



# Contents:

<b>Foreword</b>	<b>6</b>
<b>Introduction</b>	<b>7</b>
<b>About the report</b>	<b>7</b>
<b>Purpose and Context of the Report</b>	<b>7</b>
<b>Methodology</b>	<b>7</b>
<b>Desk Research</b>	<b>7</b>
<b>Public opinion survey</b>	<b>8</b>
<b>Sampling</b>	<b>8</b>
<b>Media monitoring</b>	<b>8</b>
<b>Focus groups</b>	<b>8</b>
<b>Generalized Tolerance index</b>	<b>9</b>
<b>Integration Assessment Survey Report</b>	<b>11</b>
<b>Executive Summary</b>	<b>11</b>
<b>DATA ANALYSIS</b>	<b>13</b>
<b>A – NATIONAL MINORITIES AND STATE INSTITUTIONS</b>	<b>14</b>
<b>I – General Overview</b>	<b>14</b>
<b>1. Historical Overview</b>	<b>14</b>
<b>2. Demographic Distribution</b>	<b>16</b>
<b>Provinces with sizeable ethnic minority presence</b>	<b>18</b>
<b>Kvemo Kartli</b>	<b>18</b>
<b>Samtskhe-Javakheti</b>	<b>19</b>
<b>3. General Legislative Overview</b>	<b>20</b>
<b>International Law</b>	<b>20</b>
<b>Domestic Legislation Overview</b>	<b>21</b>
<b>Perception of National Minority Rights in the Georgian society</b>	<b>22</b>
<b>II - Political Participation</b>	<b>23</b>
<b>1. Elected Bodies and Government</b>	<b>23</b>
<b>Legal Framework</b>	<b>23</b>
<b>Representation at National Level</b>	<b>24</b>
<b>Representation in and Participation to Local Governance Bodies</b>	<b>26</b>
<b>2. Consultation Mechanisms and Specialized Agencies</b>	<b>26</b>
<b>Specialized bodies in the executive</b>	<b>27</b>
<b>Specialized bodies in the legislature</b>	<b>27</b>
<b>Public Defender and Public Defender's Council</b>	<b>28</b>

<b>3. Public Participation</b>	<b>28</b>
Legal framework	28
Main Political and Civil Organizations	30
State of Public Participation	31
<b>III – Access to Public Administration</b>	<b>35</b>
<b>1. Representation of National Minorities in the Public Sector</b>	<b>35</b>
Legal Framework and Possible Shortfalls	35
Representation	37
Language	38
Social Rights	39
<b>IV – Access to Justice</b>	<b>41</b>
<b>1. Access to Judicial Institutions</b>	<b>41</b>
Legal Framework	41
Language	42
Access and Trust	43
Representation of National Minorities in the Judicial and Law Enforcement System	43
<b>2. Access to Redress in Cases of Violation of National Minorities Rights</b>	<b>44</b>
Redress Available before Judicial Institutions	44
The Public Defender: an Extra-Judicial Redress Mechanism	46
<b>B – SOCIAL - CULTURAL ASPECTS</b>	<b>49</b>
<b>V. Social Interaction</b>	<b>49</b>
<b>1. Legal framework</b>	<b>49</b>
<b>2. Social and inter-cultural interaction</b>	<b>49</b>
<b>VI- Education</b>	<b>52</b>
<b>1. Primary and Secondary Education</b>	<b>52</b>
Anti-Discrimination	52
Right to Learning of and Education in the Native Languages of National Minorities	53
Affordability of education	54
Harmonization of the Education System and Teaching of State Language	54
Diversity and Intercultural Relations in Education	56
Other	56
<b>2. Higher Education</b>	<b>57</b>
Anti-Discrimination and Multiculturalism	57
Access to Higher Education	57
Affordability of Higher Education	58
Professional training and education	59

<b>VII – Media</b>	<b>60</b>
1. Legal background	60
2. Public Broadcasting	61
3. Coverage of National Minority Issues in Georgian Television	62
4. Access to Information by National Minorities	62
<b>VIII – Economic Integration</b>	<b>64</b>
1. Employment and Poverty	64
2. Impact of ongoing reforms	66
3. Land Privatization	68
4. Access to capital	69
<b>Annex A</b>	<b>71</b>
<b>Annex B</b>	<b>72</b>
<b>Annex C</b>	<b>80</b>
<b>Annex D</b>	<b>81</b>

# Foreword

In 2005, the Government of Georgia has identified national integration as one of its key policy goals, including it in the National Security Concept adopted by the Parliament. The administration's will to create a cohesive state based on a civic identity that brings together the interests of all the people that live within the territory of Georgia is a key building block of state and geographic stability and is as timely as possible in light of the country's Euro-Atlantic aspirations.

To ensure civic oversight of this ambitious goal, Freedom House Europe and the United Nations Association of Georgia (UNAG) developed a standardized good governance monitoring mechanism geared towards measuring government performance and policies related to minorities and their integration in the country. Through the development and implementation of the monitoring tool, partners aimed to strengthen monitoring capacities and cooperation between government and civil society organizations in Georgia.

This benchmarking tool is based on well-established Freedom House methodologies, including specifically the democratic governance methodology of Freedom House's flagship study Nations in Transit (NIT), which annually assesses progress and setbacks in democratic standards of governance in the countries of Central Europe and Eurasia. The applied methodology includes both legislative as well as implementation criteria which:

- Assess the national strategy set forth to build local governments that include the communities and minorities in the consultative process;
- Assess what level of decentralization exists in terms of local government capacities to carry out what they are tasked;
- Look at the mechanisms in place between national and local, and local and local levels for a consultative policy process.

Working with a set of questions that allow them to rate the country's performance in minority integration and tolerance towards them, this methodology makes a unique product. It allows for tracking progress or setbacks in performance over time upon completion of the next survey in the years to come.

In addition, it provides a further dimension to the ongoing debate about Georgia's EU aspirations. Yet, current minority rights advocacy and multiculturalism within the EU puts Georgia's membership drive under particular scrutiny. Thus, every effort aiming to contribute to the emergence of a more nuanced picture of the country's minority-related policies should expect distinguished attention by both domestic and international audiences.

Freedom House Europe and the United Nations Association in Georgia are convinced that only multifaceted but concerted efforts could help increase the likelihood of perceptible progress in the status quo of minority rights policies and tolerance towards them in Georgia. By building on the available literature and extensive original research, our current study and continued collaboration we wish to contribute to the on-going development endeavors.

Roland Kovats  
Director, Freedom House Europe

# Introduction

## About the report

This report draws on the results of a sociological survey, desk research, media monitoring and focus group meetings conducted in Georgia throughout 2006-2007. It provides a review of the legislative framework governing the protection of persons belonging to national minorities in Georgia. It also analyses public perceptions that affect the life of these persons in Georgia as a whole and more specifically in areas where persons belonging to national minorities live in large numbers. This report also gives the first Generalized Tolerance Index, which numerically measures the tolerance status in Georgia.

The report was prepared within the framework of the National Integration and Tolerance in Georgia Program (NITG) by the research team, consisting of Institute of the BCG Research, Applied Research Company, Institute of Social Researches (ISR), Freedom House Europe and other individual experts.

## Purpose and Context of the Report

NITG program is supported by the United States Agency for International Development (USAID). The overall goal of the program is to elaborate a National Integration Strategy and Action Plan (NISAP) on national minorities through participatory approach, to ensure legitimacy, sustainability and sense of ownership towards the document among key stakeholders. Through this process, Georgia will test innovative policies and contribute to the development of best practices as a part of a legally compliant strategy document. The project also aims to build wide consensus, support networking among stakeholders and provoke public discussions, as well as raise awareness among citizens regarding national minority issues.

For the purposes of NITG, the present report serves as a baseline study and is used as an input in the development of NISAP. For the general public and field professionals it presents an overview of that can be valuable for policy development and project implementation.

## Methodology

The study is a comprehensive multi-dimensional research combining both qualitative and quantitative methods. It included the desk research, sociological survey, media monitoring,

and a focus group study, which are discussed in more detail below.

To achieve maximum attainable quality and impartiality of the research, UNAG created a research team involving representatives of the leading think-tanks and individual analysts. The team was trained in survey methodology by the experts from the Freedom House-EU trained the research team and consulted them during the implementation.

The team has developed the methodology of the Generalized Tolerance Index (GTI) which is envisaged to be a long-term tool to evaluate the process of national integration in Georgia. The survey implemented as a part of the study drew on GTI indicators.

## Desk Research

The desk research included legal review of the key national legislation (the Constitution of Georgia, Civil Code, Criminal Procedure Code, Civil Procedure Code, Election Code, laws on citizenship, political parties, on civil associations and on business enterprises, education, broadcasting, freedom of speech, etc.), in the framework of Georgia's international legal obligations relevant to the protection of persons belonging to national minorities.

Secondary data and research from various think-tanks, NGOs, international organizations were studied. This included the data and research from, among others: Organization for Security and Cooperation in Europe, Council of Europe, United Nations Development Programme, Penal Reform International and Human Rights Watch, European Center for Minority Issues (ECMI), International Crisis Group (ICG) Crisis Group, International Fed-

eration for Human Rights (FIDH), Caucasus Media Institute, Caucasus Institute for Peace, Democracy and Development, etc.

The Ministries and state agencies were approached to supply information regarding the ongoing and already implemented projects, policies and activities related to the persons belonging to national minorities. Reports and recommendations of the Public Defender of Georgia were also studied.

## Public opinion survey

On December 6-27 a public opinion survey was carried out through door-to-door interviews in households throughout Georgia. A structured questionnaire based on the indicators of the GTI index was drawn up by the UNAG research group and the Freedom House experts. The GTI looks at the degree to which representation and access to rights are ensured in national governance, local governance, electoral process, civil society and socio-economic rights, media, judicial authorities, cultural rights and interaction.

Country-wide, 2400 respondents above 18 were interviewed in 239 selected areas, which is a representative sample and providing results with 95% validity and 2-3% margin of error. The study is not statistically representative, but remains indicative for the regions other than Kvemo Kartli and Samtskhe-Javakheti. For Tbilisi, the survey's level of validity is lower. The results of interviews were handled through the SPSS system.

## Sampling

The 2002 data of the Georgian population census was used as a basis for sampling. The sampling was divided into two parts:

1. The areas of Kvemo Kartli and Samtskhe-Javakheti provinces densely populated by national minorities represented a special focus. 700 interviews (350 in each province) were conducted.
2. The remaining 1700 interviews were conducted proportionally among the administrative regions of Georgia (without adjustment for representation of persons belonging to national minorities).

A registration station served as a primary unit (cluster) of selection. The registration stations were selected through using the Probability

Proportional to Size (PPS) method. In each selected cluster an interviewer was given instructions about a starting point and a direction. The secondary unit of selection was a family. The families were selected through the so-called "occasional wandering" method. A respondent was the final unit of the selection. The person whose birthday was most recent was selected as an interviewee in a family.

## Media monitoring

The media monitoring group team monitored the programs of 4 television stations with nation-wide coverage: Rustavi 2, Imedi, Mze and the Public Broadcaster, and of the two regional televisions broadcasting in the regions densely populated by persons belonging to national minorities. The group archived news programs aired in Georgian and minority languages, analytical programs, talk-shows, entertainment programs. The information provided in these programs was analyzed based on pre-defined criteria (frequency of mentioning, emphasis, messages, links, context, etc.). The Media Monitoring Agency (MMA) - the Freedom House partner - trained and advised the media monitoring group.

## Focus groups

Eleven focus groups, attended by 10-15 participants each, were held in the period of December 2006 -- January 2007. Focus group meetings were conducted in Marneuli and Akhalkalaki districts with the participation of the representatives of local self-government, public sector, media and population. Several meetings were also held in Tbilisi, involving the members of the Public Defender Office's Council of National Minorities.

The discussion agenda included the following topics:

- representation of persons belonging to national minorities in the legislative and executive bodies of the central and local authorities,
- willingness and readiness of persons belonging to national minorities to get involved in civil and economic life,
- participation of persons belonging to national minorities in country's political life, including elections,
- civil activism, including minority involvement with NGOs,
- satisfaction with the present mass media,
- attitude towards the judiciary, etc.

# Generalized Tolerance index

In November, 2006 with the support of the United States Agency for International Development (USAID), United Nations Association of Georgia (UNAG) launched the National Integration and Tolerance in Georgia Program (NITG). The main objective of the NITG program is to promote an increased sense of national unity among the diverse citizens of Georgia through policy development, countrywide media and outreach campaigning, grant-making, training and research. Major goal of NITG is to support the Government of Georgia in the formation of a national integration strategy and action plan.

Given report serves as a baseline study and is used as an input in the development of NISAP. The Generalized Tolerance Index was elaborated within the frameworks of the survey, as a long-term tool for assessment of the integration process.

To achieve maximum attainable quality and impartiality of the research, UNAG created a research team involving representatives of the leading think-tanks and individual analysts. The team, together with the experts and stakeholders prepared and conducted the survey and rating assessment of the indicators. The Generalized Tolerance Index methodology and results of the assessment by the expert groups is given below:

Seven indicators for the assessment of the integration and tolerance status quo in Georgian society were elaborated in cooperation with the

To obtain the Tolerance Index, the cycle of the rating meetings with the participation of the experts, representatives of ethnic minorities and other stakeholders was organized in Tbilisi, as well as in the regions densely populated with the ethnic minorities - Kvemo Kartli and Samtskhe Javakheti to ensure the equal representation of the minorities' beliefs.

Each participant of the meetings received main findings and data of the baseline survey report before the meetings, as well as the assessment document<sup>1</sup>, which provided each general paragraph and conclusions on 39 sub-indicator based on the findings of the survey. Basing on the abovementioned material and their own experience experts evaluated each indicator on the 4 level scale (1- highest level, 4-lowest level).

Before the index rating meetings, the research

Indicator	Rating score (Average score)
National Governance	3.21
Local Governance	2.917
Electoral Process	2.71
Civil Society and Socio-Economic Rights	2.533
Media	2.89
Judicial	2.667
Social and Cultural Rights and Interaction	2.113
<b>Generalized Tolerance index</b>	<b>2.720</b>

experts of the Freedom House Europe. According to these indicators national governance, local governance, electoral process, civil society and socio-economic rights, media, Judicial, social and cultural rights and interaction was assessed. Every indicator included the sub-indicator: rights, representation, participation.

team decided to exclude the indicators, on which the baseline survey couldn't provide information. Therefore, instead of initial 51 sub-indicators, 38 sub-indicators were evaluated.

<sup>1</sup> Please see the attachment B



Discussions on the rating meetings were coordinated by experienced facilitators. The consensual score for each individual indicator was agreed by the council of experts during the rating meetings. In case of different opinions, the score was decided on the bases of democratic voting (one vote per member). Occasionally, to agree on the single rating score, it was necessary to vote more than once, with the discussions

in between, to achieve simple majority. Sometimes, the scores was looked over when summarizing meeting, as points of views changed after discussing additional indicators.

The final product of the meeting is the ultimate index of the numerical ratings. The final product of the three rating meetings is given below.

# Integration Assessment Survey Report

## Executive Summary

Since independence, Georgia has faced deep crisis, and is now going through economic and social recomposition. As a result and despite recent progress in macroeconomic indicators, people's access to rights, services and life opportunities remains generally impeded in many ways. In this context, and after the nationalist episode of the early 1990s which excluded national minorities from the process of establishing the new state, national minorities face specific structural handicaps and are particularly vulnerable to impoverishment, isolation and under-education.

There are no laws or policies that would explicitly prevent access of national minorities to their rights or life opportunities. However geographic remoteness of several minority-populated areas, linguistic differences, limited access to the country's media and stereotypes isolate the minorities, especially in areas where they represent the largest share of population. In all domains, low levels of proficiency in Georgian language consistently appear as the most structural and the most harming impediment. As a result of limited access caused by above factors, persons belonging to national minorities face a threat of continuous alienation as a result of accumulating economic, educational and social underachievement in minority communities.

It is of special concern that estrangement of the national minority communities in Kvemo Kartli and Samtskhe-Javakheti from their Georgian neighbors and from country's other regions seems to grow, as a result of the lack of Georgian language skills, as Russian loses the role of inter-ethnic linguistic conduit, and because these areas are rather remote geographically. Another symptom of this situation is the visible under-representation of national minorities in almost all spheres of public life: there are few minority representatives in law enforcement agencies and the judicial system, public administration, political class, in higher education. This factor aggravates the self-perception of communities as not integrated. Still, the feeling and the wish to be part of Georgia is obvious: most persons belonging to national minorities call Georgia their homeland, associate their future with it, and participate massively to elections. This does not preclude from a clear intention to preserve minority cultures, particularly through learning, and studying in their native languages.

The handicaps faced by minorities combine with marginal representation in the parliament

or the government, disinterest in participatory processes offered by local governance and vacuum in the civil society sector when it comes to advocating minority issues. The vast lack of awareness about national minority rights and of agencies specialized in minority issues does nothing to help correct this situation.

Importantly, there is no consensus and not a sufficient degree of civil debate among minorities on a project or a vision of their role in the Georgian society. As a result, persons belonging to national minorities remain mostly silent. Despite positive initiatives to promote multiculturalism and friendly dialogue, the majority only hears sporadic complaints, the vindictive voice of a few radical political figures and the stereotypes often transmitted by the media. This resonates with the majority's fear for territorial integrity, and instills a climate of mutual suspicion – although clearly far from open hostility.

Despite these structural difficulties and some obvious misunderstandings between the minorities, the state and the majority, the picture does leave a lot of room for optimism. Notwithstanding the lack of awareness on national minority rights and basic concepts related to those rights, the majority of respondents to the survey have an intuitive opinion about these issues: most think minority rights should be protected, and at the same time that persons belonging to national minorities should have the same rights as others – which could mean, otherwise formulated, the ability to achieve the same things as any other citizen.

The efforts are made to increasingly address the specific circumstances that national minorities face through the law and public policies. The legislation contains scattered provisions directly addressing the specific circumstance of national minorities or relevant to them, within

a system that provides for equality before the law. However the legal framework contains many gaps which leave room to abuse that may open a way to violation of rights. This only reinforces the importance of precedence of international over domestic law in order to palliate those gaps as long as they exist. New laws, particularly in the field of education, increasingly ban discrimination and refer more and more to international law.

Until recently, some parallel systems for minorities inherited from the soviet era – such as the parallel minority-language schools – were part of the problem, not of the solution. Recent policy reforms in key fields aim at integration and seem directed towards equal opportunities. But national minority policies are still in a nascent phase, and are either insufficiently elaborated, still too recent and limited to achieve their aim, or place persons belonging to national minorities in competition with others under equal terms, which due to lasting problems minorities face, especially in terms of language, places additional obstacles to equal opportunities in the short run. For this reason, particularly under the education reform, some mitigating policies are being tested, and long-term measures to better prepare minority representatives are being launched.

This transition towards integration does not go without difficulties: in a legal culture where formal equality is more respected than effective one, corrective measures can raise discontent among the majority. National minorities tend to feel acutely any perceived threat of assimilation – this might be the case concerning the

learning of the state language, whereas there is no visible attempt by the government to renege on previously given guarantees, especially regarding preservation of the minority language and culture. Some far-reaching systems, such as non Georgian-language schools are not being challenged by the government.

These findings emphasize the urgent need to have a genuine, inclusive debate about protection and integration of national minorities, so that the state institutions, political elite and minorities themselves identify and clarify their positions and formulate a comprehensive, mature policy based on consensus on basic concepts and issues. This process will take the establishment of an effective consultative mechanism that goes beyond the current role of specialized agencies for minority issues. The need to pass from scattered laws and policies to a comprehensible, implementable framework indeed proves pressing in view of the risk of further isolation.

Such strategy will indispensably include legal and policy aspects reassuring national minorities on equal access and protection. Such measures should alleviate the negative side-effects of long-term policies, for instance in access to higher education and public service. It will also need to reaffirm protection against discrimination and preservation of cultural diversity.

Finally, it will be crucial to accompany reforms by a strong information strategy establishing solid basic understanding of minority issues and explaining the core measures to both the majority and national minorities.

# **DATA ANALYSIS**

# A – NATIONAL MINORITIES AND STATE INSTITUTIONS

## I – General Overview

### 1. Historical Overview

Georgia’s population is historically diverse. Apart from ethnic Georgians, Jews, Armenians, Azerbaijanis, Greeks, Kurds, Russians, Ukrainians, Chechens/Kists, Ossetians, Abkhaz, and other ethnic groups currently reside in Georgia. Stormy history meant that the ethnic composition of the country varied significantly over time. Some ethnic groups were forced to seek asylum in Georgia due to persecution they faced in their own countries and some settled in the territories deserted as a result of previous battles.

More recently, in 18<sup>th</sup> and 19<sup>th</sup> centuries Georgia saw significant changes in ethnic composition as Armenians and Greeks migrating or fleeing from the Ottoman Empire settled in the country’s south. The number of ethnic Russians and Germans – often forcefully resettled

built, especially the capital city Tbilisi. In 1944 estimated 90 thousand Georgian Muslims from the historical province of Meskheta in south-east were forcefully deported to Central Asia (mainly Uzbekistan). During and after World

#### Migration exchange with former Soviet states by ethnic groups (1992)

Entered			Exited		Migration balance (+ –)
	Number	%	Number	%	Number
Georgians	3517	45.7	1944	6.1	2743
Russians	1658	21.7	15821	49.5	–14163
Ukrainians	354	4.6	3103	9.7	–2743
Byelorussians	73	0.9	474	1.5	–399
Armenians	950	12.3	2616	8.2	–1666
Azeris	660	8.5	4338	13.6	–3678
Ossetians	173	2.2	2154	6.7	–1981
Jews	48	0.6	157	0.5	–109
Greeks	163	2.1	725	2.3	–562
Others	139	1.7	644	1.9	–399
<b>Total</b>	<b>7735</b>	<b>100.0</b>	<b>31976</b>	<b>100.0</b>	<b>–24241</b>

by the Tsarist Russian authorities – also grew. In 1860-70s an estimated 500 thousand ethnic Abkhaz were forced to leave present Georgia, mainly to Turkey, by the Russian empire.

Movements of population occurred after the Sovietisation of Georgia in 1921. Industrial development fuelled rapid growth in areas where major educational centers and factories were

War II, some industrial capacities were relocated from the war-ravaged areas to Georgia, influencing population movements.

The post-soviet period brought new major changes to the ethnic composition of Georgia. In the beginning of 1990s, the radical nationalism of the government led by President Zviad Gamsakhurdia alienated the minorities

from Georgia's project of independence. As tensions rose, armed conflicts erupted with the secessionist political forces in the autonomous territories - South Ossetia and Abkhazia. Some minorities such as Ossetians residing outside the autonomous district of South Ossetia were persecuted and left the country, mainly to Russia. Many minorities who were not directly and deliberately targeted by ethno-national mobilization, still considered it prudent to leave the country.

An armed civil conflict erupted on New Year's Eve of 1992 between Gamsakhurdia's supporters and opponents. As a result of civil strife the country's economy plummeted, forcing estimated 500 thousand to 1.5 million citizens into temporary or permanent emigration (mainly to Russia) to financially support their families. The armed conflict in Abkhazia in 1992-94 left over 300 thousand persons displaced. Many minority groups – Estonians, Greeks, and Armenians – fled the area of conflict to their native countries or to Russia.

In 1993 the Georgian Parliament adopted the Law on Citizenship that granted citizenship to all persons who were permanently residing in Georgia for the five years before adoption of the law, and resided in Georgia at the moment of its adoption and in the period of three months did not submit a written request refusing citizenship (Article 3a).<sup>1</sup> While these provisions were respecting the rights of the persons belonging to national minorities to citizenship, the turbulent events mentioned above led to a decrease of the share of minority population in Georgia from 30% according to the 1989 census to 16% according to 2002 data. It is important to note that the provinces of South Ossetia and Abkhazia, where the Georgian government does not exercise control following the conflicts of 1990s were not included in 2002 census, which certainly drives down the share of minorities.

Researchers note that the bulk of emigration took place in 1990-1995. In early 1990s most significantly, Russians, other Russian-speakers (Ukrainians, Byelorussians) and Ossetians left the country. The table of migration exchange with former Soviet states in 1992 is indicative of the flows.

According to the same research, extensive emigration of Russians, Ukrainians and Byelorus-

sians is likely linked to reduction in Soviet military presence in Georgia. Around fourth of Azeris leaving Georgia went to Russia, others - to Azerbaijan. More than half of Armenians left for Russia, some were planning to continue their journey from Russia to the US. Only one-fourth left for Armenia. The numbers of Greeks and Jews are insignificant, as most of them left to Greece and Israel, respectively.

After 1995 the migration flow seems to subside, especially when it comes to permanent emigration.<sup>2</sup> There could be several reasons: firstly, the country started to become more stable politically and economically; secondly, the migration potential of Georgia started to subside; and finally, the immigration regime was tightened in the chief destination country – Russia. According to IOM, some 74% of the migrants from Georgia since 1995 were ethnic Georgians.<sup>3</sup>

During the Soviet Union, Russian was the main language of communication among various ethnic groups. Following Georgia's independence, Georgian language became the State language and almost entirely replaced Russian in mass media. Because the knowledge of the Georgian language was not a priority in the Soviet times among ethnic minorities, a significant portion of persons belonging to national minorities did not speak Georgian, which became a major contributing factor to their further isolation and economic hardship.

Eduard Shevardnadze consolidated his power in Georgia by 1995 and achieved control over the major ethno-nationalist political and militia forces. Shevardnadze advanced the agenda of more inclusive society and the nationalistic sentiments have subsided. His personal credentials as the moderate Soviet leader of Georgia in late 1970s and 1980s, as well as his close personal relations with Armenian and Azerbaijani leaders helped defuse tensions with these two major minority groups. The local Armenian leaders in Armenian-dominated Javakheti province were incorporated into local governance under his presidency. Yet, the nationalistic policy which flourished in Gamsakhurdia's period had left a mark on inter-ethnic relations. The minority populations still harbored fears of revival of the Georgian ethno-nationalism. The state institutions remained feeble and ethnic Georgians, taught by factual secession of

1 Organic Law of the Republic of Georgia on Citizenship of Georgia, 25 March 1993, available online at <[http://www.parliament.ge/index.php?lang\\_id=GEO&sec\\_id=69&kan\\_det=det&kan\\_id=7](http://www.parliament.ge/index.php?lang_id=GEO&sec_id=69&kan_det=det&kan_id=7)>, accessed 9 July 2007.

2 Revaz Gachechiladze, *Migration of the Georgian Population and its Socio-Economic Consequences*, Tbilisi, 1998, p. 29.

3 Labour Migration from Georgia, IOM, December 2003.

Abkhazia and South Ossetia, were wary of any forms of assertive politics by the minority leaders, which were seen as a harbinger of further fragmentation of the Georgian state.

By late 1990s, President Shevardnadze’s leadership had plunged the country into economic and political stagnation. Continued economic stupor and gradual deterioration of already degraded infrastructure adversely affected the access of the population to basic services and communications. Taking into account the prior economic and social isolation, minority populations felt the brunt of these policies.

2. Demographic Distribution

Outside of the anonymous data gathered through census, Georgia does not keep statistical data on national minorities as such or disaggregated per ethnicity. While it protects private information, this naturally makes certain statistics unavailable to researchers. The 2002 census shows that while Georgia maintains its multi-cultural profile, the trends of emigration have significantly reduced the share of minorities in the country. The census shows Azeris as the most sizeable minority (284 thousand people, 6.7% of the total population), closely

Migration exchange with former Soviet states by ethnic groups (1992)

Entered			Exited		Migration balance (+ -)
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Others	139	1.7	644	1.9	-399
Total	7735	100.0	31976	100.0	-24241

The popular frustration towards the government led to mass protests in November 2003, following falsified parliamentary elections. President Shevardnadze was forced to step down and the opposition National Movement came to power, with its leader – Mikheil Saakashvili – elected the president. The new administration clearly stated its intention to build a state respectful and protective of all its citizens, irrelevant of their ethnicity. Georgia ratified the European Convention on Protection of National Minorities on 13 October 2005. The government also embarked on extensive program to rehabilitate physical infrastructure, especially in minority-dominated areas, and to curb corruption and inefficiency in public administration.

followed by Armenians (248 thousand, 5.7%). Among other minorities only Russians exceed 1% (76 thousand people, 1.5%). The graph below indicates ethnic distribution Georgia-wide, in Tbilisi and the two major minority-populated provinces. The complete chart of ethnic distribution by province is attached in Annex NN.

In 1990s emigration from Georgia has accelerated as a result of armed conflicts and economic hardship. The 2002 census shows a decrease of 15.8% (857.6 thousand people) in population of Georgia compared to 1989 census. Most of this loss is accounted for by the emigration. The researchers note that natural decrease of population has only marginally affected the figures.

**Migrants by country of destination**

Country	%
Russia	39
Greece	14
USA	14
Germany	13
EU-11	11
Other countries (non EU)	4
Belgium	2
Israel	1
Azerbaijan	1
Armenia	1

**Ethnic composition of migrants (post-1995)**

Ethnic origin	%
Georgians	74
Armenians	21
Greeks	2
Ossetians	1
Russians	1
Others	1

**Table 1:**  
**Ethnic Composition of Five Rayons of Kvemo Kartli (2002 Census)**  
**Ethnic composition of migrants (post-1995)**

Rayon	Georgians	Azeris	Armenians	Greeks	Russians
Gardabani	53.20%	43.72%	0.93%	0.21%	0.87%
Marneuli	8.04%	83.10%	7.89%	0.33%	0.44%
Bolnisi	26.82%	65.98%	5.81%	0.59%	0.56%
Tsalka	12.02%	9.54%	54.98%	21.97%	0.60%
Dmanisi	31.24%	66.76%	0.52%	0.78%	0.56%

**Table 2:**  
**Population Figures in Five Rayons of Kvemo Kartli (from the 1989 and 2002 Census Figures)**

Rayon	1989 Population	2002 Population
Gardabani	114,762	114,348
Marneuli	120,394	118,221
Bolnisi	81,547	74,301
Tsalka	44,438	20,888
Dmanisi	51,844	28,034
Total Kvemo Kartli	608,491	497,530

The lack of effective systems of data collection impedes accurate evaluation of the migration flows. The evaluations of permanent emigration vary widely. While the official statistics put a figure at 217 thousand between 1990 and 2000,<sup>4</sup> most experts agree that a figure

of around 620 thousand in the same period is more accurate.<sup>5</sup>

The research by the International Organization for Migration (IOM) of 2003 indicates that Russia, USA, Greece and Germany were the main

<sup>4</sup> Migration Statistics, State Department of Statistics of

Georgia, TACIS 2001, p.7.

