

Ministers' Deputies / Rapporteur Groups

GR-DEM

Rapporteur Group on Democracy

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State of implementation of the commitments entered into by Armenia (May 2013-June 2015)

Document prepared by the Directorate of Political Affairs

Item to be considered by the GR-DEM at its meeting on 1 December 2015

Executive Summary

The current report reviews the progress made by Armenia in honouring its commitments to the Council of Europe. It covers the period between May 2013 and June 2015. It builds on relevant reports produced by the various Council of Europe institutions and monitoring bodies, and on information gathered by the Secretariat during the fact-finding visit it conducted to Yerevan on 1-3 July 2015. It specifically takes stock of the situation in the following areas: constitutional reform process; electoral legislation and practice; the reform of the judicial and prison system; protection of human rights; media freedom; legislation relating to NGOs; local self-government; alternative military service; the peaceful settlement of the Nagorno-Karabakh conflict; and accession to Council of Europe conventions.

The report concludes that Armenia has been making continuous and substantial progress in the honouring of commitments. This trend is reflected notably in the ongoing constitutional reform process, which was broadly assessed positively at the time of the visit by various stakeholders although a need for a broad consensus is raised. Changes to the electoral code are foreseen following the completion of the constitutional reform process, so as to adapt it to the parliamentary system. In the meantime, the fact that the status of the Central Electoral Commission is prescribed within the draft constitutional amendments was highlighted. The report further takes note that substantial judicial reform was initiated during the period under review. That being said, some concerns still persist in this area, in particular regarding the powers on the appointment of judges by the President of the Republic. The report also notes that the drafting and/or adoption of the new Criminal Procedure Code, and the new Criminal Code are approaching completion. Important work is also underway towards drafting a Penitentiary Code, notably providing for the establishment of a Probation Service. It was also noted that the national legislation regarding criminalising torture was recently brought in line with international standards.

The report takes note that the authorities have started working on new single anti-discrimination draft legislation. The fact that a draft law is being prepared on the Ombudsman, introducing changes to the current mandate of the institution and clarifying its competences, is also highlighted. The report notes that the issue of domestic violence appears to remain acute, despite some positive steps. The absence of legislative changes aimed at further ensuring the independence of the broadcasting regulatory authority is noted. However, the report takes note that consultation work is underway towards finalising a draft law on NGOs. The seriousness with which the authorities have undertaken to implement the recommendations of the Congress of Local and Regional Authorities is emphasised. In another positive development, Armenia's achievement in establishing a proper system of alternative service should be praised.

The report contains specific recommendations addressed to the Armenian authorities.

¹ This document has been classified restricted until examination by the Committee of Ministers.

Introduction

1. Armenia joined the Council of Europe on 25 January 2001. Upon accession, it committed itself to respecting the obligations incumbent upon every member State under Article 3 of the Statute with regard to pluralist democracy, the rule of law and human rights. It also undertook a number of specific commitments listed in PACE Opinion 221 (2000) on Armenia's application for membership of the Council of Europe.

2. The objective of the present report is to review the progress made by Armenia in honouring its specific commitments to the Council of Europe. The report stems from the decision taken by the Ministers' Deputies at their 1170th meeting on 7 May 2013.²

3. To recall, the Deputies, *inter alia*, "agreed that the monitoring of the honouring by Armenia of its commitments will from now on take place within the regular work of their Rapporteur Group on Democracy (GR-DEM) and decided accordingly to end the special procedure which they had put in place at their 1101st meeting (8 December 2010)." The Deputies also called on Armenia to continue making more progress in implementing its commitments, and invited the GR-DEM to report back to them.

4. This report covers the period between May 2013 and June 2015. It builds on the last report by the GR-DEM³, as well as on other relevant developments and reports produced by the various CoE institutions and monitoring bodies.

5. For the purpose of the report, the Secretariat conducted a fact-finding visit to Yerevan on 1-3 July 2015 to discuss the progress achieved with the Armenian authorities, representatives of civil society and of the international community. The Secretariat wishes to express its gratitude to the Permanent Representation of Armenia to the Council of Europe, Ambassador Armen Papikyan and the Armenian authorities for their continuous support in organising the visit and to all interlocutors for their assistance and valuable contributions.

6. The current report follows up as matter of priority on the issues raised in the previous report.

7. It is to be recalled that, during the period under review, the Council of Europe and Armenia pursued discussions towards adopting an Action Plan of co-operation. This Action Plan for 2015 – 2018 was developed in close consultation with the Armenian authorities, and reflects the most recent findings of the Council of Europe's monitoring bodies, resolutions and recommendations with respect to Armenia.

I. Constitutional Reform Process

8. A Specialized Commission on Constitutional Reforms (SCCR) was formed by the Decree of the President of the Republic of Armenia as of 4 September 2013, with the purpose of implementing the principle of the rule of law, improving the constitutional mechanisms for guaranteeing the fundamental human rights and freedoms, ensuring a comprehensive balance of powers and increasing the efficiency of public administration. The authorities requested the assistance of the Venice Commission (VC) in the process of revision of the Constitution of Armenia.

9. While addressing the PACE on 2 October 2013, President Serzh Sargsyan reiterated the above-mentioned objectives of the constitutional revision.⁴

10. A draft concept paper on the constitutional reforms was submitted to the attention of the VC in September 2014. As part of its main objectives, the draft opts for a parliamentary system, with the National Assembly overseeing the Government, while the President of the Republic would guard the compliance of the legislature and the executive with the rules prescribed by the Constitution. The draft concept paper also suggested important changes related notably to human rights, local governance, and the judiciary.

² CM/Del/Dec(2013)1170_2.1bis

³ GR-DEM(2013)3

⁴ PACE, address by Mr Serzh Sargsyan, President of Armenia, 2 October 2013.

