

# **ECRI REPORT ON ARMENIA**

**(fourth monitoring cycle)**

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## FOREWORD

The European Commission against Racism and Intolerance (ECRI) was established by the Council of Europe. It is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members, who are appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

In the framework of its statutory activities, ECRI conducts country-by-country monitoring work, which analyses the situation in each of the member States regarding racism and intolerance and draws up suggestions and proposals for dealing with the problems identified.

ECRI's country-by-country monitoring deals with all member States of the Council of Europe on an equal footing. The work is taking place in 5 year cycles, covering 9/10 countries per year. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002, and those of the third round at the end of the year 2007. Work on the fourth round reports started in January 2008.

The working methods for the preparation of the reports involve documentary analyses, a contact visit in the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidences. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on an important number of national and international written sources. The in situ visit allows for meeting directly the concerned circles (governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to provide, if they consider it necessary, comments on the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final report of ECRI.

The fourth round country-by-country reports focus on implementation and evaluation. They examine the extent to which ECRI's main recommendations from previous reports have been followed and include an evaluation of policies adopted and measures taken. These reports also contain an analysis of new developments in the country in question.

Priority implementation is requested for a number of specific recommendations chosen from those made in the new report of the fourth round. No later than two years following the publication of this report, ECRI will implement a process of interim follow-up concerning these specific recommendations.

**The following report was drawn up by ECRI under its own and full responsibility. It covers the situation up to 24 June 2010 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposal made by ECRI.**



## SUMMARY

**Since the adoption of ECRI's second report on Armenia on 13 February 2007 progress has been made in a number of fields covered therein.**

Considerable efforts have been made by the authorities in the field of ethnic-minority education and culture. There are no limits on the amount of time private broadcasting stations may spend on ethnic-minority programmes. The law facilitates the setting up of kindergartens in communities where ethnic minorities live. The State has provided the Jewish community with help to preserve its heritage.

The Human Rights Defender examines with care complaints from various vulnerable groups.

A new Law on Refugees and Asylum has been enacted and all its implementing decrees have been drafted. All persons enjoying temporary protection have been granted refugee status. The capacity of the Yerevan Reception Centre has been increased. International organisations provide training to Armenian border guards.

As before, there is no hostility vis-à-vis ethnic minorities and non-nationals (including those who are not ethnic Armenians) and little or no evidence of anti-Muslim feeling. The authorities continue to approach the Yezidi/Kurdish issue on the basis of the principle of self-identification.

**ECRI welcomes these positive developments in Armenia. However, despite the progress achieved, some issues continue to give rise to concern.**

There is no comprehensive civil and administrative legislation against racial discrimination and no provisions in the Criminal Code prohibiting organisations that promote racism. No changes have been made to the Law on Alternative Service. A restrictive Bill on freedom of conscience and religious organisations which has been the subject of widespread domestic and international criticism, has had its first reading in Parliament.

The budget of the Human Rights Defender's Office remains inadequate. No independent mechanism for dealing with complaints against the police has been created. There are no statistics on offences motivated by religious hatred and civil- and administrative-law actions for racial discrimination. Nor is there a system for the collection of ethnic data in general. The State TV and Radio Commission needs to build specialised knowledge.

There are obvious dangers of intolerance in the field of religious freedom. Religious-minority pupils are allegedly discriminated against at school and there are on-going poster campaigns against "sects". The political response to an incident involving accusations of a Zionist conspiracy against a presidential candidate was weak. The National Security Service monitors ordinary religious activity.

A fairer system is required for the distribution of grants to ethnic-minority organisations. The funding for kindergarten facilities in ethnic-minority areas is inadequate. So are the measures to promote ethnic-minority secondary-school graduates' access to higher education. Improvements are called for in the areas of Russian and minority-languages textbooks and curricula. Yezidi parents do not always make informed choices about their children's education. Some Yezidi families continue to live in illegally built houses in the Zovuni village under high-voltage lines.

The UNHCR bears most of the brunt of caring for refugees and asylum-seekers in Armenia. Not all refugee families currently living in non-renovated accommodation in the Nor-Nork centre will be rehoused. Refugees and asylum-seekers lack information on their rights under the basic benefit package programme and the health-care system.

Overall, ECRI's impression is that more follow-up should have been given to its recommendations in the second report.

**In this report, ECRI requests that the Armenian authorities take further action in a number of areas; in this context, it makes a series of recommendations, including the following.**

New criminal offences should be introduced to deal with organisations promoting racism. The criminal law should be effectively applied to all cases of racist violence and incitement thereto. Comprehensive civil and administrative legislation should be drafted against racial discrimination.

Members of the judiciary, law-enforcement authorities and lawyers should receive specific training on domestic and international norms against racism, racial discrimination and related intolerance.

The length of alternative service should be immediately reduced by six months.\* The Bill amending to the law on freedom of conscience and religious organisations should be definitively withdrawn. The National Security Service should refrain from monitoring ordinary religious activity.

There should be an independent mechanism for dealing with complaints against the police. The Human Rights Defender's office should be allocated sufficient resources.

The authorities should systematically collect ethnic data and statistics on offences motivated by religious hatred and civil- and administrative-law actions for racial discrimination.

A new self-regulatory Code of Ethics should be speedily adopted for the media with clear provisions against racism and related intolerance. Training should be organised for the State TV and Radio Commission on how to balance freedom of expression with minorities' protection.

The grant put at the Co-ordination Council's disposal should be distributed according to each ethnic minority's real needs.\* Priority should be given to the setting up of kindergarten facilities in communities with ethnic-minority children lacking the necessary linguistic skills for attending elementary school. A law should be adopted on facilitating access to higher education for ethnic-minority secondary-school graduates. Gradual steps should be taken towards producing a full range of textbooks and the corresponding curricula for Russian schools and the teaching of Russian and other minority languages. The authorities should work towards relocating to adequate accommodation the Yezidi families in the Zovuni village who cannot obtain ownership certificates because of the proximity of their house to high-voltage cables.

The new wing of the Yerevan Reception Centre should be put to use as quickly as possible and the old wing should be refurbished. No refugee families should live in non-renovated accommodation in the Nor-Nork centre.\* There should be a system for helping refugees and asylum-seekers with their "Poverty Assessment System list" claims and informing them of their rights under the health-care system.

All school directors and teachers should be reminded of their obligation to respect religious pluralism. They should provide Yezidi parents with the possibility of making free and informed choices in connection with the education of their children. An inclusive approach should be adopted to questions of identity in the teaching of history and related matters.

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\* The recommendations in this paragraph will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.

## FINDINGS AND RECOMMENDATIONS

### I. Existence and Application of Legal Provisions

#### International legal instruments

1. In its second report, ECRI reiterated its recommendation that Armenia (a) make a declaration under Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) (b) ratify the European Convention on Nationality, the European Convention on the Participation of Foreigners in Public Life at Local Level and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and (c) ratify the European Convention on the Legal Status of Migrant Workers.
2. As regards the European Convention on the Legal Status of Migrant Workers, ECRI recalls that, in its fourth monitoring cycle, it has decided to focus on the ratification of a more limited number of instruments than in the third round.
3. As regards Article 14 of ICERD, ECRI recalls that Armenia has ratified Protocol No. 12 to the European Convention on Human Rights. It has thus already given all persons under its jurisdiction the possibility of taking complaints regarding alleged discrimination to an international judicial forum. In ECRI's view, making the Article 14 ICERD declaration should be seen as a complementary step for which there should not be any major legal or practical obstacles.
4. ECRI has been informed that the Armenian authorities consider that domestic legislation is already compatible with the provisions of the European Convention on Nationality and the European Convention on the Participation of Foreigners in Public Life at Local Level; as a result, they are seriously considering ratifying both these instruments.
5. ECRI has also been informed that the Armenian authorities do not intend to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families at present. They point out in this connection that Armenian nationals do not benefit from the Convention's protection in European Union countries; moreover, Armenia has negotiated with other members of the Commonwealth of Independent States agreements similar to the Convention. ECRI recalls that the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families is a human rights instrument to which the reciprocity approach should not apply.
6. ECRI recommends again that Armenia make a declaration under Article 14 of the Convention on the Elimination of All Forms of Racial Discrimination and ratify the European Convention on Nationality, the European Convention on the Participation of Foreigners in Public Life at Local Level and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

#### Law on Alternative Service

7. In its second report, ECRI recommended that the authorities review both the substance and application of the Law on Alternative Service to ensure that it fulfils Armenia's commitments to the Council of Europe by providing a genuine opportunity for conscientious objectors to perform an alternative civilian service. It also recommended not prosecuting and imprisoning those who have refused to perform alternative civilian service, but giving them an opportunity to perform their

duty to society in conditions that are in line with their conscientious objection to military service<sup>1</sup>.

