

NATIONAL LEGAL MEASURES TO COMBAT RACISM AND INTOLERANCE IN THE MEMBER STATES OF THE COUNCIL OF EUROPE

ARMENIA, Situation as of 31 December 2005

General Overview

Preliminary Note: this table is accompanied by an explanatory note

COUNTRY:	Constitutional provisions	Specific legislation	Criminal Law	Civil and administrative Law
ARMENIA				
Norms concerning discrimination in general	Yes	Yes	Yes	Yes
Norms concerning racism	Yes	No	Yes	Yes
Relevant jurisprudence	No cases were found on this subject.	No	No cases were found on this subject.	No

EXPLANATORY NOTE

ARMENIA / GENERAL OVERVIEW

The Republic of Armenia gained its independence from the Soviet Union in 1991. The current Constitution was adopted on July 5, 1995, through a popular referendum and proclaims that Armenia is a sovereign, democratic State, founded on the principles of social justice and the rule of law.

Armenia has ratified several international instruments relevant in the field of combating racism and intolerance, including the International Convention on the Elimination of All Forms of Racial Discrimination, the Framework Convention for the Protection of National Minorities and the ILO Convention concerning Discrimination in Respect of Employment and Occupation. International treaties have precedence over domestic law in accordance with Article 6 of the Constitution, which states that "International treaties that have been ratified shall be a constituent part of the legal system of the Republic. If the provisions of the treaties differ from those of

the law of the Republic, then the treaty provisions shall be given precedence.”

Due to the lack of information, it is impossible to judge the effectiveness of the legal regulations. Although, in all branches of the legal system, there are provisions concerning the prohibition of any kind of discrimination and, although there are existing legal procedures for lodging complaints in cases of racial discrimination, the absence of complaints by victims of racial discrimination may indicate ignorance of, or a lack of confidence in, the available legal remedies.

Constitutional Law - Armenia

Preliminary Note: this table is self-sufficient and is not accompanied by an explanatory note

Constitutional provisions	Scope	Relevant jurisprudence	Remarks
Article 4 The state guarantees the protection of human rights	The state guarantees the protection of human rights and freedoms based on the Constitution and laws, in accordance with the principles and norms of international law.		
Article 6 The relationship between international law and the national legislation of the Republic of Armenia	The Constitution of the Republic of Armenia confirms the principle of direct transformation. According to Article 6, ratified International treaties form an integral part of the legal system. In the event of discrepancy between the International treaties and the Laws of the Republic of Armenia, the International treaties prevail. According to Article 5 of the Law on International Treaties, the norms of international treaties have direct effect except as otherwise provided by the International treaty in question, and its effective application does not require the adoption of a domestic act.		
Article 15 Non-discrimination and equality of rights	Citizens, regardless of national origin, race, sex, language, creed, political or other persuasion, social origin, wealth or other status, are		

	entitled to all the rights and freedoms, and are subject to the duties determined by, the Constitution and the laws
Article 16 Equality before the law	All are equal before the law and shall be accorded the equal protection of the law without discrimination.
Article 37 Protection of national minorities	Citizens belonging to national minorities are entitled to the preservation of their traditions and the development of their language and culture.

Criminal Law - Armenia

Preliminary Note: this table is self-sufficient and is not accompanied by an explanatory note

Offence	Source	Scope	Sanction	Relevant jurisprudence	Remarks
Equality of All Before the Law	Criminal Procedure Code 1998 Article 8	All people are equal before the law and shall enjoy equal protection of the law, without any discrimination.			
Refusal to Extradite	Criminal Procedure Code 1998 Article 481	It shall be permissible to refuse to extradite, if: [...] the person whose extradition is required is prosecuted for political, racial or religious reasons [...].			
Principle of equality before the law.	Criminal Code 2003 Article 6	Persons who have committed a crime are equal before the law and are subject to			