11. After reviewing the draft, the VC concluded that the aims and the overall approach of the reform deserve strong support.⁵ The draft concept paper was subsequently submitted to the President of the Republic, who accepted it on 13 March 2015. The Constitutional Commission proceeded with the drafting of the amendments to Constitution. At the time of the visit by the Secretariat delegation, the amendments had still not been made public, and the opinion of the VC on these amendments was still being awaited.
12. During its visit to Armenia, the delegation enquired about the constitutional reform process with relevant stakeholders. In particular, a representative of the SCCR stressed to the delegation the rationale of the constitutional reform, indicating that the new political organisation will by itself constitute a safeguard against any authoritarian shift – bearing in mind that the parliamentary regime offers best guarantees against possible violations of democratic rules. It was also emphasised that the reform will establish a more balanced system of political governance, with less power concentration. In that regard, it was emphasised that provisions are included to mitigate the risks of parliamentary instability.
13. The authorities also informed the delegation about the envisaged calendar for the adoption and entry into force of the revised Constitution. The delegation was informed that the draft constitutional amendments should be examined by the Parliament in September 2015. Following parliamentary examination, a referendum is to be organised in autumn 2015. This rather tight timeframe was justified by the need to rapidly introduce into the electoral code all the changes that will result from the adoption of the revised Constitution, all this in view of the May 2017 parliamentary elections. Indeed, as the law forbids any changes to the electoral law within less than one year prior to elections, May 2016 appears to be the deadline for the electoral code to be amended. Consequently, holding the referendum in the autumn of 2015 would be imperative, according to the authorities. The Central Electoral Commission (CEC) confirmed to the delegation that it stands fully ready for the organisation of such a referendum.
14. To be noted, several NGOs met by the delegation questioned the intention of the authorities to introduce amendments to the Constitution. Also to be noted, some NGOs shared concerns at the alleged pressure exerted against some opposition figures and parties critical of the reform. However, the SCCR firmly rejected such criticisms, insisting that the reform would genuinely reinforce democratic principles in the country.
15. Indeed, according to the SCCR, strengthening democratic principles would be a mandatory pre-condition for achieving further progress in the country and that the changes will yield positive results. It was emphasised that such changes should also show Armenia's attachment to European values.
16. That being said, the need for broad support in favour of the new draft constitution was highlighted by several interlocutors, including civil society representatives and the Ombudsman's office. PACE Co-rapporteurs Axel Fischer and Alan Meale emphasised in their June 2014 information note that the constitutional reform process should be based on an inclusive and consensus-seeking approach.⁶
17. The CoE Action Plan for Armenia 2015-2018 includes some activities related to the constitutional process. The Action Plan will support the reform process specifically in the area related to fundamental rights and freedoms for the implementation of the constitutional principle of the social state, separation and balance of powers, electoral system, judiciary and legal reforms of self-government.

II. Electoral legislation and practice

18. In its last report⁷, the GR-DEM welcomed positive developments in terms of proper running of the February 2013 presidential elections. At the same time, it noted persistent doubts as to the accuracy of the electoral rolls, owing in particular to the uncertainty regarding the actual participation in the voting process of Armenian nationals living abroad. Allegations of other shortcomings were also noted (e.g. lack of transparency of the voting procedure in the military). The report took note of the authorities' intent to revise the Electoral Code, taking into account the CoE expertise.

⁵ CDL-AD(2014)027

⁶ Honouring of obligations and commitments by Armenia. Information note by the co-rapporteurs on their fact-finding visit to Yerevan (16 to 18 June 2014) (AS/Mon(2014)19), p.3.

⁷ GR-DEM(2013)3

19. During the period under review, the Congress of Local and Regional authorities was invited to observe the elections of members of Avagani (Assembly) of the City of Yerevan held on 5 May 2013. The Congress noted⁸ with satisfaction that these elections were, in general, technically well-prepared, conducted in an orderly manner and organised in accordance with CoE and international standards for democratic elections. It noted that several of its earlier recommendations had been implemented and that, on the whole, there was some progress concerning the strengthening of the system of checks and balances and with regard to media freedom and anti-corruption measures.

20. At the same time, the Congress has identified specific issues to be addressed, including in relation to voters being registered despite no longer having their main place of residence in the voting area and the recurring issue of allegations of vote-buying. The Congress invited the authorities of Armenia to take the necessary steps to make the Electoral Code more specific on some of those issues and to take action to combat any kind of electoral fraud. Highlighting that the Electoral Code of Armenia has the potential to ensure the conduct of democratic elections, the Congress invited the authorities to fully and properly implement its provisions.

21. During its visit, the delegation was informed by the CEC that, following last presidential election, amendments to the Electoral Code were put on hold pending the outcome of the constitutional reform. As indicated above, extensive changes to the electoral code are forthcoming as a consequence of the on-going constitutional reform process, which should establish a parliamentary system.

22. The CEC highlighted that, with regard to electoral matters, the draft constitution amendments now prescribes the status of the CEC within the constitution itself, as already envisaged in the draft concept paper. In addition, the draft constitutional amendments specify the scope of possible restrictions on suffrage, in particular with regard to convicts.

23. The CEC also informed the delegation that on 2 July 2015 the President signed the new law on referendum, adopted by the National Assembly on 10 June 2015. The delegation was explained that amendments essentially aimed at aligning the law with the current Electoral Code. The CEC indicated that it is working on rapidly adopting the required internal regulations, following the promulgation of the law on referendum.

24. The delegation raised with the CEC previously expressed concerns with regard to the vote of Armenians living abroad. The CEC informed that proposals were tabled during debates on the law on referendum. In particular, the CEC explained that foreign polling stations have been abolished, and that an online voting system was put in place for diplomats and citizens working for Armenian companies abroad (250 to 300 voters are concerned). Stressing the complexity of the question, the CEC explained that on the voting of other citizens living abroad, there is still no political consensus on how to address the issue. For the time being, citizens who live abroad but still have registration in Armenia may vote in Armenia on the voting day. Others, who are citizens living abroad but are not registered in Armenia, can register on an additional voters' list, provided that they come to Armenia to exercise their voting rights.

25. As for the voting process for army personnel, the CEC explained that there are no changes. The army personnel are to vote at regular polling stations close to the military facilities. Hence, they are no specific polling stations for the military on Voting Day.

26. Overall, NGOs met by the delegation expressed the view that the CEC conducts its work properly in terms of voting counting. However, most of the alleged fraud would be conducted prior to the counting stage, according to them. They mentioned allegations of multiple voting. While noting that some measures to prevent fraud have been introduced, they insisted that this is still insufficient. In particular, they noted that the erasable ink used in passports is an unreliable proof of vote. They also noted recurrent problems with the reliability of the electoral register. Some NGOs deplored the level of alleged clientelism during elections.

⁸ Congress, REC344(2013)

27. Regarding concerns related to the accuracy of the electoral rolls and concerns of multiple voting, the CEC recalled that the voters' list is public and is updated twice a year. It is published on CEC's website, with the possibility to download, and is accessible to all. The CEC further indicated that the list breakdowns are published in district precincts 40 days before elections. It also recalled that any information on any voter can be contested by anyone. The CEC asserted that on Voting Day, usually only a few people go before the court in relation to their voting rights.

28. While ensuring that all efforts are made to maintain a high level of accuracy of the electoral roll, the CEC pointed that the main issue is related to those citizens of Republic of Armenia who move abroad and fail to de-register, which in turn might raise concerns of alleged proxy-voting. The CEC also has clarified that proxy-voting is a crime regardless of the place of residence of the citizens. The CEC however stressed that safeguards were created to enable public scrutiny, in particular the presence of representatives of each parliamentary faction at each precinct station. The CEC noted that journalists and NGOs are allowed to take photos of the whole process. Other scrutiny mechanisms make it impossible to carry out multiple voting, assured the CEC.

29. The CEC acknowledged some problems with the efficiency of the erasable ink used in passports (noting that this anti-fraud method is prescribed within the Electoral Code). It indicated that it is looking at ways to improve the situation. The CEC stressed that the erasable ink is mostly used as an additional deterrent against multiple voting. Thus, problems with the reliability of the erasable ink do not make multiple-voting possible, thanks to other safeguards, ensured the CEC.

30. As for vote-buying concerns, the CEC noted as a positive development that whistle blower protection has been granted in the Criminal Code to individuals who take bribes but report it. According to the CEC, additional safeguards will also be added in the revised electoral code so as to prevent window charity during electoral campaigns.

