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REPORT ON GEORGIA

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Foreword

The European Commission against Racism and Intolerance (ECRI) is a body of the Council of Europe, composed of independent members. Its aim is to combat racism, xenophobia, antisemitism and intolerance at a pan-European level and from the angle of the protection of human rights.

One of the pillars of ECRI's work programme is its country-by-country approach, whereby it analyses the situation as regards racism and intolerance in each of the member States of the Council of Europe and makes suggestions and proposals as to how to tackle the problems identified.

In December 1998, ECRI completed the first round of its country-by-country reports for all the member States of the Council of Europe at that time. In January 1999, ECRI began implementing the second stage of its country-by-country work. The second stage extends over four years (1999 – 2002) and again covers all member States of the Council of Europe with the aim of producing a minimum of ten individual country-by-country reports annually. This stage of ECRI country-by-country work therefore includes the preparation of a report on the situation as concerns racism and intolerance in Georgia for the first time.

An important stage in ECRI's country-by-country work is a process of confidential dialogue with the national authorities of the country in question before the final adoption of the report. A new procedure in the second round of country reports is the organisation of a contact visit for the ECRI rapporteurs prior to the drafting of the second report.

The contact visit to Georgia took place on 19-22 March 2001. During this visit, the rapporteurs met with representatives of various ministries and public administrations responsible for issues relating to ECRI's mandate. ECRI warmly thanks the Georgian national authorities for their wholehearted co-operation in the organisation of the contact visit, and in particular would like to thank all the persons who met its delegation each of whom provided much valuable information on their own field of competence. ECRI would also like to thank the Georgian national liaison officer whose efficiency and collaboration were much appreciated by ECRI's rapporteurs.

Furthermore, ECRI would like to thank all the representatives of non-governmental organisations with whom its rapporteurs met during the contact visit for the very useful contribution they made to the exercise.

The following report was drawn up by ECRI under its own responsibility. It covers the situation as of 22 June 2001 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposals made by ECRI.

Executive summary

Georgia has taken some positive steps over recent years which are relevant to combating racism and intolerance. These include the ratification of some important international legal instruments for combating racism, racial discrimination and intolerance; the establishment of the Office of the Public Human Rights Defender and of the Parliamentary Committee for Civil Integration; the initiated reform of the educational system at the primary and secondary level which will include the strengthening of its human rights dimension; and the adoption of a programme aimed at improving the knowledge of Georgian by the members of the national minorities.

Problems of racism, intolerance and direct or indirect discrimination persist, however, and concern members of different groups such as religious minorities and national minorities; some problems with respect to foreigners have also surfaced. The response of the authorities, and particularly the police and the prosecuting authorities, to manifestations of racism, intolerance and discrimination have been for the most part inadequate. Concern is also expressed at the position of isolation of members of national minorities in Georgian society also resulting from the persisting lack of knowledge of the Georgian language among the members of these groups. In the report, ECRI also notes the absence of comprehensive civil and administrative antidiscrimination statutory provisions covering discrimination in different fields of life including provision for a fully effective specialised body and the lack of criminal law provisions prohibiting incitement to racial hatred.

In the following report, ECRI recommends to the Georgian authorities that further action be taken to combat racism, xenophobia, discrimination and intolerance in a number of areas. These recommendations cover, inter alia: the need to ameliorate the response of the authorities to manifestations of intolerance, particularly, but not exclusively, vis-à-vis the members of religious minorities; the need to strengthen the efforts to enable full participation in Georgian society of all persons living in Georgia, including through adequate knowledge of the Georgian language; the need to fine-tune criminal law provisions in the areas covered by ECRI's remit and to adopt a body of comprehensive civil and administrative antidiscrimination provisions covering discrimination in different fields of life; and the need to raise the awareness of the issues relating to racism and discrimination among both the State authorities and the general public.