8. ECRI notes that, since the publication of its second report, there have been developments under the European Convention on Human Rights. On 27 October 2009 a Chamber of the European Court of Human Rights adopted the *Bayatyan v. Armenia* judgment; the judgement indicates that, by introducing an alternative to military service, the country was already going beyond what was strictly required of it by virtue of its obligations under this international instrument.
9. The judgment of 27 October 2009 is not final, as the Court's Grand Chamber has agreed to take the case on for review<sup>2</sup>. Nevertheless, the authorities have already announced their intention to reduce the length of alternative service by six months (to 30 months for alternative military service and 36 months for alternative civilian service)<sup>3</sup>. In ECRI's view, this would be a welcome development in the process of aligning Armenian legislation with international standards<sup>4</sup>.
10. ECRI further notes that, under existing arrangements, those performing alternative civilian service in Armenia would not carry out any activities related to the country's defence effort<sup>5</sup>. They would remain nevertheless under the responsibility of the Ministry of Defence, which does not intend to relinquish its supervisory role. The only significant development in this connection appears to be the strengthening of civilian control within the Ministry of Defence.
11. ECRI is aware that Jehovah's Witnesses, who represent the vast majority of conscientious objectors in Armenia, do not accept any Ministry of Defence involvement in the phase following recognition of the right to perform alternative service and until discharge<sup>6</sup>. In addressing issues of supervision, ECRI considers that the primary criterion should be the availability in practice of a genuine alternative service of a clearly civilian nature. ECRI hopes that this principle will be reflected in the search for a mutually acceptable solution to this issue. Moreover, ECRI encourages the authorities in their plans for reducing the length.
12. ECRI recommends that the length of alternative service - civilian and military - be immediately reduced by six months.

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<sup>1</sup> The situation of those prosecuted or convicted for refusing to perform alternative service under the current legislation is examined under Vulnerable/Target Groups, Religious minorities.

<sup>2</sup> See decision of 10 May 2010 by a panel of five judges under Article 43 of the Convention.

<sup>3</sup> The duration of military service is 24 months.

<sup>4</sup> According to recommendation No. R (87) 8 of the Committee of Ministers of the Council of Europe, "(a)lternative service, if any, shall be in principle civilian and in the public interest. (It) shall not be of a punitive nature. Its duration shall, in comparison to that of military service, remain within reasonable limits." The Parliamentary Assembly of the Council of Europe in Resolution 1361 (2004) "considers the length of the alternative civilian service, set at forty-two months, unacceptable and excessive and asks that the law be amended on this point, reducing the length of service to thirty-six months ...". In its Resolution 1532(2007) it notes with disappointment that "the current law ... still does not offer conscientious objectors any guarantee of 'genuine alternative service of a clearly civilian nature, which should be neither deterrent nor punitive in character', as provided for by Council of Europe standards."

<sup>5</sup> It is not clear whether any persons avail themselves of these arrangements today. Jehovah's Witnesses do not.

<sup>6</sup>The involvement of the Ministry of Defence in the process of recognition and the fact that conscientious objects carry reservists' cards (like all those who have discharged their draft obligations) do not appear to be a problem for Jehovah's Witnesses.

## Criminal law

13. In its second report, ECRI recommended that the authorities take measures to raise public awareness of the new hate-crime provisions.
14. ECRI has not been informed of any such measures. The authorities have repeatedly asserted that no racially motivated offences have been recorded. ECRI is aware that there have been complaints, and at least one prosecution, concerning offences motivated by religious hatred. It notes that the authorities have not been able to produce any criminal statistics bearing on the latter issue. ECRI recalls that, according to its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, a racist motivation might be related to religion, in addition to “race”, colour, language, nationality and national or ethnic origin.
15. ECRI recommends that the authorities set up a system that will enable them to monitor the situation concerning all offences motivated by racial hatred, as this concept is understood in its General Policy Recommendation No. 7.
16. It has been suggested that the authorities’ reaction to offences motivated by religious hatred is inadequate. This does not appear to concern the only incident of antisemitic violence reported to ECRI (involving the defacing of Jewish memorials in 2007). It is rather related to a small number of alleged physical attacks on Jehovah’s Witnesses trying to propagate their beliefs and large-scale campaigns involving posters and leaflets against the activities of “sects”.
17. ECRI notes that most of the physical-assault complaints were shelved by the police without appeals by the alleged victims. Moreover, the Jehovah’s Witnesses expressed satisfaction about the manner in which the authorities had handled another such incident that resulted in a conviction in 2008.
18. ECRI’s concerns in this connection focus on the procedure used to respond to a complaint lodged by several NGOs after a mainstream newspaper had published on its front page a photograph of a widely circulated leaflet. The latter stressed “the criminal origin of sects” and the newspaper had commented “Someone should listen to what is being said”. The prosecutor referred the case to the National Security Service, which decided that no action was called for. According to the authorities, the action of the prosecutor was legal in that the National Security Service may act as an investigating authority in matters of national security, interethnic clashes and terrorism. ECRI - without necessarily wanting to question the outcome of the case itself – questions whether the use of this agency in issues involving allegations of hate speech is appropriate given the consequential association of security issues with the activities of new religious movements. This, in ECRI’s view, risks reinforcing prejudice<sup>7</sup>.
19. ECRI recommends that complaints brought under the hate-crime provisions should be investigated by the police as opposed to the National Security Service.
20. ECRI notes that Article 226 of the Criminal Code on “actions aimed at the incitement of national, racial or religious hatred, at racial superiority or humiliation of national dignity” provides for a stricter penalty when these are committed by an organised group<sup>8</sup>. ECRI is not aware of any court decisions applying this provision to any of the following intentional acts: creation or leadership of a group

<sup>7</sup> See Climate of Opinion, Media and Political Discourse.

<sup>8</sup> There are also provisions in the 2001 Law on NGOs on disbanding organisations whose aim is to incite racial hostility. Moreover, the law does not allow for the recognition of political parties that limit membership on national, racial or religious grounds.

that promotes racism; support for such a group; or participation in its activities with the intention of contributing to the offences covered by paragraph 18 a), b), c), d), e) and f) of its General Policy Recommendation No. 7. ECRI considers that it would contribute to legal clarity if the criminal law of Armenia provided expressly for the punishment of the above acts..

21. ECRI recommends that the following acts be expressly criminalised, when committed intentionally: (a) the creation or leadership of a group that promotes racism (b) support for such a group and (c) participation in its activities with the intention of contributing to a series of offences enumerated in General Policy Recommendation No. 7.

### **Civil and administrative law**

22. In its second report, ECRI reiterated its recommendation that comprehensive civil and administrative legislation be enacted against racial discrimination<sup>9</sup>.

23. ECRI notes that there have not been any significant developments in this connection. The only step forward seems to be a proposal to amend the Code of Administrative Offences to tackle discrimination in the enjoyment of labour rights. The authorities consider that the current piecemeal approach, coupled with general constitutional provisions<sup>10</sup>, provides sufficient protection.

24. In ECRI's experience, piecemeal approaches rarely produce entirely satisfactory results. According to information provided by the authorities, Armenia has anti-discrimination provisions in criminal-procedure, social assistance, education and labour law. However, these are not the only fields in which complaints about racial discrimination may arise. As for general constitutional provisions, ECRI recalls that, even where these produce third-party effects, they need to be complemented by legislation on obtaining redress.

25. ECRI recommends again that the authorities draft comprehensive civil and administrative legislation against racial discrimination drawing inspiration from its General Policy Recommendation No.7.

26. ECRI notes that the authorities have no statistics on court cases related to racial discrimination, as this concept is understood in General Policy Recommendation No. 7. It is, however, aware of a number of legal actions that have been lodged (some with success) concerning, *inter alia*, discrimination on religious grounds.

27. ECRI recommends that the authorities collect reliable data on civil- and administrative-law actions for racial discrimination, as this concept is understood in its General Policy Recommendation No. 7.

### **Anti-discrimination body**

28. Currently, the only authority separate from the executive that can play the role of a specialised body in Armenia is the Human Rights Defender.

29. In its second report, ECRI recommended that the authorities ensure that the Human Rights Defender's office be allocated sufficient human and financial resources to enable it to function to its full capacity. It also recommended that any restructuring of the work and functions of this office take into account issues

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<sup>9</sup> According to General Policy Recommendation No. 7, racial discrimination is any differential treatment based on a ground such as "race", colour, language, religion, nationality or national or ethnic origin, which has no objective and reasonable justification.

<sup>10</sup> And Protocol No. 12 to the European Convention on Human Rights, which is directly applicable under domestic law.

pertaining to racism<sup>11</sup> and racial discrimination. Finally, it recommended that the Human Rights Defender's office carry out awareness-raising campaigns to make its work better known by the general public and by national minorities in particular.

