

**Institute of European Studies at Tbilisi State University**

**MASTER THESIS**

**The Right to education of National Minorities: comparative  
analyses between International standards and Georgia**

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**Tbilisi  
2010**

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## **Abbreviations**

**EU** – European Union

**CRC** - Convention on the Rights of the Child

**HCNM** – High Commissioner on National Minorities

**IGOs** – International Organizations

**OSCE** - Organization for Security and Cooperation in Europe

**CoE** – Council of Europe

**CEE** – Central and Eastern European Countries

**ERRC** – European Roma Right Center

**UDHR** – Universal Declaration of Human Rights

**UNESCO** – United Nations Educational, Scientific and Cultural Organization

**CSCE** – Commission on Security and Cooperation in Europe

**UN** – United Nations

**FCNM** – Framework Convention for the protection of National Minorities

**ECHR** – European Convention on Human Rights

**ICESCR** - International Covenant on Economic, Social and Cultural Rights.

**PCA** – Partnership and Cooperation Agreement

**ENP** – European Neighborhood Policy

**ENPI** – European Neighborhood Policy Instrument

**NIP** – National Indicative Program

**TACIS** –Technical Aid to the Commonwealth of Independent States

**MFA** – Macro Financial Assistance

**RRM** – Rapid Reaction Mechanism

**ECHO** – European Commission Humanitarian Aid

**FSP** – Food security Program

**EIDHR** – European Instrument for Democracy and Human Rights

## **Abstract**

The central idea of this thesis is to describe international standards concerning the right to education of national minorities and compare them to the Georgian one. In a chapter that follows there would be a discussion on the importance of education with the main emphasis on the importance of education for minorities. Then there would be shown how the concept of “minority” is interpreted in different international standards and how is it described in Georgia. The topic of minority protection became active through Europe over previous years. Problems concerning Roma community are a topic of mass discussion within the whole Europe, because they are discriminated against frequently. These problems together with the Case studies concerning the right to education of Roma minorities would be discussed in the present work.

Protection of national minorities remains one of the main priorities for International organizations such as the Council of Europe and the UN with their binding standards. With the help of these organizations the EU protects rights of minorities almost in every sphere. So, because of this fact, these organizations’ standards in the field of minority education would be examined and compared with the Georgian one. A huge amount of work has been done to improve the situation of minorities everywhere but still a large amount of work remains to be done. Even these organizations have shortcomings in defending minority rights, such as Council of Europe being too general in this regards, not covering all aspects concerning minority protection and so on. But this paper is not built in a manner to describe these shortcomings; it would concentrate mainly on Georgia, its legislation in the field of minority protection and their education and comparing them to the international standards. Here would be discussed problems of minorities within Georgia. They have a lot of them but the search will be mainly concentrated on the linguistic problems which remain to be main obstacle in enrolling in higher education institutions. It would be argued in the paper that Georgia’s Law on High Education is not in compliance with Article 12, paragraph 3 of the Framework Convention because minorities have not equal opportunities in entering universities. Core findings would be examined through the Constructivism point of view, which are Social Learning and its impact on minority education. EU-Georgia relations would be discussed through the European Neighborhood Policy (ENP) and Georgia’s progress towards

its national minorities should be examined through this policy. In the end of the paper there would be recommendations in order to improve the situation of minorities and place them on an equal footing with the majority ones.

## **Introduction**

The topic of this paper is “The Right to education of National Minorities: comparative analyses between international standards and Georgia”. But why exactly this one? Because education is a tool which gives independence to people, by which a person becomes self-opinioned and trusts herself/himself more. Education is a vehicle by which one can fight poverty and participate in social life freely. In the case of education of minorities the right to education has more importance and power, because it preserves minorities’ culture, language and with the proper education minorities become more integrated in a society. Under the Convention on the Rights of the Child (CRC), states have an obligation to preserve and protect the child’s cultural identity, as an essential element for his or her development.<sup>1</sup> For this development education is the best tool, especially education in your own language. Lots of studies have concluded that children have better results if they get education in their own language, because in this case, children have better opportunities to learn, think and live in an environment which is closer to their culture. At this rate, child’s best interest should be protected. This interest should be a proper education, because in this case education will increase child’s opportunities, self-confidence and ability to live and develop in a harmonious environment. Furthermore, deficiencies in the education system contribute to massive social problems, like illiteracy and exclusion from labor market entry for many. Educational attainment and labor market are strongly connected, and low attainment in the educational sector may easily lead to precarious positions in the labor market.<sup>2</sup>

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<sup>1</sup> Vanessa Sedletzki – Fulfilling the right to education for minority and indigenous children: where are we in international legal standards? 2009. P.43

<sup>2</sup> Educational Measures for the Roma Minority in Romania. The Effectiveness of Integrated and Segregated Education p.1

Another reason why one should get education in a minority language is that the language will die soon if you do not teach it. Education in a language is one form how you can prevent languages to disappear. It could be concluded here that language is a power and education is a tool for empowerment.<sup>3</sup>

To finish discussion about the importance of education it is a good idea to bring Nelson Mandela's words which illustrate importance of education very clearly: "Education is a great engine of personal development. It is through education that the daughter of a peasant can become a doctor, that a son of a mineworker can become the head of the mine that a child of a farm worker can become a president of a great nation. It is what we make out what we have, not what we are given, that separates one person from another."<sup>4</sup>

So, for the purpose it was already mentioned the following paper will be constructed in a particular way: in the first chapter of this paper there would be a brief overview of the EU legislation in the field of minority protection. In order to show importance of minorities for the EU, problems concerning Roma community will be discussed. This will be seen in the second chapter of the paper. The third chapter will be dedicated to the international instruments guaranteeing the right to education of national minorities. Situation of national minorities in Georgia and Georgia's legislation in this field will be discussed in the fourth chapter. In the next chapter there would be discussion about EU-Georgia's framework of cooperation in the field of minority protection. Here would also be seen Georgia's progress towards its national minorities. Recommendations and concluding remarks will follow this chapter.

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<sup>3</sup> Fernand de Varennes - Education and Language. Minorities and the Right to Education. UN Forum on Minorities (PPT)

<sup>4</sup> Nelson Mandela's quotations. Accessed through [http://www.great-quotes.com/quotes/author/Nelson\\_Mandela.htm](http://www.great-quotes.com/quotes/author/Nelson_Mandela.htm)



## **Defining “National Minorities”**

But who are minorities? The term “national minorities” has been mentioned several times and it would be a good idea to speak about this concept and define it here, because this is very important in order to have general idea about what we are going to speak in the following thesis. This concept expresses what is meant under “minority”, who has the right to say that he/she belongs to national minorities. But the problem here is that there is no universally recognized definition of this concept. Each state has freedom to decide who is meant under minority and each person has the right to decide whether he/she wants to be treated as national minorities or not, but this decision should be based on internationally recognized standards such as: language, culture, religion and identity of the person. The Advising Committee to the Framework Convention has already stipulated that the existence of minority is independent on the decision of the State. According to the Committee there is no need for the minority members to be neither citizens of the relevant state, nor the permanently settled inhabitants on the state’s territory. Not only the category of the so-called autochthonous minorities, but the categories of the new minorities (including the migrant minorities) enjoy the rights of national minorities.<sup>5</sup>

As there was already mentioned above there is not one definition of national minority in International Level. Such kind of situation is at the EC/EU level, there is no one binding definition of this concept. As an example it could be illustrated the supra-national point of view on this issue, under which there are four variants: 1. the titular nations of the member states may be considered minorities within the EU, 2. the minority may be the category of the so-called migrant workers, 3. The notion minority may comprise of the citizens from the third nonmember states of the EU, 4. the existing national minorities recognized by the member

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<sup>5</sup> *Ivo Pospíšil* – the Protection of National Minorities and the Concept of Minority in the EU Law. A Paper to be presented at the ECPR 3rd Pan-European Conference, Bilgi University, Istanbul, 21 – 23 September 2006 P.3

states may be regarded as minorities within the EC/EU – the EC/EU law will only incorporate such a recognition.<sup>6</sup>

At the European level there are two organizations that protect national minorities. These organizations are the Council of Europe and the OSCE. Council of Europe's attitude towards this issue is stipulated in the recommendation 1201 (1993) of the Parliamentary Assembly on an additional protocol to the European Convention on Human Rights, and it defines the "national minority" in the following way: For the purposes of the Convention, the expression "national minority" refers to a group of persons in a state who:

- a. reside on the territory of that state and are citizens thereof;*
- b. maintain longstanding, firm and lasting ties with that State;*
- c. display distinctive ethnic, cultural, religious or linguistic characteristics;*
- d. are sufficiently representative, although smaller in number than the rest of the population of that State;*
- e. Are motivated by the concern to preserve together that which constitutes their common identity, including their culture, their traditions, their religion and their language.<sup>7</sup>*

Such kind of definition comes in contradiction with the Advising Committee to the Framework Convention, because the Committee stipulates that in order for a person to be treated as national minority citizenship of a particular state is not necessary. The Committee formulated a list of criteria to identify persons belonging to national minorities. The list includes following: the group should be less numerous than the rest of the population of the state, the members of the group should reside in the state and have either the nationality of or close and long lasting ties with that state, they should have ethnic, religious or linguistic features differing from those of the rest of the population and finally, they should have

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<sup>6</sup> Ivo Pospíšil – the Protection of National Minorities and the Concept of Minority in the EU Law. A Paper to be presented at the ECPR 3rd Pan-European Conference, Bilgi University, Istanbul, 21 – 23 September 2006 p. 6

<sup>7</sup> Athanasia Spiliopoulou Akermak – Justification of Minority Protection in International Law. Sweden. Graphic system AB, Gothenburg. 1997. p. 92

expressed the wish to be recognized as a minority in the sense that the members of the group should have the will to preserve collectively their distinctive collective identity.<sup>8</sup>

Definition of “minority” by the UN was formulated by F Capotorti, the former Special Rapporteur of the UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities in 1979. He defined minorities as: *A group numerically inferior to the rest of the population of a state, in a non-dominant position, whose members – being nationals of the state – possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language.*<sup>9</sup> This definition is very important because the author argues that the objectively recognizable fact of having ethnic, religious and linguistic characteristics differing from those of the rest of the population should be the starting point of every effort to formulate a definition of “minority”.<sup>10</sup>

Several scholars were trying to adopt more concrete definition of “minority” than in was done by Capotorti. For example in the UN special rapporteur Eide’s *Report on the Possible Ways and Means of Facilitating the Peaceful and Constructive Solution of Problems Involving Minorities* the definition is broader than it is in Capotorti’s view. This definition is following: *A minority is any group of people resident within a sovereign State which constitutes less than half the population of the national society and whose members share common characteristics of an ethnic, religious or linguistic nature that distinguishes them from the rest of the population.*<sup>11</sup> It is regarded as broader in a sense that it includes foreigners, migrant workers and also non citizens.

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8 CDHH (93) 22, Strasbourg, September 8, 1993

9 Kristin Henrard- Devising an Adequate System of Minority Protection. Kluwer Law International. The Hague, the Netherlands. (Capotorti, F Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities, (1979) UN Doc. E/CN.4/Sub.2/384/rev.1) 2000. p.48

10 Ibid. p.55

11 Eide A (UN special rapporteur) – report on Possible Ways and Means of Facilitating the Peaceful and Constructive Solution of Problems Involving Minorities. E/CN.4/Sub.2/1993/34. Paragraph 9.