SECTION I: OVERVIEW OF THE SITUATION

A. International legal instruments

1. Georgia has ratified many international legal instruments relevant in the field of combating racism and intolerance. ECRI welcomes the signature by Georgia of the Additional Protocol N°12 to the European Convention on Human Rights, which widens in a general fashion the scope of application of Article 14 of the Convention and contains a non-exhaustive list of grounds of discrimination. ECRI encourages the Georgian authorities to ratify this Protocol as soon as possible.
2. On acceding to the Council of Europe in April 1999, Georgia committed itself to signing and ratifying the Framework Convention for the Protection of National Minorities and the European Charter for Regional and Minority Languages within one year after its accession. ECRI understands that ratification of the Framework Convention for the Protection of National Minorities is pending before the Parliament and hopes for a successful and swift conclusion of this process. However, the European Charter for Regional and Minority Languages has not yet been signed by Georgia. ECRI urges the Georgian authorities to expedite the necessary work in this respect.
3. On acceding to the Council of Europe, Georgia also committed itself to signing and ratifying the Social Charter within three years after its accession and, in the meantime, to endeavour to implement a policy in accordance with the principles contained in the Charter. ECRI welcomes the signature by Georgia, in June 2000, of the Revised European Social Charter and notes that work is underway to ensure that domestic legislation is in line with the provisions contained therein. ECRI encourages the Georgian authorities to complete the necessary work in view of the ratification of this instrument as soon as possible.
4. The signature and ratification of the European Charter of Local Self-Government within three years of accession to the Council of Europe – and the application of the fundamental principles contained in this instrument in the meantime – are also part of the commitments undertaken by Georgia on acceding to the Council of Europe. ECRI understands that the process for signing the European Charter of Local Self-Government is now well underway and encourages the prompt ratification of this instrument.
5. ECRI furthermore encourages the Georgian authorities to sign and ratify the European Convention on the Legal Status of Migrant Workers, the Convention on the Participation of Foreigners in Public Life at Local Level and the European Convention on Nationality.
6. ECRI also strongly encourages the Georgian authorities to make the declaration under Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, which allows individual communications to be considered by the Committee for the Elimination of Racial Discrimination.
7. Article 6 of the Constitution stipulates that international treaties and agreements concluded by Georgia take precedence over domestic normative acts, provided that they do not contradict the Georgian Constitution. In addition, according to the Law on Normative Acts and the Law on International Treaties of Georgia, international agreements concluded by Georgia become an integral part of the domestic legal

system upon ratification. Where the provisions of these international instruments contain specific rights and duties, they are directly applicable before national courts of justice. Article 7 of the Constitution states that “the state recognises and defends universally recognised human rights and freedoms as eternal and supreme values. The people and the state are bound by these rights and freedoms as well as by current legislation for the exercise of state power.”

B. Constitutional provisions and other basic provisions

8. Article 14 of the Georgian Constitution contains the principle of equality before the law of every human being regardless of race, skin colour, language, sex, religion, political or other beliefs, national, ethnic or social background, origin, property, titles or place of residence.
9. As regards non-citizens, Article 47 of the Constitution stipulates that foreign citizens and stateless persons living in Georgia and the citizens of Georgia have equal rights and duties unless otherwise stipulated by the Constitution and the law. Most rights and freedoms set down by the Constitution -- with the exception of the right to participate in referenda and elections to State and self-governing bodies, the prohibition of expulsion and extradition, the access to personal information existing in State institutions and the protection of labour rights abroad -- are guaranteed to all individuals. The Legal Status of Aliens Act of 1993 reiterates the principle of non-discrimination with respect to aliens: Article 3 provides that aliens in Georgia are equal among themselves before the law, irrespective of, *inter alia*, origin, social and material status, race, nationality, sex, education, language, religion, political or other views and occupation, and states that Georgia protects the life, security of person and rights and freedoms of aliens on its territory.
10. Article 38 of the Constitution, which is aimed at the protection of the rights of persons belonging to national minorities, stipulates that all Georgian citizens are equal in social, economic, cultural and political life irrespective of their national or ethnic origin, religion or language. In accordance with universally recognised principles and norms, they have the right to develop their own culture without discrimination and interference and to use their language in private and public life. On acceding to the Council of Europe in April 1999, Georgia committed itself to adopting, within two years, a law on minorities based on the principles of Recommendation 1201 (1993) of the Parliamentary Assembly of the Council of Europe. ECRI understands that a draft law is pending before the Parliament and hopes for a swift and successful conclusion of this process. ECRI understands that support for the adoption of such legislation is not unanimous in Georgia, including among representatives of national minorities. ECRI believes that the adoption of this law should be accompanied by an information campaign which would both raise the awareness of the members of national minorities of the implications of the new law and inform the general public of the reasons which have prompted the adoption of such legislation.

C. Criminal law provisions

11. The Georgian Criminal Code of 1999 contains criminal law provisions defining some common offences - but with a racist nature - as specific offences: Article 109 (murder motivated by racial, religious, national or ethnic intolerance); Article 117 (infliction of serious injuries motivated by racial, religious, national or ethnic intolerance); and

Article 126 (torture motivated by racial, religious, national or ethnic intolerance). However, ECRI believes that protection against racially-motivated crimes can be strengthened through a general provision expressly enabling the racist motive of the perpetrator to be taken into account in all offences as a specific aggravating circumstance. Since no such provision exists in Georgian criminal law, ECRI urges the Georgian authorities to consider its adoption.

