

# ECRI

European Commission against Racism and Intolerance  
Commission européenne contre le racisme et l'intolérance

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## European Commission against Racism and Intolerance

### REPORT ON ARMENIA

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## **Foreword**

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

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

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

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

*The contact visit to Armenia took place on 14-17 October 2002. During this visit, the rapporteurs met with representatives of various ministries and public administrations responsible for issues relating to ECRI's mandate. ECRI warmly thanks the Armenian national authorities for their wholehearted co-operation in the organisation of the contact visit, and in particular would like to thank all the persons who met its delegation each of whom provided much valuable information on their own field of competence. ECRI would also like to thank the Armenian national liaison officer whose efficiency and collaboration were much appreciated by ECRI's rapporteurs.*

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

***The following report was drawn up by ECRI under its own responsibility. It covers the situation as of 13 December 2002 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposals made by ECRI.***

### ***Executive summary***

Armenia has taken some positive steps over recent years which are relevant to combating racism and intolerance. These include the ratification of international legal instruments of importance in this area, as well as measures to address the situation of refugees, inter alia through the adoption of a refugee law and a law facilitating acquisition of citizenship. Some steps have also been taken in the field of national minorities.

However, certain problems related to ECRI's field of interest exist. A lack of sufficient attention and resources has been devoted to the promotion of the linguistic and cultural heritage of minority groups, and such groups face difficulties in particular in maintaining educational provision in their mother tongue. There seems to be a sense among certain minority groups that their situation has worsened compared to the majority population, while some minority groups report instances of discrimination. The large group of ethnic Armenian refugees living in the country also face problems of integration and are particularly vulnerable to social and economic disadvantage and marginalisation. Moreover, a number of problems persist relating to the practice of certain minority religions within the country.

**In this report, ECRI recommends that the Armenian authorities take action in a number of fields. These recommendations cover, inter alia, the need to introduce specific legislation, structures and a global and co-ordinated policy to address the situation of minority groups, the need to address specific problems related to discrimination raised by certain minority groups, the need to address the situation of refugees, and the need to resolve existing problems concerning the practice of certain minority religions within the country.**

## SECTION I: OVERVIEW OF THE SITUATION

### A. International legal instruments

1. 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. ECRI notes however that Armenia has not yet made a declaration under Article 14 of the Convention on the Elimination on All Forms of Racial Discrimination, allowing individual complaints to be examined by the Committee on the Elimination of Racial Discrimination, and urges the authorities to do so. On acceding to the Council of Europe in January 2001, Armenia committed itself, inter alia, to ratifying, within one year of accession, the European Convention on Human Rights (ECHR) and its Protocols 1, 4, 6, and 7, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the European Charter for Regional or Minority Languages, the European Charter of Local Self-Government. Most of these commitments have been fulfilled, although ratification of Protocol N° 6 remains outstanding. Moreover, ECRI strongly encourages the Armenian authorities to sign and ratify Protocol N° 12 to the ECHR, which widens in a general fashion the scope of application of Article 14 of the Convention and contains a non-exhaustive list of grounds of discrimination, as soon as possible.
2. Armenia also committed itself to ratifying the European Social Charter within three years of accession. Armenia signed the revised Social Charter in October 2001, and ECRI hopes that this instrument will accordingly be ratified as soon as possible.
3. ECRI understands that the Armenian authorities have given priority to the signature and ratification of those instruments listed in the commitments entered into by Armenia on acceding to the Council of Europe. However, ECRI encourages the Armenian authorities to undertake, as soon as possible, the necessary work for signing and ratifying other international legal instruments which are of particular relevance to the fight against racism and intolerance, namely the European Convention on Nationality, the Convention on the Legal Status of Migrant Workers, and the Convention on the Participation of Foreigners in Public Life at Local Level. In this respect, ECRI notes that the new draft Constitution (see paragraph 9 below) no longer contains a prohibition of double nationality, which should facilitate ratification of the European Convention on Nationality once the Constitution is adopted.
4. 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.”

## **B. Constitutional provisions and other basic provisions**

5. The Constitution, adopted on 5 July 1995, enshrines the principle of equal rights in its Article 15 which states that “Citizens, regardless of national origin, race, sex, language, creed, political or other persuasion, social origin, wealth or other status, shall have all the rights, freedoms and duties established by the Constitution and the law”. In this context, ECRI is of the opinion that such rights should be explicitly guaranteed to all persons under the jurisdiction of a country and not just to citizens, and notes with satisfaction that this formulation is changed in the new draft Constitution (see paragraph 9 below), to cover all persons.
6. Article 4 states that “the State guarantees the protection of human rights and freedoms based on the Constitution and the law, in accordance with the principles and provisions of international law”. Article 16 states that “All shall be equal before the law and shall be given the equal protection of the law without discrimination”.
7. Article 23 declares that everyone has the right to freedom of thought, conscience and religion. Freedom to manifest one’s religion and express one’s thoughts may be restricted only by law.
8. Article 37 states that “Citizens belonging to national minorities have the right to preserve their traditions and to develop their language and culture”.
9. A new Constitution has been under preparation for some time; this was considered necessary, inter alia, to allow Armenia to fulfil its commitments vis-à-vis the Council of Europe. A draft Constitution prescribing reforms has been under debate in the National Assembly for some months, and it now appears that the referendum on the adoption of the new Constitution will be delayed until the middle of 2003, since it will probably be held at the same time as the general elections, in May 2003.

### **- Law on Freedom of Conscience and Religious Organisations**

10. The 1991 Law on Freedom of Conscience and Religious Organisations, amended in 1997 and 2001, 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. ECRI hopes that these future restrictions will be strictly interpreted and will not be used in any way to curb the activities of certain religious groups. It draws attention in this respect to Article 9 of the European Convention on Human Rights, which guarantees the right to freedom of thought, conscience, and religion and which stipulates that “freedom to manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety,



for the protection of public order, health or morals, or for the protection of the rights and freedoms of others”.