Many authors have come up with the definition of “minority” and a large number of literatures are dedicated to the concrete topic. Among this literature there is a book “Minority rights in Europe” By Patrick Thornberry and María Amor Martín Estébanez where authors describe several international standards about this issue. They also bring several examples of different EU countries, such as: Germany makes a distinction between the national minorities and “ethnic groups traditionally resident in Germany” who include Roma/Gypsy and Sinti, Slovenia makes distinction between the national autochthonous minorities and the Roma/Gypsy community and so on. In the end they conclude that International law insists that the existence of minorities is a question of fact, not law. This means that the state doesn’t have the last word in deciding if minorities exist on its territory or not. It should be decided on factual situation. As the Human Rights Committee has stated the existence of a minority “does not depend upon a decision by that state party but requires to be established by objective criteria”. Authors believe that the acceptance of minority existence by state authorities results in a certain “pluralism of communities” and thus perhaps to a “re-imagining” of the national community. They also believe that minority rights do not exist separately but they are part of the general human rights standards.<sup>12</sup>

Another author who was trying to define the “national minority” was J.Packer, who in 1993 proposed the following definition: *“the” or “a minority” is a group of people who freely associate for an established purpose where their shared desire differs from that expressed by the majority rule.* Under this definition Packer pays no attention to the protection of the identity and culture of minorities. This contradicts many documents of International Law where protection of identity and culture of minorities are of great importance. Packer’s definition can be understood in a way that any freely established associations such as: women, homosexuals, trade unions can be regarded as minorities if their interests come in conflict with the majority of the population.<sup>13</sup> From above mentioned definition and its critique it should

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<sup>12</sup> Patrick Thornberry; María Amor Martín Estébanez - Minority rights in Europe. Belgium: Council of Europe publishing. 2004

<sup>13</sup> Athanasia Spiliopoulou Akermak– Justification of Minority Protection in International Law. Sweden. Graphic system AB, Gothenburg. 1997. pp.94-95

be summarized and we'll get one definition: *A "minority" is a non-dominant, institutionalized group sharing a distinct cultural identity that it wishes to preserve.*<sup>14</sup>

Above there were discussed norms and standards under which "national minorities" are defined in different International legal documents and how different authors interpret them. Now it would be discussed from Georgia's perspective, or how "national minorities" are defined in Georgia. According to the Resolution of the Parliament of Georgia on the Ratification of the Framework Convention for the Protection of National Minorities, adopted in October 2005, "National Minority" is a group of people who: *are citizens of Georgia; differ from the majority of the population in terms of their linguistic, cultural, and ethnic identity; have inhabited the territory of Georgia for an extensive period of time; and are compactly settled on the Georgian territory*<sup>15</sup>. But this definition has no International weight because the Ministry of foreign affairs of Georgia has not included it to the official document which was sent to the Council of Europe Secretary General for the ratification of the European Framework Convention. Maybe this is done because there is not consensus on this definition even in domestic law.

The Parliamentary Committee for Human Rights and Civic Integration is also drafting a Concept on the Protection and Integration of Persons Belonging to National Minorities. This definition determines *that national minorities must not form a part of the autochthonous population, must not be the titular nation of an autonomous region within Georgia, must wish to preserve and develop their identity, and must not be too small numerically*. Under this definition Abkhaz cannot be considered as national minorities because they are the titular nationality of the Autonomous Republic of Abkhazia. The Svans and Mingrelians would not

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<sup>14</sup> Athanasia Spiliopoulou Akermak– Justification of Minority Protection in International Law. Sweden. Graphic system AB, Gothenburg p. 96

<sup>15</sup> Georgia's Policy towards its National Minorities: Tolerance or Integration. Transparency International Georgia. December, 2007

constitute national minority under this definition, because they are autochthonous and consider themselves to be Georgians.<sup>16</sup>

From this discussion we want to sum up and try to develop our own definition of the term “national minority” for Georgia. To our mind a national minority is a person, who: *lives in the territory of Georgia permanently, who wants to be treated as minority, who has different cultural, ethnic, linguistic or religious features than the majority of the population, who are numerically smaller than the rest of the population of a particular state and who has long traditional links with Georgia.*

## **Research Methodology**

The aim of this chapter is to provide with the information about methodological approaches and research designs selected particularly for this study. It will contain information such as: research question, strategies for answering research question, hypothesis, sources and selection of data, theory, forms of data and also timing.

### **Research Question**

From its independence Georgia has made significant progress in the direction of protecting its national minorities, but the huge progress was seen after the Rose Revolution as one among several priorities of the new government was the integration of national minorities into the society. The government has made progress in different fields and one of them was reform of educational system, because education reform was the main path towards creating modern and internationally recognized society. These reforms create obstacles for national minorities, especially in terms whether they are able to get proper education or not. This issue is challenging for them especially in the sphere of higher

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<sup>16</sup> Jonathan Wheatley - Implementing the Framework Convention for the Protection of National Minorities in Georgia: A Feasibility Study. ECMI Working Paper #28. October 2006. pp.18-19

education, because in 2005 the government of Georgia introduced the unified national exams in order to enter the university. To pass these exams four subjects were necessary to be passed. These subjects were: Georgian Language and Literature, General Abilities, Foreign Languages (English, German, French or Russian) and Mathematics (optional). In 2006 additional subjects were added to this list. National minorities were placed in a very difficult situation. Because the lack of knowledge of Georgian language they were not able to pass these exams. Several changes have been made in this field in order to get national minorities an opportunity to be enrolled in higher education institutions but still a lot remains to be done. The questions of particular importance for this thesis are whether Georgian law of Higher education is in compliance with international standards or not? Whether it violates the rights of national minorities or not? How does ENP influence on the right of national minorities in the field of education? At the same time there would be recommendations here, in order to avoid difficulties in this field. This would be done through examining different International instruments dealing with the issue of education and they would be compared with the Georgian one. Opinions should be examined through several case-studies which will lead to the conclusion.

**Sub – question:** from the observation it was found out that Roma minorities in Europe sue to the court when their rights are violated, but minorities in Georgia sit still. The sub question here would be why minorities in Georgia, do not apply to court?

## Hypothesis

Through examining different international standards and comparing them to Georgian one in the field of education, it could be concluded that the situation in Higher education, where minorities are not able to enroll in higher education institutions due to their linguistic problems and they are excluded from getting higher education is incompatible with the principle of equal opportunities for all in the education system, as it is enshrined in Article 12, paragraph 3 of the Framework Convention where it is said that: *The Parties undertake to*

*promote equal opportunities for access to education at all levels for persons belonging to national minorities.*<sup>17</sup>

The second question which needed to be answered was ENP's role on the right to education of minorities. In this regard there was seen no progress within this policy as it contains no provision in this direction. ENP's influence on minority situation was seen only in improvement of infrastructure in minority populated areas.

Beside these questions there was also a sub-question in the paper- why minorities do not apply to courts and the answer here would be the lack of knowledge of the state language which remains to be a huge obstacle for minorities almost everywhere. Another factor for not applying is that minorities are not aware of their rights; they have not enough information how to defend their rights.

## Theory

It would be a good idea to examine core findings, or the hypothesis which says that minorities have not opportunity to enroll in high education institutions due to the fact that they lack the knowledge of the state language or the second hypothesis which says that minorities do not apply to courts because the lack of knowledge of their rights through the constructivism theory. The particular theory was chosen because Constructivism is defined as a theory of learners. Within this theory importance of mind and previous experience is stressed. Constructivism has done a service within the new teaching standards and methods where pupil engagement in lessons is very important. Ideas on linguistic problems could be strengthened through constructivist approach that sees language and social structure co-constructed and inter-relatedly complex.<sup>18</sup> Concerning minorities' lack of knowledge of their

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<sup>17</sup> Europe Framework Convention for the Protection of National

Minorities. Article 12 (3)<http://conventions.coe.int/Treaty/en/Treaties/Html/157.htm> (accessed on 19.06.2010)

<sup>18</sup> Aneta Pavlenko – Multilingualism in Post-Soviet Countries. Published by MPG Books, Ltd. Great Britain.2008. P.101



rights could also be explained through constructivist viewpoint that is constructivist view on literacy that is particularly relevant to classrooms where there are bilinguals and multilinguals. It emphasizes that readers bring their own meanings to texts, and therefore reading and writing essentially a construction and reconstruction of meaning. This implies that the meaning individual gives to a text depends on their language. Within Vygotskian theory students are viewed as active constructors of meaning from text. For language minority students' initial understanding will derive from their minority language culture. Different students of varying background will make different interpretation of the text. Trying to make sense out of texts from a different culture, with different cultural assumptions, makes predicting the storyline and understanding the text more difficult. One role for teachers is to mediate in the construction of meaning, helping students to construct meaning from text.<sup>19</sup> This idea is also inter-related and strengthens an idea which is enshrined in the recommendation about recruitment of teachers from minority communities and training them in order to be in line with new teaching methods. When pupils have teachers from the same minority community they have better understanding, the same cultural and linguistic background and these factors play a decisive role in getting better education and helps to get acknowledged to the new reality.

## Strategy

When research questions are chosen the next very difficult step is to choose strategies for answering these questions. There are four main strategies in social sciences. These are: Inductive, Deductive; Retroductive and Abductive. Each of them provides different ways of answering research questions by specifying a starting-point, a series of steps and an end point. According to Norman Blaikie the *Inductive* strategy starts with data collection, followed by data analyzes and then the development of generalization which can become law-like propositions to be used to explain aspects of social life. The *Deductive* strategy works in the reverse order. It begins with an observed regularity that needs to be explained, a theory is

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<sup>19</sup>Colin Baker – Foundations of Bilingual Education and Bilingualism. 4<sup>th</sup> edition. Published by Archetype IT Ltd. The USA. 2006. P.323

acquired or constructed, then hypotheses are deduced and then tested by appropriate data. The *Retroductive* strategy begins with the observed regularity, but this is followed by the construction of a hypothetical model of a possible structure that could have produced this regularity. By observation and experiment a search is then undertaken to establish whether the explanatory structure or mechanism exists. The *Abductive* strategy begins by exploring through everyday language the knowledge that social actors use in the production, reproduction and interpretation of the phenomenon under investigation. This is followed by a redescription of this everyday account into a social scientific account, and, possibly, into a grounded explanation.<sup>20</sup>

The search will use the *inductive* strategy because this strategy allows more objective observation and analyses of data than the rest three strategies. Besides, from the observation it could be concluded that general laws are produced by applying inductive logic and we think this strategy will feat to this paper too.

### Sources and Selection of Data

There are three types of data in social research: primary, secondary and tertiary. Primary data is generated by a researcher himself. Researcher has direct contact to the source. Secondary data is “raw data”<sup>21</sup> that was collected by someone else and tertiary data is data that has been analyzed by another researcher. Due to the time limitation primary data wasn’t possible to access and rely on this type only. This paper will be the combination of primary as well as secondary data. As for primary data interviews with different minority communities will be used and the rest of the information will come from the secondary data. Here would be laws, directives, regulations, government census and conventions dealing with minority issues.

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<sup>20</sup> Norman Blaikie – Designing Social Research. Great Britain. MPG Books Ltd, Cornwall. 2000. P.100

<sup>21</sup> Ibid P.183

## Forms of Data

There are two types of forms: qualitative and quantitative. Qualitative form is expressed in words while quantitative one mainly deals with numbers. As numerical data are mainly needed in scientific research, this paper will use the qualitative form of data, because for this form the main characteristic is detailed description of the subject being investigated. This kind of detailed description is necessary in the research in order to understand the background of the problem being investigated and besides, these descriptions will lead to final findings and in the end, to the answers of research questions. But here description does not mean that the whole paper will be descriptive. Description will be seen in the first part of the paper in order to get general overview of the situation in the field of minority education. General findings and recommendations will come in the second part of the paper. Besides, four qualitative methods will be employed in this study: observations, interviews, document analyses and case studies. As there was already mentioned, interviews will come from primary source. Interviews are important in order to understand what people think about particular subject and what problems they have. Document analyzes are the source of basic information in this paper which will be followed with author's own observation. The search will use case studies because qualitative research is characterized by the case study and besides, general findings should be examined on these case studies better. Case studies are used in the research in order "to keep together, as a unit, those characteristics which are relevant to the scientific problem being investigated"<sup>22</sup>

## Timing

There are three basic choices in social research with regard to time. A study may:

Be confined to the present time – *cross-sectional*;

Extend over a period of time – *longitudinal*;

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<sup>22</sup> Norman Blaikie – Designing Social Research. Great Britain. MPG Books Ltd, Cornwall. 2000. P.215

Be confined to the past- *historical*.<sup>23</sup>

For this paper cross-sectional studies will be used as researcher isn't going to focus only on the situation which is going at present and there would not be an examination of the social change. But there will be only one section in this research where longitudinal studies would be used. In this section there would be seen changes in the field of minority education in Georgia, or what has Georgia done in order to get closer to the EU standards.