<sup>5</sup> Migration Statistics, State Department of Statistics of Georgia, TACIS 2001, p.7.



### Population in Samtskhe-Javakheti by district (per cent, 2002 census)

Rayon	Georgians	Azeris	Armenians	Greeks	Russians
Adigeni	95.70	0.08	3.36	0.03	0.49
Aspindza	82.02	0.00	17.47	0.06	0.26
Akhalkalaki	5.27	0.00	94.33	0.08	0.26
Akhalsikhe	61.72	0.03	36.59	0.28	0.89
Borjomi	84.21	0.07	9.64	1.67	1.80
Ninotsminda	1.39	0.01	95.78	0.01	2.75

states of destination for the labour migrants from Georgia.<sup>6</sup>

Geography of general migration is changing rather dynamically. Unfortunately, the distribution of the countries of destination by year is not available.

According to 2002 survey, 60% of migrants are ethnic Georgians, 11.1% Armenians, 7.7% Azeris and Greeks, 4% Russians and 3.9% Ossetians.

The capital of Georgia, Tbilisi, was a major trading town on the Great Silk Road route, and is multi-cultural. Armenian, Azeri and Kurdish/Yezdi minorities are particularly present in the city and many have lived in Tbilisi for generations. The Armenian population in Tbilisi is especially sizeable, reaching 7.6% of the city's inhabitants – some 82.5 thousand people, according to the 2002 census. There is a Russian community of 32 thousand people, 17 thousand Yezdis, almost 11 thousand Azeris and 10 thousand Ossetians. Most of the minorities in Tbilisi speak Georgian language, as a minimum to a level necessary for daily socialization. They are also integrated in socio-cultural life and often at the forefront of the cultural life of their ethnic community not only within Georgia, but also in their historical homelands.

### Provinces with sizeable ethnic minority presence

Apart from Tbilisi, persons belonging to national minorities are present almost everywhere in Georgia. In parts of the two provinces of Kvemo Kartli and Samtskhe-Javakheti Azeris and Armenians respectively represent a majority of population. For this reason, these two regions are given special attention in the sur-

vey. Below we present a cursory overview of the main facts related to Kvemo Kartli and Samtskhe-Javakheti provinces.

### Kvemo Kartli

In Kvemo Kartli, 45.1% of the population is Azeri. There are six *rayons* or districts in the Kvemo Kartli province: Bolnisi, Dmanisi, Gardabani, Marneuli, Tetrtskaro and Tsalka. The principal national minority in Kvemo Kartli is Azeri; according to the 2002 census, 284,761 Azeris live in Georgia (6.5% of the population) and 78.9% of these are concentrated in Kvemo Kartli.

The town of Rustavi, located some 25km outside of the capital is the administrative center of the province. It significantly differs from the rest of the province economically and socially. Rustavi population is ethnically more mixed than the rest of the province, and does not differ significantly from the country-wide composition: Rustavi grew significantly in Soviet times, attracting qualified workers – mainly Georgian, but also Russian – to the steel plant, the town's main employer. The original local population constituted only a minor part of the factory workforce.

The towns of Marneuli and Gardabani are also close to the capital (at distances of 39 km and 42 km respectively) but less connected with it. The Western *rayons* of Dmanisi, Tetrtskaro and Tsalka are more distant from Tbilisi geographically, and are rather mountainous. National minorities are concentrated in Bolnisi, Dmanisi, Gardabani, Marneuli and Tsalka: according to the same census, Azeris form the absolute majority of the population of Marneuli, Bolnisi and Dmanisi districts and more than 40% of the population in Gardabani *rayon* (see Table 1). Mainly ethnic Georgians live in Tetrtskaro district.

<sup>6</sup> Labour Migration from Georgia, IOM, December 2003.

Most of the Azeri population settled in the area in 16<sup>th</sup>-17<sup>th</sup> centuries with the wave of the Turkic migration. The conflicts of Georgian Kingdoms and then of the Russian Empire with the Ottoman Empire have left most of the Kvemo Kartli province significantly depopulated. Depopulation opened the way to settlement of Armenians and Greeks in mainly 19<sup>th</sup> century as they fled the Ottoman Empire (mainly Anatolia).

According to the 2002 census, a majority of the population of Tsalka *rayon* is Armenian. Most of the Greeks present in Georgia also lived in Tsalka district, but by 2002 census had left the area to resettle in either Greece or Russia. In late 1980s and early 1990s a large number of Georgians arrived to replace the emigrating Greek population. These were mainly ecological migrants fleeing land erosion in Adjara and devastating earthquake and avalanches in Svaneti.

Emigration from Kvemo Kartli has been significant since 1990s. Figures from 2002 census show an 18.2% reduction in the population of Kvemo Kartli in comparison with 1989. As Table 2 (below) shows, the steepest decline in the population has occurred in the Dmanisi and Tsalka *rayons*. The fact that the population of Tsalka *rayon* is less than half of what it was in 1989 probably reflects the emigration of the Greek population.

Industrial activity in Rustavi plummeted in early 1990s until recently, with severe consequences on the town's economy. In rural areas vegetable-growing is the main economic activity and potatoes are the main crop. Some sources estimate that around 40% of potatoes and fourth of all vegetables in Georgia are produced in the region. Fruit and grain (mainly wheat and corn) production is also significant, particularly in the Gardabani and Marneuli *rayons*. Livestock-breeding also plays an important role in the local economy, especially in the mountainous regions.

## Samtskhe-Javakheti

In Samtskhe-Javakheti province 54.6% of residents are Armenian. The Samtskhe-Javakheti province incorporates Adigeni, Aspindza, Akhalkalaki, Borjomi and Ninotsminda districts. Out of these districts, Akhalkalaki and Ninotsminda (sometimes referred to as Javakheti) have an overwhelming Armenian majority (94 and 97% according to 2002 census

respectively), while Akhaltsikhe district has a very significant Armenian minority (36.5%). The other districts have a Georgian majority with a notably smaller Armenian minority.

According to Georgian historical sources, the presence of Armenians coming in particular from the Ottoman Empire significantly increased in 19<sup>th</sup> century, when Russia drove out the Ottoman Empire from the South-West Caucasus. Later in the 1910s, this process continued.

In 1944, the Muslim population of southern Georgia was deported by the Soviet government, which in turn increased the share of ethnic Armenians in the total population of several regions of Georgia, while the absolute numbers remained fairly constant. For instance, from 1926 to 1956 the share of Armenians in Samtskhe-Javakheti increased from 41.8 to 64.5%.<sup>7</sup>

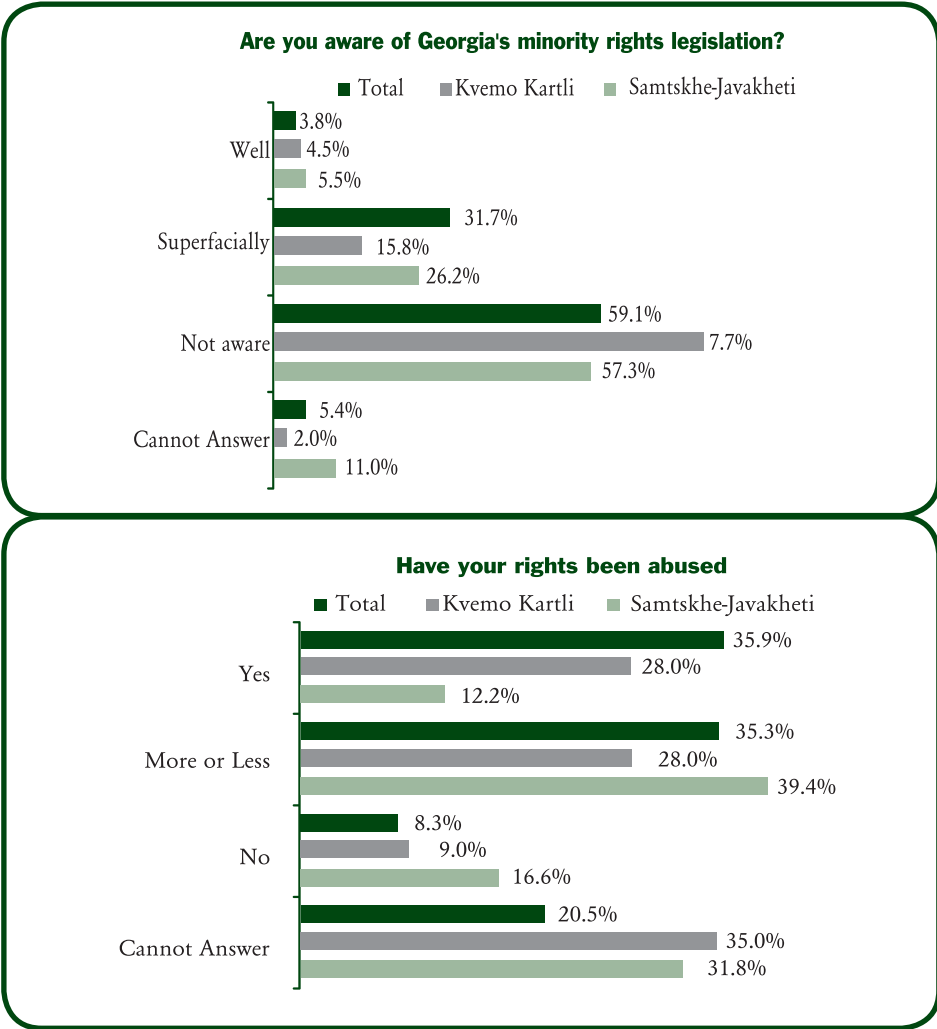
In 1989-90, the Georgian government encouraged the resettlement of ethnic Georgians from Adjara whose households were destroyed by landslides to Javakheti. However, only few Adjarian families did resettle.

Samtskhe-Javakheti, especially the Armenian-majority areas, is isolated from the rest of Georgia for several major infrastructural and geographic reasons. Akhalkalaki is situated at an altitude of approximately 1,700m above sea level and Ninotsminda is at 1,950m. Harsh winter is a severe handicap for the area which predominantly relies on subsistence agriculture and cattle-breeding.

The road infrastructure is also poor. The two roads connecting Samtskhe-Javakheti to Tbilisi are in a state of extreme disrepair, which deters travel and increases effective remoteness.

In addition, Akhalkalaki housed a major Soviet military base, with estimated 15 thousand soldiers and personnel. As an area adjacent to NATO-member Turkey, the province was strongly fortified. Access to the province was limited to special permits. This led to high level of physical isolation from the rest of Georgia and did nothing to encourage the sense of belonging to the rest of the country. Due to high-level militarization, the province also stayed isolated from the processes of liberalization in the rest of Soviet Union and in Georgia in mid- and late-1980s.

7 Toma Gugushvili, External Migration-Demographic Problems of Georgia, 145, 1998.



The industrial production of basalt and pumice stone as well as food processing factories shut down following the Soviet collapse. Revenue from trade and remittances from mainly seasonal migrants to Russia make the bulk of local income.

Article 7 obliges the State to recognize and protect human rights.<sup>9</sup> These principles, confirmed by the Law of Georgia on “Normative Acts” (Articles 19.1 and 20.2), apply to international treaties relevant to the field of national minorities ratified by Georgia, listed below:

3. General Legislative Overview

- United Nations Convention on the Elimination of All Forms of Racial Discrimination

International Law

It is all the more relevant to examine international commitments on national minorities made by Georgia as Article 6 of the Constitution gives precedence to international treaties to which Georgia is party over domestic law, unless it contradicts Constitutional law.<sup>8</sup> Ar-

30 March 2001: “The legislation of Georgia shall correspond to universally recognized principles and rules of international law. An international treaty or agreement of Georgia, unless it contradicts the Constitution of Georgia or Constitutional Agreement, shall take precedence over domestic normative acts.”

9 Article 7 of the Constitution reads: “The State shall recognize and protect universally recognized human rights and freedoms as eternal and supreme human values. While exercising authority, the people and the state shall be bound by these rights and freedoms as directly acting law.”

8 Constitution of Georgia, 24 August 1995, Article 6.2 as amended by the Constitutional Law of Georgia of

- tion, ratified in 1999.
- European Framework Convention for the Protection of National Minorities (hereinafter FCNM), ratified in 2005. The First Cycle Report on implementation of the FCNM was sent to the Council of Europe Secretary General under Article 25 of the Convention on 01 April 2007.
- European Social Charter, ratified in 2005

Georgia committed to the ratification of these conventions when joining the Council of Europe in 1999. Georgia has not yet ratified the European Charter for Regional or Minority Languages.

In addition, Georgia ratified the Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities in 2006.

In conformity with Article 18 of the FCNM national minority issues are also regulated through international bilateral agreements, listed in Annex A. This particularly applies to the field of education, as under the Law of Georgia on Public Education, Article 4.4, instruction in foreign language<sup>10</sup> for non-citizens of Georgia or for citizens to whom this language is not native is allowed in private educational institutions only in the framework of relevant international treaties or agreements.<sup>11</sup>

Georgia cooperates with the OSCE High Commissioner on National Minorities, particularly in the sphere of education.<sup>12</sup> The Commissioner particularly recommended Georgia to develop a policy based on the Oslo Recommendations on the Linguistic Rights of National Minorities, the Hague Recommendations on the Educational Rights of National Minorities and the Lund Recommendations on the Effective Participation of National Minorities in Public Life.

The policy advice from the Council of Europe

Advisory Committee on the FCNM will also be used in the policy making on national minorities by specialized bodies at governmental level.<sup>13</sup>

Finally, international NGOs such as the European Centre for National Minorities<sup>14</sup> are involved in policy development.

## Domestic Legislation Overview

The principle of equality before the law is proclaimed by the Article 14 of the Georgian Constitution.<sup>15</sup> Article 38<sup>16</sup> of the Constitution further provides equality of Georgian citizens in the exercise of social, economic, cultural and political rights. The same article protects the right to develop one's culture and use one's mother tongue in private and public life. Article 38 in conformity with the preamble of the FCNM, rules that the exercise of this right shall not hamper Georgia's sovereignty, state structure, territorial integrity or political independence.

Within this broad context of proclaimed equality before the law, the national minority issues are regulated by provisions scattered in various legal and policy documents. For instance, Georgia does not possess any special legislative act on national minorities or on fighting discrimination. This is all the more challenging for minority rights realization as the FCNM, being programmatic in nature, cannot be directly implemented in practice without specific legal and policy instruments at the domestic level. These shortfalls may be explained by the lack of consensus, but also to a certain extent by the lack of clear awareness about national minority rights in the society, political class and public institutions. Agreement is not reached yet on fundamental issues such as the definition of national minorities, the necessity to adopt

13 Please see below II.2 Consultation Mechanisms and Specialized Agencies

14 Please see below II.2 *Consultation Mechanisms and Specialized Agencies*

15 Article 14 of the Constitution reads: "Everyone is free by birth and is equal before the law regardless of race, color, language, gender, religion, political and other opinions, national, ethnic or social belonging, origin, property and title, place of residence."

16 Article 38 of the Constitution reads: "Citizens of Georgia shall be equal in social, economic, cultural and political life irrespective of their national, religious or linguistic belonging. In accordance with universally recognized principles and rules of international law, they shall have the right to develop freely, without any discrimination and interference, their culture, to use their mother tongue in private and in public."

10 The Law of Georgia on Basic Education Article 4.3 establishes the right for the citizens of Georgia to whom Georgian is not native, to receive complete general education in their native language. For detailed review please see VI. Education.

11 Please see below VI. Education. Article 4.4 of the Law of Georgia on Basic Education reads: "Where Georgia signed relevant international treaties or agreements on the matter, instruction in foreign language in some institutions is allowed, and in those institutions instruction of the Georgian language is compulsory, while in the Autonomous Republic of Abkhazia both languages are compulsory."

12 Please see below VI.1. Primary Education

national minority-specific legislation or the relevance of positive action measures.

For instance, the Georgian Parliament Resolution on Ratification of the FCNM<sup>17</sup> proposed a definition of the term “national minority” as follows:

“Georgia bases the interpretation of the term “national minorities” on the below criteria, and considers that the status of “national minority” can only be conferred to a group of individuals in case the members of this group:

- are citizens of Georgia;
- differ from the majority of the population in terms of language, culture and ethnic identity;
- have been living on the territory of Georgia for a long time;
- live in compact settlements on the territory of Georgia”

However, this definition has no legal force under international law, as it was not attached to the instrument of ratification of the FCNM sent by the Ministry of Foreign Affairs to the Council of Europe Secretary General – which seems to denote disagreement on proposed definition. Furthermore, this definition was not transferred into any domestic legislative act. Discussions are currently underway in the Policy Task Force and Civil Integration and Tolerance Council (CITC) (see below II.2) to propose a definition of the term that is compliant with the FCNM and achieve consensus on outstanding issues. This definition could be incorporated to a future legislative act or framework policy document.

### **Perception of National Minority Rights in the Georgian society**

It is worrying that 6.1% of the surveyed respondents said persons belonging to national minorities should leave the country. But the absolute majority of respondents (66% country-wide) think that minority rights should be protected. This preoccupation is all the greater in the regions where persons belonging to national minorities mostly reside: 91.2% of respondents in Samtskhe-Javakheti and 92.4% of respondents in Kvemo Kartli believe minority rights should be protected. These figures are significantly above the share of the national minority representatives themselves in these provinces pointing at a general consensus on

the matter. At the same time, respondents do not think that minorities should enjoy “special protection”: country-wide, 71% of respondents think they should “have the same rights and obligations as the majority”. This position is shared by 65% of respondents in Kvemo Kartli and 50.6% in Samtskhe-Javakheti. Only 19% nationwide, 26% in Kvemo Kartli and 35% in Samtskhe-Javakheti think that the minority rights should be protected by a special law. Thus, despite general agreement – especially among persons belonging to national minorities – on the fact that minority rights should be protected, respondents feel that no “special protection” should be granted.

It seems that, in the eyes of the respondents, “special protection” equals “more rights”, while legally, special protection is the means to guarantee effective equal access to the same rights as the majority. This connotes low awareness on what minority rights are and what constitutes their violation. This was confirmed by the assessment of focus group participants and by the survey results which suggest that people are not aware of the guarantees for national minority rights under domestic legislation. Only 3.8% respondents consider themselves “well acquainted” with Georgian legislation on minority rights, while 31.7% think they are “superficially acquainted” and as much as 59.1% state they are “completely unacquainted” with such legislation. The main reason invoked for this lack of awareness is the absence of interest (52% of non-acquainted respondents) or lack of information (31.8%, plus 1.6% for whom information is not available in their language). Despite this low level of awareness on minority rights as currently regulated by domestic legislation, the majority of respondents think that minority rights are currently protected (35.9%) or more or less protected (35.3%) in Georgia. The participants of focus groups assessed the situation similarly. Most people have intuitive opinion that minority rights are not violated, although they don’t have awareness on national minority rights.

Therefore, while people appear to value the idea of protection of minority rights, they do not seem to clearly identify the possible means and ways of minority rights protection – whether as currently provided by the legislation or as they could be regulated by new laws. In this context, any plans for further regulating national minority rights might need to be accompanied by information campaigns and wide consultation, particularly with national minorities themselves.

17 Resolution No. 1938 of the Parliament of Georgia on Ratification of the European Framework Convention for the Protection of National Minorities, 13 October 2005



# II - Political Participation

## 1. Elected Bodies and Government

### Legal Framework

The legal framework governing Georgia's legislative, executive and local self-government bodies does not establish any explicit requirements that would directly impede political participation of persons belonging to national minorities in the country's elected bodies or the government. Neither does it foresee any special positive provisions – election quotas, proportional representation by ethnicity in public service, affirmative action or career advancement schemes – for the persons belonging to national minorities.

Article 48 of the Constitution defines the Parliament of Georgia as the supreme representative body of the country. There are 235 seats in the Parliament, out of which 150 members are elected according to a proportional system (party lists) and 85 members are elected through a majoritarian (first-past-the-post) system<sup>1</sup> on the basis of universal, equal and direct suffrage by secret ballot for a term of four years.<sup>2</sup> A citizen of Georgia who reached the age of 18 can vote.<sup>3</sup> A citizen of Georgia aged 25 can stand for national parliamentary elections if she/he permanently lived in Georgia for 10 years.<sup>4</sup> According to the electoral code of Georgia, the parties contesting for 150 proportional seats must attain a minimum of 7% of the national vote to be represented.<sup>5</sup> There are no special quotas or other means established for the persons belonging to national minorities to enter the parliament and thus they contest under the set of uniform terms and conditions.

The President is the head of State, who is elected for a five-year term through universal direct elections. Article 70.2 of the Constitution stipulates that a native-born citizen of Georgia of at least 35 years of age, who has lived in Georgia for at least 15 years and lives in the country on the day of elections, can be elected President. The President appoints the Prime

Minister, who shall then appoint the members of the Government (Ministers) subject to the President's consent and Parliament's approval of the cabinet.<sup>6</sup> The President may unilaterally dismiss the Minister of Interior and the Minister of Defense.<sup>7</sup>

The principle of local self-governance is enshrined in Article 2.4 of the Constitution, as amended by the Constitutional Law of Georgia of 06 February 2004.<sup>8</sup>

The Law on Local Self-Governance was passed on 16 December 2005.<sup>9</sup> It suppressed the lower tier in a previous two-tier system of local governance (consisting of community, village, and town) and left only the higher level of local governance (*rayon* or district, referred to in the new law as municipality or self-governing city). There are 65 self-governing units in the country (municipalities and self-governing cities). Self-government is exercised through a representative body (*sakrebulo*, a council) and an executive body (*gamgeoba/meria*, local administration, or in cities the Mayor's office). The local councils

1 The 15 remaining seats belong to the Abkhazian Autonomous Republic and are currently vacant, pending resolution of the political status of Abkhazia.

2 The referendum of 2 November 2003 introduced a constitutional amendment to take effect as of 23 February 2005, according to which the next parliament to be elected in 2008 shall consist of 100 members elected through proportional system and 50 members elected through majoritarian system.

3 Constitution of Georgia, Article 28

4 Constitution of Georgia, Article 49.2

5 Organic Law of Georgia Election Code of Georgia, Article 105.7

6 Constitution of Georgia, Article 73.b as amended by the Constitutional Law of 06 February 2004

7 Constitution of Georgia, Article 73.b as amended by the Constitutional Law of Georgia of 06 February 2004

8 Constitution of Georgia, Article 2.4: "The citizens of Georgia shall regulate the matters of local relevance through local self-government without prejudice to the state sovereignty. The office of the superiors of the executive bodies and a representative office of local self-government shall be elected. The procedure of creation of the bodies of local self-government, their authority and relations with state bodies shall be determined by an Organic Law."

9 Law of Georgia on Local Self-Governance (2304-RS, 25-12-2005), also available online at <[http://www.parliament.ge/\\_special/kan/files/1739.pdf](http://www.parliament.ge/_special/kan/files/1739.pdf)> accessed 7 July 2007.

are elected through a mixed, proportional (party list) and majoritarian (first-past-the-post) system. In the few self-governing cities the council consists of 10 councilors elected through the proportional and five councilors elected through majoritarian system. In municipalities, 10 councilors are elected through proportional system and one per each community through a majoritarian system. The Head of Local Administration (*gamgebeli/meri*) is considered a civil servant and is elected by the majority of council members after a vacancy is announced and a merit-based competition is conducted among the applicants. The evaluation of candidates is conducted by a panel consisting of the Head of the Council, the Deputy Head, heads of the council commissions and factions. According to article 109 of the Election Code of Georgia, a citizen of Georgia of 21 years of age who lived in Georgia for the past two years may be elected to local councils.

According to Article 2 of the Law on Local Self-Governance, the engagement of citizens in decision making at the local level is secured through the following means:

- a. Right to elect and be elected in the local self-governance bodies;
- b. Possibility to occupy any position in the local self-governance bodies if the requirements under the Georgian law are met;
- c. Right to obtain public information from local self-governance bodies and public officials;
- d. Right to obtain advance information about the draft decisions of the local self-governance bodies, to participate in discussions and to demand publication and public discussion of those drafts;
- e. Right to appeal to the local self-governance bodies and public officials;
- f. Possibility to exercise other functions as determined under the laws of Georgia.<sup>10</sup>

The government of Georgia might initiate creation, merger or a cancellation of a self-governing unit based on its own initiative, or based on consultation with the local council or the population of the district, or based on initiative of the self-governing districts(s) (Article 11 of the Law on Local Self-Governance). This possibility might affect access of persons belonging to national minorities to local government, through placing the administrative center further away from their communities. The same article warrants survey of the public opinion as one of the necessary documents to be sub-

mitted for the government's decision making. Although no such precedent has been reported so far, change of local borders might also be abused for gerrymandering in local elections.<sup>11</sup>

In addition to the bodies of local self-government prescribed by the Law, there is a third, provincial (*mkhare*) level of local administration, created by presidential decree. The appointed governor is a civil servant and has extensive powers of administration. The Governor's authority is, however, not checked by any representative body and remains accountable only to the President of Georgia.<sup>12</sup>

## Representation at National Level

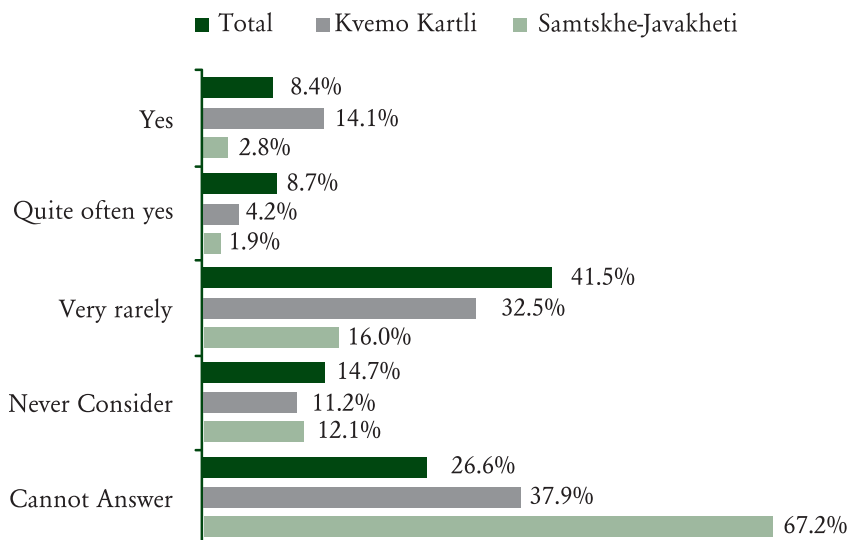
Some 82.9% of the respondents to the survey nation-wide said they are not ready to work in the country's executive or legislative authorities, with more than a half (51.2%) not specifying the reasons for such decision ("I am not ready"), 15.9% stating they see no value in participation, and 15.3% quoting insufficient education as a reason. A slightly higher share of the interviewees in Kvemo Kartli (85.3%) and Samtskhe-Javakheti (87.2%) say they do not wish to work in country's legislative or executive bodies. In Kvemo Kartli, the largest share (39.5%) quotes insufficient education as a reason. In Samtskhe-Javakheti 36% say they "are not ready." Interestingly, a lower share of the respondents is disillusioned in Kvemo Kartli (13%) and Samtskhe-Javakheti (10.3%) than nationwide. The respondents in Kvemo Kartli often quote insufficient knowledge of Georgian as a reason (8%), as contrasted by 2.6% in Samtskhe-Javakheti and 2.3% in country-wide sample. Neither are the respondents highly interested in becoming an MP – 96.4% nationwide are not interested, 94.8% in Kvemo Kartli and 96.1% in Samtskhe-Javakheti.

11 Article 5 of the European Charter of Local Self-Government, suggests use of referendums for mergers or abolishing of the self-governing entities, wherever there exists a statutory recourse to a referendum. While the Georgian Constitution guarantees the right to a referendum (Article 5), Article 1.3 of the Organic Law on Referendum of 15 May 1996 foresees only a country-wide referendum.

12 The constitution adopted in 1995 did not address the issue of Georgia's territorial arrangement. According to its Article 2, the issue would be considered only after the country's territorial integrity restored. During 1993–1995 Georgia was divided into nine regions, by presidential decree: Guria; Imereti; Kakheti; Kvemo Kartli; Mtskheta-Mtianeti; Racha-Lechkhumi and Kvemo Svaneti; Samegrelo and Zemo Svaneti; Samtskhe-Javakheti; and Shida Kartli.

10 Organic Law of Georgia on Local Self Governance, No 2304/RS, 16 December 2005

### Do the executive and the legislature consider the suggestions of the citizens?



The minority-dominated provinces seem to follow the nation-wide trend of distancing themselves from the government – executive or legislative, while maintaining the interest in voting. However, most of the political class remains ethnically Georgian. In this context it is all the more crucial for minority representatives to stand for elections. The low level of readiness to do so (93.5% nationally, 90% in Kvemo Kartli and 88.8% in Samtskhe-Javakheti) prevents correcting their under-representation. As a result of the 2004 parliamentary elections, only 9 persons belonging to national minorities gained seats in the parliament which is only 4% of the entire MP body. 4 out of the 9 were elected in the majoritarian constituencies, and 5 through a proportional party list. The focus group participants mentioned that there should be more representatives of national minorities in the parliament and mentioned a system of quotas as one possible way. At the same time focus group participants noted that if the quality of minority MP work does not improve, increased representation would still fail to reflect the interests of national minorities. Other participants did not agree with quotas and characterized them as discriminating measures. They also suggested that simply belonging to the same ethnic group does not make an MP an effective protector of the interests of his/her electorate. It was noted by other researchers that some parliamentarians belonging to national minorities find it rather diffi-

cult to effectively represent voters because of poor command of the official language.<sup>13</sup>

There are concerns that the new way of composing the parliament, which becomes effective in 2008 would further decrease the share of persons belonging to national minorities. There are two reasons for these concerns: firstly, the total number of MPs would decrease from 235 to 150, making the competition for the proportional party lists stiffer, disadvantaging less experienced minority politicians. On the other hand, the share of majoritarian MPs will decrease from 36.1% to 33.3%, when it is assumed that the minority candidates have higher chances to be elected in their own districts, often dominated by the minority groups.<sup>14</sup> The electoral mathematics behind the argument remain valid, however it is important to note that survey respondents do not necessarily vote along ethnic lines – only 3.1% country-wide, 5.4% in Kvemo Kartli and 3.1% in Samtskhe-Javakheti say the ethnicity of the candidate is decisive in their vote for an MP. The level of education tops this chart country-wide in each of the minority-dominated regions. Also, the

13 The Political Landscape of Georgia, Political Parties: Achievements, Challenges and Prospects, Gia Nodia, Alvaro Pinto Scholtbach, Tbilisi, 2006, p.80

14 ECMI, Implementing the Framework Convention for the Protection of National Minorities in Georgia: A feasibility Study, Jonathan Wheatley, ECMI Working Paper 28, October 2006, p.22



reality – only 4 out of 9 minority MPs come from majoritarian districts – seems to challenge the assumption. It is unlikely that a motion to introduce national minority quotas would be supported by the legislature. At the same time, it is much more possible to promulgate “soft”, voluntary quotas in proportional party lists. So the effects of the new parliamentary composition on minority representation are hard to pre-judge and require further monitoring once the changes come into effect.

