



Strasbourg, 26 January 2004

ACFC/INF/OP/I(2004)001

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

OPINION ON AZERBAIJAN
(adopted on 22 May 2003)

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

OPINION ON AZERBAIJAN

Table of contents:

- I. Preparation of the current opinion
- II. General remarks
- III. Specific comments in respect of Articles 1-22
- IV. Main findings and comments of the Advisory Committee
- V. Concluding remarks

EXECUTIVE SUMMARY

Following the receipt of the initial State Report of Azerbaijan on 4 June 2002 (due on 1 October 2001), the Advisory Committee commenced the examination of the State Report at its 15th meeting on 9-13 September 2002. In the context of this examination, a delegation of the Advisory Committee visited Azerbaijan from 30 March to 3 April 2003 in order to seek further information on the implementation of the Framework Convention from representatives of the Government as well as from NGOs and other independent sources. The Advisory Committee adopted its opinion on Azerbaijan at its 17th meeting on 22 May 2003.

As concerns the implementation of the Framework Convention, the Advisory Committee considers that Azerbaijan has made particularly commendable efforts in opening up the personal scope of application of the Framework Convention to a wide range of minorities. The Advisory Committee welcomes the fact that the importance of the protection and promotion of cultures of national minorities is recognised and that the long history of cultural diversity of the country is largely valued in Azerbaijan.

The Advisory Committee finds, however, that the Nagorno-Karabakh conflict and its consequences have considerably hampered efforts to implement the Framework Convention. Despite the general spirit of tolerance in Azerbaijan, the continued occupation of large parts of Azerbaijani territory and the displacement of a high number of people have caused tensions which have resulted in disconcerting manifestations of intolerance. The Advisory Committee joins all those who have expressed the hope that a lasting and peaceful solution to the existing conflict will be found and that efforts to that effect will be accelerated. The Advisory Committee expects that the eventual solution will protect the rights of all persons concerned, in conformity with the territorial integrity of the country and other principles of international law.

The Advisory Committee notes that it is important also from the point of view of persons belonging to national minorities that certain general human rights issues – including concerns as regards freedom of expression and the process of registration of non-governmental organisations which have an impact also on the protection of national minorities – are addressed by the authorities as a matter of priority.

Despite certain positive legislative initiatives, there are a number of shortcomings in the legislation pertaining to the implementation of the Framework Convention. While pursuing the legitimate goal of promoting the state language, Azerbaijan adopted in 2002 a Law on the State Language, which contains certain regrettable reductions in the legal guarantees for the protection of national minorities. These put at risk, for example, certain commendable practices in the field of electronic media. The Advisory Committee is of the opinion that the said law should be amended with a view to making it compatible with the Framework Convention.

In addition, there is a need to couple the Law on the State Language with improved legal guarantees for the protection of national minorities in such fields as minority language education and use of minority languages in relations with administrative authorities with a view to consolidating and expanding the positive practices that exist. The Advisory Committee hopes that a new law on the protection of national minorities will be adopted in

the very near future and that it will provide the necessary guarantees for the implementation of the relevant minority language standards.

The Advisory Committee is of the opinion that Azerbaijan should consider developing further the consultation structures for representatives of national minorities in order to improve their participation in decision-making.

I. PREPARATION OF THE CURRENT OPINION

1. The initial State Report of Azerbaijan (hereinafter: the State Report), due on 1 October 2001, was received on 4 June 2002. The Advisory Committee commenced the examination of the State Report at its 15th meeting, on 9-13 September 2002.

2. In the context of this examination, the Advisory Committee identified a number of points on which it wished to obtain fuller information. A questionnaire was therefore sent to the Azerbaijani authorities on 20 November 2002. The Azerbaijani Government's reply to this questionnaire was received on 5 February 2003.

3. Further to an invitation from the Azerbaijani Government, and in accordance with Rule 32 of the Committee of Ministers' Resolution (97) 10, a delegation of the Advisory Committee visited Azerbaijan from 30 March to 3 April 2003 in order to obtain supplementary information from representatives of the Government, NGOs and other independent sources on the implementation of the Framework Convention. In preparing this opinion, the Advisory Committee also consulted a range of written materials from various Council of Europe bodies, other international organisations, NGOs and other independent sources.

4. The Advisory Committee subsequently adopted this opinion at its 17th meeting on 22 May 2003 and decided to transmit it to the Committee of Ministers¹.

5. The present opinion is submitted pursuant to Article 26 (1) of the Framework Convention, according to which, in evaluating the adequacy of the measures taken by the Parties to give effect to the principles of the Framework Convention, "the Committee of Ministers shall be assisted by an advisory committee", as well as pursuant to Rule 23 of Resolution (97) 10 of the Committee of Ministers, according to which the "Advisory Committee shall consider the state reports and shall transmit its opinion to the Committee of Ministers".

¹ The Advisory Committee decided, at its 12th meeting on 30 November 2001, to introduce certain changes to the structure of its opinions. It decided to discontinue the practice of submitting a "Proposal for conclusions and recommendations by the Committee of Ministers" (Section V of the earlier opinions) and to introduce a new section IV, entitled "Main findings and comments of the Advisory Committee". The Advisory Committee also decided to submit its "Concluding remarks" in Section V instead of Section IV. These changes are effective as from 30 November 2001 and they apply to all subsequent opinions adopted in the first monitoring cycle. These changes have been made in the light of the first country-specific decisions on the implementation of the Framework Convention adopted by the Committee of Ministers in October 2001.

II. GENERAL REMARKS

6. The Advisory Committee notes that the State Report devotes particular attention to the historical developments in Azerbaijan and provides an overview of the main aspects of the legislative framework pertaining to the protection of national minorities. However, there is more limited information on the present practical situation with respect to the protection of national minorities.

7. The Advisory Committee obtained a fuller picture of the situation through the Government's comprehensive written reply to a questionnaire by the Advisory Committee and, in particular, through the above-mentioned visit to Azerbaijan (see paragraph 3 of the present opinion). The Advisory Committee finds that the visit organised upon an invitation by the Government of Azerbaijan provided an excellent opportunity to have a direct dialogue with many of the relevant sources. The meetings took place not only in Baku but also in Khachmaz and Guba. The additional information provided by the Government and by other sources, including by representatives of national minorities, was most valuable, especially as concerns the implementation of relevant norms in practice.

8. The Advisory Committee recognises the co-operative spirit shown by the Azerbaijani authorities in the process leading to the adoption of this opinion. The Advisory Committee regrets however that when preparing the State Report the Government did not conduct substantial consultations with representatives of national minorities or other sectors of civil society. The Advisory Committee hopes that wider consultation will take place in the future.

9. More generally, the authorities could do more to encourage open, objective and inclusive discussions on the protection of national minorities. The Advisory Committee encourages the Government to take further measures to improve awareness of the Framework Convention, its explanatory report and the rules concerning its monitoring at the international level, including through publication and dissemination of the State Report and other relevant documents.