11. The Law on Freedom of Conscience and Religious Organisations forbids “proselytizing” and requires all religious denominations and organisations to be registered. A new Religious Council, functioning within the office of the Prime Minister, was established in August 2002. Under Article 5 of the Law on Freedom of Conscience and Religious Organisations, the registration of religious organisations lies with the State Register of Armenia and should be granted on the basis of an expert opinion provided by the Staff of the Government of Armenia regarding the religious nature of such organisations.
12. According to the law, a religious organisation that is not registered does not enjoy legal personality, and may not as a result publish newspapers or magazines, rent meeting places on government property, broadcast programmes on television or radio, or officially sponsor the visas of visitors. In 1997 Parliament passed legislation (cf paragraph 10 above) tightening registration requirements by raising the minimum number of members required for registration from 50 to 200 adults.
13. Some religious groups remain without registration, including a group of Russian “Old Believers” and some congregations of Yezidi; according to the authorities, these groups do not wish to register. The Jehovah’s Witnesses have been denied registration in November 1995 and in May 2000, on the grounds that several provisions of their statute were considered to be contrary to the Constitution and Armenian legislation, in particular those relating to civic duties: Jehovah’s Witnesses generally refuse to perform military service because of their beliefs. It has been reported to ECRI that the Jehovah’s Witnesses are again seeking registration at the time of writing, and are again meeting with difficulties: they report that they have been requested to provide extensive further details concerning their faith and the organisation of their group, which, according to the Jehovah’s Witnesses, are not normally requested. Another religious group, the Church of Jesus Warriors, has also been refused registration this year.
14. ECRI recalls that upon its accession to the Council of Europe, Armenia undertook to “ensure that all churches or religious communities, in particular those referred to as “non-traditional”, may practice their religion without discrimination”. ECRI regrets that the problem of the registration of the Jehovah’s Witnesses, which number around 7 500 adherents according to their leaders, has not yet found a solution. ECRI notes that Armenia committed itself upon accession to the Council of Europe to adopt a law on alternative service which would allow conscientious objectors “to choose, when the law on alternative service has come into force, to perform non-armed military service or alternative civilian service”. Two draft laws on alternative military service are under consideration by the government and by a parliamentary group. According to information received by ECRI, it is not clear that the provision of an alternative civilian service is currently foreseen in the draft legislation. ECRI urges the authorities to reconsider this question, and to ensure that the new law on alternative service will fulfill Armenian’s commitments in this respect. ECRI hopes thereby that the problems of registration faced by this religious group will thus be solved as rapidly as possible.

15. ECRI also notes with concern that, apart from the problem of registration, Jehovah's Witnesses face other difficulties within society and in their relations with the authorities: these issues are dealt with in more depth below under "Vulnerable groups".

- ***Legislation on national minorities and minority languages***

16. The Constitution grants national minorities the right to preserve their cultural traditions and language in its Article 37, while the 1992 Law on Language provides linguistic minorities with the right to publish and study in their native language. However, the exercise of these rights in practice is not fully implemented. Minority groups and other commentators have drawn attention to the need for Armenia to adopt a Law on National Minorities in order to clarify in more detail the rights of national minorities and the obligations of the State to promote these rights. There are apparently two draft laws in existence, one drawn up by the State Department for Migration and Refugees and the other stemming from a Parliamentary initiative; however, it is not clear to ECRI to what extent there is agreement for such a law on the part of all those who play an active role in Armenian political life. ECRI encourages the adoption of such a law which would provide a framework for an overall vision and strategy of how to deal with questions relating to the situation of national minorities in Armenia (see also "Issues of Particular Concern" below). ECRI stresses the need to ensure that the national minorities are fully involved in the conception and preparation of such a law.

**C. Criminal law provisions**

17. Article 69 of Section II of the Penal Code, states that "Propaganda or agitation intended to incite to racial or national enmity or dissension and also the direct or indirect curtailment of the rights of citizens or the establishment of direct or indirect privileges based on race or nationality shall be punishable by imprisonment for a term of six months to three years."
18. Racially-based offences also include the use of offensive expressions and offensive behaviour, the dissemination of racist publications, the dissemination of printed or handwritten materials and the organisation of or active participation in group actions to the prejudice of public order (Article 206).
19. A new Criminal Code is under preparation and, after a first reading in Parliament, has been transmitted to the Council of Europe for expertise. ECRI notes that the new draft contains a provision on incitement to national, racial or religious hatred and a provision prohibiting on the curtailment of citizens' human rights and freedom for reasons of, inter alia, nationality, race, language and religion. It also lays down increased penalties for crimes such as murder or bodily harm when committed for racist motives and contains a provision allowing for the racist motivation of an offender to be taken into account as an aggravating circumstance when sentencing. ECRI welcomes these additions in the field of combating racism, and hopes that the new Criminal Code will enter into force as soon as possible.

## **D. Civil and administrative law provisions**

20. Relevant civil and administrative law provisions in the field of combating racism and discrimination include provisions in the Employment Act of 1997 which state that every citizen is entitled to free choice of employment, and that no-one may be refused employment without good cause. ECRI points out that such protection should not be restricted to citizens but should also cover non-citizens legally-resident in a country. A draft Labour Code is currently under consideration by the National Assembly: Article 10 of this Code prohibits discrimination against any person, regardless of his/her nationality, age and other belongings or circumstances. The Law on public medical care and services (Article 34) 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. The 1999 Law on Education lays down in its Article 6 the right to education “regardless of nationality, race, sex, language, faith, political or other persuasion, social origin, wealth or other circumstances.”
21. Apart from the above-mentioned provisions, there do not appear to be other provisions in civil and administrative law prohibiting discrimination in areas such as access to housing, employment, education, access to public and social services and public places, and providing for effective means of enforcement and redress. ECRI encourages the Armenian authorities to consider the adoption of such provisions, and draws the attention of the Armenian authorities in this context to its general policy recommendation no 7 on national legislation to combat racism and racial discrimination which sets out the key elements which should be included in such legislation.

