(2019)1, p. 9.

<sup>43</sup> Armenia Stakeholder Report for the United Nations Universal Periodic Review submitted by The Advocates for Human Rights, Human Rights Research Center, and Women’s Resource Center Armenia for the 35th Session of the Working Group on the Universal Periodic Review 20–31 January 2020, para. 40: <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=7244&file=CoverPage>.

<sup>44</sup> ACFC Thematic Commentary No. 4, 2016, para. 55.

<sup>45</sup> See the Council of Europe Commissioner’s for Human Rights comment of 15 January 2015.

campaigns among parents, in schools and communities.

### Hate speech and hate crime (Article 6)

88. Article 42 of the Constitution provides that everyone has the right to freedom of speech, including freedom to seek, receive and impart information and ideas by any means of communication and regardless of State frontiers. It also allows for restrictions on this right in certain circumstances, such as in the interests of national security, protection of public order, health and morals or the honour and good reputation of others and other basic rights and freedoms thereof. Article 77 prohibits the use of the rights and freedoms outlined in the Constitution to incite national, racial or religious hatred.

89. Article 226 of the Criminal Code, as currently in force, prohibits actions aimed at the incitement of national, racial or religious hostility, at racial superiority or “humiliation of national dignity”. The offence is aggravated if it is committed, *inter alia*, publicly or through mass media. Furthermore, with the amendments in the Criminal Code, the newly introduced Article 226.2. prohibits the public call for violence against a person or group of persons based, *inter alia*, race, colour, ethnic or social origin, language, religion, affiliation to national minority, including such acts as publicly justifying or advocating such violence.

90. Article 329 of the new Criminal Code which entered into force on 1 July 2022, criminalises any action aimed at the incitement of national, ethnic, racial, political, ideological or religious hostility, hatred or intolerance, as well as the incitement of hatred, intolerance or hostility against another social group. Article 330 of the new Criminal Code prohibits the public calls for violence, public justification or propagation thereof, as well as distribution of materials or objects for the same purpose.

91. Furthermore, the Criminal Code, as in force for the monitoring period, provides the motive of racial, national or religious hate as an aggravating circumstance in case of few crimes, that is murder,<sup>46</sup> inflicting grave or medium bodily harm,<sup>47</sup> causing severe physical pain or severe mental suffering,<sup>48</sup> premeditated damage to property<sup>49</sup> and outrageous treatment of a dead

body or a burial place.<sup>50</sup> Under the new Criminal Code, this list was supplemented by other Articles, providing the motive of racial, national or religious hate as an aggravating circumstance in respect of unlawful deprivation of liberty,<sup>51</sup> mental and physical impact.<sup>52</sup>

92. The Advisory Committee observes that under the Armenian legislation hate speech provisions are provided for only under the Criminal Code. However, given that there are instances in which criminal sanctions are neither necessary nor proportionate, it should be observed that there are no legal provisions under either the Civil Code or the Code of Administrative Offences regulating hate speech.<sup>53</sup>

93. The Advisory Committee recalls that “violence based on ethnicity must be recognised as an especially nefarious form of violence that concerns and threatens society as a whole and must thus be resolutely opposed and prevented. In order to address hate crime in a comprehensive manner, criminal legislation must contain provisions that criminalise hate speech, threats and violence based on ethnicity as well as public incitement to violence and hatred. In addition, racial discrimination must be considered an aggravating circumstance of any offence and law enforcement agents should be trained appropriately to ensure that racially and ethnically motivated attacks and discrimination are identified and recorded, as well as duly investigated and punished through targeted, specialised and prompt action”.<sup>54</sup>

94. The Advisory Committee regrets to note that the above-mentioned aggravating circumstances apply exclusively to the crimes exhaustively enumerated above, but not to all (i.e. rape, violent sexual actions, etc.). This issue was already highlighted by the Advisory Committee in its previous opinion.<sup>55</sup> The Advisory Committee welcomes that this was addressed by the Armenian authorities in the newly adopted Criminal Code, which provides that aggravating factors may be taken into account at sentencing. Furthermore, the Advisory Committee regrets that the current legislative solutions aimed at addressing hate speech are solely based on the provisions of the Criminal Code, without considering other legal remedies (i.e. civil and

<sup>46</sup> Article 104 of the Criminal Code.

<sup>47</sup> Articles 112 and 113 of the Criminal Code.

<sup>48</sup> Article 119 of the Criminal Code.

<sup>49</sup> Article 185 of the Criminal Code.

<sup>50</sup> Article 265 of the Criminal Code.

<sup>51</sup> Article 192 of the Criminal Code.

<sup>52</sup> Articles 194 and 195 of the Criminal Code.

<sup>53</sup> Comparative study on hate speech laws and Armenian legislation, Chara Bakalis and Ara Ghazaryan, Project “Strengthening access to justice through non-judicial redress mechanisms for victims of discrimination, hate crime and hate speech in Eastern Partnership countries”, 7 September 2020, p. 11.

<sup>54</sup> Thematic Commentary No. 4, para. 56.

<sup>55</sup> See Fourth Opinion by the Advisory Committee on Armenia, ACFC/OP/IV(2016)006, para. 59.

administrative) capable of addressing hate speech in less serious instances.

95. Although, according to its interlocutors, a general acceptance of national minorities prevails in Armenia and national minorities do not encounter hostility based on their ethnic origin, the Advisory Committee notes that the lack of disaggregated data about hate crime and hate speech makes it difficult to define trends on these issues.

96. The Advisory Committee encourages the authorities to provide remedies under civil and administrative legislation in respect of less serious instances of hate speech.

97. The Advisory Committee asks the authorities to set up a comprehensive data collection system with regard to hate crimes and hate speech, with fully disaggregated data on offence and hate motivation, thereby allowing the assessment of the impact on national minorities and the way these phenomena have been addressed by authorities.

#### Freedom of expression (Article 7)

98. The authorities have informed the Advisory Committee that during the reporting period, and in particular since the Covid-19 pandemic and the Nagorno-Karabakh conflict, a massive wave of disinformation and was observed in Armenia, as well as a perceived increase in online abusive political discourse. In order to address this, the authorities adopted a series of legislative amendments.

99. As concerns the Nagorno-Karabakh conflict, on 27 September 2020 the Government issued a Decree declaring martial law.<sup>56</sup> The Criminal Code and the Administrative Code were also amended to provide for penalties for infringements of the restrictions imposed by martial law (lifted definitively on 24 March 2021). Armenia also notified the Secretary General of the Council of Europe on 29 September 2020 of its temporary derogations from the obligations under Articles 8, 10 and 11 ECHR following the declaration of martial law. This was withdrawn in April 2021.<sup>57</sup> On 30 July 2021 the Criminal Code was again amended, and Article 137.1. was introduced, criminalizing the “serious” insult and providing for fines and a prison sentence when they are directed at persons on account of their public activities. The implementation of this provision resulted in the institution of more than 260 criminal cases which are now pending. The

introduction of this provision was strongly criticized by, *inter alia*, a number of interlocutors of the Advisory Committee as well as by the Parliamentary Assembly of the Council of Europe.<sup>58</sup> Furthermore, as stated above, on 15 April 2020, with the amendments in the Criminal Code, the newly introduced Article 226.2. prohibits the public call for violence against a person or group of persons based on different grounds.

100. The Advisory Committee observes that in October 2020 Sashik Sultanyan, Head of the Yezidi Center for Human Rights, was charged under Article 226.2. § 1 of the Criminal Code (public incitement to violence, public justification or propaganda of violence) on account of the ideas expressed during an interview to the Iraqi yezidinews.com website in May 2020 and published on 8 June 2020. In the interview, Sashik Sultanyan highlighted issues that the members of the Yezidi national minority were facing in Armenia (see Article 6, 12, 15 of this opinion) and Armenia’s lack of action to address these problems. Within the framework of the instituted criminal case, the investigator imposed on Sashik Sultanyan a written undertaking not to leave the country as a preventive measure. On 2 August 2021 the bill of indictment was finalised and the case was sent to the Yerevan Court of General Jurisdiction (“the Yerevan Court”) for examination on the merits. In particular, the bill of indictment stated that during the interview, Sashik Sultanyan had committed actions targeted at incitement of national hostility between Armenians and Yezidis. At the time of the adoption of the present opinion the proceedings were still pending before the Yerevan Court.

101. The Advisory Committee notes that several international and national human rights actors, including the Council of Europe Human Rights Commissioner<sup>59</sup> and others<sup>60</sup> – including human rights NGOs met by the Advisory Committee during the visit – have expressed their serious concerns in relation to the criminal prosecution against Sashik Sultanyan. Their concerns related, *inter alia*, to the mischaracterisation of legitimate speech and advocacy for his minority as incitement to hatred and the chilling effect that criminal cases initiated on this ground have on human rights defenders and others who protect the minority rights. Those NGOs have also highlighted to the Advisory

<sup>56</sup> The Human Rights Defender lodged an action with the Constitutional Court challenging the constitutionality of the provisions of the martial law restricting freedom of expression. By a decision of the Constitutional Court dated 20 November 2020, the contested provisions were suspended.