31. To recall, the CoE Action Plan for Armenia contains projects aimed at bringing Armenia's national electoral system in full conformity with European standards. The Action Plan will contribute to the further development of national stakeholders' capacities. It will assist in amending legislation on elections and/or political parties in line with international standards. It will also aim to ensure better functioning of the electoral administration, in particular through the development of instructions of a general character and in the settlements of disputes.

III. Reform of the judicial and prison system

32. It should be noted that in March 2015 the CoE Commissioner for Human Rights published a comprehensive country monitoring report regarding the administration of Justice and the Protection of Human Rights in Armenia which provided for a detailed and comprehensive overview of main developments on the matter during the period under review. The Commissioner for Human Rights (HR Commissioner) also noted in his March 2015 report⁹ that the on-going justice sector reforms should be used to achieve the long-standing aim of ensuring an independent, impartial and effective judiciary in Armenia. The last GR-DEM report¹⁰ noted concerns regarding the issue of the independence of the judiciary, noting in particular the risk of political interference in the appointment of judges. In their June 2014 information note, PACE co-rapporteurs stated that the lack of independence of the judiciary and the lack of an impartial justice system continues to be of serious concern in Armenia.¹¹

Independence and effectiveness of the Judiciary

33. It was noted by the delegation that substantial judicial reforms were initiated and/or going on during the period under review, with the aim of ensuring a fair and effective judiciary, in particular through the Strategic Programme for Legal and Judicial Reforms for 2012-2016.¹² The delegation also took note that further changes to the judicial system are foreseen as part of the constitutional reform process. However, these changes had not yet been made public at the time of the visit and are therefore not discussed in detail here.

⁹ CommDH(2015)2

¹⁰ GR-DEM(2013)3

¹¹ AS/Mon(2014)19

¹² See p. 7 of CommDH(2015)2 for a summary of these reforms.

34. Some members of the civil society organisations met by the delegation expressed persistent concerns at the discretionary powers of the President of the Republic when it comes to the procedure for the selection, appointment, promotion and dismissal of judges.¹³ Such concerns were in line with those expressed by the HR Commissioner in his above-mentioned report and by the VC in its June 2014 opinion on the draft amendments to the Judicial Code.¹⁴

35. NGOs met by the delegation acknowledged that a number of successful judicial reforms aimed at ensuring a fair and effective judiciary were initiated, but alleged that impunity for certain influential individuals remains an issue. Some NGOs also pointed at an alleged problem of intervention of higher-level judges in cases examined by lower court judges.¹⁵ They also recalled that there are an insufficient number of judges in Armenia to ensure the effective administration of justice.¹⁶

36. Members of the Cassation Court explained to the delegation that there was no major change in the appointment procedure for judges during the period under review and that the only change refers to refusals by the President, which can be overturned by the Council of Justice (COJ). Members of the Cassation Court noted that this possibility was introduced in the law on the Judicial Code in 2013, but has so far not been effectively used in practice. They highlighted that the Judicial Code could eventually be amended so as to include the possibility for the President not to reject the whole list of candidates submitted to his attention, but only those individual candidates he deems unfit. That being said, it was clarified to the delegation that there was only one case, in 2008, where the President rejected a list of candidates, but only for procedural reasons. Hence, the practice shows that the President makes careful use of his right to reject candidates, according to them.

37. As for the Presidential Administration, it recalled that questions related to the appointment of judges can only be solved through constitutional changes, as they are linked to presidential powers. In this regard, the draft constitutional amendments introduce changes to the procedure for the appointment of judges, in particular with regard to the appointment of judges of the Constitutional Court and judges of the Cassation Court.

38. Concerning the issue of enhancing the independence and accountability of the Prosecutor General's Office (PGO), the PGO underlined to the delegation that, for the first time, in 2015, the Prosecutor General undertook to present in person his annual report before the National Assembly. The Prosecutor General answered MPs' questions over several days. The PGO insisted that this is an important step in terms of the public's accountability, taking into account that previously there was no debate at all on the PGO's report. As explained to the delegation, this improvement is a result of recent amendments to the law on the PGO and the law on the National Assembly.

39. The Secretariat of the National Assembly confirmed to the delegation that recent changes to the Judicial Code were aimed at strengthening the independence of the judiciary. The delegation's attention was *inter alia* drawn to the fact that the disciplinary procedure is fully transparent, and that judges' admission examinations are broadcasted live. Limitation of terms of office for court chairs are also introduced in the draft constitutional amendments, as chairmen of courts will now be appointed for a three-year term. The Secretariat of the National Assembly stressed that the reform was not driven by international commitments but rather by a genuine belief that Armenia's continued progress requires an independent judiciary.

40. Members of the Cassation Court also highlighted to the delegation the changes that stemmed from the 2014 amendments to the Judicial Code. In particular, they highlighted that, from now on, the COJ is the only body entitled to apply disciplinary measures against judges. They also noted that members of the Ethics and Disciplinary Committee of the General Assembly of Judges – which have the right to initiate disciplinary proceedings against judges – are elected by the judges themselves. According to interlocutors, these changes are viewed as a clear sign of progress.

¹³ See p. 9 of CommDH(2015)2 for further details regarding the prominent role of the President in these processes.

¹⁴ CDL-AD(2014)021

¹⁵ See also the findings of the HR Comm on p. 10 of CommDH(2015)2.

¹⁶ See also the findings of the HR Comm on p. 12 of CommDH(2015)2.

41. It should be noted that the interlocutors in the Presidential Administration shared the view that questions related to ethics within the judiciary should be removed from the law, and that the COJ alone should draft the related regulations. However, there was no specific indication that such a change is foreseen for the time being.

42. Concerning the issue of the insufficient number of judges, members of the Cassation Court confirmed to the delegation that the ratio of judges per 100 000 inhabitants is quite low (standing at 6.7), whereas the caseload is very high. For instance, the delegation was explained that the Administrative Court comprises a chairperson and 16 judges, whereas the caseload is of 1,000 to 2,000 per annum. At the moment, only dispute cases are taken by the court, so as to reduce its caseload. The caseload in the civil courts is reportedly similar.

43. It was explained that case overload also affects the criminal court system. As for the Cassation Court, it reportedly takes up to 3,300 cases per year with only 5 judges serving in the Criminal Chamber. Judges thus need to deal with five of six cases per day. It was recalled that, as per a judgement of the Constitutional Court, cases that are rejected need to be justified – which unavoidably increases the caseload. It was also recalled that the right to appeal to the Cassation Court has been extended to all judgements, as per a ruling of the Constitutional Court, which also contributes to an increased caseload.

44. The Ministry of Justice (MoJ) specified to the delegation that the lack of judges leads to particularly long trial proceedings. It was confirmed that government has acknowledged the problem and is looking for solutions, in particular through alternative dispute resolution (ADR). The MoJ also indicated to the delegation that the recent amendments to the law on Commercial Arbitration and a series of amendments related to mediation will help reduce the caseload of the Administrative Court, as well as the backlog of civil cases.