		criminal liability regardless of nationality, race, sex, religion, political or other beliefs, social origin, property or other statuses.			
Circumstances aggravating liability and punishment.	Criminal Code 2003 Article 63	Circumstances aggravating liability and punishment include: commission of crime with ethnic, racial or religious motives, for religious fanaticism, as revenge for other people's legitimate actions.			
Murder	Criminal Code 2003 Article 104	Murder is the illegal, wilful deprivation of one's life punishable by imprisonment for 6 to 12 years. Murder: commission based on motives of national, race or religious hate or fanaticism; is punishable by imprisonment for 8-15 years or for life.	Punished by imprisonment for 6 to 12 years Murder: commission based on motives of national, race or religious hate or fanaticism; is punished with 8-15 years of imprisonment or for life		
Wilful Infliction of	Criminal Code	Wilful Infliction of	Is punished with		

heavy damage to health	2003 Article 112.	<p>bodily damage which endangers the victim's life or causes loss of eye-sight, speech, hearing or any organ, loss of functions of the organ, or results in irreversible disfigurement of the face, as well as causing other damage which endangers life or causes disorder, accompanied by a permanent loss of no less than one- third of the capacity to work, or with complete loss of the professional capacity for work, which consequence of the perpetrator's action will be obvious to such perpetrator, or caused the disruption of a pregnancy, mental illness, drug or other [toxic] addiction, is punishable by imprisonment for a term of 3 to 7 years.</p> <p>The same act, if</p>	<p>imprisonment for the term of 3 to 7 years. Committed with motives of national, racial or religious hatred or religious fanaticism, this act is punished with imprisonment for the term of 5 to 10 years.</p>
------------------------	-------------------	--	---

committed:
with motives of
national, racial
or religious
hatred or
religious
fanaticism; is
punishable by
imprisonment
for a term of 5
to 10 years.

<p>Wilful infliction of medium-gravity damage to health.</p>	<p>Criminal Code 2003 Article 113</p>	<p>Wilful infliction of bodily injury or any other damage to health which endangers the victim's life but did not cause the consequences described in Article 112 of this Code, but did cause a protracted health disorder or significant permanent loss of no less than one-third of the capacity to work, is punishable by confinement for a term of 3 to 6 months or imprisonment for a term of up to 3 years. The same act, if committed: with motives of national, racial or religious hatred or religious fanaticism, is</p>	<p>Punishable by arrest for a term of 3 to 6 months or imprisonment for a term of up to 3 years If committed with motives of national, racial or religious hatred or religious fanaticism, is punishable by imprisonment for a term of up to 5 years</p>		
--	---------------------------------------	--	--	--	--

			punishable by imprisonment for a term of up to 5 years		
Torture	Criminal Code 2003 Article 119	Causing suffering by regular battery or by other violent actions, if such actions do not cause the consequences described in Articles 112 and 113, is punishable by imprisonment for a term of up to 3 years. The same actions, where committed for motives of national, racial or religious hatred or religious fanaticism, is punishable by imprisonment for a term of up to 4 years.	Punished with imprisonment for the term up to 3 years. The same actions, committed for motives of national, racial or religious hatred or religious fanaticism, are punishable by imprisonment for a term of up to 4 years.		
Inciting national, racial or religious hatred	Criminal Code 2003 Article 226.	Actions whose purpose is the incitement of national, racial or religious hatred, or the humiliation of national self-esteem, are punishable by a fine in the amount of 200 to 500 minimal salaries, or by restriction of freedom for a	punishable by a fine in the amount of 200 to 500 minimal salaries, with correctional labour up to 2 years, or with imprisonment of the term of 2-4 years. Committed: publicly or by mass media, with violence or the threat of		

		term of up to 3 years, or by imprisonment for a term of 2-4 years. The actions described in part 1 of this Article when committed: publicly or through mass media, with violence or the threat of violence; by abuse of an official position; or by an organized group, are punishable by imprisonment for a term of 3 to 6 years.	violence; by abuse of an official position; or by an organized group, are punishable by imprisonment for a term of 3 to 6 years.
Outrageous treatment of dead bodies or burial places	Criminal Code 2003 Article 265.	Outrageous treatment of a dead body or a burial place, destruction, damage or desecration of cemetery facilities or items, or places allocated for memorial ceremonies, is punishable by a fine in the amount of 300 to 500 minimal salaries, or by arrest for a term of up to 3 months. The same actions which were	punishable by a fine in the amount of 300 to 500 minimal salaries, or correctional labour for up to 1 year, or with arrest for the term up to 2 months. The same actions which were committed: - by a group by prior agreement, or by an organized group; - by motives of national, racial or religious