<sup>57</sup> See Treaty Office of the Council of Europe, [derogation](#) dated from 29 September 2020 to April 2021.

<sup>58</sup> The Report of the Parliamentary Assembly of the Council of Europe of 27 January 2022, The functioning of democratic institutions in Armenia, p. 5. See also: Report of Freedom House on Armenia dated 2021, available at <https://freedomhouse.org/country/armenia/freedom-net/2021>.

<sup>59</sup> See the Council of Europe Human Rights Commissioner’s letter addressed to the Prosecutor General of the Republic of Armenia, available at [Commissioner seeks clarification over criminal proceedings against Armenian human rights defender Sashik Sultanyan - View \(coe.int\)](#).

<sup>60</sup> See the statement made by the UN Special Rapporteurs on human rights defenders, minority issues and freedom of expression, available at <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=27372&LangID=E>; See also the statement made by the Human Rights Watch, available at [Armenia: Malicious Prosecution of Activist | Human Rights Watch \(hrw.org\)](#).

Committee the chilling effect of these proceedings on their day-to-day work of advocacy for human rights. Many of these actors have asked for the criminal charges against Mr Sultanyan to be dropped. Furthermore, the Human Rights Defender also shared his concern with the Advisory Committee concerning the criminal case at issue, stating that he had asked the Prosecutor General to discontinue the criminal proceedings against Mr Sultanyan.

102. The Advisory Committee wishes to reiterate the relevant case-law of the European Court of the Human Rights concerning the right to freedom of expression, according to which Article 10 of the European Convention on Human Rights guarantees freedom of expression in respect not only of “information” or “ideas” that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb; such are the demands of that pluralism, tolerance and broadmindedness without which there is no “democratic society”.<sup>61</sup> As set forth in Article 10 ECHR, freedom of expression is subject to exceptions, which must, however, be construed strictly, and the need for any restrictions must be established convincingly.<sup>62</sup> The Court has consistently established that there is little scope under Article 10 § 2 ECHR for restrictions on political speech or on debate of questions of public interest. While acknowledging the need to prevent disinformation and hate speech, the Advisory Committee recalls the long-standing case-law of the Court, according to which the interference with freedom of expression must be “prescribed by law”, “pursue one of the legitimate aims” within the meaning of Article 10 § 2 ECHR, and “necessary in a democratic society” to achieve that aim or aims.<sup>63</sup>

103. Having regard to the importance of protection and promotion of the rights of persons belonging to national minorities in a democratic society and in the context of freedom of expression, the Advisory Committee emphasises that criminal prosecution and fear of criminal sanction may have a chilling effect on the exercise of this freedom for human rights defenders, civil society, representatives of national minorities, and persons belonging to national minorities looking to advocate for their own rights.

104. The Advisory Committee has serious concerns about the effects of the criminal proceedings instituted against Sashik Sultanyan which have had a chilling effect on freedom of expression in Armenia in particular for human rights defenders from national minorities. The Advisory Committee considers that urgent action is needed to address this problem and remedy the situation. With the withdrawal of Armenia’s derogation from Article 10 ECHR in April 2021, the Advisory Committee expects Armenia to apply the full standard of protection of freedom of expression under this Article and Article 7 of the Framework Convention.

105. The Advisory Committee urges the authorities to effectively protect the right to freedom of expression of persons belonging to national minorities and their representatives according to international human rights standards and take effective measures to combat the chilling effect on freedom of expression.

#### Freedom of religion (Article 8)

106. Constitutional provisions on freedom of religion are unchanged since 2015. As stated above (see Article 6), the unique position of the Armenian Apostolic Church is recognised here. A new Draft Law on Freedom of Conscience and on Religious Organisations is currently pending before National Assembly.<sup>64</sup> The authorities report that currently 68 organisations of religious groups are registered, including 10 of national minority groups (Russian Orthodox, Molokan, Yezidis, Jewish and Assyrian). Moreover, the authorities state that all the national minorities practising a different religion have meeting places or places of worship complying with their religious tradition.

107. The Advisory Committee has been informed that the Armenian Apostolic Church benefits from a number of advantages compared to other religious communities – for instance the exoneration of taxes on donations to the Armenian Apostolic Church. ODIHR and the Venice Commission also cautioned against the potentially discriminatory perception this difference in treatment, which is included also in the draft law the two bodies examined.<sup>65</sup>

108. Representatives of the Assyrian minority informed the Advisory Committee of a dispute concerning a church, Saint Astvatsatsin, situated in the village of Dimitrov (Ararat province). They

<sup>61</sup> See *Handyside v. the United Kingdom*, 7 December 1976, Series A no. 24, § 49; and *Observer and Guardian v. the United Kingdom*, 26 November 1991, Series A no. 216, para. 59.

<sup>62</sup> See *Stoll v. Switzerland* [GC], no. 69698/01, para. 101, ECHR 2007-V, reiterated in *Morice v. France* [GC], no. 29369/10, para. 124, ECHR 2015; and *Pentikäinen v. Finland* [GC], no. 11882/10, para. 87, ECHR 2015.

<sup>63</sup> See, among many other authorities, *Perinçek v. Switzerland* [GC], no. 27510/08, para. 124, ECHR 2015 (extracts).

<sup>64</sup> See ODIHR and Venice Commission joint opinion on the draft law: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL\(2018\)004-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL(2018)004-e).

<sup>65</sup> ODIHR and Venice Commission joint opinion on the Draft Law, para 26.

stated that this church has long been used by Assyrian worshippers but became disputed when it was revealed that it had been allegedly wrongly listed as Armenian Apostolic Church property in the 1990s by the Historical and Cultural Heritage Research Centre.<sup>66</sup> Assyrian minority representatives state that the church has been used by their minority since the 19<sup>th</sup> century, and that they continued using it after the 1990s, without any knowledge of the attribution. An Assyrian organisation instituted court proceedings to have the church reattributed to them, which was dismissed at the first instance but has been appealed. They claim that this church was constructed by Assyrians and hence belongs to them, whereas it is registered as Armenian. They also informed the Committee that renovation of this church using symbols of the Armenian Apostolic Church has already begun, despite pending court proceedings on this matter, and that Assyrian worshippers have been locked out of the church, as witnessed first-hand by the Advisory Committee.

109. The Advisory Committee reiterates that effective access to places of worship is a key element of the manifestation of religion, including under the case law of the European Court of Human Rights.<sup>67</sup> Whilst the Advisory Committee cannot comment on the specific pending case before the Armenian courts, it wishes to emphasise the importance of persons belonging to national minorities continuing to have access to places of worship. It regrets in this context that authorities have not acted in order to postpone work to renovate the church inserting symbols of the Armenian Apostolic Church has been ongoing even while the court case is pending before the Civil Court of Appeal. The authorities should seek to ensure that the Assyrian minority's right to freely manifest their religion is respected.

110. The Advisory Committee strongly encourages the authorities to take steps to ensure that persons belonging to national minorities and practising minority religions have effective access to places of worship. Decisions on places of worship should be taken in a transparent and non-discriminatory manner, in close consultation with representatives of the groups concerned.

#### National minorities and the media (Article 9)

111. By law,<sup>68</sup> public television and radio have to provide a level of airtime for broadcasting programmes about the life, culture and languages of Armenian national minorities. In particular, according to the Law, public

broadcasters must provide 30 minutes a week on public television and two hours per week on the radio. In practice, this means that the public radio broadcasts 15 minutes in Assyrian per day, 30 minutes in Kurdish, 60 minutes in Yezidi, 15 minutes in Greek, and on working days 15 minutes of news and analysis is broadcast in Russian. The websites of these broadcasts are also available in minority languages. The authorities informed the Advisory Committee that, starting in 2022, a 24-hour rolling news channel would debut, with a 30-minute programme in the Yezidi language. They also indicated that in 2022 a programme would begin on the radio to teach Yezidi. The principal presence of minorities on television currently is the "National Flavours" programme, previously called "Side-by-Side" which provides information about national minorities in Armenia. Broadcast for 35-40 minutes a week over 16 weeks, it shows the contemporary issues facing minorities, especially Yezidis and Kurds, as well as manifestations of their culture, traditions and language. The authorities reported that one difficulty was being able to recruit adequately trained journalists from national minority communities.

112. For printed press, a special support programme exists to fund periodicals and newspaper of national minorities: the "Non-State Press Publication" programme. Between 2015 and 2019 the total amount of funding slightly decreased for this programme, from around EUR 20 000 to EUR 19 000, although individual disbursements to individual minorities have increased to AMD 1.2 million (approximately EUR 2200), but with fewer national minorities receiving such a disbursement.

113. National minority representatives were generally positive about the media landscape in Armenia, including the support they receive for producing and printing their newsletters. Whilst they stated that further financing would be welcome, as well as further broadcasting in minority languages, they understood that this may not be possible given the current political and financial context. Yezidi representatives regretted that media was prepared without the participation of minorities, and instead stated that the public TV should give minorities the tools to participate effectively in the media, rather than just making programmes about national minorities.<sup>69</sup>

114. The Advisory Committee reiterates that the availability of print, broadcast and electronic media in minority languages has a very specific emblematic value for national minorities, in

<sup>66</sup> Information submitted by the Assyrian minority to the Advisory Committee.