## **E. Administration of justice**

### **- *Training of judges***

22. ECRI is pleased to learn that a training centre for judges is to be opened in 2003, and recommends that the courses foreseen for this centre should include training and awareness-raising on issues of racism, intolerance, prejudice and discrimination.
23. Training in issues of racism and discrimination for other actors in the justice system, such as police, lawyers and prosecutors, would also be most opportune. ECRI notes in this context some reports that public prosecutors act with excessive zeal in bringing cases against representatives of minority religions, particularly representatives of the Jehovah’s Witnesses. ECRI considers that training and awareness-raising on issues of prejudice and intolerance might be of value in reducing such problems.

### **- *Specialised bodies and other institutions***

#### *Draft law on the Defender of Human Rights*

24. Upon its accession to the Council of Europe, Armenia undertook “to adopt, within six months of its accession, the law on the Ombudsman”. The Law on the Defender of Human Rights, after some delay, is now likely to come into force after the adoption of the new Constitution, since the Constitution provides the basis for this institution. In the meantime, the Presidential Commission for

Human Rights, which was set up in April 1998, is considered by the authorities to fulfil some of the functions of an Ombudsman.

25. The issue of how and by which party the Defender of Human Rights will be nominated or elected remains, apparently, open at the time of writing: in this respect, ECRI stresses its opinion that bodies of this type should be independent and impartial, and notes in this respect that such stipulations are contained in the draft law. ECRI hopes that the institution of the Defender of Human Rights will be up and running as swiftly as possible and that sufficient powers and funds will be allocated to this body in order that it may effectively carry out its functions. ECRI also stresses the need to inform the general public about the existence of such a body once it is functioning.
26. ECRI also draws the attention of the Armenian authorities to its General Policy Recommendation No 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level, in which it stresses the important role played by specialised bodies, such as commissions or ombudsmen, in combating racism and discrimination and in promoting equality of opportunity for all groups of society. ECRI encourages the Armenian authorities to draw inspiration from the above-mentioned policy recommendation and to consider how the functions and competencies of the Defender of Human Rights might be developed to cover this field.

- ***Co-ordination Council of Ethnic Minorities***

27. A Co-ordination Council of Ethnic Minorities was set up in March 2000 by Presidential decree. It comprises two representatives of each of the 11 commonly-listed national minorities and is intended to promote the protection of national minorities and to increase government's awareness of their cultural and educational problems. There have been some reports, however, that the Council has not as yet started to function effectively and that it is not considered by all minority groups to be representative. It appears that there remains some tension concerning the setting-up of such an organisation alongside the already-existing Union of Nationalities, which is a non-governmental organisation made up of representatives of twelve cultural organisations of minority groups. ECRI encourages the authorities to ensure that the Co-ordinating Council fulfils its mandate fully and that it is perceived by national minorities to be fully representative of their membership and interests. ECRI notes moreover that many commentators have drawn attention to the need for a special agency within the governmental structure with responsibility for dealing with all issues relating to national minorities: this question is dealt with below under "Issues of Particular Concern".

**F. Education and training/awareness-raising**

- ***School education***

28. ECRI is pleased to learn that education in human rights and tolerance is included in the compulsory school curricula within such subjects as "Human Rights", "Civic Education" and "State and Law". The textbooks for these subjects were published in recent years with support from international donors. Noting the importance of this area, ECRI encourages the authorities to continue to develop programmes for teaching human rights, including issues of racism,

intolerance and discrimination, to children at all levels of the education system. Such initiatives should include training for teachers in human rights education.

29. ECRI also stresses the importance of ensuring that the teaching of history is developed in such a way as to avoid the perpetuation or development of prejudices and stereotypes. ECRI is pleased to learn that a project is underway in collaboration with the Council of Europe to prepare a history teaching manual which could be used throughout the region of the South Caucasus.
30. ECRI notes that the authorities have signed in August 2002 an agreement with the Armenian Apostolic Church making the study of the history of the Church a compulsory school subject. In this context, ECRI stresses the need to ensure that any school programmes concerning religion, particularly if such programmes are part of the compulsory curriculum, do not infringe upon the rights of children belonging to religious minorities, and highlights the desirability of ensuring that all school pupils are provided with information and knowledge about a variety of religions and beliefs.

## **G. Reception and status of non-citizens**

### **- Asylum seekers and refugees**

31. Around 300 000 – 350 000 ethnic Armenians sought refuge in Armenia as a result of the Nagorno-Karabakh conflict. The UNHCR reports that some 260 000 of these persons are still registered as refugees. An estimated 60-70 000 persons were also internally displaced in Armenia as a result of the conflict (persons living in border areas).
32. The refugees who arrived in Armenia as a result of the Nagorno-Karabakh conflict have mainly been settled in small groups in temporary accommodation or in individual dwellings, often in rural areas. Although the refugees were welcomed by the local population, the general social and economic difficulties which prevail tend to impact even more harshly on such persons, hindering their process of integration and self-sufficiency. Many refugees are housed in very poor conditions and many thousands of families remain without individual housing: the privatisation process is said to have impacted particularly on refugees, who in some cases are facing the threat of eviction from newly-privatised dwellings<sup>1</sup>. ECRI notes moreover that a law entered into force in December 2002 which stipulates that refugees should be granted ownership of the flats or houses in which they are living. Socio-economic difficulties particularly affect elderly refugees, children and households headed by women, which are numerous since many male refugees are out of the country for economic reasons. Unemployment rates for refugees are nearly four times higher than for nationals; this is explained in part by the fact that many of the refugees are Russian-speaking specialists from urban settings who cannot find work in rural areas. Such difficulties have reportedly led to a sense of frustration and bitterness among refugees.