## **Chapter 1: EU legislation in the field of minority protection**

### **1.1 Introduction**

The UN, the OSCE and the Council of Europe are engaged in a broad range of activities on the issue of ethnic minorities, the EU seems to be less interested in this issue. The EU was founded for the purpose to promote trade and economic stability for its members, but at the same time it paid great attention to the issue of minority protection. To prove this idea The Copenhagen Criteria is a very good example. In order to join the European Union, accession countries have to satisfy the Copenhagen Criteria, where the central element is "respect for and protection of minority rights". Every enlargement had economic and political dimension, but now culturally homogeneous character of the Union is acknowledged. This could be seen very well in the Article 22 of the draft European Constitutional Treaty, which says: "The Union shall respect cultural, religious and linguistic diversity". This idea is enshrined in EU-Commission president Prodi's words: "...we must never forget that Europe is all about diversity. Therefore it needs us to respect and reap the rewards to diversity. European integration has always been about diverse peoples with varied cultures...Diversity is one of Europe's greatest treasures." <sup>24</sup> According to the Bolzano/Bozen Declaration of 2004, which is package of policy proposals for an enlarging EU in the area of minority

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<sup>23</sup> Norman Blaikie – Designing Social Research. Great Britain. MPG Books Ltd, Cornwall. 2000 P.228

<sup>24</sup> Thomas Benedikter – Legal instruments of minority protection in Europe. Bolzano/Bozen 30 November 2006

protection and which demonstrates how the protection of minorities can be strengthened in a consistent manner, Article 3 of draft constitutional treaty should be amended by adding the following specification: *“The Union shall respect its rich cultural and linguistic diversity at the national and sub-national level, and shall ensure that Europe’s cultural heritage is safeguarded and enhanced.”*<sup>25</sup> After adding such specification into the draft constitutional treaty, each state of the Union should be bound by the Treaty and it would be state’s obligation to preserve cultural heritage of a minority.

## 1.2 Charter of fundamental Rights of the EU

Charter of fundamental rights of the European Union of 14 December 2007 addresses the issue of education clearly and in its **Article 14** states:

1. *Everyone has the right to education and to have access to vocational and continuing training.*
2. *This right includes the possibility to receive free compulsory education.*
3. *The freedom to found educational establishments with due respect for democratic principles and the right of parents to ensure the education and teaching of their children in conformity with their religious, philosophical and pedagogical convictions shall be respected, in accordance with the national laws governing the exercise of such freedom and right.*<sup>26</sup>

Here national minorities are not mentioned, but the sentence “everyone has the right to receive education” means that every person in the territory of the member state including minorities. Even more, in the article it is said that “the right of parents to ensure the education

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<sup>25</sup>Bolzano/Bozen Declaration (May1 2004)

[http://www.eurac.edu/en/research/institutes/imr/Documents/dichiarazione\\_last.pdf](http://www.eurac.edu/en/research/institutes/imr/Documents/dichiarazione_last.pdf) (accessed on 10.06.2010) p.

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<sup>26</sup> Charter of fundamental rights of the European Union (14 December 2007) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2007:303:0001:0016:EN:PDF> (accessed on 12/06.2010) p.5

and teaching of their children in conformity with their religious, philosophical and pedagogical convictions shall be respected.” Minorities are not mentioned here too, but parents of minorities have right to enroll their children to state education, to withdraw their children from the state system or to enforce respect for their religious and philosophical convictions, educate their children in conformity with their religious, linguistic or philosophical conviction. The charter also includes non-discrimination chapter which is **Article 21** and which says: *1. any discrimination based on any ground such as sex, race, color, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited*<sup>27</sup>. This article forbids any discrimination based on “membership to a national minority”. So, according to the article, any discrimination of national minorities from receiving education should be prohibited.

### 1.3 EU legal framework

Each European institution has shown an intensive interest in the field of minority protection. Among them Parliament was the organ which protected minority issues best. A range of resolutions dealing with ethnic and linguistic minorities have been approved by the Parliament, such as:

- 1981: Resolution on a "Community Charter of Regional Languages and Cultures" and on a "Charter of Rights of Ethnic Minorities"
- 1983: "Resolution on Measures in favor of Linguistic and Cultural Minorities"
- 1987: "Resolution on the Languages and Cultures of the Regional and Ethnic Groups in the European Community".

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<sup>27</sup> Charter of fundamental rights of the European Union (14 December 2007) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2007:303:0001:0016:EN:PDF> (accessed on 12/06.2010) p.7

- 1994: "Resolution on Linguistic Minorities in the European Community" on the basis of the so called Killilea report.<sup>28</sup>

In the 0.6.3.1. Resolution on a Community charter of regional languages and cultures and on a charter of rights of ethnic minorities. Resolution prepared by Mr Gaetano Arfé and adopted by the European Parliament on 16 October **1981**, Parliament expressed its views very clearly requesting the national governments and regional and local *authorities in the field of education*:

*To allow and promote the teaching of regional languages and cultures in official curricula right through from nursery school to university;*

*To allow and provide for, in response to needs expressed by the population teaching in schools of all levels and grades to be carried out in regional languages, with particular emphasis being placed on nursery schools teaching so as to ensure that the child is able to speak its mother tongue;*

*To allow teaching of the literature and history of the communities concerned to be included in all curricula;*<sup>29</sup>

In its 0.6.3.3. Resolution on measures in favor of minority languages and cultures. Resolution prepared by Mr. Gaetano Arfé and adopted by the European Parliament on 11 February **1983**, the Parliament calls on the Commission *to review all Community and national*

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<sup>28</sup>Bolzano/Bozen Declaration (May1 2004)

[http://www.eurac.edu/en/research/institutes/imr/Documents/dichiarazione\\_last.pdf](http://www.eurac.edu/en/research/institutes/imr/Documents/dichiarazione_last.pdf) (accessed on 10.06.20

29 Resolution on a "Community Charter of Regional Languages and Cultures" and on a "Charter of Rights of Ethnic Minorities". Resolution prepared by Mr. Gaetano Arfé and adopted by the European Parliament on 16 October 1981. <http://www.ciemen.org/mercator/UE18-GB.HTM> (accessed on 12.06.2010)

*legislation and practices which discriminate against minority languages, and prepare appropriate Community instruments for ending such discrimination.*<sup>30</sup>

**1987:** "Resolution on the Languages and Cultures of the Regional and Ethnic Groups in the European Community" is very important due to the fact that it stresses great emphasis on the education of national minorities. Resolution is prepared by Mr. Willy Kuijpers and adopted by the European Parliament on 30 October of 1987. In article 5 of the resolution there are recommendations to the member states in the field of education of minorities:

- *arranging for pre-school to university education and continuing education to be officially conducted in the regional and minority languages in the language areas concerned on an equal footing with instruction in the national languages, officially recognizing courses, classes and schools set up by associations which are authorized to teach, under the regulations in force in the country concerned, and which use a regional or minority language as the general teaching language,*
- *giving particular attention to the training of teaching staff in the regional or minority languages and making available the educational resources required to accomplish these measures,*
- *Promoting information on educational opportunities in the regional and minority languages,*
- *making provision for the equivalence of diplomas, certificates, other qualifications and evidence of professional skills so that members of regional or minority groups in one Member State may have easier access to the labor market in culturally related communities in other Member States;*<sup>31</sup>

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30 0.6.3.3 Resolution on measures in favor of minority languages and cultures. Resolution prepared by Mr. Gaetano Arfe and adopted by the European Parliament on 11 February 1983  
<http://www.ciemen.org/mercator/UE20-GB.HTM> (accessed on 12.06.2010)

<sup>31</sup> "Resolution on the Languages and Cultures of the Regional and Ethnic Groups in the European Community". Official Journal of the European Communities, No C 318, 30.11.1987. Friday 30 October 1987. Doc. A2-150/87 <http://www.minelres.lv/eu/epres/re871030.htm> (accessed on 12.06.2010) pp. 160-164.



Another step in the sphere of minority protection from the Parliament was **1994**: "Resolution on Linguistic Minorities in the European Community" on the basis of the so called Killilea report. It recalls each member state to recognize their linguistic minorities and create conditions for preservation of these languages. In paragraph 4 of the resolution Parliament gives recommendations to the member states and says: *that the legal statute should at least cover the use and encouragement of such languages and cultures in the spheres of education, justice and public administration, the media, toponymics and other sectors of public and cultural life without prejudice to the use of the most widespread languages, when required to ensure ease of communication within each of the Member States or in the Union as a whole.*<sup>32</sup>

These Parliament resolutions are enough in order to show how important was the issue of minority protection for the EU from its very beginning, but more intensive measures in this direction could be seen after the Treaty of Amsterdam, which came into force in 1999 and its Article 13 granted the Community new powers to combat discrimination<sup>33</sup>. This Article complements Article 12, which prohibits discrimination on grounds of nationality. The new Article enables the Council to take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.<sup>34</sup> A clear minority protection could be found in the Union's anti-discrimination acq. After the Treaty of Amsterdam, lots of binding directives concerning minority protection were enacted. These directives are: Racial Equality Directive, 2000/43/EC, Employment Equality Directive, 2000/78/EC, Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, Council Directive 2000/78/EC. Racial Equality Directive, 2000/43/EC, is of utmost importance for this thesis,

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<sup>32</sup> 1994: "Resolution on Linguistic Minorities in the European Community" on the basis of the so called Killilea report. Paragraph 4. <http://www.minelres.lv/eu/epres/re940209.htm> (accessed on 12.06.2010)

<sup>33</sup> EU anti-discrimination directives <http://ec.europa.eu/social/main.jsp?catId=612> (accessed on 13.06.2010)

<sup>34</sup> Summaries of EU legislation. Fundamental Rights and non-discrimination. [http://europa.eu/legislation\\_summaries/institutional\\_affairs/treaties/amsterdam\\_treaty/a10000\\_en.htm](http://europa.eu/legislation_summaries/institutional_affairs/treaties/amsterdam_treaty/a10000_en.htm) (accessed on 14.06.2010)

because it prohibits discrimination on grounds of racial or ethnic origin both within the labor market and also in social life such as housing, healthcare, education, social protection and access to goods and services. But the most efficient minority protection tool under the EU regime is legally binding Council of the European Union directive “2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.” This directive shows a broad protective mechanism against various forms of ethnic discrimination and is of crucial importance. This directive also called as “Race Directive” contains special paragraph in Article 3 which deals with education and prohibits any kind of discrimination on the ground of nationality in the field of education.

## 1.4 Lisbon Treaty

It is very important to look through to the recent developments in the field of minority protection. Lisbon Treaty is very important in this regards. After entering into force the Lisbon Treaty the issue of minority protection became more and more important and vivid. Article 1a of the Treaty says: *“The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.”*<sup>35</sup> In this document the sentence *“the rights of persons belonging to minorities”* is seen for the first time. This is a good illustration of the fact that the issue of national minorities became more important for the whole Europe. Such formulation will introduce a new legal instrument for minority rights within the EU and this will be the new stage for dealing with the issue of minority protection. Another consequence of the Lisbon Treaty is that it will give a binding status to the EU Charter of Fundamental Rights. Article 1(a) of the treaty together with the Charter will create new legal framework in the field of minority protection. Overall, it is a successful development because two major instruments were at that time silent on the protection of minorities. The first was the EU Charter of Fundamental

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<sup>35</sup> Lisbon Treaty <http://www.consilium.europa.eu/showPage.aspx?id=1296&lang=en> (accessed on 13.06.2010)

Rights which had been adopted earlier by the European Council in Nice in December 2000. The EU Charter did not provide for any autonomous provision on minority rights. It did however mention a minority clause — 'membership of a national minority' — among several grounds upon which any discrimination shall be prohibited. The second instrument which deliberately ignored the minority-rights perspective was the draft European Constitution of 10 July 2003. Only 'last resort' attempts, among others intervention by the HCNM, appeared to be instrumental in remedying a 'great failure'.<sup>36</sup> A clear example of these attempts was Article 22 of the European Constitution: "'The Union shall respect cultural, religious and linguistic diversity". Even here national minorities were not mentioned, it was all about diversity. The whole effort to introduce a minority rights provision into the European constitutional framework was nearly rendered futile after France and the Netherlands rejected the European Constitution in their *referenda* in 2005. Subsequent EU Chairmanships, notably the German, French and Portuguese, succeeded, however, in re-launching the constitutional debate and revived the draft European Constitution under the guise of a less complex and more streamlined body of fundamental rules in the Treaty of Lisbon.<sup>37</sup>

## **Chapter 2: Roma minorities in the EU**

### **2.1 Historical overview**

According to documents available on the Internet site of the Roma and Travelers Division of the Council of Europe, the Roma originated from the regions situated between North West India and the Iranian plateau. The first written traces of their arrival in Europe date back to the fourteenth century. Today there are between eight and ten million Roma living in Europe. They are to be found in almost all Council of Europe member States and indeed, in some Central and East European countries, they represent over 5% of the population. The majority

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<sup>36</sup> *Krzysztof Drzewicki*- National minority issues and the EU Reform Treaty. A perspective of the OSCE High Commissioner on National Minorities (p.137)

<sup>37</sup> *Krzysztof Drzewicki*- National minority issues and the EU Reform Treaty. A perspective of the OSCE High Commissioner on National Minorities. (P.138)

of them speak Romani, an Indo-European language that is understood by a very large number of Roma in Europe, despite its many variants. In general, Roma also speak the dominant language of the region in which they live, or even several languages.

