

Country Visit: Georgia

ENGLISH only

**Report of Mario Mauro, Personal Representative of the OSCE Chairman-in-Office
on Combating Racism, Xenophobia and Discrimination**

Tbilisi, 29-30 April 2010

I. Background and Purpose of the Visit

The OSCE Mission to Georgia operated between 1992 and 2008. No consensus was reached for the extension of the Mission's mandate beyond June 2008. Since then, the OSCE has had no permanent presence on the ground in Georgia. In September 2008, the OSCE Chairperson-in-Office (CiO) asked ODIHR to conduct a Human Rights Assessment Mission to Georgia in the wake of the conflict. The ODIHR assessment of the human rights situation found, at that time, a number of serious human and minority rights concerns in the aftermath of the conflict.¹ In its report, the ODIHR recommended that all parties to the conflict should devote special attention to creating conditions for members of minority communities to enjoy all their human rights and freedoms. In addition, it recommended that all parties to the conflict adopt a rights-based approach to post-conflict rehabilitation and reconstruction, ensuring that human and minority rights, non-discrimination and gender equality serve as a cornerstone for their programmes.

On 29 and 30 April 2010, upon initiative of the CiO, the Personal Representative visited Tbilisi to discuss measures taken by the Government of Georgia to promote an inclusive and non-discriminatory policy towards persons belonging to religious and ethnic minority communities. The Personal Representative held meetings with a range of institutional and religious representatives, as well as with NGOs. The main issues of concern that arose during the discussions included the special status of the Georgian Orthodox Church, registration issues in regard to other religious denominations, restitution to religious denominations of properties confiscated during the Soviet era, and the integration of national minorities.

II. Summary of Main Findings

a. The Special Status of Georgian Orthodox Church

The Constitution of the Republic of Georgia guarantees complete freedom of belief and religion, while also recognizing the special role of the Apostle Autocephalous Orthodox Church of Georgia (the Georgian Orthodox Church) in the history of Georgia, as well as

¹ "Human Rights in War-Affected Areas Following the Conflict in Georgia", ODIHR, 27 November 2008, http://www.osce.org/documents/odihhr/2008/12/35656_en.pdf.

the Church's independence from the State.² A Concordat ratified by Parliament in October 2002 reaffirmed the special role of the Georgian Orthodox Church and devolved certain authorities to it, including a unique consultative role in areas such as education.³ Subsequently, a law was adopted in 2005 that narrowed the application of the Concordat by restricting religious teaching in State schools and stipulating that Orthodox instruction may only take place after school hours.⁴

According to some of the Personal Representative's interlocutors, the Georgian Orthodox Church's special role and its influence in society has in some instances had indirect discriminatory effects. In particular, representatives of NGOs and religious communities reported that non-Georgian Orthodox Church clergy can have problems gaining access to prisons to conduct pastoral work. They asserted that although a 2006 Memorandum by the Public Defender stated that access to prisons by the clergy was subject to the authorization of the Ministry for Corrections and Legal Assistance, in 2008 the *de facto* situation reverted to an old procedure under which the authorization for prison visits was released directly by the Georgian Orthodox Church's Patriarchy. Some religious communities contended that they felt discriminated against by this procedure, and that it had strengthened their negative perception of the Georgian Orthodox Church.

More generally, some representatives of NGOs and religious communities offered their view to the Personal Representative that the Georgian Orthodox Church is not very tolerant of other religious denominations. These representatives were critical of the government of Georgia for being too passive and too partial in favour of the Georgian Orthodox Church when cases of discrimination did arise.