<sup>67</sup> See, *mutatis mutandis*, *Association for Solidarity with Jehovah's Witnesses and Others v. Turkey*, nos. 36915/10 and 8606/13, para. 90, 24 May 2016; *Religious Community of Jehovah's Witnesses of Kryvyi Rih's Ternivsky District v. Ukraine*, no. 21477/10, para. 50, 3 September 2019, and the references therein; and *The Religious Denomination of Jehovah's Witnesses in Bulgaria v. Bulgaria*, no. 5301/11, para. 97, 10 November 2020.

<sup>68</sup> Article 22, Part 6, Clause 3, Sub-Clause "e" The Law on Audiovisual Media.

<sup>69</sup> Yezidi Centre for Human Rights, *Alternative Report*.

particular for the numerically smaller ones. Through them, persons belonging to national minorities not only gain access to information, but they also raise the visibility and prestige of the minority language as an active tool of communication. The Advisory Committee also reiterates that support needs to be granted both to the media and programmes for, by, and about national minorities in minority and majority languages, as well as in bilingual or multilingual formats.

115. Therefore, the Advisory Committee welcomes the planned development of further programming about national minorities, and in national minority languages available on public radio and television. Noting however the low awareness of national minorities in Armenian society (see Article 5 and 6), the Advisory Committee sees that there is an opportunity to diversify the presentation of national minorities in Armenia through the 'National Flavours' programme, extend the duration and increase the frequency of such programming, and present also information about the history, culture, language, traditions and situation in today's society of numerically smaller national minorities, with the active participation representatives of such minorities. The training of journalists of a minority background should also be prioritised in order to ensure the sustainability of minority language news broadcasts.

116. The Advisory Committee encourages the authorities to extend further the duration and frequency of programming in minority languages on public television, to make more concerted efforts to include information about numerically smaller national minorities, including in their languages, and take steps to train journalists and media professionals from national minorities, with a view to increasing their participation in programming both for and about national minorities.

#### Communication in minority languages with administrative authorities (Article 10)

117. The state report provides no specific information about the rights of persons belonging to national minorities to communicate with local or central authorities in minority languages. According to Article 27 of the Law on Fundamentals of Administrative Action and Administrative Proceedings, persons belonging to national minorities have the right to submit their applications and the accompanying documents to

local administrative authorities in their minority language. However, the administrative authority shall require the translation of the documents into Armenian. In the authorities' view, "legislation of the Republic of Armenia does not create any obstacle for the persons participating in the administrative proceedings".<sup>70</sup> They have also stated that the fact that in general minorities have a good command of Armenia and that no persons belonging to national minorities raised this issue during consultations proves there is no "need" or "demand" for communication in minority languages with administrative authorities.<sup>71</sup>

118. In their fifth evaluation report on Armenia of 2 July 2020, the Committee of Experts on the European Charter for Regional or Minority Languages (hereafter, "Language Charter") observed a low level of awareness of the Charter obligations concerning the use of minority languages with the administrative authorities.<sup>72</sup> Furthermore, in 2021 the Committee of Experts reported that Russian may be used in communication with authorities, but states that the authorities did not provide information on how practical difficulties of the Russian minority were addressed.<sup>73</sup> The Committee of Experts also noted that Russian speakers have experienced difficulties using their language with local branches of the state authorities.<sup>74</sup> Representatives of the Russian and Assyrian minority (who also use the Russian language) informed the Advisory Committee that communication in the Russian language with authorities is more often available owing to the wider knowledge of Russian than other minority languages. Assyrian, Greek, Kurdish and Yezidi languages do not seem to be used in contacts with such authorities. In general the Advisory Committee has observed among minorities and the authorities a low awareness of this right under the Framework Convention.

119. The Advisory Committee reiterates that "The possibility of using minority languages in dealings with the administration in all areas where the criteria established by Article 10.2 of the Framework Convention are met may not be left solely to the discretion of the local authorities concerned. It is therefore important to set up clear and transparent procedures on how and when to institute the use of minority languages, including

<sup>70</sup> Comments of the Government of Armenia on the Fourth Opinion, p. 16.

<sup>71</sup> *Ibid.*, p. 15.

<sup>72</sup> Fifth report of the Committee of Experts of the European Charter for Regional or Minority Languages in respect of Armenia, page 10, para. 36.

<sup>73</sup> See Evaluation by the Committee of Experts of the Implementation of the Recommendations for Immediate Action Contained in the Committee of Experts' fifth evaluation report on Armenia, page 9, para. 44.

<sup>74</sup> *Ibid.*, para. 45.

in written form, to ensure that the right is enjoyed in an equal manner.”<sup>75</sup>

120. Additionally, “States should carefully study the demand and assess existing needs in the geographical areas where there is substantial or traditional settlement of persons belonging to minorities, taking also into account the specific local situation”.<sup>76</sup> However, any attempt to assess the level of demand needs to be preceded by awareness-raising of the rights contained within the Framework Convention, and specifically Article 10.<sup>77</sup>

121. The Advisory Committee wishes to reiterate the above findings of the Committee of Experts on the Language Charter and stresses, at the same time, the importance of the right of persons belonging to national minorities to use their languages in relations with administrative under Article 10 § 2 of the Framework Convention and Armenia’s obligations also in this respect. In this connection, the Advisory Committee considers that Article 27 of Law on Fundamentals of Administrative Action and Administrative Proceedings does not provide sufficiently clear and transparent criteria for the use of minority languages. Additionally, its provision, whereby the administrative authority may require translation of documents related to the administrative application submitted to it, may constitute unnecessary financial burden on persons belonging to national minorities, thereby dissuading them from making use of the right to communicate with local administrative authorities in their minority language. On the contrary, encouraging and persuasive measures are needed.

122. Moreover, the Advisory Committee reiterates its previous findings,<sup>78</sup> according to which there are no legislative or administrative provisions or policy measures encouraging the use of minority languages on the part of local officials, even in those municipalities which are inhabited by a substantial number of persons belonging to national minorities. This is especially needed given the low awareness of this right contained in the Framework Convention among persons belonging to national minorities and among local authorities. Active awareness raising, followed by assessment in close consultation with persons belonging to national minorities of the demand for communication with authorities in minority languages are needed.

123. It also observes with concern that in connection with the thresholds contained in the

Draft Law on National Minorities (Article 3) and the consolidation of municipalities (see Article 16), in villages with a substantial number of Assyrians living there – specifically Dimitrov and Nor Artagers – the right to use a minority language in communication with local authorities will be consequently removed.

124. The Advisory Committee encourages the authorities to ensure effective use of minority languages in contacts with administrative authorities for persons belonging to national minorities, notably through raising awareness of this right among the national minorities.

#### Use of minority languages in judicial proceedings (Article 10)

125. Armenian legislation does not guarantee the right to use minority languages in courts if the minority language speaker has a command of Armenian. According to Article 15 of the Code of Criminal Procedure, the language of court proceedings is Armenian. If the accused does not master Armenian, they may use their own language with the cost of translation provided by the state. Participants in criminal proceedings, including victims and witnesses, have the right to use the language that they speak, if they themselves provide and pay for the Armenian translation. A comparable provision is contained in Article 27 of the newly adopted Code of Criminal Procedure (see Article 6). Hence, in relation to the criminal proceedings covering both the pre-trial investigation and the trial proceedings, both the investigative authority and the presiding judge have the discretion to decide whether the accused masters Armenian.

126. The interlocutors of the Advisory Committee stated that in practice it is rather unclear how command of Armenian is being determined. That is, there are no minimum statutory rules in determining the need for interpretation and translation in criminal proceedings, for example, for the accused having poor command in Armenian. Therefore, in practice the investigative authority and the presiding judge in trial proceedings are afforded a wide margin of appreciation in determining the need for interpretation.

127. The Advisory Committee emphasises the importance that “the authorities [...] take all necessary measures to ensure that minority language rights in the judicial system are fully safeguarded, including as regards investigative and pre-trial stages. In addition, the Advisory

<sup>75</sup> Thematic Commentary No. 3, The Language Rights of Persons Belonging to National Minorities under the Framework Convention, adopted on 24 May 2012, ACFC/44DOC(2012)001 rev., para. 55.

<sup>76</sup> Ibid., para. 56.

<sup>77</sup> See Thematic Commentary No. 2, Effective participation of persons belonging to national minorities in cultural, social and economic life and public affairs, adopted on 27 February 2008, para. 160.

<sup>78</sup> See Fourth Opinion by the Advisory Committee on Armenia, ACFC/OP/IV(2016)006, para. 69.



Committee has welcomed the guarantee of the right to interpretation into a minority language not only in the context of criminal proceedings, but also in that of civil and administrative proceedings.<sup>79</sup>

128. In the Advisory Committee's view, more specific legislative mechanisms would be useful to avoid possible arbitrary or unjustified restrictions of the use of national minority languages by persons belonging to national minorities both during the pre-trial investigation and court proceedings. This would provide them with the full panoply of rights inherent to a right to a fair trial, be conducive to better quality proceedings, and safeguard legal security.