30. ECRI's sources concur that the Human Rights Defender's office gets recognition and receives an increasing number of complaints from various vulnerable groups, especially refugees. The internal structure of the office does not seem to prevent it from discharging one of the most important functions of a specialised body, as per General Policy Recommendations Nos. 2<sup>12</sup> and 7: dealing with individual cases. The greatest challenge is its budget, which, despite recent increases<sup>13</sup>, remains inadequate. In ECRI's view, this issue should be addressed first.
31. Moreover, given the current negative climate against new religious movements<sup>14</sup>, ECRI considers that the Human Rights Defender's office should organise an awareness-raising campaign on religious tolerance.
32. ECRI recommends again that the Human Rights Defender's office be allocated sufficient resources to enable it to assist victims of racism and racial discrimination effectively.
33. It also recommends that the Human Rights Defender's office organise an awareness-raising campaign on religious tolerance.

#### **Training for members of the judiciary, law-enforcement authorities and lawyers**

34. In its second report, ECRI recommended that members of the judiciary, law-enforcement authorities and lawyers receive specific training relevant for the fight against racism and racial discrimination.
35. ECRI notes that members of the judiciary, law-enforcement authorities and lawyers receive general human-rights training<sup>15</sup>. ECRI has also been informed of plans to reform the body that imparts such training to judges, prosecutors and lawyers. As from 1 January 2011 the Judicial College will be replaced by a judicial academy. The necessary legislation will be enacted in the course of 2010.
36. ECRI considers that, in addition to general human-rights courses, specific initial and in-service training on domestic and international norms against racism, racial discrimination<sup>16</sup> and related intolerance is necessary. It views the setting up of a judicial academy as an opportunity in this connection, in so far as judges, prosecutors and lawyers are concerned. As regards law-enforcement authorities, ECRI is of the view that specific training on racism and racial discrimination can be easily accommodated within existing arrangements.
37. ECRI recommends again that members of the judiciary, law-enforcement authorities and lawyers receive specific training on domestic and international norms against racism, racial discrimination and related intolerance.

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<sup>11</sup> According to General Policy Recommendation No. 7, racism is the belief that a ground such as "race", colour, language, religion, nationality or national or ethnic origin justifies contempt for a person or a group of persons or the notion of superiority of a person or a group of persons.

<sup>12</sup> On specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level.

<sup>13</sup> According to the authorities, in 2009 there was an increase of 6.8%.

<sup>14</sup> See Climate of Opinion, Media, Political Discourse.

<sup>15</sup> Issues related to ECRI's mandate are inevitably touched upon.

<sup>16</sup> ECRI recalls that, according to its General Policy Recommendation No. 7, discrimination on religious grounds is a form of racial discrimination.

## II. Discrimination in Various Fields

38. In its second report, ECRI recommended that the authorities carry out research on the situation of ethnic minorities in areas such as employment, housing and education in order to evaluate and address any discrimination they may face.
39. ECRI is not aware of any such research having been conducted<sup>17</sup>.
40. According to ECRI's information, there have been few cases of discrimination against religious-minority members in the field of employment (and one case concerning an ethnic-minority member); some of the victims have sued and obtained satisfaction. The authorities consider these to be isolated instances.
41. ECRI has also received, from various sources, information about alleged discrimination against religious-minority pupils at school<sup>18</sup>. According to these allegations, some have been subjected to personal mockery, others asked about their beliefs and others had to attend sessions (targeting the school population at large) at which their religion was derided or branded harmful.
42. ECRI recommends that the authorities remind all school directors and teachers of their obligation to respect religious pluralism.

## III. Climate of Opinion, Media, Political Discourse

43. As pointed out elsewhere in this report, there is no overt hostility vis-à-vis the ethnic minorities that are present in Armenia today<sup>19</sup>. The same holds true for non-nationals, including those who are not ethnic Armenians.
44. It is also encouraging that there is little or no evidence of anti-Muslim feeling. For example, the numerous Iranians who come to Armenia for studies, business or tourism do not encounter particular problems.
45. Some fears have been expressed that a process of change is under way in the sense that growing Armenian national sentiment could both undermine the tradition of multi-ethnic tolerance and create longer term problems, for example in the event of any future inward migratory pressures. ECRI draws attention to these fears, while observing that it found little hard evidence at present to support them.
46. The only area where there are obvious dangers of intolerance is that of religious freedom. Although traditional groups, such as the Yezidis and the Jews, are not perceived as a threat<sup>20</sup>, society is wary of most attempts<sup>21</sup> to found new Churches in Armenia. Some Protestants, the Hare Krishna and Jehovah's Witnesses attract much negative publicity in the media, with accusations that they are "a threat to the country's spiritual security". There are ongoing poster-campaigns against them. Reactions are sometimes aggressive<sup>22</sup>. Jehovah's Witnesses are especially targeted, *inter alia*, because of their objection to the draft, which allegedly undermines the country's military readiness. These reactions derive in part from a feeling that new religious movements detract from a sense of

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<sup>17</sup> The report submitted by the Human Rights Defender to Parliament on ethnic minorities has a different scope.

<sup>18</sup> The allegations do not concern Yezidi pupils, see Vulnerable/Target Groups, Ethnic minorities.

<sup>19</sup> Some of these groups share historical memories with ethnic Armenians; see plans to erect a monument in Yerevan for the 1915 Armenian and Assyrian victims.

<sup>20</sup> By definition, these do not compete with the Armenian Apostolic Church.

<sup>21</sup> Some have been rather successful. For example, Jehovah's Witnesses claim to have more than 10,000 followers.

<sup>22</sup> See Racist Violence.

Armenian national identity, of which the Armenian Apostolic Church is perceived as an embodiment. ECRI is very aware of the importance attached to links with the Armenian Apostolic Church but would regard it as unfortunate if these links hindered the development of a wider sense of inclusiveness.

47. In so far as the media are concerned, ECRI notes that a self-regulatory instrument containing provisions against the expression of intolerance exists. It has been subscribed to by several but not all of the industry's representatives. ECRI has also been informed that the Public Council<sup>23</sup> is working towards a new Code of Ethics under the aegis of the President of the Republic. ECRI hopes that Armenia will soon acquire a self-regulatory instrument adhered to by the entire media world; this can become an effective tool in the fight against intolerance on such grounds as "race", colour, language, religion, nationality or national or ethnic origin .
48. Under Article 24 of the Law on TV and Radio it is prohibited to inspire national or religious hatred or discord. Responsibility for its enforcement lies with the State TV and Radio Commission. This is a body composed of eight members (four appointed by the President of the Republic and four elected, by majority vote, by Parliament), which has the power, *inter alia*, to impose administrative sanctions. ECRI notes that there have been complaints to the Commission about racism and related intolerance leading to reprimands and warnings<sup>24</sup>. However, in a recent incident, involving the leader of the Aryan party being hosted on a private-TV-station show, the Jewish community took the issue directly to the Cabinet.
49. ECRI recognises the importance of the role that the Commission is called upon to play. It considers that it needs to build the specialised knowledge necessary to be able to discharge its duties in the delicate field of balancing freedom of expression with minorities' protection.
50. ECRI recommends that the authorities promote, without encroaching on the independence of the media, the speedy adoption of a new self-regulatory Code of Ethics for them with clear provisions against racism and related intolerance. It also recommends that the authorities take the necessary steps to promote adherence to it by the entire industry.
51. ECRI recommends that training be organised for those responsible within the State TV and Radio Commission for the application of Article 24 of the Law on TV and Radio on how to balance freedom of expression with minorities' protection.
52. ECRI also notes that, as a result of changes to Article 28 of the Law on TV and Radio, there are no limits on the amount of time private stations may spend on ethnic-minority programmes.
53. As regards political discourse, ECRI notes that, on the occasion of the last presidential campaign, an attempt was made to stir up antisemitic feeling against an opposition candidate, whose wife is of Jewish origin. This involved allegations of a Zionist conspiracy, which were echoed in several mainstream-newspaper articles and on public TV.
54. In ECRI's view, the political response to this incident (which was weak) must be contrasted with the strong reaction to antisemitic comments made by the leader of the Aryan party. The latter was firmly condemned at a roundtable attended by

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<sup>23</sup> An advisory body set up by presidential decree on 13 June 2008 in which NGOs, citizens and members of the Diaspora participate on a voluntary basis.

<sup>24</sup> A private TV station, ALM, also apologised for antisemitic comments. This is not the incident involving the Aryan-party leader.

all other political parties. Moreover, the Cabinet criticised a TV station that had hosted him<sup>25</sup>. ECRI finds the above commendable.

55. ECRI has also taken note of the fact that criminal proceedings were instituted in the past against the leader of the Aryan party, which is an extremely marginal movement.

56. ECRI recommends that the authorities look into the conditions under which the Aryan party operates. In the light of their findings, they should consider whether further action is required. ECRI refers in this connection to the relevant parts of its General Policy Recommendation No. 7.

57. As regards ethnic slurs<sup>26</sup>, ECRI has been informed of a derogatory term in Armenian<sup>27</sup> which used to describe a group of persons with Roma origin and a nomadic lifestyle. The descendants of this group's members have largely assimilated; they speak Armenian<sup>28</sup>, are followers of the Armenian Apostolic Church and have no special customs or traditions. However, quite often their neighbours are aware of their past. These persons feel deeply offended when the term in question is used by third parties to designate them.