Persons belonging to national minorities are poorly represented in the executive authorities as well - only one representative has senior position in the government - Zinaida Bestaeva – ethnic Ossetian is the State Minister for Civil Integration Issues.

Both survey figures and focus group results indicate that minority representation at the national level of executive and legislative government is low and needs to improve. The party system in Georgia remains weak, and most of the political players, although country-wide in name, focus on the capital city, where the third of the country's electorate lives and most of the media attention is focused. The parties maintain very weak presence in country's provinces, only mobilizing during the elections. This prevents genuine party democracy and emergence of prominent local politicians, especially in areas where the national minorities are in majority. The Armenian or Azeri politicians that make it to the national scene are often from the capital, and maintain weak links with provinces dominated by the minority they are expected to represent.

### **Representation in and Participation to Local Governance Bodies**

In keeping with the country-wide trend, persons belonging to national minorities are more interested to participate in self-governance than in central executive or legislature, although their current levels of participation remain low. Country-wide 97.8% of the respondents say they do not participate in work of local self-government, but 18.7% say they are ready to participate. In Kvemo Kartli these figures are 99.6% and 11.9%, In Samtskhe-Javakheti 95.2% and 11.4%.

One might assume that the local problems are more acute and affect respondents personally, so their interest is higher. The political parties also nominate more minority candidates, because in local elections voters favor those

they know personally. The voters also seem to mostly delegate responsibility for their problems to their elected representatives. Out of those who do not participate in work of the local self-government bodies, 39.1% nationally, 39.4 in Kvemo Kartli and 55.3 in Samtskhe-Javakheti do not consider it “their business” to get involved, thus they perceive it being responsibility of the locally elected councilors to solve local problems.

The representatives of national minorities participate in the local elections both through majoritarian and proportional systems, especially through a ruling National Movement party list. According to the Central Election Commission of Georgia (CEC), during the 2006 local self-governance elections, 444 national minority candidates were nominated (including 230 through the majoritarian system and 214 through the proportional system). Out of them, 114 were elected through the majoritarian and 44 through the proportional lists. In the districts with significant number of the persons belonging to national minorities (Sagarejo, Gardabani, Marneuli, Bolnisi, Dmanisi, Tsalka, Akhaltsikhe, Akhalkalaki, Ninotsminda), there is a total of 260 city councilors, out of which 126 (48.5% of the total) belong to national minorities. Three persons belonging to national minorities, who gained seats in the local city councils, were later elected council chairmen.

During the 2006 local self-government elections, voter turnout was rather high (from 41 to 63%) in the regions densely populated by national minorities. The representatives of national minorities participated in the activities of the precinct election commissions. To improve participation for the 2006 local elections, electoral bulletins were prepared in Russian, Azeri and Armenian languages. Some 5000 booklets and 15,000 posters in minority languages on electoral procedures were printed for distribution among the electorate and the polling stations.

## **2. Consultation Mechanisms and Specialized Agencies**

In addition to political representation through electoral processes, national minorities benefit from specialized agencies which act as contact points, protection agencies or policy and law making agencies on national minority issues. Such bodies can be particularly relevant to ensuring effective consultation and participation of national minorities in policy making and legislation drafting. Indeed, the population in

general and even more so the inhabitants of the regions mainly populated by national minorities are rarely ready to engage in national level representation: only 17.1% of respondents nationwide declare to be ready to engage in the activities of the executive or the legislature. In Kvemo Kartli and Samtskhe-Javakheti, their share is respectively 14.7% and 12.8%.

The specialized bodies were all created or entrusted with national minority issues after the Rose Revolution. Their work on the issue is therefore still relatively new, which could partly explain an apparent lack of coordination between their activities. Better coordination of activities between these agencies will thus need to be addressed by future national minority policies.

In addition, those agencies are still little known by the public: when asked if they are aware of any governmental agency authorized to protect the rights of national minorities, only 8.1 respondents answer “yes” (1.2 % in Kvemo Kartli and 9.5 % in Samtskhe-Javakheti). Sensitizing the general public and persons belonging to national minorities remains a major task of these specialized agencies which, if achieved, will greatly contribute to setting durable and effective mechanisms for consultation and participation of national minorities on issues of their concerns. These agencies also have high potential for being used as consultative mechanisms, but it is not yet realized to full extent.

### Specialized bodies in the executive

In 2004, a State Minister for Civil Integration Issues was instituted by Decree of the President.<sup>15</sup> The Office of the State Minister is tasked to collect data on national minorities, monitor and analyze the perception of national minorities within the Georgian society, and to develop laws and regulations on national minorities and civil integration issues. The Office acts as a contact point for representatives of national minorities and for all public institutions on national minority issues, ensuring the circulation of information, proposals and draft policy or legislative documents. The Office is also the domestic contact point and main duty bearer on the implementation of the FCNM. Despite this comprehensive portfolio, the Office of the State Minister is still little known to citizens in general, particularly to persons belonging to national minorities: out of those respondents

who are aware of agencies protecting national minority rights, none quoted the State Minister's Office.

The Civil Integration and Tolerance Council was created in 2005.<sup>16</sup> This policy making body is headed by the State Minister and consists of the Public Defender, the Minister of Internal Affairs, the Minister of Finance and the Minister of Justice, as well as the Head of the Board of Trustees of the Public Broadcasting and representatives of NGOs. The Council is in charge of developing a policy concept and a National Integration Strategy and Action Plan. One of the tasks of the Council is to develop and implement, as a part of the Action Plan, a consultative mechanism that will ensure close and continuous involvement of the national minorities in policy-making. To these ends, the Council is assisted by the Policy Task Force. To date, the Council has developed laws mainly in connection with the conflict in South Ossetia.<sup>17</sup> The Policy Task Force, within the NITG Program, is currently developing a draft definition of the term “national minority” that is compliant with international standards, and is designing a policy concept.

The respective Departments for Human Rights Office of the Prosecutor and the Ministry of Internal Affairs monitor the process of effective investigation of the crimes committed on ethnic or religious grounds. These Departments conduct research on the level of compatibility of the Criminal Code with the Criminal Procedure Code of Georgia and make recommendations on the matters of protection of human rights. However, they do not take claims from citizens, and therefore do not constitute redress mechanisms.

### Specialized bodies in the legislature

The Parliamentary Committee for Human Rights and Civil Integration, created in 1995, engaged in national minority issues in 2004. The Committee cooperates with representatives of national minorities, as well as international and non-governmental organizations working on human rights protection and civil integration. With the support of the European Center

15 Decree of the President of Georgia No 61 of 14 February 2004 on “Introduction of a Position of State Minister in the Government of Georgia”

16 Decree of the President No 639 dated 8 August 2005 on “Appointment of a Civil Integration and Tolerance Council”

17 Law No 4284 on Property Restitution and Compensation for the Victims of the Conflict in the Former Autonomous District of South Ossetia, 29 December 2006; Law No 4625 on Creation of Relevant Conditions for Peaceful Settlement of Conflict in the Former Autonomous District of South Ossetia, 13 April 2007

for Minority Issues (ECMI), which organized a conference on the matter, the Committee developed a Draft Concept on National Minorities Integration Policy. The draft Concept has not been subject to a wide consultation process, and has not yet been presented to the Parliament. It however intends to offer opportunities for further legislative development. The Parliamentary Committee is one of the few official bodies in charge of national minority issues that at least a small proportion of respondents is aware of: out of 8.1% country-wide of respondents aware of such bodies 27.5% cite the Parliamentary Committee.

### Public Defender and Public Defender's Council

Under Article 43 of the Constitution, *“the protection of human rights and fundamental freedoms within the territory of Georgia shall be supervised by the Public Defender of Georgia”*. The Public Defender thus has a role of protecting national minority rights.<sup>18</sup> None of the Public Defender's regional representatives are located in the regions mainly populated by national minorities, which hampers its accessibility. However, out of the 8.1% respondents who are aware of governmental agencies authorized to protect minority rights, 38% cite the Public Defender's Office.

The Public Defender's office has an Ethnic Minorities Council and a Religious Council, both established in 2005. The Ethnic Minorities Council is self-regulated under a Memorandum of understanding among 80 non-governmental organizations and minority representatives. This Memorandum foresees that these partners work in consultation with the Civil Integration and Tolerance Council and other specialized agencies to improve national minority rights protection and foster dialogue between national minorities' representatives and official duty bearers. The Ethnic Minorities Council is organized in topical Committees intended to cover the various areas of the FCNM (Media and Information, Education and Culture, Regional Integration and Conflict Prevention, Legal Affairs). In this scope, the Committees maintain a dialogue with the ECMI. The members of the Ethnic Minorities Council members make regular trips to Samtskhe-Javakheti and Kvemo Kartli. The Religious Council incorporates 23 religious organizations. With its topical Committees, it facilitates social and cultural activities of relevance to religious minorities.

18 Please see below IV Access to Redress in Cases of Violation of Minority Rights

## 3. Public Participation

### Legal framework

The Constitution of Georgia guarantees the rights of citizens to freedom of assembly (Article 25) and freedom of association – the right to form political or civil movements and trade unions (Article 26). These provisions are made operational by relevant legislation, as presented below. The relevant laws prevent the creation of political or civil movements that instigate ethnic or national hatred. They also provide for full access of citizens to membership in civil or political unions. The provision related to prohibition of creating parties based on “regional or territorial trait” contained in Article 6 of the Organic Law on Political Entities of Citizens<sup>19</sup> was often mentioned in relevant research as a barrier towards creation of ethnic minority parties, since the minority groups are localized in territorial units such as Kvemo Kartli and Samtskhe-Javakheti. At the same time, the provision does not in principle prevent establishing ethnically based, but country-wide party.

Article 25 of the Constitution establishes the right to unarmed public or private gathering without any prior permission.<sup>20</sup> According to the Law on Gatherings and Manifestations (Article 5.1)<sup>21</sup> the relevant authorities shall be notified in advance if a gathering or manifestation is due to take place in a public place with intense traffic. Article 4.2 prohibits calling for overthrowing or changing constitutional order by force, calling for infringing independence or territorial unity, calling for war or violence, or instigating national, regional, religious or social conflict.

Amendments to the Civil Code in force since 1 September 2006 foresee that legal and fiscal registration of a non-profit legal entity is conducted by the tax office at the legal residence of such non-profit legal entity. According to Article 28.6 of this Law “the registration of a non-profit entity and of its branches (represen-

19 Organic Law of Georgia on Political Unions of Citizens (1028-1S), adopted 31 October 1997, available online at <[http://www.parliament.ge/index.php?lang\\_id=GEO&sec\\_id=69&kan\\_det=det&kan\\_id=119](http://www.parliament.ge/index.php?lang_id=GEO&sec_id=69&kan_det=det&kan_id=119)>, accessed on 8 August 2007.

20 This right however does not extend to military forces and personnel working for the Ministry of Interior. The authorities are allowed to dissolve a gathering or manifestation if it becomes unlawful in nature.

21 Law of Georgia on Gatherings and Manifestations (763-2S), adopted 12 June 1997.

tations) shall be based on an application for registration appropriately notarized.”

Article 32 of the Civil Code also determines grounds for refusal of registration of a non-profit legal entity: a) the goals of the non-profit legal entity or its branches (representations) contradict the law, recognized moral norms or constitutional principles of Georgia; b) the provisions Article 26.3 of the Constitution of Georgia apply<sup>22</sup>; c) the provisions of Article 27.2 of the Civil Code apply<sup>23</sup>; d) the application does not meet the requirements of the Civil Code<sup>24</sup>; e) the documents for application are incomplete or missing<sup>25</sup>; f) the application documents are not legalized in accordance with the procedures set forth by the law. The applicant has a two-day deadline to correct or complete the information or the list of documents enumerated in section “c”, “d”, “e” and “f” of the Code. The registration body is authorized to reject the application if the above conditions are not met.

According to the Law on Suspension of Activities of the Civil Unions and their Closure<sup>26</sup> the activities of non-profit legal entities, professional unions and other civil unions can only be suspended or terminated by the court (Article 2). The activities are suspended for 3 months if it is established that the entity mainly carries out profitable activities. The activities re-start after the suspension period elapses (Article 3). The activities can be terminated (the entity is abolished) if the aim of the entity is to overthrow or change by force the constitutional order, infringe upon independence of

the country, infringe upon territorial integrity, or promote war or violence, or instigate national, regional, religious or social conflict, it creates or has created armed units, or after prior suspension of activities continues with profit-making work (Article 4).

In accordance with Article 26.2 of the Constitution, citizens shall have the right to establish political parties and participate in the activities of such parties. However it is punishable by law to found a political or civil entity or carry out activities with the purpose of overthrowing or changing by force constitutional order, infringing upon territorial integrity, promoting or war or violence, or instigating national, regional, religious or social conflict (Article 26.3).

The Organic Law on Political Entities of Citizens<sup>27</sup> stipulates that any Georgian citizen who has the right to vote can establish a political party or participate in its work (Article 8). Article 11 stipulates that the party membership can not be restricted based on grounds of race, color, language, gender, religion, ethnic, national or social belonging, origin material or social status, and residence. Discrimination in party membership is therefore explicitly prohibited. The following articles qualify the freedom to establish or participate in work of the political parties: Article 9 states that a Georgian citizen can be a member of only one party; Article 10 states that party membership of the army, police and security forces, as well as of those appointed judges and prosecutors is suspended (this provision copies the Article 26.5 of the Constitution); Article 6 prohibits establishing of parties based on “regional or territorial trait”.

According to the Article 22 the registration of a party shall be processed by the Ministry of Justice of Georgia;<sup>28</sup> Article 23.2 provides that the Ministry of Justice shall verify the accuracy of the documentation submitted, and decide whether to register the party within one month from the submission of the application. The grounds for rejection of registration are contradiction with the Law and legislation, incomplete documentation and use of the name, sym-

22 Article 26.3 of the Constitution stipulates that the establishment or activities of a political or social entity are prohibited in case they aim at overthrowing or changing by force the constitutional order, infringing independence or territorial integrity, or propagating national, regional, religious and social conflict.

23 According to Article 27.2 of the Civil Code, the use of the name of a company which is registered under other laws, and the use of a name characteristic of a public body shall not be used for non-profit legal entities (Law on Entrepreneurs, Law on Employees and Artistic Unions, Organic Law on Political Parties of Georgia). In addition, according to Article 27.3 the name of a non-profit legal entity shall not be identical to the name of an already registered non-profit legal entity.

24 Article 29 of the Civil Code defines the information which shall be contained in the application.

25 Article 29.3 of the Civil Code enumerates the documents to be attached to the application

26 The Law on Suspension of Activities of the Civil Unions and their Closure (1103-1S, 14 November 1997, as amended on 25 July 2006 (3537-RS) and 14 December 2006 (3973-RS)).

27 Organic Law of Georgia on Political Unions of Citizens (1028-1S), adopted 31 October 1997, available online at <[http://www.parliament.ge/index.php?lang\\_id=GEO&sec\\_id=69&kan\\_det=det&kan\\_id=119](http://www.parliament.ge/index.php?lang_id=GEO&sec_id=69&kan_det=det&kan_id=119)>, accessed on 8 August 2007.

28 Requested documentation includes a list of 1000 members indicating their full name, date of birth, ID number, workplace, place of residence and telephone numbers, as well as the signatures of the members (Article 22).



**Fields of CSO activity - Samtskhe-Javakheti**

<b>Samtskhe-Javakheti</b>			
<b>#</b>	<b>Directions of the activities</b>	<b>Number</b>	<b>%</b>
1	Protection of the environment	4	50.0
2	Human rights protection	2	25.0
3	Issues of socially vulnerable groups	2	25.0
4	IDP problems	1	12.5
5	Problems of the persons with limited capacity	1	12.5
6	Issues of ethnic minorities	1	12.5
7	Media development	1	12.5
8	Development of micro and medium size business	1	12.5

*Source: Development of CSOs in Georgia, UNAG/CSR DG, Tbilisi 2005, p. 32*

bols or abbreviations of currently or previously existing parties (in case of previously existing parties, their names can be used if more than 4 years elapsed since the party ceased to exist). Party members shall be free to leave the party (Article 15.2).

**Main Political and Civil Organizations**

There are no political parties of national minorities registered in Georgia. Noteworthy is the Decree No. 5/4 of 2 April 1999 of the Registration Collegium of the Ministry of Justice denying registration to the political party “Virq”, the members of which are residents of Samtskhe-Javakheti of predominantly Armenian origin. The grounds for rejection were that the registration documents were inadmissible under Article 6 (establishing party with “regional or territorial traits”) and Article 14 (the name of a party, its abbreviated title and its symbols shall not be identical to the name of a party that is already registered, or that has ceased to exist less than four years ago) of the Organic Law on Political Entities of Citizens.<sup>29</sup>

According to the information of the Ministry of Justice, only five political entities (parties) have ever been denied registration at different times, mainly due to incomplete documentation. It is unclear how many of those parties were rejected based on principles of Article 6, and how many of those were initiated by per-

sons belonging to national minorities. Further investigation would be necessary to determine if despite the absence of legal provisions preventing the formation of national minority parties, national minorities face consistent objective obstacles to form parties.

One reason for the representatives of national minorities not creating ethnically defined parties could be their feeling that the parties prioritizing ethnic belonging do not have many chances of electoral success in nation-wide polls. No single minority, even if voting for a single party, has sufficient votes to represent itself with any significant numbers in the parliament. An electoral alliance between the two largest minorities – Armenians and Azeris – is highly unlikely due to tense relations between Armenia and Azerbaijan. The minority parties would potentially have higher chances in local elections, but the weight of the local councils in nation-wide politics is negligible. In addition, it is easier for the persons belonging to national minorities to amass political capital and influence in more major, nation-wide parties. It is a fact, that the minority representatives customarily participate in elections on the lists of various, mainly ruling, political parties. This helps them maximize the chances of entering the parliament and the local councils. Further research is necessary to identify why the minority parties never formed in Georgia.

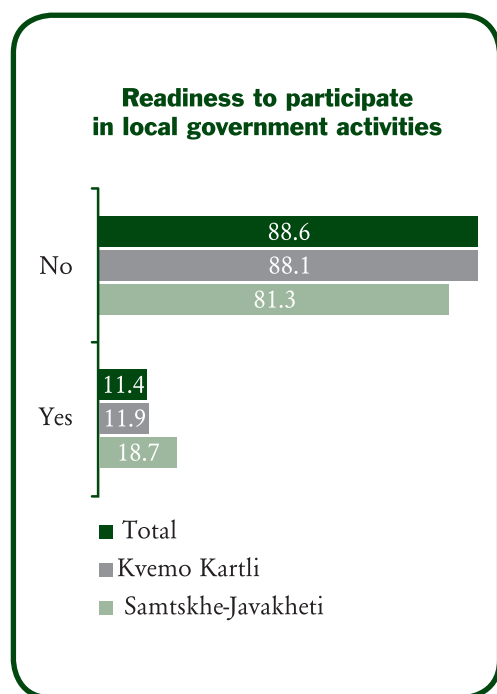
According to the Ministry of Justice, as of 1 March 2005, up to 7500 Unions and 1500 Foundations (two forms of civil/non-profit entities) were registered in Georgia.<sup>30</sup> In Samtskhe-

<sup>29</sup> Moreover, the Collegium noted that the protocol of the founding session of the party required significant corrections; the list of 1000 persons was not submitted as per the requirements of the law; almost all articles of the charter of the party required correction in order to satisfy the requirements of the law.

<sup>30</sup> As of March 2005, registration of Unions was transferred from the common courts to the Ministry of Justice. In

Javakheti, the non-governmental organizations often substitute for the political or semi-political movements. One of such groupings is the Coordination Council of Samtskhe-Javakheti NGOs (“the Coordination Council”). The Coordination Council also includes *Javakh*, which was especially influential and carried strong irredentist positions in mid-1990s. However, presently the organization’s positions have significantly weakened. Following the refusal of the Ministry of Justice to register it as a political party (see above), the movement *Virq* continues operating as a civil organization. Other important players include *Dashnaks* (Armenian Revolutionary Federation, a sister-movement of the Dashnak Party of the Republic of Armenia) and the Union of Intellectuals.

The Coordination Council faces growing competition from the new movement *United Javakh*, whose young leaders succeeded in the local elections. One of them was elected Mayor of Akhalkalaki. *United Javakh* pursues a policy of demanding cultural autonomy for the region, and is closely co-operating with the authorities.



The 2005 research conducted by UN Association of Georgia (UNAG) and the Center for Strategic Research and Development of Georgia (CSR DG) found a total of 13 more or less developed NGOs in Samtskhe-Javakheti (this

research did not include semi-political movements listed above, but mainly NGOs having an experience of implementing humanitarian or development projects funded by donor agencies). Out of these, only one worked on issues of ethnic minorities.<sup>31</sup>

About 30 non-governmental organizations are registered in the Kvemo Kartli region. However, only 12 of them are functioning on a regular basis. Among these organizations we can distinguish the previously influential organization *Geyrat*, which currently faces financial constraints, but continues to get some attention from Azerbaijani media and political groups. New organizations have been set up, such as the *Union of Azeri Women of Georgia*, the *NGO Resource Center* in Marneuli, the *Civic Integration Foundation*, the *Union of Intercultural Cooperation* and *the Bridge*, which tend to focus on language instruction, civic education and intercultural communication. Another player which is just starting up its activities is the *Civil Forum* created with the assistance of the European Center for Minority Issues (ECMI). Its main goal is to facilitate NGO dialogue with the central authorities.

In terms of organizational and technical development, regional NGOs are still less developed, but catching up with the organizations in Tbilisi.<sup>32</sup> Two successful organizations working on defending minority rights are currently operating in Tbilisi and have country-wide coverage – the Civic Integration Foundation and the Public Movement – Multinational Georgia. This latter has been developing a draft law On Protection of Rights and Freedoms of Persons Belonging to National Minorities.

### State of Public Participation

The figures reveal that that participation rate in elections in Georgia is very high, while personal involvement in political structures and closeness to the civil society sector are very low. With slight variations, this pattern also clearly appears in Samtskhe-Javakheti and Kvemo Kartli.

31 As the main aim of UNAG/CSR DG report was to evaluate the level of development of Civil Society Organizations (CSOs), the names of individual organizations surveyed were suspended and not referenced in the research.

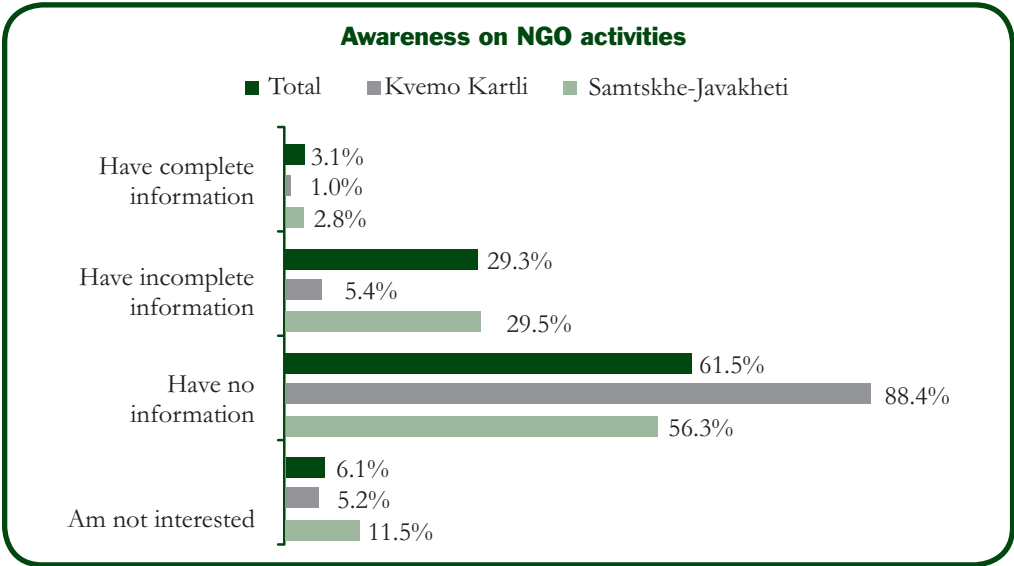
32 Development of Civil Society Organizations of Georgia, Research Report, UN Association of Georgia, the Center for Strategic Researches and Development, Citizens Advocate! Program, Tbilisi, 2005, p.4.

view of this, on the basis of the common registry of the Unions, an updated database of Unions was created and is available at [www.justice.gov.ge](http://www.justice.gov.ge)

Voter mobilization throughout Georgia and specifically in Samtskhe-Javakheti and Kvemo Kartli is massive. Over 80% respondents would vote in national level elections if they were held at the time of the interviews. This applies to parliamentary (89.1% positive answers country-wide) and presidential (91% positive answers country-wide) elections. The results are slightly higher for Samtskhe-Javakheti (93.1% would vote in parliamentary, 95.7% in presidential elections) and slightly lower in Kvemo Kartli (84% and 86.7% respectively). Voter participation in local elections is consistently a bit lower – which might be the result of lesser engagement of the biggest parties in local election campaigns. However this difference is very small and the results reveal similar trends as for national level elections (78.8% of respondents voted in the last local self-government elections. 81.7% of respondents of Samtskhe-Javakheti, and 76.9% of respondents of Kvemo Kartli voted).

Meanwhile, very few respondents profess interest in running for elections, especially at national level. Notably, respondents in minority-dominated areas are more willing than the country-wide sample to run for elected office at both national and local levels. In Georgia-wide sample, 6.4% respondents say they are interested in being a candidate in local elections; 3.6% would be a candidate in parliamentary elections. In contrast, 11.2% in Samtskhe-Javakheti

Although very low when it comes to national level elections, the comparatively higher readiness to run as a candidate in those regions, especially in Samtskhe-Javakheti, might be attributed to a desire of national minorities to promote their rights and voice their opinion directly. This phenomenon could partly be explained by the incertitude felt in regions populated by national minorities as to whether legislative and executive bodies take their suggestions into account. Respectively 70.3% of respondents in Samtskhe-Javakheti and 52.7% in Kvemo Kartli “do not know” if such bodies take into account consultation with and suggestions of national minorities. In addition, 26.9% in Kvemo Kartli and 23.3% in Samtskhe-Javakheti think that legislative and executive bodies rarely or never consider the contribution of national minorities. Further sociological studies and consultations with representatives of national minorities would be necessary to confirm whether higher intention to run for office is correlated with low confidence in legislative and executive bodies. In any case, this factor will need to be taken into account when developing policies aimed at increasing national minorities’ integration and participation in the political life of the country. A tentative policy guideline that can be drawn from available data is that increased involvement in local governance through the elected bodies or local consultative mechanisms might



and 10% in Kvemo Kartli are ready to run for local elections, while 3.9% (marginally higher than the country total) and 5.2% respectively are ready to contest for a parliamentary seat.

go a long way towards increasing minority confidence in governance in general.

Pursuant to Article 115 of the General Administrative Code<sup>33</sup>, issues of relevance to the interests of a wide group of persons shall be reached in compliance with certain public administrative procedures. The latter foresee public availability of the documentation related to the issue in question, possibility for the citizens to present their opinion on the matter to the extent possible and participate in oral discussions which are held before adoption of administrative acts. Such provisions make the participation of individuals to political life particularly relevant, especially at the local level where such discussion offers avenues for participation to persons belonging to national minorities. However personal involvement of the public in local level political life is still insignificant: only 2.2% respondents participate in local self-government activities such as for instance meetings organized by local government. In Samtskhe-Javakheti this proportion is slightly higher (4.8%) and Kvemo Kartli it is negligible (0.4%). Country-wide only 18.7% of the respondents is ready to participate in local government activities. This figure stands at 11.4% in Samtskhe-Javakheti and 11.9% in Kvemo Kartli.

Country-wide, a relative majority of interviewees do not give a specific reason for this lack of intention to participate (37.1% state they are “not ready”). The respondents did not invoke, for instance, poor command of the official language as a significant deterrent either throughout the country or in the regions densely populated by national minorities (country-wide data 2%, Samtskhe-Javakheti 2%, Kvemo Kartli 7%). Lack of interest is often cited as a reason, especially in Samtskhe-Javakheti (49.6%). In Kvemo Kartli, lack of education is the first reason to be invoked (29%). This is likely correlated with the high value given to education in this region: education is the first criterion to evaluate the performance of local government (cited by 43.9% of respondents, and followed by 24.3% for “attention paid to solving problems”). This stands in stark contrast with country-wide figure of 25.3% citing education as the primary criterion to evaluate local government.<sup>34</sup>

This low intention to personally participate in local governance may be connected to the relatively high trust towards incumbent local government. On a 1 to 4 scale (1 being total mistrust, 4 complete trust), the country-wide level of trust towards local government reaches 2.9 points (2.9 in Kvemo Kartli, 3.0 in Samtskhe-Javakheti). From these figures, it is possible to

conclude that people consider their participation completed once they have voted and they trust their elected representatives. However, additional data challenges the validity of such interpretation. A significant portion of the respondents refrained from stating their level of confidence (12.4% in Kvemo Kartli, 21.6 in Samtskhe-Javakheti) towards the local government. An even larger share refrained from stating the confidence level in local government’s ability to protect the rights and needs of the population (28% and 23.2% respectively). This might mean that although electorate considers its job done once having cast the ballot, it does not fully trust the elected MPs, but sees no other way of influencing local politics through participatory methods. This might suggest a need to additionally sensitize citizens (whether belonging to national minorities or not) to a range of participatory and oversight mechanisms available. Should there be no effective mechanisms in place it would be necessary to create them and ensure local governments’ active involvement in this process.

Further accenting the need for participatory mechanisms is the low level of engagement in activities specifically concerning national minority issues: 2.5% respondents declare having taken part to such activities. More respondents participated to such activities in Samtskhe-Javakheti (3.9%), and less did in Kvemo Kartli (1.9%). Country-wide and in both regions, most of the rare respondents who have engaged in discussion of national minority issues did so during the meetings organized by the local self government, and the respondents listened to the discussions rather than participated in them. This may indicate that, at local level, the debate on national minority issues is led by few political figures who often are part of local governance bodies, while the general public remains mostly silent. The responses reveal that the topics covered by such meetings were predominantly of a social nature. It confirms that, as noted during the focus groups, the concerns voiced by persons belonging to national minorities are mainly social.