129. The Advisory Committee encourages the authorities to ensure that persons belonging to national minorities can adequately defend themselves in pre-trial and court proceedings in their minority language in practice.

#### Personal names and topographical indications (Article 11)

130. The state report informs of the thirty percent thresholds which would be necessary to display topographical indications in minority languages under the Draft Law on National Minorities. As it stands, however, the Council of Elders of a given village makes the decisions on display of topographical indications. In certain municipalities in Lori and Kotayk provinces, minority language topographical indications have been displayed. In 2021 the Committee of Experts on the Language Charter found little progress had been made for Assyrian, Greek, Kurdish and Yezidi languages in implementing minority language place names, including through topographical indications.<sup>80</sup>

131. National minority representatives did not report their demand for these indications to the Advisory Committee. They also explained that they understood the financial resources may not be there to support such initiatives, however welcome they may be.

132. The Advisory Committee wishes to emphasise that bilingualism in signposts should be promoted as it conveys the message that a given territory is shared in harmony by various population groups, and should be given an unambiguous legislative basis.<sup>81</sup> It is also a way of raising awareness of the presence of national minorities in Armenia. The Advisory Committee wishes to emphasise that, despite the state's margin of appreciation in determining thresholds, "this must not be exercised in such a manner as to constitute a disproportionate obstacle with

respect to certain minority languages."<sup>82</sup> The Advisory Committee therefore regrets the lack of progress with regard to the implementation of this right, and considers also that a lack of demand may also be indicative of a lack of knowledge of this right. The Committee also regrets the inclusion of high thresholds in the Draft Law on National Minorities and considers that the authorities should look again at this provision, which is not in line with the Framework Convention (see Article 3). This is even more so in light of community consolidation and minorities' concerns at the changed proportions of municipalities (see Article 16). The authorities should instead consider a shift in the emphasis of the provision onto the "sufficient demand" criterion of Article 11(3) FCNM – following an awareness-raising campaign, which could form part of any future strategy on national minorities (see Article 5).

133. The Advisory Committee strongly encourages the authorities to raise awareness of the right to display topographical indications in minority languages as enshrined in Article 11 of the Framework Convention among national minorities in areas where they reside traditionally in substantial numbers, and subsequently implement topographical indications in these languages.

#### Intercultural education (Article 12)

134. The authorities reported no significant initiatives to promote intercultural education via curricula, teacher training or textbooks or other resources, but they did inform the Committee that a new curriculum was being piloted in the Tavush region, which includes information about national minorities in Armenia, in conformity with its predefined objectives. The authorities have also stated that the basic school subject "History of the Armenian Church" is not a compulsory subject and may not be taught in schools of national minorities. Monitoring of this curriculum is also carried out by an organisation which is supervised by the Holy See of Etchmiadzin, the headquarters of the Armenian Apostolic Church.

135. In the curriculum there is no provision to teach about national minorities, but in practice some teaching through history and geography subjects may be taught, depending on the schools and even individual teachers. Authorities and minorities also reported that pupils may learn about minority culture, history, language and contribution to Armenian society if they are in the same class as a pupil belonging to a minority, or attend the minority language class (see Article 14). During the visit, the Advisory Committee saw

<sup>79</sup> Thematic Commentary No. 3, para. 59. Also available in Armenian:

<http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016800c1203>.

<sup>80</sup> Committee of Experts on the European Charter of Regional or Minority Languages, Evaluation of the Implementation of the Recommendations in respect of Armenia, MIN-LANG(2021)17, paras. 18-20, 31-33, 41-42, 57-59.

<sup>81</sup> ACFC, Thematic Commentary No. 3, 2012, para. 67.

<sup>82</sup> ACFC, Thematic Commentary No. 3, 2012, para. 65.

how this worked in practice in Assyrian and Yezidi schools, and it saw how minority culture was highlighted within the school common areas – even if there is no formal requirement to do this. National minority representatives, and especially Yezidis, highlighted that the educational difficulties they face, including in terms of school drop-outs, could be countered by increased intercultural education, whereby minority cultures are taught, emphasised and a sense of belonging and pride is fostered. They argued that this would also help to convince elder members of the community that education was also made for Yezidis. Yezidi representatives also reported that majority teachers take a stereotype-based approach to Yezidi students.<sup>83</sup> The Advisory Committee has also learned that the strong religious element in schools negatively affects the freedom of religion of minority students.<sup>84</sup> Minority representatives claimed that the textbooks even promote conflict between Yezidis and Kurds and present a stereotypical image of the Yezidi minority.

136. The Advisory Committee also reiterates in this respect that ‘school education should offer a [...] reflection of the linguistic and cultural diversity of society and thereby promote the values of tolerance, intercultural dialogue and mutual respect’.<sup>85</sup> The Advisory Committee thus states its regret at the limited elements of education about national minorities in Armenia and agrees with its interlocutors that increasing such education would have multiple benefits: for intercultural dialogue and mutual respect (see Article 6), but also effective access to education for Yezidis (see below). The authorities should therefore seize the opportunity of the pilot curriculum which will introduce content on all national minorities in Armenia. Following the assessment and review of the pilot curriculum in Tavush, which should take place in consultation with persons belonging to national minorities, it could be rolled out across the country. This could also be done in less formal ways, for instance through young persons belonging to national minorities visiting schools and speaking of their experiences, but also culture, language, history and religion.

137. With regard to religious education, the authorities should ensure, in the light of the Framework Convention principles and in consultation with persons belonging to national minorities, that this education is provided in full accordance with the right of these to freedom of thought, conscience and religion.

138. The Advisory Committee urges the authorities to ensure that information about the culture, traditions, history, religion and language of national minorities and their contribution to society is included in school curricula, and accompanying teacher training and teaching materials. In this context, evaluation of the outcome of the pilot curriculum in Tavush should be carried out in consultation with persons belonging to national minorities.

#### Effective access to education (Article 12)

139. The state report provides information on the actions of NGOs and the international community in Armenia on eliminating the difficulties in access to education faced by Yezidis – especially girls. In exchanges with the Advisory Committee, the authorities stated that they have drawn up a state programme for educational development, which is to be put to public consultation. One of the aims of this programme is achieving inclusion, meaning also the inclusion of all students in public education. Furthermore, they reported that in 2021 a procedure was launched to track drop-outs; this means that if a student has not attended school for 6 working days, or 10 days in a month, without reason, they are considered to have dropped out. This is tracked in a national system for education, and the student is then targeted to try to have him/her returned to education. The authorities have reported in this framework that two Yezidi boys have dropped out of education but stated that they could not yet tell the percentage of all drop-outs concerned students belonging to national minorities. They also report that four persons belonging to national minorities completed university education – two of whom were Yezidi. As regards higher education, university places have been assigned on a non-competitive basis each academic year to representatives of the Yezidi, Kurdish and Assyrian minorities for studying at the Faculty of Oriental Studies of Yerevan State University. Since 2010, representatives of other national minorities who are nominated by the organisations representing relevant minorities in the Council of National Minorities and who express a wish to study in the departments related to culture and language at higher education institutions, also have the opportunity to benefit from this programme. Furthermore, upon the motion of the Council, full or partial tuition fee waiver scholarship is granted for those students.

<sup>83</sup> Yezidi Centre for Human Rights, Alternative Report.

<sup>84</sup> Alternative report to the UN Committee on the Rights of the Child with a focus on Yezidi children in Armenia, 2019, p. 6-7.

<https://epfarmeria.am/document/Alternative-report-to-the-UN-committee-on-the-rights-of-the-child-with-a-focus-on-Yezidi-children-in-Armenia-eng>

<sup>85</sup> ACFC Thematic Commentary No. 3, para. 82. See also OSCE High Commissioner on National Minorities, The Ljubljana Guidelines on the Integration of Diverse Societies, 2012, Guideline 45.