58. ECRI recommends that the authorities consider how best to combat the use of the above-mentioned ethnic slur, without stigmatising any individual descendants of the nomadic group with which it was originally associated.

#### **IV. Racist Violence<sup>29</sup>**

59. Armenia is not confronted with a particular racist-violence problem. Reference has already been made to an incident involving Jewish memorials and some cases of physical assault against Jehovah's Witnesses<sup>30</sup>.

60. The number of the latter is admittedly small. However, they give rise to concern especially when seen against the background of a negative climate of opinion. This negative climate takes various forms. For example, there has been an ongoing poster campaign calling on Armenians to engage - in their own buildings and on their own floors - in a struggle against the antinational and corruptive activities of the sects<sup>31</sup>. There has also been an anonymous confession by someone who had dealt a heavy blow on a young man knocking on his door to distribute Jehovah's Witnesses' literature, published in a mainstream newspaper on 11 March 2010.

61. The negative climate in question is also linked by Jehovah's Witnesses to the attempted arson of one of their places of worship. It is also clearly linked to the threats of violence and thefts that had disrupted, before the police's successful intervention, the construction of a Jehovah's Witnesses worship-centre in Vanazador in April and May 2009.

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<sup>25</sup> See paragraph 48.

<sup>26</sup> Article 8.b of the Law on Advertising provides, within its field of application, protection in this connection.

<sup>27</sup> The term in question is "Bosha".

<sup>28</sup> However, a rather limited number of words survive and are used as code language.

<sup>29</sup> ECRI recalls that, according to its General Recommendation No. 7, a racist motivation might be related, *inter alia*, to religion.

<sup>30</sup> Not all such incidents have been reported to the police.

<sup>31</sup> The posters in question are signed by an individual in the name of the "One Nation alliance of organisations".

62. ECRI considers that the authorities should take decisive action, as they have clearly shown to be able to do, to prevent isolated incidents from developing into a large-scale problem.
63. ECRI recommends that criminal law is effectively applied to all cases of racist violence and incitement thereto.

## V. Vulnerable/Target Groups

### Ethnic minorities

64. In its second report, ECRI addressed a number of recommendations concerning (i) the legislative framework for ethnic-minority protection (ii) increased consultation, involvement and representation of ethnic minorities (iii) the fostering of good relations between ethnic minorities and the rest of the population (iv) financial assistance to ethnic minorities (v) the powers and resources of the Department of Minorities and Religious Affairs and (vi) a more proactive role for the Co-ordination Council of Ethnic Minorities. Other recommendations in the second report concerned (i) ethnic minorities' access to higher education (ii) the training of ethnic-minority teachers (iii) textbooks for ethnic-minority children and (iv) the improvement of bilingual and Russian education. Lastly, in its second report ECRI recommended an enhanced minority presence in the media.
65. ECRI takes note of the authorities' considerable efforts in the field of ethnic-minority education and culture. Seen against the country's current stage of economic development, these demonstrate a positive attitude, which ECRI finds commendable. ECRI considers that most of the related issues<sup>32</sup>, which concern permanent measures of targeted support, are dealt with *in extenso* by two other specialised monitoring mechanisms of the Council of Europe: those set up under the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages. As a result, ECRI will focus on allegations of ethnic discrimination, in other words complaints that individuals have lesser rights because of their ethnic origin.
66. As regards institutional questions, ECRI considers that the Department of Minorities and Religious Affairs, which is part of the executive, has an important role to play in the fight against ethnic discrimination. It monitors the situation, provides advice to the Government and raises awareness among civil servants. In ECRI's view the resources put at the Department's disposal are not commensurate with its responsibilities.
67. ECRI recommends again that the Department of Minorities and Religious Affairs is provided with additional resources to be able to contribute to the fight against racial discrimination effectively.
68. As regards financial support to ethnic minorities, ECRI notes that a grant amounting to 9,000,000 AMD is put at the disposal of the Co-ordination Council of Ethnic Minorities<sup>33</sup> every year for distribution to representative organisations. Each of the 11 ethnic minorities receives, via its organisations, the same amount (818,000 AMD) independently of the number of its members. As a result, sizeable minorities, such as the Yezidis, get the same amount of support as very small

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<sup>32</sup> Including the adoption of a law on national minorities, which appears no longer to be a priority for the authorities and groups it would have benefited.

<sup>33</sup> The Co-ordination Council is composed of two representatives from each of the 11 ethnic minorities. It was set up by presidential decree and is chaired by an advisor to the President of the Republic.

ones, such as the Greeks<sup>34</sup>. ECRI recalls that treating diverse situations in the same manner may, in certain circumstances, amount to discrimination<sup>35</sup>. It considers that the authorities should devise a system whereby the grant is distributed according to each ethnic minority's real needs.

69. ECRI recommends that the current system whereby the grant put at the disposal of the Co-ordination Council of Ethnic Minorities is distributed in equal shares independently of each minority's size be abandoned and replaced by a system whereby the grant is distributed according to each ethnic minority's real needs.
70. ECRI observes that, broadly speaking, there are three types of "secondary schools"<sup>36</sup> in Armenia: (i) those providing an Armenian curriculum which also have Russian classes and sometimes teach minority languages as extracurricular topics<sup>37</sup> (ii) those with an Armenian/minority curriculum (also with Russian classes) and (iii) those where Russian is the main language of education (hereafter "Russian schools")<sup>38</sup>; ethnic-minority pupils often attend the latter (still drawing the benefit of education in their mother tongue). Russian-school graduates would normally pursue their studies in the Slavonic (Russian-Armenian) University in Yerevan or in Russian Federation higher-education establishments.
71. As regards equal opportunities, ECRI has been informed that some ethnic-minority children arrive at elementary school without speaking the language in which most classes are taught. This is the case with many Assyrian children attending Russian-speaking schools and some children living in villages with an exclusively Yezidi population and attending schools providing an Armenian/Yezidi curriculum. These children are particularly affected by the absence of kindergarten facilities. This is admittedly a problem for society as a whole, as it is related to the budgetary situation of the municipalities that have to provide pre-school education. However, it disadvantages ethnic-minority members more than others, since it is in kindergarten that they would have normally begun acquiring the linguistic skills they lack.
72. ECRI recommends that priority be given to the setting up of kindergarten facilities in communities with ethnic-minority children lacking the necessary linguistic skills for attending elementary school.
73. Although the law facilitates the setting up of kindergartens in communities where ethnic minorities live (by allowing for the lowering of the minimum number of pupils required), this in itself cannot provide a solution to the problem. In ECRI's view, financial support is called for.
74. Another issue related to equal opportunities is ethnic-minority secondary-school graduates' access to higher education. ECRI notes that the authorities have taken some steps to facilitate this: every year a ministerial decree is adopted creating certain exceptions from the general admission-system to favour the above goal. So far a very limited number of persons have been able to benefit therefrom. ECRI has always considered that temporary positive measures in

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<sup>34</sup> The last census, which dates from before ECRI's second report on Armenia, gives the following figures, which are cited here with the sole objective of providing an indication of the extent of the problem: 40,620 Yezidis compared to 1,176 Greeks.

<sup>35</sup> European Court of Human Rights, *Thlimmenos v. Greece* judgment of 6 April 2000, § 44.

<sup>36</sup> (Depending on whether they have been reformed or not) secondary schools have either 11 or 12 grades, covering what is called "primary" and "secondary" education in other countries.

<sup>37</sup> Other grassroots initiatives involve setting up Sunday schools for teaching minority languages.

<sup>38</sup> There are also six schools for the children of the Russian Federation military forces, over which the Armenian authorities exercise minimal control.

favour of minorities are, in some circumstances, necessary to redress *de facto* differences. In its view, now that the authorities have experimented with facilitating access for quite some time, the *ad hoc* arrangements may be formalised. A law on facilitating access to higher education for ethnic-minority secondary-school graduates could be adopted. This would probably result in more ethnic-minority students being admitted. Moreover, it could assist the authorities with finding a solution to the problem of lack of minority-language teachers, which was discussed in the second report.

75. ECRI recommends that a law be adopted on facilitating access to higher education for ethnic-minority secondary-school graduates.

76. As regards the education system's contribution to promoting ethnic tolerance, ECRI recalls that, in multi-cultural societies, the State has a duty to foster mutual respect, understanding and dialogue at school. Although ethnic minorities have the right to education that corresponds to their needs and to self-identification, the authorities must make sure that the above values - essential to any integrated society- are reflected in the school curriculum and textbooks. To achieve that, a minimum of State control is necessary.