12. Article 142 penalises the infringement of an individual's right to equality on the grounds mentioned in Article 14 of the Constitution¹. However, ECRI notes that Article 142 requires for its application that the infringement of the right to equality result in a substantial violation of human rights. ECRI believes that a less restrictive formulation of this article would be desirable and encourages the Georgian authorities to consider this question.
13. Other relevant provisions of the Criminal Code include: Article 258 which prohibits desecration of graves and other acts committed on the grounds of racial, religious, national or ethnic intolerance; Article 411 which penalises the premeditated violation of international humanitarian law based on apartheid or racial discrimination; and Article 407 which punishes acts of genocide.
14. ECRI knows of no cases where the provisions of the Criminal Code referred to in this Section have been applied. The Georgian authorities have stated that this situation reflects the absence of manifestations of racism, racial discrimination and intolerance in Georgian society. ECRI believes, however, that it can also be connected to a certain lack of awareness on the part of all those involved in the criminal justice system of the way in which racism and discrimination operate in practice and of the need to take all instances of racism and discrimination seriously. A further element explaining the non-use of these provisions could be the lack of awareness of the general public of the available legal remedies. As will be mentioned below, ECRI believes that comprehensive civil and administrative law provisions and remedies are fundamental to effectively counter discrimination. In this Section devoted to criminal law provisions, however, ECRI encourages the Georgian authorities to ensure that the police, the prosecutors and the judges receive adequate training as concerns the investigation, prosecution and sentencing of the crimes referred to above. ECRI furthermore suggests that the general public should be more actively informed of the legal means available in these cases.
15. The old Criminal Code of Georgia contained a provision (Article 75) prohibiting incitement to racial hatred. However, no such provision exists in the new Criminal Code. ECRI strongly urges the Georgian authorities to establish a provision penalising incitement to racial hatred, to provide the relevant necessary training for all those involved in the criminal justice system, and to ensure that the general public is adequately informed in this respect.

D. Civil and administrative law provisions

16. The principle of non-discrimination is reproduced in a general fashion in some civil and administrative laws in force in Georgia in different fields. However, there are no comprehensive civil and administrative anti-discrimination provisions covering

¹ See above, *Constitutional provisions and other basic provisions*

discrimination in different fields of life such as employment, education, housing, access to public and social services and public places and contractual relations between individuals, and providing for effective mechanisms of enforcement and redress. ECRI encourages the Georgian authorities to consider the adoption of such provisions. As will be discussed below², ECRI stresses the fundamental role that a specialised body on combating racism and intolerance could play in supervising the implementation of such anti-discrimination legislation. ECRI furthermore believes that the debate around the adoption of such legislation would stimulate research covering the phenomena of direct and indirect discrimination and discrimination in the private sphere as well as the extent to which these may be present in Georgia, as there appears to be a lack of awareness of these issues in society in general.

17. ECRI welcomes the 1999 amendments to Georgian legislation by which the indication of ethnic origin was removed from Georgian identification documents and birth certificates. ECRI is aware that, since the adoption of these amendments, there have been proposals aimed at restoring the indication of ethnic origin in such documents and hopes that the present situation in this respect will be maintained.

E. Specialised bodies and other institutions

18. In its general policy recommendation N°2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level, ECRI recommends the establishment of bodies which can effectively and independently monitor the situation as regards human rights generally or specifically in relation to racism and racial discrimination, and formulates suggestions on the form that these bodies might take.
19. In 1995, the constitutionally mandated Office of Public Human Rights Defender of Georgia was created. The main areas of responsibility of the Public Defender are: receiving, investigating, and where appropriate acting upon complaints of human rights violations; human rights awareness raising and education; and providing policy advice and assistance to the Government on human rights matters. ECRI notes that the Public Defender has taken action in cases relating to the areas covered by its remit, in particular with respect to the occurrence of manifestations of religious intolerance³. It strongly encourages the Georgian Government to ensure that the Public Defender's recommendations and suggestions are thoroughly followed-up by the public bodies concerned.
20. The Parliamentary Committee on Human Rights and Ethnic Relations may also independently investigate alleged claims of human rights violations. Once again, in the areas covered by ECRI's remit, the Committee has been particularly active trying to address manifestations of religious intolerance, including through the organisation of hearings gathering together different public bodies with responsibility in this area. ECRI welcomes the attention devoted by the Committee to this problem. However, it is not clear to ECRI that the activities undertaken by the Committee have resulted in concrete changes to ensure a more effective response to such manifestations by the public authorities.