According to the Public Defender, there has been a significant increase in the number of incidents targeting religious minorities in Georgia, although this does not necessarily relate to the role of the Georgian Orthodox Church. The Jehovah's Witnesses of Georgia, for example, reported that over the past two years, there were 35 criminal cases relating serious incidents including physical violence, damage to property, unlawful hindering of religious activities and verbal insults.

b. Registration Issues and Restitution of Properties

A number of religious groups raised the continuing problems of registration of religious denominations and restitution of their properties confiscated during the Communist regime. There is no formal requirement for religious groups in Georgia to register with the government but, according to a 2006 law, they may choose to register with the government as a commercial or non-commercial entity, or as union, in order to receive

² Constitution of the Republic of Georgia, as amended through 2004, Article 9.1. The text of the Constitution is available in English at [http://www.venice.coe.int/docs/2004/CDL\(2004\)041-e.pdf](http://www.venice.coe.int/docs/2004/CDL(2004)041-e.pdf).

³ The text of the Concordat is available in Georgian at <http://www.patriarchate.ge/?action=text/samartali05>.

⁴ "Georgia – International Religious Freedom Report 2009", U.S. Department of State, <http://www.state.gov/g/drl/rls/irf/2009/127311.htm>.

legal status and tax benefits. In order to proceed with the restitution of properties, however, it is compulsory for religious groups to be registered so that they have a clear legal status. Some representatives of religious communities who met with the Personal Representative mentioned that the special status granted to the Georgian Orthodox Church has had an adverse impact on the enjoyment of their right to restitution.

Over the past several years, there have been some tentative efforts to resolve the issue, but these efforts have been unsuccessful. The Roman Catholic and Armenian Apostolic Churches have reportedly been unable to secure the return of their churches and other facilities that were closed during the Soviet period, many of which later were reportedly given *de facto* to the Georgian Orthodox Church by the government. This problem affects in particular the Armenian Apostolic Church, whose representatives mentioned the demolition of St. George Church in Tbilisi as an example of a cultural and historical loss for the community. At the same time, religious communities are still facing difficulties in obtaining permission from local or central government agencies for the construction of new places of worship.

The Deputy Minister of Justice explained the government's view that the registration issue is a problem mainly for the Armenian Apostolic Church, which desires the same legal status granted to the Georgian Orthodox Church. According to the Deputy Minister, the Government offers different types of registration modalities. Religious communities have a free choice whether to register. Since the Armenian Apostolic Church has so far chosen not to register, the issue of its legal status and, consequently, the restitution of properties, is not on the agenda.

c. Integration of National Minorities

Regarding the situation of national minorities in Georgia, the Deputy Minister of Reintegration mentioned that the Ministry was currently working on different measures to assist minorities. In particular, the Deputy Minister stressed the importance of the restoration of the territorial integrity of Georgia through the reintegration of Abkhazia and South Ossetia into a unified State of Georgia, as well as the importance of the return of all refugees and IDPs to these regions.

In addition, the Deputy Minister mentioned the ongoing process of adoption and implementation of the National Concept for Tolerance and Civic Integration and its five-year Action Plan.⁵ The Action Plan was launched in 2009. Its approach on national minority issues is based mainly on the activities carried out by 20 governmental agencies whose efforts are coordinated by a central inter-institutional commission directly linked to the Minister. Many NGOs and local representatives of minority groups are consulted on the content of the annual work programmes. In order to promote the largest dissemination of this document and to guarantee that people are aware of their rights, the

⁵ The text of the plan in English is available at http://www.diversity.ge/files/files/National%20Concept_Eng_ADOPTED.pdf.

Action Plan has already been translated into the languages of the main ethnic minorities in Georgia.

A concerted effort at cooperation between the Ministry of Reintegration and the Ministry of Education and Science resulted in 2009 in an increase in access to higher education for students belonging to national minorities. A reform foresees enrollment based on the results of a general aptitude test. Successful entrants can then pursue a one-year special course in Georgian language. Since the lack of knowledge of the Georgian language is a problem among national minorities, this measure represents a positive step aimed at encouraging integration.