77. ECRI recognises that the Armenian authorities have taken important steps towards streamlining minority education. The Ministry of Education is investing considerable effort and funding into producing textbooks and curricula for teaching most minority languages (with significant input from ethnic-minority representatives)<sup>39</sup>. However, the process is far from complete (for example, the only Yezidi-language books available for some grades still refer to Lenin). Moreover, ECRI also notes some decentralising tendencies: individual schools are authorised to have recourse to alternative educational material (for example, in an Assyrian village visited by the ECRI delegation, an effort was underway to have textbooks imported from abroad); moreover, the Russian schools, which are attended by many ethnic-minority pupils, still use material from the Russian Federation<sup>40</sup>.

78. ECRI is aware of the difficulties that the authorities are confronted with and the various financial constraints. Moreover, it does not necessarily wish to criticise all of the textbooks currently in use. Nevertheless, ECRI draws attention to the obvious risks that lack of adequate State control over the school curriculum carries. *Inter alia*, this could undermine the effort to create an integrated - and ultimately a tolerant - society.

79. ECRI recommends that the authorities take gradual steps towards producing a full range of textbooks and the corresponding curricula to be used (a) by the Russian schools (b) for the teaching of Russian in all other schools and (c) for the teaching of all other minority languages.

80. In addition to the above-mentioned recommendations that concern ethnic minorities in general, ECRI in its second report also addressed recommendations on the following questions that concern the Yezidis in particular: (a) land, water and grazing rights (b) the living conditions in Zovuni (c) access to education and treatment at school and (d) treatment in the army<sup>41</sup>.

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<sup>39</sup> However, some of the official minority-language textbooks are criticised by both their intended beneficiaries and the authorities.

<sup>40</sup> The authorities have assured ECRI that, first, there are not many differences in the school curricula in CIS countries and, secondly, special schoolbooks on Armenian history have been prepared for Russian-school pupils.

<sup>41</sup> Another second-report recommendation concerning treatment by the police will be discussed under Conduct of Law-Enforcement Officials.

81. ECRI notes that the authorities, including the Human Rights Defender, have investigated and rejected Yezidi complaints concerning public-service provision<sup>42</sup>. It also notes that Yezidis can freely participate in auctions for grazing land, which is not lacking. The authorities have explained that in the early 90s some Yezidis failed to take part in the land-privatisation procedure in the Zovuni village. Moreover, the authorities have succeeded in accommodating requests by over 100 Yezidi families to acquire ownership over their homes. There do not appear to be any serious allegations concerning inappropriate treatment at school or in the army<sup>43</sup>.
82. The attention of some Yezidi representatives currently appears to focus on the authorities' alleged attempts to favour Kurdish identity over their own". For ECRI, the denial of a separate ethnic identity would be an extreme form of intolerance. However, ECRI has seen no separate evidence to support these allegations and has received explicit assurances that the official policy is to approach the Yezidi/Kurdish issue<sup>44</sup> on the basis of the principle of free self-identification, which guides ECRI's action as well.
83. At the same time, ECRI has been informed by various sources that some school directors do not encourage Yezidi parents to ask for the inclusion of Yezidi-language courses in the curriculum. Although minority-education rights exist only on demand, ECRI considers that the social conditions of many Yezidis may not help them to appreciate the benefits of their children's receiving instruction in their mother tongue. It is, therefore, important for the central authorities to ensure that choices in this field are made not only freely but in full knowledge of what is at stake.
84. ECRI recommends that the authorities inform Yezidi parents of their rights in the field of minority education and remind school directors of their obligation to provide the former with the possibility of making a free and informed choice in this connection.
85. Another problem that has been brought to ECRI's attention is that of some 30 Yezidi families that live in houses illegally built just below high-voltage power cables in Zovuni. The authorities claim that they cannot issue them with ownership certificates because of the dangers involved; as for moving the cables, this would be extremely expensive, according to a study they have commissioned. The families are not prepared to accept the authorities' offer to provide them with free plots of land elsewhere on the grounds that this would not provide them with a solution as they lack the funds to have new houses built.
86. ECRI accepts that the Yezidis are not discriminated against in this connection because of their ethnic origin. ECRI is also aware of the constraints imposed by pressures on scarce resources. At the same time, ECRI recognises that this is a major issue, with unique characteristics, which affects one of the groups it deals with and which, in the interests of social cohesion, needs to be seen to be taken seriously . Given that the authorities have tolerated this dangerous situation over

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<sup>42</sup> Another complaint concerning the granting of a building permit that would have interfered with a Yezidi burial ground was under examination by the Human Rights Defender at the time of writing.

<sup>43</sup> ECRI received information on only one complaint about the army which involved the allegedly light treatment reserved to the perpetrator of a serious offence against a Yezidi conscript. This appeared to have to do with the mental state of the perpetrator.

<sup>44</sup> At least one Yezidi organisation belongs to a Kurdish umbrella association; however, most have an antagonistic relation with the latter. The Yezidi share of the Co-ordination Council grant is distributed in the following manner: 200,000 AMD to the association that belongs to the Kurdish umbrella association and 618,000 AMD to the others.

long periods of time<sup>45</sup>, ECRI considers that they should now actively and progressively seek to relocate the families concerned<sup>46</sup>.

87. ECRI recommends that the authorities work towards relocating to adequate accommodation the Yezidi families in the Zovuni village who cannot obtain ownership certificates because of the proximity of their house to high-voltage cables.

88. Lastly, ECRI has been informed that many Yezidi children, especially girls, drop out of school. This has to do with their parents' approach to education in general, rather than with the treatment they receive in the school.

89. ECRI recommends that the authorities follow the question of Yezidi school-attendance closely at community level and that they raise awareness among Yezidi parents of the benefits of education.

### Religious Minorities

90. In its second report, ECRI recommended that the authorities continue to combat antisemitism in all its forms and work with Jewish-community representatives. It also issued the two recommendations concerning Jehovah's Witnesses' objection to military service mentioned above.

91. ECRI is pleased to note the authorities' positive stance vis-à-vis the Jewish community (this included help with the renovation of an 800-year-old cemetery in Yeghegis).

92. ECRI also notes that the authorities have recently adopted a rather cautious line regarding a parliamentary motion (previously sponsored by the current Minister of Education) to amend the law on freedom of conscience and religious organisations. Although the existing law is not free from questionable provisions<sup>47</sup>, these are not enforced<sup>48</sup>. The proposed changes would have introduced new restrictions on freedom of religion: such would have been the result of, for example, the proposed provisions on registration and proselytism. As a result, the Bill, which has had its first reading, has been questioned both in principle and detail in a joint opinion by the European Commission for Democracy through Law, the Directorate of Human Rights and Legal Affairs of the Council of Europe and the OSCE/ODIHR Advisory Council on Freedom of Religion or Belief<sup>49</sup>.

93. ECRI recommends that the Bill amending the law on freedom of conscience and religious organisations be definitively withdrawn. If the authorities decide to enact a new such law, it should respect Article 9 and the related provisions of the European Convention on Human Rights, as interpreted in a series of judgments by the European Court of Human Rights.

94. A matter of particular concern to ECRI is allegations about interference by the National Security Service with the activities of new religious minorities. This reportedly takes the form of, *inter alia*, pressure on landlords not to rent premises for worship, congresses and even concerts. The example of the Armenian Baptist Church and their guest choir "The Singing Men of Oklahoma", who had to cancel

<sup>45</sup> The fact that the houses were built after the cables is not conclusive in this respect.

<sup>46</sup> Whilst noting that there competing claims from other groups (see §115), ECRI hopes that this report will help the authorities to establish priorities.

<sup>47</sup> Such as that against assistance from abroad.

<sup>48</sup> It is true that requirement of a minimum number of followers - raised from 50 to 200 with a legislative amendment in 1997 - prevents small religious groups from registering as such.

<sup>49</sup> Opinion no. 530/2009, CDL-AD(2009)036.

half their appearances, is cited in this connection. ECRI has not obtained confirmation of these allegations. However, it has taken note of the fact that a National Security Service representative considered it normal that members of an Evangelical Church NGO should be invited by his Gyumri colleagues “for a discussion”<sup>50</sup>.

95. ECRI recalls that the right to change and preach one’s religion as well as the right to worship together with others are protected under Article 9 of the European Convention on Human Rights.
96. ECRI recommends that the National Security Service refrain from monitoring religious activity which does not appear to constitute a specific threat.
97. ECRI’s attention has also been drawn to a number of questions related to (a) the situation of Jehovah’s Witnesses who refuse to perform alternative service (the length of sentences imposed on them, the length of sentence they actually serve before being released on parole, the fact that they are never covered by amnesty and their right to be visited by religious ministers in prison<sup>51</sup>) (b) a child-custody case in which a court criticised the authorities for their treatment of a Jehovah’s Witness mother<sup>52</sup> and (c) several administrative-court cases brought by Jehovah’s Witnesses to question the amount of customs duties they had to pay for importing religious literature<sup>53</sup>. Without wanting to take a stance on each of the above issues, ECRI is concerned that, cumulatively, they may be indicative of the negative light in which Jehovah’s Witnesses tend to be viewed by various authorities.
98. ECRI, moreover, notes that a Jehovah’s Witness accused of draft evasion has been recently placed on pre-trial detention. ECRI does not wish to comment on the individual case. However, it recalls that, according to international human-rights standards, pre-trial detention can only be imposed if it is necessary to prevent the accused from either committing further offences or fleeing or tampering with the evidence. It also recalls that the European Court of Human Rights in its *Thlimmenos v. Greece* judgment<sup>54</sup> has pointed to the particular way in which the offence of draft evasion should be perceived when committed by conscientious objectors. ECRI considers that the authorities should take all the above into consideration before deciding to remand a conscientious objector in custody.