Although they have been in Europe since the fourteenth century, often they are not recognized by the majority society as a fully-fledged European people and they have suffered throughout their history from rejection and persecution. This culminated in their attempted extermination by the Nazis, who considered them an inferior race. As a result of centuries of rejection many Roma communities today live in very difficult conditions, often on the fringe of society in the countries where they have settled, and their participation in public life is extremely limited.<sup>38</sup>

Efforts to draw attention to the Roma minorities in Europe, both, in national and international level traces back in 1970s, but real human rights work on the issue of Roma minorities began in 1990s when International organizations (IGOs), such as: the Organization for Security and Cooperation in Europe (OSCE), Council of Europe (CoE) and the European Union (EU) became the main arenas for drawing the attention of international society to the situation of the Roma in Europe.<sup>39</sup> In CEE Roma population were treated with great attention, because they were regarded as thieves and disabled people, but after the fall of communism in CEE created a window of opportunity for Roma community to seek their place in political activities. Indeed, between 1990 and 1992, the three representative chambers in Czechoslovakia—the Federal Assembly, the Czech National Council and the Slovak National Council—saw the election of a total of eleven Romani representatives. Similarly, three Romani representatives, Tamás Peli, Aladár Horváth and Antónia Hága, were elected to the Hungarian parliament between 1990 and 1994.<sup>39</sup> The rise of Roma representation in the CEE national parliaments in the early 1990s, has, so far, not been repeated; as of late 2004,

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<sup>38</sup> Case OF D.H. AND OTHERS v. THE CZECH REPUBLIC

<http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=D.H.%20%20Others%20%20v%20%20Czech%20%20Republic&sessionid=55525791&skin=hudoc-en>

<sup>39</sup> Roni Stauber, Raphael Vago – The Roma: a minority in Europe. Published by: Central European University Press. 2007. (P.140)

there were four Romani MPs in the Hungarian parliament, and none in the Slovak, Czech or Polish parliaments.<sup>40</sup> The approach of accession to the EU has changed the situation of Roma population in CEE. Countries began implementing specific Roma policies because of the requirements of the Copenhagen Criteria. Roma population was growing rapidly in the territory of the EU, but Romania has the largest number of Roma population in its territory among European countries. Roma population constitutes 11 % of the whole population of Romania. Citizenship of this group of minorities is headache for the whole Europe. Another problem concerning Roma population is their education. This issue is of outmost importance for this paper and later there would be case studies concerning discrimination of Roma population in the field of education. Even in the sphere of education there are two variants of the problem: segregation that results from channeling Roma into special schools for the mentally handicapped, regardless of the lack of any real defect; and segregation which results from separate housing locations for the majority and the minority.<sup>41</sup>

## **2.2 Importance of Roma community for the EU**

Roma community in Europe still faces a large number of problems concerning education, health care, housing and employment. The access of Roma children to the educational institutions is limited. Those who attend school they are placed in “special classes” of mentally disabled children. This is direct discrimination towards this community and EU officials are trying to improve their educational conditions. In this regards, EU Parliament introduced two resolutions concerning this issue: Roma—“The Situation of Roma in the European Union” (2005) and “The Situation of Roma Women in the European Union” (2006). The 2005 resolution called for equal access to education and the prevention of anti-Roma sentiment among students. The 2006 resolution highlighted the need for teachers and administrators to receive intercultural training and discussed the education gap between

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<sup>40</sup>Roni Stauber, Raphael Vago – The Roma: a minority in Europe. Published by: Central European University Press. 2007. (p.141)

<sup>41</sup> Ibid (p.144)

Roma and non-Roma women. It urged member states to adopt comprehensive education policies to ensure equal and accessible education for all citizens.<sup>42</sup>

Beside Parliament, Commission pays great attention to the particular issue and it produced several communications in order to improve the situation of Roma community. Communication “Towards an EU Strategy on the Rights of the Child,” issued in July 2006, addressed the specific needs of children in the European Union. Particular attention was drawn to the Roma children who face discrimination in education and in order to fight against such discrimination Commission made the following recommendations: mainstreaming children’s rights, improving programs already in place, identifying future priorities in children’s rights, increasing awareness, communicating more effectively on the issue, and promoting children’s rights in external relations.<sup>43</sup>

Another attempt regarding this issue was communication Efficiency and equity in European education and training systems (2006). Communication called each member state to ensure quality education for all, because it is European Union’s responsibility to ensure that every citizen has an opportunity to access to an education without discrimination. This communication was very important for Roma children, because they were discriminated in the sphere of education.

In order to show the interest of the EU towards Roma community, it would be enough to list some resolutions, reports and conferences dedicated to this issue. These are: First resolution of the European Parliament focused on the education of Roma is dated 1984. This date of the resolution shows how important was the issue for the whole Europe from its very beginning. Other instruments on this issue are: The European Monitoring Centre on Racism and Xenophobia’s 2006 report on “Roma and Travelers in Public Education”; The European Network against Racism and the European Roma Information Office a joint conference on education of Roma and Travelers titled “Roma and Equal Access to Education: From

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<sup>42</sup> LÍVIA JÁRÓKA - Roma Education on the Agenda of the European Union (p.82) *European Education*, vol. 39, no. 1, Spring 2007, pp. 81–87.

<sup>43</sup> Roni Stauber, Raphael Vago – The Roma: a minority in Europe. Published by: Central European University Press. 2007. (p.84)

Segregation to Integrated Schooling” (2006); June 2003 high level conference on “Roma is an expanding Europe”. After this conference “Roma Education Fund” was established; “Resolution of the European Parliament on the Situation of Gypsies in the Community”; “Resolution of the European Parliament on Education for Children Whose Parents Have No Fixed Abode.” These steps illustrate vividly how EU fights discrimination on any ground; especially discrimination of Roma children concerning education, because EU thinks that education is a tool for fighting poverty and for having better living conditions. Issue of education among Roma minorities are more important, because they face great poverty and proper education would be a step forward for improving their living standards.

### **2.3 Case studies about education of Roma minorities.**

As it was already mentioned, EU pays great attention to the Roma community, but severe discrimination could be seen in almost all fields of social and economic life. But widespread discrimination and disadvantage for this minority group in the field of education is more vivid and of particular importance because it is one of the corner-stones on which equal participation in society is built. This chapter will include case studies concerning education of Roma minorities in order to show how the rights of this community are violated. In this respect, CASE OF D.H. AND OTHERS v. THE CZECH REPUBLIC would be a good illustration. In the case, the applicants alleged, *inter alia*, that they had been discriminated against in the enjoyment of their right to education on account of their race or ethnic origin. The applicants were represented before the Court by the European Roma Rights Centre based in Budapest, Lord Lester of Herne Hill, Q.C, Mr J. Goldston, of the New York Bar, and Mr D. Strupek, a lawyer practising in the Czech Republic. The Czech Government was represented by their Agent, Mr V.A. Schorm. European Roma Rights Center (ERRC) research in the city of Ostrava in the Czech Republic, demonstrated that school selection processes frequently discriminate on the basis of race. It argued that any randomly chosen Romani child is more than 27 times more likely to be placed in schools for the learning disabled than a similarly situated non-Romani child; tests used to assess the children’s mental ability were culturally biased against Czech Roma, and placement procedures allowed for the influence of racial prejudice on the part of educational authorities.

The case was brought to the court in breach of Article 14 of the European Convention (prohibiting discrimination), taken together with Article 2 of Protocol No. 1 (securing the right to education). Process of the procedure was following: In 1999, the ERRC together with local lawyers filed unsuccessful complaints in the Czech courts on behalf of eighteen Roma children. In 2000, the applicants turned to the European Court of Human Rights, alleging that their assignment to “special schools” for children with learning disabilities contravened the European Convention. In the end The Court concluded, by a vote of 13 to 4, that segregating Roma students into special schools was indeed a form of unlawful discrimination in breach of Article 14 of the European Convention (prohibiting discrimination), taken together with Article 2 of Protocol No. 1 (securing the right to education). The Court awarded 4,000 Euros to each of the applicants in respect of non-pecuniary damage and 10,000 Euros jointly in respect of costs and expenses.<sup>44</sup>

Another very interesting case concerning this issue is the case of Sampanis and Others v. Greece (application no. 32526/05). A brief summary of the case looks like this: “The 11 applicants (Greek nationals of Roma origin) were living in Psari, an authorised residential site near Aspropyrgos (Greece). The applicants brought the case out of concern that the authorities’ failure to provide schooling for their children during the 2004-2005 school years and the subsequent placement of their children in special classes, in an annex to the main Aspropyrgos primary school building, was a measure related to their Roma origin of the children. On 21 September 2004 the applicants visited, with other Roma parents, the premises of the Aspropyrgos primary schools in order to enroll their children. According to the applicants, the head teachers of two schools had refused to enroll their children on the ground that they had not received any instructions on this matter from the competent ministry. The head teachers allegedly informed them that as soon as the necessary instructions had been received they would be invited to proceed with the appropriate formalities. However, the parents were apparently never invited to enroll their children. The Greek Government claimed that the applicants had simply approached the schools to obtain information with a view to the

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<sup>44</sup> Case OF D.H. AND OTHERS v. THE CZECH REPUBLIC

<http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=D.H.%20%20Others%20%20v%20%20Czech%20%20Republic&sessionid=55525791&skin=hudoc-en> (accessed on 16.06.2010)



enrolment of their children, and that the head mistress had told them what documents were necessary for that purpose. Subsequently, in November and December 2004, a delegation of primary school teachers from Aspropyrgos had visited the Psari Roma camp to inform and persuade parents of the need to enroll their children. An informal meeting was convened on 23 September 2004 and it was decided, firstly, that pupils at the age of initial school admission could be taught on the existing premises of the Aspropyrgos primary schools, and secondly, that additional classes would be created for older children, to prepare them for integration into ordinary classes. On 9 June 2005, 23 children of Roma origin, including the applicants' children, were enrolled for the school year 2005-2006. According to the Government, the number of children came to 54. In September and October 2005, from the first day of the school year, non-Roma parents protested about the admission to primary school of Roma children and blockaded the school, demanding that the Roma children be transferred to another building. The police had to intervene several times to maintain order and prevent illegal acts being committed against pupils of Roma origin. On 25 October 2005 the applicants signed, according to them under pressure, a statement drafted by primary school teachers to the effect that they wanted their children to be transferred to a building separate from the school. Thus, from 31 October 2005, the applicants' children were given classes in another building and the blockade of the school was lifted. Three classes were housed in prefabricated classrooms on land belonging to the municipality of Aspropyrgos. In April 2007, the Roma children were transferred to a new primary school set up in Aspropyrgos in September 2007.

Legal arguments of this case was that the applicants complained that their children had been subjected, without any objective or reasonable justification, to treatment that was less favorable than that given to non-Roma children in a comparable situation and this constituted a violation of Article 14 (prohibition of discrimination) in conjunction with Article 2 of Protocol No. 1 (right to education). They further claimed a violation of Article 13 (right to an effective remedy).