Finally, participation in political and more generally public life through civil society organizations remains an exception. 61.5% of all respondents confess having no information about NGOs. The phenomenon is more acute in Kvemo Kartli (88.4%). In Samtskhe-Javakheti 56.3% respondents say they do not have information about NGOs, which is comparable to the figure in *Tbilisi* (56.8%). As a comparison, in Imereti, a province where national minorities are practically not present, 66.7% have no

<sup>33</sup> General Administrative Code of Georgia, No. 2181/ IIS, 25 June 1999

<sup>34</sup> Please also see V. Education



information on NGOs. In all cases, a majority of the respondent who are informed about NGOs state that they only have incomplete information.

When it comes to NGOs specialized in national minority rights, the level of information is even lower: the respondents having no information on them represent 82.7% in total, 94.7 in Kvemo Kartli, and 75.1% in Samtskhe-Javakheti. Interestingly, in Tbilisi, which is a relatively mixed city with higher access to information, 83.3% respondents have no information on national minority rights NGOs, which is higher than the country average and close to the results of Imereti (85.5%), for whose inhabitants national minority rights might appear less relevant. This might be partly due to the fact that NGOs established by national minorities do not substantially focus on the protection of minority rights - like most NGOs in Georgia they prioritize social-economic and charity issues<sup>35</sup> - and general human rights NGOs working among other topics on national minorities are not widely known in remote regions. This trend is nuanced by the fact that when asked about “governmental agencies” in charge of minority rights, a small number of respondents mention some human rights NGOs such as the Liberty Institute (5.2% of respondents aware of such organizations country-wide, none in the regions populated by minorities) or the Young Lawyers Association (8.2%, none in the regions populated by minorities). In the regions populated by national minorities, respondents cite predominantly national minority movements: Javakh in Samtskhe-Javakheti with 52.9% of respondents aware of such organizations and Human Relations Committee in Kvemo Kartli with 54.3% of respondents aware of such organizations.<sup>36</sup> This data also shows that people confuse government agencies and civil society constituencies.

In the rare occurrences where respondents had interaction with NGOs (4.4% of interviewees did country-wide), it is mainly with human rights organizations (32% of those 4.4%), community development organizations (26%) or NGOs engaged in social or political issues (25%). Although it is difficult to draw general trends from those few cases, one may note that in most occurrences this interaction concerned the facilitation by NGOs of decision making at town level or on community issues: respondents rarely addressed NGOs themselves to defend minority rights. In this context, it should be noted that NGOs established by national minorities are institutionally and financially weak, as noted by the participants of focus groups.

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35 Development of Civil Society Organizations of Georgia, Research Report, UN Association of Georgia, the Center for Strategic Researches and Development, Citizens Advocate! Program, Tbilisi, 2005

36 The sample for this survey is statistically representative for the country-wide data and for the data on Kvemo Kartli and Samtskhe-Javakheti only. The data on Tbilisi is reliable with higher margin of error. Data on Imereti, and other regions of Georgia is indicative only, due to small sample size.

# III – Access to Public Administration

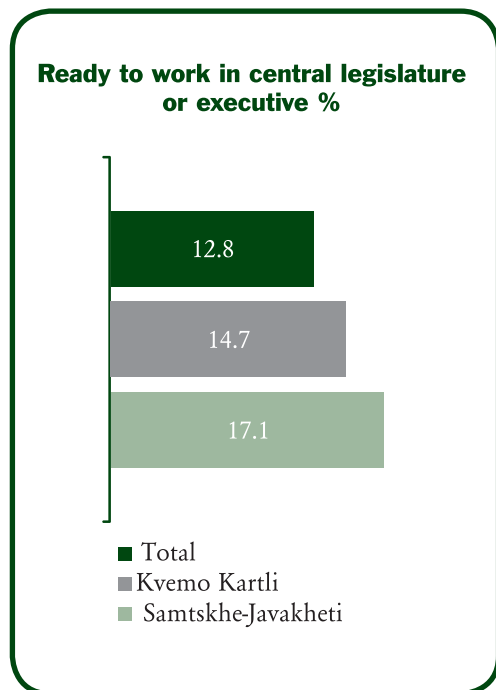
## 1. Representation of National Minorities in the Public Sector

### Legal Framework and Possible Shortfalls

The Georgian legislative framework does not include specific provisions – such as quotas on representation by ethnicity or special career advancement schemes for persons belonging to national minorities – facilitating the access of persons belonging to national minorities to employment in state administration or local governance. Therefore, from the legal point of view, persons belonging to national minorities compete for employment in public administrations under the same terms as the rest of the population.

According to Article 14 of the General Administrative Code “the language of administrative proceedings is Georgian, as well as Abkhaz language in Abkhazia.”<sup>1</sup> This provision applies to all posts in state and local administration. Article 9 of the Law of Georgia on Local Self Governance stipulates that “Georgian is the official working language of local governance as well as Abkhaz language on the territory of Abkhazia”. This provision applies to all posts in local self governance administration.<sup>2</sup>

The recruitment procedures for civil servants are regulated by the Law of Georgia on Public Service.<sup>3</sup> According to Article 15 of this Law, a citizen of Georgia who has relevant education and experience, is at least 21 years old and knows the official language can become a public official. Article 21 of the same Law provides that civil servants should be either appointed or elected. Article 30 regulates appointment of civil servants without competitive recruitment procedure: such procedure applies to civil servants appointed by the President or the Parliament, to Deputy Ministers and Ministers’ Advisers, to temporary replacements, to internal promotions and to appointees from the reserve civil service. According to Article 31, other appointments are subject to competitive recruitment with a two-week advertisement of the vacancy. An appointment commission decides on the selection of a candidate at the earliest three weeks after publication of the vacancy. Article 33 obliges the commission to screen the candidates in view of the competencies required by the vacancy screening in consultation, where relevant, with the appointing authority. Article 34 regulates the submission of the commission of the recommendation for the appointing authority. Pending submission of the relevant documents by the recommended candidate, the appointing authority confirms the recommendation of the commission and appoints the new incumbent.

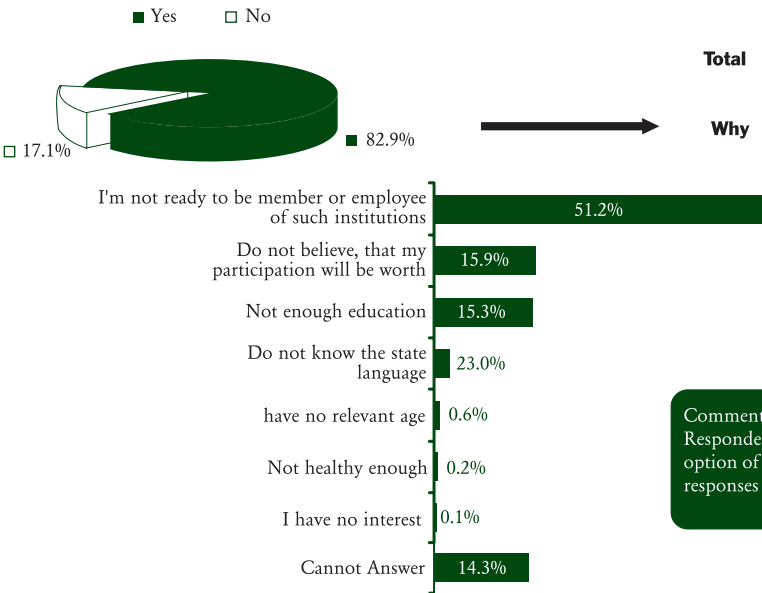


1 General Administrative Code of Georgia, No. 2181/IIS, 25 June 1999

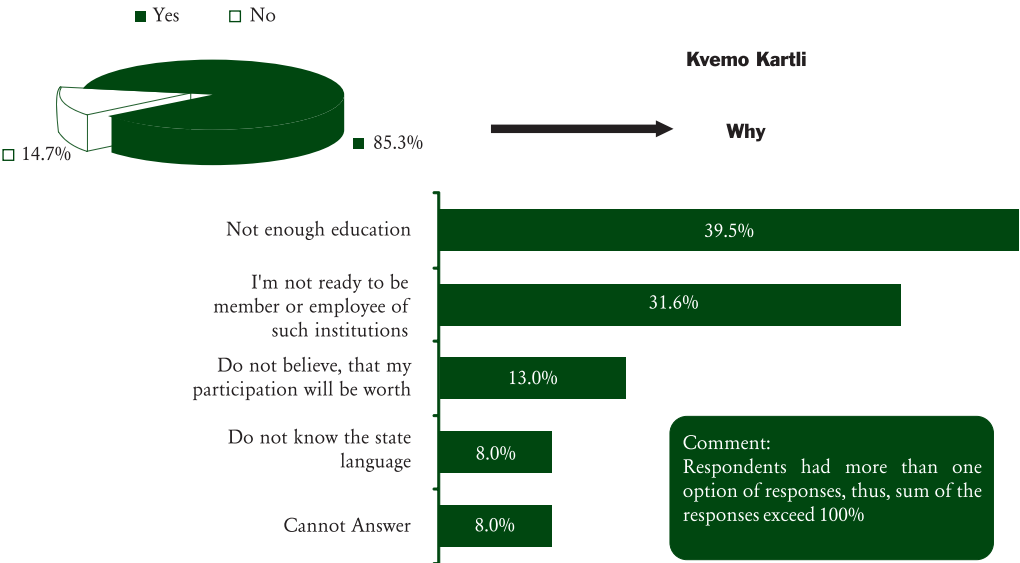
2 Organic Law of Georgia on Local Self Governance, No 2304/RS, 16 December 2005

3 Law on Public Service No 1022/1S, 31 October 1997, available online at <[http://www.parliament.ge/index.php?lang\\_id=GEO&sec\\_id=69&kan\\_det=det&kan\\_id=116](http://www.parliament.ge/index.php?lang_id=GEO&sec_id=69&kan_det=det&kan_id=116)> accessed on 7 July 2007.

**graph 83: Are you ready to get involved in the work and activities of the executive (be member) and legislative governments (be employees)?**



**graph 85: Are you ready to get involved in the work and activities of the executive (be member) and legislative governments (be employees)?**

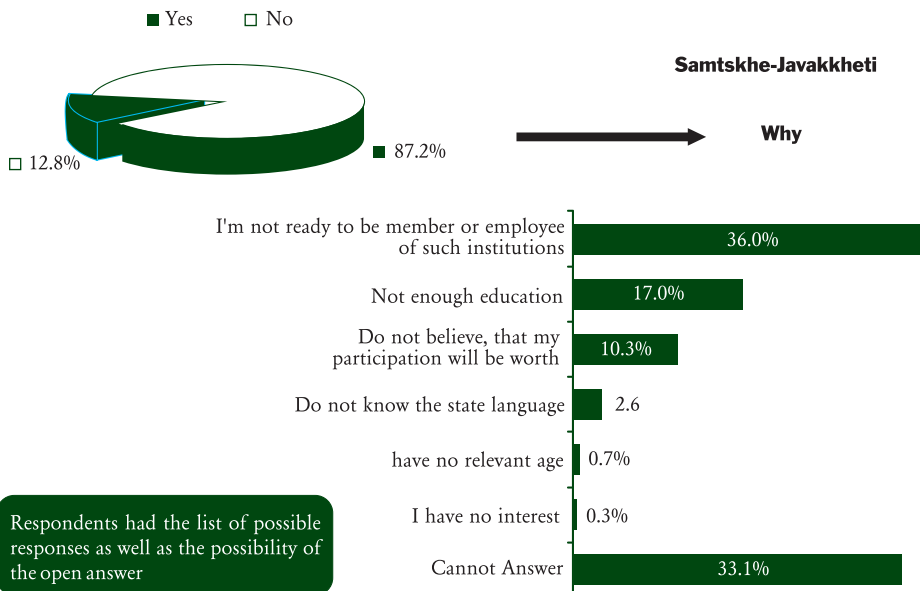


It derives that the appointing authority cannot deviate from the commission's recommendation. However the Law on Public Service does not regulate the composition or nomination of the appointment commission. In practice, it is possible that in certain cases the requirement for the commission to consult the appointing authority might equal an effective right of veto of this authority. Article 19 enables heads of agencies or supervisors to set job requirements additional to those provided by the law, within the framework of the law, which might in certain cases offer avenues for requirements which indirectly discriminate persons belonging to national minorities (such as requirements to reside in certain areas). No cases of such nature were confirmed first-hand or through focus group meetings during this survey. Finally this Law does not contain any anti-discrimination provisions regarding recruitment procedures.

who are employed in various state or local level administrations. However, participants to the focus group meetings have highlighted the considerable level of employment of persons belonging to national minorities in Kvemo Kartli and Samtskhe-Javakheti in local self-governance, especially in the districts mainly populated by the national minorities.

Among those respondents who are employed, the proportion of civil servants is almost identical in Samtskhe-Javakheti (11.7%) and country-wide (11.4%). This figure is slightly lower in Kvemo Kartli (8.4%), but as a difference is within a margin of standard statistical error, it is difficult to assess whether it is related to difficult access to such employment in Kvemo Kartli, or to relatively smaller size of administrations as employers in this region.

**graph 86: Are you ready to get involved in the work and activities of the executive (be member) and legislative governments (be employees)?**



As a word of caution, it has to be noted that the Law on Public Service, especially in its parts related to recruitment is not effectively enforced, especially in the provinces.

### Representation

Currently, there is no data on the proportion of persons belonging to national minorities

There is little information available on the actual intentions and attempts of persons belonging to national minorities to seek employment in administrative structures. At the local level, such data is not currently available. At the state level, the wish to join the executive or of the legislature, seems slightly lower in Samtskhe-Javakheti (12.8% respondents indicate readiness) and Kvemo Kartli (14.7%) than country-wide

(17.1%). This data concerns civil service in general, including also ministerial positions, which might affect the applicability of the results.

## Language

The above-mentioned legal requirements related to language might pose an objective obstacle for persons belonging to national minorities who do not speak Georgian to access employment in state or local level public administration.

The ability of persons belonging to national minorities to speak Georgian varies a lot depending on the region. In Tbilisi, only 5.8% of the respondents belonging to national minorities state they do not speak Georgian. In Imereti, which is a region almost exclusively populated by ethnic Georgians, the 1.5% who belong to national minorities all stated that they speak Georgian. On the contrary in Samtskhe-Javakheti and in Kvemo Kartli, respectively 75.4% and 83.1% of the inhabitants who belong to national minorities say they do not speak the state language. Therefore, persons belonging to national minorities mainly do speak Georgian in the capital or in regions where they are a small minority. In these areas, the language issues might not constitute a significant obstacle to their access to employment in public administration. In the regions mainly populated by national minorities, language barriers could be a deterrent.

However it should be noted that at the local level in the areas mainly populated by national minorities, the use of minority languages in administrations is very frequent in practice, which might mitigate such obstacle: in Kvemo Kartli, 26.6% of respondents say they use Azeri language when speaking with local officials. In Samtskhe-Javakheti, 29.5% respondents speak Armenian with local officials. These figures drop to 8.5% and 20.7% respectively when it comes to written communication. The participants to the focus groups confirmed that minority languages are often used in the work of local administrations. Such adjustment, although not in compliance with the law, are allowed by the competent ministries, bearing in mind the specific situation of those regions. Still, the majority of respondents state they use Georgian as a language of interaction with local administrations, both orally (89.6% country-wide, 47.9% in Kvemo Kartli and 51.8% in Samtskhe-Javakheti) and in written (respectively 91.2%, 67% and 66.9%). Georgian language

thus remains a very important requirement to perform as a civil servant. The correspondence with the central authorities is done in official language and where necessary, the local councils use professional translation, which affects efficient use of administration's time and resources.

Regarding local level administration the example of Kvemo Kartli shows that although minority languages are used to a certain extent in local public service, poor command of the state language is perceived as a strong obstacle to work as a local civil servant. In a study by the Caucasian Institute for Peace, Democracy and Development and the German Organization for Technical Cooperation (GTZ) in Kvemo Kartli, 68.8% of respondents considered inability to speak Georgian as a major obstacle to public employment (38.2% think skilled jobs are unavailable to those not speaking Georgian, and 30.6% think those who do not speak Georgian may lose their job). The figures are even higher when disaggregating respondents belonging to national minorities: 39.3% Azeri and 39.7% Armenian respondents consider skilled jobs unavailable to those not speaking Georgian, and 35.2% Azeri and 34.5% Armenian respondents think employees who do not speak Georgian may lose their job.<sup>4</sup>

Among those who are not ready to engage in state level executive or legislative agencies, the deficiency in Georgian language is rarely quoted as the reason (2.3% country-wide). In Samtskhe-Javakheti this figure is almost identical (2.6%), while in Kvemo Kartli it is clearly higher (8%). Still, in all cases language issues do not seem to be the main deterrent to involvement in state level public structures. Most respondents in Samtskhe-Javakheti (36%) and country-wide (51.2%) simply state they are “not ready” to engage in such structures, without citing a specific reason. Although not the majority, similar responses are also given in Kvemo Kartli (31.6%). This might indicate that, rather than poor command of the state language, reasons for not seeking employment in state structures are connected to self-perception as not being fit for such jobs (15.9% country-wide believe their participation would not be worthy) or to reluctance to settle in the capital for respondents living in the regions, or simply to reluctance to answer the question directly.

<sup>4</sup> German Organization for Technical Cooperation and Caucasus Institute for Peace, Democracy and Development, Conflict Potential Related to the Problems of Language and Education in Georgia's Kvemo Kartli Province, 2006, p.4

## Social Rights

The right to social assistance is enshrined in Article 14 of the European Social Charter, to which Georgia is party.<sup>5</sup>

According to article 38 of the Constitution of Georgia, citizens of Georgia shall be equal in social, economic, cultural and political life irrespective of their national, ethnic, religious or linguistic belonging.

Social assistance is regulated by the Law on Social Assistance, which does not contain an anti-discrimination provision but merely stipulates (Article 2) that social assistance is provided to legal residents of Georgia.<sup>6</sup> Article 5 of this Law further states that social assistance consists of support provided by the state based upon demonstrated need, however it is not an unconditional legally guaranteed right. The selection of social assistance beneficiaries basically applies means testing; this method gives social workers the difficult and subjective task to evaluate if the means of applicants are so inferior to their needs that they require social assistance – which leaves social workers with a wide margin of appreciation. In this social workers are guided by a number of criteria. As resources are scarce and social assistance is defined by Article 2 as “last resort” assistance, it is reasonable to assume that selection is operated quite strictly. Nevertheless in this context, without explicit ban on discrimination the Law leaves room for possible ethnic considerations to influence social workers in their obligation to strictly select beneficiaries.

There is no data regarding equal access to social services by persons belonging to national minorities, however among the few respondents who, in the regions populated by national minorities, considered that their rights had been abused, none cited access to social assistance or other social services. The field of equal access to social assistance by persons belonging to national minorities thus remains to be explored and assessed.

Recourse to social services in relation to unemployment seems to be scarce: those respon-

dents who are unemployed rarely state they addressed the public employment agency, and this tendency is not limited to national minorities (6.7% nationally, 9.2% in Kvemo Kartli, 5.7% in Samtskhe-Javakheti). Although the small number of cases does not allow statistical conclusions, this trend might be due to the inability of this agency to address unemployment rather than to the difficulty of access: a wide majority of those who addressed an employment agency have done it to no avail (54 out of 65 respondents country-wide, 13 out of 14 respondents in Kvemo Kartli, 4 out of 6 respondents in Samtskhe-Javakheti).

The right to the highest attainable standards of health, with ensuing obligations for the state parties, is enshrined in the European Social Charter, Article 11.<sup>7</sup> Bilateral agreements were also concluded in this field with Azerbaijan.<sup>8</sup> Patients' rights and access to health are regulated by the Georgian Law on Health Protection.<sup>9</sup> Article 6.1 of this Law prohibits “*discrimination in provision of health services based on race, color, race, gender, language, religion, political and other opinions, national, ethnic and social belonging, descent, property or other status, place of residence, sort of illness, sexual orientation or personal dislike*”. According to Article 6.2, “*Discrimination of patients convicted or in detention is prohibited*”. Article 7 rules that “*every citizen of Georgia has a right to receive full and objective information or seek second opinion on his or her state of health in a form understandable for him/her*”. This provision bears special relevance regarding the rights of patients belonging to national minorities, as it implies that such patients have a right to receive full information on their state of health in their own language (“*in a form understandable for him/her*”). The only exception to that rule is regulated by Article 41, which prescribes that such information may not be communicated to the patient in case this information may harm him/her.

The Office of the Public Defender possesses a Centre for Patients' Rights. Medical service is

<sup>5</sup> Georgia signed the European Social Charter on 30 June 2000 and ratified it on 22 August 2000.

<sup>6</sup> Law on Social Assistance, No 489/RS, 29 December 2006, Article 2: “This Law covers permanent legal residing in Georgia with special needs, are impoverished families, or are homeless – unless otherwise specified by this Law.”

<sup>7</sup> In its Declaration attached to the instrument of ratification of the European Social Charter, Georgia selected among others Article 11, to be bound by it under Part III, Paragraph 1.c of the Charter.

<sup>8</sup> Agreement on *Cooperation on Social Security Matters between the Ministry of Healthcare and Social Security of Georgia and the Ministry for Labour and Social Security of Population of the Republic of Azerbaijan* of 22 March 2000; *Agreement between the Republic of Georgia and Republic of Azerbaijan on Cooperation in Healthcare Matters* of 3 February 1993

<sup>9</sup> Law on Health Protection, No 1139/IS, 10 December 1997



paid by the patient. The State provides medical aid for the citizens only within the state programs which finance solely urgent operations whose postponement may lead to lethal results, disability or significant aggravation of state of health. The state also provides health insurance for people living below the poverty line. In particular, the State defrays those expenses which are not covered by the ongoing healthcare programs.

The Georgian legal framework does not oblige health institutions to pay specific attention to persons belonging to national minorities in view of their particular vulnerability.<sup>10</sup> Protection schemes are minimal, and it is legitimate to examine whether persons belonging to national minorities have in any way lower access to health. The percentage of respondents who say that, during the last six months, they had a need to visit a doctor but could not stands higher in Samtskhe-Javakheti (11.8%) and Kvemo Kartli (17.2%) than country-wide (7.6%). In all cases, an immense majority of those who did not visit a doctor despite the need invoke inability to afford the costs (87.6% country-wide, 93.6% in Samtskhe-Javakheti and 91.5% in Kvemo Kartli). This might denote that medical care is less affordable to residents of the regions mainly populated by national minorities.

Samtskhe-Javakheti has the highest rate of respondents (8%) claiming that they could not visit a doctor because there is no medical facility close enough to be accessible to them. None of the respondents invoked this reason in Kvemo Kartli. Interestingly, when medical facilities were visited, it was mainly for medicine in Samtskhe-Javakheti (29.8%) and Kvemo Kartli (45.2%), while country-wide those who visited a doctor mainly did it for a consultation. Such behavior might reveal that medical facilities are mostly used to cure long-term diseases rather than for routine health care, though further field assessment and comparison with other regions would be necessary to confirm this hypothesis.

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<sup>10</sup> This principle is enshrined in the General Interpretative Comment No. 14 on Article 12 of the International Covenant for Economic, Social and Cultural Rights, to which Georgia is party as per ratification on 03 May 1994.

# IV – Access to Justice

## 1. Access to Judicial Institutions

### Legal Framework

The judiciary system is defined in Chapter Five (Articles 83 to 90) of the Constitution of Georgia, as well as in the Law on Common Courts<sup>1</sup> and the Law on Supreme Court of Georgia.

The constitutionality of the legislation is verified by the Constitutional Court.<sup>2</sup> It is thus for the Constitutional Court to verify whether a new legislative act respects human rights law and the international treaties to which Georgia is a party (including for instance the FCNM) in the context of Articles 6 and 7 of the Constitution.<sup>3</sup> The Constitutional Court also determines the constitutionality of international treaties and agreements in the sense of Article 6 of the Constitution. The Constitutional Court further examines, on the basis of a constitutionality claim deposited by a citizen, the constitutionality of normative acts in the sense of Article 2 of the Constitution regarding the territorial integrity of Georgia and local governance.<sup>4</sup> All these issues are of particular

relevance to national minorities, as they touch upon the protection by the state of their internationally recognized rights, the accession by Georgia to new international instruments of national minority rights protection (such as the European Charter for Regional or Minority Languages), and all issues related to political or cultural autonomy. In the field of national minority law making, the Constitutional Court thus has a major role to play, and should be considered as a most relevant actor.

The administration of justice in the courts of general jurisdiction is supervised by the Supreme Court of Georgia.<sup>5</sup>

The independence of the judiciary and judges is protected by law and any infringement thereof is punishable under the law. The Georgian judicial system is adversarial and exercised on the basis of equality of parties.<sup>6</sup> Common courts consist of three branches: first, regional (town) courts hear the cases and reach decisions; second, appeal courts (Tbilisi and Kutaisi Appeals Courts, Supreme Appellate Courts of Adjarian and Abkhazian Autonomous Republics) may hear appeals from the first branch. Third, the

1 Organic Law of Georgia on Common Courts, 767/2S, 13 June 1997

2 Constitution of Georgia, Articles 88 and 89

3 Constitution of Georgia, Article 6 as amended by the Constitutional Law of Georgia of 30 March 2001 reads *“The legislation of Georgia shall correspond to universally recognized principles and rules of international law. An international treaty or agreement to which Georgia is party shall take precedence over domestic normative acts.”* Article 7 reads *“The state shall recognize and protect universally recognized human rights and freedoms as eternal and supreme human values. While exercising authority, the people and the state shall be bound by these rights and freedoms as directly acting law.”*

4 Constitution of Georgia, Article 2 as amended by the Constitutional Law of Georgia of 06 February 2004 reads: *“1. The territory of the state of Georgia shall be determined as of 21 December 1991. The territorial integrity of Georgia and the inviolability of the state borders, being recognized by the world community of nations and international organizations, shall be confirmed by the Constitution and laws of Georgia. 2. The alienation of the territory of Georgia shall be prohibited. The state borders shall be changed only by*

*a bilateral agreement concluded with a neighboring state. 3. The territorial state structure of Georgia shall be determined by a Constitutional Law on the basis of the principle of circumscription of authorization after the complete restoration of the jurisdiction of Georgia over the whole territory of the country. 4. The citizens of Georgia shall regulate the matters of local relevance through local self-government without prejudice to the state sovereignty. The office of the superiors of the executive bodies and a representative office of local self-government shall be elected. The procedure of creation of the bodies of local self-government, their authority and relations with state bodies shall be determined by an Organic Law.”* This later aspects appears particularly relevant to the possible administrative arrangements as evoked in II.1. Elected Bodies.

5 Constitution of Georgia, Article 90

6 Constitution of Georgia, Article 85.3; Organic Law of Georgia on Common Court, Article 6.2



Supreme Court is the final branch and may pronounce cassation. During martial laws, court martial may be instituted within the system of common courts pursuant to the Constitution of Georgia. The formation of an extraordinary or special court is prohibited.<sup>7</sup>

Article 42 of the Constitution secures the right to apply to a court for the protection of one's rights and freedoms and the right to defense in the court.

From Article 14 of the Constitution establishing the principle of equality before the law derives the principle of equal access to justice by all citizens of Georgia. According to Article 6.1 of the Law on Common Courts, justice is carried out based on equality of all parties to the case before the law and the court. The principle of equality of citizens is also recognized by article 9 of the Criminal Procedure Code of Georgia<sup>8</sup>, which reads, “Everyone shall be equal before the law and enjoy equal protection under the law without any discrimination. The bodies of criminal procedure shall comply with the universally recognized standards of human rights and shall not discriminate against any person on the grounds of sex, race, color, language, religion or faith, political or other beliefs, national, ethnic or social origin, property status, birth or any other grounds.”

Legally speaking, there is no provision which would directly hamper access to justice by persons belonging to national minorities. On the contrary, the principle of equality before the law and the proceeding principle of equality before the court are proclaimed in various instruments. However, it should be noted that none of the above-mentioned acts contains a provision specifically prohibiting discrimination, or encourages special attention to the respect and protection of the rights of persons belonging to national minorities in view, for instance, of their particular vulnerability.

This lacuna is partially remedied by the Code of Ethics of the Office of the Prosecutor. The Code of Ethics imposes certain standards of conduct on the entire staff of the Prosecutor's Offices with a view to:

- establish higher standards of conduct to support the process of strengthening the responsibility of the officers and establishing those principles;
- enhance the exercise of just, effective, impartial and professional criminal prosecution;

tion; to improve unconditional and effective enforcement of justice; to enhance unconditional observance of the law by the officers of the Office of Prosecutor;

- protect human rights in accordance with universally recognized standards.

The Code of Ethics pays particular attention to the prohibition of discrimination. In accordance with Article 5 of this Code, officers shall facilitate the process of elimination of all forms of discrimination.

## Language

Article 85.2 of the Constitution of Georgia provides: “Legal proceedings shall be conducted in the state language. An individual not having command of the state language shall be provided with an interpreter. In the districts where the population does not have command of the state language, teaching of the state language and solution of the issues related to the legal proceedings shall be ensured.”

According to the Criminal Procedure Code, an accused, suspect or other party to the procedure who does not understand the State language shall be assigned an interpreter. The interpreter fees shall be paid from the State budget (Articles 17 and 94 of the Criminal Procedure Code).<sup>9</sup> In accordance with Article 297 of the Criminal Procedure Code of Georgia, if the investigator determines that the interrogated person cannot understand the language of the proceedings, the suspect or accused shall be provided with an interpreter. Pursuant to Article 17, and in accordance with the requirements of the law, all the investigation and court documents shall also be translated into the language understandable by this person. Interpretation is also guaranteed by the Civil Procedures Code of Georgia and the payment of interpretation fees shall be covered by the losing party (Articles 9.4 and 53.1).<sup>10</sup> The Civil Procedure Code authorizes the court to exempt a party to a procedure from judicial expenses, to reduce these fees or to postpone their payment in case of verified need.<sup>11</sup>

According to Article 21 of the Law on Imprisonment, upon arrival of the convict at the penitentiary institution the administrative personnel shall inform him/her in writing and in a language s/he understands about his/her

<sup>7</sup> Constitution of Georgia, Article 83

<sup>8</sup> Criminal Code of Georgia No 1257, 20 February 1999

<sup>9</sup> Criminal Procedure Code of Georgia, No 1257, 20 February 1998

<sup>10</sup> Civil Procedure Code of Georgia, No 1106, 14 November 1997

<sup>11</sup> Civil Procedure Code of Georgia, Articles 47 and 48

rights and his/her treatment by the personnel, as well as about the procedures of receipt of information, appeal, disciplinary actions and like information.<sup>12</sup> The law makes the penitentiary institution responsible for creating conditions for a person who does not understand the state language, to learn it. It should be noted that in the penitentiary institution No.2 of Kutaisi, Georgian language is taught to the persons belonging to national minorities by social workers.