140. The authorities have also acknowledged 30 communities across Armenia without preschools. They also reported their plans to renovate 300 preschools and schools in the coming years. UNICEF has also identified that over 170 000 children in Armenia are not enrolled in pre-primary education.<sup>86</sup>

141. International organisations including UN CERD,<sup>87</sup> UN CEDAW<sup>88</sup> and others,<sup>89</sup> have continued to raise the issue of school drop-outs among minority groups in Armenia. Within Armenia, civil society organisations and Yezidi organisations are also very active on this issue. In general, they have stated that the actual numbers of drop-outs are much higher than the authorities report – with as many as 70% of Yezidi girls dropping out of school, and 50% of Yezidi boys (compared to around 7% in the majority population). Concretely, reports from teachers describe that fewer than five Yezidi girls per year per school complete 12 years of education.<sup>90</sup>

142. In terms of causes, they have highlighted several issues contributing to this drop-out rate, including a set of educational problems: accessibility of preschool;<sup>91</sup> a lack of availability of all 12 years of compulsory education in Yezidi villages; a lack of knowledge of the importance of education among students and parents;<sup>92</sup> extended absences from school owing to itinerant seasonal work; poor provision of Yezidi language education and a lack of teaching about Yezidis and national minorities in the curriculum (see Article 14, ‘Yezidi language education’).<sup>93</sup> There are also a set of problems relating to other areas covered by the Framework Convention, which are analysed elsewhere in this opinion: high unemployment; lack of transportation between schools (see Article 15); gender-based violence against women<sup>94</sup> and rigid gender norms (all Article 6).<sup>95</sup>

143. Yezidi representatives and civil society organisations alike also raised concerns about the authorities’ attitude to this problem, which they claim is to situate this problem as one to be solved only by the minority itself, and arguing that it has to also protect the traditions of the Yezidis.<sup>96</sup>

144. Expanding on the set of educational problems, Yezidi representatives highlighted that in compact settlements of Yezidis, the absence of

preschool in Armenian and Yezidi has a long-term impact on Yezidis’ attainment in education; in communities such as this, there is less knowledge of Armenian. It has been reported to the Advisory Committee that there are between 10 and 15 villages inhabited by Yezidis where there is only 9 years of education available. This has an impact both alone and in conjunction with other factors such as poor infrastructure – as students are forced to travel to neighbouring villages in order to continue their education, which they are either not motivated to do, or which parents prevent due to the risk or fear of bridal kidnapping whilst the student is traveling to school. This goes some way to explaining the gender disparity in drop-out rates, in a context of rigid gender norms (see Article 6, Protection from gender-based violence).

145. Some Yezidi organisations have underlined that generational differences in perceptions of the relative importance of education also have an impact on girls and boys not attending school. During the visit, the Advisory Committee met with Yezidi parents and students, and heard them emphasise the importance of education. This accords with some of the Advisory Committee’s other interlocutors who stressed too that the knowledge of the importance of education has been increasing.

146. According to Article 12(3), equal opportunities for access to education at all levels for persons belonging to national minorities must be promoted.<sup>97</sup> The Advisory Committee reiterates that states need to act resolutely across different but interlinked areas to ensure this right is upheld in practice: in monitoring school enrolment and attendance, addressing any difficulties encountered by itinerant or semi-itinerant groups constructively; in ensuring access to minority language education; in removing physical barriers, such as a lack of schools in certain areas or no transportation, to school attendance; in acting to improve the confidence of parents and students in the education system; in monitoring school attainment, including absenteeism and drop-out rates, literacy, completion of studies, grades, gender disparities, access to higher education and employment.<sup>98</sup> Regarding higher education, the existing good practice of funding places for

<sup>86</sup> <https://www.unicef.org/armenia/en/press-releases/171000-children-armenia-are-not-enrolled-pre-primary-education-unicef> (2019).

<sup>87</sup> Concluding observations on the combined seventh to eleventh periodic reports of Armenia, 2017, para. 20.

<sup>88</sup> CEDAW/C/ARM/CO/5-6: Concluding observations on the combined fifth and sixth periodic reports of Armenia, 2016, para. 22.

<sup>89</sup> US State Dept., Human Rights Report on Armenia, 2020, p. 45-6.

<sup>90</sup> Open Society Foundations in Armenia, ‘Yezidi Girls are not Brides: Ending Child Marriage in Armenia’, 2020, p. 14.

<sup>91</sup> Alternative report of Yezidi Human Rights Centre.

<sup>92</sup> See shadow report of ‘Sinjar’ Yezidi organisation.

<sup>93</sup> Alternative report to the UN Committee on the Rights of the Child with a focus on Yezidi children in Armenia, 2019, p. 13-14.

<https://epfarmenia.am/document/Alternative-report-to-the-UN-committee-on-the-rights-of-the-child-with-a-focus-on-Yezidi-children-in-Armenia-eng>.

<sup>94</sup> See also latest [monitoring report](#) of Group of Experts against trafficking in human beings (GRETA), 2017, paras. 70, 72, at.

<sup>95</sup> See Eurasia Partnership Foundation, ‘Issues related to the rights of an opportunities for Yezidi girls residing in Armenia’, 2020, p. 11-19.

<sup>96</sup> Open Society Foundations in Armenia, ‘Yezidi Girls are not Brides: Ending Child Marriage in Armenia’, 2020, p. 13.

<sup>97</sup> ACFC, Thematic Commentary No. 4, 2016, para. 73.

<sup>98</sup> ACFC, Thematic Commentary No. 1, para. 70.

national minority students at Yerevan State University should be expanded to other institutions with support from the authorities. This would give all national minorities greater opportunities to attend universities given the financial barriers to this are great, especially where minorities come from rural areas.

147. The Advisory Committee continues to be alarmed at the situation facing Yezidi students, in particular girls, in the education system and is especially troubled by the lack of state action or policy on this matter, although it acknowledges recent efforts to begin to monitor attendance. Whilst each of the barriers discussed above is important, the Advisory Committee stresses that they require a coordinated and wide-ranging response, taking into account the full range of contributing factors to this high drop-out rate. There is furthermore no shortage of proposals and draft strategies produced by civil society which could be put in place with state support. In any action taken on this issue, the Advisory Committee stresses the necessity of cooperating with organisations of the Yezidi minority in order to most effectively address any problems within the minority. However, the Advisory Committee strongly emphasises the authorities' responsibility in this field, and reiterates the fundamental principle that traditions should not conflict with human rights norms, including the right to education.<sup>99</sup>

148. The Advisory Committee urges the authorities to take priority measures to address the disproportionately high drop-out rate affecting Yezidi students, especially girls. The authorities should gather data and cooperate with civil society and minority representatives to design and implement a strategy with concrete indicators and outcomes for addressing drop-out rates, taking into account the full range of contributing factors.

149. The Advisory Committee strongly encourages the authorities to extend and systematise the current model for scholarships available for studying at higher education institutions more widely with a view to including further institutions so as to ensure broader access to higher education for an increased number of students belonging to national minorities.

#### Minority language education (Article 14)

150. Assyrian, Kurdish and Yezidi continue to be taught in primary and secondary education. The government has not provided the Advisory Committee with updated numbers on the number of students learning these languages, but reports that there are 3428 Yezidi pupils, 994 Russians, 95 Kurds, 304 Assyrians, 30 Ukrainians, 24 Georgians, 45 Greeks, 11 Belarusians, 7 Jews,

as well as small numbers of other nationalities attending schools in Armenia. Russian language education is widely available, with Russian language included in the curriculum from grades 2-9, and 30 Russian-language schools operating in Yerevan alone with their own curriculum. The authorities report 2 987 students taking part in 13 schools in Yerevan. Assyrian language and literature is included in the Russian language curriculum of some primary schools – reportedly where Assyrians live compactly. Assyrian language is taught for 2-3 hours a week across all grades, and Assyrian literature for one hour per week from grade seven onwards. The authorities report that 250-300 pupils study it every year. In terms of materials, the authorities report that textbooks for teaching Assyrian are produced by the community – and the Advisory Committee has seen for itself recently republished textbooks including an alphabet book for Assyrian (republished in 2019).

151. Limited information about minority language preschools has been made available to the Advisory Committee, but it has been informed of a trilingual (Armenia, Russian and Assyrian) kindergarten established in the village of Verin Dvin (Ararat province). At university, minority languages may most often be studied as foreign languages (especially German, Greek and Ukrainian), but Assyrian cannot be studied.

152. The Advisory Committee notes the findings of the Committee of Experts on the European Language Charter raised issues in its 2020 report on Armenia regarding the quality of textbooks and teaching materials for minority languages, the need for increased teacher training and materials also for this purpose, for all minority languages besides Russian.<sup>100</sup>

153. Interlocutors of the Advisory Committee informed it that minority language teaching may also take place in the form of 'Sunday schools' organised at the premises of the Council of National Minorities, or in the offices of the minorities themselves. This is an extracurricular initiative of the minorities to preserve and pass on their minority language, with small numbers of pupils (7 studying the Belarussian language), and these classes have now moved online due to the Coronavirus pandemic. The German minority also reported that it teaches the language through classes and Biblical study, as well as through folk music. It was further reported that this is often run voluntarily by the minorities. Assyrians stated that some Assyrian language sections of schools have been threatened with closure in the past, and also raised problems with the quality of teacher training.

154. The Advisory Committee emphasises that one of the purposes of minority language

<sup>99</sup> Article 22 of the Framework Convention.

<sup>100</sup> Committee of Experts, MIN-LANG(2020)3, 2020, para. 23.

education is to maintain or inculcate a degree of fluency and literacy which enables the learner to use the language in public and private life, and to pass it on to the next generation. The Advisory Committee commends the offer of Russian language education in Armenia, but has concerns regarding the other minority languages. Teaching a minority language for a very small number of hours per week is unlikely to achieve the goal of fluency and literacy, especially when that language is not the predominant language used within families. In order to make an effective contribution to the preservation of minority languages as an essential element of the identities of national minorities, it is necessary to extend the number of teaching hours of minority languages – principally Assyrian.