The Court noted, due to Greek law recognizing the specific nature of the Roma community's situation and domestic legislation providing for the possibility of enrolling pupils at primary school simply by means of a declaration signed by someone with parental

authority, that this obligation should have been particularly clear to the Aspropyrgos school authorities as they were aware of the problem of providing schooling for the children living in Psari camp and of the need to enroll them at primary school. The Court considered that the competent authorities had not adopted a single, clear criterion in choosing which children to place in the special preparatory classes. In addition, the Court noted that whilst the declared objective of the preparatory classes was for the pupils concerned to attain the level of education which would enable them to enter ordinary classes in due course, there was no evidence that the preparatory classes facilitated this process. Moreover, the Court was not satisfied that the applicants had been able to assess all the aspects of the situation and the consequences of their consent to the transfer of their children to a separate building. Reiterating the fundamental importance of the prohibition of racial discrimination, the Court considered that the possibility that someone could waive their right not to be the victim of such discrimination was unacceptable. Such a waiver would be incompatible with an important public interest.

The Court concluded that the conditions of school enrolment for those children and their placement in special preparatory classes resulted in discrimination against them and constituted a violation of Article 14 of the Convention taken together with Article 2 of Protocol No. 1 in respect of each of the applicants. The Court also found that the Greek Government had not adduced evidence of the availability of an effective remedy and therefore there had been a violation of Article 13.”<sup>45</sup>

These two case studies are enough in order to understand how this group of minority is discriminated in the field of education almost in every country of the EU. Additional measures should be taken in order to improve their situation in this field. For this improvement some recommendations could be drawn:

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<sup>45</sup> Case of Sampanis and Others v. Greece (application no. 32526/05).  
<http://www.equalrightstrust.org/ertdocumentbank/Microsoft%20Word%20-%20Sampanis%20and%20Others%20v%20Greece.pdf> (accessed on 17.06.2010)

- First of all schools for mentally disabled children should be re-examined in order to ensure that they are non-discriminatory and be convinced that true abilities of each child are properly evaluated.
- Roma children do not attend kindergartens at all and local authorities should take any measure to improve the attendance of such children in kindergarten level.
- Furthermore, in most cases Roma children are discriminated from their teachers as well, so, in order to fight this discrepancy such kind of attitude from teachers should be investigated and measures should be taken to train teachers in this respect.
- Introducing history and culture of Roma communities within the curriculum of every school should be a good idea, because every citizen of the Union should know where Roma children are from and maybe respect them more.
- For this respect recruitment of teachers from Roma community should be a step forward, because it will play a role in improving the situation.
- But very important step, among these recommendations should be that the officials of the Union should control the situation of Roma community everywhere and also control domestic legislation of every country in order to fight discrimination on the ground.

### **Chapter 3: International instruments guaranteeing the right to education of minorities**

Many international human rights standards and instruments have application to minority protection, but in this chapter those provisions that stand most closely to the right to education of minorities will be emphasized. In this regards following instruments are of great importance: Article 26 of The Universal Declaration of Human Rights of 1948; Article 27 of the International Covenant on Civil and Political Rights; Article 30 of the Convention on the Rights of the Children; Article 5 of the UNESCO Convention Against Discrimination in Education; Paragraph 34 of the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE; Article 4 of the UN Declaration on the Rights of Persons

Belonging to National or Ethnic, Religious and Linguistic Minorities; Article 14 of the Framework Convention for the Protection of National Minorities. Due to the time limit it is impossible to cover all these instruments here and speak about them in details, so the search will focus only on Council of Europe Framework Convention for the Protection of National Minorities and UN Covenant on Economic, Social and Cultural Rights, because they express minority protection in the field of education more clearly and defend them more.

### **3.1 Council of Europe Framework Convention for the Protection of National Minorities (FCNM)**

The Council of Europe Framework Convention for the Protection of National Minorities (FCNM) is the only legally binding document protecting minority rights. All states which are bound by this convention should protect, respect and fulfill those obligations which are enshrined in the convention. The Convention is constructed as a series of states' obligations. States have flexibility in interpreting Convention in a manner to be fitted to their national legislation more. Because of this fact the convention is called "framework". Such flexibility will lead to more efficient implementation in the domestic legislation of states. Core issues covered by the convention are: *right of non- discrimination, protection of cultural, linguistic, religious identity* of minorities (Articles 4, 5, 6); *linguistic rights, language use* in private and in public, in education, media, culture and official contacts. (Articles 10 and 11); *educational rights* (Articles 12 and 13); *Effective participation and representation* in decision-making on different levels of the administration as well as local self-governments (Article 15) and *Trans-frontier co-operation* (Article 18). As it is see the Convention goes further in guaranteeing the rights of national minorities than this is done in the European Convention on Human Rights (ECHR). In ECHR the rights of minorities are not covered separately, it only refers to "association with a national minority"<sup>46</sup> in a non- discriminatory Article 14. Framework Convention is the only document which guarantees the right to education of minorities very clearly and protects every issue in education, such as: education available in minority

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<sup>46</sup> ECHR Article.14. <http://www.hri.org/docs/ECHR50.html#C.Art14> (accessed on 19.06.2010)

language, textbooks on minority language and also teaching of minority history within the curriculum of the school. It is impossible to cover all articles of the Convention here, but those ones which are directly linked to the right to education and which are of particular importance for this paper will be studied. These articles are: to foster knowledge of the culture, history, language, and religion of both majority and minorities (Article 12); recognize the rights of minorities to set up and manage their own educational establishments and learn their own language (Articles 13 and 14); “endeavor to ensure” that there are adequate opportunities to be taught in the minority language, in areas traditionally inhabited by national minorities or where they live in “substantial numbers” (Article 14)

**Article 12** of the Convention says:

1. *The Parties shall, where appropriate, take measures in the fields of education and research to foster knowledge of the culture, history, language and religion of their national minorities and of the majority.*
2. *In this context the Parties shall inter alia provide adequate opportunities for teacher training and access to textbooks, and facilitate contacts among students and teachers of different communities.*
3. *The Parties undertake to promote equal opportunities for access to education at all levels for persons belonging to national minorities.*<sup>47</sup>

Paragraph 1 of this article is narrower than any international instrument because it emphasizes the importance of teaching culture, history, language and religion not only for minorities but also for majority population. This is very important especially when different ethnic groups live together, because this will foster intercultural respect. (Intercultural dialogue is expressed in Article 6, paragraph 1). Paragraph 2 of this Article is not exhaustive because it does not give a clear picture of the situation, but words “access to textbooks” could be understood more broadly. It refers to publications of textbooks and

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<sup>47</sup> Europe Framework Convention for the Protection of National Minorities  
<http://conventions.coe.int/Treaty/en/Treaties/Html/157.htm> (accessed on 19.06.2010)

their purchase in other countries.<sup>48</sup> This also means that textbooks should be published in minority languages and their contents should be monitored frequently in order to remove stereotypes which may exist against different minority communities. Teacher training is also covered under this paragraph. This means that teachers should be more tolerant towards minority children. This could be achieved by employing teachers which are competent in minority languages and train them in order to get acknowledged to the curriculum of the school. Paragraph 3 of this article deals with the access to education. Here local authorities play decisive role, because they should ensure that schools are acceptable for everyone, especially for minority children. This paragraph has direct links to Roma community, because as it has been seen they were discriminated on the ground to access to ordinary schools and they were placed in “special schools”. Placing children in separate special classes should take place only when it is absolutely necessary and always on the basis of consistent, objective and comprehensive tests.<sup>49</sup>

**Article 13** of the Convention expresses:

1. *Within the framework of their education systems, the Parties shall recognize that persons belonging to a national minority have the right to set up and to manage their own private educational and training establishments.*
2. *The exercise of this right shall not entail any financial obligation for the Parties.*<sup>50</sup>

Under this article minorities have right to set up their educational and training institutions. State Parties have obligation to recognize such kind of establishments. Institutions which are covered by this article should have the same teaching standards as the rest majority institutions. If they have the same standards, any qualifications, diplomas,

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<sup>48</sup> Framework Convention for the Protection of National Minorities and Explanatory report  
[http://www.coe.int/t/dghl/monitoring/minorities/1\\_AtGlance/PDF\\_H\(1995\)010\\_FCNM\\_ExplanReport\\_en.pdf](http://www.coe.int/t/dghl/monitoring/minorities/1_AtGlance/PDF_H(1995)010_FCNM_ExplanReport_en.pdf)  
(accessed on 20.06.2010)

<sup>49</sup> Duncan Wilson – Educational rights of Persons Belonging to National Minorities. *International Journal on Minority and Group Rights* 10: 315–379, 2004. p.19

<sup>50</sup> Europe Framework Convention for the Protection of National Minorities  
<http://conventions.coe.int/Treaty/en/Treaties/Html/157.htm> (accessed on 20.06.2010)

certificates should be recognized in a same manner as the rest majority ones. National legislations should recognize such kind of establishments and they must conform to the principle of non-discrimination. Paragraph 2 of this article shows that persons belonging to national minorities can establish their own educational institutions without any financial obligation on the states parties.

**Article 14** of the same Convention tells:

1. *The Parties undertake to recognize that every person belonging to a national minority has the right to learn his or her minority language.*
2. *In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if there is sufficient demand, the Parties shall endeavor to ensure, as far as possible and within the framework of their education systems, that persons belonging to those minorities have adequate opportunities for being taught the minority language or for receiving instruction in this language.*
3. *Paragraph 2 of this article shall be implemented without prejudice to the learning of the official language or the teaching in this language.*

Paragraph 1 of the article deals with the language of minority in the sphere of education. Minorities should have right to learn their language. As it was already mentioned in the introduction part of this paper, learning minority language could be regarded as one of the main aspects for preserving the identity of a person. As it was mentioned in the Explanatory Report, “this paragraph does not imply positive action, notably of a financial nature, on the part of the State”.<sup>51</sup> This means that it guarantees the right to establish schools teaching in minority language without state’s financing. This idea has direct links to Article 13. We think that this is not true and it has somehow discriminatory character, because state should have an obligation to finance minority education in a same manner as it finances the majority one. Paragraph 2 of the convention is more flexible because it contains several phrases which give certain room for maneuver for states. Especially the sentence “as far as possible” is of great importance

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<sup>51</sup> Duncan Wilson – Educational rights of Persons Belonging to National Minorities. *International Journal on Minority and Group Rights* 10: 315–379, 2004

for defending this idea. It indicates that teaching in a minority language depends on resources which state has. These resources may be financial, technical or human. Within human resources staff which has an opportunity to teach in a minority language is meant, because main problem here is that not enough teachers are available within states who can teach in a minority language. Another sentence which gives flexibility to a state is *“opportunities for being taught the minority language or for receiving instruction in this language”*. Such kind of wording gives flexibility to states because they may interpret this in a manner which is more suitable for them. Under this may be meant that one should be taught the minority language or receive education in this language. So, such kind of wording does not impose obligation upon states to do both. They can provide one which is more convenient for their situation. Paragraph 3 conveys the idea that minorities should learn an official language of a state or get education in this language. This is crucial factor in integrating minorities into the society and without knowledge of state language this is impossible.