² *Specialised bodies and other institutions*

³ *See Section II below*

21. ECRI welcomes the recent establishment of a Parliamentary Committee on Civil Integration which is responsible, *inter alia*, for creating a legal framework enabling the sustained development of integration processes within Georgian society. It also notes with interest the establishment of human rights commissions in several local elective bodies and hopes that adequate attention will be given by these commissions to the areas covered by ECRI's remit.
22. In 1998, a new Office of the Assistant to the President on Interethnic Relations was established, with staff comprising representatives of different national minorities. The tasks of the Office are general monitoring of the situation as concerns the rights of persons belonging to national, ethnic, religious and linguistic groups, and drafting of new laws or other normative acts for the protection and promotion of these rights. The Office regularly consults with a council of representatives of national communities and voluntary organisations working on ethnic minority issues. While welcoming the establishment of the Office and its work, ECRI encourages the Georgian authorities to ensure that the representatives of the voluntary non-governmental sector who are regularly consulted reflect as broad a spectrum of interests as possible within the minority communities, in order to better address the concerns of these communities.
23. On the initiative of the President of Georgia, the post of special Deputy Secretary of the National Security Council on Human Rights Issues was established in April 1997. The Deputy Secretary heads a service on human rights issues established in the apparatus of the National Security Council. The Deputy Secretary and the service have certain executive and co-ordinating functions as well as control functions over law enforcement institutions. This institution has played a role in countering the manifestations of intolerance against religious minorities, which ECRI addresses in Section II of this report.
24. As mentioned above⁴, with regard specifically to issues of racism, racial discrimination and related intolerance, ECRI believes that these issues cannot be adequately addressed without legislation setting out a comprehensive framework within which it is possible for individuals to pursue legitimate complaints against illegal acts of discrimination. In the context of the possible adoption of a comprehensive framework of anti-discrimination legislation, ECRI feels that consideration should be given to the establishment of a specialised body with specific responsibility, *inter alia*, for supervising the implementation of such legislation and for providing an effective means of redress for individual complaints.

F. Education and training/awareness-raising

25. Human rights education is at present not compulsory in Georgian primary and secondary school curricula, although teaching in human rights is being piloted in schools in different regions. ECRI understands that an overall reform of the system of primary and secondary education is currently being put in place. In the context of this reform, ECRI encourages the Georgian authorities to devote particular attention to the development of the human rights dimension in school curricula for primary and secondary education with particular emphasis on the principles of equality and non-discrimination and the notion of tolerance. ECRI considers that the teaching of these subjects should be made compulsory at the primary and secondary level and that

⁴ Civil and administrative law provisions

initial and, possibly, on-going specialist training should be provided to teachers of these subjects. The development of the human rights dimension also requires regular review of school curricula and textbooks across all subjects – with a particular emphasis on history teaching -- to ensure that these do not perpetuate prejudice and stereotypes and do not favour the development of extreme nationalist, racist or otherwise intolerant attitudes in school children. Teaching materials should also be introduced which reflect more closely the diverse nature of Georgian society and the contribution made by the different minority groups throughout the country's history and in the present day.

G. Reception and status of non-citizens

- Refugees and asylum seekers

26. A law on asylum was adopted by the Georgian Parliament in 1998. This law is currently being amended in order to ensure its conformity with the 1951 UN Convention relating to the Status of Refugees and its 1967 Protocol, instruments ratified by Georgia in August 1999. ECRI strongly encourages the Georgian authorities to continue to co-operate closely with the UN High Commissioner for Refugees (UNHCR) on questions concerning the asylum law and hopes for a swift adoption of the amended law.
27. Georgia hosts about 7,000 refugees, who include mostly people from the neighbouring region of Chechnya and small numbers of persons of other nationalities. Chechen refugees are mainly settled in the Pankisi Valley in north-eastern Georgia, where a community of ethnic Chechens has lived for a very long time. The vast majority of these refugees found accommodation in the private homes of friends or relatives, whereas around 10% of them reside in refurbished communal centres. ECRI is aware of the very difficult economic and humanitarian situation presently prevailing in Georgia⁵; however it encourages the authorities to continue and strengthen their efforts to cater for the primary needs of refugees living in Georgia.