10. It should be noted as a preliminary remark that, when analysing the measures taken to give effect to the provisions of the Framework Convention, the Advisory Committee was not in a position to examine in detail the situation in the areas of Azerbaijan that are at present outside the effective control of the Government as a result of the Nagorno-Karabakh conflict. The Advisory Committee notes, however, that the Nagorno-Karabakh conflict has resulted in hundreds of thousands of refugees and internally displaced persons, including a large number of Kurds and persons belonging to other national minorities. The said conflict and the ongoing occupation of a part of the territory of Azerbaijan have considerably hampered efforts to implement the Framework Convention in Azerbaijan.

11. The Advisory Committee joins all those who have expressed the hope that a lasting and peaceful solution to the existing conflict will be found and that efforts to that effect will be accelerated. The Advisory Committee expects that an eventual solution will protect the rights of all persons concerned, in conformity with the territorial integrity of the country and the principles of international law. The Advisory Committee stresses that any agreement must take due account of the provisions of the Framework Convention, in order to ensure that the rights of persons belonging to national minorities as well as the principles contained in Articles 20 and 21 of the Framework Convention are implemented.

12. The Advisory Committee also wishes to specify that in examining the implementation of the Framework Convention by Azerbaijan, it has taken into account the serious economic difficulties the country is facing at present. Aware of the importance of socio-economic conditions on the implementation of policies and measures that generally necessitate adequate financial resources, the Advisory Committee welcomes the efforts made by the Azerbaijani authorities to protect national minorities and their concern to implement the Framework Convention.

13. The Advisory Committee notes that Azerbaijan is currently in the process of drafting new legislation that is likely to be of central importance to the implementation of the Framework Convention. It refers in particular to a new law on the protection of national minorities, which is at present being considered in Parliament. The Advisory Committee notes that the adoption of such a law was already envisaged in the 1992 Decree of the President of Azerbaijan on the rights and liberties of national minorities² and hopes that the drafting of the said law will be considered a priority and that the Council of Europe expertise and standards are drawn upon in this context. The Advisory Committee hopes that this and other pending legislative changes will strengthen the protection of national minorities in Azerbaijan (see also relevant comments in paragraphs 35 and 44).

14. In the following part of the opinion, it is stated in respect of a number of articles that, based on the information currently at its disposal, the Advisory Committee considers that implementation of the article at issue does not give rise to any specific observations. The Advisory Committee wishes to make clear that 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. Indeed, the Advisory Committee considers that the nature of the obligations of the Framework Convention requires a sustained and continued effort by the authorities to respect the principles and achieve the goals of the Framework Convention. Furthermore, a certain state of affairs may, in the light of the recent entry into force of the Framework Convention, be considered acceptable at this stage but that need not necessarily be so in further cycles of monitoring. Finally, it may be the case that issues that appear at this stage to be of relatively minor concern, prove over time to have been underestimated.

² See article 4 of the Decree of the President of the Republic of Azerbaijan “On the defense of the rights and liberties of national minorities, numerically small peoples and ethnic groups living in the Republic of Azerbaijan and on rendering state assistance to the development of their languages and cultures” adopted on 22 December 1992.

III. SPECIFIC COMMENTS IN RESPECT OF ARTICLES 1-21

Article 1

15. The Advisory Committee notes that Azerbaijan has ratified a wide range of relevant international instruments. Based on the information currently at its disposal, the Advisory Committee considers that implementation of this article does not give rise to any further observations.

Article 2

16. Based on the information currently at its disposal, the Advisory Committee considers that implementation of this article does not give rise to any specific observations.

Article 3

17. The Advisory Committee underlines that in the absence of a definition in the Framework Convention itself, the Parties must examine the personal scope of application to be given to the Framework Convention within their country. The position of the Azerbaijani Government is therefore deemed to be the outcome of this examination.

18. Whereas the Advisory Committee notes on the one hand that Parties have a margin of appreciation in this respect in order to take the specific circumstances prevailing in their country into account, it notes on the other hand that this must be exercised in accordance with general principles of international law and the fundamental principles set out in Article 3. In particular, it stresses that the implementation of the Framework Convention should not be a source of arbitrary or unjustified distinctions.

19. For this reason the Advisory Committee considers that it is part of its duty to examine the personal scope given to the implementation of the Framework Convention in order to verify that no arbitrary or unjustified distinctions have been made. Furthermore, it considers that it must verify the proper application of the fundamental principles set out in Article 3.

20. The Advisory Committee notes that whereas the legislation of Azerbaijan contains no definition of the term national minority, in practice the authorities appear to pursue an inclusive approach to the question of the personal scope of application of the Framework Convention and consider a large number of groups to fall within the scope of the Framework Convention³. Indeed, the Advisory Committee has not been informed of any cases suggesting that the authorities would have objected in principle to claims to be protected by the Framework Convention. The Advisory Committee welcomes this inclusive stance of the

³ According to the official census data from 1999 and estimates of the authorities of Azerbaijan, national minorities constitute 9.4 % of the population of Azerbaijan, and the State Report contains the following figures and designations concerning selected national minorities: Lezgins (178 000), Russians (141 700), Armenians (120 700; according to the authorities, there are 30-50 000 Armenians outside the Nagorno-Karabakh region), Talysh (76 800), Avars (50 900) Turks (43 300), Tatars (30 000), Ukrainians (29 000), Tsakhurs (15 900), Georgians (14 900), Kurds (13 100), Tats (10 900), Jews (8 900), Udi (4 100). The Advisory Committee notes that the accuracy of some of these figures as well as certain designations used are contested within some of the groups of the national minorities concerned. Furthermore, it should be added that there are estimated to be several thousand asylum-seekers and other persons of Chechen origin as well as numerically smaller national minorities residing in Azerbaijan.

authorities and considers it important that this stance is reflected in all pertinent practice as well as in the drafting of new relevant legislation, such as the new law on the protection of national minorities. Furthermore, as new relevant groups emerge, the Advisory Committee is of the opinion that it would be possible to consider the inclusion of persons belonging to these groups, including non-citizens as appropriate, in the application of the Framework Convention on an article-by-article basis. The Advisory Committee takes the view that the Azerbaijani authorities should consider this issue in consultation with those concerned.

21. The Advisory Committee notes that Azerbaijan collects ethnicity data in certain contexts, including in the population census. It appears that the latest census, conducted in 1999, included a compulsory question on individuals' "ethnic origin". While taking note of the Government's information that individuals were free to choose their ethnic affiliation in this connection, the Advisory Committee is of the opinion that replying to such a question should be fully optional. This, in the view of the Advisory Committee, is a suitable way to reconcile the need to have quality data in this field with the right to be treated or not to be treated as a person belonging to a national minority.

22. More generally, the Advisory Committee recalls the importance of ensuring that questions on individuals ethnicity is in all contexts based on clear normative criteria and that those individuals who choose not to answer a question on one's ethnicity are not categorized as ethnic Azerbaijanis in the resulting statistics. Furthermore, it is important that when collecting ethnicity information and publishing the relevant statistics the authorities include, as a rule, also the numerically smallest minorities, such as Khynalyg, Budukha and Kryz, as separate categories rather than grouping them together under the general category of "other nationalities" and that the authorities use designations preferred by the representatives of the national minorities concerned.

