

COMMENTAIRES DU GOUVERNEMENT CONCERNANT LE RAPPORT SUR L'ARMÉNIE

ANNEXE : POINT DE VUE DU GOUVERNEMENT

L'annexe qui suit ne fait pas partie de l'analyse et des propositions de l'ECRI concernant la situation en Arménie.

Conformément à la procédure pays-par-pays, l'ECRI a ouvert un dialogue confidentiel avec les autorités de l'Arménie sur une première version du rapport. Un certain nombre des remarques des autorités ont été prises en compte et ont été intégrées à la version finale du rapport (qui selon la pratique habituelle de l'ECRI ne pouvait tenir compte que de développements jusqu'au 24 juin 2010, date de l'examen de la première version).

Les autorités ont demandé à ce que le point de vue suivant soit reproduit en annexe du rapport de l'ECRI.

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

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<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 group¹. 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>

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<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>

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<p><u>page 7</u>: “A fair system is required for the distribution of grants to ethnic-minority organizations.”</p> <p><u>paragraph 69</u>. 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>

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<p><u>page 7</u>: “So are the measures to promote ethnic-minority secondary-school graduates’ access to higher education.”</p> <p><u>paragraph 75</u>. 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>

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<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>

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<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>
<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>

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<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>