		<p>committed: - by a group by prior agreement, or by organized group; - for motives of national, racial or religious hatred; will be punished by correctional labour for a term of up to 2 years, or by arrest for a term of 1-3 months, or by imprisonment for a term of up to 3 years.</p>	<p>hatred; will be punished by correctional labour for a term of up to 2 years, or by arrest for a term of 1-3 months, or by imprisonment for a term of up to 3 years.</p>		
<p>Serious breach of international humanitarian law during armed conflicts</p>	<p>Criminal Code 2003 Article 390</p>	<p>The following serious violations of international humanitarian norms during armed conflict against persons not immediately engaged in military actions or defenceless persons, the injured, the ill, medical personnel or clergy, sanitary units or sanitary means of transportation, civilians, civil population, refugees, protected persons or other protected</p>			

persons during military actions: murder, torture and inhuman treatment, including biological experiments; wilfully inflicted serious suffering or other actions threatening man's physical or mental state, is punishable by imprisonment for 8-15 years, or for life. The following acts seriously breaching the norms of international humanitarian law during armed conflicts: humiliation of a person's self-esteem, based on apartheid or racial discrimination, application of inhuman and other humiliating practices, are punishable by imprisonment for 8-12 years,

Crimes against human security

Criminal Code 2003 Article 392

Deportation, illegal arrest, enslavement, mass and regular

Punishable by imprisonment for 7-15 years or for life.

execution without trial, kidnapping followed by disappearance, torture or cruel treatment of civilians, due to racial, national, ethnic identity, political views and religion, is punishable by imprisonment for 7-15 years or for life.

Genocide	Criminal Code 2003 Article 393	Actions whose purpose is the complete or partial extermination of national, ethnic, racial or religious groups by means of killing the members of this group, inflicting severe damage to their health, violently preventing them from childbearing, enforced hand-over of children, violent re-population, or physical elimination of the members of this group, are punishable by imprisonment for a term of 13 to 15 years or	Punishable by imprisonment for a term of 13 to 15 years or by life sentence		
----------	--------------------------------	--	---	--	--

for life.

Civil and Administrative Law - Armenia

Preliminary Note: this table is self-sufficient and is not accompanied by an explanatory note

Provision	Scope	Consequences of breach	Relevant jurisprudence	Remarks
Marriage and family code (1969)	Equal Rights of Citizens in Family Relations (Article 4). All the citizens are entitled to equal rights in family relations. Any direct or indirect limitation of rights, direct or indirect privileges in marriage and family relations on grounds of origin, social and property status, nationality or race, sex, education, language, attitudes toward religion, type and nature of occupation, place of origin and other circumstances shall be prohibited.			
Labour code of November 9, 2004	Article 3/1: The imposition of any direct or indirect limitation or direct or indirect privileges in labour relations on the grounds of sex, race, nationality or attitude toward religion or any other unjustified privilege based on non-occupational conditions is prohibited.			
Law on suffrage (1999)	Universal Suffrage (Article 3) Citizens who have the right to vote, regardless of nationality, race, sex,			

	<p>language, religion, political or other persuasions, social origin, property or other status, have the right to elect and be elected. Any restriction of electoral rights on the above-mentioned bases shall be prosecuted in accordance with the law.</p>			
<p>Law on social-political organizations (1991)</p>	<p>The establishment and the activities of associations whose programmatic documents propagate or which practice racial, religious, social or class inequality or hatred, methods of forcible (violent) seizure of power, war, violent propaganda, or violation of human rights and freedoms, are forbidden (Article 4).</p>			
<p>Law on citizenship (1995)</p>	<p>The citizens of the Republic of Armenia are equal before the law, irrespective of the grounds upon which they obtained the citizenship of the Republic of Armenia, nationality, race, sex, language, religion, political and other persuasions, social origin or property and other status and shall enjoy all the rights and freedoms, as well as bearing all the liabilities, set out in the Constitution and other laws (Article 3).</p>			
<p>Law on advertising (1996)</p>	<p>An advertisement shall be banned, if it violates the standards of appropriateness of</p>			