23. The Advisory Committee understands that internal passports issued under the Soviet-era regulations provided for an obligatory ethnicity entry. The Advisory Committee considers that an obligatory ethnicity ("nationality") entry in internal passports, in particular when coupled with limitations on persons' right freely to choose which ethnicity should be indicated therein, is not compatible with the principles contained in Article 3 of the Framework Convention, notably as concerns the right not to be treated as a person belonging to a national minority. Therefore, the Advisory Committee welcomes the fact that there is no obligatory ethnicity entry in new identity cards in Azerbaijan. Bearing in mind the old internal passports are still widely in use in Azerbaijan, the Advisory Committee considers it important that the on-going process of replacing such passports by new identity cards is carried out decisively and that it entails no excessive costs or other shortcomings that would harm the accessibility of the process.

Article 4

24. The Advisory Committee notes that there are general provisions reflecting the principle of anti-discrimination in the Constitution, the Criminal Code as well as in various acts in the field of civil and administrative law. While welcoming these norms, the Advisory Committee notes that there are no detailed and comprehensive civil and/or administrative law provisions pertaining to ethnic discrimination in certain key fields as was pointed out by the European Commission against Racism and Intolerance (ECRI) in its second report on

Azerbaijan.⁴ The Advisory Committee is of the opinion that it would be desirable to develop such legislation in order to protect, in a comprehensive manner, individuals from discrimination by both public authorities and private entities.

25. With regard to practice concerning implementation of anti-discrimination legislation, it is mentioned in the State Report that at “no time in the history of Azerbaijan have there been recorded cases of intolerance or discrimination on ethnic, religious, language and cultural grounds”. The Advisory Committee notes that this statement stands in contrast with credible reports from various other sources indicating that there are incidents of such hostility and discrimination, including towards Armenians. The Advisory Committee is not in a position to conclude whether the problem of ethnic discrimination is wide-spread or only limited to isolated cases, but it considers it imperative that the monitoring of developments in this field is intensified and the awareness of the relevant authorities of the issues at hand is improved.

26. There appears also to be a need to take further measures to ensure that individuals are informed of their rights in this sphere and that they have confidence in the relevant authorities to seek remedy when they consider that these rights have been violated. The Advisory Committee considers that the Office of the Ombudsperson, established in 2002, could play an important role in this respect, provided it develops an independent and active approach to these issues. The Advisory Committee welcomes the plans to appoint permanent regional representatives of the Ombudsman as this would increase accessibility of the office in areas where persons belonging to national minorities reside compactly.

27. The Advisory Committee notes that there is a need to collect additional data to improve the ability of the state to target, implement and monitor measures to ensure the full and effective equality of persons belonging to national minorities. The Advisory Committee therefore suggests that, on condition that the principles identified in the Committee of Ministers' Recommendation (97) 18 to Member States concerning the protection of personal data collected and processed for statistical purposes are respected, the Government try to identify further ways and means of obtaining reliable statistical data. Without such data it is very difficult for remedial policies and programmes to be implemented and for the international monitoring bodies to ascertain whether Azerbaijan meets its obligations flowing from the Framework Convention.

28. The Advisory Committee notes that the non-discrimination principle has at times been referred to as an argument against the introduction of special measures for the benefit of persons belonging to national minorities aimed at promoting full and effective equality. The Advisory Committee stresses that, pursuant to Article 4, paragraph 3, of the Framework Convention, such measures must not be considered to be an act of discrimination and that additional steps are needed to inform the officials concerned and the public at large of the applicable principles. It is also important that the possibility of introducing such measures is clearly stipulated in the envisaged law on the protection of national minorities.

29. The Advisory Committee understands that while there are socio-economic difficulties in Azerbaijan that affect the society at large, these difficulties affect in particular refugees and internally displaced persons - a category which includes Kurds and other persons belonging

⁴ ECRI Second Report on Azerbaijan, adopted on 28 June 2002 and made public on 15 April 2003, paragraph 16.

to national minorities - as well as Meskhetians⁵, who have arrived in Azerbaijan relatively recently after facing persecution elsewhere. The Advisory Committee recognises the efforts that are being made in this sphere and urges the authorities to pursue them further with a view to ensuring full and effective equality of the persons concerned.

30. As regards other national minorities, the Advisory Committee has been informed, for example, about housing and other problems faced by persons belonging to the Budukha national minority. However, in the absence of clear data, it is difficult to estimate whether persons belonging to national minorities are in general disproportionately affected by socio-economic difficulties in Azerbaijan. The Advisory Committee therefore encourages the authorities to collect additional data in this sphere, while paying particular attention to the situation of women belonging to national minorities.

31. The Advisory Committee welcomes the research that is being conducted by the UNHCR regarding allegations that individuals in mixed Armenian-Azerbaijani families face particular registration and other difficulties in their contacts with the authorities. The Advisory Committee considers that such difficulties are likely to have a negative impact on the effective equality of the persons concerned and that any shortcomings in this sphere should therefore be addressed.

Article 5

32. The Advisory Committee welcomes the fact that the importance of the protection and promotion of cultures of national minorities is recognised by the authorities. Cultural diversity of the country is largely seen as an asset of Azerbaijan and new initiatives, such as the creation of a coordinating council on cultural diversity under the Ministry of Culture, have been proposed. The Advisory Committee notes however that, whereas in the past the cultural activities of national minorities received support from the Presidential Fund, cultural association of national minorities report that at present there is a lack of such direct state support.

33. The Advisory Committee recognises the budgetary constraints involved but it nevertheless encourages the authorities to consider this issue, with a view to creating a support scheme that would also ensure that the representatives of national minorities are involved in the decision-making process.

34. The Advisory Committee notes that amongst certain numerically smaller national minorities, such as Tats, a more dominant language has often emerged as a mother tongue, replacing the minority language concerned. Sensitive to such tendencies, the Advisory Committee is of the view that support for initiatives to protect the minority languages of the numerically small national minorities is of particular importance in Azerbaijan.

35. The Advisory Committee notes that the feasibility of various non-governmental projects and programmes to promote cultures of national minorities may be affected by the amendments to the Law on Grants, adopted in 2002, which stipulate new registration and tax obligations concerning grants obtained by organisations. The Advisory Committee encourages the authorities to examine the impact of these amendments with a view to

⁵ Persons belonging to this national minority also use the terms “Meskhetian Turks” or “Akhalsikhe Turks” to describe their minority.

ensuring that they do not hamper the activities to promote and protect cultures of national minorities and, if necessary, introduce amendments.

36. The Advisory Committee regrets the damage caused by the Nagorno-Karabakh conflict to religious sites and other cultural heritage and considers that all concerned should pay particular attention to preventing any further damage to the cultural heritage of persons concerned in Nagorno-Karabakh and in other parts of Azerbaijan.

Article 6

37. The Advisory Committee notes that, in general, a spirit of tolerance and inter-ethnic dialogue prevails in Azerbaijan. This is notable for example with respect to Jews, who report a long history of living in Azerbaijan in an atmosphere of mutual respect and understanding.