## **Non-citizens**

### *- Refugees and asylum-seekers*

99. Most of the issues arising in connection with non-citizens (which concern ECRI since they reflect how welcoming the country is) have to do with refugees and asylum-seekers. The vast majority of these are ethnic Armenians who have arrived in the country from either Azerbaijan or Iraq. There is also a minority of refugees and asylum-seekers who are not ethnic Armenians.

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<sup>50</sup> According to many sources, the police have not only intervened when the activities of the new religious movements result in conversions of former members of the Armenian Apostolic Church. They have also shown interest in the conversion of Yezidis.

<sup>51</sup> At the end of March 2010 there were 75 Jehovah’s Witnesses in prison for draft evasion. Improvements have been reported concerning their access to pastoral care.

<sup>52</sup> The case was finally decided against her.

<sup>53</sup> Several of these cases have been lost.

<sup>54</sup> Cited above.

100. The most important development in connection with this vulnerable group is the adoption of a new Law on Refugees and Asylum, which entered into force on 24 January 2009, and of all its implementing decrees. The new law is intended to provide Armenia with a modern regulatory framework for addressing all related questions. Although it coexists with a 2001 law providing for the discretionary granting of asylum by the President of the Republic on “political” grounds. ECRI has been assured by various sources that the latter remains dead letter<sup>55</sup>.
101. As regards the refugee-recognition procedure, ECRI in its second report recommended that the authorities establish a program for providing all border guards with initial and on-going training on international and domestic refugee law. It also recommended that the UNHCR and any other non-governmental organisation working on issues pertaining to refugees and asylum seekers be given access to points where people are likely to submit an application for asylum, including Yerevan airport.
102. ECRI notes that Yerevan airport and the border with Iran are guarded by Russian Federation and Armenian guards<sup>56</sup>, the (closed) border with Turkey by Russian Federation and Armenian army troops, the (closed) border with Azerbaijan by Armenian army troops and the border with Georgia by Armenian guards. Border guards are obliged to record any asylum applications submitted to them and transfer the asylum-seekers to the Migration Service. ECRI notes that international organisations provide training to the Armenian border guards on international and national refugee law. It is unclear whether the Russian Federation border guards, who serve in Armenia under an international agreement between the two countries, have undergone similar training.
103. ECRI recommends that the Armenian authorities continue their efforts, in cooperation with all relevant interlocutors, including the Russian officials, to ensure that all border guards are adequately trained in refugee law.
104. ECRI notes that, according to formal arrangements, the Armenian Red Cross has access to Yerevan airport and the open borders. There are posters and leaflets, produced by the UNHCR, informing asylum-seekers of their rights in different languages. Asylum-seekers have the right to free legal assistance, which is provided by NGOs under agreements with the UNHCR. The UNHCR provides input to the refugee-recognition procedure.
105. As regards the principle of *non-refoulement*, ECRI notes with concern that this was not respected in the case of a Kurdish asylum-seeker who was extradited to Turkey on 14 January 2010 further to a request by Interpol<sup>57</sup>. The authorities contend that his extradition was the result of lack of administrative coordination; his asylum-application, submitted in a detention centre on 13 December 2009 (following one year of presence in Armenia), reached the Migration Service after his extradition; part of the delay was attributed to the end-of-year holidays. The authorities also claim that they have taken measures to ensure that similar mistakes do not occur in the future.
106. ECRI recommends that the Migration Service be immediately apprised of all asylum applications. It also recommends that the Migration Service have the capacity to deal with urgent matters at all times.

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<sup>55</sup> It has been put forward that the 2001 Law on Political Asylum only survives because Armenia is formally required to have such a procedure by its Constitution.

<sup>56</sup> At Yerevan airport there are joint teams, while on the Iranian border the Russian Federation guards have operational control.

<sup>57</sup> ECRI notes that the report of the Council of Europe Commissioner for Human Rights refers to another case where this principle might not have been respected, CommDH(2008)4, p. 19, § 89.

107. As regards refugees' and asylum-seekers' social and economic rights, ECRI in its second report recommended that living conditions be improved in the Yerevan Reception Centre, that financial assistance be provided to persons granted temporary asylum and that the authorities continue their efforts to integrate into society refugees who fled the Nagorno-Karabakh conflict.
108. An ECRI delegation has visited the Yerevan Reception Centre for asylum-seekers at Nor-Nork. ECRI is pleased to note that its capacity has been increased (with assistance provided by the UNHCR, which has obtained EU funding for these purposes) and that the conditions in the new wing are good. However, at the time of the visit the new wing remained unoccupied, the reason being concerns about asylum-seekers' safety<sup>58</sup>. Moreover, the old wing clearly needed refurbishment.
109. ECRI hopes that a solution to the safety issues will be very quickly found. It appreciates the seriousness with which the authorities approach this question - whilst recalling that, as reflected in this report, Armenia is not confronted with a particular problem of racial violence.
110. ECRI recommends that the new wing of the Yerevan Reception Centre be put to use as quickly as possible. It also recommends that the old wing be refurbished.
111. An ECRI delegation has also visited the accommodation centre, next to the reception centre for asylum-seekers, where recognised refugees are housed. The living conditions varied from wing to wing. In a wing housing refugees from Iraq they were good. In another wing housing refugees from Azerbaijan they were unacceptable. ECRI has been informed that this difference in treatment has created occasional tension between the two groups.
112. ECRI notes that the authorities are making efforts to improve the situation. Renovation work has been carried out in some (but not all) of the wings housing refugees from Azerbaijan. A number of families currently in non-renovated accommodation will be relocated in the very near future. However, this measure does not concern all refugee families from Azerbaijan living in non-renovated wings.
113. ECRI recommends that the authorities ensure that no refugee families live in non-renovated accommodation in the Nor-Nork centre.
114. ECRI notes that the question of refugees' accommodation is a serious challenge for the authorities. In recent times Armenia, a country with scarce resources, has had to deal with the consequences of a number of major events, including an earthquake and two waves of refugees (the first from Azerbaijan and the second from Iraq). It appears that the response to the second wave, which was admittedly smaller, has been better than that to the first. Some of the mistakes of the past - such as placing largely urban populations in remote villages - have been avoided. A certificates scheme has been devised allowing refugees to buy property. The fluctuating property market is the major problem in this connection; on a number of occasions, the certificates would not allow their holders to acquire adequate accommodation. A new initiative will be taken in the near future: convening a major donors' conference, which will discuss the issue of refugees' housing.

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<sup>58</sup> There were no bars in the windows to prevent potential intruders from attacking asylum-seekers.

115. As regards other forms of assistance, ECRI notes with satisfaction that the new Law on Refugees and Asylum has automatically given refugee status to all those enjoying temporary protection<sup>59</sup>. As a result, they have acquired the right to assistance under the Law on State Welfare Payments. The same right has been conferred by the Law on Refugees and Asylum to asylum-seekers.
116. Complaints have been expressed about the functioning of the basic benefit package programme (BBP), which many refugees and asylum-seekers find lacking in transparency. Quite often, it is difficult for them to understand why what appear to be rather insignificant changes in their circumstances result in their exclusion from the list of persons who benefit from BBP, called the “Poverty Assessment System list”. Many do not know that they may address themselves to the UNHCR, which can assist them in asserting their rights in this connection.
117. ECRI recommends that the authorities set up a system for helping refugees and asylum-seekers with their “Poverty Assessment System list” claims.
118. Refugees and asylum-seekers have the right to free health care. ECRI notes again that many are not properly informed of their rights in this connection.
119. ECRI recommends that the authorities set up a system for informing refugees and asylum-seekers of their rights under the health-care system.
120. Refugees and asylum-seekers have also the right to free education (up to but not including university level<sup>60</sup>). ECRI notes that some of the complaints expressed in this connection come from Iraqi citizens of ethnic-Armenian origin who have not applied for asylum.
121. Lastly, refugees and asylum-seekers rely on UNHCR implementing-partners for psychological support and language training. (US funds have been used to provide the latter.) Obviously, those who lack the necessary linguistic skills experience difficulties in exercising their right to work<sup>61</sup>.
122. Generally speaking, ECRI notes that the UNHCR bears most of the brunt of caring for refugees and asylum-seekers in Armenia. This is, of course, related to the state of public finances.
123. ECRI recommends that the authorities build a capacity of caring for refugees and asylum-seekers using in particular such international funding as is available.