155. The Advisory Committee reiterates that for minority languages spoken by a small number of people, particular measures to revitalise or preserve the language may be necessary – including separate classes and language immersion. Whilst Sunday schools in themselves do not suffice in this regard, they are a welcome initiative on the part of the minority, with some state support, to teach their minority languages. Nevertheless, the Advisory Committee is concerned that state support offered to these schools is not sufficient, and more could be done by the state to ensure teaching resources are produced or shared from “kin-states” or other states with diasporas or where national minorities in Armenia are also present to further enhance these classes.

156. The Advisory Committee emphasises the importance of updated and high-quality textbooks as an integral part of the teaching of minority languages. It praises the efforts of the Assyrian minority in ensuring their textbooks continue to be published. It however wishes to remind the authorities of its obligations under the Framework Convention to ensure that teaching materials are available for students and pupils of minority languages.

157. The Advisory Committee calls on the authorities to extend the offer of teaching in minority languages, in particular Assyrian, to provide for adequate teacher training and updated teaching materials to support this, and to support further national minority organisations in offering Sunday schools and minority language preschool initiatives.

#### Yezidi language education (Article 14)

158. The state report informs that in Armavir province, instruction of Yezidi is organised where persons belonging to the Yezidi minority live – in 21 schools involving 1133 children. Yezidi is also taught at a school in Shirak province too, where

the teacher of Yezidi works for six hours per week. The report also states that textbooks for grades 1-12 were republished over the monitoring period in Aragatsotn and for 10<sup>th</sup> and 11<sup>th</sup> grades in Ararat province. No information about preschool education in the Yezidi language has been made available to the Advisory Committee. The authorities informed that the last teacher training in Yezidi language of 28 teachers took place in late 2017.

159. The Committee of Experts on the Language Charter has reported in 2021 that 452 pupils learned Yezidi in the general curriculum in the 2020-2021 school year in Aragatsotn and Armavir,<sup>101</sup> with a further 1412 learning Yezidi in extracurricular groups in Ararat, Armavir and Kotayk provinces.<sup>102</sup>

160. Yezidi representatives informed the Committee of their dissatisfaction that teaching of their language is generally available informally, in the form of elective classes outside normal teaching hours, and for only one or two hours per week. They explained that this had a negative impact on pupils’ engagement in the classes, which is also affected by the visible lack of opportunities to work or study further in this language. Representatives also regretted the lack of Yezidi-language and bilingual preschools (see also Article 12 above),<sup>103</sup> and emphasised the need for a greater offer of vocational, adult and continuing education in Yezidi. They also stated that the low salaries of Yezidi teachers prevents further classes being arranged, as it discourages potentially interested candidates from becoming teachers of Yezidi. Yezidi teachers may only work a few hours a week, which also limits their salary. During its visit the Committee heard that there was indeed a shortage of teachers, and that when teachers leave a post it is not always filled. A post in a school visited by the Committee had been unfilled for a year, where it was also mentioned that adults often attend secondary school classes in order to obtain Yezidi language education. Yezidi representatives further reported that teacher training is lacking, and that many teachers currently teaching may have no higher education, or education in teaching or in Yezidi language.

161. In terms of textbooks, whilst some Yezidi organisations welcomed the authorities’ approach in having new textbooks published, other organisations cast doubt on the quality of the content of these textbooks, which had not been produced with the effective participation of Yezidis.

162. The Advisory Committee considers that the teaching of minority languages as an optional subject does not sufficiently encourage minority

<sup>101</sup> According to information at the Advisory Committee’s disposal, Yezidi is taught in the general curriculum in Aragatsotn province.

<sup>102</sup> Committee of Experts, MIN-LANG(2021)17, para. 50.

<sup>103</sup> Cultural Center of the Caucasus Yezidis, Alternative Report, para. 48. Yezidi Centre for Human Rights, Alternative Report.

pupils to learn their minority language while pursuing their studies and that it is likely to affect negatively their ability and motivation to preserve their minority language. The Advisory Committee therefore regrets the continued absence of Yezidi language from the general curriculum, and its continued presence in the margins of the school timetable.

163. In light of the above, the Advisory Committee recognises that this is a problem also caused by a lack of teachers, operating in something of a vicious circle, whereby insufficient numbers of teachers mean insufficient numbers of students study Yezidi, leading to an insufficient number of people able or willing to become teachers. In this connection, the Advisory Committee emphasises the importance of promoting the recruitment and retention as teachers of persons belonging to national minorities. One possible solution could be to further incentivise teacher training with salary premiums or other financial means, and to take steps to increase the salaries of and provide contractual employment security to Yezidi language teachers; the introduction of Yezidi language study at university would also be beneficial and encourage students to continue their learning; international student exchanges could also be considered, whereby students could study the Yezidi language abroad and return to teach it.

164. Concerning textbooks, whilst welcoming the initiative to have textbooks published, the Advisory Committee is concerned about the procurement of textbooks containing stereotypes about Yezidis, carried out without the effective consultation of a wide range of persons belonging to the Yezidi minority.

165. The Advisory Committee calls on the authorities to take steps to increase the offer of teaching in Yezidi in the general curriculum at primary and secondary levels, including through increased teacher training and financial incentives for Yezidi students to train and work as teachers. At the same time, the authorities should introduce further vocational, adult and continuing education in Yezidi.

#### Effective participation in public life (Article 15)

166. The Council of National Minorities has continued to be the vehicle through which national minority representatives have an official dialogue with the authorities. This Council now

exists under the authority of the Prime Minister's Office, and has two permanent staff attached to it. The Council is mandated to convene at least four times per year, and composed of two representatives of each of the 11 national minorities. By decree of the Prime Minister, this membership should be rotated, but is limited to organisations who can prove their activity over a period of five years.<sup>104</sup> As already noted above, this Council also serves as a means for distributing funding to national minorities (see Article 5).

167. At parliamentary level, according to Article 89 of the Constitution, the representatives of national minorities shall be allocated with seats in the National Assembly under the procedure prescribed by the Electoral Code. Pursuant to Article 95 of the Electoral Code, four mandates of deputies shall be distributed among national minority representatives by the principle of 1 mandate to each of the first 4 national minority groups with the largest number of resident population according to the data of the latest census preceding the elections. As a result of the elections of the National Assembly of 2021, four representatives of the largest groups of national minorities, that is Yezidi, Russian, Assyrian and Kurdish, received mandates.

168. Regarding representation in public services, the authorities state that minorities have equal access to apply for government jobs compared to the majority.

169. The Advisory Committee's interlocutors sitting in the Council of National Minorities took a generally positive view of the Council's activities and of their influence on matters with which it deals, while noting a few shortcomings: they regretted for instance that it had not been successful in defending its own interests with regard to its own premises (see Article 5). Concerns were raised about the absence of an appointed chief advisor of the Prime Minister of Armenia responsible for the Division for Ethnic Minorities and Religious Affairs of the Office of the Prime Minister of Armenia,<sup>105</sup> which has been hindering the ability of the Council to have its program submitted to the government and have funding distributed. This position was however filled in February 2022. As regards the chairperson of the Council of National Minorities, some minorities felt that he does not have sufficient influence within the government, but functions more as a conveyor of concerns to

<sup>104</sup> Decision of the Prime Minister of the Republic of Armenia "On establishing a Council of National Minorities and approving the composition of the Council" entered into force on 3 May 2019, *loc.cit.*, available only in Armenian at <https://e-gov.am/decrees/item/20169/>.

<sup>105</sup> On 15 June 2020, as a result of the constitutional amendments, due to transition from semi-presidential system to the parliamentary one, based on the restriction of powers of the President of the Republic of Armenia since April 2018, the Council, as a body under the Staff of the President, legally terminated its activities, but, in fact, the process of coordination of the activities of the Co-ordinating Council for National and Cultural Organisations of Ethnic Minorities under the Staff to the President continued to lay upon the Division for Ethnic Minorities and Religious Affairs of the Office of the Prime Minister of the Republic of Armenia, where the former Council Co-ordinator also moved to. On 3 May 2019 the Decree of the Prime Minister of the Republic of Armenia "On establishing a Council of National Minorities and approving the composition of the Council" entered into force. Pursuant to this Decree, the Council shall function under the Chief Adviser to the Prime Minister, and the technical maintenance for organising the activities of the Council shall be carried out by the Office of the Prime Minister through a relevant subdivision.

other parts of the government. Equally, whilst they reported good cooperation with the current staff of the Council, minorities felt that more staff would be welcome. Some persons belonging to national minorities however indicated that they were not aware even of the existence of the Council.

170. Udin representatives informed the Committee that its request for membership of the Council had been turned down, as their organisation had not been active for sufficiently long. They explained that this put them in a precarious situation, unable to access funding to sustain their activities whilst they reach the five-year threshold.

171. The Advisory Committee heard, in particular from the Yezidi, Assyrian and Russian minorities, critiques in respect of the mechanism provided under the Electoral Code concerning the election of the Members of Parliament representing the national minorities. It was noted that the communities in which the national minorities live do not have the right to vote directly for their preferred candidate, since they are elected on the basis of an electoral list submitted by the political parties or alliances. Moreover, the members of the national minorities indicated that in reality the Members of the Parliament do not represent their interests effectively, and rather, that they represent the political parties' interests from which list they were elected. Furthermore, it was reported to the Advisory Committee that they are not aware of the problems faced by their respective communities.