- Migrants

28. Although Georgia is currently not a country of destination for immigrants, a certain number of foreigners from both neighbouring and non-neighbouring countries and regions are present on its territory, including Afghans, Kurds, Chinese, Bangladeshi and Africans. Although the information in possession of the Georgian authorities on these persons, including on the numbers involved, is at present not complete, it would seem that they intend for the most part to reach other destinations. In some cases, these persons overstay the visa on which they entered the country and therefore find themselves in Georgia without legal status. ECRI is aware that Georgia is in the process of adopting a law and procedures for deportation. It strongly urges the Georgian authorities to ensure that, once the legal framework is established, all deportations are carried in the full respect of human rights of the deportees and of existing international standards.

⁵ See below, *Situation resulting from the conflicts in Abkhazia and South Ossetia*

29. Although there appears to be little information on the situation of migrants in Georgia, ECRI notes that there have been some reports of Africans being ill-treated by the police and attacked by the local population. ECRI strongly encourages the Georgian authorities to conduct research in this field. In addition, as mentioned in different sections of this report⁶, ECRI stresses the need for further human rights and non-discrimination training for the members of the police; the need to ameliorate the mechanisms in place to deal with complaints of misbehaviour on the part of the police; and the need to ensure that the existing criminal law provisions in the areas covered by ECRI are duly applied.

H. Access to public services

- Access to education

30. ECRI notes the wide availability in Georgia of education in languages other than Georgian at all levels of education. While ECRI welcomes the fact that mother tongue education for members of national minorities is available, in Section II of this report it stresses the urgent need to ensure adequate teaching of the Georgian language in all schools in Georgia, in order to enable all persons living in Georgia to fully participate in society.
31. ECRI notes that, with the exception of books about Georgian language, history and geography, the school books used in practice by children belonging to ethnic minorities in schools often come from abroad (Armenia, Azerbaijan, Russia, etc.). ECRI encourages the Georgian authorities to ensure that the books used by school children belonging to the majority are more available in minority languages for children belonging to national minorities.
32. ECRI is concerned at reports that the number of minority children not going to school seems to be increasing, mainly for economic reasons. ECRI urges the Georgian authorities to further investigate this area and to take all necessary measures.

I. Employment

33. Although some provisions exist reiterating the principle of non-discrimination in employment – for example, Article 75 of the Code of Labour Laws prohibits reducing remuneration on account of, *inter alia*, race and national origin – ECRI has not been made aware of any cases where such provisions have been used. However, ECRI considers that in Georgia, as in most other European countries, there are groups whose members are vulnerable to discrimination on the labour market. ECRI urges the Georgian authorities to promote research in the phenomenon of direct and indirect discrimination in employment and stresses that employment should be one of the areas covered by the body of comprehensive civil and administrative antidiscrimination provisions suggested above⁷.

⁶ See *Criminal law provisions and Conduct of law enforcement officials*

⁷ *Civil and administrative law provisions*

J. Vulnerable groups

This section covers certain minority groups which may be particularly vulnerable to problems of racism, discrimination and intolerance in the country in question. It is not intended to provide an exhaustive overview of the situation of all minority groups in the country, nor to imply that groups not mentioned face no problems of racism and discrimination.

34. ECRI deals with the situation of members of religious minorities and with certain aspects related to the position of members of national minorities in Section II of this report.

- **Meskhethian Turks**

35. Approximately 100,000 members of the native population of Southern Georgia (Samtske-Javakheti or Meskhethia) were deported by Stalin in 1944 as a result of political repression. Today, between 600 and 700 Meskhethian Turk repatriates – comprising some of the persons deported and their descendants – reside in Georgia. Most of the Meskhethian Turk repatriates have been able to obtain Georgian citizenship, either upon the entry into force of the Law of Georgia on Citizenship of 1993 or, subsequently, through Presidential Decrees. A part of them, however, have not been able to secure Georgian citizenship and are therefore citizens of other countries or stateless.

36. There are at present no specific mechanisms for acquisition of Georgian nationality for the formerly deported Meskhethian Turks. In this respect, ECRI notes that one of the commitments of Georgia on acceding to the Council of Europe was to adopt, within two years after its accession, a legal framework permitting repatriation and integration, including the right to Georgian nationality, for the Meskhethian Turk population deported by the Soviet regime and to consult the Council of Europe about this legal framework before its adoption⁸. ECRI urges the Georgian authorities to act on this matter.

37. As concerns those Meskhethian Turk who are already residing in Georgia, ECRI notes that their process of integration in Georgian society is rather slow, due to several reasons, including insufficient command of the Georgian language, difficulties encountered in the restoration of their family names and, for some of them, lack of Georgian citizenship, as mentioned above. ECRI strongly urges the Georgian authorities to address these questions. ECRI considers that the process of integration of the Meskhethian Turk population currently residing in Georgia as well as of potential Meskhethian Turk repatriates could also be greatly facilitated through measures aimed at raising the awareness of the local population of the issues involved. In this respect, ECRI encourages the Georgian authorities to ensure that the public debate around the adoption of the legal framework permitting repatriation and integration of the Meskhethian Turks does not favour manifestations of intolerance *vis-à-vis* the members of this group.