Reform of the Criminal Procedure Code and Criminal Code

45. To recall, the last GR-DEM report¹⁷ noted that the Armenian authorities had decided to adopt a new Criminal Code and a new Code of Criminal Procedure to increase the number of alternatives to imprisonment. According to the authorities' comments at the time, the new Criminal Procedure Code (CPC) was also to provide a response to the complaints of inequality of arms between the prosecution service and the defence in judicial proceedings. In his March 2015 report,¹⁸ the HR Commissioner took note that the CPC is *inter alia* geared towards a better incorporation of the principles of proportionality of sanctions and providing for alternatives to imprisonment. During its visit, the Secretariat delegation enquired about progress regarding the adoption of these codes and regarding plans for their subsequent implementation.

46. Concerning the CPC, several stakeholders confirmed that the draft is still awaiting first reading by the National Assembly. Regarding the Criminal Code, the MoJ informed the delegation that the government recently approved the concept paper and that the draft code is prepared and is already in official circulation. It was expected that it would be finalised in the near future.

47. The MoJ further explained to the delegation that the government is in the process of synchronising the two texts (Criminal Code and the CPC). The Criminal Procedure Code would be ready for first reading at the beginning of August. As for the Draft Criminal Code, the MoJ indicated that the text is to be circulated for consultations. It should then be sent to the National Assembly by the end of September. The lengthy adoption process would mainly be due to consultations between political parties.

48. The PGO also emphasised that the revised CPC was drafted notably based on the ECtHR standards. It was mentioned that the draft CPC contains new provisions with respect to alternative means of constraints, such as house arrest, administrative supervision, bail, prohibition of absence, suspension of office, guarantee, educational and military supervision. A mechanism of combined preventive measures is also introduced. In addition, hearings on the application of measures of restraint will be public. Moreover, the draft CPC would clearly specify that detention may be applied only in cases where the application of alternative restraint is impossible or insufficient to prevent illegal behaviour. The terms and grounds for renewing pre-trial detention have also been reviewed, in particular so as include a requirement to demonstrate due diligence by the prosecution and the necessity of continuing the criminal prosecution. The Secretariat of the National Assembly, for its part, stressed that the reform of the Criminal Procedure Code can be considered as a comprehensive reform.

¹⁷ GR-DEM(2013)3

¹⁸ CommDH(2015)2, p.7.

49. Among other highlights, both the PGO and the MoJ informed the delegation that defence rights have been reinforced within the draft CPC, so as to ensure the equality of arms. In particular, defence rights were reinforced, *inter alia*, by ensuring that the defence party will have the right to take part in every investigative activity involving the participation of the defendant; to obtain all evidence to be considered during proceedings; to review the accuracy and completeness of the protocols of investigative activities, to become familiar with the court session protocol and to present comments thereon. The scope of judicial control by a court at the pre-trial stage has also been extended, and procedural guarantees for such judicial control have been introduced.

50. As for the subsequent implementation of the new codes, the MoJ explained to the delegation that, starting from the establishment of the Justice Academy,¹⁹ classes on the new codes were organised for judges, investigators and prosecutors, even though the codes are not yet adopted. The MoJ also explained that, following their adoption, there will be a six-month period with full fledge courses, along with awareness-raising activities for the media and the public. The government expects both codes to be adopted at the same time, so as to facilitate that process.

51. Besides the reform of the CPC, the PGO highlighted that the current acquittal rate in Armenia is of 3.6%, in 2014, compared to 2.2% in 2013, 2% in 2012 and 1.6% in 2011. The PGO noted that it is steadily rising. It underlined that the prosecution is obliged to drop cases when there is no evidence of a case. In addition, there is no incentive to pursue prosecution without a strong case, since lawyers can then take the case to the ECtHR. While noting that more than 60% of prosecutors were educated still during Soviet times, the PGO insisted that a change of mentality is taking place with regard to the role of prosecutors.

52. To be noted, the CoE Action Plan for Armenia 2015-2018 includes some activities aimed at ensuring judicial independence, the effectiveness of legal proceedings and access to justice in accordance with CoE standards, and at supporting the criminal justice reform and combatting ill-treatment and impunity.

53. It should be recalled that, on 3 July 2013 under the auspices of the Armenian Chairmanship, a conference on “The European legal standards of the rule of law and the scope of discretion of powers in the member States of the Council of Europe” was held in Yerevan. The conference also discussed the judicial review of the laws and other legal acts by independent judicial bodies, and co-operation of human rights defenders with state and local self-government bodies in ensuring the effective implementation of the principle of the rule of law.

Prisons, ill-treatment, torture

54. To recall, the last GR-DEM report²⁰ noted the willingness of the authorities to tackle detention-related and ill-treatment-related issues. The April 2013 report by the Committee against Torture (CPT)²¹ contained a number of specific recommendations to ensure accountability with respect to ill-treatment cases. The Human Rights Commissioner noted in his last report²² persistent claims of ill-treatment by law enforcement officials as well as the lack of effective investigation into serious human rights abuses.

55. According to the Ombudsman, ill-treatment and torture are not outstanding issues in Armenia, although the living conditions in some detention centres can amount to ill-treatment. The Ombudsman's office also shared the view that the large resort to pre-trial detention is the main reason for prison overcrowding. Several NGOs met by the delegation expressed concerns about the medical condition and the lack of treatment for drug addicts in prison. They deplored the fact that the police have some control over the procedure aimed at providing drug treatment to convicts. Some NGOs further shared the view that the measures taken to fight against torture are not sufficient. It was noted that no individual has been charged with torture so far. They stressed the need to ensure that confessions obtained under torture are not receivable.

¹⁹ The law “On the Justice Academy” entered into force on 1 September 2013.

²⁰ GR-DEM(2013)3

²¹ CPT/Inf(2015)10

²² CommDH(2015)2

56. Of particular importance, the MoJ informed the delegation that a package of laws²³ amending legislation criminalising torture was adopted by the Parliament on 9 June 2015 and signed by the President on 2 July 2015. The delegation was explained that the legislative reforms undertaken were aimed at bringing national legislation criminalising torture in line with international best practice, as well as at preventing further similar violations found by the ECtHR in the judgments delivered in respect of Armenia.

57. The delegation was recalled that the former legislation criminalising torture did not include crimes committed by public officials, as well as it lacked the purposive element recognised in the UN Convention against Torture (hereinafter, the UNCAT). Therefore, the delegation was informed by the authorities that the article defining torture was brought in full conformity with Article 1 of the UNCAT. In addition, it is guaranteed that all public officials engaged in conduct constituting torture are charged accordingly, and that the penalty for this crime reflects the gravity of the act of torture. Moreover, in contrast with the former legislation, cases of torture are now subject to public criminal prosecution initiated by a decision of the supervising Prosecutor. Furthermore, violence by private actors is also subject to public prosecution.

58. According to the MoJ, the amendments have been actively discussed with civil society and the Public Council, comprising of NGOs and media representatives. The MoJ reported that several proposals were made that were taken into due consideration by the Government while presenting the final package to the National Assembly. The Public Council welcomed the amendments and provided positive feedback.

59. As indicated above, the delegation was informed that the government started working on a draft Penitentiary Code. The delegation was informed that the concept paper, drafted in line with CoE standards, is being circulated for comprehensive consultation with government bodies and NGOs. According to the MoJ, the Penitentiary Code will in particular include provisions related to the establishment of a probation service. It will specify how to proceed with the execution of sentences, based on risk analysis and on a case-by-case approach. Foreseeable avenues for early liberation are to be introduced, as well as non-custodial measures.