## Access and Trust

The immense majority of respondents to the survey (95.9% country-wide) declare having had no communication with the judicial system during the past year. This rate is even higher in Kvemo Kartli (99%) and Samtskhe-Javakheti (97.8%). Out of the few respondents who communicated with the judicial during the past year, the largest part did it in civil or criminal

Trust towards the police is higher, reaching 2.8 to 3 points confidence with lower percentage of respondents unable to answer the question (16.6% country-wide, 15.9% in Kvemo Kartli and 27.6% in Samtskhe-Javakheti)

## Representation of National Minorities in the Judicial and Law Enforcement System

The Georgian legislation does not foresee any means to promote the representation, in the judicial system or in law enforcement agencies, of persons belonging to national minorities. Article 86 of the Constitution for instance, which determines the basic conditions for appointment of judges, does not tackle this issue and does not bear anti-discrimination clauses. The same remark applies to the appointment of Constitutional Court members (Article 88). Article 46.1 of the Law on Common Courts

Ethnicity	Armenian	Azeri	Russian	Greek	Kurd/Yezdi	Ossetian	Ukrainian	Jew	Assyrian	Abkhaz	Other
No of staff	518	224	176	90	61	60	26	12	6	6	22
% if the total	1.6	0.7	0.6	0.3	0.2	0.2	0.08	0.03	0.01	0.01	0.07

cases, and mainly as victim. When asked how they trust the judicial system, many respondents in the regions populated by minorities consider themselves unable to reply (47.6% in Samtskhe-Javakheti and 18% in Kvemo Kartli). Those who assess their trust towards judicial institutions tend to give higher scores (2.8 points on a four points scale in Kvemo Kartli, 2.9 points in Samtskhe-Javakheti) than the national average (2.5 points). The figures are quite similar for the Prosecutor's office, with slightly less respondents unable to answer. This relatively poor level of trust towards judicial institutions is corroborated by the statistics of the Public Defender's Office: during the period 2003-2005 a great majority of cases brought to the Public Defender concerned criminal proceedings, and the number of such cases kept growing over the period (516 cases in 2003, 578 in 2004 and 984 in 2005).<sup>13</sup>

rules that Georgian citizens of at least 30 years old having higher legal education, experience in legal profession of at least 5 years, speaking the state language and having passed the qualification examination may become judges.

The number of persons belonging to national minorities who work in the Georgian law enforcement and the judiciary is small. For instance out of 261 judges only 6 (2.5%) belong to national minorities, although two of them work at the Supreme Court of Georgia, wielding high-level national influence. More information is available regarding national minority staffing in law enforcement agencies.<sup>14</sup> 4% (1222 employees) of the Ministry of Interior staff belongs to national minorities, which is far behind the estimated percentage of persons belonging to national minorities in the population of the country (16% according to the 2002 census). These employees are dispatched between administrative functions (552 national minority employees in the Ministry's General

<sup>12</sup> Law of Georgia on Imprisonment, No. 2263/RS, 22 July 1999

<sup>13</sup> Please see below IV.2 Access to Redress in Cases of Violation of National Minority Rights

<sup>14</sup> Letter of the Ministry of Interior to the State Minister for Civil Integration in view of the preparation of the First Cycle Report of Georgia on the FCNM, 13 March 2007

Administration, Ministry Departments and Ministry's Regional Offices) and law enforcement or field functions (670 national minority staff in the Border Police, the Police Academy, the Ministry of Justice Healthcare Services, the Protection Police Department, the Forest Patrols). The table below presents the number and percentage of employees belonging to national minorities in the Ministry of Interior.

The GTZ-Caucasus Institute for Peace, Democracy and Development's study on Kvemo Kartli notes that *"Azeri citizens are especially unhappy with the fact that law-enforcement structures are 'almost entirely staffed with ethnic Georgians'"*.<sup>15</sup>

According to the Ministry of Interior the major deterrent to employ persons belonging to national minority in law enforcement agencies indeed remains poor command of the state language.<sup>16</sup> In the Police Academy, efforts are currently being made to enroll persons belonging to national minorities. However, there are no specific measures to facilitate their passing the entrance examination, or to entice persons belonging to national minorities to take the enrolment examination. In 2006, out of 2200 applicants to the Police Academy tests, only 67 (3%) belonged to national minorities. Out of 557 applicants who passed the written tests 20 belonged to national minorities (3.5%). Out of 260 applicants enrolled after having passed the oral test 11 (4.2%) belonged to national minorities. Therefore, the percentage of national minority applicants increases at every step of the enrolment procedure, which might show a particular attention paid by the Police Academy. However the original number of minority applicants remains extremely low, which might reveal a need to promote enrolment in the police forces in areas populated by national minorities through information campaign in the schools and the general population.

15 German Organization for Technical Cooperation and Caucasus Institute for Peace, Democracy and Development, *Conflict Potential Related to the Problems of Language and Education in Georgia's Kvemo Kartli Province*, 2006 p. 7

16 Letter of the Ministry of Interior to the State Minister for Civil Integration in view of the preparation of the First Cycle Report of Georgia on the FCNM, 13 March 2007

## 2. Access to Redress in Cases of Violation of National Minorities Rights

### Redress Available before Judicial Institutions

As examined earlier, the domestic legal framework on national minority rights is scarce, and Georgia mainly relies on international treaties to have this sphere regulated.<sup>17</sup> It seems however relevant to analyze if and how, in case of violations, persons belonging to national minorities can seek redress. This analysis particularly concentrates on protection against discrimination and hate speech: in those areas, the domestic legislation indeed presents certain specificities, and the corresponding redress mechanisms are often considered the first and most evident steps in achieving equality.<sup>18</sup>

In the field of anti-discrimination, Georgia is party to relevant international instruments:

- FCNM<sup>19</sup>
- European Charter for the Protection of Human Rights and Fundamental Freedoms which prohibits discrimination in the access to the rights provided for by the Convention<sup>20</sup> and its Protocol 12 which extends prohibition of discrimination to any rights foreseen by domestic law<sup>21</sup>

17 Please see above I.3 *Legislative Overview*

18 Kristin HENRARD, *The Impact of International Non-Discrimination Norms in combination with general Human Rights for the Protection of National Minorities: Several United Nations Human Rights Conventions*; Kristin HENRARD, *The Impact of International Non-Discrimination Norms in combination with general Human Rights for the Protection of National Minorities: The European Convention on Human Rights*; Rainer HOFMANN *The Impact of International Norms on the Protection of National Minorities in Europe, The added Value and essential Role of the Framework Convention for the Protection of National Minorities*

19 Georgia signed the Council of Europe Framework Convention for the Protection of National Minorities on 21 January 2000 and ratified it on 22 December 2005

20 Georgia signed the European Charter for the Protection of Human Rights and Fundamental Freedoms on 27 April 1999 and ratified it on 20 May 1999

21 Protocol 12 to the European Charter for the Protec-

- International Covenant on Civil and Political Rights<sup>22</sup>
- International Covenant on Economic, Social and Cultural Rights<sup>23</sup>
- United Nations Convention on the Elimination of All Forms of Racial Discrimination<sup>24</sup>

In the field of hate speech, Georgia is party to the following international instruments:

- International Covenant for Civil and Political Rights<sup>25</sup>
- UN Convention on Elimination of All Forms of Racial Discrimination<sup>26</sup>

tion of Human Rights and Fundamental Freedoms, signed by Georgia on 04 November 2000 and ratified on 15 June 2001, Article 1 – General prohibition of discrimination: “1 The enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. 2 No one shall be discriminated against by any public authority on any ground such as those mentioned in paragraph 1.”

- 22 Georgia ratified the International Covenant on Civil and Political Rights on 03 August 1994. Article 2.1 reads: “Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” Article 4.1 reads: “In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin”
- 23 Georgia ratified the International Covenant on Economic, Social and Cultural Rights on 03 May 1994. Article 2.2 reads: “The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”
- 24 Georgia ratified the UN Convention on the Elimination of All Forms of Racial Discrimination on 22 June 1999
- 25 International Covenant for Civil and Political Rights, Article 20.2: “Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, shall be prohibited by law”.
- 26 Article 4 reads: “States Parties condemn all propaganda and all organizations which are based on ideas

In view of Article 6 of the Constitution, these international instruments take precedence over domestic law, and are therefore directly applicable in court cases unless declared unconstitutional by the Constitutional Court. However Georgian legislation does not contain any all-encompassing law on national minorities, anti-discrimination or hate speech. It should be noted that in international “soft jurisprudence”, numerous states have been blamed for the absence of “a comprehensive body of legislation aimed at combating discrimination”, or of “comprehensive anti-discrimination legislation”.<sup>27</sup> Due consideration should be paid to these guidelines in the future law and policy making processes in connection with national minorities.

Article 14 of the Constitution proclaiming equality before the law constitutes the highest level provision against discrimination in Georgian legislation. In addition the Criminal Code of Georgia criminalizes violation of equality of humans due to their race, color of skin, social belonging, national or ethnic belonging that has substantially prejudiced human rights (Articles 142,143). Article 142.2 of the Criminal Code particularly refers to violation of equality by public officials. These provisions however do not explicitly condemn discrimination as such, and moreover do not define it – hence the relevance of international law in court cases

or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, inter alia:

- (a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;
  - (b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;
  - (c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination”
- 27 Committee of Experts of the Council of Europe Relating to the Protection of National Minorities, *Compilation of First and Second Cycle Opinions of the Advisory Committee Relating to the Article 4 of the FCNM*, Strasbourg, 15 February 2006. See for instance opinions on Albania and Bosnia and Herzegovina



related to discrimination. In international “soft jurisprudence” several states presenting similar characteristics were criticized for not having developed “*detailed legislation against discrimination*” or for the lack of “*detailed and comprehensive civil and/or administrative law provisions pertaining to ethnic discrimination in certain key fields*”.<sup>28</sup>

Article 19 of the Constitution secures freedom of speech (Article 19.1), however freedom of speech may be limited in case it “*infringes upon the rights of others*” (Article 19.3). Such limitation may apply to hate speech in the sense of Article 4 of the International Covenant for Civil and Political Rights, or in the sense of Article 20.2 of the UN Convention for the Elimination of All Forms of Racial Discrimination, as the rights secured by those international treaties are directly applicable in domestic law pursuant Article 6 of the Constitution. In addition civil and political organizations are prohibited from activities provoking national, local, religious, social animosity (Article 26 of the Constitution).

Although not directly relevant to discrimination and hate speech, certain articles of the Criminal Code are worth mentioning, as they define ethnic, racial or religious motives as aggravating circumstances to certain crimes: murder (Article 109), intentional damage to health (Article 117), torture (Article 126), disrespect to the deceased (Article 258).

In conclusion, the domestic legal framework on discrimination or hate speech, as well as on national minority rights in general is scarce, and international treaties are a major source of law for the courts when seized with such cases. In this context, Article 6 of the Constitution may prove a useful tool to address violations of the rights of persons belonging to national minorities until a more comprehensive legal framework (anti-discrimination and/or national minority law/s) is adopted. Meanwhile, awareness in judicial institutions of the nature of national minority rights, anti-discrimination and anti-hate speech as defined under international law will be crucial to the protection of those rights. In this sense the training centre of the Office of the Prosecutor, which conducts training programs on national minority rights protection, is an important first step ahead.

The fact that the international instruments are the main source of law in this domain cer-

tainly does not ease access of persons belonging to national minorities to information on their rights, nor their capacity to demand those rights. In this context, access to redress in cases of violation of national minority rights is de facto extremely reduced.<sup>29</sup> As noted above the level of awareness on national minority rights is rather low, which in all likelihood determines rareness of alleged violation cases reported by the respondents of the survey. Few of them considered that that their national minority rights were violated (5.9% in total), especially in Samskhe-Javakheti (0.2%) and Kvemo-Kartli (2.2%). Out of these few case, only 11% respondents addressed the court (out of which, only one case in Kvemo Kartli, and no case in Samtskhe-Javakheti).

### The Public Defender: an Extra-Judicial Redress Mechanism

A major extra-judiciary institution enabling persons belonging to national minorities to seek redress is the Office of the Public Defender, established by Article 43 of the Constitution. The Law on the Public Defender<sup>30</sup> entrusts the Public Defender with supervising the protection of human rights and freedoms in Georgia, inquiring into cases of violations of human rights and freedoms and recommending corrective measures to the respective authorities of such violations (Article 3).

The Public Defender is elected for 5 years by the Parliament and is accountable before the Parliament of Georgia (Article 5). According to Article 4 of this Law, the Public Defender is independent in exercising his/her functions; any pressure on the Public Defender or interference with his/her activities is prohibited and punishable by law. Pursuant to Article 22 of the Organic Law, once every six months the Public Defender presents a report on the status of protection of human rights and freedoms.

Articles 12 and 18 to 20 equip the Public Defender with a broad range of investigation means and allow this Office to access to a wide array of information sources. According to Article 21 upon completion of the investigation the Public Defender may issue legislative proposals to the Parliament, recommendations to the relevant public authorities, refer the case to the competent court, or request the review of an earlier court decision from the relevant court. The same article enables the Public De-

28 Committee of Experts of the Council of Europe Relating to the Protection of National Minorities, *ibid*, opinions on Azerbaijan and Croatia

29 Please see I.4 *Domestic Legislation*

30 Organic Law on the Public Defender of Georgia, No. 230, 16 May 1996

fender to inform the media about suspected or asserted human rights violations and, in case of

Public Defender does not have regional representatives in the provinces mainly populated

### Number of Appeals to Public Defender per type, per year

Type of appeal	2003	2004	2005	2006
1. Discrimination against national Minorities	0	2	3	5
2. Restriction of Freedom of Religion	20	7	21	16
3. Requesting attendance of representative in court	65	25	-	-
4. Requesting personal meeting	31	16	-	-
5. Neighbor Conflict	7	7		
6. Children's Rights	23	19	10	9
7. Women's Rights	1	3	2	1
8. Banking-Financial Issues	6	12	10	4
9. Medical Issues	17	8	17	66
10. Educational and Cultural Issues	35	12	44	9
11. Land Disputes	17	13	32	16
12. Housing Problems	118	130	251	49
13. Labor Rights	104	126	162	97
14. Pensions and Social Assistance	109	77	113	37
15. Issues related to civil proceedings in court	82	47	121	55
16. Clemency applications	98	12	26	-
17. Military Service	8	8	18	-
18. Criminal Proceedings	516	578	984	-

massive violations of human rights, to appeal in writing to the President of Georgia or make a statement at the Parliamentary session. Legal centers and specialized centers for tolerance, protection of the child's rights and patients' rights perform under supervision of the Office of Public Defender.

The Public Defender initiates investigation based on individual claims or ex-officio (Article 12). Any citizen of Georgia may appeal to the Public Defender against any official body (Articles 13 and 14). Applications to the Public Defender are free of charge (Article 16). The latter provision increases access to the Public Defender. However a number of factors decrease access of persons belonging to national minorities to the Public Defender. Firstly, the

by national minorities.<sup>31</sup> Secondly, the survey respondents quote rather low level of awareness regarding public agencies charged with protection of national minority rights. Among the few respondents who stated being aware of such agencies (8.1% country-wide, 1.2% in Kvemo Kartli and 9.5% in Samtskhe-Javakheti), a significant proportion (38.3% country-wide, 25.7% in Kvemo Kartli) cited the Public Defender's Office - however this proportion drops to 7.7% in Samtskhe-Javakheti.<sup>32</sup> In addition, the low level of awareness about human rights in general and national minority rights in par-

31 Please see above II.2 *Consultation Mechanisms and Specialized Agencies*

32 Please see above II.2 *Consultation Mechanisms and Specialized Agencies*



ticular may not fully enable persons belonging to national minorities to identify the violations committed against their rights.

These factors can partially explain the low number of applications to Public Defender related to national minority rights: such as discrimination cases, restriction of freedom of religion or education and cultural issues: respectively 10, 64 and 78 cases during the period 2003-2006. Discrimination cases are studied by the Unit for Freedoms and Equality of the Investigation and Monitoring Department of the Office of the Public Defender. This Department is responsible for accepting appeals and applications; managing research and monitoring of the cases of alleged discrimination in the fields of civil, political, social and economic rights involving administrative, penitentiary and law enforcement authorities; preparing reports and developing recommendations for redress. The

number of alleged discrimination cases has increased during the period, from no case in 2003 to five cases in 2006. According to the representatives of the Public Defender's Office interviewed during the survey, these cases concern domestic, labor or other disputes, where the applicants feel that ethnic motivations has played a significant role.

According to the Public Defender's report on the "*Protection of Human Rights and Freedoms in Georgia*", which covers the second half of 2005, the rate of criminal activities against national minorities has not increased. A notable and concerning exception is the Greek population of the Tsalka district which has sustained a dramatic raise of criminal assaults within past years. All of cases of crimes allegedly motivated by ethnic hatred were finally assessed by the Public Defender as "classical criminal acts".

## B – SOCIAL - CULTURAL ASPECTS

### V. Social Interaction

#### 1. Legal framework

Article 34.1 of the Constitution stipulates that the state “shall promote the development of culture, the unrestricted participation of citizens in cultural life, expression and enrichment of cultural identity, recognition of national and common values and deepening of international cultural relations.” Article 34.2 obliges every citizen of Georgia to protect cultural heritage and the state to protect it by law.

Social interaction among the citizens of Georgia is facilitated by Article 22 of the Constitution that enshrines the right to free movement and free choice of residence for all staying legally within the territory of Georgia. Since 1996 the Soviet system of *propiska*<sup>1</sup> or of mandatory registration of residency was abolished.

All Georgian citizens are free to use their native language in private and public and develop their culture without interference (Article 38 of the Constitution), practice religion and use religious symbols (Article 19). The Law of Georgia on Freedom of Speech and Expression (24 June 2004, No220), recognizes and protects the right of everyone without prejudice to freedom of expression (Article 3). This implies the right to speak any language and use any alphabet.

#### 2. Social and inter-cultural interaction

According to the survey and the focus group results, lack of language skills seems to be the most acutely felt shortfall creating an obstacle to integration of persons belonging to national minorities in the Georgian society, especially in the provinces with significant number of persons representing national minorities.

Only 16% of non-Georgian respondents in Kvemo Kartli say they know Georgian, while, in Samtskhe-Javakheti only 25% claim to know the language. To those who do not speak the language (83.1% in Kvemo Kartli, 74.5 in Samtskhe-Javakheti) this creates problems while leaving their locale. This illustrates that the lack of language skills and associated discomfort can create obstacles to physical mobil-

ity and social interaction with various ethnic groups. Even in their home rural areas, communities tend to stay unilingual - the number of respondents that communicate with their neighbors or friends primarily in Armenian in Samtskhe-Javakheti, and predominantly in Azeri in Kvemo Kartli is roughly equal to the share of these ethnic groups in these regions. Ethnically “closed” neighborhoods naturally limit the possibilities of integration; pave the way to suspicion and mistrust.

A study by GTZ and Caucasus Institute illustrates the point, referencing interviews where Azeri residents of Kvemo Kartli express frustration at being ‘outsiders’ to the conversations of the Georgians. This is compounded by the loss of function by the former *lingua franca* – Russian – as less and less young people speak their language. An ethnic Georgian citizen expressed frustration to the same research group at the failure of Azeri neighbors to learn Georgian during the past ten years of the country’s independence.<sup>1</sup>

Tbilisi is a notable exception from this trend, being is pre-determined by more urban environment and centuries’ tradition of co-existence of various ethnic groups. Less acute is the problem of language for national minorities living in other regions of Georgia. Their share in these regions is low, and although some retain the language of their community, they still communicate predominantly in Georgian. Some respondents belonging to national minorities

1 Conflict Potential Related to the Problems of Language and Education in Georgia’s Kvemo Kartli Province, German Organization for Technical Cooperation (GTZ), Caucasus Institute of Peace, Democracy and Development, Tbilisi-Marneuli-Gardabani, 2006, p.10-11.

Non-Georgian population of Kvemo Kartli		
	Do you speak in Georgian?	
	Yes	No
18-25 years	14.1%	85.9%
26-30 years	23.8%	76.2%
31-36 years	14.5%	85.5%
37-45 years	7.7%	92.3%
46-55 years	23.5%	76.5%
56-65 years	20.3%	79.7%
65+ years	20.5%	79.5%
Total	16.9%	83.1%

Non-Georgian population of Samtskhe-Javakheti		
	Do you speak in Georgian?	
	Yes	No
18-25 years	15.10%	84.90%
26-30 years	34.20%	65.80%
31-36 years	14.80%	85.20%
37-45 years	22.60%	77.40%
46-55 years	25.30%	74.70%
56-65 years	38.90%	61.10%
65+ years	26.70%	73.30%
Total	24.60%	75.40%

– Kurds/Yezdi, Byelorussians, Poles, Jews, Ossetians, Greeks – use Georgian as a communication language in their families.

The chart below shows that the Georgian language skills are unevenly distributed across the age groups in minority populations of Kvemo Kartli and Samtskhe-Javakheti. As a rule, lesser share of young people (18-25 years old) speaks Georgian however the share of those who do speak the language is higher among 26-30 year olds. This might indicate that socialization process with Georgian-speakers and ensuing acquisition of active language skills start later on, as the young adults leave their own province more often.

Poor command of the official language is mostly explained by lack of learning opportunities and the social disadvantage is acutely felt at least by some, as quoted by GTZ/CIPDD research. A respondent in Kvemo Kartli says that people do recognize the need to improve the knowledge of Georgian, especially in terms of job opportunities and therefore more parents bring their children to Georgian schools.<sup>2</sup>

Still, there persists a suspicion that persons belonging to national minorities are or can be unfairly treated when applying to the jobs or trying to lawfully procure state services, even when they speak Georgian. This is mentioned in Kvemo Kartli in relation to recruit-

ment in the police, local administration and land distribution.<sup>3</sup> Similar suspicions linger in Samtskhe-Javakheti, a province which for long time was distant physically and in perception from Georgia due to both geographic location and the substantial presence of the Soviet and then Russian military base there.<sup>4</sup> One focus group meeting participant, who is the Ministry of Interior's Representative in a district of Samtskhe-Javakheti with mainly Armenian population, noted that in practice Georgian language requirements are often leveled down to facilitate the hiring of minority representatives. Suspicions of disadvantage might be dispelled through improving efficiency and transparency of public administration, but also by involving more representatives of minorities in local government, by supporting community policing and ongoing dialogue between law enforcement agencies and the communities. Political hate-speech and 'labeling' of the minorities still exists in Georgia, which does not help to dispel the suspicions. Fortunately, such outbursts are increasingly condemned both by NGO community and, at times, by other politicians.<sup>5</sup>

2 Conflict Potential Related to the Problems of Language and Education in Georgia's Kvemo Kartli Province, German Organization for Technical Cooperation (GTZ), Caucasus Institute of Peace, Democracy and Development, Tbilisi-Marneuli-Gardabani, 2006, p.12.

3 Conflict Potential Related to the Problems of Language and Education in Georgia's Kvemo Kartli Province, German Organization for Technical Cooperation (GTZ), Caucasus Institute of Peace, Democracy and Development, Tbilisi-Marneuli-Gardabani, 2006, p.9-10.

4 Please see I.3. *Regions with sizeable national minority presence*

5 On 14 April, 2007 NGO "Multinational Georgia" has criticized MP Beso Jugheli for making derogatory statements regarding Armenian minority on the parliament floor. (*Advocacy group slams an MP for hate speech*, Civil Georgia, 15 April 2007, available online at <<http://www.civil.ge/eng/article.php?id=14954>>).MP

Despite existing problems, the survey showed that around 90% of non-Georgian residents of Kvemo Kartli and Samtskhe-Javakheti link their futures with Georgia for the coming five years. Some 98% of Azeri residents of Kvemo Kartli and 80% of Armenian residents of Samtskhe-Javakheti call Georgia their homeland. Minority representatives do take interest in receiving information from the Georgian media sources, using Georgian programs in their native language. Ongoing stop-gap measures to translate or subtitle the Georgian TV programs at the same time increase the level of information and allow for active learning of the 'live' language.

95.8% of surveyed Kvemo Kartli residents consider the problems of their province to be similar or mostly similar with those in the rest of the country. By contrast, only 64.7% of surveyed Samtskhe-Javakheti residents think so. This can partly be explained by relative physical isolation of Samtskhe-Javakheti. On the other hand, the key problems Samtskhe-Javakheti residents quote (unemployment, bad roads, bad social conditions) might be the same in principle, but similar in severity with few remote mountainous Georgian provinces.

Survey respondents were asked to evaluate which ethnic groups they would consider having closer relations with. Naturally, the respondents from Kvemo Kartli want Azerbaijanis to become their family members, while the respondents from Samtskhe-Javakheti prefer Armenians. However, in both provinces ethnic Georgians are rated as second best. The respondents give average assessments to the Russians and Ukrainians. The assessments regarding Abkhazians and Ossetians, as well as Americans and Europeans are almost similar.

It is noteworthy, that according to the Georgia-wide data, the respondents prefer interaction with Russians and Ukrainians. They prefer them as neighbors, business partners, and residents of the country, guests and family members.

The rather obvious positive attitude towards the Greeks in the Kvemo Kartli region is also worth noting. The Greeks take the third place in average assessments in terms of friendship, neighborhood and cooperation. According to the uniform data, the Greeks, as well as the Jews receive positive assessments for any kind of interaction.

The research showed rather positive attitude towards the Abkhazians and the image of Ossetians is more positive than negative despite the armed conflicts of 1990s.

The representatives of the majority do not have any established vision regarding the minorities' future – 43% think that they should stay in Georgia and be involved in country's political and social life, as well as have some cultural autonomy, while 32% think that they should stay in Georgia and be assimilated by the Georgian society. Some 6.1% even believe that ethnic minorities should be forced to leave the country. These figures once more demonstrate the necessity to better acquaint ethnic Georgians with culture, traditions and everyday life of representatives of national minorities, as well as their role in development of Georgia in the past, presently and in the future.

State or local authorities have taken a number of initiatives in this direction, often directed to the youth (youth camps, sports tournaments, painting competitions...) For instance Tbilisi Municipality, in cooperation with the Ministry of Culture, Sport and Historical Monument Protection and the Public Defender's Office initiated the festival of Culture and Traditions of National Minorities in Georgia.<sup>6</sup>

In-depth sociological research over a longer period of time would be necessary to analyze in details the reciprocal perceptions, attitudes and relationships between the various ethnic groups in Georgia, as well as their self-identification patterns.

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Bezhan Gunava was also criticized on 21 June 2007 for hate speech against Meskhetians (descendants of persons deported from Samtskhe-Javakheti in 1994) during the parliamentary debate. (*MP slammed for the speech*, Civil Georgia, 21 June 2007, available online at <<http://www.civil.ge/eng/article.php?id=15316>>)

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6 Please see below section VII. Media

# VI- Education

Georgia is a party to several international instruments bearing provisions relevant to the educational rights of national minorities:

- The FCNM, in articles 12 to 14 specifically addresses educational rights.<sup>1</sup>
- International Covenant for Economic, Social and Cultural Rights.<sup>2</sup>
- Convention on the Rights of the Child.<sup>3</sup>

Georgia's education laws and policies evolved significantly since the educational reform started in 2004. This major reform implies the evolution of the legal framework, fight against corruption, alignment of curricula and teaching methods with European standards, harmonization of the educational system throughout the territory, rehabilitation of school infrastructure, and evolution of the learning environment towards a more inclusive form of teaching.

Educational issues concern 41.1% respondents, who are involved, or have a close relative involved in the educational system. In most cases, these respondents are student parents (50% respondents say they have a child or children in kindergarten, school or higher education). The proportion of respondents with children attending educational institutions reaches 48.2% in Kvemo Kartli and 44.2% in Samtskhe-Javakheti. Among those who have no relations with the education system, very few say they have children of schooling age who do not attend school. In these very few cases this applies to children of preschool age who do not attend kindergarten: this is the case for 3.1% of the respondents not involved with education system. This rate reaches 10.4% in Samtskhe-Javakheti, and does not exceed 1.1% in Kvemo Kartli. The respondents generally give very high value to education: from kindergarten to university, all stages of education are marked between 3.7 and 4 points on a 1 to 4 scale of importance. As pointed above, various parameters show that education appears especially important to re-

spondents of Kvemo Kartli. This phenomenon makes the study of access of national minorities to their educational rights all the more relevant. If a right is considered utterly important, the slightest difference, or perceived difference in access as compared to the rest of the population will have a proportionally high impact on the impression of being isolated, segregated or discriminated against.

## 1. Primary and Secondary Education

Article 35.3 makes primary education free and compulsory, and foresees free secondary education in public institutions. Primary and secondary education is regulated by the new Law of Georgia on General Education.<sup>4</sup>

In Article 35.2 of the Constitution, the state takes an obligation "*guarantee the compatibility of educational programs with international rules and standards*". This Article primarily reflects a desire to bring and keep Georgia's educational standards and methods to the best attainable level. In practice, this intention clearly transpires in the reform of the educational system initiated in 2004. One of the primary objectives of this reform is to harmonize the Georgian education system with European standards, thus paving the way to full accession to the Bologna process and to the European system of credit transfers and accumulation (ECTS).<sup>5</sup> This Article also reiterates an obligation to respect international law. It further introduces an obligation to implement principles and guidelines on national minority educational standards.

## Anti-Discrimination

Article 35.1 of the Constitution of Georgia se-

1 Georgia signed the Council of Europe Framework Convention for the Protection of National Minorities on 21 January 2000 and ratified it on 22 December 2005

2 Georgia ratified the International Covenant on Economic, Social and Cultural Rights on 03 May 1994

3 Georgia ratified the United Nations Convention on the Rights of the Child on 02 July 1994

4 Law of Georgia on General Education, No. 1330/IS, 08 April 2006

5 Georgia's Economic Development and Poverty Reduction Program Progress Report 2006



cures the right of everyone to receive education and to freely choose the form of this education. Article 4.2, paragraph a. of the Law on General Education confirms the right of all to receive education by making this right “*equally accessible to everyone throughout his/her life*” – hence confirming the right to equal access to education of persons belonging to national minorities.