172. Regarding local representation, Assyrian representatives highlighted that recent administrative changes (see Article 16 below) had an impact on their ability to have local representatives elected or appointed (as is the case now), and thus on their ability to influence local affairs.

173. Yezidi representatives, as the largest minority, raised the concern in particular of the lack of representativity of the public services; the fact only one person belonging to the Yezidi minority works in the judiciary, and very few or none in the police or the national minority division of the government was particularly troubling.

174. The Advisory Committee underlines that "appropriate attention should be paid to the 'inclusiveness' and 'representativeness' of consultative bodies," including numerically smaller national minorities.<sup>106</sup> It also emphasises that states are invited to ensure that persons belonging to national minorities are aware of the

existence, mandate and activities of such consultative bodies.<sup>107</sup> In this regard the Advisory Committee is concerned about the need to prove five years of activities as an NGO to join the Council (see Article 3); whilst it acknowledges that some criteria may be necessary, it stresses that positive measures are necessary to ensure the participation of numerically smaller national minorities. The Advisory Committee furthermore considers that the lack of knowledge of the Council of some persons belonging to national minorities raises questions as to the representativity of this body. It underlines also the importance of having sufficient financial and human resources to carry out its mandate as a consultative mechanism, and of having the institutional leadership promptly appointed in order that the mechanism may fully carry out its mandate. The Advisory Committee is concerned that this position of the advisor of the Prime Minister competent, *inter alia*, for the minority issues, was left unfilled for many months, hampering the implementation of some minority rights including the disbursement of funds.

175. The Advisory Committee reiterates that the participation of persons belonging to national minorities in electoral processes is crucial to enable minorities to express their views when legislative measures and public policies of relevance to them are designed.<sup>108</sup> In this connection, whilst representation of persons belonging to national minorities in the National Assembly is welcome, the Advisory Committee is concerned about the legislative provision set forth under Article 83 of the Electoral Code, which automatically attributes seats to the four largest minorities thereby excluding the election of representatives belonging to other national minorities. As a result, two categories of national minorities are created, demonstrating differential treatment, namely - those who are represented in the National Assembly and those who are not. Furthermore, the Advisory Committee considers that the number of Members of Parliament representing national minorities raises concerns, as does the lack of clarity relating to their role. It therefore considers that it might be relevant in the longer term to redistribute the mandates of members of parliament representing national minorities' interests to further representatives of national minorities, to avoid unbalanced and ineffective representation. Clarification of the unique role of the Members of Parliament representing national minorities with respect to Armenia's national minorities, for instance

<sup>106</sup> ACFC, [Thematic Commentary No.2](#), para. 109, also available in Armenian:

<http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016800bc7ef>.

<sup>107</sup> ACFC, Thematic Commentary No. 2, para. 117.

<sup>108</sup> ACFC, Thematic Commentary No. 2, para. 80.

through the internal rules of procedure, would be helpful in this regard.

176. The Advisory Committee also emphasises the importance of sub-national forms of government in creating the necessary conditions for effective participation of persons belonging to national minorities in decision-making, especially in compact settlements.<sup>109</sup> The authorities should therefore pay close to attention to the needs and wishes of national minorities, especially Assyrians, Yezidis and Russians in their compact settlements.

177. The Advisory Committee reiterates that “public administration should, to the extent possible, reflect the diversity of society [implying] that state parties are encouraged to identify ways of promoting the recruitment of persons belonging to national minorities in the public sector, including into the judiciary and law enforcement bodies, [in order that the public administration may] better respond to the needs of national minorities”.<sup>110</sup> It is therefore concerned at the apparently low level of representativity of the public administration, and considers that the authorities ought to gather data on this matter and design positive measures accordingly to address the issues identified. Persons belonging to national minorities need practical and effective measures to fill in the gap between the formal equality and factual representation in the public service.

178. The Advisory Committee calls on the authorities to take a flexible approach to representatives of minority groups self-identifying as national minorities and interested in joining the Council of National Minorities, and to raise awareness of the existence, mandate and activities of the Council.

179. The Advisory Committee invites the authorities to assess the current system of parliamentary representation of national minorities with a view to ensuring the representativity of the elected representatives, and in order for national minorities to be able to effectively influence decision-making so that outcomes adequately reflect their needs.

180. The Advisory Committee strongly encourages the authorities to gather data on the current representativity of national minorities in the public sector, and to design and implement positive measures to encourage and strengthen

national minority participation in public affairs accordingly.

#### Effective participation in social and economic life (Article 15)

181. Little information on the socio-economic participation of national minorities has been furnished. The position of the authorities is that socio-economic difficulties are widespread, affecting ethnic Armenians and persons belonging to national minorities alike. This applies to employment but also infrastructure, access to Internet and the quality of roads in many provinces. The authorities also informed the Advisory Committee that a question on ethnicity is not even asked for in the unemployment register.

182. Minority representatives, especially those belonging to the Yezidi minority, pointed out a number of issues in this regard, and the Advisory Committee has the opportunity to witness some of these issues itself during the visit: among other issues, the poor quality of roads around Yezidi and Assyrian villages.<sup>111</sup> Different interlocutors have linked this problem also to school drop-out rates (see Article 12) as transport between villages is so difficult to arrange. Yezidi representatives also stated that they have a higher unemployment rate, but that this is not reflected in the official data.

183. Yezidi organisations also raised the issue of land use. Some organisations have stated that land owned and used by Yezidis has been sold by third parties in a number of villages, action which the state has not prevented. This is linked to the fact that Yezidis have had trouble in regulating the documentation of the property which they *de facto* possessed, were not informed in advance of the sale of such property, and were deprived of the possibility to continue using the property (the possibility to acquire a disputed property through adverse possession).<sup>112</sup> They state that this has a particular socio-economic impact on Yezidis, as they no longer have the space to graze their cattle.<sup>113</sup> Linked to this issue, Yezidi representatives also stated that the impact of climate change is preventing them from carrying out their traditional agricultural industry, as natural springs used for irrigation have dried up.<sup>114</sup> They also regretted the lack of positive and specific support for Yezidi agricultural activity.<sup>115</sup> Some NGOs reported that during the Covid-19

<sup>109</sup> ACFC, Thematic Commentary No. 2, para. 129.

<sup>110</sup> ACFC, Thematic Commentary No. 2, para. 120.

<sup>111</sup> Eurasia Partnership Foundation, *Issues related to the rights of and opportunities for Yezidi girls residing in Armenia* [https://epfarmeria.am/sites/default/files/Document/Yezidi\\_Girls\\_Research\\_EPF\\_](https://epfarmeria.am/sites/default/files/Document/Yezidi_Girls_Research_EPF_)

<sup>112</sup> Cultural Center of Caucasus Yezidis., para. 83.

<sup>113</sup> Cultural Center of Caucasus Yezidis, para. 67.

<sup>114</sup> *Ibid.*, para 68-70.

<sup>115</sup> *Ibid.*, para. 73-74.



pandemic, the suspension of public transport posed challenges for women living in rural areas and their ability to travel to larger conurbations to access health services.<sup>116</sup> In relation to issues raised under sexual and reproductive healthcare (see Article 6, “Protection from gender-based violence”), some international organisations have raised concerns about the law banning sex-selective abortion. In the general context of difficult and worsening situation for gender-equality in Armenia,<sup>117</sup> concerns were raised over the law being used arbitrarily to screen reasons for women accessing sexual and reproductive health services.

184. The Advisory Committee reiterates that, given the more difficult socio-economic situation faced by national minorities, “state parties should take specific measures to increase the opportunities for persons belonging to national minorities living in peripheral and/or economically depressed areas, such as rural [or] isolated [...] areas [...] to participate in socio-economic life.”<sup>118</sup> Furthermore, “equal opportunities should not be limited to giving equal access to markets and services. Effective participation also requires that State Parties promote participation of persons belonging to national minorities in economic and social life and in benefits and outcomes in the social and economic spheres, which includes [...] the right to benefit from economic development”.<sup>119</sup>

185. Whilst the quality of roads may be an issue also for ethnic Armenian villages, the authorities fail to recognise that this has a specific negative impact on the Yezidi minority, especially in the field of education. With poor quality or absent infrastructure, it is difficult to travel to reach other villages to attend school there (see Article 12). This may also heighten risks of gender-based violence, or at least perception of those risks, as students must travel via dangerous routes to attend school and negatively impacts effective access to education (see Article 12 and 6). The Advisory Committee also recognises that other factors influence this problem, but it nevertheless considers that the authorities should recognise the specific negative impact of a poor state of infrastructure on the Yezidi minority in particular, and design positive measures in cooperation with the minority to remedy this.