60. The MoJ also informed the delegation that three new penitentiary premises are being constructed, so as to take into account CPT's remarks. All new premises will also be equipped with new medical blocks.

61. As for the issue of the militarisation of the prison system, the MoJ indicated that it has been decided to implement a gradual demilitarisation approach, starting with the medical service – which is to be separated from the proper prison service. The probation service to be established as part of the Penitentiary Code will also be a civil service, fully outside of the prison system. It was emphasised that these first steps will serve as a basis for further changes.

62. The CoE Action Plan for Armenia 2015-2018 will, *inter alia*, assist in improving the health care system in prisons and assist in the revision of the legislation. It will also assist in setting up a probation service in line with the Council of Europe recommendations.

63. During the meetings with NGOs, as well as with the Ombudsman's office, the delegation was informed about a specific practice used by the police during investigations, sometimes in relation with demonstrations or rallies. People who may have participated in such events are often convoked by the police and are interrogated as witness - a procedure which, although cannot be interpreted as ill-treatment or torture, nevertheless is perceived by the civil society as well as the legal community as an attempt to intimidate the activists and undermine their fundamental rights. The PGO insisted that this is not a common practice. It also informed the delegation that, as per the case-law of the Cassation Court, all detainees must be given minimal rights of suspects for the first 3 hours, and are entitled to remain silent.

²³ Laws on Making Amendments and Supplement to the Criminal Code and on Making Amendment to the Criminal Procedure Code of the Republic of Armenia.

64. In different meetings, the PGO, the MoJ and the Secretariat of the National Assembly all informed the delegation that the issue of the non-respect of the rights of witnesses at police stations is fully addressed in the draft Criminal Procedure Code. The status of witness and those placed under investigation will be clearly defined. Moreover, as per the new code, all individuals – without distinction of their initial status – must be explained their rights and status when taken by the police. In addition, as per the new Criminal Procedure Code, pre-trial testimony has to be deposited in presence of a judge. Hence, extraction of testimonies by police officers and/or prosecutors becomes completely useless. This is a key development that will contribute to systematic changes, according to the MoJ. It was noted that implementing the reform will of course require appropriate training for prosecutors. The MoJ further explained that, very recently, the government introduced specific topics in the curricula of the police academy, regarding CPT standards and requirements.

IV. Protection of human rights

65. The previous GR-DEM report²⁴ noted the resolve of the Armenian authorities to continue the measures taken to improve protection of human rights. During its visit, the delegation enquired about progress achieved in implementing the 2014-2016 National Human Rights Action Plan and about progress towards the adoption a legislation stepping up the fight against discrimination.

66. To recall, the CoE Action Plan for Armenia 2015-2018 contains a number of activities aimed at bringing practices in Armenia in the area of human rights promotion and protection, including social rights, closer to CoE standards.

Anti-discrimination legislation

67. The HR Commissioner noted in his March 2015 report²⁵ that Armenia still does not have a comprehensive anti-discrimination legislation, although a draft had been developed in 2012 by the Ombudsman's office. Previously, PACE co-rapporteurs had also made similar remarks in their June 2014 information note.²⁶ While taking note that the draft had not been submitted to the National Assembly, the HR Commissioner noted that additional discussions were foreseen as part of the National Action Plan on Human Rights.²⁷ The Commissioner urged the Armenian authorities to adopt a comprehensive anti-discrimination law on the basis of the work that has already been carried out by the Ombudsman's office.

68. It was explained to the Secretariat's delegation by the Ombudsman's office that the anti-discrimination draft law written under the initiative of the Ombudsman was very comprehensive. However, it faced strong resistance by different groups and prompted an intense debate when published for consultations in 2013. The Ombudsman's office confirmed that the draft was not considered further due to insufficient support. Reportedly, that lack of support was due to a misperception of the draft, seen as a text specifically related to sexual minorities. The Ombudsman's office emphasised that, in fact, the text aimed at preventing discrimination against all vulnerable groups, without distinction. The Ombudsman's office also confirmed to the delegation that it continues to lobby for the adoption of a single anti-discrimination legislation, through the implementation of the country's Human Rights strategy.

69. The MoJ informed the delegation that the government has started working on the development of a single anti-discrimination legislation. A needs-assessment legal study was completed in May 2015,²⁸ in line with the National Action Plan on Human Rights (adopted by the government on 27 February 2014), which, *inter alia*, states the necessity of studying the compatibility of the legislation of Armenia with non-discrimination norms of international law and examining the appropriateness of adoption of a separate law.

²⁴ GR-DEM(2013)3

²⁵ CommDH(2015)2

²⁶ AS/Mon(2014)19

²⁷ See p. 26 of CommDH(2015)2.

²⁸ The legal research titled "Is it expedient to adopt a separate non-discrimination law?" was conducted by the Eurasia Partnership Foundation, with the support of the Government of the Netherlands and in cooperation with the Ministry of Justice of Armenia.

70. The legal study, *inter alia*, revealed that the existing legislation does not comprehensively regulate the anti-discrimination sphere. The survey concluded with recommendations on the need to establish a separate law on non-discrimination. It further recommended establishing a specialised non-discrimination dispute resolution body, which should be independent from government structures.

71. The MoJ informed the delegation that, following the above-mentioned legal research, a working group was set up in July 2015 to draft a comprehensive Law on Preventing Discrimination. The new text is to be drafted by independent national experts, including from civil society. At the same time, the Ombudsman's draft will be part of referential sources. The first draft should be ready by the end of November or mid-December 2015 for circulation and consultations. The need for a complete new text – while the Ombudsman had already drafted a text – was justified by the fact that the Ombudsman's text had prompted controversy. The MoJ also mentioned that knowledge sharing activities took place with the Republic of Moldova – taking into account its similar experience – regarding the setting-up of the Body of Equality.

Women's rights/Domestic violence

72. The HR Commissioner *inter alia* noted in his March 2015 report²⁹ that, despite the adoption of gender-related action plans and the 2013 Law on Equal Rights and Equal Opportunities for Women and Men, extensive gender bias still hampers the effective empowerment and equal treatment of women.³⁰ The HR Commissioner, *inter alia*, also noted that the level of political participation and representation of women in state institutions remain low. He pointed at the problem of violence against women. In particular, he expressed concerns about the social attitudes accepting and justifying violence against women in some cases.³¹

73. The Ombudsman's office mentioned to the delegation that, on 17 December 2014, a Law on Social Assistance was adopted. As per the law, victims of domestic violence and trafficking are included in the list of "persons in a difficult life situation" which require some social assistance, also prescribed therein.

74. With regard to women's political participation, the Ombudsman's office indicated to the Secretariat delegation that, in 2014, it made recommendations that quota rules for women at the National Assembly should be amended so as to ensure that women are not replaced by men after being elected as part of a list of candidates.³² However, no specific progress towards that objective was reported.