38. In spite of this generally positive picture, there have been certain statements and actions that do not reflect the principles contained in Article 6 of the Framework Convention, often stemming from the conflict concerning Nagorno-Karabakh and reflecting anti-Armenian sentiments. The Advisory Committee notes in this connection with particular concern the recent manifestations of intolerance towards representatives of certain non-governmental organisations, notably representatives of the Human Rights Centre of Azerbaijan, with activities in this sphere. The Advisory Committee believes that the authorities' attitudes, statements and measures can be instrumental in preventing and countering such incidents and that they have a particular responsibility for building trust and dialogue and promoting a measured approach to the questions at issue.

39. As the stance and practice of law-enforcement authorities are of particular importance in ensuring that the principles contained in Article 6 are implemented, the Advisory Committee considers that developments in this sphere need to be under constant review. In this connection, the Advisory Committee welcomes the Government's commitment to have the protection of national minorities included as a theme in the staff training system and educational programmes of the Police Academy.

40. The Advisory Committee underlines the importance of the role of media in fostering inter-ethnic tolerance. It is essential to ensure that reporting on Nagorno-Karabakh and other sensitive issues with direct relevance for national minorities is fully in line with Article 10 of the 1999 Law on Mass Media, which prohibits *inter alia* propagation of national or racial hate or intolerance. In addition to full implementation of the relevant legislative provisions, the Advisory Committee considers that further initiatives on reporting concerning national minorities could be introduced, bearing in mind the principles contained in the Committee of Ministers' Recommendation No. (97) 21 on the media and the promotion of a culture of tolerance.

41. The Advisory Committee notes with concern the reports suggesting that children of Chechens, who are not citizens of Azerbaijan and who have not been recognised as refugees by the authorities, have had serious problems in terms of their access to education. The Advisory Committee considers that this is an issue that merits increased attention by the authorities concerned so as to ensure that the relevant legislation guaranteeing equal access to education is fully implemented.

Article 7

42. The Advisory Committee notes that Azerbaijani legislation largely guarantees persons belonging to national minorities the rights contained in Article 7 of the Framework Convention. However, there are general problems in Azerbaijan with respect to the implementation of these rights and these problems also affect negatively persons belonging to national minorities.

43. As regards freedom of expression, the Advisory Committee notes that, whereas state censorship has been abolished, there are disconcerting reports indicating that media reporting critical of the authorities has relatively frequently led to defamation or libel suits brought by officials. Such tendencies also affect persons belonging to national minorities. The Advisory Committee considers that the Government should step up its efforts to ensure that the legal provisions concerning defamation and libel or other methods are not employed by the authorities at the local, regional or central level to place excessive limits on the exercise of freedom of expression.

44. The Advisory Committee regrets that, despite some improvements, there remain shortcomings in the process of registration of non-governmental organisations in Azerbaijan. The process is widely considered to be overly complicated, slow and lacking in transparency. The Advisory Committee has received information, including from representatives of the Kryz minority, that these problems have caused registration difficulties also for organisations dealing with the protection of national minorities. The Advisory Committee therefore welcomes the fact that the Parliament of Azerbaijan is currently considering a draft law on state registration of legal entities. The Advisory Committee is of the opinion that increased priority should be given to this draft legislation, and that it should result in a registration process that is speedy, accessible and without undue obstacles to the organisations seeking registration. At the same time, the authorities should ensure that the pending registration requests submitted under the present regulations are processed without delay and in full compliance with the principles contained in Article 7 of the Framework Convention.

45. The Advisory Committee understands that freedom of peaceful assembly is guaranteed in the legislation of Azerbaijan, but it has also received reports that the authorities in some regions have approached the implementation of this right reservedly when it has concerned discussions on, and distribution of, texts containing standards on the protection of national minorities, such as the Framework Convention. While these may be isolated incidents, the Advisory Committee believes that the authorities, including at the local and regional level, should be provided with information and training to ensure that such incidents do not occur in the future. In this connection, the Advisory Committee recalls that although the rights contained in Article 7 may be subject to certain limitations pursuing a specific public interest, such limitations must not be disproportionate nor invoked to suppress legitimate activities promoting the rights of persons belonging to national minorities (see also related comments under Articles 21 and 22 below).

Article 8

46. The Advisory Committee notes that freedom of religion is guaranteed in the Constitution of Azerbaijan and the representatives of the largest religious organisations report that their rights are respected in practice. The main development in this sphere has been the

re-registration of religious communities, which was launched in 2001. The Advisory Committee urges the State Committee for the Work with Religious Associations to ensure that the registration process is pursued on the basis of objective criteria and in a manner that entails no undue state interference.

47. The Advisory Committee notes that there has been a marked decrease in the number of registered religious communities. It however welcomes that non-registered religious communities are legally entitled to pursue their activities in Azerbaijan. The Advisory Committee regrets, however, that in some regions certain non-registered communities have been prevented from having their legitimate meetings and it encourages the authorities to pursue further their efforts to prevent such incidents.

48. The Advisory Committee considers that the provision, contained in Article 22 of the 1992 Law on Freedom of Religious Beliefs, stipulating that religious associations have the right to “to produce, import and freely spread” literature and other informational materials of religious content only “upon consent of the corresponding executive authority”, is so broadly formulated that it could be open to abuse. The Advisory Committee encourages the authorities to review this provision in the context of the on-going drafting of a new law in this field. In the meantime, it urges the authorities to implement the said provision with particular caution, so as to ensure that it does not undermine the right of persons belonging to national minorities to manifest their religion.

Article 9

49. The Advisory Committee notes with satisfaction that there is regular radio and/or local TV broadcasting in some of the minority languages in Azerbaijan, including in Avar, Georgian, Kurdish, Lezgin, Russian and Talysh. The Advisory Committee finds it important that such broadcasting is maintained and expanded further and that it is protected also in the relevant legislation.

50. Against this background, the Advisory Committee deeply regrets that, whereas the 1999 Law on Mass Media and the 1992 decree on the rights and liberties of national minorities envisage broadcasting in minority languages, the new Law on the State Language in the Azerbaijan Republic, adopted on 30 September 2002, stipulates in its Article 6, paragraph 1, that “[a]ll TV and radio broadcasting founded and operating on the territory of the Azerbaijan Republic regardless of the ownership is carried out in the state language”. This provision is not yet implemented in practice as the above-mentioned minority language broadcasting continues in Azerbaijan. While acknowledging that it is legitimate to introduce measures to promote the state language also in the media field, the Advisory Committee considers that such an overall exclusion of national minority languages from the TV and radio broadcasting is not compatible with Article 9 of the Framework Convention.

51. In view of the foregoing the Advisory Committee urges the authorities of Azerbaijan (in the context of a general review of the said law, proposed under Article 10) to amend Article 6 of the Law on the State Language with a view to making it compatible with the principles of the Framework Convention. Furthermore, the Advisory Committee considers that the question of access of persons belonging to national minorities to the media, including in their own language, should be addressed in the context of the on-going drafting of a new law on the protection of national minorities and of new legislation concerning public service broadcasting.