<sup>1</sup> The authorities note that the practice when privatising various sites is to stipulate as a condition that the legal or physical entity purchasing the site secure refugees with housing.

33. The authorities have made efforts to address the issue of the integration of this group of refugees, including by allowing them the right to vote at the local level and facilitating their access to citizenship. In fact, refugees can obtain citizenship within a few days upon request. Information campaigns have been organised to encourage refugees to take up citizenship: to date around 58 000 refugees have done so, but it appears that take-up rates have now considerably slowed. It has been commented that some refugees are unwilling to take up citizenship, due to their perception that they may lose benefits associated with refugee status (although in fact legislative changes have been introduced to allow naturalised refugees to continue to enjoy housing benefits) or that this status may confer on them better opportunities to emigrate elsewhere.
34. ECRI recognises that the currently very difficult economic situation in Armenia affects all segments of the population, but considers nevertheless that the integration of refugees should be given priority and that their specific needs should be met with specific programmes. In this respect, ECRI welcomes the efforts made by the Department of Migration and Refugees, and encourages the authorities to allocate sufficient resources to this body to enable it to carry out its functions effectively. ECRI also encourages the development of further initiatives to stimulate the integration of refugees as fully-functioning and accepted members of society. In this respect, further efforts, such as awareness-raising initiatives to demonstrate the benefits of citizenship, might be undertaken.
35. Apart from the above-mentioned group of refugees, an estimated 11 000 persons – mostly ethnic Armenians - are present in the country having fled conflicts in the Chechen Republic of the Russian Federation and the Autonomous Republic of Abkhazia in Georgia. These persons have not been granted refugee status: amendments to the law on Refugees have provided for the granting of temporary asylum for such persons. Additionally, a small number of asylum seekers have arrived in the country from other areas, and ten such persons have been granted refugee status.

- **Law on Refugees**

36. The Law on Refugees came into force in March 1999, and is based on the 1951 Geneva Convention and its Protocol of 1967. It defines the concepts of asylum seeker and refugee, and covers the procedure relating to entry, application, decision procedure and appeals procedure. Different governmental decrees have been issued to facilitate the application of the Law, including procedures relating to housing, subsistence and other needs of asylum seekers and refugees.
37. The State Department for Migration and Refugees (DMR), a national governmental agency reporting directly to the Prime Minister, was created in 1999 and started its work in 2000. This body deals with asylum requests, the situation of refugees, and also issues of migration out of and within the country.
38. According to the provisions of the Law, asylum seekers have 10 days upon arrival in the country to complete application forms and transmit them to the DMR. A brochure explaining the law has been produced in different languages, and interpreters can be obtained to assist applicants. Applicants are provided with accommodation while their application is processed: this should be done

within one month. Rejected applicants have the right to appeal to a “higher administrative body” (the Prime Minister) or to the Courts.

39. A Law on Political Asylum was passed in 2001, which is directed at prominent public figures who may seek political asylum from the Armenian President. It has been commented that the necessity of such a separate law is not clear, and that it may lead to some overlaps and confusion with the Law on Refugees, for example by precipitating a second status-determination procedure.

## **H. Access to public services**

### **- Access to education**

40. The Law on Language specifies in its Article 2 that Armenian is the language of education and teaching. It provides for the possibility, in 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. However, the conditions under which this right can be exercised (e.g. minimum number of pupils required) are not clearly specified in the Law.
41. The actual opportunities for minority groups to receive education in their native languages are extremely limited, and in many cases have worsened in recent years. It is reported that many schools teaching minority languages have closed due to the general lack of funding, and that a lack of teachers and up-to-date textbooks makes it extremely difficult to maintain classes in minority languages. Kurds, Yezedis and Assyrians are reported to be particularly disadvantaged in the field of education since they have no kin-State to provide assistance.
42. ECRI notes that the new textbooks on human rights and civic education, published in 2001, contain chapters on the history and cultures of the national minorities in Armenia.
43. Many members of minority groups have traditionally used Russian as their main language of communication in society. Some members of national minorities have commented that lack of textbooks on the Armenian language makes it difficult for them to achieve fluency in that language. ECRI feels that it is particularly important to ensure that minority groups are given the means to achieve fluency in Armenian in order to be able to integrate fully in society and enjoy equal opportunities in employment and other areas.
44. Some steps have been taken to address the educational situation for national minorities, including the setting-up of a Department responsible for national minorities in the Educational Reform Centre of the Ministry of Education and Science, the establishment of quotas to guarantee access by students from certain national minorities to higher education, particularly for persons wishing to teach the minority language, and plans, under the “State Programme for Educational Policies”, to publish textbooks in minority languages on a range of academic subjects.

45. While noting that the difficult economic situation in the country has affected educational provision for all groups in society, ECRI considers that more resources and efforts should be devoted to maintaining and promoting the languages of minorities, including the training of mother tongue teachers, the maintenance of schools and the development and provision of textbooks.