### **3.2 UN Covenant on Economic, Social and Cultural Rights,**

This covenant is chosen here because it includes the largest and comprehensive provision concerning education in International Human Rights Law. The present covenant also addresses different economic, social and cultural rights to individuals and describes the rights to: self-determination, wages sufficient to support a minimum standard of living, equal pay for equal work, equal opportunity for advancement from trade unions, strike, paid or otherwise compensated maternity leave, free primary education, and accessible education at all levels, copyright, patent, and trademark protection for intellectual property. In addition, this covenant forbids exploitation of children, and requires all nations to cooperate to end world hunger. Each nation which has ratified this covenant is required to submit annual reports on its progress in providing for these rights to the Secretary General,



who is to transmit them to the Economic and Social Council.<sup>52</sup> Among issues listed above, the issue about education is of particular importance here. This issue is enshrined in **Article 13** of the Covenant which is very large and which says:

- 1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.*
- 2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:*
  - a. Primary education shall be compulsory and available free to all;*
  - b. Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by ever appropriate means, and in particular by the progressive introduction of free education;*
  - c. Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;*
  - d. Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;*
  - e. The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.*

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<sup>52</sup>UN Covenant on Economic, Social and Cultural Rights (summary)- <http://www.magnacartaplus.org/uno-docs/e-s-c.htm> (accessed on 20.06.2010)

*3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.*

*1. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.<sup>53</sup>*

Within the paragraph 1 of this article aims and objectives of the education is stressed towards which national legislations should be directed and should be implemented. These aims under this paragraph are: “sense of dignity”; “promote tolerance and friendship among all nations”; “maintain peace”. But the most important aim in this paragraph is “*that education shall be directed to the full development of the human personality*”. This sentence tells everything and it does not need any interpretation. Paragraph 2 of the present article is directed towards different steps in education, such as: primary, secondary, high education, technical or vocational education and fundamental education. Paragraph 2 (a) refers to primary education and stresses two distinctive features for such kind of education to be appropriate. These features are: “compulsory” and “available free to all”. Sentence in the paragraph 2(b), “generally available” stresses the fact that secondary education should be distributed by the State in a manner as it would be available to all. Another sentence here which needs more concrete interpretation is “*progressive introduction of free education*”. This means that States have an obligation to take measures for secondary education to be available free of charge. Within this paragraph technical and vocational education is also stressed and all those aims and provisions should be directed towards such kind of education as well. Paragraph 2(c) is interesting in itself in a manner that it contains different wording

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<sup>53</sup>UN Covenant on Economic, Social and Cultural Rights,- <http://www.hrweb.org/legal/escr.html> (accessed on 18.06.2010)

compared with 2(b). If in 2(b) there is sentence such as “shall be made generally available and accessible to all”, in 2(c) we see different wording concerning higher education: “shall be made equally accessible to all, on the basis of capacity”. According to Article 13 2(c) higher education should not be generally available to all, but it should be available to those individuals which have the capacity to study in higher educational institutions. This capacity depends on the experience and ability of a person. According to this chapter States should take measures higher education to be available free of charge as it was in the case of secondary education. As for fundamental education 13 2(d), it should be available not only for those persons who didn’t receive primary education at all but the right to fundamental education extends to all those who have not yet satisfied their “basic learning needs”.<sup>54</sup> Under article 13 2 (e) is meant that states have an obligation to control schooling system and do everything for improvement this strategy. Also adequate fellowship system should be established under this provision. This idea is directed mainly to the persons with disabilities or to minority children, because they should be treated adequately taking into consideration their abilities. This provision has somehow non-discriminatory character. Another very important idea which is enshrined in this chapter is that “*material conditions of teaching staff shall be continuously improved*”. States have an obligation to control conditions under which teachers have to work and improve them consistently.

Under Article 13(3) is meant that parents have right to choose appropriate education for their children, education which does not violate their religious, philosophical or linguistic rights. This chapter also permits public school education in subjects such as history, geography, religion or ethics if it violates the rights of other individuals or they are taught in an objective way. Paragraph 4 of this article indicates that everyone, even non national of the State have the right to establish their own educational institutions if they satisfy minimum standards which are laid down by the State. This paragraph has similarities with the Article 13 of the Europe Framework Convention for the Protection of National Minorities.

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<sup>54</sup>Implementation of the International Covenant on Economic, Social and Cultural Rights. General Comment No. 13 (15 November-3 December 1999)

Each paragraph of the present covenant contains indicators such as: accessibility, acceptability, adaptability and availability. This is known as 4A scheme which was developed by Katerina Tomaševki, the former UN Special Rapporteur on the right to education and used by the Committee on Economic, Social and Cultural Rights in its General Comment on the normative basis for the Article 13 of the ICESCR.

## **Chapter 4: Georgia and its national minorities**

### **4.1 Brief overview**

Georgia remains to be ethnically, linguistically, culturally and religiously diverse country from its very beginning as different ethnic groups were forced to leave their territories and seek asylum in Georgia due to persecution which took place in their own places and lots of minorities settled in a way like this as a result of previous invasion. So, because of such facts during the whole history of Georgia different ethnic groups reside in the territory of Georgia but three largest ethnic groups are: Georgians (83.8% of the population), Azeris (6.5%), and Armenians (5.7%). The remaining 4% is made up of smaller groups, including Abkhaz, Ossetians, Russians, Ukrainians, Kurds/Yezids, Greeks, etc.<sup>55</sup> There are 5 regions of 13 with minority compact settlements in Georgia: Abkhazia, South Ossetia, Kvemo Kartli, Samtskhe-Javakheti and Kakheti. All of these five regions are Trans- frontier regions of Georgia bordering the states or state-entities populated by the identical compact settlements of ethnic minorities. Some of minority groups are having compact settlements or are dispersed on the inner territories of the country. These groups are: ethnic Russians, Greeks, Kurds and/or Yezidi, Assyrians, Jews, Ukrainians, Armenians and Azerbaijanis. While speaking about minorities two minority groups which come into mind are Azeris and Armenians. This happens so, because they remain the largest minority communities in the territory of Georgia. They are compactly resettled in two regions: Kvemo Kartli and Samtskhe Javakheti. For example,

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<sup>55</sup> Transparency International Georgia (December 2007) - Georgia's Policy towards its National Minorities: Tolerance or Integration (P.1)

Azeris make up to 83% of the population in Marneuli district and over 66% in both Bolnisi and Dmanisi. Armenians make up 94% and 95% of the population in the districts of Akhalkalaki and Ninotsminda respectively.<sup>56</sup> During Gamsakhurdia's presidency these national minorities were placed in a very bad condition. Although national laws were not discriminatory as they emphasized that everyone living in the territory of Georgia automatically became a citizen, without any emphasis on nationality of a person, but overall tension and anti minority atmosphere was the precondition of a fact that lots of minorities leaved Georgia. In this period, the overall picture was that the data from 1979, 1989, and 2002 shows the Armenian population of Georgia falling from 9% to 8.1% to 5.7%. The decrease of the Russian population was even more dramatic, falling from 7.4% to 6.3% and then to 1.5%.<sup>57</sup> During Shevardnadze's leadership the picture changed concerning minorities. Minorities were placed in a better condition than this was in Gamsakhurdia's period, but still the State lacked a policy towards its national minorities, it lacked protective mechanism for minorities, minorities were ignored by local authorities. Minority populated areas were governed by people who were obliged to support Shevardnadze and give votes to the ruling party during elections. In other ordinary situations they were ignored. After 2003, when Saakashvili became the president, situation changed dramatically. Now, everyone recognizes that integration of national minorities without loosing their identity is the central aim of the local government. Protection of the rights of national minorities is guaranteed constitutionally, by ratifying the European Framework Convention for the Protection of National Minorities in 13 October 2005. In order to show importance of minorities for Georgia, the new government created several institutions dealing with national minorities, such as: The Office of State Minister on Civil Integration, Council on Civil Integration and Tolerance, Ombudsmen's Office and the Council of National Minorities under it. Despite these institutions local ministries, especially the Ministry of

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<sup>56</sup> Transparency International Georgia (December 2007) - Georgia's Policy towards its National Minorities: Tolerance or Integration (p.1)

<sup>57</sup> Ibid. p.2

Education and Science plays great role in supporting national minority's integration into the society.<sup>58</sup>

## 4.2 Georgian legislation on the protection of national minorities

After becoming independent Georgia became the member of international organizations such as: OSCE; Council of Europe; UN and has harmonized its legislation in a manner to be in compliance with international human rights standards. In accordance with Article 6 of the Georgian Constitution, the provisions of international treaties directly apply and prevail over the legislation except Constitution. The International Covenant on Civil and Political Rights (1994) and its second optional Protocol, and the European Convention on Human Rights and its first Protocol are among the principal legal instruments which have been imposed on Georgia.<sup>59</sup>

There are several laws in Georgia which are related to the protection of minorities. These laws are: Constitution of Georgia; Electoral Code; Law on Public Unions of the Citizens; Labor Code; Law on Culture; Law on Broadcasting; Law on Public Education; Law on Higher Education. As it is seen there are quite many instruments dealing with minority issues, but for this paper not all of them are necessary as the paper covers only the field of education. In this regard the Georgian Constitution is of utmost importance. In 1995 Constitution, protection of national minorities is seen in **Article 14** where equality of rights and the principle of non-discrimination are enshrined. It states: *Everyone is free by birth and is equal before law regardless of race, color, language, sex, religion, political and other opinions, national, ethnic and social belonging, origin, property and title, place of residence.*<sup>60</sup> Another article dealing with protection of national minorities and non-discrimination principle is enshrined in **Article 38** of the same Constitution, which in its paragraph 1 states: *Citizens of*

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<sup>58</sup> See Transparency International Georgia (December 2007) - Georgia's Policy towards its National Minorities: Tolerance or Integration

<sup>59</sup> Report of International fact Finding Mission – Ethnic Minorities in Georgia. n° 412/2 April 2005. p.6

<sup>60</sup> 1995 Constitution of Georgia. Art14 [http://www.venice.coe.int/docs/2004/CDL\(2004\)041-e.pdf](http://www.venice.coe.int/docs/2004/CDL(2004)041-e.pdf) (accessed on 26.06.2010)

*Georgia shall be equal in social, economic, cultural and political life irrespective of their national, ethnic, 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.*<sup>61</sup> But here in paragraph 2 of the same article it is said that: *In accordance with universally recognized principles and rules of international law, the exercise of minority rights shall not oppose the sovereignty, state structure, territorial integrity and political independence of Georgia.*<sup>62</sup> Here Articles which protects national minorities in general were seen, but the field of education is the main topic of the present discussion and the right to education under the 1995 Constitution of Georgia is guaranteed by **Article 35**, which states:

- 1. Everyone shall have the right to receive education and the right to free choice of a form of education.*
- 2. The state shall ensure the compatibility of educational programmes with international rules and standards.*
- 3. Pre-school education shall be guaranteed by the state. Primary education shall be compulsory. The state shall provide basic education at its own expense. Citizens shall have the right to receive free secondary, professional and higher education at state educational institutions in accordance with a procedure and within the framework established by law.*
- 4. The state shall support educational institutions in accordance with the procedure established by law.*<sup>63</sup>

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<sup>61</sup> 1995 Constitution of Georgia. Art38(1) [http://www.venice.coe.int/docs/2004/CDL\(2004\)041-e.pdf](http://www.venice.coe.int/docs/2004/CDL(2004)041-e.pdf) (accessed on 26.06.2010)

<sup>62</sup> Ibid Article 38(2)

<sup>63</sup> 1995 Constitution of Georgia. Article 35. [http://www.venice.coe.int/docs/2004/CDL\(2004\)041-e.pdf](http://www.venice.coe.int/docs/2004/CDL(2004)041-e.pdf) (accessed on 26.06.2010)

Another instrument in Georgia dealing with the issue of education is the Law on Public Education. **Article 4** of this Law is an important one for this thesis, as it regulates the language of education and it says that in public education institutions the language of instruction is Georgian and in Autonomous Republic of Abkhazia both, in Georgian and in Abkhaz languages are required. Article 4.3 further stipulates: citizens of Georgia for whom Georgian is not the native language shall have the right to obtain full public education in their native language following the curriculum elaborated in accordance with the law. In these public schools learning the State language is compulsory and in the Autonomous Republic of Abkhazia learning both State languages is required. Furthermore, in chapter 4 of the same article it is said that in some cases regulated by international treaties and agreements to which Georgia is party, teaching in foreign languages is also allowed. In those public schools learning the State language is compulsory, and in the Autonomous Republic of Abkhazia both State languages should be learnt.<sup>64</sup> This article deals with the language of instruction, but another article which is important in this case is **Article 7** which guarantees the accessibility of public education and says that the State ensures the right of every student to obtain public education in his or her own language in the territory closer to his residence. In case the exercise of this right is not possible through a standard voucher, the State provides a student with an enhanced voucher and/or additional financing, as approved by the Ministry of Education of Georgia through a specifically tailored program. The number of enhanced vouchers and additional financing programs shall ensure access to education within smaller public schools, specialized or corrective schools, or linguistic minority school or class if there are at least three students at the elementary level, six students at basic level and 21 students at secondary level.<sup>65</sup> Under this law minorities are protected very well as within Article 4 there

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<sup>64</sup> საქართველოს კანონი ზოგადი განათლების შესახებ. მუხლი 4

<http://www.mes.gov.ge/uploads/Licenzireba/kanoni%20zogadi%20ganatlebis%20shesaxeb.pdf> (accessed on 27.06.2010)

<sup>65</sup> საქართველოს კანონი ზოგადი განათლების შესახებ. მუხლი 7

<http://www.mes.gov.ge/uploads/Licenzireba/kanoni%20zogadi%20ganatlebis%20shesaxeb.pdf> (accessed on 27.06.2010)



is discussion about the language of instruction and this is directly linked to minorities as the main problem in the field of education for them is the lack of the state language and under this article they are protected in a manner that they can attend schools which provide teaching in their own languages. Georgia guarantees such kind of service as there are many schools within the territory of Georgia with minority language departments or those which provide teaching completely in minority languages and all public schools in Georgia are financed equally. As for statistics it can be brought the situation in the city of Rustavi. This city is chosen because the researcher lives there and knows the situation concerning minorities quite well. In this little city there are two schools which provide teaching in minority language. One of them is Russian school and another is Azeri. These schools provide instruction completely in minority languages. As for article 7 which provides access to school, this principle is also satisfactory, because schools are located in areas which are settled with certain minority groups. To bring the situation of the city Rustavi again as an example, it could be said that there are these two minority schools because these minority groups reside mostly in this city. There are not so many Armenian minority representatives in the city and there is no need to open Armenian school here.