Articles 18.3 to 18.5 of the Law on General Education explicitly forbid direct and indirect discrimination. Article 8 of the Law on General Education bears specific anti-discrimination clauses regarding the use of resources of the schools and internal school rules. In case of dispute regarding the application of school rules, the burden of proof lays with the “*initiator of the restriction*”. This provision appears particularly protective of minorities: it means that, in a case where parents or pupils belonging to a minority found some internal school rule(s) discriminatory, it would be for the school to prove the non-discriminatory character of those rule(s). The research team was unable to establish whether any such case has ever occurred.

### Right to Learning of and Education in the Native Languages of National Minorities

Article 13 of the FCNM secures the right for persons belonging to national minorities to set up and manage their own private educational and training establishment without obligation of the state parties to financially contribute to the exercise of this right. Article 14 establishes the right for every person belonging to a national minority to learn his or her minority language. The same Article obliges the state to ensure, as far as possible and within the framework of its educational systems, that persons belonging to national minorities have access to teaching of their language or in their language, in areas traditionally or substantially populated by minorities. However this Article specifies that such practices should not prejudice the learning of the state language.

Pursuant Article 4.1 of the Law on General Education, Georgian is the language of study – except in the Autonomous Republic of Abkhazia, where Georgian and Abkhazian are the two languages of study. As a notable exception to this rule, Article 4.3 lays a right for those “*citizens of Georgia whose native language is not Georgian*” – hence persons belonging to national minorities – to receive “*complete general education in their native language*”.

Private educational institutions may be founded as legal entities under the Law of Georgia on Legal Persons of Public Law<sup>6</sup> (Article 31 of the Law on General Education of Georgia). The accreditation and delivery of the necessary licenses are performed by the Ministry of Education (Article 26.1.h of the Law on General Education) in accordance with the procedures of Article 31, and following the criteria set in Article 32.<sup>7</sup> Private schools are entitled to public funding (Article 31.6).

However, in general the right to education in native language is fulfilled by the existence of public schools teaching in minority languages (mainly Armenian, Azeri and Russian). Such schools already existed under Soviet Union and remain part of the general education system. This goes beyond the minimal requirements of Article 14 of FCNM. The number of pupils attending non-Georgian schools has dropped since 1990, following the migration movements. Still the Ministry of Education estimates that 50 thousand pupils are currently studying in Armenian and Azeri schools.<sup>8</sup>

The exercise of the right to be taught in one's native language does not exempt from following the compulsory national curriculum defined in Article 5 of the Law (Article 4). According to the National Education Programme (NEP), approved by the Minister of Education Order N848 of 28 September 2006, schools have the right to re-distribute 25% of the time among the subjects that area considered mandatory by the NEP. The additional (facultative) subjects can be introduced for the period of time equal to a difference between recommended and maximum hours of education in each particular grade.<sup>9</sup> Article 4 also makes the study of the state language in non-Georgian language schools compulsory, in the spirit of Article 14 of the FCNM. Finally, Georgian Literature, History and Geography should be studied in

6 Law on Legal Entities under Public Law, No 2053/2S, 28 May 1999

7 This conforms with Article 3.1 of the Constitution, which provides that “*certification and accreditation of secondary schools and institutes of higher education, legislation on academic, scientific and professional titles and grades*” are the exclusive competency of state-level institutions, and are thus not regulated by local government.

8 Letter of the Ministry of Education to the Ministry of Foreign Affairs dated 07 March 2007, in view of the preparation of Georgia's First Cycle Report to the Council of Europe under Article 25 of the FCNM.

9 National Education Programme, p. 19, available online at <[http://www.mes.gov.ge/files/700\\_518\\_722308\\_erovnuli%20sascavlo%20gegma%205%20seqmeberi.doc](http://www.mes.gov.ge/files/700_518_722308_erovnuli%20sascavlo%20gegma%205%20seqmeberi.doc)>



Georgian language. The latter obligation seems to raise criticism among some national minority representatives: some teachers belonging to national minorities whose fluency in Georgian is insufficient to teach these topics in this language, fear they may lose their jobs and be replaced by ethnic Georgians. In absence of compensating measures, there is a concern that this could result in de facto indirect discrimination of these teachers.<sup>10</sup> The research team did not establish any of such specific cases during the survey or focus groups.

With the OSCE support, programs supporting native language learning in Samtskhe-Javakheti and Kvemo Kartli have been initiated. These programs involve teachers training and the elaboration of relevant standards.

### Affordability of education

Since the beginning of the education reform in 2004 the educational system of Georgia has moved to the principle of financing education “per student”, instead of “per school”. Every school, whether public or private, whether of Georgian language or not, is allocated one voucher per student. This principle is enshrined in Articles 22 and 51 of the Law on General Education. This funding lasts for the 12 years of compulsory education, as provided by Article 22.1. But Article 23 makes extension of funding possible for pupils who, after 12 years of general education, do not master the minimum academic standard required.

Pursuant to section 7 of this Article, general education funding is provided to citizens of Georgia. The right to education of aliens residing in Georgia and stateless persons is regulated by international treaties or agreements to which Georgia is party. If the right to education of citizens of another country residing in Georgia is not regulated by international treaty or agreement, the financing from the government is exercised on the principle of reciprocity.<sup>11</sup>

Article 22.3 offers increased vouchers, granted on the basis of demonstrated need (financial situation, remote family residence necessitating accommodation on the school location...) The Ministry of Education considers that in practice, while a secondary school pupil living in a

city and in an average financial situation gets a voucher of 220 GEL, in the villages this sum amounts to 330 GEL, while in remote mountainous regions, it reaches 396 GEL.<sup>12</sup>

In accordance with Article 7 of the Law on General Education, the State ensures the right of every student to obtain education in his/her own language in the vicinity of his/her residence. Linguistic minority school or classes are maintained in a location provided there are at least three students at the elementary level, six students at basic level and/or 21 students at secondary level.<sup>13</sup> In case a non-Georgian school is not present in the vicinity, the student may be accommodated on the closest school location. The implementation of this article typically requires recourse to increased vouchers. Additional financing might be approved by the Ministry of Education a specifically tailored program.

No respondent stated having children in age of attending elementary, primary or secondary school who do not attend school for financial reasons.

### Harmonization of the Education System and Teaching of State Language

The students of non-Georgian language schools often lack proficiency in Georgian language, especially in the regions mainly populated by national minorities. Due to language challenges, students belonging to national minorities often have no access to higher studies.<sup>14</sup> This factor appears to reinforce the challenges faced by national minorities in inter-community social interaction, ability to find employment in public structures and private companies (sometimes resulting in labor emigration), ability to participate in the country's social, cultural, economic and political life, and integration in general.

10 GTZ and Caucasus Institute for Peace, Democracy and Development, *Conflict Potential Related to the Problems of Language and Education in Georgia's Kvemo Kartli Province*.

11 See above I.4. *Legal Overview*

12 Letter of the Ministry of Education to the Ministry of Foreign Affairs dated 07 March 2007, in view of the preparation of Georgia's First Cycle Report to the Council of Europe under Article 25 of the FCNM.

13 GTZ and Caucasus Institute for Peace, Democracy and Development, *Conflict Potential Related to the Problems of Language and Education in Georgia's Kvemo Kartli Province*.

14 Johanna Popjanevski, *Minorities and the State in the South Caucasus: Assessing the Protection of National Minorities in Georgia and Azerbaijan*, Central Asia-Caucasus Institute Silk Road Paper, September 2006

This phenomenon could be explained by several factors. Under Soviet Union, Georgian language was taught rather superficially in the schools for other ethnic groups, and knowledge of Georgian was little encouraged in comparison with Russian. Deep crisis after the Soviet collapse and during the first turbulent years of independence prevented state educational institutions from addressing the problem.<sup>15</sup> In addition, during this period a gap appeared between the curricula of the Georgian-language and minority-language schools. Non-Georgian-language schools have often procured textbooks from the neighboring countries with which they shared language and ethnic affinity.

Non-Georgian schools in remote areas often lack qualified teachers of Georgian language. The Georgian language textbooks used to teach the state language under Article 4.4 of the Law on General Education also appeared outdated and below the new educational standards set by the educational reform. The results of the survey show that in regions mainly populated by national minorities, people mainly stay within unilingual communities, which decreases the chances for a young person to practice and assimilate Georgian language.<sup>16</sup>

The education reform thus includes programs of harmonization of non-Georgian with Georgian schools from the point of view of the curricula and teaching methods:

- 190,000 GEL were allocated from the State Budget for the procurement of textbooks in line with the national curriculum for non-Georgian schools, however these new textbooks, which intend to comply with European standards, are still not all available in all minority languages. The translation process is ongoing with private sector financial support, and new core curriculum textbooks (History and Geography textbooks in particular, provided to 38 thousand pupils of non-Georgian schools) were donated to a number of non-Georgian schools' students.<sup>17</sup> Nevertheless, the purchase of the new textbooks remains in many cases problematic for students' families. The alternative of relying on textbooks procured for free by neighboring countries remains

very attractive.<sup>18</sup>

- Pursuant to the Order of the Ministry of Education and Science dated 22 May 2005 No. 452, on the Statute of Certification of Long Distance Education, a student shall be entitled to obtain education through distance learning program in Georgian, Russian, and Armenian or Azeri languages. For distance learners who take exams in Russian, Armenian or Azeri languages but take the exam in the Georgian language and literature according to the approved test, the translation from Georgian into Russian, Armenian or Azeri language shall be provided by the National Examinations Centre. In addition, those distance learners taking tests in the Russian language may not be allowed to take the test in Russian language as a foreign language.

Finally and importantly, the Ministry of Education launched a series of programs aimed at enhancing Georgian language learning in those schools:

- Project "Future Starts Today": about 40 professors were assigned to work in Samtskhe-Javakheti and Kvemo Kartli in the 2004-2005 and 2005-2006 academic years.
- With the support of the OSCE High Commissioner for National Minorities (HCNM), a project for training Georgian language teachers in the non-Georgian schools was tested in Samtskhe-Javakheti in 2005. The same process commenced in Kvemo Kartli in 2006.
- Development of Georgian language mandatory programs and textbooks "Tavtavi". This program was elaborated within the CoE program "European Language Portfolio" and "Common European Framework of Reference for Languages: Learning, Teaching, Assessment" and in cooperation with the OSCE HCNM under the programs "Georgian as Second Language in the Minority Schools of Samtskhe-Javakheti" and "Georgian as a Second Language in the Minority Schools of Kvemo Kartli". The textbooks have been developed progressively, starting with beginners' levels, since 2005.
- Dissemination of Georgian language textbooks. For instance, in the academic year 2004-2005 all 50,000 students of the first and second grades in Azeri and Armenian schools received text Georgian language textbooks free of charge

15 GTZ and Caucasus Institute for Peace, Democracy and Development, *Conflict Potential Related to the Problems of Language and Education in Georgia's Kvemo Kartli Province*.

16 Please see below VII.2 *Social Interaction*

17 Georgia's First Cycle Report to the Council of Europe under Article 25 of FCNM, 01 April 2007

18 Johanna Popjanevski, *Minorities and the State in the South Caucasus: Assessing the Protection of National Minorities in Georgia and Azerbaijan*, Central Asia-Caucasus Institute Silk Road Paper, September 2006

In total around 2 million GEL are used annually for these integration programs by the Ministry of Education, 15% of which originated from international assistance, and 85% from the state budget.

The impact of the generalization of harmonized Georgian language teaching standards and textbooks is difficult to assess, as the process is still very recent. However, some studies suggest that a number of shortfalls exist: the new textbooks are said to be poorly designed visually, hard to understand and lacking second language teaching methodology; the teachers affected to minority areas rarely speak minority languages, hence having no communication language with the pupils; teachers training has not yet enabled to fill the lack of qualified Georgian-as-second-language teachers.<sup>19</sup> The same researchers suggest that programs of teaching Georgian in non-Georgian schools also raise certain dissatisfaction among national minority population: in some cases, the obligation for children to learn Georgian is perceived by minority parents as an attempt of assimilation, and a threat to their identity. Still these studies note a growing interest in learning Georgian within the youth of minority regions. As the education reform goes, intensified information strategies would be helpful to continue reassuring and convincing persons belonging to national minorities on the genuine goals of the reform.

### Diversity and Intercultural Relations in Education

Article 12 of FCNM establishes the obligation for states parties to promote, “*where appropriate the knowledge of the culture, history, language and religion of national minorities and of the majority*”, to provide “*opportunities for teacher training and access to textbooks, and facilitate contacts among students and teachers of different communities*”, and to “*promote equal opportunities for access to education at all levels for persons belonging to national minorities*”.

In addition to anti-discrimination clauses, the Law on General Education bears a number of provisions against ethnic hatred, proselytism and assimilation: Article 8.3 authorizes school rules to, *inter alia*, prevent “*incitement to ethnic or religious hostility*”. The Law also bans religious

proselytism in its Article 13.<sup>20</sup> Schools are required by Article 13.6 of the Law to “*observe and encourage tolerance and mutual respect between pupils, parents and teachers irrespective of their social, ethnic, religious or language background.*”

The Law on General Education contains basic provisions on respect for the identity of persons belonging to national minorities: Article 13.7 secures the right to use native language in the school, and to preserve and express cultural values, individually or collectively.

Article 18 protects freedom of faith, and freedom from pressure to perform acts that are against one's religious values. The same article orders the removal of religious symbols from public schools, but allows students to study religious matters in public schools during free time. Further monitoring would allow better assessment of the implementation of these provisions, particularly related to religious symbols and religious classes.

With a view to promoting interregional and inter-communities relations within the educational system, the Ministry of Education launched during the “School Partnership Program” in 2005. This program consists of a projects contest enabling students and teachers of majority and minority origin to establish closer relationships and become familiar with each other's culture and traditions. The districts of Tsalka, Terjola, Marneuli, Bolnisi, Tbilisi, Akhlagori, Akhaltsikhe, Chkhorotsku, Lagodekhi, Gardabani, Abasha, Akhalkalaki, Kobuleti, Dmanisi, Khelvachauri, Kutaisi, Khoni, Ninotsminda, Sagarejo, Tskaltubo participated to the program in 2005-2006. School websites contests, essays contests and Armenian/Georgian or Azeri/Georgian translators' contests were also tested during the last school year. A long-term output is the creation of a common educational internet network.

### Other

Since 2005, the Ministry of Education has run a program of introduction of information technologies into the learning process: procurement in equipment and transfer of basic computer skills constitute the bulk of such programs, which concern all schools including those located in regions populated by minori-

19 GTZ and Caucasus Institute for Peace, Democracy and Development, *Conflict Potential Related to the Problems of Language and Education in Georgia's Kvemo Kartli Province*.

20 Article 13 of the former Law on Education envisaged cooperation with the Orthodox Church. As a result and despite the new Article 13, the Orthodox Churches are located or operating on the territories of public schools, which may be considered as offensive towards students or teachers of other confessions

ties, and non-Georgian schools.

## 2. Higher Education

Higher education is regulated by the Law on Higher Education.<sup>21</sup> Higher education institutions, contrary to general education ones, are autonomous (Article 3.2.f of the Law). They are regulated internally by their respective Charters, with their main self-management bodies regulated by the Law.

Article 35.1 of the Constitution of Georgia secures the right of everyone to receive education and to freely choose the form of this education. Article 35.3 secures free higher education in public institutions.

### Anti-Discrimination and Multiculturalism

Article 3.2.h of the Law on Higher Education prohibits discrimination on “*academic, religious or ethnic grounds and/or views, gender, social origin or any other grounds.*”

Hiring at higher education institutions must be based on fair, transparent and equal competition – this can be interpreted as discrimination ban (Article 34.1).

Information of a private nature regarding the students, which may be known to the academic personnel, is viewed as confidential (Article 43.3). This provision, by limiting the risk of “badging”, is an additional protection to students belonging to national minorities.

Article 3.4 forbids the presence of religions or political organizations in higher education institutions.

### Access to Higher Education

Article 3.1.a of the Law on Higher Education obliges the state to ensure accessibility and openness of higher education.

According to article 4 of the Law of Georgia on Higher Education, the language of instruction at a higher education institution is Georgian, and in Abkhazia both Georgian and Abkhazian. Instruction in higher educational institutions in other languages is permitted provided that this is envisaged by an international agreement or is specially authorized by the Ministry

of Education and Science of Georgia. In this sense the law is more restrictive than the one on General Education: it does not provide special conditions for the citizens of Georgia for whom Georgian is not a native language to establish higher education institutions teaching in native languages. The provision on establishing foreign-language schools is being used – there are higher education institutions functioning in Turkish, English, Russian languages.

Currently there is no university teaching in language of the most numerous national minorities in Georgia, and students belonging to national minorities may only receive higher education in Georgian or in third language. Fairness demands to say, that there is unlikely to be high level of demand for higher education in, say, Armenian or Azeri in Georgia, even among the communities for whom this language is native. Qualified university teachers in those languages remain rare in Georgia. Additionally, the capacity of such graduates to find employment matching their level of education in Armenia and Azerbaijan is likely be limited. Still, the low level of fluency in Georgian does create serious impediment for their access to and chances of success in higher education.

The Law on Higher Education introduced the Unified National Examination (UNE) (Article 51): this examination, taken after completion of general education, is the required to access universities (Article 52).<sup>22</sup> While Article 52 contains provisions regulating specific procedures for foreign students, no particular provisions are provided to students belonging to national minorities, or students of Georgian citizenship whose native language is not Georgian.

The UNE is conducted in Georgian language, and includes a test of Georgian language proficiency. The initial aim of UNE was to reduce rampant corruption in university education system and guarantee fair and equal practice of admission. UNE also constitutes a useful tool to evaluate the impact of general education reforms, as it allows for keeping statistical data on the performance of students who completed secondary education.

Although aimed at creating equal conditions for entry into higher education system, due to the low level of proficiency of persons belonging to national minorities in Georgian language UNE constitutes an objective obstacle

21 Law of Georgia on Higher Education, No 688/RS, 21 December 2004

22 This provision is implemented following the Order N 127 of 28 March 2005 of the Minister of Education on the *rules of conducting the Unified National Examinations*



for them. The survey confirms these difficulties: country-wide 6.1% of the surveyed attends university, while additional 11% has children attending the university. These figures are 3% and 6.5% in Kvemo Kartli and only 1.7% and 5.8% in Samtskhe-Javakheti. Thus, national minority students are underrepresented in the university system. Minority students very often study abroad and hence seek and take up employment abroad, mostly in Russia. Many are simply discouraged by obstacles and do not pursue tertiary studies. This is draining Georgia of valuable qualified cadre. At the same time, it might lock the minority communities into a cycle of academic underachievement. Underrepresentation of the national minorities, especially from rural provinces existed in Georgia during the Soviet Union as well, however in terms of future integration policy of independent Georgia addressing this issue is one of the key policy concerns.

The Ministry of Education and Science took efforts to address the potential negative impact of the UNE on national minority aspirants. In 2005, the first UNE provided simplified Georgian language test for the aspirants who graduated minority-language schools. This measure proved of little efficiency, as the level of language teaching in non-Georgian schools was insufficient to equip minority candidates with linguistic tools necessary to even surpass lowered requirements. Out of around 32 thousand candidates, 16,507 passed the first UNE. Out of 64 applicants of Armenian background to the Samtskhe-Javakheti university branch only two passed the UNE – while before 2005 the students of Armenian background were much better represented among the students entering this university.<sup>23</sup> The measure also opened door for abuse – anecdotal evidence suggests that some ethnic Georgian students faked or illegally procured minority or Russian language graduation diplomas to gain unjustified advantage. In addition, other majority candidates were discontented both by abuse of the system, and by it seemingly providing discriminatory advantage to the national minority aspirants. As a result, in 2006 UNE simplified Georgian tests were abandoned.

A single Georgian language exam was taken in 2006 by all applicants regardless of their school of origin. Students from non-Georgian language schools were given the possibility to take

Russian as a foreign language. As we have discussed earlier, the younger generation of persons belonging to national minorities mostly does not speak Russian, at least at an academic level, so the provision seems to put at an advantage only ethnic Russians or those to whom Russian is a first language.

In an effort to address the problem on the supply side, Ministry of Education and Science now implements a Program on Preparation for the UNE for minority students. In 2006 a contest enabled 203 students to enroll in preparatory courses in Iv. Javakhishvili Tbilisi State University, Tbilisi State Medical University, Gori State University and Shota Rustaveli State University. These institutions were required to provide the students with highly qualified and experienced teachers, and with specific curricula to improve their skills in view of the UNE. Unfortunately the results of the program are not known. Several years of implementation will be necessary to assess its impact, in particular on the capacity of the students having benefited from the preparation to live up to the requirements of university studies in Georgian. It should also be noted that the number of students enrolled in preparation courses is, so far, marginal and cannot effectively improve access to higher education for minority students in general. After a testing period, expanding the reach of the UNE preparation to more beneficiaries would be indicated.

### Affordability of Higher Education

Studies in higher education are financed mainly by the personal means of students, and the system of “one student-one voucher” used in primary and secondary education does not apply to universities. Instead, Article 79 of the Law on Higher Education regulates the funding of higher education institutions: a variety of additional specific assistance systems intends to increase the affordability of higher education.

Article 43.1.i of the Law on Higher Education foresees the possibility of students obtaining stipends from the state, university or other sources, as well as financial and material assistance. Social programs assisting students in financial difficulty also exist only in specializations prioritized by the Government (Article 6.1.c and 52.8). State Education Grants, envisaged by Article 54, are granted to the best performing candidates to the UNE. Grants and subventions are also awarded to universities from the state budget, independently to the number of their students (Article 74.2).

23 Jonathan Weasley, ECMI Working Paper No 26, 2006, quoted in Johanna Popjanivski, *Minorities and the State in the South Caucasus: Assessing the Protection of National Minorities in Georgia and Azerbaijan*, Central Asia-Caucasus Institute Silk Road Paper, September 2006

Still, tertiary studies constitute a heavy financial burden for students and their families. One of the ways envisaged to boost the representation of minority students in Georgian universities was thus to cover, partially or in total, their tuition fees and other expenses.<sup>24</sup>

The students having participated to the 2006 UNE preparatory courses will be eligible for a State voucher covering tuition fees (500 GEL) directly transferred to the respective universities, pending passage of the UNE. These students will also receive a stipend of 50 GEL. However, given the number of students enrolled in the preparation program, this measure is merely a pilot program with only marginal impact, aimed at developing longer-term policy.

In 2006 the government also granted state scholarships to students from Azeri-language schools of Kvemo Kartli and Kakheti who passed the UNE, as well as to the students from Armenian-language schools of the Akhalkalaki and Ninotsminda districts.<sup>25</sup> The number of students that applied for this grant (around 12 for each category) is symbolic and has not enabled to correct unequal access in a significant manner. One might assume, that in culture drawing heavily on equality before the law, such special measures provoke negative reactions among majority students, who might consider themselves discriminated against.

Equal access and better representation of national minorities in the higher education system thus closely rely on the ability of the Ministry of Education to design long-term all-encompassing policies touching a bigger proportion of minority students, based on experiments and pilot projects. A lot also depends on better implementation of Georgian language teaching in general education non-Georgian schools. In both cases, it will be of utter importance to prevent disagreements and conflicts by:

- widely informing persons belonging to national minorities, especially in remote regions, about the existence of such programs and the ways to participate in them;
- convincing minorities that education reform does not aim at assimilation and takes all precautions to preserve the culture and languages of minorities;
- clearly communicating to the majority

the aims of specific measures for minority students, so as to dilute a feeling of being discriminated against. To this end, it is possible to spread a clearer understanding of the aims and rationale of equal access, discrimination and promotion measures.

## Professional training and education

The parliament of Georgia passed the Law on Professional Education on 28 March 2007.<sup>26</sup> The law establishes the system of professional education and attestation of skills. One of its stated aims is to “*ensure the conditions for professional development and employment for persons risking social alienation*” (Article 5.f). Article 6.c establishes as one of the objectives of the law to ensure synchronization of the professional education with local needs and to create a network of the professional development centers based on current and future development needs. Thus the law, albeit not singling out the persons belonging to national minorities, provides for both social and geographic criteria which might benefit these persons. In addition, the law establishes a procedure of attestation of professional skills through checking them against the nationally established professional framework by the newly established National Professional Agency (NPA) (Article 11). Notably, NPA can provide attestation for the skills developed abroad, or acquired through informal education and training (Article 3.3 and Article 10). Article 31.a contains provisions mandating public character of the work of the professional education centers, transparency of their management and access of the interested persons to them. Article 31.b warrants equal treatment of the students, irrespective of their “*gender, ethnic and social belonging, origins, religious and political views, physical capabilities, etc.*” Implementation of the law might significantly affect the ability of the persons belonging to national minorities to access professional, including tertiary professional, education. The law contains objective criteria that might facilitate their involvement, and contains general anti-discrimination provisions. It does not, however, establish a explicit responsibility of the professional education centers or the director of the professional education center establish procedures for actively preventing discrimination on whatever basis. As the law is very recent, there is no information available for its application or effects.

<sup>24</sup> The following measures are described in details in Georgia's First Report to the Council of Europe under Article 25 of the FCNM

<sup>25</sup> The descendants of Samtskhe-Javakheti residents who were deported from Georgia during the Communist regime also benefited from this measure.

<sup>26</sup> Law of Georgia on Professional Education, (4528-1S, 28 March 2007).



## VII – Media

### 1. Legal background

Article 19 of the Constitution guarantees freedom of speech, conscience, religion and belief. The same article prohibits persecution of person on account of speech, thought, religion or belief or the compulsion to express his/her opinion about them. Article 24.1 guarantees the right of everyone to freely receive or impart information, to express and impart his/her opinion orally, in writing or by any other means. Article 24.2 stipulates “*Media shall be free. Censorship shall be impermissible*”. The guarantees of Article 24.1 and 24.2 can be restricted by law, in the interests of state security, territorial integrity or public safety, for preventing crime, for the protection of the rights or dignity of others, for prevention of the disclosure of information acknowledged as confidential or for ensuring the independence and impartiality of justice (Article 24.4). Article 23 of the Constitution secures freedom of intellectual creation and bans interference and censorship in creative activities.

Article 3 of the Law of Georgia on Freedom of Speech and Expression<sup>1</sup> protects the freedom of speech and expression “*as enduring and supreme values*”. Article 2.a provides for absolute freedom of opinion. Article 2.d prohibits censorship, protects editorial independence and pluralism, and the right of journalists to protect the secrecy of the source. According to the Article 6 of the same law, in libel cases, the owner of the media is a party to the court proceeding against the journalist. Article 7.6 places a burden of proof in libel cases on the claimant, thus making it particularly difficult to prosecute for libel. In case any reasonable doubt exists, the libel case should be solved in favor of freedom of expression. The wording of the Law was obviously intended to prevent excessive suing for libel, especially by the public officials that is characteristic for the post-Soviet states and is used by the authorities as a lever to curb media freedom. It remains to be assessed through legal practice, whether the same provision might impede protection against hate speech.

Article 28 of the General Administrative Code of Georgia provides that mass media and every citizen shall have the right and opportunity to request and obtain any information from any public authority if such information is not regarded as containing confidential information of governmental, commercial or of a personal nature.<sup>2</sup> The Articles 33 and 34 of the Code

provide for protection of personal information and data.

The broadcasting procedure is defined by the Law on Broadcasting.<sup>3</sup> The Law in its Article 3.2 directly calls for implementation of its provisions in the context of the European Convention on Human Rights, Practice of the European Court of Human Rights, and other international agreements binding for Georgia. Broadcasting rights are given by means of a license provided by the National Communications Commission of Georgia based on competitive bidding (Article 5 of the Law). The Commission determines the licensing conditions, issues, suspends, renews or terminates the licenses.

Chapter 3 of the Law on Broadcasting also establishes the Public Broadcaster, as a broadcaster free of political and commercial influence, which is established as a public legal entity financed with public funds, independent from the state and accountable to public (Article 15). The Article 16 lists as obligations of the public broadcaster to reflect in its programs ethnic, cultural, language, religious, age and gender variety of the society (Article 16(h)); and to proportionally broadcast programs in minority languages, for minorities and about minorities (Article 16(m)). Article 46 of the Law also foresees establishment of community broadcasters, tasked with serving the needs of a specific community, encouraging participation of the community members, and securing coverage of the opinions of the minority groups. The licensing procedure for the community broadcasters is conducted by the National Communications

1 Law of Georgia on Freedom of Speech and Expression (220-RS, 24 June 2004), Parliamentary Notices #19. 15 July 2004.

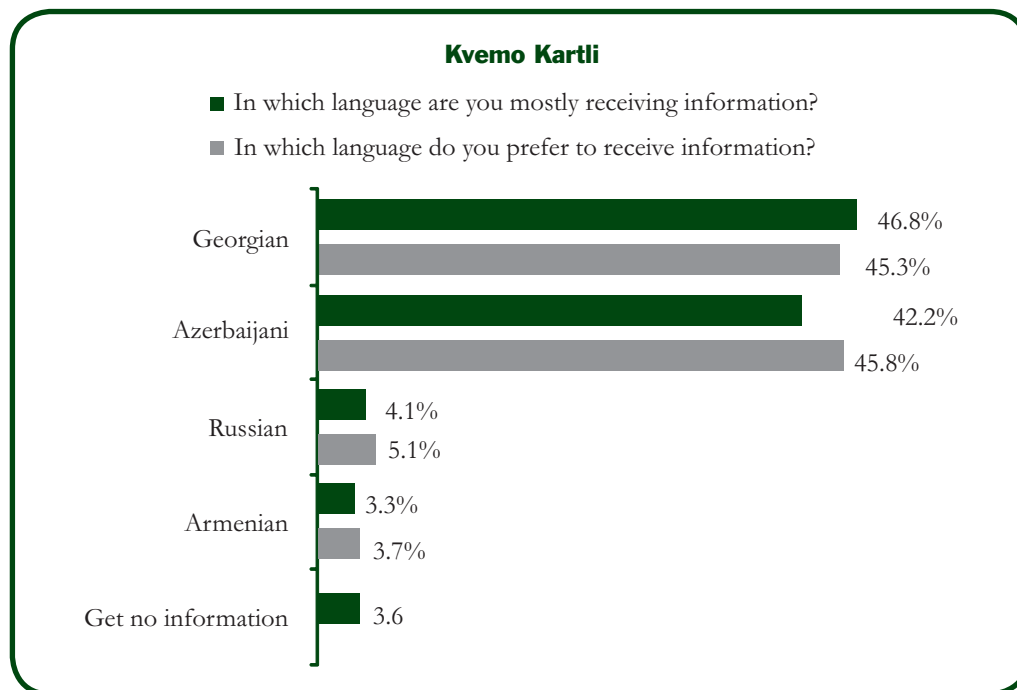
2 General Administrative Code of Georgia, (2181-IIS, 25 June 1999), available online at <[http://www.parliament.ge/index.php?lang\\_id=GEO&sec\\_id=69&kan\\_det=det&kan\\_id=215](http://www.parliament.ge/index.php?lang_id=GEO&sec_id=69&kan_det=det&kan_id=215)>, accessed on 8 July 2007.