#### I. Vulnerable groups

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

- **Refugees**

See above

- **National minorities**

46. Around three percent of the population are from minority groups. The authorities mention the existence of over twenty minority groups, of which eleven are commonly listed in an open-ended list: Germans, Belorussians, Georgians, Greeks, Jews, Kurds, Poles, Russians, Assyrians, Ukrainians and Yezedis. A census was held in October 2001, the first since the country's independence; however, the final results of this census are at the time of writing not available<sup>2</sup>. Significant demographic changes have taken place since the last census held in 1989, including the emigration of hundreds of thousands of persons from Armenia, both from the majority population but also from minority groups. Moreover, the Nagorno-Karabakh conflict has resulted in a massive displacement of persons. Thus, the Azerbaijani population of Armenia left their homes during the conflict. Reportedly, very few Azerbaijanis remain in Armenia today.
47. Generally, minority groups do not complain of widespread discrimination on the part of the authorities or of society at large. However, they do point to the need for the introduction of a law on national minorities and the setting-up of a body or agency with responsibility in this field. They have also called for funding for a cultural centre, the need for which the authorities acknowledge. Minority groups highlight the need for improved education in minority languages (see below under "access to education") and improved access to the political and organisational structures of the country: members of minority groups currently hold no seats within the National Assembly and it is reported that they are not well-represented within the government, judicial and public administration, particularly at the national level, although a few members of minorities group hold high positions in the regional bodies of territorial administration. Minority groups furthermore request more participation and consultation in decisions affecting them. These areas are discussed below under "Issues of particular concern".

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<sup>2</sup> The preliminary data provided by the Statistical Service of Armenia is as follows: population of Armenia: 3 213 100 of which 3 143 100 Armenians, 14 700 Russians, 40 600 Yezedis, 1 500 Kurds, 3 400 Assyrians, 1 200 Greeks and 8 600 others



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- **Yezedi community**

48. The Yezedis, whose number is estimated at 54 000 by Yezedi leaders, speak a Kurdish dialect and practice a traditional religion with elements derived from Zoroastrianism, Islam, and Animism. The Yezedi minority is the group which reports most difficulties vis-à-vis its relations with the authorities and majority society. Its representatives cite numerous incidents of unfair adjudication of land, water, and grazing disputes, and have recently complained of unfair procedures concerning the privatisation of agricultural land, which has meant that Yezedi communities have lost the right to use their traditional pastures. Yezedi leaders have furthermore complained that police and local authorities have on occasion subjected their community to discrimination, that they have been subjected to threats on the part of local communities, notably as regards the land privatisation issue, and that the police fail to respond to crimes committed against Yezedis, tending to give more credence to the other party to the dispute. Members of the Yezedi minority have also complained that "hazing" and beating of conscripts, common throughout the former Soviet Union, are especially severe for Yezedi conscripts. The Yezedi claim that the authorities have not responded to their representations and complaints concerning the above-mentioned issues.
49. ECRI urges the authorities to examine closely the situation of the Yezedi community as regards the issues outlined above, and particularly the recent problem of land privatisation, with a view to identifying solutions to these questions. ECRI notes in this respect that a special consultation session has been held between the authorities and Yezedi and other interested parties on the issue of pasture rights and that a decision was taken to give permission for renting pastures, within the framework of the appropriate legislation, giving priority to Yezedis. ECRI also stresses the importance of ensuring that the police and other authorities act and are seen to be acting in a fair and non-discriminatory way towards members of different minority groups. ECRI urges the authorities moreover to look into ways of ensuring that good community relations between different minority groups are maintained at the local level, particularly in a situation where different groups may feel themselves to be in competition for the allocation of resources.
50. A high percentage of Yezedi children do not attend school, partly as a result of traditional and economic reasons and, reportedly, partly because of cases of intolerance on the part of ethnic Armenian students and teachers. The Yezedi community has also reported that schools providing teaching in the Yezedi language have closed due to lack of funds, and have indicated a need to improve the provision of mother tongue education and to provide textbooks. ECRI feels that the educational situation of Yezedi children should be given particular attention, and that the authorities should investigate the situation as regards Yezedi children in the school setting and take any corrective measures necessary.

- **Religious minorities**

51. Around 2-3% of Armenians belong to religious minorities. For the legal situation as regards religious freedom, see above (Constitutional and other basic provisions). Although several acts of violence linked to religious intolerance against members of "new" religions took place in 1995, it appears that such

problems have now died down, and that there is generally an atmosphere of religious tolerance between the various groups.

52. Nevertheless, some problems exist, mainly as regards the sizeable group of Jehovah's Witnesses (leaders of this group estimate its membership to stand at around 7,500 persons). Jehovah's Witnesses have faced difficulties – to date unresolved - in registering as a religion, leading to practical problems, inter alia as regards their ability to obtain places of worship. The religious beliefs and activities of the Jehovah's Witnesses also appear to be viewed with a certain suspicion by the authorities: for example, one of the leaders of the Jehovah's Witnesses was prosecuted and tried in 2001 under Article 244 of the Criminal Code for "offences against the person" (through proselytising): ECRI is pleased to learn that this case was dismissed in April 2002. Moreover, young Jehovah's Witnesses who refuse military service as conscientious objectors have been imprisoned over recent years. Although an amnesty in June 2001 led to the release of Jehovah's Witnesses thus imprisoned, some were subsequently re-convicted, and a number of Jehovah's Witnesses remain in detention at the time of writing. There have also been reports of cases of mistreatment of young Jehovah's Witnesses arrested by the police for refusal to perform military service or when assigned to army units.
53. In more general terms, a climate of mistrust and intolerance still seems to be prevalent within society as regards the Jehovah's Witnesses. It is reported that members of this group are apparently vulnerable to harassment and even physical attacks on the streets, while generally, the opinion seems to be that they represent a disturbance and a threat to society.
54. ECRI considers that the current situation as regards the position of the Jehovah's Witnesses is unsatisfactory from a number of points of view. Firstly, ECRI considers that steps should be taken to solve the difficulties raised in connection with military service, so that conscientious objectors are provided with a civilian alternative service (see above, paragraph 14), the practice of imprisoning conscientious objectors is ceased, and any barriers to the registration of the Jehovah's Witnesses resulting from the issue of military service are removed. ECRI also feels that the climate of opinion within society towards this group might be improved once it is seen that the authorities are not taking legal steps against them; in this context, ECRI also stresses the important role political and other leaders have to play in not using language or rhetoric which might increase societal prejudices against minority religions.