52. As regards print media, the Advisory Committee welcomes the existence of a number of newspapers in minority languages, but notes that the lack of financial resources is a major obstacle in this sphere. The Advisory Committee encourages the authorities to consider additional measures to support this sector and notes that certain related steps are envisaged in Article 9 of the 1992 decree of the President of Azerbaijan on the rights and liberties of national minorities. Furthermore, the Advisory Committee refers in this connection to its comment, under Article 7 of the Framework Convention, on the general situation of freedom of expression in Azerbaijan.

Article 10

53. The Advisory Committee notes that in Azerbaijan the status of the state language is regulated and protected in detail whereas corresponding standards on the status and protection of minority languages are limited in their number and scope. While recognising the legitimacy of the aim to protect and promote the state language and understanding the desire to do so in the context of Azerbaijan, the Advisory Committee considers it instrumental that such protection and promotion is carried out in a manner that fully protects the rights contained in Articles 10, 11 and other pertinent provisions of the Framework Convention.

54. The Advisory Committee regrets that the text of the new Law on the State Language does not in all respects take due account of these principles. For example, Article 7, paragraph 1, suggests that the state language is to be used in the provision of all services, with the exception of services rendered for foreigners, and Article 1, paragraph 4, could be interpreted as requiring, *inter alia*, that all records of non-governmental organisations should be kept in the state language. The Advisory Committee considers such formulations to be too broad from the point of view of the right of persons belonging to national minorities to use freely and without interference their minority language, in private and in public, orally and in writing.

55. With a view to the foregoing, the Advisory Committee is of the opinion that the Law on the State Language should be reviewed and necessary amendments introduced in order to make it compatible with relevant provisions of the Framework Convention (see also related comments under Article 9 above). It is important that this process is carried out in close consultation with the on-going process of drafting a law on the protection of national minorities so as to ensure complementarity between the legal texts at issue.

56. As far as the right of persons belonging to national minorities to use their language in relations with administrative authorities is concerned, there appear to be no specific norms in place. According to the authorities, the Russian language is used regularly in such contacts and also the use of other minority languages is widely accepted in certain areas inhabited by a substantial number of persons belonging to national minorities. At the same time, in the absence of clear regulations, varied practices have emerged, for example, as regards acceptance of minority language documentation by administrative authorities at the central level. In this respect the Office of the Ombudsman states that they accept communications in minority languages, whereas the State Committee for the Work with Religious Associations reports that they accept registration requests from religious communities only in the Azerbaijani language.

57. In the opinion of the Advisory Committee, the authorities should clarify the situation with a view to ensuring the conditions which would make it possible to use minority languages in dealings with the administration in all areas where the criteria established by Article 10 paragraph 2 of the Framework Convention are met. The Advisory Committee considers that this possibility should not be left solely to the discretion of the authorities concerned. The Advisory Committee is therefore of the view that Azerbaijan should, following consultations with the relevant national minorities, introduce norms specifying the conditions ensuring the exercise of this right and encourages the authorities to address this issue in connection with the on-going drafting of a new law on the protection of national minorities.

Article 11

58. The Advisory Committee notes that Article 8 of the Law on the State Language provides that the names of the citizens of Azerbaijan are written in the state language. While recognising that the Azerbaijani authorities may, in accordance with Article 11 of the Framework Convention, use the Latin alphabet when writing the names of persons belonging to national minorities, the Advisory Committee expects that the right to official recognition of names in minority languages be fully respected in this connection.

59. The Advisory Committee further notes that the Law on the State Language, in its Article 7, envisages the use of a minority language (as an addition to the state language) in advertisements and announcements only in “necessary cases”. Depending on the way the term “necessary” is interpreted, the said provision could in certain circumstances prevent a person belonging to a national minority from displaying signs and other information of a private nature visible to the public. This would not be compatible with Article 11 of the Framework Convention. In this connection, the Advisory Committee recalls that the expression “of a private nature” in Article 11 of the Framework Convention refers to all that is not official, including for example a sign, poster or an advertisement of a private enterprise.

60. With a view to the preceding paragraphs, the Advisory Committee is of the opinion that Azerbaijan should pay particular attention to the guarantees contained in Article 11 of the Framework Convention in the proposed review of the Law on the State Language and in the drafting of a new law on the protection of national minorities in order to ensure full implementation of the Framework Convention. It also underlines the importance of ensuring the implementation of the relevant standards concerning signs and posters in minority languages in the context of the up-coming electoral campaign.

Article 12

61. The Advisory Committee supports international initiatives aimed at ensuring that history textbooks and other educational materials do not foster negative stereotypes of national minorities and considers that the results of such initiatives should be taken into account by the Azerbaijani authorities in their efforts to reach this goal.

62. The Advisory Committee notes that the limited availability of textbooks and teachers is an obstacle in the context of the teaching of many of the minority languages of Azerbaijan. For example, concerns have been expressed that the shortcomings with respect to up-dated textbooks in Lezgin, Talysh and Tat languages and lack of Kurdish teachers have hampered

the development of education for the minorities concerned. The Advisory Committee welcomes the fact that the authorities, while referring to economic constraints, recognise that shortcomings exist in this sphere. The Advisory Committee suggests that this issue is kept under constant review by the Government with a view to addressing any shortcomings.

63. The Advisory Committee notes that Azerbaijan is currently introducing reforms concerning the role of the Azerbaijani language in education. While considering the aim to promote the Azerbaijani language in education to be fully legitimate, the Advisory Committee underlines that these reforms must be designed, implemented and monitored carefully so that they do not harm equal access of persons belonging to national minorities to education at all levels. In this connection, the Advisory Committee notes the concerns by certain representatives of national minorities that the increased requirements concerning the use of the Azerbaijani language and Latin alphabet notably in the context of higher education have been introduced without adequate preparation, resources and support for persons belonging to national minorities and that a more gradual transition would therefore have been preferable. The Advisory Committee encourages the authorities to keep this issue under constant review in consultation with representatives of national minorities and introduce amendments if necessary (see also related comments under Article 14 below).

Article 13

64. The Advisory Committee welcomes the fact that, after some delays, the issue of registration of a private Jewish school in Baku has reportedly been solved in 2003. The Advisory Committee encourages the authorities to ensure support for the establishment and operation of such institutions based on clear and objective legal criteria.

Article 14

65. The Advisory Committee notes that Article 45 of the Constitution of Azerbaijan provides that everyone shall have the right to receive an education in their native language. The possibility to introduce education in a national minority language is also envisaged in general terms in Article 6 of the 1992 Law on Education.

66. The Advisory Committee regrets, however, that the legal guarantees for persons belonging to national minorities to receive such education have recently been reduced. Whereas the previously applicable 1992 Law on the State Language provided in its Article 3 that national minorities residing compactly on the territory of Azerbaijan had the right to separate schools, classes or groups in their language, Article 5 of the new 2002 Law on the State Language states that functioning of educational institutions in languages other than Azerbaijani is conducted “in accordance with the legislation”, without providing any guarantees in this respect.