The government policy in the field of education is mainly oriented toward the full integration of national minorities, while at the same time preserving their cultural identities. The government supports school enrollment through a Community Action Program, which also includes Roma issues. In addition, the Ministry has undertaken an important program to prevent religious intolerance in public schools. A project has been launched to replace inappropriate textbooks with new textbooks, which include materials on religious groups other than the Georgian Orthodox Church and which discuss various religions in a neutral manner. A Professional Code of Ethics for Teachers helps secure the right of students by providing guidelines for teachers, who often become role models for students.

d. Initiatives

In addition to the measures described above, the government of Georgia has taken a number of other initiatives to promote tolerance and non-discrimination. These include:

- In 2006, a Tolerance Centre was established under the auspice of Public Defender.⁶ Its activities focus mainly on protecting the rights of religious and ethnic minorities and on promoting their integration. The Tolerance Centre conducts periodic monitoring of the situation of religious and ethnic minorities in Georgia and follows up on any problems encountered. Based on monitoring results, the Centre highlights possible dangers stemming from intolerance and discrimination and works to address the problems, including through recommendations reflected in the Public Defender's parliamentary reports. The Tolerance Centre also coordinates the activities of two other bodies that function under the Public Defender's auspices:
 - The Council of Religions helps build good relations among the 22 religious groups which are members and promotes dialogue among their

⁶ Information on the Tolerance Centre is available at <http://www.ombudsman.ge/index.php?page=777&lang=1&n=22>.

communities.⁷ The Council has also carried out a number of joint humanitarian interventions, such as assistance to IDPs and the victims of the 2008 conflict.

- The Council of Ethnic Minorities, established in 2005, includes over 80 organizations.⁸ The main aim of the Council is to support the civic integration of minorities. Among other activities, the Council offers recommendations on the process of elaboration of minority-related governmental policies, such as the Action Plan on Tolerance and Civic Integration.
- The Ministry of Internal Affairs has also put in place a series of reforms to fight intolerance and discrimination. Comprehensive, target-oriented training for police has been launched. Standard training now includes specific curricula on hate crimes, national and religious minorities and the appropriate use of force. The Ministry acknowledged the important contribution of the OSCE in combating hate crimes, mentioning in particular a special training module on the Role of Police in a Multiethnic Society.
- From the legislative perspective, there has been gradually increasing attention to addressing the problem of hate crimes. For the past two years, a Ministry of Justice task force has been working on the possibility of drafting a specific law on hate crimes. Activities in this field are being carried out in cooperation with international organizations.

III. Recommendations

The Personal Representative offers the following recommendations to the government of Georgia, based on main findings of his visit:

- Despite the government's positive efforts and initiatives to create an integrated and multicultural society, there are growing tensions in regard to some religious minority groups. In order to avoid the possibility of increased intolerance and its negative consequences, the government should consider further measures to address the legal status of religious groups and the problem of property restitution, as well as the issue of access to prisons by non-Georgian Orthodox Church clergy;
- The government should continue its efforts to draft a law on hate crimes, making use of the guidelines and recommendations outlined in the ODIHR's 2008 Hate

⁷ Information on the Council of Religions is available at <http://www.ombudsman.ge/index.php?page=777&lang=1&n=23>.

⁸ <http://www.ombudsman.ge/index.php?page=777&lang=1&n=24>.

Crimes report⁹, as well as the ODIHR publication *Hate Crimes Laws, A Practical Guide*¹⁰;

- The government should consider enhancing its positive co-operation with the ODIHR and making use of the wide range of technical assistance programs available through the ODIHR, including in the fields of police, teacher training and education.

The ODIHR and the CiO's Personal Representatives should seek to increase contacts and consultations with NGOs and religious organizations in Georgia, through the Tolerance Centre and the Councils for Religious and National Minorities. Among other activities, these organizations might be in a position to co-operate in enhancing data collection on issues relating to tolerance and non-discrimination.

⁹ http://www.osce.org/publications/odihr/2009/11/41314_1424_en.pdf.

¹⁰ http://www.osce.org/publications/odihr/2009/03/36671_1263_en.pdf.