⁸ Georgia also committed itself to begin the process of repatriation and integration within three years after its accession and to complete the process of repatriation of the Meskhethian population within twelve years after its accession.

- **Roma/Gypsies**

38. There appears to be a general lack of awareness of the situation as concerns the Roma/Gypsy communities in Georgia. The Georgian government gives a figure of 1,200 based on the 1989 census; however, non-governmental organisations estimate their number to be considerably higher. There are reports according to which the members of these communities are in a situation of disadvantage in such vital areas as education and employment. Problems in relations with the police and with civil servants are also reported and are compounded by a general lack of awareness on the part of members of the Roma/Gypsy communities of their rights. ECRI believes that research is needed in the concrete situation of the Roma/Gypsy population in Georgia and the problems they may face. ECRI draws the attention of the Georgian authorities to its general policy recommendation N°3 on combating racism and intolerance against Roma/Gypsies.

K. Antisemitism

39. According to the 1989 census, the Jewish community in Georgia numbers around 25,000 persons. Manifestations of antisemitism are reportedly not prevalent within Georgian mainstream media and society. Jewish leaders are reported to have attributed isolated acts of antisemitism, including the publication of antisemitic newspaper articles and the destruction of Jewish communal property, to general instability and disorder. ECRI notes that the author of an antisemitic article was sentenced to prison under the provisions prohibiting incitement to hatred contained in the previous Criminal Code. ECRI strongly encourages the Georgian authorities to keep the situation under review and reiterates, in the context of the fight against manifestations of antisemitism, the need to adopt criminal law provisions prohibiting incitement to hatred⁹.

L. Monitoring the situation in the country

40. There appears to be a lack of reliable data concerning the situation of the various groups in society across a number of fields of social and economic life, and concerning the incidence of discrimination. In order to evaluate the evolving situation of minority groups in Georgia, ECRI feels that it would be useful to consider the establishment of a system of data collection and monitoring, which would help uncover and remedy any problems, including differences related to direct or indirect discrimination.

M. Conduct of law enforcement officials

41. There are widespread reports at national and international level of problems in ensuring that Georgian law enforcement officials act in the full respect of human rights of all persons. Arbitrary arrest, ill-treatment and humiliating treatment of people in police custody or pretrial detention, in some cases accompanied by extortions, and impunity of those responsible for these acts are the problems most often highlighted. Although this appears to be a general phenomenon, ECRI is concerned that some

⁹ See above, *Criminal law provisions*

groups of persons may be comparatively more vulnerable to this type of behaviour on the part of the members of the police. As mentioned below, the inadequate reaction of law enforcement officials to episodes of violence and harassment directed against members of religious minorities is a matter of concern to ECRI¹⁰. The position of foreigners, especially without status, also appears to ECRI to be a particularly vulnerable one¹¹.

42. ECRI considers that, in order to address this situation, action should be taken to improve the mechanisms to process complaints of unlawful behaviour on the part of law enforcement officials. To this end, ECRI supports the establishment of an independent commission to investigate all allegations of human rights violations by the police. ECRI also hopes that the Office of the Public Human Rights Defender will play an active role in this area.
43. While noting that human rights training forms an integral part of the police educational curriculum, ECRI strongly encourages the Georgian authorities to strengthen both initial and on-going training of the police in human rights and non-discrimination.

N. Media

44. ECRI notes that the printed media in Georgia has often resorted to sensationalist reporting on issues relating to members of religious minorities and has in many cases shown support for the perpetrators of attacks against members of these groups¹². Instances of negative stereotyping of members of national minorities have also been present. ECRI strongly encourages the media profession to adopt and implement codes of self conduct which would favour a more responsible type of reporting. ECRI also invites the authorities to support initiatives undertaken by members of the civil society and the media profession itself in the field of interest to ECRI.