3 Law of Georgia on Broadcasting (7080-RS, 23 December 2003)

Commission, taking into account above requirements (Article 47.2).

Printed media can be established freely as any profit-making entity in accordance with the provisions of the Law of Georgia on Entrepreneurs.<sup>1</sup> Limited Liability Companies (Ltd.) are the most widely used form for newspaper pub-

belonging of the detainee or criminal suspect, calls on journalists not to draw parallels between professional occupation and ethnic group, and to distinguish between an individual member of an ethnic group and the group as a whole. The Code also calls on journalists to involve the persons belonging to national minorities as interviewees and ‘subjects’ (rather than just



lishers. They are established under Chapter 3 of the Law, must have a minimum of 1000 USD founding capital (Article 45), a statute, and need to be registered at the entrepreneurship roster (Article 4).

In terms of self-regulatory frameworks on media coverage of the national minority issues, the internal Code of Conduct of the Public Broadcasting deserves special attention.<sup>2</sup> Article 15.1 of the Code includes anti-discrimination provisions<sup>3</sup>, advises against stipulation of the ethnic

‘objects’) in their reports, and calls on journalists to challenge the interviewees, including public officials and politicians on insensitive remarks against ethnic or other minorities (Article 15.5).

## 2. Public Broadcasting

The Department of Information and Social-Political Policy of the Public Broadcaster prepares a daily 25-minute news program called “Moambe” in five languages comprehensible for national minority groups: Abkhaz, Ossetian, Armenian, Azeri and Russian. It includes information about key social and political developments of the week and feature overview. Social topics are prepared regularly on the basis of the received letters and phone calls.

*status, place of residence, state of health, age and any other trait?”* It seems that the term ‘discrimination’ is used broader than in its strict legal sense (prevent the members of specific group from enjoying their rights and freedoms) to include also ‘labeling’ of specific groups.

1 Law of Georgia on Entrepreneurs, (557-1S, 28 October 1994), available online at <[http://www.parliament.ge/\\_special/kan/files/16.pdf](http://www.parliament.ge/_special/kan/files/16.pdf)> accessed 8 August 2007.

2 Code of Conduct by the Public Broadcaster, Professional standards and journalist ethics in the programs by the Public Broadcaster of Georgia, December 2006, available online at <[http://gpb.ge/angarishi\\_3.php?lang=geo&lm\\_id=4](http://gpb.ge/angarishi_3.php?lang=geo&lm_id=4)>. Accessed 8 August 2007.

3 This article states “when reporting on ethnic and religious minorities, it is unacceptable to discriminate based on race, gender, religious belonging, political views, ethnic origins, cultural and social belonging, family, property and other

The public radio airs five-minute news in Abkhaz, Osset, Armenian, Azeri and Russian languages on a daily basis. The headline news of the day is aired during the news program. Every Saturday there is twenty-minute summary of the week's headline news in Russian language.

Furthermore, every Thursday the program "Our Georgia" focuses on the history of ethnic and religious minorities, their traditions and culture, as well as other topics relevant to ethnic and religious identity. The idea of this program is to support the process of civil integration and strengthen the values of an inclusive society.

The advisory Board of Ethnic Minorities at the Public Broadcasting was created in 2006. It unites ten minority NGOs and gathers once in two months. The Public Broadcasting considers the views of the board when preparing the programs on national minority issues. The Board of Religious Minorities at the Public Broadcasting was also created in 2006 and now unites six organizations.

### 3. Coverage of National Minority Issues in Georgian Television

The media monitoring conducted in frames of this survey showed that the Georgian television channels barely focus on persons belonging to ethnic minorities and issues related to them. The integration of minority themes into the general TV programming appears to be less than successful and balanced.

Out of the total of 1020 stories broadcasted during prime-time, only 58 (5,7%) touched upon ethnic minorities. Most of these were about political and security issues related to secessionist provinces of Abkhazia and South Ossetia. The frequency of mentioning national minorities is increasing when particular news break, which are linked to aggravation of regional tensions or the deterioration of the situation in the conflict zones, territorial disputes, religious or national holidays, etc.

Traditionally, in news reporting, when identifying the subjects of certain actions, the journalists accent their ethnicity, often in negative context or to give negative coloring, for example, "Ossetian criminal" or "Russian politician". Very often the ethnic minority side to the report is not interviewed, represents an 'object' rather than a 'subject' of the report.

Journalist's negative/positive/neutral stance is defined by the contents of news. For example, the stories about national minorities' holidays reflect positive attitude towards the national minorities – the main subjects of these stories. Generally, such stories are of neutral character, and any evaluative statements are hardly ever made. As for the political aspect, Russians (citizens of Russia, rather than of Georgia), Abkhazians and Ossetians are often mentioned in negative context. The terms related to their ethnicity, such as "criminal", stereotypes like "separatist" and "supporters of separatists" are used frequently. In such reports the journalists often simply relay the negative tone professed by the politicians and officials.

Representatives of the focus groups in frames of this survey cited the scarcity of stories about national minorities. Some respondents to focus groups organized by the Caucasus Institute for Peace Democracy and Development and the German Organization for Technical Cooperation (GTZ) expressed their dissatisfaction with the Public Broadcaster news, saying they are biased in favor of the government and rarely reflect critical views. They were also dissatisfied with their inability to follow political debates and discussions which are broadcasted in Georgian.<sup>4</sup>

To address such concerns, in February 2006 the Public Broadcaster began translating news programs into Azeri in real time, through local TV companies. Similar live translations were done slightly earlier in Samtskhe-Javakheti. Starting May 2007 the Public Broadcaster will launch a new talk-show, partly supported by NITG Program that also developed this research, which aims at promoting the civil integration of national and religious minorities. The new talk-show will be broadcasted in Georgian language and along with the representatives of national minorities.

### 4. Access to Information by National Minorities

The survey proves that television is the chief source of information in Georgia. More than half of the surveyed nation-wide (51.8%) and an overwhelming majority of the respondents

4 Conflict Potential Related to the Problems of Language and Education in Georgia's Kvemo Kartli Province, Policy Paper, Caucasus Institute for Peace Democracy and Development and the German Organization for Technical Cooperation (GTZ), Tbilisi-Marneuli-Gardabani, 2006, p.8.

in Kvemo Kartli and Samtskhe-Javakheti (70% and 66.4% respectively) do not read newspapers. Georgian Ministry of Culture has financed the issuance of several newspapers, including Armenian-language *Vrastan*, Azeri-language *Gurjistan* and Russian-language *Svobodnaya Gruzia*.

Most watched programs on TV are news – 71% of survey respondents country-wide, 61.4% in Kvemo Kartli and 53.4% in Samtskhe-Javakheti use TV or radio to receive their news. The Public Broadcaster is not a preferred source: country-wide it ranks distant third from the two major commercial broadcasters (with 20% watching the channel). In Kvemo Kartli it yields the third position to Azeri TV, while the first two spots are occupied by the same commercial broadcasters. In Samtskhe-Javakheti Public Broadcaster is third, but the second spot is taken by the Armenian State Television, while the Georgian commercial broadcaster professing more critical views regarding the government comes first. *Alania TV* recently started broadcasting in Russian language, aiming to provide information for the Ossetian population.

Respondent's knowledge of the language of broadcast is a defining factor in choosing the channel for 51.9% of the interviewees in Kvemo Kartli and for 38.7% in Samtskhe Javakheti (country-wide figure is 24.7%). Hence it is of no surprise, that the Azeri and Armenian language channels are rated high in both areas dominated by these minorities. Still, the Georgian-language commercial TV station *Imedi TV* tops the chart country-wide, and in both minority-dominated areas – 83.2% country-wide, 54.4 in Kvemo Kartli and 73.8% in Samtskhe-Javakheti watch it. Influence of the Russian TV channels is high only in Samtskhe-Javakheti – 22.4% watch the 1<sup>st</sup> Channel of the Russian TV (former “Central Channel of the Soviet TV”). Both country-wide and in Kvemo

Kartli none of the Russian channels has more than a 5% audience.

The survey seems to suggest that residents of Kvemo Kartli and Samtskhe-Javakheti belonging to ethnic minorities prefer to receive information in their native language, but they also watch the Georgian-language news and other programs of the Georgian TV stations. In Kvemo Kartli 46.8% say they receive information mostly in Georgian and 45.3% say they prefer to receive it Georgian. 42.2% receive information in Azeri and 45.8% prefer to receive it in Azeri. In Samtskhe-Javakheti 51.6% receive their information in Georgian and 47.6% would prefer to continue doing so. In contrast 38.1% receive information in Armenian and 46.1% would prefer to do so. The distribution of the preferences for language are roughly coinciding with the ethnic distribution in these two regions, if provided for certain overlap of fully bi-lingual respondents and a statistical error – there are 54.6% Armenians in Samtskhe-Javakheti and 45.1% Azeris in Kvemo Kartli.

The survey seems to indicate that persons belonging to national minorities, while partly depending on sources of information coming from other countries, still do use sources from Georgia. Hence, the commonplace referral to “information vacuum” in areas where persons belonging to national minorities reside might actually refer to certain offset in sources of information.

Finally, it is worth mentioning that in regions populated by national minorities, access to internet is practically inexistent: 1% of households in Kvemo Kartli have an internet connection, and none of the respondents in Samtskhe-Javakheti declared having a connection. At national level, 5.1% respondents stated being connected to internet.

## VIII – Economic Integration

The legislation in this area covers a wide field related to taxation, investment, insurance, labour, privatization, securities, licensing, banking, customs etc. This legislation does not contain any provisions granting special rights or protection to persons belonging to national minorities. Variations exist in treating citizens and non-citizens in such areas as land ownership and taxation. In most of the other areas, differences between citizens and non-citizens are minimal. The land privatization legislation provisions which in practice used to limit ownership of the land by the national minorities in border areas were abolished.

### 1. Employment and Poverty

Article 33 of the Constitution places a positive obligation on the state to promote re-employment of the unemployed. Article 38 of the Constitution secures equal access to social and economic rights among others, thus covering labour rights.

Concerns have been raised in relation to the new liberalized Labour Code of Georgia<sup>1</sup>, as it contains minimum protections for the employed. The Code refers to the constitutional provisions of freedom of labor, freedom of association and the right to strike (Articles 26, 30 and 33 of the Constitution) as well as the right “to free personal development” (Article 16) of the Constitution. The Code however only specifies a general framework of labour relationship (maximum working hours of 41 hours per week, minimum age of labour, leave, minimum wage (no less than survival minimum set by the state) and cuts back on extensive labour protection guarantees contained in Soviet-era legislation. The government argued that the extensive guarantees could no longer be fulfilled, and that the liberal code is necessary to revitalize stagnant labour market. Concerns have been raised regarding the compatibility of the Code with the European Social Charter; however no authoritative analysis on this subject is available.

The Labour Code contains an explicit anti-discrimination provision in its Article 2.3. Article 2.4 however gives a very confusing definition of discrimination, which is rather distant from that commonly accepted in international law and jurisprudence and such as the case law of the European Charter for the Protection of Hu-

man Rights.<sup>2</sup> The wording of Article 2.4 seems to define harassment or mobbing, or labour abuse. It is possible, that in future legal practice the actions described by Article 2.4 are used to define discrimination. This could virtually prevent prohibition of discrimination in labour relations (for instance hiring and firing). As the Labour Code is very recent, there is still no conclusive jurisprudence on the issue. It will therefore be of utmost importance to monitor future cases of alleged discrimination brought to court under Article 2.3, and the application made of the Code.

Georgia's economy has declined drastically in the years following independence. As a result employment plummeted and the poverty rate skyrocketed. According to the official data, unemployment rate in 2006 was 13.6%. The rate has been shifting by one or two percentage points around 10% since 2000.<sup>3</sup> According to UNDP Human Development index, 25% of the population in average lived on less than 2USD per day in the period 1990-2003 and some 53% under the national poverty line in the same period.<sup>4</sup> However, the absolute number is misleading, as agricultural workers are not counted in the unemployment figure and are considered self-employed. As most people in rural areas are engaged in subsistence agriculture, subtracting them from the category of ‘employed’ would put the unemployment rate considerably higher. For example, out of the

1 Law on Labour Code of Georgia (1909, 25 May 2006), available online at <[http://www.parliament.ge/\\_special/kan/files/1909.pdf](http://www.parliament.ge/_special/kan/files/1909.pdf)> , accessed 10 July 2007.

2 Major pieces of case law defining discrimination include *Belgian Linguistics Case*, European Court of Human Rights; *Abdulaziz, Cabales and Balkandali vs. the United Kingdom*, European Court of Human Rights, *Chapman vs. the United Kingdom*, European Court of Human Rights.

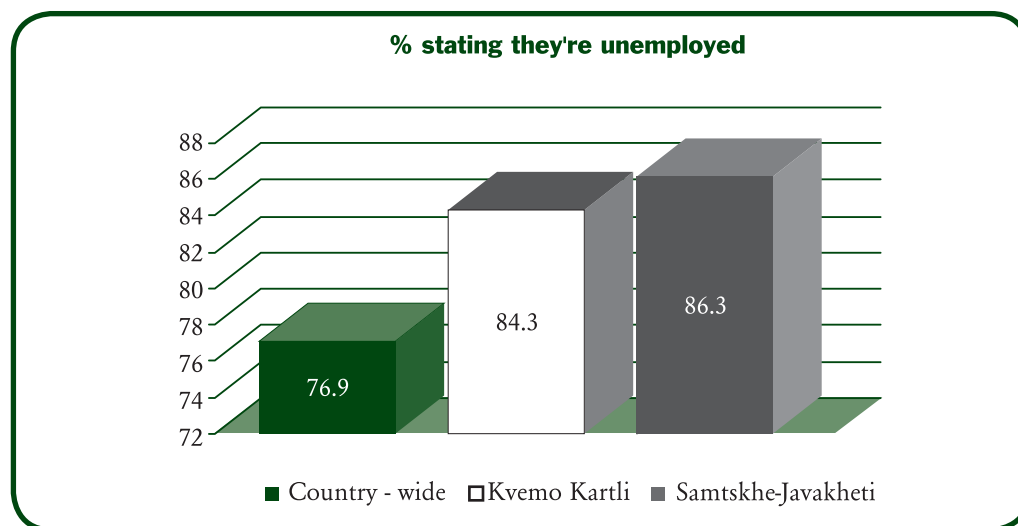
3 Georgian Economic Trends, GEPLAC, Tbilisi, April 2007, p. 33.

4 Human Development Report 2006, Georgia, UNDP, available online at <[http://hdr.undp.org/hdr2006/statistics/countries/data\\_sheets/cty\\_ds\\_GEO.html](http://hdr.undp.org/hdr2006/statistics/countries/data_sheets/cty_ds_GEO.html)>, accessed 10 July 2007.



surveyed respondents, only 23.9% considered themselves employed, out of which 10.4% - in agriculture. Survey figures show that unemployment is higher than country wide average in Kvemo Kartli and Samtskhe-Javakheti. This is characteristic to most rural areas: unemployment is perceived as the most pressing issue by most respondents nationwide (87.8%). in

predominantly rural and with higher fertility rates are most exposed to poverty. Kvemo Kartli and Samtskhe-Javakheti regions both satisfy these criteria. The survey shows that most of respondents in Samtskhe-Javakheti and Kvemo Kartli work in agriculture, cattle-breeding and farming. Only a small part of the population uses agricultural implements in the both re-



Kvemo Kartli (95.8%) and Samtskhe-Javakheti (76.8%) but also in Tbilisi (86.1%).

The decline in employment certainly had an impact on the poverty level: it reached 35.7% in 2004 and increased to 39.4% in 2005,<sup>5</sup> even though Georgia's GDP grew 5.9 and 9.6% respectively in these years.<sup>6</sup> The poverty level in rural areas was consistently higher by 3-4 percentage points. The GINI coefficient which measures inequality on a scale of 0 (lowest) to 1 (highest) was relatively stagnant with light tendency towards increase at 0.35 in 2003-2005. The coefficient by income was well over 0.4.<sup>7</sup> The families with 3 or more children were most vulnerable: 66.2% of them in 2004 and 60.1% in 2005 lived under the national poverty line.<sup>8</sup>

The data suggests that Georgia's regions that are

regions. 96.4% of the Kvemo Kartli respondents claim to have no agricultural implements at all. Only small number of respondents (4.7%) cultivate lands by their own agricultural machines. In Samtskhe-Javakheti relatively more families use agricultural implements, however the parameter is still low (13.2%). Language constitutes an additional obstacle to employment for persons belonging to national minorities or obliges them to seek employment abroad or within the local community.<sup>9</sup> Hence, it is reasonable to assume that social mobility is lower for persons belonging to national minorities compared to ethnic Georgians coming from the rural, economically disadvantaged areas.

According to the country-wide data, 38.1% of respondents have land-line telephones at home; while by 18.9% more respondents have cell-phones. Most respondents have TV sets and washing machines. TV sets and video recorders are the most widespread household appliances in the Samtskhe-Javakheti and Kvemo Kartli regions. Other household appliances can be considered a luxury for the residents of these

5 Progress Report on Economic Development and Poverty Reduction Program, GEPLAC/Government of Georgia, Tbilisi, 2006, p. 7.

6 Georgian Economic Trends, GEPLAC, Tbilisi, April 2007, p. 13.

7 Progress Report on Economic Development and Poverty Reduction Program, GEPLAC/Government of Georgia, Tbilisi, 2006, p. 10.

8 Progress Report on Economic Development and Poverty Reduction Program, GEPLAC/Government of Georgia, Tbilisi, 2006, p. 8.

9 Conflict Potential Related to the Problems of Language and Education in Georgia's Kvemo Kartli Province, German Organization for Technical Cooperation, Caucasus Institute for Peace, Democracy and Development, Tbilisi-Marneuli-Gardabani, 2006, p. 6, table 2.



regions.

The survey suggests that food takes up the highest share of household expenses. This is confirmed by the economic data, which shows over half of household consumption expenditure being spent on food.<sup>10</sup>

The data shows that the spending on communal taxes and fees is nominal. For instance, not a single respondent in Samtskhe-Javakheti said they paid for communal services past month (they were not provided). The share of annual spending on weddings and funerals, mainly cash spending for the ceremonies, gifts and a traditional feast is notable, and in two minority-dominated areas well above the national average. Indicative of the social condition is that spending on vacations is much lower in Kvemo Kartli and Samtskhe-Javakheti than the country-wide average. The survey shows that household spending for transport per month exceeds the sum allocated for rest, furniture and consumer electronics.

According to the Caucasus Research Resource Centers (CRRC) study, 39.1% of the surveyed Georgian residents said their economic situation remained the same in 2003-2006, 23.3% said it became a little worse, and 15.8% said it deteriorated significantly. The number of those whose livelihoods improved is notably behind those figures in neighboring Armenia and Azerbaijan. However, Georgians are much more optimistic than their neighbors – 34.5% said they believe their economic conditions would improve in the next three years, as compared to 19.5 in two other neighboring states.<sup>11</sup>

## 2. Impact of ongoing reforms

Article 31 of the Constitution obliges the state to promote social and economic development in a manner that equally serves the entire territory of Georgia. This article foresees special measures for mountainous regions.

Since 2004, the government of Georgia has introduced fundamental economic reforms. Fight against corruption and organized crime, liberalization and deregulation of the business

environment contributed to the advancement of economic conditions. According to the data of the Ministry of Economic Development of Georgia, Georgia's GDP grew 9.6% in 2005, and 9.4% in 2006. Compared to 2003, State budgetary revenues and grants in 2006 increased by 275 per cent. The ongoing trend of growth is maintained: the budgetary revenues in 2006 increased 44.7% compared to 2005. The revenues are estimated to grow in 2007 by additional 4.9%. Georgia headed the list of the top reformers, compiled by the World Bank in its Doing Business report 2005-2006.<sup>12</sup> In addition, the Anticorruption in Transition report of the World Bank mentioned that among the countries in transition, Georgia recorded the most significant decline in corruption in 2002-2005.<sup>13</sup> Although economic changes have been rather dramatic, it did not lead to increase in employment. At the same time, improved economic climate certainly contributes to economic optimism of Georgian citizens as noted above.

Improvement of the investment climate increased the inflow of Foreign Direct Investment (FDI) which in 2006 exceeded 1 billion USD, compared to only 449 million USD in 2005 (see graph below). Most of this inflow of capital is however directed to few areas of economy attractive to business (such as banking), the capital city and the resort areas (especially Adjara Autonomous Republic). Fairness demands to say that some large infrastructure projects, such as the Baku-Tbilisi-Ceyhan (BTC) oil pipeline project foresee accompanying investment in community development. The community investment programme (CIP) under BTC project had a budget of 25 million USD for the construction phase of the pipelines. Through the CIP, the BTC and SCP projects are working with 72 communities in Georgia.<sup>14</sup> This survey did not aim at identifying impact of the assistance and investment projects, but as most of them are fairly recent additional research would be necessary at a later stage to assess the extent of impact they are having on lives of persons belonging to national minorities.

In 2003-2006 the number of registered en-

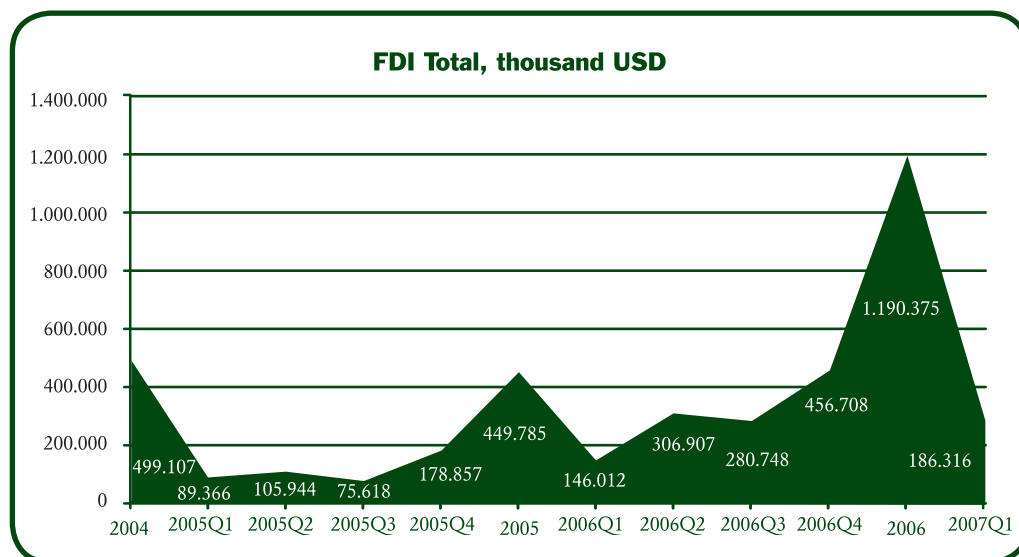
10 Progress Report on Economic Development and Poverty Reduction Program, GEPLAC/Government of Georgia, Tbilisi, 2006, p. 9.

11 Hans Gutbrod, "2006 Data Initiative Survey for Georgia and South Caucasus, Introduction, Results and Application", CRRC, 2006.

12 [http://doingbusiness.org/documents/DoingBusiness2007\\_Overview.pdf](http://doingbusiness.org/documents/DoingBusiness2007_Overview.pdf)

13 James H. Anderson, Cheryl W. Gray, Anti-corruption in Transition 3 – Who is Succeeding... And Why?, The World Bank, 2006, p. 19, available online at <<http://siteresources.worldbank.org/INTECA/Resources/ACT3.pdf>>, accessed 10 July 2007.

14 British Petroleum Official Website, <<http://www.bp.com/genericarticle.do?categoryId=9006669&contentId=7014360>>, accessed 10 July 2007.



terprises increased dramatically, pointing at greater ease in registering companies but also at some businesses re-entering the legal economy. The trend was also noted in Kvemo Kartli and Samtskhe-Javakheti. According to the 2006 data, some 15,495 economic entities were registered in Kvemo Kartli, representing 8.9 per cent of the total registered entities for Georgia. Based on this data, Kvemo Kartli is the third area after Tbilisi and Imereti by the number of enterprises. In Samtskhe-Javakheti the number of economic entities in 2006 increased by 22 per cent compared to 2003 data and reached 3,938, representing 2.3 per cent of the total number of registered entities for the country.<sup>15</sup> The data available on industrial turnover shows that the share has been relatively static in Samtskhe-Javakheti (3.6% of the national turnover in 2001, 3.9% in 2006) and in Kvemo Kartli has recovered its level of 20.7% of 2001 in 2006, after having dipped to 16.2% in 2003. It is worth noting, that industrial data in Kvemo Kartli is disproportionately affected by the major thermal power-plant. This data is indicative of the share of agriculture in the regions, and shows that agriculture, plus minor production companies remain the chief, if insignificant, local employers.

It has to be noted, that both Kvemo Kartli and Samtskhe-Javakheti are border areas, and they have been associated with illicit smuggling bypassing the customs controls, often triggering tensions between the Georgian law enforcement agencies and local residents. This especially relates to Kvemo Kartli, where smuggling in consumer goods, food, cigarettes (excise du-

ties on tobacco products are lower in Azerbaijan) and, especially, oil and oil products has been rife. While in late 1990s the chief problem was harassment of the local Azeri traders by the traffic police to extort bribes, currently anti-corruption and anti-smuggling measures are being implemented. Stricter enforcement of the border regime creates tensions. There have been cases of demonstrations and assaults in early 2000s.<sup>16</sup> Samtskhe-Javakheti borders Turkey, and due to the cautious attitude of the Armenian populace with Turkey the border-related problems have been less noticeable. There is petty trade in smuggled goods with Turkey. However, due to poor road link with the rest of Georgia the smuggled goods are mainly for local consumption. The major problem, linked to harassment of the ethnic Armenian farmers by the traffic police has been resolved following the deep reform of the police in Georgia in 2004-2005.<sup>17</sup>

The average gross monthly base salary of employees in Kvemo Kartli and Samtskhe-Javakheti increased recently, but remains under country average. In third quarter 2006 the average gross monthly base salary for employees in Kvemo Kartli was 276.9 GEL (that is, 26.2 GEL less than country average, ranking fourth among the regions). The same figure in Samtskhe-Javakheti stood at 218 GEL (81 GEL less than country average, ranking seventh) and dipped

15 Statistics Department of Georgia: <http://statistics.ge/main.php?pform=93&plang=2>

16 Azerbaijani and Greek Populations of Georgia, Country of Origin Information Reports, UNAG, January-September 2003, p.16.

17 Armenian Population in Georgia, Country of Origin Information Reports, UNAG, January-September 2003, p.17.

to 195 GEL in first quarter of 2007.<sup>18</sup> Closure of the Russian military base in Samtskhe-Javakheti (Akhalkalaki) might have contributed to this decrease.

The government extensively finances infrastructural development. Out of the 295.3 million USD provided through the US Millennium Challenge Corporation 102.2 million USD are dedicated to rehabilitation and reconstruction of the 245km highway connecting Tbilisi and Samtskhe-Javakheti. The works commenced in spring 2007 and will end in 2010.<sup>19</sup> A new railway will also be constructed linking Azerbaijan, Georgia and Turkey passing through Samtskhe-Javakheti. The first phase of the railway project is planned to start in 2008-2010. In 2006, the government delivered targeted professional re-training program to 957 persons in Samtskhe-Javakheti, and 1141 persons in Kvemo Kartli.

Still, due to lack of information, there was a perception among the local population of Akhalkalaki and Ninotsminda that insufficient allocation of resources was a purpose-oriented move through which *“the Georgian government was trying to force them to leave by a policy of ‘white genocide’, i.e. by deliberately allowing school buildings, healthcare facilities, roads etc. to decline to such an extent that living conditions became unbearable.”*<sup>20</sup> However, the results of the survey have shown that the situation in this region does not differ substantively from the socio-economic situation in the rest of Georgia. The survey reveals three common problems with the same sequence in the regions densely populated by national minorities and throughout the country, generally: unemployment, living conditions and roads.

The State Agency for Social Assistance and Employment launched a special employment program in 2006 and provided job-seekers with funding to pass internships in various businesses. Over 50 000 citizens participated in the program. 1352 persons in Samtskhe-Javakheti and 1530 persons in Kvemo Kartli found jobs, according to the agency.

### 3. Land Privatization

Country-wide 55.3% of respondents claim to own land. The figures are higher (62% and 71.3% respectively) in Kvemo Kartli and Samtskhe-Javakheti. 70% in Kvemo Kartli and 77.9% in Samtskhe-Javakheti say they own a house (66.8% country-wide).

The process of privatization of agricultural land neared completion in 2005 when the new Law on Privatization of State-Owned Agricultural Land<sup>21</sup> entered into force. The law lifted limitations on land privatization in border areas that were imposed in 1992-1998. According to earlier laws, land in a 21 kilometer corridor along the border (in 1998 the figure decreased to 5km) could not be privatized (but could be leased). According to the new law, the land would be sold through an auction if it had not been leased, while leased land could be bought through direct sale.

So far, the new law has been implemented in Kvemo Kartli, but not in Samtskhe-Javakheti as the capacities of surveyors are limited and implementation occurs province by province. The process of implementation was slow and marred by complaints. According to the research by the Caucasus Institute for Peace, Democracy and Development (CIPDD) and German Organization for Technical Cooperation (GTZ) the residents complained of delays, lack of transparency and attempts by the local administration to hide information on auctions or mislead the public.<sup>22</sup> In March 2006 in the villages of Marneuli district a number of local Azeris were detained following a demonstration over unfair land privatization.<sup>23</sup>

Survey participants in the same study expressed dissatisfaction at large chunks of land being purchased by “outsiders” – mainly well-off landowners from the rest of Georgia who are interested in developing agro-business. Certainly, origins from outside the immediate region

18 Statistics Department of Georgia: [http://www.statistics.ge/\\_files/georgian/enterprise/regionebi/Sromis%20anazraureba-1.xls](http://www.statistics.ge/_files/georgian/enterprise/regionebi/Sromis%20anazraureba-1.xls)

19 Samtskhe-Javakheti Highway Rehabilitation Project website: <http://gza.ge/ge/project.htm>

20 ECMI, Implementing the Framework Convention for the Protection of National Minorities in Georgia: A feasibility Study, Jonathan Wheatley, ECMI Working Paper 28, October 2006.