- *Other non-citizens*

124. According to the 2008 Conclusions of the European Committee of Social Rights on Armenia<sup>62</sup>, there are three types of residence permits for non-citizens: temporary, permanent<sup>63</sup> and special<sup>64</sup>. According to the law, the latter are reserved to foreign nationals of Armenian ethnic origin. Non-citizens can work in Armenia without a work permit.

<sup>59</sup> Mostly, ethnic Armenians fleeing areas with large-scale problems. Temporary protection remains an option under the new law to deal with cases of mass influx.

<sup>60</sup> Among non-citizens, ethnic Armenians get preferential treatment at some universities.

<sup>61</sup> Ethnic-Armenian refugees from Azerbaijan speak Russian; those from Iraq a particular form of Armenian, officially called Western Armenian. The children of the former do not encounter any linguistic difficulties.

<sup>62</sup> European Committee of Social Rights, Conclusions 2008 (ARMENIA), Articles 1, 15, 18, 20 and 24 of the Revised Charter, November 2008, page 16.

<sup>63</sup> These are valid for five years and may be renewed for the same period under certain conditions.

<sup>64</sup> These are valid for ten years and are renewable.

125. ECRI has been informed that on the Armenian-Georgian border there is only one facility for the administrative detention of non-citizens, consisting of one room. This could create problems especially when the detainees are not of the same sex.

126. ECRI recommends that the authorities ensure adequate detention conditions in the facility on the Armenian-Georgian border.

## **VI. Citizenship issues**

127. In its second report, ECRI recommended that any legislation passed in order to provide for dual citizenship not be discriminatory on ethnic or any other such grounds.

128. The authorities have informed ECRI that no law on dual citizenship has been enacted; dual citizens' military obligations are addressed in the law on the draft, which exempts some of them. They have also informed ECRI that they are currently examining the question of the military obligations of persons both of whose parents have acquired Armenian nationality (90% are citizens of the Russian Federation and 10% stateless)<sup>65</sup>.

129. In its second report, ECRI also recommended that the authorities establish a swift and effective procedure for relinquishing Armenian citizenship in order to enable those who do not wish to have dual citizenship to acquire that of another State without incurring the risk of being prosecuted for, *inter alia*, draft evasion.

130. ECRI has been informed that Armenian citizenship can be relinquished freely, except in cases of a final criminal conviction, pending criminal proceedings or outstanding liabilities or where this would be against national security.

## **VII. Conduct of Law-Enforcement Officials**

131. In its second report, ECRI made recommendations concerning (a) the setting up of an independent mechanism for dealing with complaints of police misconduct (b) the investigation of any allegations of discrimination in the police force against Yezidis and other vulnerable groups and (c) a diversified police force.

132. ECRI notes that no independent mechanism has been set up. The Special Investigation Service deals only with criminal complaints, while the internal procedures of the police would not, in ECRI's view, qualify as independent. The establishment of an independent mechanism is particularly important for ECRI since there are complaints about the way in which the police interact with religious minorities.

133. ECRI notes that detailed data on the ethnic composition of the police force are collected. It encourages the authorities to continue monitoring the situation to ensure that ethnic minorities are adequately represented.

134. ECRI recommends again that an independent mechanism for dealing with complaints against the police be set up. This would deal, *inter alia*, with issues of racial discrimination, as this concept is understood in ECRI's General Policy Recommendation No. 7.

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<sup>65</sup> Mostly, former refugees. ECRI has been informed that naturalisation is easier for ethnic than for non-ethnic Armenians.

## VIII. Monitoring Racism and Racial Discrimination

135. In its second report, ECRI recommended the setting up of a system of ethnic-data collection.
136. According to the authorities, all statistical data is disaggregated according to ethnic origin. However, the only ethnic data that ECRI has been provided with concern (a) numbers living in cities or the countryside (b) births and deaths and (c) immigration and emigration. In ECRI's view, this should be supplemented by data on the performance of the members of each ethnic minority and non-citizens in a number of key areas, such as education, employment, health and housing .
137. ECRI recommends again that the authorities systematically collect disaggregated ethnic data in accordance with the principles of anonymity, informed consent and voluntary self-identification. In this connection, ECRI refers to its General Policy Recommendation No. 1 on combating racism, xenophobia, antisemitism and intolerance.

## IX. Education

138. In its second report, ECRI issued recommendations for (a) initial and on-going training on how to provide education concerning racism and racial discrimination (b) teaching history and other subjects in a comprehensive and inclusive manner and (c) taking the diversity of the pupils into account in the compulsory component of the school curriculum.
139. ECRI has addressed the last issue earlier on in this report.
140. According to the authorities, minority issues are addressed at secondary school as part of the social science and history courses (including the Armenian Church history course). Moreover, the Ministry of Education and Science has produced two teachers' manuals, one on tolerance and one on peace and peaceful resolution of conflicts at school. Training has been or will be organised in this connection.
141. ECRI encourages the authorities to pursue these efforts. It is particularly important in ECRI's view for young children to be reminded that religious tolerance need not conflict with a sense of national identity. For example, pupils need to understand that, despite the strong historical links between the Armenian nation and the Armenian Apostolic Church, one can be an ethnic Armenian without necessarily belonging to the latter<sup>66</sup>. This would be an important step towards reducing some of the current tensions surrounding the activities of new religious movements.
142. ECRI recommends again an inclusive approach to questions of identity in the teaching of history and related matters.

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<sup>66</sup> Armenian Catholics are a historical example.



## **INTERIM FOLLOW-UP RECOMMENDATIONS**

The three specific recommendations for which ECRI requests priority implementation from the authorities of Armenia, are the following:

- ECRI recommends that the length of alternative service – civilian and military- be immediately reduced by six months.
- ECRI recommends that the current system whereby the grant put at the disposal of the Co-ordination Council of Ethnic Minorities is distributed in equal shares independently of each minority's size be abandoned. It should be replaced by a system whereby the grant is distributed according to each ethnic minority's real needs.
- ECRI recommends that the authorities ensure that no refugee families live in non-renovated accommodation in the Nor-Nork centre.

A process of interim follow-up for these three recommendations will be conducted by ECRI no later than two years following the publication of this report.



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## **APPENDIX: GOVERNMENT'S VIEWPOINT**

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

ECRI, in accordance with its country-by-country procedure, engaged into confidential dialogue with the authorities of Armenia on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version (which, in line with ECRI's standard practice, could only take into account developments up until 24 June 2010, date of the examination of the first draft).

The authorities also requested that the following viewpoint be reproduced as an appendix to the report.



**Observations by the Republic of Armenia in respect of third report  
by the European Commission against racism and Intolerance (ECRI)  
on Armenia**

ECRI's 3 <sup>rd</sup> report	Comments
<p><u>page 7</u>, “There is no comprehensive civil and administrative legislation against racial discrimination and no provisions in the Criminal Code prohibiting organizations that promote racism.”</p> <p><u>paragraph 20</u>: Article 226 of the Criminal Code on “actions aimed at the incitement of national, racial or religious hatred, at racial superiority or humiliation of national dignity” provides for a stricter penalty when these are committed by an organised group<sup>67</sup>. ECRI is not aware of any court decisions applying this provision to any of the following intentional acts: creation or leadership of a group that promotes racism; support for such a group; or participation in its activities with the intention of contributing to the offences covered by paragraph 18 a), b), c), d), e) and f) of its General Policy Recommendation No. 7. ECRI considers that it would contribute to legal clarity if the criminal law of Armenia provided expressly for the punishment of the above acts.</p> <p><u>paragraph 25</u>: ECRI recommends again that the authorities draft comprehensive civil and administrative legislation against racial discrimination drawing inspiration from its general Policy Recommendation No.7</p> <p><u>paragraph 27</u>: ECRI recommends that the authorities collect reliable data on civil and administrative law actions on racial discrimination, as this concept is understood in its General Policy Recommendation No.7.</p>	<p>The statement is factually incorrect. Firstly, the issue of racial discrimination is covered comprehensively in the Armenian legislation as all forms of discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or other personal or social circumstances are prohibited by the Constitution of the Republic of Armenia, is criminalized by the Criminal Code and forbidden under the Civil and Labor Codes. The articles covering the area are presented in detail in Annex 1 to the present document.</p> <p>Secondly, the provisions of the Criminal Code are applicable to all, irrespective of the fact whether an action is carried out by an individual or an organization, as the criminal offence is dealt with on its merits. Moreover, the Law on Non-Governmental Organizations further details the liquidation of an organization on the grounds of incitement to racial hostility. According to the latter, in case the activity of an organization is aimed at incitement to racial hostility, the state authorized body may lodge a claim before the court to liquidate the organization, as well as according to Article 3 of the Law of the Republic of Armenia on Political Parties which stipulates that a union may not be recognized as a party if its Charter allows membership exclusively on professional, national, racial, or religious characteristics.</p>