O. Situation resulting from the conflicts in Abkhazia and South Ossetia

45. Georgia comprises three autonomous entities: the Autonomous Republic of Abkhazia, the Autonomous Republic of Adjara and the Autonomous Region of South Ossetia. In the first half of the 1990s Georgia has experienced two armed conflicts: the first, between 1990 and 1992, opposing the Georgian authorities to the Ossetians, following the declaration of independence of South Ossetia in 1990; and the second between the Georgian authorities and the Abkhazian separatists between 1992 and 1993. ECRI notes that the Council of Europe, the European Union and the Organisation for Security and Co-operation in Europe have condemned ethnic cleansing resulting in mass destruction and forcible expulsion of the predominantly Georgian population from Abkhazia.
46. As a result of these conflicts, which have left thousands of both civilians and military dead, Georgia does not currently exercise effective control in Abkhazia and South Ossetia. Another consequence of these conflicts is the presence of around 280,000 internally displaced persons on the territory of Georgia presently under the control of

¹⁰ See Section II

¹¹ See Reception and status of non citizens - migrants

¹² See below, Section II

the Georgian authorities. These include for the most part ethnic-Georgians displaced from Abkhazia, still not allowed to return to their homes, but also around 11,000 ethnic-Georgians coming from South Ossetia.

47. In order to favour the full reconciliation of all people living in Georgia and restoration of mutual confidence among the members of the different communities, ECRI encourages the Georgian authorities to pursue a constructive dialogue with all the relevant national and international interlocutors, in order to find solutions both to the questions of return of internally displaced persons to their homes in the full respect of their rights and dignity and to the questions of status of South Ossetia and Abkhazia.

- ***Areas currently not under the effective control of the Georgian authorities***

48. As noted above, the current situation prevents ECRI from covering the position of populations living in Abkhazia and South Ossetia, as these parts of the territory of Georgia are currently not under the effective control of the Georgian authorities, to which the present report is addressed. In the framework of its mission, however, ECRI registers here its deep concern at reports of serious human rights violations in Abkhazia, and notably of violations of the rights of the non-Abkhazian population, including many Georgians spontaneously returning to their homes in the Gali region of Abkhazia and members of the Russian, Armenian, and Roma/Gypsy communities.

SECTION II: ISSUES OF PARTICULAR CONCERN

In this section of its country-by-country reports, ECRI wishes to draw attention to a limited number of issues which in its opinion merit particular and urgent attention in the country in question. In the case of Georgia, ECRI would like to draw attention to the issue of intolerance towards religious minorities and to the position of members of national minorities, in particular as concerns the knowledge of the Georgian language.

P. Intolerance towards religious minorities

49. ECRI is deeply concerned at widespread reports of repeated manifestations of violence and harassment against members of minority religions in Georgia. Jehovah's Witnesses, Baptists and Evangelical Christians appear to have been the most frequent targets of such manifestations in the last two years, although members of other religious minorities have also been the victims of episodes of violence and harassment. The most recurrent manifestations include the hampering and disrupting of public services and meetings of minority religions as well as the seizure and destruction of property, especially religious literature. However, daily harassment and abuse of members of minority religions, including school children, are also reported to be increasing phenomena.
50. Violent attacks and harassment of members of minority religions are mostly carried out by extremist elements of the Georgian Orthodox community. However, ECRI is seriously concerned not only by the presence of these extremist elements in Georgian society and their activities, but also by the inadequate response of the public authorities to such activities and by the widespread societal tolerance apparently afforded to these extremist elements.

51. As concerns the response of the authorities, despite numerous reports of illegal behaviour committed by the extremist elements of the Georgian Orthodox community, very few prosecutions have so far been carried out with success; law enforcement officials have in many cases remained inactive against the perpetrators. This has resulted in a situation where these extremists act in an atmosphere of relative impunity. ECRI notes that the inadequate reaction of the authorities has been highlighted by various national public bodies and institutions such as the Public Human Rights Defender and the Committee on Human Rights and Ethnic Relations¹³. However, it does not appear to ECRI that this has so far brought about a substantially more proactive response by the law enforcement authorities. In this respect, ECRI is pleased to note that recently several investigations in connection with such cases have been opened and it hopes that this is indicative of a shift in policy whereby the Georgian authorities will undertake all the necessary efforts to effectively address this problem.
52. As concerns support to the activities of the extremist elements of the Georgian Orthodox community by the general public, ECRI regards this as a very disturbing phenomenon. ECRI believes that this situation is closely linked to the inadequate response of the authorities to the activities of the extremists, which can be misinterpreted by the general public as a sign of official approval of these activities, but also to the position taken by some media, which have been supportive of such extremist actions and have reported on them in a sensationalist or trivialising way. ECRI welcomes the recent public statements of the President of the Republic of Georgia condemning these acts of harassment and physical violence and calling for the perpetrators of such acts to be held accountable before the law. However, in order to have an impact on the public perception of these issues, ECRI considers that further action is needed to raise the awareness of the general public of the human rights dimension of these manifestations of intolerance and to unequivocally condemn and resolutely punish those responsible. ECRI also encourages the media profession to take action to ensure a more responsible reporting and an attitude *vis-à-vis* members of all minority groups which is more tolerant and respectful of human rights. ECRI believes that, in the absence of prompt action taken to counter these problems, there is a risk that this phenomenon will further normalise -- as mentioned above, there are reports that abuse and harassment of members of minority religions are becoming increasingly common -- and maybe even extend to other religious groups who have so far been the targets of verbal abuse by the extremists.
53. ECRI notes the recent judgment of the Supreme Court upholding the decision of the Tbilisi Regional Court to annul the registration of two religious minority associations, following an application by an extreme-nationalist member of Parliament. ECRI notes that this decision has been criticised by different segments of society. It also notes that, despite a written statement issued by the Supreme Court as a supplement to its ruling to the effect that the latter would in no way affect the fundamental rights of the religious minority guaranteed by the Georgian Constitution, the decision of the Supreme Court has been interpreted by the extremist elements of the Georgian Orthodox community as an encouragement to persevere in their attacks on religious minorities. ECRI understands that amendments to the civil code are being considered which would allow registration of religious groups as private law associations. It strongly urges the Georgian authorities to reach a satisfactory solution in this respect. ECRI also understands that the Georgian authorities are currently considering the