**J. Conduct of certain institutions (at central and local level)**

**- Law enforcement officials**

55. Generally, the conduct of law enforcement officials is considered to be problematic by human rights monitors. Many cases of police mistreatment go unreported, due to fear of reprisals, and police impunity remains an issue, while judges and prosecutors are reported to ignore complaints of ill-treatment on the part of the police. Although this is a general human rights problem, there have been reports that some minority groups – notably Jehovah's Witnesses and Yezedi – have faced problems with the police, although the police authorities state that no cases of racism among the police have occurred. A number of police officers are from minority groups, which ECRI welcomes as a positive way of promoting good relations between minority groups and the police,

particularly at the local level. ECRI stresses the need to step up and improve human rights training for police officers, including a focus on issues of racism and discrimination. ECRI also draws the attention of the authorities to the desirability of setting up an independent mechanism to investigate and deal with complaints of police mistreatment.

#### **K. Media**

56. The Law on Press and Media prohibits the favouring of "war, violence, ethnic and religious hostility". Article 24 of the Television and Radio Broadcasting Law 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 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.

57. National minorities have called for more support for minority broadcasting and mass media. It has been reported that minorities' access to and presence in public electronic media are fairly limited, and minority groups have also called for more support for press publications. ECRI encourages the authorities to provide support and undertake initiatives aimed at improving the access of minority groups to the various media, and to consider increasing the time allowed for minority languages broadcasting under the Law on Television and Radio Broadcasting. ECRI also stresses the important role the media can play in raising awareness among the general public concerning the minority groups living in Armenia.

#### **L. Monitoring the situation in the country**

58. Generally speaking, the monitoring system in Armenia as regards the situation of minority groups is underdeveloped. Statistics on the situation of minority groups in various areas, such as education, employment, health status and so on appear to be lacking as are data on the implementation of relevant legislative provisions against racism and discrimination. ECRI considers that the development of a reliable system of data collection, paying due respect to the principles of confidentiality and voluntary self-identification of persons as belonging to a particular group, would be most opportune in identifying any areas of disadvantage and in providing a basis for the development of governmental strategies and policies to deal with issues relating to minority groups.

#### **M. The Nagorno-Karabakh Conflict**

59. In order to favour the full reconciliation of all people living in the region, the restoration of mutual confidence among the members of the different communities and, ultimately, allow the return of all refugees and displaced persons to their homes in the full respect of their rights and dignity, ECRI calls on the Armenian authorities to pursue a constructive dialogue with all the relevant international interlocutors with a view to solving the conflict. In this

respect, ECRI notes that, on acceding to the Council of Europe, Armenia undertook the obligation “to pursue efforts to settle this conflict by peaceful means only, to use its considerable influence over the Armenians in Nagorno-Karabakh to foster a solution to the conflict, and to settle international and domestic disputes by peaceful means and according to the principles of international law [...], resolutely rejecting any threatened use of force against its neighbours”

## **SECTION II: ISSUES OF PARTICULAR CONCERN**

In this section of its country-by-country reports, ECRI wishes to draw attention to a limited number of issues which in its opinion merit particular and urgent attention in the country in question. In the case of Armenia, ECRI would like to draw the attention to the need to develop a focused strategy and policies for dealing with issues relating to minority groups

### **N. Need to develop a focused strategy and policies for dealing with issues relating to minority groups**

60. As mentioned elsewhere in this report, around 97% of the population are ethnic Armenians, with 3% belonging to various minority groups, which are generally quite small. A large group of refugees, mostly of Armenian ethnic origin, also live in the country.
61. Some problems have been raised by different minority groups, as outlined elsewhere in this report. Generally, the attitude of the authorities towards minority groups is not considered to be hostile or obstructive. On the other hand, minority groups often appear to consider that their situation has worsened, in particular as regards the preservation of their mother tongue, and as regards the attention paid to their specific needs and problems by the authorities. It has been commented that there is a lack of an overall vision and strategy for dealing with issues relating to minority groups on the part of the authorities, and an attitude of “laissez-faire” where the minority groups themselves are left free to organise their own educational and cultural activities, but without much active support from the State, although the State budget since 2000 has contained allocations for the development of programmes aimed at national minorities. Among refugees, a similar feeling appears to exist that the authorities have not paid sufficient attention to the particular situation and problems of this group.
62. ECRI fully understands that in an extremely difficult economic climate, all groups of the population may suffer from feelings of disillusionment and consider that the authorities should be more active in finding solutions to their problems. Nevertheless, ECRI considers that such sentiments may be heightened among minority groups, who may additionally have the impression that the problems they face are due to the fact that they are not from the majority group and are therefore to some extent marginalised or forgotten. In fact, some minority groups have expressed the belief that the majority population is given priority in certain respects, for example as regards the privatisation of land or the orientation of international assistance programmes to reconstruct villages damaged in the 1988 earthquake.