67. The Advisory Committee urges the authorities to ensure that the necessary guarantees are included in the new law on education. This issue should also be taken into account in the context of the proposed review of the Law on the State Language and in the drafting of a new law on the protection of national minorities. The aim should be to provide a clear legal framework and more detailed guarantees for the implementation of the rights contained in Article 14 of the Framework Convention. In the absence of such additional guarantees, the legal status of minority languages in the educational system remains relatively weak

68. The Advisory Committee notes that the education system is at present going through a reform that will affect the implementation of Article 14 of the Framework Convention in Azerbaijan. The Advisory Committee notes that the educational system of Azerbaijan has provided an extensive network of schools at various levels of education with Russian as the language of instruction. Russian has often been the language of instruction chosen not only by persons belonging to the Russian minority but also by persons belonging to a number of other national minorities. The Advisory Committee understands that this system requires reform, taking into account *inter alia* the increasing demand for Azerbaijani language teaching.

69. The Advisory Committee notes that many elements of the reform, such as the obligatory teaching of Azerbaijani in the schools with minority language instruction and an increased emphasis on bilingual education, are as such fully acceptable from the point of view of Article 14 of the Framework Convention. The Advisory Committee underlines however that these reforms need to be pursued carefully and gradually in order to avoid unnecessary difficulties for the persons concerned as well as in a manner that guarantees persons belonging to national minorities adequate opportunities for being taught the minority language or for receiving instruction in this language (see also related comments under Article 12 above).

70. The Advisory Committee welcomes the fact that, aside from schools with instruction in Russian and/or Azerbaijani, there also exist schools with instruction, or part thereof, in the Georgian language.

71. As far as other languages of national minorities are concerned, the general principle is that pupils may receive teaching of their language two hours per week in grades 1-4. The Advisory Committee welcomes the existence of teaching of these minority languages, which also reportedly covers such numerically small minorities as Khynalygs, and urges the authorities to ensure that such teaching is regularly organised in various parts of the country taking into account the demand in the areas concerned. It further notes that the particular challenges faced by persons belonging to dispersed national minorities, such as Tatars, need to be taken into account in this context.

72. At the same time, the Advisory Committee considers that the scope and the volume of such teaching, where available, is limited from the point of view of Article 14 of the Framework Convention. While recognising the economic constraints involved, the Advisory Committee is of the opinion that the authorities should consider an increase in the volume of such teaching and its extension beyond the 4th grade, taking into account the existing demand.

Article 15

73. The Advisory Committee notes that a Council for National Minorities, chaired by the State Adviser on National Policy, was set up in 1993 as a consultation structure for national minorities and authorities. However, this body has not been convened in recent years, and it does not at present constitute a forum for regular and frequent consultation and dialogue for issues pertaining to national minorities.

74. The Advisory Committee is therefore of the opinion that the working methods of the said body should be revised or a new body established in order to promote such consultation and dialogue. Similar initiatives could be considered also at the local and regional level, where there appears to be a need to increase open, constructive dialogue on the questions concerning the protection of national minorities. The Advisory Committee is of the opinion that these issues merit particular attention in the context of the drafting of a new law on the protection of national minorities.

75. The Advisory Committee also underlines the importance of involvement of representatives of minorities in the decision-making on religious issues and urges the State Committee for the Work with Religious Associations to pay particular attention to this issue in its activities.

76. The Advisory Committee recalls that decentralised or local forms of government are often an important factor in creating necessary conditions for effective participation of persons belonging to national minorities in decision-making. This issue is of great significance also in Azerbaijan, where a number of national minorities live compactly in specific parts of the country. Many of them are concentrated in certain areas in northern Azerbaijan, such as Lezgins in Gusar and Khacmaz and Avars in Zakataly and Balakan regions, and there are also national minorities residing compactly in other parts of the country, including Talysh in Lenkaran and elsewhere in southern Azerbaijan.

77. Despite certain legislative efforts, Azerbaijan has been criticised by the relevant Council of Europe bodies for making only limited progress in the development of local self-government and for not designing a genuine decentralisation strategy. The Advisory Committee notes in particular that there is a tendency in the relevant legislation and in the statements of certain officials to consider municipalities as part of the non-governmental sector rather than as part of the public administration system. The Advisory Committee is convinced that progress in this field would further the implementation of Article 15 of the Framework Convention and urges the authorities to step up their corresponding efforts, taking into account the pertinent recommendations of the Congress of Local and Regional Authorities of Europe and other competent organs.

78. The Advisory Committee welcomes the fact that Azerbaijan has replaced the Soviet-era system of residency permits (*propiska*) by a system of residency registration, bearing in mind that persons belonging to national minorities were often particularly vulnerable to the problems inherent in the old system. The Advisory Committee encourages the authorities to continue to review the relevant practice with a view to ensuring that no such vestiges of the old system are present in the relevant practice that would put obstacles to the exercise of the rights of persons belonging to national minorities in various fields such as employment, education and health.

79. The Advisory Committee acknowledges that a certain level of Azerbaijani language proficiency may be legitimately required in certain areas of employment but notes that this can cause difficulties for persons belonging to national minorities in their attempts to gain access to employment. The Advisory Committee is nevertheless concerned that the current language legislation of Azerbaijan contains provisions that could be interpreted in a manner that would make such proficiency requirements overly extensive and cause undue problems related to the implementation of Article 15. For example, the Advisory Committee refers to the provision in the State Language Law that suggest that Azerbaijani is to be used generally

in the provision of services (see comments under Article 10 above). It is important that the application of this and other similar requirements be carefully limited to situations where there is a necessity to protect a specific public interest.

Article 16

80. The Advisory Committee notes that the Nagorno-Karabakh conflict has substantially altered the proportion of the population in a number of areas inhabited by persons belonging to national minorities. The Advisory Committee hopes that a peaceful solution to the conflict will be found and a process of sustainable voluntary return can be started (see also General Remarks above).

Article 17

81. The Advisory Committee notes that the right of persons belonging to minorities to maintain free and peaceful contacts across frontiers is of particular relevance to a number of national minorities in Azerbaijan. In this respect, the Advisory Committee encourages the authorities concerned to pursue further their efforts to improve the possibilities of Lezgins to maintain such contacts. One particular situation that deserves attention concerns Lezgins residing inside the region of Khacmaz in two villages which are part of the territory of the Russian Federation.

82. The Advisory Committee also encourages the authorities to pay careful attention to the situation of persons belonging to a host of other groups residing in border regions with their particular challenges, such as Talysh.

83. The Advisory Committee notes that particular restrictions exist on the crossings of border with Armenia and hopes that solutions can be found to ease the resulting limitations on the rights of persons belonging to national minorities to establish and maintain contacts and dialogue across frontiers.

Article 18

84. The Advisory Committee welcomes the fact that Azerbaijan is party to bilateral agreements touching upon the protection of persons belonging to national minorities and plans to conclude additional bilateral agreements with countries of the region.