¹³ See above, *Specialised bodies and other institutions*

adoption of a law on freedom of religion. ECRI is not aware of the details of this law; however it stresses that, in case any such law is adopted, it should not involve measures resulting in any inadvertent restrictions on the freedom of religion, nor should it discriminate directly or indirectly against any religious groups. Any such law should also be in conformity with human rights principles and international standards which guarantee freedom of religion.

Q. The position of members of national minorities, particularly as concerns their knowledge of the Georgian language

54. There are several national minorities in Georgia, including Armenians, Azerbaijanians, Russians, Ukrainians, Greeks, Kurds, Jews and other smaller groups. Most members of these minority groups are concentrated in specific geographical areas of the country.
55. ECRI notes that most members of the main ethnic communities tend to live rather separately from each other. Interaction between minority communities and between minority and majority communities appears to be rather limited, although the situation seems to be better among young people in urban areas and the educated and professional segments of society.
56. ECRI believes that there is an urgent need to address in a proactive way the issue of integration of the different communities constituting Georgian society. A welcome step which appears to indicate a growing awareness within Georgia of the need to encourage further integration between the various communities is the recent establishment of the Parliamentary Committee on Civil Integration. ECRI strongly encourages the Georgian authorities to assist in all possible ways the work of the Committee.
57. ECRI believes that one important element to help integration and full participation in Georgian society of all Georgian citizens and persons living in Georgia is the question of ensuring adequate knowledge of the Georgian language by the members of minority communities. In addition to their mother-tongue, members of national minorities usually have good command of Russian, but their knowledge of Georgian is very limited. Many children from national minorities attend schools where education is imparted in minority languages and where teaching of Georgian as a second language is insufficient to ensure proper command of this language. Insufficient knowledge of the official language impacts negatively on the possibility for members of national minorities to find employment in certain sectors, including the public sector. ECRI is aware that a State programme is being carried out for the teaching of Georgian in areas with large minority population. However, the implementation of this programme is reported to have so far been very limited, due to a lack of both resources and qualified teachers of Georgian as a second language. While recognising the financial constraints, ECRI considers that adequate command of Georgian is a key element to ensuring full participation in Georgian society of all people living in Georgia and therefore urges the Georgian authorities to give the necessary priority, including in terms of budget, to this question.

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The following appendix does not form part of ECRI's analysis and proposals concerning the situation in Georgia.

APPENDIX

ECRI wishes to point out that the analysis contained in its second report on Georgia, is dated 22 June 2001, and that any subsequent development is not taken into account.

In accordance with ECRI's country-by-country procedure, a national liaison officer was nominated by the authorities of Georgia to engage in a process of confidential dialogue with ECRI on its draft text on Georgia and a number of her comments were taken into account by ECRI, and integrated into the report.

However, following this dialogue, the Georgian governmental authorities expressly requested that the following observations on their part be reproduced as an appendix to ECRI's report.

OBSERVATIONS PROVIDED BY THE AUTHORITIES OF GEORGIA CONCERNING ECRI'S REPORT ON GEORGIA

"Commenting the draft report I asked ECRI to substitute the term "Mesketian Turks" used several times (page 14) by the term "The deported population from the South Georgia in 1944" generally used by the Council of Europe. If ECRI will not accept my proposal I ask you to put this proposal as the Appendix to the Report."