	<p>advertising, namely if it [...] contains offensive expressions, comparisons and images addressed to any group identified by race, nationality, professional or social background, age group, sex, language, religious or other beliefs [...].</p>			
<p>Law on the rights of children (1996)</p>	<p>Equality of Children (Article 4) Children shall enjoy equal rights irrespective of their and their parents' (adopters', trustees') nationality, race, sex, language, religion, social origin, property and other status, education, or domicile, the circumstances of the birth of the child, their state of health or any other circumstance.</p>			
<p>Law on public organisations (Law on NGO) (2001)</p>	<p>Article 3. The Concept of Public Organisations (1) A public organisation (hereafter referred to as organisation) is a type of (not for profit) public association which does not pursue the purpose of gaining profit and redistributing this profit among its members, and into which (the organisation), based on their common interests, in the manner prescribed by the law, physical persons, including RA citizens, foreign citizens and those without citizenship, have joined to satisfy their non-religious spiritual and other non-material needs; to protect their and other</p>			

persons' rights and interests; to provide material and non-material assistance to certain groups and to carry out other activities for the public benefit.

If the organisation has political, religious, or professional objectives, in addition to those mentioned above, it is not a public organisation and it can be registered as an organisation or as another legal entity.

(2) A person's right to form associations with other persons encompasses the right to freely set up an association, the right to become a member (participant) of an organisation, and the right to freely withdraw from membership of an organisation, regardless of nationality, race, sex, language, religion, political and other beliefs, social origin, welfare standards and citizenship. This right may be restricted, in cases and in the manner envisaged by law, for the those serving in the military and in law enforcement bodies.

Law on public organisations (Law on NGO) (2001)

Article 21. Grounds For Compulsory Dissolution of an Organisation.
1. The state authorized body may file a lawsuit with a request to dissolve an organisation in the following cases:
1) When the activities of

	<p>an organisation are aimed at the forced overthrow of the RA constitutional order, incitement of ethnic, racial and religious hatred, or propaganda of violence and war</p> <p>2) When an organisation has committed numerous or gross violations of law, or carried out activities contravening its statutory purposes.</p> <p>3) When the founder (founders) or the authorized person of the organisation has committed gross violations or breaches of law while founding the organisation.</p>			
<p>Law on the formation of courts (1998)</p>	<p>All persons shall be equal before the law and the court and shall be equally protected by the law. Citizens shall enjoy all the rights, freedoms and obligations set forth in the Constitution and other laws of the Republic of Armenia irrespective of their nationality, race, sex, language, religion, political and other persuasions, social origin, or property and other status.</p>			
<p>Law on the protection and usage of Immovable historical and cultural memorials and the historical environment (1998)</p>	<p>Political, ideological, religious, racial and national discrimination in the context of protection and usage of memorials shall be prohibited (Article 7).</p>			

<p>Law on education (1999)</p>	<p>Official Guarantees of the Right of Education (Article 6) The Republic of Armenia shall ensure the provision of the right of education irrespective of nationality, race, sex, religion, political and other persuasions, social origin, property status or other circumstances. Limitations upon the right of access to professional education shall be stated in the law.</p>			
<p>Law of the republic of Armenia on TV and radio (2000)</p>	<p>It shall be prohibited to use television programmes in order [...] to disseminate national, racial and religious hostilities (Article 24).</p>			
<p>Law on remuneration of labour (2001)</p>	<p>Discrimination in relation to remuneration on grounds of nationality, citizenship, race, sex, age, language, religion, political and other persuasions, social origin or property and other status shall be prohibited (Article 7).</p>			
<p>Law on police (2004) The Activity of the Police and the Rights of Citizens</p>	<p>The police shall protect the life and health, as well as other rights and freedoms, property and legitimate interests of persons against criminal and other unlawful assaults, irrespective of their citizenship, race, sex, language, nationality, religion, political and other persuasions, social origin, property and other status or membership of political parties or any</p>			

	organizations (Article 5).			
Law on parties (2002) Article 3: The Concept of a Party	<p>1. The party is a public union formed on the basis of individual membership of citizens of the Republic of Armenia, the aim of whose activity is to participate in the political life of society and of the state.</p> <p>2. The tasks and objectives of the party are reflected in its Charter and program, which are published through the means of mass media.</p> <p>3. A union shall not be recognized as a party, if its Charter:</p> <p>1) allows membership of foreign citizens, citizens lacking citizenship, with the exception of cases envisaged by this Law, as well as membership of foreign and international organisations;</p> <p>2) allows membership solely based on professional, national, racial or religious characteristics;</p> <p>3) permits membership of persons who in general are prohibited from being members of the party.</p>			
Law on parties (2002) Article 7. The Emblem of the Party and Other Symbols	<p>1. Parties may have an emblem and other symbols, the accurate description of which shall be provided in the Charter of the Party. The emblem and other symbols of the party may not be resemble the flags and the coat of arms of the Republic of Armenia</p>			

and other foreign states. Other persons and organisations shall not use the emblem and other symbols of the party.