85. It further notes the creation of the State Committee for Azerbaijanis Abroad. The Advisory Committee hopes that the State Committee will carry out its activities in bilateral consultation with the countries concerned and pursue them in a manner that is in conformity with the principles of good neighbourliness, friendly relations and co-operation between States.

Article 19

86. 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.

Articles 20 and 21

87. The Advisory Committee refers to its General Remark (see paragraph 10 above) concerning the Nagorno-Karabakh conflict.

88. The Advisory Committee notes that the instrument of accession of Azerbaijan to the Framework Convention contained a declaration stressing the territorial integrity and sovereignty of Azerbaijan.⁶ The Advisory Committee fully recognises the importance of the territorial integrity of States and is aware of the challenges that Azerbaijan has faced in this sphere. In spite of these difficulties, it is important to ensure that critical statements in support of improved protection of national minorities are not as such considered to imply support for separatism or a threat to territorial integrity.

⁶ Declaration contained in the instrument of accession deposited on 26 June 2000 reads as follows: “The Republic of Azerbaijan, confirming its adherence to the universal values and respecting human rights and fundamental freedoms, declares that the ratification of the Framework Convention for the Protection of National Minorities and implementation of its provisions do not imply any right to engage in any activity violating the territorial integrity and sovereignty, or internal and international security of the Republic of Azerbaijan.”

IV. MAIN FINDINGS AND COMMENTS OF THE ADVISORY COMMITTEE

89. The Advisory Committee believes that the main findings and comments set out below, could be helpful in a continuing dialogue between the Government and national minorities, to which the Advisory Committee stands ready to contribute.

In respect of General Comments

90. The Advisory Committee *finds* that the Nagorno-Karabakh conflict has resulted in hundreds of thousands of refugees and internally displaced persons and considerably hampered efforts to implement the Framework Convention in Azerbaijan. The Advisory Committee *considers* that a lasting and peaceful solution to the existing conflict should be found and that efforts to that effect should be accelerated.

91. The Advisory Committee *finds* that Azerbaijan is currently in the process of drafting new legislation that is likely to be of central importance to the implementation of the Framework Convention and *considers* that the drafting of a new law on the protection of national minorities should be considered a priority.

In respect of Article 3

92. The Advisory Committee *finds* that the authorities appear to pursue an inclusive approach to the question of the personal scope of application of the Framework Convention and *considers* that this positive stance should be reflected in all pertinent practice as well as in the drafting of new relevant legislation.

93. The Advisory Committee *finds* that Azerbaijan collects ethnicity data in certain contexts and that the latest census apparently included a compulsory question on individuals' ethnic origin. It *considers* that replying to such a question should be optional.

94. The Advisory Committee *finds* that the Soviet-era internal passports with an obligatory ethnicity entry, which are not compatible with Article 3 of the Framework Convention, are still widely in use in Azerbaijan. It *considers* that the on-going process of replacing such passports by new identity cards should be carried out decisively and in an accessible manner.

In respect of Article 4

95. The Advisory Committee *finds* that there are no detailed and comprehensive civil and/or administrative law provisions pertaining to discrimination in certain pertinent fields and *considers* that Azerbaijan should develop such legislation in order to protect, in a comprehensive manner, individuals from discrimination by both public authorities and private entities.

96. The Advisory Committee *finds* that there are credible reports about incidents of inter-ethnic hostility and discrimination. The Advisory Committee *considers* it imperative that the monitoring of developments in this field is intensified and the awareness of the relevant authorities and public at large of the issues at hand is improved.

97. The Advisory Committee *finds* that socio-economic difficulties affect in particular refugees and internally displaced persons as well as Meskhetians but, in the absence of clear data, it is difficult to estimate whether persons belonging to national minorities are in general disproportionately affected by such difficulties. The Advisory Committee *considers* that there is a need to collect additional data to improve the ability of the state to target, implement and monitor measures to ensure the full and effective equality of persons belonging to national minorities.

In respect of Article 5

98. The Advisory Committee *finds* that cultural associations of national minorities report that there is a lack of direct public support for their cultural activities and *considers* that the authorities should consider this issue, with a view to creating a support scheme that would also ensure that the representatives of national minorities are involved in the decision-making process. It further *considers* it important that initiatives to protect small national minority languages are supported.

99. The Advisory Committee *finds* that the feasibility of various non-governmental projects and programmes to promote cultures of national minorities may be affected by the recent amendments to the Law on Grants and *considers* that the authorities should examine the impact of these amendments.

100. The Advisory Committee *finds* that the Nagorno-Karabakh conflict has caused damage to religious sites and other cultural heritage and *considers* that all concerned should pay particular attention to preventing any further damage.

In respect of Article 6

The Advisory Committee *finds* that, while a spirit of tolerance and inter-ethnic dialogue generally prevails in Azerbaijan, there have been certain statements and actions that do not reflect the principles contained in Article 6 of the Framework Convention. It *considers* that that the authorities' attitudes, statements and measures, including those of law-enforcement, can be instrumental in preventing and countering such incidents and that the role of media in fostering inter-ethnic tolerance is of particular importance.

102. The Advisory Committee *finds* that Chechen children have reportedly had serious problems in terms of their access to education and *considers* that this issue merits increased attention by the authorities.

In respect of Article 7

103. The Advisory Committee *finds* that there are disconcerting reports indicating that media reporting critical of the authorities has relatively frequently led to defamation or libel suits brought by officials and that such tendencies also affect persons belonging to national minorities. It *considers* that the Government should step up its efforts to ensure that the legal provisions concerning defamation and libel or other methods are not employed by the authorities to place excessive limits on the exercise of freedom of expression.

104. The Advisory Committee *finds* that there remain shortcomings in the process of registration of non-governmental organisations in Azerbaijan, which have caused registration difficulties also for organisations dealing with the protection of national minorities. It *considers* that a draft law on state registration of legal entities should be given increased priority with a view to ensuring a registration process that is speedy, accessible and without undue obstacles.

105. The Advisory Committee *finds* that the authorities in some regions have reportedly approached the implementation of freedom of peaceful assembly reservedly when it has concerned discussions on, and distribution of, texts containing standards on the protection of national minorities. It *considers* that the authorities should be provided with information and training to ensure that such incidents do not occur in the future.

In respect of Article 8

106. The Advisory Committee *finds* that Azerbaijan has introduced a process of re-registration of religious communities and that non-registered religious communities have in some cases been prevented from having their legitimate meetings. The Advisory Committee *considers* that the authorities should ensure that the registration process is pursued on the basis of objective criteria and that there are no undue interferences with the activities of religious communities.

107. The Advisory Committee *finds* that certain requirements of the Law on Freedom of Religious Beliefs related to informational materials of religious content are so broadly formulated that they could be open to abuse. It *considers* that this issue should be addressed in the context of the on-going drafting of a new law in this field.

In respect of Article 9

108. The Advisory Committee *finds* that the overall exclusion of national minority languages from the TV and radio broadcasting, stipulated in Article 6 of the new Law on the State Language, is not compatible with Article 9 of the Framework Convention and *considers* that the said article should be amended.