63. Such perceptions may also arise as a result of the demographic profile of Armenia, which is largely composed of ethnic Armenians, and where the sense of national identity, closely connected to the history of the Armenian people and the Armenian Apostolic Church, is strong. This may foster a rather “closed” society, where minority groups find it difficult to feel fully-accepted as equal members of society, even if they do not feel that society is hostile towards them. Moreover, since personal contacts, a “clan-like” social structure, corruption and bribes still play an important part in public and private life in Armenia, members of minority groups may be comparatively over-represented among the segments of the population which are without the necessary connections and power to improve their situation.
64. In such a situation, groups which are of a different ethnic origin or a different religion from the majority may have the perception that the difficulties they face are linked in some way to their ethnic origin and even in some cases to problems of discrimination. Such feelings may, over time, lead to tensions and divisions within society.
65. Given this context, ECRI believes that it is particularly important that the authorities pay, and are seen to be paying, due attention to the situation and problems of minority groups. ECRI fully recognises that the very difficult economic conditions which prevail in Armenia gravely hinder the authorities in their efforts to improve the situation of the population as a whole, and that a large proportion of society is in a very precarious situation as concerns access to education, employment, housing and a decent standard of living. Nevertheless, given the small numbers of minority groups within the country, ECRI does consider that additional resources might be allocated in order to assist these groups in preserving their linguistic and cultural identity. ECRI believes that a more global and co-ordinated vision of how the situation of minority groups might be dealt with could lay down the basis for a more targeted approach and policies in various areas, and would help to strengthen and maintain the climate of tolerance between different groups in society.
66. In this respect, ECRI reiterates the desirability of adopting a law on national minorities which would demonstrate the political will to address this area and lay down the framework for action to be taken. ECRI also advocates the setting up a special structure within the governmental machinery with responsibility in the field of national minorities. Such a structure could co-ordinate governmental action in different fields and should work in close co-operation with representatives of national minorities, ideally counting members of such minorities among its staff. It should develop strategies and policies to address the needs of minority groups as expressed by the groups themselves, especially in the field of education, access to media and cultural life. The collection of data in order to establish the actual situation of minority groups as compared to the majority population would be a valuable first step for the development of such policies. Particular attention should be paid to ensuring that policies adopted at the national level are implemented at the local level. The situation of those minority groups which do not have a kin state providing support and assistance in areas such as education and cultural life should also be given a special focus.

67. ECRI also highlights the importance of ensuring that minority groups feel that they play an active role both in shaping their own affairs and in society in general. ECRI therefore urges the authorities to ensure that minority groups are fully involved in all decision-making processes concerning minority policies. The Co-ordinating Council on National Minorities and the Union of Nationalities may play an important role in this respect, but ECRI also stresses the need to ensure that individual minority groups, represented at various levels, are involved in consultation and dialogue processes. ECRI furthermore recommends that the authorities consider ways of improving the representation of members of minority groups in the public and political life of the country, noting that at present, such representation is extremely limited. Given the small numbers of minority groups in the country as a whole, representation within public and political structures at the local level could be given first priority.
68. As concerns the refugees present in Armenia as a result of the Nagorno-Karabakh conflict, ECRI also considers that policies to improve their situation should be further developed and implemented in order to ensure that this group of persons does not become increasingly marginalised, and considers that the State Department for Migration and Refugees should be given the necessary powers and resources to carry out such a mandate.

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

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## APPENDIX

ECRI wishes to point out that the analysis contained in its report on Armenia, is dated 13 December 2002, and that any subsequent development is not taken into account.

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

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

### **OBSERVATIONS PROVIDED BY THE AUTHORITIES OF ARMENIA CONCERNING ECRI'S REPORT ON ARMENIA**

***“Observations and Comments by the Government of the Republic of Armenia on para. 31 (reception and status of non-citizens, asylum seekers and refugees), para. 46 (national minorities) and para 59. (M. the NK conflict)***

*Due to the lack of appropriate mechanisms of protection of minorities Armenians living outside Nagorno Karabagh, in different regions of Azerbaijan, suffered personal tragedies, not only during decades of Soviet Azerbaijan but also during the early years of Azerbaijan's independence.*

*Discrimination against Armenian minorities living in Azerbaijani towns and villages culminated in the late 80-ies when the people of Nagorno Karabagh expressed their constitutional right for self-determination.*

*The Nagorno Karabakh, historically an ancient Armenian entity, was subjugated to Azerbaijan only in 1921, by an arbitrary decision of a legally incompetent Caucasian Bureau of Russian Communist party. The decision was made by Joseph Stalin.*

*Ever since Azerbaijan appeared on the world map, history witnesses gross violation of HR resulting large-scale war in 1918-20, launched by Azerbaijan against Nagorno-Karabagh.*

*As a result of this Azeri aggression aimed at the total ethnic cleansing of Armenians of Nagorno Karabakh, 20% of all Armenians were killed. In Shushi, which was one of the biggest towns of Transcaucasis, 20.000 Armenians were massacred.*

*Subjugated to Azerbaijani rule throughout the Soviet period, the Armenian population of Nagorno Karabakh suffered severe discrimination by the authorities of Azerbaijan and their protests were strongly suppressed. As a result, approximately 75 years of Azerbaijani domination resulted in reducing the Armenian population of Nagorno Karabakh from 95 to 75%. Meantime, the Azeri population of the enclave grew tenfold.*

*These actions and aggressive policy pursued by the leadership of Azerbaijan left the only choice for Armenians of the NK to defend their rights in 1988 by exercising their right to self-determination.*

*The rise of violence was the only response of the Azeri authorities to the peaceful demand of the Armenians for respect for their rights both within the NK and against the Armenian minorities residing in different regions of Azerbaijan. In February 1988, the majority of the Armenian population of Azerbaijani town of Sumgait was slaughtered by the bloodthirsty armed groups. There are numerous witnesses of barbaric killings of Armenians - such as burning people alive. The Armenians were killed, tortured and maimed. Military forces and OMON had no mercy even on infants. Due to continuous shelling thousands innocent Armenians - citizens of the NK were killed.*