2. Emblems and other symbols of functioning parties and other public unions, as well as organisations or parties prohibited in the territory of the Republic of Armenia may not be used as the emblem and other symbols of the party.

3. The emblem and other symbols of the party shall not violate the intellectual property right of citizens and legal persons, including their rights to names of goods and places of their origin. Any use of such emblem and/or symbols which distorts coat of arms of the Republic of Armenia and other states, offend spiritual, racial, national feelings of people, or violate generally known of moral norms is prohibited.

Law on parties (2002) Article 9. Restrictions for Formation and Activity of Parties

The formation and activity of such parties, whose aims or activity are directed at the violent overthrow of the Constitutional order of the Republic of Armenia and the territorial integrity of the Republic of Armenia, impairment of grounds of independence, formation of armed units, instigation of national, racial and religious hatred, incitement to

	violence and war, is prohibited.			
Television and Radio Broadcasting Law Article 24+28	Article 24, adopted in October 2000 and amended in October 2001, prohibits the broadcasting of programmes which violate other persons' rights, while Article 28 states that public television and radio broadcasting companies must develop programmes corresponding to the interests of national minorities and must earmark time for special programmes in minority languages. The law allows for broadcasting time in minority languages of up to a maximum of one hour per week for all national minorities on public television and one hour per day on public radio. A new draft law on the media, which is currently under discussion at the National Assembly, provides for the setting-up of an independent body responsible for supervising media activities.			
The Law on Press and Media	The Law prohibits the favouring of "war, violence, ethnic and religious hostility".			
Law on Language	The Law on Language specifies in its Article 2 that Armenian is the language of education and teaching. It provides for the possibility, in			

	<p>communities of persons belonging to national minorities, of organising general education and studies in these minorities' mother tongues, as part of the State programmes and with State support, with teaching of the Armenian language remaining compulsory.</p>			
<p>Law on Education (1999) Article 6</p>	<p>Lays down 1. the right to education “regardless of nationality, race, sex, language, faith, political or other persuasion, social origin, wealth or other circumstances”. 2.The State shall give effect to the right to education through the proper functioning of the education system and the establishment of socio-economic conditions enabling an education to be obtained and 3. the State guarantees Armenian citizens free general secondary education in State institutions and (on a competitive basis) free secondary, higher and postgraduate specialized education.”</p>			
<p>The Law on public medical care and services (Article 34)</p>	<p>The provision states that everyone, regardless of national origin, race, sex, language, creed, age, state of health, political or other persuasion, social origin or wealth, is entitled to receive medical care and services.</p>			
<p>Employment</p>	<p>Provisions in the</p>			

Act of 1997	Employment Act of 1997 states that every citizen is entitled to free choice of employment, and that no one may be refused employment without good cause.			
Law on Freedom of Conscience and Religious Organisations The 1991 Law on Freedom of Conscience and Religious Organisations, amended in 1997 and 2001,	<p>The Law establishes the separation of Church and State but grants the Armenian Apostolic Church special status as the national church. It should be noted in this context that Article 7.1 of the draft Constitution will also set out clearly the secular nature of the Armenian State, although it recognises “the historically exceptional role of the Armenian Apostolic Church”. The same draft Constitutional article also provides that “The freedom of activities of all the religious organisations operating in the manner defined by law shall be guaranteed in the Republic of Armenia”, but stipulates that freedom of belief may be restricted by the law for reasons relating to national security, the preservation of public order, the prevention of crime, and the protection of public health and morality.</p> <p>The Law on Freedom of Conscience and Religious Organisations forbids “proselytizing” and requires all religious denominations and organisations to be</p>			

registered. A new Religious Council, functioning within the office of the Prime Minister, was established in August 2002.