Within the field of education, higher education is a crucial factor with regards to minorities because, as it was already mentioned above, minorities were placed in a very bad situation after introduction unified national exams, because the lack of knowledge of state language is the main problem for them to pass these exams. Furthermore, before fundamental changes in the field of education, there were Russian sectors in high education institutions and minorities preferred studying there, but now there are no such Russian faculties and so minorities can not afford to pass such difficult exams in Georgian. This is the main factor of mass migration of minorities to their “kin states” or in the states where they can get high education. Such situation is the precondition of the fact that Georgia loses intellectually skilled people. As discussion on high education is on the ground, it would be a good idea to look through to the Law of Georgia on Higher education. It is impossible and at the same time not necessary to cover every article of the Law, so the search will focus only on them which are relevant to the topic. The main one in this regards is **Article 4** which regulates the language of higher education and which says: *The language of instruction at a higher education institution is Georgian in Abkhazia – also Abkhazian. (Instruction in other*

*languages, except for individual study courses, is permitted provided that this is envisaged by international agreement or is agreed with the Ministry of Education and Science of Georgia.*<sup>66)</sup>

Everything is said by this article concerning language of education in higher education establishments and it could be concluded here that there is no violation of any international high educational standard as there is not mentioned anywhere that education should be available in every minority language. But the establishment of a higher educational institution which will offer courses in several minority languages could improve the situation of access to higher education of persons belonging to national minorities.

### **4.3 Minority Problems in Georgia**

During previous discussion several problems which are connected to minorities have been mentioned in some extent, but in this chapter we'll bound all of them and speak about them in details. First problem which needs to be emphasized is problem connected with the linguistic rights of persons belonging to national minorities, especially the lack of knowledge of Georgian. This is main reason of the fact that minority pupils are not placed on an equal footing with other pupils. This problem is vivid mostly in Higher education, because minorities who have studied in minority language schools have obstacles in entering high educational institutions because in 2005 a compulsory university entrance exams were introduced which contains a test in Georgian language and literature. This fact remains to be an obstacle for minority pupils because the lack of Georgian. This situation of *de facto* exclusion from higher education of students belonging to national minorities is incompatible with the principle of equal opportunities for all in the education system, as set out in Article 12, paragraph 3 of the Framework Convention.<sup>67</sup> So, state should do everything in order to ensure equal access to higher education for everyone.

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<sup>66</sup> Law of Georgia on Higher education. Article 4

<sup>67</sup> Advisory Committee on the Framework Convention for the Protection of National Minorities. Opinion on Georgia. Strasbourg, 10 October 2009. Public ACFC/OP/I(2009)001. p.36

Within the sphere of general education lots of problems could be seen, especially lack of resources connected to quality textbooks. For many years textbooks were supplied from neighboring countries but they do not correspond to Georgian teaching standards and because of this minority pupils were placed in a situation of inequality. Now textbooks are translated into minority languages but even this remains problematic, because teachers do not know how to work with these new textbooks. Furthermore, school textbooks lack information on the history, geography, religion and culture of minorities and if there is such information in textbooks they are biased. Significant shortcomings should also be seen in the training of teachers in or of minority languages. Those teachers who teach Georgian in minority schools don't know minority languages and this makes difficult to communicate with pupils or with their parents properly. Language problems are also main reason of the fact that case-law on discrimination is limited in Georgia. Cases connected to this topic have been searched in Rustavi and Gardabani district courts and have not been found any of them. This is because minorities are not aware of their rights and if they know their rights, lack of Georgian is the main reason why they don't apply to courts. Although an interpreter is guaranteed not only in criminal proceedings but also in civil and administrative proceedings the problem here remains to be unsatisfactory quality of an interpreter. Lack of communication among different ethnic communities is also based on linguistic problems. If each member of the community will know Georgian well they will communicate with each other freely and there would not be any obstacle in this regard. Lack of information for minorities remains a huge problem, because they can not receive proper information from Georgian TV channels as they have little media coverage and they have access to information in their own language only through neighboring countries' media. This is problematic even for Georgia, because information received for neighboring countries not always remain correct and minorities have wrong ideas on reality. Problem in relation to language is also seen in the direction that Georgia has not ratified the European Charter for Regional or Minority Languages yet. This is done so because both, for the government and for the opposition commitments of the Charter remain to be threatening for the State language.

Minorities have problems concerning participation in social and economic life of the country. Consequences of this are unemployment and poverty. This is caused mainly

because they live in regions which are highly disadvantaged both economically and in terms of infrastructure, and which have poor links with the rest of Georgian territory, not only for reasons of history, geography and climate, but also because of an unequal redistribution of resources between regions. This particularly applies to the regions of Samtskhe-Javakheti and Kvemo-Kartli. For example, access to electricity and gas supplies, as well as to health care, is still sometimes difficult in these regions. Because of such difficulties minorities are placed in disadvantaged situation compared to the majority population.<sup>68</sup>

Another problem for minorities is that not all of them have identity documents. This is the case mainly for persons from Roma community and also for Azeri's and Avar belongings. Georgia does not have law which regulates specifically minority rights and this is also a problem. Minority protection in Georgia is based mainly on the Constitution which guarantees equality of all citizens. Their rights are also protected in laws relating to specific fields such as: education, culture, employment, etc. Georgia does not have unified definition of national minorities which remains to be a huge problem for the country. The government started to work on the definition of the term "national minority". The definition contained in the Resolution of the Parliament No. 1938-II of 13 October 2005 did not conform to the principles of the Framework Convention, and experts, representatives of NGOs and the minorities did not agree with its content.<sup>69</sup> Despite these problems which have been emphasized here there are also lots of them but it is not necessary to list all of them here as the search will concentrate only on them which are connected to linguistic problems as they are directly linked to the education of minorities.

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<sup>68</sup> Advisory Committee on the Framework Convention for the protection of National Minorities. Opinion on Georgia. Strasbourg, 10 October 2009. Public ACFC/OP/I(2009)001. p.42

<sup>69</sup> First State report by Georgia Pursuant to article 25 Paragraph1 of the European Framework Convention for the Protection of National Minorities. ( 1 March 2007). P.2

## **Chapter 5: EU-Georgia relations**

### **5.1 Framework of cooperation between EU and Georgia**

Cooperation between the EU and Georgia started after the collapse of the Soviet Union when Georgia became independent in 1992, but relations intensified after the “Rose Revolution” when the new government came into force. EU- Georgia bilateral relations are regulated by the Partnership and Cooperation Agreement (PCA) which entered into force in 1999. PCA does not guarantee accession to the Union nor mid term criteria, it only guarantees Georgia’s approximation towards EU standards. Kakha Gogolashvili compares such situation with the European Union’s Caucasian “dance” and explained it so: in the Caucasus female and male dancing partners never come closer enough to embrace each other although their movements are highly synchronized.<sup>70</sup> Under PCA parties cooperate to achieve economic, political or social goals. Fulfilling obligations and strategies of the PCA is guaranteed by the ENP Action Plan. ENP was introduced in 2003 in order to create political stability and economic growth in neighboring countries of the EU. South Caucasus countries- Armenia, Azerbaijan, Georgia were included in the ENP in June 2004. Inclusion of these states into the ENP was caused by democratic transformation of states. EU saw strong strategies of these states and this strategy was European integration. Furthermore, after accession of Romania and Bulgaria into the EU, Georgia became its neighbor and strategic partner. The main EU co-operation objectives, policy responses and priority fields can be found in the Country Strategy Paper 2007-2013. On the basis of bilateral priorities, also a National Indicative Program (NIP) has been adopted in agreement with the Georgian authorities. The NIP covers the period from 2007-2010. For this period an indicative total sum of €120 million has been allocated.<sup>71</sup> The main difference between the EU Neighborhood Policy and PCA and Association Agreement is introduction of mutual action plans and new, efficient formats of funding (ENPI).<sup>72</sup>

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<sup>70</sup> Kakha Gogolashvili- The EU policy towards the South Caucasus: Case of Georgia p.4

<sup>71</sup> European Commission [http://ec.europa.eu/external\\_relations/georgia/index\\_en.htm](http://ec.europa.eu/external_relations/georgia/index_en.htm) (accessed on 29.06.2010)

<sup>72</sup> Open Society Georgia Foundation – Georgia and the ENP, perspectives and challenges. P.10

The EU-Georgia ENP Action Plan which was designed in 2006 is a political document which lays down objectives for cooperation between EU and Georgia. It covers period of five years and it helps to fulfill provisions of the PCA. Action Plan is very important instrument, because its implementation will approximate Georgian legislation towards the European Standards. The Action Plan sets out priority areas, general objectives and actions in order to fulfill PCA objectives. Among specific priorities for action issue of minority is stressed in a manner to ensure respect for rights of persons belonging to national minorities; sign and ratify European Charter for regional or Minority Languages.<sup>73</sup> These priority areas will be implemented through bilateral ENPI financial assistance, but also through other relevant EC external instruments available to Georgia. These assistance instruments are available in different fields and are designed for different spheres. For example, these assistance includes: TACIS- technical assistance; MFA- macro financial assistance; RRM- rapid reaction mechanism; ECHO- humanitarian aid; FSP- food security; EIDHR- post conflict rehabilitation, democracy and human rights, etc.

## **5.2 ENP's role in Minority Protection**

Concerning ENP and its influence on national minorities, it is important to evaluate ENP progress reports year by year in order to see a real picture of how ENP helps to improve the situation of national minorities. In this direction, it is important to begin with 2007 progress report on Georgia which was adopted in 2008, because EU-Georgia ENP AP was first adopted in November 2006 and after this Commission issues reports on country's progress every year. In 2007 progress report it is said that the government has taken steps to improve the lives of persons belonging to Georgia's national minorities, inter alia through the implementation of a civic integration program, investment in road and infrastructure rehabilitation in regions inhabited by minorities and the establishment of a Public Administration Institute to train minorities. No progress was reported towards acceding to the

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<sup>73</sup> EU/Georgia ENP Action Plan. 4.1 Political Dialogue and Reform. Ensuring respect for Human rights and fundamental freedoms. P.13

European Charter for Regional and Minority Languages.<sup>74</sup> In 2008 progress report further progress connected to road and infrastructure rehabilitation was reported. Also draft National Concept for Tolerance and Civic Integration has been elaborated. However, isolated incidents of increased religious intolerance have been reported. Since last year, there has been no progress on a consistent minorities' civic integration policy, however. The European Charter for Regional and Minority Languages is still not signed. On the repatriation and integration of the Meskhetian population to Georgia, there was no progress reported by end 2008 and the period for applications to return has been extended by six months until July 2009.<sup>75</sup> Concerning 2009 progress report, there could be seen more progress towards national minorities. It is said in the report that the Government elaborated a "National Integration Strategy: National Concept for Tolerance and Civic Integration", which was adopted in May 2009. The concept and the action plan, covering the period of 2009-2014, foresee the improvement of infrastructure in remote minority regions and development of classes in Georgian as state language. The Council of Europe Framework Convention on Protection of National Minorities is not fully transposed into domestic legislation and the European Charter for Regional and Minority Languages is still not signed by Georgia. On the repatriation and integration of the Meskhetian population to Georgia the period for applications to return was, once again, extended an additional six months to cover the period until the end of 2009.<sup>76</sup>

In this chapter it was emphasized progress of Georgia towards its national minorities in the framework of ENP. It is easy to note that this progress was mainly directed towards the sphere of road and infrastructure rehabilitation. There was no progress in the field of

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<sup>74</sup> Communication from the Commission to the Council and the European Parliament. 'Implementation of the European Neighbourhood Policy in 2007'. Progress Report Georgia. P.3 (Brussels, 3 April 2008. SEC(2008) 393)

<sup>75</sup> Communication from the Commission to the Council and the European Parliament. 'Implementation of the European Neighbourhood Policy in 2008'. Progress Report Georgia. P. 6 (Brussels, 23/04/2009. SEC(2009) 513/2)

<sup>76</sup> Communication from the Commission to the Council and the European Parliament. 'Implementation of the European Neighbourhood Policy in 2009'. Progress Report Georgia. P. 6 (Brussels, 12/05/2010. SEC(2010) 518)

education of minorities and this is a huge obstacle. In order to fight such problem, there should be instruments within ENP which will regulate minority conditions more properly. Within the priority areas there should be one area concerning minorities. In such condition Georgia will try to regulate problems with regard to minorities more properly and with more responsibility.