In respect of Article 10

109. The Advisory Committee *finds* that the text of the new Law on the State Language does not in all respects take due account of the principles contained in the Framework Convention, including the right of persons belonging to national minorities to use freely and without interference their minority language, in private and in public, orally and in writing. It *considers* that the Law on the State Language should be reviewed and necessary amendments introduced.

110. The Advisory Committee *finds* that there appear to be no specific norms in place on the right of persons belonging to national minorities to use their language in relations with administrative authorities and *considers* that the authorities should introduce norms specifying the conditions ensuring the exercise of this right.

In respect of Article 11

111. The Advisory Committee *finds* that the new Law on the State Language provides that the names of the citizens of Azerbaijan are written in the state language and that the said law contains provisions on advertisements and announcements that could give rise to interpretations not compatible with Article 11 of the Framework Convention. The Advisory Committee *considers* that Azerbaijan should pay particular attention to the guarantees contained in Article 11 of the Framework Convention in the proposed review of the Law on the State Language and in the drafting of a new law on the protection of national minorities.

In respect of Article 12

112. The Advisory Committee *finds* that international initiatives aimed at ensuring that history textbooks and other educational materials do not foster negative stereotypes of national minorities are important and *considers* that the results of such initiatives should be taken into account by the Azerbaijani authorities in their efforts to reach this goal.

113. The Advisory Committee *finds* that the limited availability of textbooks and teachers is an obstacle in the context of the teaching of many of the minority languages of Azerbaijan and *considers* that this issue should be kept under constant review by the Government with a view to addressing any shortcomings.

114. The Advisory Committee *finds* that Azerbaijan is currently introducing reforms concerning the role of the Azerbaijani language in education and that there are reports suggesting that certain aspects of the said reform have been introduced without adequate preparation, resources and support for persons belonging to national minorities. The Advisory Committee *considers* that the authorities should keep this issue under constant review in consultation with representatives of national minorities and introduce amendments if necessary.

In respect of Article 14

115. The Advisory Committee *finds* that the legal guarantees for persons belonging to national minorities to receive minority language education have recently been reduced and *considers* that the authorities should look into this issue in the on-going process of drafting new legislation in this sphere.

116. The Advisory Committee *finds* that the education system is at present going through a reform that will affect the implementation of Article 14 in Azerbaijan and *considers* that these reforms need to be pursued carefully and in a manner that guarantees persons belonging to national minorities adequate opportunities for being taught the minority language or for receiving instruction in this language.

117. The Advisory Committee *finds* that the scope and the volume of teaching in minority languages other than Russian and Georgian is limited from the point of view of Article 14 of the Framework Convention. It *considers* that the authorities should give thought to an increase in the volume and scope of such teaching.

In respect of Article 15

118. The Advisory Committee *finds* that the Council for National Minorities does not at present constitute a forum for regular and frequent consultation on issues pertaining to national minorities. It *considers* that the working methods of the said body should be revised or a new body established in order to promote such consultation and that such consultation is also important at the local and regional level as well as in the decision-making on religious issues.

119. The Advisory Committee *finds* that Azerbaijan has been criticised for making only limited progress in the development of local self-government and *considers* that the authorities should step up their corresponding efforts.

120. The Advisory Committee *finds* that Azerbaijan has replaced the Soviet-era system of residency permits by a system of residency registration and *considers* that the authorities should continue to review the relevant practice with a view to ensuring that there are no obstacles to the exercise of the rights of persons belonging to national minorities.

121. The Advisory Committee *finds* that the current language legislation of Azerbaijan contains provisions that could be interpreted in a manner that would make language proficiency requirements in employment overly extensive and *considers* that the application of such requirements should be limited carefully to the situations where they are necessary to protect a specific public interest.

In respect of Article 16

122. The Advisory Committee *finds* that the Nagorno-Karabakh conflict has substantially altered the proportion of the population in a number of areas inhabited by persons belonging to national minorities and *considers* that a peaceful solution to the conflict should be found, opening a way for a process of sustainable voluntary return.

In respect of Article 17

123. The Advisory Committee *finds* that the right of persons belonging to national minorities to maintain free and peaceful contacts across frontiers is of particular relevance to a number of national minorities in Azerbaijan and *considers* that the authorities should pursue further their efforts to improve possibilities for such contacts.

In respect of Articles 20 and 21

124. The Advisory Committee *finds* that the instrument of accession of Azerbaijan to the Framework Convention contained a declaration stressing the territorial integrity and sovereignty of Azerbaijan. The Advisory Committee *considers* it important to ensure that critical statements in support of improved protection of national minorities are not as such deemed to imply support for separatism or a threat to territorial integrity.

V. CONCLUDING REMARKS

125. The Advisory Committee considers that the concluding remarks below reflect the main thrust of the present opinion and that they could therefore serve as the basis for the corresponding conclusions and recommendations to be adopted by the Committee of Ministers.

126. As concerns the implementation of the Framework Convention, the Advisory Committee considers that Azerbaijan has made particularly commendable efforts in opening up the personal scope of application of the Convention to a wide range of minorities. The Advisory Committee welcomes the fact that the importance of the protection and promotion of cultures of national minorities is recognised and that the long history of cultural diversity of the country is largely valued in Azerbaijan.

127. The Advisory Committee finds, however, that the Nagorno-Karabakh conflict and its consequences have considerably hampered efforts to implement the Framework Convention. Despite the general spirit of tolerance in Azerbaijan, the continued occupation of large parts of Azerbaijani territory and the displacement of a high number of people have caused tensions which have resulted in disconcerting manifestations of intolerance. The Advisory Committee joins all those who have expressed the hope that a lasting and peaceful solution to the existing conflict will be found and that efforts to that effect will be accelerated. The Advisory Committee expects that the eventual solution will protect the rights of all persons concerned, in conformity with the territorial integrity of the country and other principles of international law.

128. The Advisory Committee notes that it is important also from the point of view of persons belonging to national minorities that certain general human rights issues – including concerns as regards freedom of expression and the process of registration of non-governmental organisations which have an impact also on the protection of national minorities – are addressed by the authorities as a matter of priority.

129. Despite certain positive legislative initiatives, there are a number of shortcomings in the legislation pertaining to the implementation of the Framework Convention. While pursuing the legitimate goal of promoting the state language, Azerbaijan adopted in 2002 a Law on the State Language, which contains certain regrettable reductions in the legal guarantees for the protection of national minorities. These put at risk, for example, certain commendable practices in the field of electronic media. The Advisory Committee is of the opinion that the said law should be amended with a view to making it compatible with the Framework Convention.

130. In addition, there is a need to couple the Law on the State Language with improved legal guarantees for the protection of national minorities in such fields as minority language education and use of minority languages in relations with administrative authorities with a view to consolidating and expanding the positive practices that exist. The Advisory Committee hopes that a new law on the protection of national minorities will be adopted in the very near future and that it will provide the necessary guarantees for the implementation of the relevant minority language standards.

131. The Advisory Committee is of the opinion that Azerbaijan should consider developing further the consultation structures for representatives of national minorities in order to improve their participation in decision-making.