75. As for the fight against domestic violence, the Ombudsman's office indicated he promoted a draft law on domestic violence (the text had been prepared by a group of NGOs). The Ombudsman's office relayed the draft to the National Assembly. However, no specific steps have been reported since then.

76. As for the situation in police stations in cases of domestic violence, the Ombudsman's office confirmed that the reluctance to address such cases is an issue. A specific unit on domestic violence was established within the police, according to the Ombudsman's office, but there is an overall lack of awareness on domestic violence. Additional training for police officers is required.

77. As a particular concern, the Ombudsman's office expressed concerns at the growing trend of selective abortion. It emphasised the need to prevent such a phenomenon. To be noted, the issue is also reported in the March 2015 report by the HR Commissioner, who *inter alia* called on the authorities to ratify the CoE Convention on Human Rights and Biomedicine, which prohibits the use of techniques of medically assisted procreation for the purpose of choosing a future child's sex, except for serious disease risks.

²⁹ CommDH(2015)2

³⁰ See p. 25 of CommDH(2015)2 for further details on the adoption and implementation of the *Law on Equal Rights and Equal Opportunities for Women and Men*.

³¹ See p. 24 to p. 35 of CommDH(2015)2.

³² To recall, gender sensitive quotas were established in the new Electoral Code adopted on 26 May 2011, with a view to increasing the representation of women in the legislative power.

78. Addressing the absence of progress in the ratification of the Istanbul Convention, several NGOs deplored that a number of MPs reportedly publicly expressed views that would tend to legitimise domestic violence in some cases. Several NGOs also expressed concerns that, once the Istanbul Convention ratified and translated into the national legislation, it will not lead to an improvement in practice. They also expressed doubts as to whether a national preventive mechanism against domestic violence will be established.

Human Rights Strategy

79. The delegation took note that, in February 2014, the government approved the Plan of Action for the implementation of the National Strategy for Human Rights Protection for 2014-2016, drafted in 2012. In the summer of 2014, the Strategy was launched by the Prime Minister with UNDP, CoE, EU, and OSCE representatives. In his March 2015 report³³ the HR Commissioner recalled that international organisations, including the CoE, urged the Armenian authorities to expand its scope and take stronger steps in a number of fields. The Commissioner shared the view that the Strategy should be seen as work in progress and invited the authorities to conduct an on-going review of its implementation, with the active involvement of civil society, in order to improve it.

80. During the visit, the Ombudsman's office informed the delegation that, in December 2014, the MoJ established a joint working group for coordinating the implementation of the Strategy. The delegation was further informed that the MoJ has since organised seminars with the UNDP to take stock of its implementation and to evaluate how international organisations could be involved in its implementation. That being said, several NGOs expressed concerns with the feasibility of the National Strategy for Human Rights Protection, noting little progress achieved in its implementation.

Law on the Ombudsman

81. During the visit, the delegation enquired about the (draft) law on the Human Rights Defender (Ombudsman). The Ombudsman's office confirmed that the draft was initiated by the Ombudsman in view of introducing changes to the current mandate of the institution. It was explained to the delegation that the text specifies the role of the Ombudsman as the National Prevention Mechanism against torture (NPM), and aims at ensuring its effective functioning and full compliance with the OPCAT. The Ombudsman noted that it had faced difficulties in the past in exercising this mandate, as its monitoring competences were often contested by prosecutors. The new law clarifies such competences. It will also provide the Ombudsman with the possibility to self-initiate cases. It was reported to the delegation that the VC is preparing its opinion on the law for its October 2015 session.

Other

82. To be recalled, the overarching theme of the Armenian Chairmanship of the Committee of Ministers³⁴ was combating racism and racial discrimination, xenophobia and intolerance, and promoting European values through intercultural dialogue. A High-Level Conference on Combating Racism, Xenophobia and Intolerance in Europe was held in Yerevan on 21-22 October 2013. The purpose of the conference was to reflect upon racism and xenophobia in political discourse, as well as topics related to combating hate speech and racial stereotypes in social networks and media.

83. On 2-3 September 2013 Armenia also hosted the 2013 Exchange on the religious dimension of intercultural dialogue: "Freedom of religion in today's world: challenges and guarantees". The 2013 Yerevan exchange was the sixth one and addressed such important issues as freedom of religion as a fundamental human right, the protection of religious minorities, the fight against intolerance and hate speech, and youth education.

V. Media Freedom

84. In its previous report, the GR-DEM noted persistent allegations concerning state domination over the broadcasting sector and its regulatory authority. During the visit, the delegation enquired about any review of the procedures for appointing the members of the governing bodies of the public broadcasting service and the National Radio and TV Council, so as to guarantee their independence along the lines of the Council of Europe recommendations.

³³ CommDH(2015)2

³⁴ 16 May 2013 to 14 November 2013.

85. According to the National Radio and TV Council, there have not been any changes since 2010 to procedures for appointing the members of the governing bodies. With regard to concerns related to guarantees of independence, it is recalled that the board of the National and Radio TV Council comprises 8 members, 4 of whom are appointed by the President, and the other 4 are appointed based on a competitive process, under the initiative of the National Assembly. It was highlighted that candidates need to produce substantive recommendations, in particular from the NGO sector, and that they must be considered as representatives of a specific field.

86. The National Radio and TV Council met by the delegation further emphasised that it is not within their competence to monitor the editorial lines of TV channels and/or to review related complaints. The Council's supervisory role consists in ensuring that the content broadcasted by TV channels is in compliance with legislation. It thus does not imply any editorial review.

87. According to NGOs, the media environment is pluralistic and all political parties have access to the media. Still, some NGOs noted that media tend to avoid adopting an editorial position that is critical of the authorities.

88. Regarding this last concern, the National Radio and TV Council shared the view that there are organisational problems in the media field and that TV channels lack the capacity for dynamic and quick coverage of events. According to the Council, impressions of timid coverage may result from technological lag. It stressed that a TV channel may choose not to cover some events, but in all cases such decisions would be based solely on their own content preferences.

89. The delegation was informed that the technical, legal and social policy changes related to the switch to digital broadcasting are ongoing. A full switch to digital broadcasting is expected to take place at the beginning of 2016. Among other issues, it was mentioned that the authorities are looking at options for ensuring that current regional channels are maintained in the process.

VI. Legislation relating to NGOs

90. In its previous report³⁵ the GR-DEM noted that the MoJ had decided to take steps to address some of the problems that affect the NGO sector (including financial viability) notably by drafting amendments to the law on NGOs.

91. During the visit, the MoJ informed the delegation that the concept for a new law on NGOs was adopted by the government in September 2014, and that the draft law is in the process of being finalised. It was underlined that amendments are being developed in line with CoE standards. With a view to enhancing the financial viability of civil society organisations, the law will grant any NGO the right to exercise entrepreneurship activities – to be used for realising the organisation's statutory objectives.

92. However, several NGOs met by the delegation expressed concerns regarding the draft NGO legislation, in particular with the fact that their right to file cases before courts on behalf of third parties would be limited to specific issues (so called non-political issues). There were also concerns in relation to potential shortcomings with the envisaged legal status of voluntary workers. Although welcoming on-going consultations between the MoJ and the NGOs on the draft law, a few NGOs worried that final changes to the text might include provisions aimed at controlling foreign funding, through financial reporting requirements.