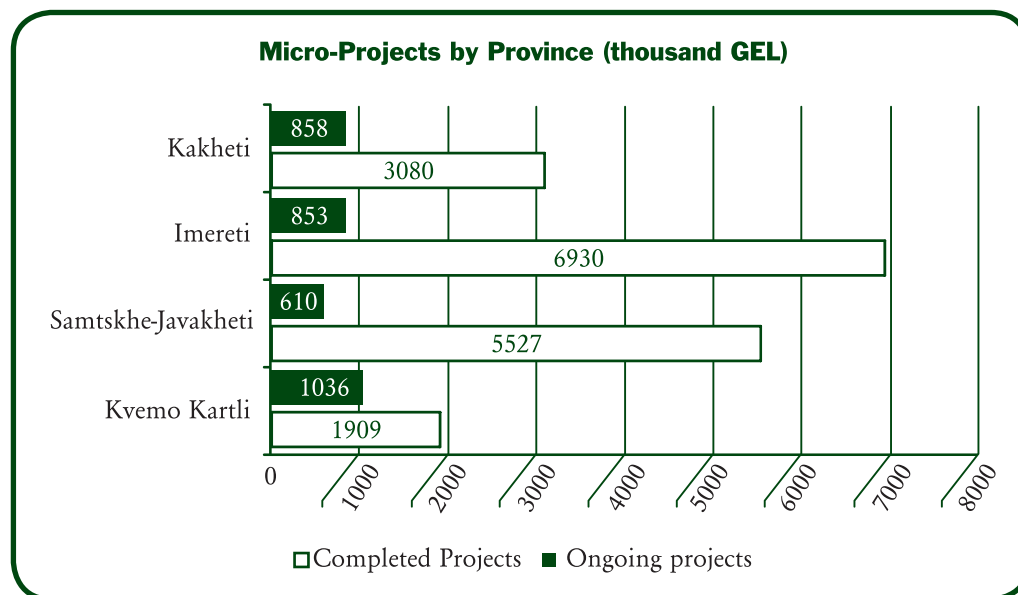
21 Law on Privatization of State-Owned Agricultural Land (1896-RS, 8 July 2007), available online <[http://www.parliament.ge/index.php?lang\\_id=GEO&sec\\_id=69&kan\\_det=det&kan\\_id=521](http://www.parliament.ge/index.php?lang_id=GEO&sec_id=69&kan_det=det&kan_id=521)> , accessed 10 July 2007.

22 Potential for Conflict Related to Land Problems in Georgia's Marneuli and Gardabani Districts, German Organization for Technical Cooperation, Caucasus Institute for Peace, Democracy and Development, Tbilisi-Marneuli-Gardabani, 2006, pp. 6-8.

23 ECMI, Implementing the Framework Convention for the Protection of National Minorities in Georgia: A feasibility Study, Jonathan Wheatley, ECMI Working Paper 28, October 2006.

do not disqualify any Georgian citizen from purchasing the land. Land in Kvemo Kartli is the most fertile in Georgia, and its proximity to the capital makes the region ideal for agrobusiness. CIPDD/GTZ research points out that the authorities are taking steps to rectify some of the older mistakes. Within the first seven months of 2006, about 8 thousand ethnic Azers received 0,5 hectares of lands each.<sup>24</sup> Some

Generale of France, as well as the PrivatBank of Ukraine have acquired stakes in the Georgian banks, announcing strategies to provide more accessible credit. Some of the established banks - such as Georgia's TBC - announced their decision to move from servicing business and institutional clients to widening their retail services, including credits. Credit unions and credit-only NGOs also operate on the whole



lease contracts were cancelled due to failure to meet contractual obligations and commissions were created locally to distribute land more transparently and fairly. It is true, however, that the local population remains skeptical to these efforts.<sup>25</sup>

See Annex 3 on privatization of land in Kvemo Kartli and Samtskhe-Javakheti.

## 4. Access to capital

The financial sector in Georgia is relatively developed. The entire financial system is privately owned. In the recent years, several foreign banks, including Credit Agricole and Societe

territory, including minority areas, and there were signs of consolidation in this sector, as some of the established microfinance NGOs (Constanta, FINCA, etc.) announced common loan products.

Although the banks serve the low-income and small enterprises with credit, the interest rates remain rather high. Observers suggest that the banks are currently oversubscribed with loans, especially in the booming construction sector of economy, which makes riskier agricultural loans unpopular with the banks. This is likely to make it particularly difficult for persons in rural areas, including Kvemo Kartli and Samtskhe-Javakheti to access micro-credits. At the same time, the banks are developing rapid international payment services and provide deposit-taking, offer leasing and micro-insurance products. Furthermore, legal and regulatory reforms are still on-going. The most outstanding characteristics affecting the provision of microfinance services in Georgia is the as-yet unsettled nature of the financial and legal system.<sup>26</sup> The EBRD and USAID continue to play

24 "Georgia's Armenian and Azeri minorities", International Crisis Group, Europe Report #178, – 22 November 2006

25 Potential for Conflict Related to Land Problems in Georgia's Marneuli and Gardabani Districts, German Organization for Technical Cooperation, Caucasus Institute for Peace, Democracy and Development, Tbilisi-Marneuli-Gardabani, 2006, pp. 17-18.

26 Druschel, Kate and Jens Reinke: "Self-Assessment Tool for Microfinance Legal and Regulatory Reform, As-

an important role in providing access to low-interest funding for small and medium enterprises and the capacity building of the micro-finance sector.

Survey results show that loans/credits are available in Georgia, but are not widely used: a total of 22.3% of the surveyed nation-wide took a credit or a loan of more than 1000 USD during the past year. 31.4% did so in Kvemo Kartli and only 7.4% in Samtskhe-Javakheti. Two-fold explanation can be provided for the difference between the two provinces. Firstly, Kvemo Kartli is more attractive for agricultural business and less remote. Secondly, in this region most of the loans were personal, with no interest charged.

Also, while in Kvemo Kartli most of the money was diverted to cover ongoing family expenses (46.6%), in Samtskhe-Javakheti it was mainly used for investment (34.3%) or to cover earlier loans (21.6%). This latter figure is also echoed by the fact that in Samtskhe-Javakheti most of the borrowing happens from the banks or credit institutions: 94.2%, contrasted with Kvemo Kartli's 28.6%<sup>27</sup> and a country-wide figure of 49.1%. The graph below also shows that shortage of capital was previously covered by micro-projects (less than 500 USD) in Samtskhe-Javakheti, but most of them are now completed. There only few new projects are starting up, thus increasing shortage of capital in this region.

There is no database of persons belonging to national minorities among the customers of credit organizations. According to the results of the research, in the process of taking a loan/credit, the major problems were triggered by inaccuracies in documents, lack of information about such service and absence of opportunities for financial guarantees, as well as a short credit period. The cases of rejecting the credits were not explicitly linked to ethnicity. However, one must note that the banking instructions are often not available in minority languages, or are available in Russian, which is no longer widely used. This can reduce access to credit for persons belonging to national minorities who have insufficient command of Russian and Georgian.

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sesment of Financial Regulation and Access for the Poor in Georgia”, USAID microReport #16, February 2005, available at [http://www.microlinks.org/ev02.php?ID=7289\\_201&ID2=DO\\_TOPIC](http://www.microlinks.org/ev02.php?ID=7289_201&ID2=DO_TOPIC), accessed on 17 May 2007, p3-7.

<sup>27</sup> Interestingly, similar trend is observed in Azerbaijan, where people are favoring personal, non-interest credit (79.1%) and very rarely borrow from the banks (6.7%). (See Hans Gutbrod, “2006 Data Initiative Survey for Georgia and South Caucasus, Introduction, Results and Application”, CRRC, 2006.)



## Annex A:

### Bilateral Agreements of relevance to national minority issues to which Georgia is Party

- Agreement between the Government of Georgia and the Government of the Republic of Azerbaijan on coordination in the field of information.(4 March 2004);
- Agreement between the Ministry of Education and Science of Georgia and the Ministry of Education of the Republic of Azerbaijan on cooperation in the field of education.(4 March 2004);
- Agreement on Exchange of Legal Information between the Government of Georgia and the Government of the Republic of Azerbaijan (3 February 2000);
- Cooperation on Social Security Matters between the Ministry of Healthcare and Social Security of Georgia and the Ministry for Labour and Social Security of Population of the Republic of Azerbaijan (22 March 2000);
- Agreement between the Government of Georgia and Government of the Republic of Azerbaijan on Cooperation in the Field of Communications (22 March 2000);
- Agreement between the Government of Georgia and Government of the Republic of Azerbaijan on Cooperation in the Field of Tourism (9 November 1998);
- Agreement between the Government of Georgia and Government of the Republic of Azerbaijan on Cooperation in the Field of Culture (18 February 1997);
- Agreement between the Government of Georgia and Government of the Republic of Azerbaijan on Cooperation in the Field of Youth Issues (18 February 1997);
- Agreement between Georgia and Republic of Azerbaijan on Cooperation frontier issues (18 February 1997);
- Agreement between the Government of Georgia and Government of the Republic of Azerbaijan on Cooperation in the field of education. (18 February 1997);
- Agreement Between the Republic of Georgia and Republic of Azerbaijan on Visa Free Cross-Border Movement (3 February 1993);
- Agreement Between the Republic of Georgia and Republic of Azerbaijan on Recognition of Visas (3 February 1993)
- Agreement between the Republic of Georgia and Republic of Azerbaijan on Cooperation in Cultural, Scientific and Humanitarian Matters (3 February 1993);
- Agreement between the Republic of Georgia and Republic of Azerbaijan on Cooperation in Healthcare Matters (3 February 1993);
- Agreement between the Government of Georgia and Government of the Republic of Armenia on Exchange of Legal Information (11 February 2002);
- Agreement between the Government of Georgia and Government of the Republic of Armenia on Cooperation in the Field attestation of scholars and scholar-pedagogical personnel of higher qualification.(20 November 1998);
- Agreement between the Government of Georgia and Government of the Republic of Armenia on Cooperation in the field of Education (2-3 May 1997);
- Agreement between the Government of Georgia and Government of the Republic of Armenia on scientific -technical Cooperation (2-3 May 1997);
- Agreement Between the Government of the Republic of Georgia and Government of the Republic of Armenia on Cooperation in Cultural, Scientific and Humanitarian Matters (19 May 1993);
- Agreement between the Republic of Georgia and the Republic of Armenia on Visa Free Movement (19 May 1993);
- Agreement between the Government of the Republic of Georgia and Government of the Republic of Armenia on Cooperation in the Field of Communications (19 May 1993);
- Agreement between the Government of the Republic of Georgia and Government of the Republic of Armenia on Cooperation in the field of Tourism (19 May 1993);
- Agreement between the Government of the Republic of Georgia and Government of the Republic of Armenia on Recognition of Visas (19 May 1993);
- Agreement Between the Government of the Republic of Georgia and Government of the Republic of Armenia on Cooperation in Sport-Related Matters (19 May 1993);
- Agreement between the government of the Republic of Georgia and Government of the Republic of Armenia on Developing Trade and Economic Cooperation (17 July 1992);
- Agreement Between the Ministry of Education of Georgia and the Ministry of Education of the Russian Federation on Cooperation in the Field of Education (11 February 2004);
- Agreement Between the Government of Georgia and Government of the Russian Federation on Cooperation in the Field of Protection of Intellectual Property (11 February 2004);
- Agreement Between the Government of Georgia and the Government of the Russian Federation on Cooperation in the Field of Information (11 February 2004);
- Agreement of the Government of Georgia and the Government of the Russian Federation on Cooperation in the Field of Tourism (5 July 2002).

## Annex B: Research Indicators

### Sequenced by key findings of the research

## National Governance

### a. Rights

#### 1. Does the country's constitution and legislation enshrine and guarantee adequate protections and opportunities to minorities in accordance with international commitments made by the Government of Georgia?

The legislation contains some provisions directly addressing the specific situation of national minorities or relevant to them. However the legal review showed that these provisions are scattered and most often insufficient to prevent all possible abuses.

On the legal side, the report concludes that the **legal framework contains many gaps which leave room to abuse that may open a way to violation of rights**. This only reinforces the importance of international law precedence over domestic law in order to palliate those gaps as long as they exist (new laws particularly in the field of education actually refer more and more to international law.).

**Measurement:** *Level of legal protection/implemented legislation and compliance with internationally agreed commitments and standards.*

#### 2. Are these rights actively implemented through relevant legislation?

Domestic legislation does not actively and comprehensively implement these rights, however there is a tendency of increasingly securing some:

- The oldest laws dating from the 1990s or very early 2000s often have no provisions, or only recall general principles without specific provisions;
- New laws or laws newly amended contain **scattered provisions**, sometimes unclear or insufficient. Still provisions relevant to national minorities are more and more widespread, and one perceives increasing attention of the legislator to adequate protection of minorities.

Domestic legal provisions on minority rights can be sorted in three main areas:

- Protection of national minorities from assimilation (conservation of cultural heritage, obligations of Public Broadcaster, and most importantly provisions in education laws enabling to study minority languages and have general education in minority languages within the general educational system with clear and far reaching obligations for the state);
- Protection of national minorities from discrimination (anti-discrimination provisions in education laws, Law on Health Coverage, Code of Ethics of the Prosecutor's Office only these? There are constitutional provisions too...)
- Promotion of equal access to certain rights (provision of translation in courts, extended deadlines for legalized translations)

The survey did not come across proven cases of discrimination, and few complaints about violation of national minority rights (but this could be due to low awareness). The main agencies in charge of minority issues are widely unknown, and the same goes for the civil society sector. As a result, persons belonging to national minorities hardly ever bring their concerns to the relevant bodies.

**Measurement:** *Case trends of basic laws that are implemented.*

#### 3. Do minorities believe that their rights are being implemented through relevant legislation?

Minorities are largely unaware of the relevant legislation, however most believe that minority rights are more or less protected.

**Measurement:** *What level of confidence do minorities have in the implemented legislation on minority rights?*

### b. Representation

#### 4. To what extent are minorities represented in executive agencies?

## 5. To what extent are minorities represented in the national legislature?

National minorities are still greatly underrepresented in public administration, executive, legislative, law enforcement, higher education. This has a lot to do with language obstacles, but also to self-perception as under-educated, feeling that access is impossible, or lack of information about opportunities.

**Measurement:** *Percentage of minorities identified in key positions of executive and legislative institutions; Are minorities ready and willing to be involved in these processes.*

## 6. Do minorities believe that executive agencies and the national legislature are responsive to minority interests?

Most respondents in minority areas do not know if these bodies are active in protecting their interests. In this, they trust local government more than central government or the judiciary system. They are very little aware of specialized agencies such as the Public Defender. The main agencies in charge of minority issues are widely unknown, and the same goes for the civil society sector. As a result, persons belonging to national minorities hardly ever bring their concerns to the relevant bodies.

Executive agencies and legislature are increasingly focusing on minority issues. Certain mechanisms of consultation exist, but they are not yet fulfilling their potential to be actually inclusive and participatory (Minister for Civil Integration, Civil Integration and Tolerance Council, various specialized boards).

**Measurement:** *To what extent are executive agencies and the national legislature responsive to minority interests?; Have executive and legislative agencies actively engaged minorities in a consultation process and or put forward clear minority related provisions during the past year?; What level of confidence do minorities have in these consultations?*

## c. Access

### 7. Do minority citizens have regular access to legislators and the legislative process through public hearings, town meetings, published records and the like?

Following the country-wide trend, persons belonging to national minorities vote massively, but hardly wish to get involved personally into political life: once they cast their ballot, people seem to feel they have done their job as citizens, and that political life is not their business. Georgian citizens and those belonging to national minorities in particular, are hardly but slightly more involved at the local level than in national legislative and executive bodies.

**Measurement:** *How frequently do minorities actively engage with these agencies and through what mechanisms?; Are minorities ready and willing to be involved in these processes.*

### 8. Are the authorities receptive to policy advocacy by minority-oriented civil society groups? Are they invited to testify, comment on and influence pending policies and legislation? Is language a barrier to this participation?

Minority civil society sector is practically inexistent, or focuses on local development, social or charity issues. As a result, minority advocacy in the classical sense does not take place. Instead, country-wide general human rights and other organizations do participate to policy-making on national minorities. Language barrier does not seem to be the main reason for this phenomenon.

**Measurement:** *Number of examples of minority-oriented engagement with government officials in past year and or trend of this engagement.*

## Local Governance

### a. Rights

#### 9. Do local laws and regulations enshrine and guarantee adequate protections and opportunities to minorities?

All existing legal protection guarantees are enshrined in national level legislation, not in local level regulatory framework. The survey did not enable to study local level regulations and development plans to assess their capacity to offer equal opportunities.

**Measurement:** *Level of legal protection/implemented legislation and compliance with national and internationally agreed commitments.*

**10. Do minorities believe that these rights have been actively implemented through relevant legislation at the local government level?**

Minorities tend to trust local government more than state level authorities to generally protect their rights. However as they do not know the legal framework regulating these rights, they have limited ability to assess how local government implements them.

**Measurement:** *What level of confidence do minorities have in the implemented local government legislation on minority rights?*

**b. Representation**

**11. To what extent are minorities represented in local executive offices? To what extent are minorities represented in local legislatures or councils?**

Minorities are more represented in local administration and in local government, in the regions and districts they mostly populate, than at the national level. The percentage of representation is not known precisely.

**Measurement:** *Percentage of minorities identified in key positions of local executive and legislative institutions; Are minorities ready and willing to be involved in these processes?*

**c. Access**

**12. Do minority citizens have regular access to local legislators and the legislative process through public hearings, town meetings, published records and the like?**

Although slightly more engaged in local level consultations, minorities, like the rest of the citizens, are not ready to be personally involved in legislative processes.

**Measurement:** *How frequently do minorities*

*actively engage with these local agencies and through what mechanisms? Is language a deterrent to access?*

## **Electoral Process**

**a. Election**

**13. Are there fair electoral laws?**

There is no national minority party in Georgia, rather political movements operating on a regional basis and/or concentrating on charity or development issues. There is no legal obstacle to the founding or participation of minority parties, only a ban on regional parties. However the electoral system tends to encourage minorities to engage within big nation-wide parties. In the last local governance elections, some adjustments were made to ensure participation of national minority voters (information and ballots in minority languages for instance).

**Measurement:** *Level of legal requirements/implemented legislation related to minority political party and electoral representation.*

**14. Are there equal campaigning opportunities and fair polling for minorities? Is the electoral system free of significant barriers to organization and entry for minority candidates?**

There is no national minority party in Georgia, rather political movements operating on a regional basis and/or concentrating on charity or development issues. National minority candidates run mainly for local elections on big party lists, mainly at the local level in regions populated by minorities.

**Measurement:** *What is the level of minority representation and parties at different levels of the electoral process?*

**15. Do minorities believe that there are equal campaigning opportunities and fair polling for minorities and that the electoral system is free of significant barriers to organization and entry for minority candidates?**

Minorities, like the rest of the electorate, vote massively. They are seldom ready to run for elections, like the general electorate. Only a

marginal proportion of respondents in minority regions claim elections are unfair when asked why they do not wish to run for local elections.

**Measurement:** *What level of confidence do minorities have in participating as minorities in the electoral process?*

## b. Participation

### 16. Are minorities engaged in the political life of the country?

Following the country-wide trend, persons belonging to national minorities vote massively, but hardly wish to get involved personally into political life: once they cast their ballot, people seem to feel they have done their job as citizens, and that political life is not their business. Georgian citizens and those belonging to national minorities in particular, are more involved at the local level than in national legislative and executive bodies.

**Measurement:** *Level of participation as evidenced by membership in political parties, voter turnout in elections, and other factors; Are minorities ready and willing to be involved in these processes.*

### 17. Do minorities believe that minority engagement in the political life of the country makes a difference for the minorities?

Most respondents in minority regions do not know if state institutions are responsive to minority needs. Those who answer this question usually state that suggestions of minorities are very rarely taken into account.

**Measurement:** *Do minorities believe that their contribution makes a difference in the running of the state, high, medium, low etc?*

## c. Representation

### 18. Are there legislative barriers to minority candidates running for office and/or getting elected?

There is no explicit legal barrier to minority participation in elections.

**Measurement:** *any overt or not legislative framework which hinders minority candidates from gaining office.*

### 19. Can minority candidates actually run for office and get elected?

Mostly in regions populated by minorities, minority candidates do run for elections, within bigger nation-wide party lists.

**Measurement:** *level of minority candidate success in the past local and national level elections in terms of number running and number winning.*

### 20. Do minorities believe that minority candidates can actually run for office and get elected?

Minorities are hardly interested in running for elections, however this reluctance is even higher nation-wide than in regions populated by minorities.

**Measurement:** *Are minorities interested to run for office, high, medium, low, why are why not?*

## Civil Society and Socio-Economic Rights

### a. Civil Society

### 21. Do the constitution and laws protect the rights of minorities to form minority-based groups to advocate and promote their minority rights?

The legislative framework does not pose obstacles to registering non-profit organization, and does not prevent the activities of such organizations, provided they do not aim to infringe upon territorial integrity or constitutional order, and provided they do not advocate hatred or violence.

**Measurement:** *Level of legal provisions in place and implemented related to civil society representation and advocacy.*



**22. Is minority participation and activity vibrant within civil society as witnessed by minority-based initiatives throughout the civil society sector (from religious to trade and NGO type groups)?**

Minority participation in civil society is marginal.

***Measurement:** Do minority-oriented civil society groups have sufficient organizational capacity and resources to sustain their work? How many major organizations are present and active in this field?*

**b. Socio-Economic Rights**

**23. Do the constitution and laws protect the socio-economic rights of minorities—such as the right to education, business development, employment, housing, and health care?**

The constitution protects social, economic and cultural rights, especially through precedence of international treaties over domestic law. Georgia has ratified most of the relevant international instruments. However the ordinary laws are insufficiently protecting those rights and equal access to them.

***Measurement:** Level of provision and actual implementation of these protections.*

- Do minorities have equal access to basic education and to institutions of higher learning and economic and health opportunities? (Do they have equal access to credit and economic development opportunities? Do minorities have equal access to employment and housing? Are minorities disproportionately affected by poverty due to their ethnicity? Do minorities have equal access to health care?)

Access to general education appears broadly equal, including in terms of affordability. However the system of non-Georgian schools, inherited from the soviet era, tends to segregate minority pupils, and limits their access to higher education, particularly due to linguistic barriers. The current reforms aim at correcting this situation, however in the short run they tend to place additional impediments to

national minority students wishing to receive higher education.

Unequal access to higher education, language barriers and geographic isolation reduce opportunities to participate to economic life. Poverty is widespread across the country. Access to credit is minimal across the country, especially in rural areas – including minority areas. Access to social rights (social assistance and health care) is minimal across the country. The law presents gaps in protection against discrimination in this sector, however the survey did not come across discrimination complaints.

***Measurement:** Representation of minorities in the business sector? Percentage of credit opportunities taken up by minorities; Usage and access to employment and housing assistance services; Poverty level of minorities to majority in regions and throughout the country; trend of minority usage of the health care services – similar or not to majority population.*

**24. Do minorities believe they have equal access to education, business development, employment, and health care?**

Dissatisfaction mostly relates to unequal access to public employment in relation with language barriers. The survey does not provide data about the level of satisfaction to social rights.

***Measurement:** How satisfied are minorities with their access to the basic areas of socio economic provisions? What contributes to this level of satisfaction?*

**Media**

**a. Programming**

**25. Are there minority cultural and language provisions in place for the minority populations that guarantee programming and fair representation?**

The legislation foresees special provisions on guaranteeing a proportion of programming in minority languages and regarding the minorities in Public Broadcasting. The commercial broadcasters are not bound by law or any self-regulatory mechanism to specifically garner for

minority agendas or languages. There is a legal possibility to establish regional public broadcasters, specifically responsible for reflecting the needs of local communities, but the provision seems under-used in favor of more commercial broadcasting.

**Measurement:** *existence and implementation of legislation which provides programming and fair representation.*

**26. Do the media disseminate negative stereotypes of minorities? Do the media actively defend minority rights and minority cultures?**

The media does not systematically cover the minority agenda. When it is the case, coverage tends to relate to conflict areas. In this sense, the media spreads negative stereotypes, is prone to 'labeling' of the minorities and rarely has minority representatives as objects, rather than subjects of the news.

**Measurement:** *Case study or content analysis assessment of sample of media outlets and their trend in presenting minorities and minority issues.*

## b. Representation

**27. To what extent can minorities gain access to media licenses and set up media outlets? Are minority journalists able to form their own viable professional associations?**

The law does not directly restrict minority access to the media licensing and establishing of media outlets. Setting up of the electronic media is subject to open bidding for the specific frequency range, thus the constraints are mainly financial. Printed media can be established through regular procedure for establishing a business company. Regulations and financial requirements in this area are minimal. However, printed media is not widely read and is not financially sustainable. Government supports several minority publications. The law does not create obstacles to creating media associations, which are created under same regulations as NGOs. There are several major professional media associations (both of the broadcasters and journalists) in Georgia, but their level of influence is minimal. The survey did not establish existence of any specific minority media association.

**Measurement:** *Level of minority ownership of regional or other media outlets or winning of media licenses. Existence and vibrancy of minority media professional associations.*

## Judicial

### a. Rights

**28. To what extent do minorities enjoy equality before the law? Is there a minority rights Ombudsman to defend these rights?**

The principle of equality before the law is enshrined in the constitution, and recalled by several key legal acts. However provisions in this regard are scattered in ordinary law, and there is no specific mechanism that would ensure redress. Criminal and Civil Codes and Procedure Codes contain provisions on equality before the law, and the Code of Ethics of the Prosecutor's Office is a step ahead in guaranteeing this principle. There is no available research on the implementation of these principles, however no cases of violation of the principle of equality before the law were found during the survey. There is an ombudsman (public defender) who is entrusted with defending the rights of all citizens, including the minority rights. Persons belonging to national minorities extremely rarely file claims to the ombudsman alleging violation of minority rights.

**Measurement:** *Level of legal protection/implemented legislation and existence and functioning of Ombudsman office.*

**29. Do minorities believe that they enjoy equality before the law?**

Country-wide the level of trust towards the judiciary system is rather low, compared to the levels of trust towards other institutions. Minority regions show slightly higher levels of trust, however many respondents there declare they are unable to assess the judiciary, which comes as no surprise as their degree of interaction with the judiciary is very low. The very few respondents having had relationships with the judiciary in the past year assessed the process as mostly fair.

**Measurement:** *What level of confidence do minorities have in gaining due process?*

## b. Representation

### 30. To what extent do minorities hold judicial and law enforcement positions in the judicial system?

Minorities are little represented in judiciary and law enforcement system. 4% (1222 employees) of the Ministry of Interior staff belongs to national minorities. Out of 261 judges only 6 (2,5%) belong to national minorities, although two of them are the judges of the Supreme Court of Georgia.

### 31. Measurement: ratio of positions identified as minority held and their respective level of seniority

- To what extent is the judicial system responsive to minority needs and grievances? Is language a barrier to seeking judicial redress

The Criminal Procedure Code foresees free interpretation for non-Georgian speakers. In civil cases, interpretation is also made available, although paid by the losing party. In regions with minorities, respondents have even less relationships with the judiciary than in the rest of the country, but the survey does not allow to assess how linked this phenomenon is with language barrier.

**Measurement:** Do the minorities address the law enforcement and judiciary bodies in case of need? If not (or rarely) why?

## Social and Cultural Rights and Interaction

### a. Social and Cultural Rights

#### To what extent do minorities have the right to use their own language, cultural, and religious symbols in social and political situations?

Constitution guarantees the minority right to use own language, cultural and religious symbols in public and in private. Georgian is defined as a state language (also Abkhazian in Abkhazia), and is legally the only language of

communication with civil service. In practice, however, communication with local administrations in provinces where the minorities are concentrated is possible in minority languages. The state guarantees primary education in minority languages, although not higher education. The survey did not focus on impediments related to use of religious symbols, no such case or structural impediment was revealed through indirect questions.

**Measurement:** Level of legal protection and usage of language and these symbols and level of implementation.

### 32. Can minorities actually use their own language, cultural, and religious symbols in social and political situations?

Minorities use their own language in daily life and in communication with public authorities, even though this is in contravention with the strict interpretation of the law. The key problem is in isolation into unilingual communities. The survey did not find evidence of impediments to use of cultural symbols. Minorities do not seem to value religious identifiers highly, and the only area of life it seems to affect is marriage. Minority involvement in political life and their interest to be involved is extremely low.

**Measurement:** De facto usage of these on a daily basis: trend or case analysis of key minority dominate and minority-minority areas.

### 33. Do minorities believe that they can actually use their own language, cultural, and religious symbols in social and political situations?

Minorities do use their language, cultural and religious symbols in daily life. Linguistic barrier creates certain obstacles in relation with public administration, including at the local level. In general, there seems to be a wish among minorities to use minority languages more extensively in relations with authorities.

**Measurement:** What level of confidence do minorities have in using their own language and symbols? In which settings/situations is this most likely, least likely?

## b. Interaction

### 34. Are there legislative barriers to minority-majority intermixing in daily life?

There are no legal provisions hampering normal social interaction. Intermixing is limited mainly due to over-concentration of minorities in isolated areas both in infrastructural and geographic terms.

**Measurement:** *Are there any legal provisions which hamper normal social interaction?*

### 35. To what extent do minority and majority populations mix in daily life?

Majority and minorities hardly mix in daily life in the regions mainly populated by minorities. The survey shows that communities are essentially unilingual. The degree of fluency of the majority in minority language was not revealed by the survey, but the report shows that persons belonging to national minorities, especially the youngest, have poor command of Georgian. Russian is currently losing its role of a *lingua franca*. In the rest of the country, the situation is very different, with minorities mostly having sufficient command of Georgian for daily interaction.

**Measurement:** *What are the levels of mixed neighborhoods, intermarriage, etc.? To what extent are minority and majority populations multi-lingual in order to communicate in a common language?*

### 36. Do minorities and majorities believe that minority and majority populations can mix in daily life?

In minority areas, respondents rate ethnic Georgians as second best after their kin for various sorts of close relationships. None of the surveyed majority or minority groups expressed wish to cut or severely limit relationships both in principle and in practice from any other group.

**Measurement:** *What level of comfort do minorities have in basic social interactions with the majority population.*

### 37. To what extent do minorities identify themselves to Georgian state and culture?

Most persons belonging to national minorities call Georgia their homeland, associate their future with it, and participate massively to elections. This does not preclude from a clear intention to preserve minority cultures, particularly through learning, and studying in their native languages.

### 38. Do representatives of majority believe that minorities should be the part of Georgian state and culture?

The representatives of the majority do not have any established vision regarding the minorities' place in Georgian state and culture: 43% think that they should stay in Georgia and be involved in country's political and social life, as well as have some cultural autonomy, while 32% think that they should stay in Georgia and be assimilated by the Georgian society. Some 6.1% even believe that ethnic minorities should be forced to leave the country.