*As a result of the Azerbaijani discriminatory policies massacres and pogroms were organised against the Armenian population in the Azerbaijani towns and cities of Sumgait, Kirovabad, Baku, to name only a few. In its turn this resulted in the exodus of the Armenian population from Azerbaijan. Armenia became home for some 400,000 refugees, in 1988-1994. Since then, the Armenian government has done everything to ease the burden of the refugees, and actually refugees in Armenia smoothly integrated in the society and have all the rights and privileges that the Armenian citizens have. In the contrary the Azeri government has used the refugees as victims, who have been suffering from the "internal racism", and being kept in the refugee camps.*

*As a consequence of the Nagorno Karabakh conflict during the period of 1988-1994 until the establishment of the temporary cease-fire, more than half a million of Armenians were forcibly moved from Azerbaijan, of which 360 thousand forcibly moved to the RoA.*

*After the collapse of USSR the Armenian population of Azerbaijan was the first victim of ethnic violence committed by Azerbaijani authorities. Overall assessment of aggressive policy of Azerbaijan is reflected in the statement of Azerbaijani president Heydar Aliiev made at the regular session of the milli mejlis „We caused such losses to Armenians that they will never forget it ,, (Bakinski rabochi, N. 39, 24.02.01):*

*Forty eight thousand displaced people from the Republic of Nagorno-Karabakh and neighbouring populated with Armenia Shahumian region emigrated to Armenia. Additionally eleven thousand Armenians moved to the Armenia in the results of conflicts in the post-soviet areas. The organisation of the assistance to the above mentioned people, as well as to 530 thousand people who were left without shelter in the result of the 1988 December 7 Earthquake, was the major problem for the new independent RoA. In the past years the shelter provision for these people has been solved partially -26,000 families in the earthquake zone, and 14,000 families from the refugees forcibly moved to Armenia in 1988 -1992, are continuing to live in*

temporary shelters (communal centres, hostels, hotels, iron dwellings, administrative buildings, etc.).

### **Minority rights in Armenia**

Approximately 97% of the population of Armenia, an absolute majority, are native Armenians. Traditionally speaking, minorities have always enjoyed the same rights and freedoms as the Armenians themselves.

This is clear from the situation of Kurds, for example, who, for many decades, have formed a more or less stable 1.7% of the population in Armenia. As distinct from their compatriots living in neighboring countries, they have enjoyed full minority rights - schools, newspapers, etc. - even today denied to them in other countries.

Respect for minority rights extends fully to Russians, Jews, Assyrians, Greeks, Ukrainians, Georgians, Polish, Germans and other minorities. The mechanism for dialogue between and among minorities and the government was established in 1994. Right after independence, national minorities in Armenia founded the Union of Nationalities representing twelve different communities of Armenia. The role of this institution is to deal with economic, social, cultural, educational and other issues concerning minorities.

The Constitution of Armenia and the laws adopted formed the legal framework for the protection of human rights of citizens regardless of their national, ethnic, religious and linguistic affiliations, providing guarantees for the enjoyment of their basic rights and freedoms as set out in the Constitution.

NM-s acquired here their second Motherland and take an active part in economic and cultural development of Armenia. Due to changes in political, economic, social spheres, migration processes representation of separate ethnic groups in Armenia has substantially changed.

Since 1994 there are different organizations dealing with the problems of NM-s: Union of Nationalities, Association of Public National Organizations, Co-ordination Council under the Advisor of the President etc.

Establishment of the Co-ordination Council under the Advisor of the President of the Republic in March 2000 at the First Assembly of representatives of public national and cultural organizations was an important intermediate step on the way of foundation of the state structure on NM. Council consists of 22 representatives from 11 national minorities: Russian, Ukrainian, Belorussian, Georgian, Jewish, Greek, Ezids, Kurdish, German, Polish, Assyrian.

Despite a heavy socio-economic conditions process of democratic reforms in Armenia is going on including those which relate to the protection of the rights of minorities, respect of their ethnic, language and religious identity.

Armenia always demonstrates its commitment and adherence to observance of international standards in the field of protection of the rights of NM-s enshrined in the Conventions signed including Convention on securing rights of the persons belonging to National Minorities in CIS countries and European Framework Convention on Protection of the Rights of NM-s.

*At present the draft law on NM-s which envisages protection of political, economic, social, judicial, ethnic, linguistic, cultural and religious rights of minorities, guarantees the right to the equal access to education and participation in governance is under consideration of the National Assembly.*

*Though NM-s are not represented in National Assembly some 15 of them occupy high posts in the regional bodies of territorial administration.*

*National minorities publish their periodicals and newspapers. There are daily radio and TV broadcasts in Russian, Kurdish, Persian, Georgian, Assyrian etc. Among foreign languages being taught in secondary schools are Russian, Greek, Kurdish, Spanish, Arabic, French, German, English. There is a Department of Oriental Studies within the State University with separate Turkish and Persian sections.*

*In educational system there is no restriction for any national minority. They are equal to Armenians and they can have every opportunity to receive any education available for Armenians.*

*The children of the representatives of national minorities are free to choose classes, conducted on their own national language, if such classes exist. Such provision found place in the draft law as well.*

*In case of absence of such classes, the children belonging to national minorities can study in schools or classes with state language.*

*The fact that the examinations for the University admission are conducted in Armenian language is because 98-99% of applicants are Armenians and there is a lack of teachers with relevant qualifications. There are several international and foreign higher educational institutions, where the studies are carried out in foreign language. Due to their wish the representatives of national minorities may study in such institutions. However, main part of national minorities prefers Russian language.”*