186. Concerning employment, the Advisory Committee reiterates that states should “remove barriers [to] equal access to various spheres of economic life [...] and promote their equal access

to employment and market opportunities”.<sup>120</sup> Whilst the authorities continue to emphasise the equal opportunities given to ethnic Armenians and national minorities alike, the Advisory Committee finds that little is done to concretely and actively promote participation in the labour market of persons belonging to national minorities. Moreover, a persistent lack of data on employment both acts to hide any potential discrimination – direct or indirect – and prevents positive measures being designed to address the specific issues faced by persons belonging to national minorities, whether that is through employment programmes, further vocational education in minority languages, or any other potential measure to address the issues at root.

187. The Advisory Committee reiterates that “obstacles to obtaining access to property can have a disproportionate effect on persons belonging to national minorities, aggravating their economic difficulties”.<sup>121</sup> The Advisory Committee is also concerned by the sale of land belonging to or used by persons belonging to the Yezidi minority without their prior knowledge or consent, and the effect this has on socio-economic participation of these persons, who may already be in a position of socio-economic disadvantage. Regarding the impact of climate change, the Advisory Committee considers that the authorities should pay careful attention to the concerns raised by civil society in this respect, and gather data on any disproportionate impact of climate change on persons belonging to national minorities, including as to how they carry out their traditional occupations, and take measures to address any disparities found. Effective and non-discriminatory access to health care, including sexual and reproductive health services for women belonging to national minorities, should also be ensured, and the effects of Covid-19 restrictions on minority women’s access to healthcare should be carefully studied.

188. The Advisory Committee calls on the authorities to gather data on the socio-economic situation of national minorities, especially in the fields of employment, access to proper infrastructure and the impact of climate change. Positive measures to address the disparities identified should be designed on this basis and in close cooperation with persons belonging to national minorities, with a view to actively promoting participation in socio-economic life.

<sup>116</sup> Women’s Resource Centre Armenia, Submission to Working Group on discrimination against women and girls.

[https://www.ohchr.org/Documents/Issues/Women/WG/ReproductiveHealthRights/CSOs/womensresourcecenterarmenia/Submission%20to%20the%20WG%20on%20DAWG\\_SRHR\\_Armenia\\_WRCA%20.pdf](https://www.ohchr.org/Documents/Issues/Women/WG/ReproductiveHealthRights/CSOs/womensresourcecenterarmenia/Submission%20to%20the%20WG%20on%20DAWG_SRHR_Armenia_WRCA%20.pdf).

<sup>117</sup> Global Gender Gap Report – 150<sup>th</sup> for health and survival out of 156; 114<sup>th</sup> overall in 2021. World Economic Forum (compared to 97<sup>th</sup> and 143<sup>rd</sup> in 2017). See also country report of Council of Europe Commissioner for Human Rights.

<sup>118</sup> ACFC, Thematic Commentary No. 2, para. 42.

<sup>119</sup> ACFC, Thematic Commentary No. 2, para. 27.

<sup>120</sup> ACFC, Thematic Commentary No. 2, para. 26.

<sup>121</sup> ACFC, Thematic Commentary No. 2, para. 50. See also paragraphs 51-54 for further principles on land use and privatisation.

### Territorial and administrative reform (Article 16)

189. The authorities report that in 2016, the process of community consolidation was launched, reducing 465 communities, or administrative units, to 52. Since the state report was submitted, the process has continued and there are now 79 communities in Armenia – the major cities of Yerevan and Gyumri, plus 72 consolidated communities (of which four are densely populated by national minorities – Alagyaz, Arevut, Metsadzor in Aragatsotn province, and Lermontovo in Lori province). The remaining five are communities densely populated by national minorities which have not been consolidated (Shamiram, in Aragatsotn, Verin Dvin in Ararat, Ferik in Armavir, Arzni in Kotayk and Fioletovo in Lori). The authorities state that minorities have been involved in public discussions on the question of consolidation, including at municipal level – leading to the five communities maintaining their separate status. The authorities further state that the benefit to this consolidation is to increase funding.

190. The Advisory Committee is also aware of a recent report by the Congress of Local and Regional Authorities which highlights some lacunae in legislation meaning there is no enshrined right to prior consultation of communities concerned by community consolidation.<sup>122</sup> Interlocutors of the Advisory Committee informed it that community consolidation had resulted in municipalities or villages with a substantial number being amalgamated with Armenian municipalities. The effect of this is to reduce the overall share of national minorities living in these areas. Persons belonging to the Assyrian minority in particular highlighted the risks this consolidation poses for their minority and their influence on local affairs (see Article 15).<sup>123</sup> They also underlined the differentials in funding for consolidated *versus* separated municipalities, challenging the fairness of this arrangement. They asked that a special arrangement be set up to ensure equal funding to municipalities, regardless of consolidation status. Like the Congress, national minority representatives reported a lack of effective and meaningful consultation before the process was implemented, and a tendency to ignore the views of national minorities in municipalities where they do not make up a large proportion or majority of the local population.

191. The Advisory Committee refers in this regard to the European Charter of Local Self-Government, ratified by Armenia in 2002, and for which Armenia extended its undertakings in 2015. Article 5 of this instrument requires that

“changes in local authority boundaries should not be made without prior consultation of the local communities concerned, possibly by means of a referendum where this is permitted by statute”. Similarly, the Advisory Committee considers that Article 16 of the Framework Convention requires states to consult with national minority representatives concerned prior to changing administrative boundaries in areas where such minorities reside and proceeding with reform. In particular, attention should be paid to the potentially negative consequences of these measures for the protection of national minorities, notably as regards minority access to decision-making processes and financial resources.<sup>124</sup>

192. The Advisory Committee further considers that these administrative reforms, coupled with the proposed high thresholds of 30% in the Draft Law on National Minorities (see Articles 3,10 and 11), could result in persons belonging to national minorities being unable to effectively access language rights. This is a troubling situation for the Advisory Committee, which as a minimum would like to see increased consultation with the municipalities concerned, in line with the findings of the Congress of Local and Regional Authorities. The Advisory Committee is also concerned that municipalities which have now chosen to remain separate may lose out financially by their decision; on the contrary, the Advisory Committee considers that positive action with regard to these municipalities may be needed to ensure they can effectively implement the relevant linguistic and other rights there. Given the small number of municipalities concerned, some special funding arrangement with these municipalities could conceivably contribute to solving this imbalance.

193. The Advisory Committee calls on the authorities to engage in a dialogue with persons belonging to national minorities on matters relating to territorial or administrative reform and ensure prior and meaningful consultation before any future consolidation. The authorities should also ensure that the current separate municipalities have access to sufficient funds on an equal basis with consolidated municipalities, with a view to ensuring continued access to minority rights in the municipalities concerned.

### Bilateral and multilateral relations (Articles 17 and 18)

194. The state report informs that Armenia encourages cooperation of national minorities across borders, but that for national minorities without a “kin-state” this is more difficult because of a lack of financial resources.<sup>125</sup>

<sup>122</sup> Congress of Local and Regional Authorities, ‘Monitoring of the application of the European Charter of Local Self-Government in Armenia’, CPL(2021)40-02final, para. 174-178.

<sup>123</sup> Alternative report received from Assyrian minority.

<sup>124</sup> ACFC, Thematic Commentary No. 2, para. 131.

<sup>125</sup> State report, para. 125.

195. Representatives of national minorities without a “kin-state”, notably Assyrians, Kurds and Yezidis, or indeed whose “kin-state” is not in a position to offer active support to national minorities in Armenia, reported that this was a major cause of their inability to effectively preserve and develop their culture. Funding received without hindrance by other minorities was reported as a great boost for these national minorities, notably the Russian minority, but also the Polish and German minorities.

196. The Advisory Committee reaffirms the importance of bi- and multi-lateral arrangements in the protection of national minorities, but reiterates that this is not a substitute for active state support. Additionally, it cautions that a reliance on “kin-state” support can lead to a situation whereby those without a “kin-state” are put at a disadvantage. Therefore, whilst

welcoming the unhindered cooperation and financing of national minorities from abroad, the Advisory Committee regrets the disparities which this can create in minority protection. The Advisory Committee also sees an opportunity to cultivate further bi- and multi-lateral relations with regard to Yezidis and Assyrians, who have a large diaspora across Europe and the Middle East, with a view to facilitating international exchanges and further protecting the rights of persons belonging to national minorities in Armenia.

197. The Advisory Committee encourages the authorities to further facilitate cross-border contacts, exchanges and support through bi- and multi-lateral relations and other mechanisms, with a renewed focus also on those national minorities without a “kin-state”, notably Assyrians and Yezidis.

The Advisory Committee on the Framework Convention for the Protection of National Minorities is an independent body that assists the Committee of Ministers of the Council of Europe in evaluating the adequacy of the measures taken by the Parties to the Framework Convention to give effect to the principles set out therein.

The Framework Convention for the Protection of National Minorities, adopted by the Committee of Ministers of the Council of Europe on 10 November 1994 and entered into force on 1 February 1998, sets out principles to be respected as well as goals to be achieved by the states, in order to ensure the protection of national minorities. The text of the Framework Convention is available, among other languages, in Armenian, Georgian, German, Greek, Polish, Russian and Ukrainian.

This opinion contains the evaluation of the Advisory Committee following its 5<sup>th</sup> country visit to Armenia.

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