### **5.3 Georgia's progress towards its national minorities**

After joining ENP Georgia tried to improve situation in almost every sphere and the sphere of national minorities was not an exception. Georgia tried to follow steps which were enshrined in ENP AP and come closer to EU norms and standards. Consequently, a huge progress could be seen in almost every sphere, but in this chapter it would be emphasized those which have direct links with minorities.

As it was already mentioned minorities have problems which are linked to their language and education, so government's main priority for many years was to fight against these problems and it introduced lots of programs in this regard. But these programs were designed also in a manner to support teaching in minority languages and at the same time to teach Georgian language properly. In this regards two programs were introduced. First, there is the Civil Integration Program, two main components of which focus on the elaboration of new study plans and standards, text-books and methodological recommendations for Georgian language and literature, and the provision of non-Georgian schools with text-books, Georgian books, newspapers and magazines. The second is a sub-program within the State Language Program "Defense of Linguistic Minorities of Georgia", which focuses on the promotion of teaching in national minority languages.<sup>77</sup> For the academic year 2004-2005 all 50,000 students of the first and second grades in Azeri and Armenian schools received text books in Georgian language for free. In addition, the textbooks in History and Geography were received by all fifth, sixth and seventh grade students in the Armenian and Azeri schools

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<sup>77</sup> Giorgi Sordia - Institutions of Georgia for Governance on national Minorities. September 2009. P.23



(38,000 students in total). For the students in Russian schools, the publishing house “Intellect” donated more than 5,000 textbooks, which were distributed by the Ministry. 190,000 Lari were allocated from the State Budget for the procurement of text books in line with the national curriculum for non-Georgian schools.<sup>78</sup> In order to teach Georgian language in non-Georgian schools government funds the program for creating textbooks for teaching Georgian as a second language. Two books for beginner levels have already been published and are part of the curriculum. This “Tavtavi” series will eventually provide material for all 12 grades.<sup>79</sup> Ministry of education and science also opened so called Language Department. Department’s main obligation is to teach the state language in minority populated regions such as Samtskhe-Javakheti and Kvemo Kartli. Another great problem with regard to minorities is the lack of teachers in these languages and a project called “Future Begins Today” which was implemented in 2004-2006 was designed particularly for this purpose. Under this project, teachers of Georgian language and literature, geography and history were sent to minority populated regions for one year in order to teach minority pupils in Georgian. Other very good step towards this issue was the opening of the Zurab Zhvania State Administration School in Kutaisi in January 2006. The aim of the school is to offer current and prospective public officials (predominantly persons belonging to minorities) the possibility of continuing education at the central, regional and local level. The school also provides Georgian language teaching for minority representatives.<sup>80</sup>

In order to create a common civil environment it is important to enhance the knowledge of the State language and to strengthen inter-ethnic and inter-cultural links. The Ministry started the implementation of the “School Partnership Program” to achieve these goals. In a contest organized in 2005-2006 130 projects were submitted for funding. Out of these, 16 projects were selected and financed. The students and teachers from different regions of Georgia were actively involved in the activities conducted under these successful projects.

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<sup>78</sup> First State report by Georgia Pursuant to article 25 Paragraph1 of the European Framework Convention for the Protection of National Minorities. ( 1 March 2007) p.42

<sup>79</sup> Georgia’s Policy towards its National Minorities: Tolerance or Integration. December, 2007. p.5

<sup>80</sup> Ibid 72. P.24

This program will enable many students and teachers of majority and minority origin to establish friendship and become familiar with each other's culture and traditions, which is a key factor of integration.<sup>81</sup>

One of the successful programs is "Irmis Nakhtomi", within which schools have been supplied with computers. This program provides for computer equipment and internet access to all secondary schools - both Georgian and non-Georgian, ensures introduction of the information technologies into the learning process.<sup>82</sup>

A huge problem remains in the field of higher education as minorities have not enough command of Georgian and they can't pass university entrance exams. Changes in this field were seen in 2008 when "general competences tests" were aloud to be taken in Armenian or in Azeri. For these exams special preparatory courses were organized from the government.<sup>83</sup> All these courses were financed from the State budget. But even these steps were not effective because they didn't help minority representatives to pass exams properly and enroll into universities.

Another progress made in this field is the opening of Office of Public Defender. There is special department within this office which deals mainly with the issue of minority and protects their rights. In December 2008 state authorities opened Public Defender's office in the region of Kvemo Kartli. This is a very good step from the government ensuring importance of minorities and protection of their rights. Opening of such office is very important because in a region where minorities are compactly settled violation of their rights are more and the office of Public Defender will do everything to fight against minority discrimination. In 2005 Council of Ethnic Minorities were opened within the structure of Public Defender. Several working

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<sup>81</sup> First State report by Georgia Pursuant to article 25 Paragraph1 of the European Framework Convention for the Protection of National Minorities. ( 1 March 2007) p.44

<sup>82</sup> First State report by Georgia Pursuant to article 25 Paragraph1 of the European Framework Convention for the Protection of National Minorities. ( 1 March 2007) p.47

<sup>83</sup> See Advisory Committee on the Framework Convention for the protection of National Minorities. Opinion on Georgia p.37

groups have been set up within the council, which has produced recommendations to the authorities aiming at improving the protection of national minorities.<sup>84</sup>

## **Recommendations**

As it is vivid from previous chapters Georgia has made progress in order to overcome difficulties concerning minorities, but still a lot remains to be done. In the following chapter there would be recommendations implementation of which will solve some problems and by which Georgia will approximate to European standards. These recommendations are as following:

- Strengthen anti-discrimination measures within the country, mainly in the sphere of education.
- Develop pre- school education of minority children, with particular emphasis on language skills. ( In such situation minority children will overcome cultural differences and learn how to cope with and live in an environment where minorities and majority live together)
- Strengthen links with minority parents and take into account their problems.
- Ensure that secondary education is accessible for every minority in every region of the country. (In regions where minorities live compactly, they have opportunity to get general secondary education in their languages, but there are also lots of minorities which don't live in such areas and they are discriminated against)

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<sup>84</sup> Advisory Committee on the Framework Convention for the protection of National Minorities. Opinion on Georgia p. 42

- Support teaching of the state language. Develop more coherent and effective programs for this purpose.
- Develop more active measures regarding teacher training. Teachers should be aware of new technologies and new methods of teaching.
- Recruit teachers from minority communities with good knowledge of the state language.
- Ensure that within minority schools general curriculum includes the teaching of history, geography and culture of minorities. Teaching these subjects should not be biased.
- Develop new textbooks for minorities which will be in line with new teaching standards and be sure that they don't contain biased information.
- Improve accessibility of higher education for national minorities or establish multicultural institutions, where languages other than Georgian can be used in the teaching process.
- Develop more effective training courses in order minorities to be better prepared for university entrance exams.
- Ensure establishment of own educational institutions by national minorities without discrimination. Give equal resources and don't distinguish them from other state controlled institutions. (There is no formal obligation on State to fund private

institutions, but State shouldn't prevent them to seek resources either within the state or in international arena.)

- Have constant contact with minority communities and take into account their problems.

All these recommendations were for Georgian authorities, but it would be a good idea if the EU will implement some more coherent measures to improve situation in Georgia concerning minorities. These measures may be:

- Give more funding to Georgian authorities to improve situation concerning minorities.
- Establish controlling mechanism exactly in the field of minority protection.
- Develop binding mechanism in the field of minority protection. (Within the ENP AP the issue of minority protection is enshrined, but if there would be separate instrument dealing with minorities and if it would be binding, Georgian side will try to develop this policy more actively and more progress would be seen in this direction)

## **Conclusion**

EU-Georgia relations count many years, but in recent years these relations intensified by closer cooperation which is ENP. Within this policy Georgia is seen to be the most important country within the region. For this reason there are quite many factors, such as history, religion and what is of outmost importance is geography and Georgia's geo-strategic location. Integration within the EU is Georgia's top foreign policy priority. In recent years Georgia made a huge progress in order to come close to the EU's norms and standards. So, according to such situation within the country we thought that it would be a good idea to research one particular field and answer to the research question, whether Georgian law on high education was in compliance with international norms or not and whether it fitted to

minority rights? For this purpose we have discussed EU legislation in the field of minority protection and in order to show what kind of situation is in this field within the EU we have studied two cases concerning Roma minorities. From this we have concluded that EU has strong protective mechanism for minorities, but they are still discriminated. Then we have discussed international instruments guaranteeing the right to education of minorities. There are quite a lot of them but for this research we have studied only two of them, which are of outmost importance and which protect minorities more broadly. In this regard we have studied Council of Europe Framework Convention for the Protection of National Minorities (FCNM) and its Articles 12, 13 and 14. Another instrument which we have covered is UN Covenant on Economic, Social and Cultural Rights and its Article 13. After this we have covered the situation in Georgia. Discussed about national minorities very briefly and then studied Georgia's legislation in a particular field. We have also covered issues such as Georgia's progress made in this field and also further problems which need to be improved. In order to show Georgia-EU relation we have covered ENP and its influence on minorities in Georgia. As we have seen that situation in Georgia concerning minorities is not satisfactory we have tried to draw our recommendations in order to improve the situation on the ground. Based on above mentioned investigation we may conclude that the situation in Higher education, where minorities are not able to enroll due to their linguistic problems and they are excluded from higher education is incompatible with the principle of equal opportunities for all in the education system, as it is enshrined in Article 12, paragraph 3 of the Framework Convention where it is said that: *The Parties undertake to promote equal opportunities for access to education at all levels for persons belonging to national minorities.*<sup>85</sup>

Beside research question we had also sub-question in our research which is why minorities in Georgia, do not apply to court? From investigation it was found out and it is vivid in regard to Roma communities that minorities apply to courts when their rights are violated. Investigating the same situation in Georgia has shown that court cases dealing with minority issues are poor. Such conclusion is based on the investigation of Rustavi and Gardabani city

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<sup>85</sup> Europe Framework Convention for the Protection of National

Minorities <http://conventions.coe.int/Treaty/en/Treaties/Html/157.htm> (accessed on 19.06.2010)

courts' situation where we tried to find cases on this topic and found none of them. It is logical to arise such sub-question from above findings and answer to this sub-question would be that again and again linguistic rights are main problems for minorities even in this case too. Another reason why they do not apply to court is that the lack of knowledge of their rights. In most cases they don't know if their rights are violated. We have such argument based on our inquiry. We have questioned 100 minority representatives and only 20 out of these 100 communicated in Georgian in medium level. With others we had to speak in Russian. This shows that the level of knowledge of the state language is very low within minorities. This remains to be a huge obstacle in applying to courts when they know that their rights are violated. Another reason why they don't apply is that court hearings are in Georgian. Although an interpreter is available for minorities, but still they complain that the quality of an interpreter is not satisfactory. And the third reason, which we have found from our inquiry, why they don't apply is the lack of knowledge of their rights.

After such discussion on minorities and their problems it could be concluded that despite a huge progress made in the field of minorities they are still placed in a disadvantaged position, their rights are still violated. Such situation contradicts to international standards and it needs further investigation and improvement.

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