93. Responding to these concerns, the MoJ emphasised to the delegation that it highly values the role of civil society and that it regularly cooperates with civil society organisations (e.g. on developing the recent anti-torture amendments). The MoJ stressed that provisions aimed at controlling foreign funding are not envisaged in Armenia. It was clarified that reporting requirements will apply to NGOs receiving public funds only.³⁶

³⁵ GR-DEM(2013)3

³⁶ However, the MoJ could not confirm at this stage whether or not this will apply to Armenian public funds only and/or to Armenian and foreign public funds.

94. The Ombudsman's office confirmed to the delegation that the MoJ is conducting regular consultations with NGOs on the draft law on NGOs and that the MoJ seems responsive to NGOs' concerns. Hence, several concerns expressed by the civil society appear to have already been taken into account in the latest version of the draft. In particular, the right to file cases before courts would not be restricted to specific issues. The Ombudsman's office indicated that it will provide comments once the new version of the text is ready. Although it had some concerns with respect to reporting requirements, the Ombudsman's office shared the view that, overall, the draft appears to be well-formulated.

VII. Local self-government

95. The Congress of Local and Regional authorities' monitoring visit to Armenia of November 2013 resulted in Recommendation 351 (2014)³⁷. It drew up 12 points requiring attention for compliance with the European Charter of Local Self-Government (the entry into force in September 2013 of the Additional Protocol to the Charter on the right to participate in the affairs of a local authority was a positive development). The main concerns centred on the question of finance as well as a review of the legislation which would better implement subsidiarity. The Congress, *inter alia*, found that local authorities have limited service delivery capacity, play a limited role due to poorly delimited powers, do not have full and exclusive powers, and are inadequately consulted.

96. The delegation was informed by the Ministry of Territorial Administration of measures specifically taken and/or envisaged for the implementation of the Congress Recommendation 351(2014). Most of these measures are part of the 2014-2025 Strategic Programme for Long-term Development (SPLTD) adopted by the government on 27 March 2014.

97. As for the envisaged measures, in particular measures aimed at ensuring the implementation of the principle of subsidiarity, the government adopted a concept notes on local taxes and fees, on the basis of which a new draft law on Local taxes was drafted and introduced to the National Assembly in June 2015.

98. The government also, *inter alia*, undertook to improve and strengthen territorial governance, notably through mergers of small communities. In particular, on 17 May 2015, it organised local referendums in 22 communities and in 3 cluster areas on the issue of merging. According to the results, 78% of voters voted in favour of the consolidation of communities. The Ministry of Territorial Administration informed the delegation that a legislative package on consolidation of communities has been developed and is to be adopted by the government in August 2015. It should be discussed by the National Assembly during the autumn 2015 session.

99. The Ministry of Territorial Administration further informed the delegation that, in the course of 2014, it started consultations towards the full implementation of articles of the European Charter of Local Self-Government signed by Armenia with reservations. The Territorial Administration and the MFA have also initiated the process of signing articles of the Charter not signed yet by Armenia. According to inner procedural structure the materials have been submitted to the Constitutional Court and the process is expected to be completed in October 2015.

100. The Ministry of Territorial Administration indicated to the delegation that, although the on-going constitutional reform mostly touches the national level of governance, it will also affect the competences and/or functioning of local authorities. Proposals have been made to that effect by the Territorial Administration.

101. To be recalled, under the Armenian Chairmanship of the Committee of Ministers and in close co-operation with the Congress of Local and Regional Authorities, a Conference on Participatory Democracy at Local Level was held in Yerevan, on 19 June 2013. Local democracy was one of the priority areas of Armenia's Chairmanship.

102. Also under the Armenian Chairmanship and in close cooperation with the Congress of Local and Regional Authorities, an international Conference of capital cities of the Council of Europe member States "Making the metropolis citizen-friendly: a challenge for public authorities" took place in Yerevan on 11 October 2013.

³⁷ Recommendation 351(2014) on Local Democracy in Armenia.

103. In addition, on 29 October 2013, Mr Armen Gevorgyan, Deputy Prime Minister and Minister of Territorial Administration of Armenia, addressed on behalf of the Armenian Chairmanship of the Committee of Ministers the 25th Session of the Congress of Local and Regional Authorities. In his communication to the participants in the Session, he, *inter alia*, emphasised that the long-term objective of the Armenian authorities is the strengthening of democracy and building up of capacities of local authorities in order to enable them to effectively address issues of local importance.

104. It is to be noted that the Armenian authorities have agreed to engage in a post-monitoring dialogue with the Congress of Local and Regional Authorities with a view to the drawing up of a road-map for the implementation of the recommendations made by the Congress.

105. Through the CoE Action Plan for Armenia 2015-2018, the CoE will continue to provide legal assistance to the local government reform, to build the capacity and service delivery of local self-government bodies and strengthen the leadership skills of local elected representatives. This will include, *inter alia*, activities related to the post-monitoring dialogue with the Congress.

VIII. Alternative Military Service

106. In its previous report,³⁸ the GR-DEM noted that amendments to the law on alternative service were in the process of being approved by the National Assembly. The delegation therefore enquired about their final adoption and on progress regarding its implementation.

107. The delegation was informed by the Commission on Alternative Service that amendments to the Law on Alternative Service of the Republic of Armenia had been adopted in 2013. Following this, on 25 July 2013, the Government of Armenia appointed the seven members of the Republican Commission on Alternative Service. The Chairman of the Commission is the First Deputy Minister of Territorial Administration and Emergency Situations. On the same day the Government adopted the list of jobs for alternative service and the list of places (organisations) where the alternative service shall be performed.

108. Since 2013, the Commission reportedly held 8 meetings (2 meetings in 2013, 4 meetings in 2014 and, so far, 2 meetings in 2015) and considered 183 applications, including 73 applications in 2013, 97 applications in 2014 and, so far, 13 applications in 2015. Among applications considered by the Commission in 2013, 20 applications were from persons who had been under arrest. 6 of those had already been convicted, and the others were in pre-trial detention. The majority of those under arrest were Jehovah's witnesses.

109. By the decisions of the Commission 2 applications were rejected on the grounds that the application contained false information. All other applications were approved and those persons who had been under arrest were released immediately after the relevant decisions of the Commission. All criminal proceedings against them have been dropped. In 3 cases the Commission decided to grant a deferment from the service. Hence, at present, 178 citizens undergo alternative service in Armenia. It was also noted that not a single complaint and/or appeal was lodged so far against the Commission's decisions.

110. The Ombudsman's office indicated to the delegation that it monitored the implementation of the alternative service procedure. According to the Ombudsman's office, both the legislation and its implementation are satisfactory.

111. To be noted, the PACE co-rapporteurs, in their June 2014 information note, concluded that Armenia has successfully honoured its commitment of implementing a proper system of alternative service.³⁹ Also the ECRI, in its conclusions on the implementation of the recommendations in respect of Armenia adopted on 5 December 2013⁴⁰, concluded that its recommendation in relation with alternative military service has been implemented.