ECRI's 3 <sup>rd</sup> report	Comments
<p><u>page 7</u>: “No independent mechanism for dealing with complaints against the police has been created.”</p> <p><u>paragraph 134</u>. ECRI recommends again that an independent mechanism for dealing with complaints against the police be set up. This would deal, inter alia, with issues of racial discrimination, as this concept is understood in ECRI’s General Policy recommendation No.7</p>	<p>The statement is factually incorrect as any complaint against Police that relates to a criminally punishable act is dealt with by the Special Investigative Service, an independent body established in Armenia in 2008. Any act of a non-punitive nature is considered through an internal investigation procedures within the Police.</p>
<p><u>page 7</u>: “There are no statistics on offences motivated by religious hatred and civil- and administrative law actions for racial discrimination.”</p> <p><u>paragraph 15</u>. ECRI recommends that the authorities set up a system that will enable them to monitor the situation concerning all offences motivated by racial hatred, as this concept is understood in its General Policy Recommendation No. 7.</p>	<p>The statement is factually incorrect: it’s not a matter of no statistics but rather lack of such crimes that would allow for any numbers to be registered. All criminal activity in the country is registered and categorized accordingly, including type of the offence and the ethnic origin of persons involved.</p> <p>The system of criminal statistics already exists, and it includes also information about offences motivated by racial hatred. The situation is well monitored.</p>
<p><u>page 7</u>: “Nor is there a system for the collection of ethnic data in general.”</p>	<p>The statement is incorrect as all statistical data collected in Armenia is disaggregated according to the ethnic origin of the individuals in all categories. All the statistical data is available online on the website of the National Statistical Service of Armenia.</p>
<p><u>page 7</u>: “The National Security Service monitors ordinary religious activity.”</p>	<p>The statement is inaccurate as the National Security Service is not carrying any monitoring functions over the ordinary activity of any organization. Yet it is enshrined with the responsibilities to be alert on any activity of any organization that would pose threat to the security and safety of the population of Armenia. The allegations presented in the text are unfounded and based solely on personal assessment of a single incident.</p>

ECRI's <sup>3rd</sup> report	Comments
<p><i>page 7:</i> “A fair system is required for the distribution of grants to ethnic-minority organizations.”</p> <p><i>paragraph 69.</i> ECRI recommends that the current system whereby the grant put at the disposal of the Co-ordination Council of Ethnic Minorities is distributed in equal shares independently of each minority’s size be abandoned and replaced by a system whereby the grant is distributed according to each ethnic minority’s real needs.</p>	<p>The system of the grant distribution was not designed by the Government of Armenia, but agreed upon by all representatives of the national minorities themselves in the Coordinating Council of National Minorities based on the principle of equal treatment of all national minorities residing in Armenia. Any change to this system should be put forward and agreed upon by the national minorities themselves. So far, the latter have shown no interest in introducing any changes to the structure agreed upon between them as that would give rise to undue conflicting situations. The Government of Armenia would be guided by the decision of the Coordinating Council on the matter that would enjoy the support of all the national minorities.</p>
<p><i>page 7:</i> “So are the measures to promote ethnic-minority secondary-school graduates’ access to higher education.”</p> <p><i>paragraph 75.</i> ECRI recommends that a law be adopted on facilitating access to higher education for ethnic-minority secondary-school graduates.</p>	<p>The concern raised does not require legislative action as is it already settled through the provisions of the Law on Education and the Order of the Minister of Education and Science of the Republic of Armenia.</p> <p>The applicants belonging to national minorities of the Republic of Armenia are admitted to higher educational establishments on equal basis, as well as based on requests submitted by the heads of national minority communities.</p> <p>The issue of admission of applicants upon request submitted by the heads of national minorities in a letter, is discussed during the sessions of the Republican Admission Commission set up upon the Order of the Minister of Education and Science of the Republic of Armenia. Applicants of national minorities who had passed the exams with positive scores are admitted to relevant higher educational establishments with the major they applied for upon the decision by the Republican Admission Commission.</p> <p>The applicants belonging to national minorities which were admitted on equal basis to state higher educational establishments benefit from all the privileges established by the Law of the Republic of Armenia “On Education,” including participation in the rotation process in the higher educational institution, benefit from the right of tuition waiver in the prescribed manner, are provided with state scholarships, participate in inter- and intra-institutional exchanges - according to their preferences and in the manner established, participate in the admissions for graduate studies, etc.</p>

ECRI's 3 <sup>rd</sup> report	Comments
<p><u>paragraph 12.</u> ECRI recommends that the length of alternative service - civilian and military - be immediately reduced by six months.</p>	<p>It should be noted that there are no accepted international standards regarding either mandatory introduction of alternative service or its length. The length has to be commensurate with that of the military service as the latter entails 16-hour a day service in the army. Hence, Article 5 of the Law on Alternative service providing that “the length of alternative military service is 36 months and length of alternative civilian service is 42 months,” is in full compliance with the Armenian Labor regulations providing for no more than 8-hour work-day and 40-hour work limitation for a week.</p> <p>However the Ministry of Defense of the Republic of Armenia has expressed its readiness to discuss the possibility of reducing the length of the service to an acceptable limit.</p>
<p><u>paragraph 19:</u> ECRI recommends that complaints brought under the hate-crime provisions should be investigated by the police as opposed to the National Security Service.</p>	<p>The information is inaccurate.</p> <p>Such complaints are always investigated by the Police.</p>
<p><u>paragraph 21.</u> ECRI recommends that the following acts be expressly criminalised, when committed intentionally: (a) the creation or leadership of a group that promotes racism (b) support for such a group and (c) participation in its activities with the intention of contributing to a series of offences enumerated in General Policy Recommendation No. 7.</p>	<p>The issue is already dealt with in the Criminal Code. According to Article 226 (1) of the Criminal Code, actions aimed at incitement to national, racial or religious hatred or hostilities, at manifestation of racial superiority or at humiliation of national dignity are qualified as crime and are punished by a fine in the amount of two to five hundred fold of the minimum wage or by maximum of two years of correctional labor, or by 2-4 years of imprisonment.</p> <p>See also response to paragraphs 20, 25 and 27.</p>
<p><u>paragraph 32.</u> ECRI recommends again that the Human Rights Defender's office be allocated sufficient resources to enable it to assist victims of racism and racial discrimination effectively.</p>	<p>There is a regular increase of Ombudsman's office budget. In 2009 AMD 136.1mln have been allocated to the Ombudsman's office, which in comparison to the 2008 budget has constituted a 6.8 percent increase.</p>

ECRI's <sup>3rd</sup> report	Comments
<p><u>paragraph 37.</u> ECRI recommends again that members of the judiciary, law-enforcement authorities and lawyers receive specific training on domestic and international norms against racism, racial discrimination and related intolerance.</p>	<p>Regular trainings are conducted for members of the judiciary, law-enforcement authorities and lawyers. Human rights education, as well as promotion of human rights in different spheres including combating racism and intolerance, are integral part of the curriculum at the Police Academy and Judicial School where in-service training for police officers and judges is provided aside from targeted trainings organized for different groups of officials on specific topics. The trainings at the Judicial School are mandatory for judges as envisaged in the Judicial Code of Armenia. The Judicial Institute of the Ministry of Justice provides in-service training for the officers at the detention facilities and bailiffs, and one-third of all the personnel undergoes such training annually.</p>
<p><u>paragraph 57.</u> As regards ethnic slurs, ECRI has been informed of a derogatory term in Armenian which used to describe a group of persons with Roma origin and a nomadic lifestyle. The descendants of this group's members have largely assimilated; they speak Armenian, are followers of the Armenian Apostolic Church and have no special customs or traditions. However, quite often their neighbors are aware of their past. These persons feel deeply offended when the term in question is used by third parties to designate them.</p> <p><u>paragraph 58.</u> ECRI recommends that the authorities consider how best to combat the use of the above-mentioned ethnic slur, without stigmatizing any individual descendants of the nomadic group with which it was originally associated.</p>	<p>There are specific names of different professions, people, characters etc. that have entered the Armenian language as adjectives throughout the history and are being used without any actual reference to any particular national or ethnic group. This is a common trend of all languages existing in the world and can in no way be considered as an ethnic slur.</p>
<p><u>paragraph 68.</u> As regards financial support to ethnic minorities, ECRI notes that a grant amounting to 9,000,000 AMD is put at the disposal of the Co-ordination Council of Ethnic Minorities every year for distribution to representative organisations.</p>	<p>The grant amount allocated by the Government of Armenia is AMD 10mln from which AMD 1mln is allocated, upon the decision of the Coordinating Council of the National Minorities, to joint activities carried out by the national minority communities.</p>
<p><u>footnote 54.</u> Several of these cases have been lost.</p>	<p>It should be noted that these cases have been lost because the changes in the law on custom duties apply to all literature being imported to Armenia rather than only those being imported by specific religious groups.</p>