³⁸ GR-DEM(2013)3

³⁹ AS/Mon(2014)19

⁴⁰ ECRI(2014)3

IX. The peaceful settlement of the Nagorno-Karabakh conflict

112. During the period under review, the Chairmanship of the Committee of Ministers,⁴¹ the Secretary General,⁴² PACE President,⁴³ and PACE Standing Committee⁴⁴ recalled on several occasions that the search for a peaceful settlement of the Nagorno-Karabakh conflict was a commitment undertaken by Armenia and Azerbaijan upon their accession to the CoE. They repeatedly expressed their full support to the negotiations within the framework of the OSCE Minsk Group Co-Chairs. Along with other international actors, strong concerns about the multiplication of incidents along the line of contact were also expressed. It was also emphasised that the CoE's instruments for monitoring human rights should play their full part in all regions of Europe that are outside of the effective control of the national authorities, including in Nagorno-Karabakh.⁴⁵

113. In the meantime, the CoE has continued to provide support to a people-to-people dialogue in its fields of expertise. A meeting between Armenian and Azerbaijani civil society representatives on the Council of Europe's experience in multicultural education was organised in Strasbourg in November 2013. Participants decided to continue the work, focusing on multicultural education and the role of media in the dialogue process, to which end two similar workshops for civil society were held, on 4-5 March and 27-28 March 2014, to explore further the possibility of common work in these two areas.

114. While addressing the PACE on 2 October 2013, President Serzh Sargsyan recalled that the peaceful resolution of the Nagorno-Karabakh issue under the aegis of the OSCE Minsk Group Co-chairs has been Armenia's priority, and it will remain so until a comprehensive settlement is achieved.⁴⁶

X. Conventions

115. It should be noted that Armenia has implemented all its specific commitments with regard the Council of Europe Conventions as stipulated in the PACE Opinion 221(2000).

116. During the period under review, Armenia ratified Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) on 13 March 2013. It also signed Protocol No. 15 amending the Convention for the Protection of Human Rights and Fundamental Freedoms (CETS No. 213) on 24 June 2013; Protocol No. 16 to the Convention for the Protection of Human Rights and Fundamental (CETS No. 214) on 2 October 2013, and the Council of Europe Convention on the Manipulation of Sports Competitions (CETS No. 215) on 18 September 2014.

Conclusions

117. As already reflected in the previous GR-DEM report, there is a constant and sustainable trend in Armenia towards progress in the honouring of its specific commitments. The ongoing constitutional reform process is an important development in this respect. At the time of the visit, this process has been in general positively assessed by various stakeholders, although a need for a broader consensus and consultations was noted. The conducting of the referendum on the adoption of the constitutional amendments will constitute an important benchmark in that respect.

118. With regard to the electoral legislation, it was noted that amendments to the electoral code were put on hold pending the outcome of the constitutional reform, but that extensive changes are foreseen so as to adapt it to the parliamentary system. It is hoped that the forthcoming changes will contribute to further bringing Armenian electoral legislation in full conformity with European standards. In the meantime, the fact that the status of the CEC is prescribed within the draft constitutional amendments was highlighted.

⁴¹ e.g.: Kingdom of Belgium, Foreign Affairs, Foreign Trade and Development Co-operation press release: Didier Reynders visits Armenia and Azerbaijan, 29 April 2015.

⁴² e.g.: SG Opinion article of 22 May 2014

⁴³ e.g.: PACE press release: 25/09/2014

⁴⁴ PACE press release - AP099(2013)

⁴⁵ e.g. CM/AS(2015)4

⁴⁶ PACE, address by Mr Serzh Sargsyan, President of Armenia, 2 October 2013.

119. As for the reform of the judicial and prison system, it was noted that substantial judicial reforms were initiated and/or going on during the period under review, with a view to further ensuring the establishment of a fair and effective judiciary. That process is expected to be continued through the constitutional reform process. At the same time, concern still persists regarding the discretionary powers of the President of the Republic when it comes to the appointment of judges, although the draft constitutional amendments foresee changes on this issue. It was also noted that important work was underway towards finalising the drafting and/or adoption of the new Criminal Procedure Code and the new Criminal Code, which will notably respond to concerns of inequality of arms between the prosecution and the defence, and is expected to better provide for alternatives to imprisonment. Important work is also underway towards drafting a Penitentiary Code, notably providing for the establishment of a Probation Service. Of particular importance, it was noted that the national legislation regarding criminalising torture was recently brought in line with international standards.

120. Regarding the protection of human rights, the report takes note that the authorities have started working on new single anti-discrimination draft legislation. Such work deserves particular support and further encouragement. The fact that a draft law on the Ombudsman, introducing changes to the current mandate of the institution and clarifying its competences, is being prepared is also worth supporting. At the same time, the report notes that the issue of domestic violence appears to remain acute, despite some positive steps. Regarding media freedom, the report notably takes note of the absence of legislative changes aimed at further ensuring the independence of the broadcasting regulatory authority. And as for the legislation relating to NGOs, the report takes note that an important consultation process is underway towards finalising a draft law that should address some of the problems which affect the NGO sector, including financial viability.

121. The seriousness with which the authorities have undertaken to implement the recommendations of the Congress of Local and Regional Authorities is to be welcomed, as notably illustrated by the recent introduction of a draft law on Local taxes before the National Assembly. The launch of the post-monitoring dialogue with the Congress is an important development.

122. The establishing of a proper system of Alternative Service constitutes an important achievement. Armenia has thus implemented its commitment.

123. Concerning the process of the peaceful resolution of the Nagorno-Karabakh conflict, despite increased and alarming tensions the Armenian authorities indicated that they remain committed to resolving the issue through negotiations led by the OSCE Minsk Group Co-chairs. In that respect, the report notes the importance of the people-to-people contacts and dialogue between civil societies.

124. A number of positive developments mentioned in this report are still at the stage of legislative drafting and/or adoption. Thus, the full extent of the progress achieved by Armenia in honouring its commitments in these areas remains to be assessed in light of future changes and their implementation.

The following specific recommendations are addressed to Armenia:

- To implement its constitutional reform process through an inclusive approach, and to ensure that the related referendum is organised fully in line with European standards;
- After completion of constitutional reforms, to resume work aimed at bringing its electoral legislation fully in line with European standards;
- To continue and complete judicial reforms aimed at ensuring a fair and effective judiciary;
- To adopt and implement the Reform of the Criminal Procedure Code and Criminal Code, notably so as to address the concerns on inequality of arms between the prosecution and the defence and concerns of a lack of alternatives to imprisonment;
- To continue working on the adoption of a Penitentiary Code, including on the Probation Service;
- To continue working, in a consultative manner, towards the adoption of a comprehensive anti-discrimination law;
- To continue working, in a consultative manner, towards the adoption of a new NGO law;

- To adopt the pending amendments to the law on the Human Rights Defender (Ombudsman), with a view to reinforce the position and authority of the Ombudsman, and in co-operation with the Venice Commission;
- To continue its efforts towards a peaceful settlement of the Nagorno-Karabakh conflict; and to continue supporting activities related to people-to-people dialogue;
- To build on the implementation of the 2015-2018 CoE Action Plan for Armenia to achieve further progress with respect to commitments.