

**Comments of the authorities of the Republic of Armenia
on the Report of the Conference of INGOs of the Council of Europe
“Civil participation in the decision-making process: fact finding visit to Armenia”**

The Armenian authorities thank the Conference of INGOs for the report made on the basis of the fact-finding visit to Armenia. The authorities would like to comment on several factual errors, but also inaccuracies and misleading information contained in the report.

***Page 4, paragraph 2:** “Currently in Armenia only NGOs working in the field of ecology have amicus curiae but the Ministry of Justice hopes to enlarge the mandate to allow other NGOs to bring a case to court. The delegation was informed about the ongoing discussions to extend this right and give “amicus curiae” to NGOs in the framework of the draft law on disabilities.”*

Comment: Within the framework of drafting of the law of the Republic of Armenia “*On the Rights of Persons with Disabilities*” it is envisaged to make amendments to the Code of Administrative Legal Proceedings of the Republic of Armenia, according to which an NGO represents the legal interests of its beneficiaries in court also in the field of protection of the rights of persons with disabilities. Particularly:

1. An NGO may file a lawsuit on issues arising from the field of protection of the rights of persons with disabilities, if it is considered an organization representing persons with disabilities (its charter defines protection of the rights of persons with disabilities as a goal, the vast majority of its members are persons with disabilities) and has been active in the field of protection of the rights of persons with disabilities for at least two years prior to filing a lawsuit.
2. An NGO representing persons with disabilities may file a lawsuit on issues arising from the field of protection of the rights of persons with disabilities in the following cases:
 - 1) the right of groups of persons with disabilities to be protected from discrimination on the grounds of disability has been violated;
 - 2) the right of a person with disability to be protected from discrimination has been violated and who, due to his/her health condition or other circumstances, cannot personally present his/her rights and legal interests in court.

***Page 5, paragraph 3:** “All legal entities in Armenia must be registered with the State Registry Agency, according to the Law on State Registration of Legal Entities. The Agency must register an organisation within **ten working days**, and this rule is generally respected in practice.”*

Comment: The paragraph contains a factual error: in accordance with Point 2 of Article 35 of the Law “*On State Registration of Legal Persons, State Record-Registration of Separated Subdivisions, Institutions of Legal Persons and Individual Entrepreneurs*” the State Registry Agency should process the registration of the entity not later than within **two working days** after submission to the Agency of all necessary documents.

Page 5, paragraph 3: *“However, the interpretation by the State Registry Agency of the reasons for rejection prescribed by the law can differ and this leads to inconsistency. According to local experts, initial rejections due to minor omissions or mistakes are more frequent in State Registry offices outside Yerevan.”*

Comment: The circumstances of a rejection of state registration is clearly defined by Article 21 of the Law on State Registration of Legal Persons. No inconsistency has been observed in its application.

Page 6, paragraph 2: *“According to some NGOs, state officials, prosecutor and law enforcement agencies often fail to implement the laws because of the stigmatisation of NGOs.”*

Comment: We regret the inclusion of this unjustified and unsubstantiated statement in the report.

Page 10, paragraph 5: *“The Republic of Armenia Law on Legal Acts (2002) for the government or legislators obliges these bodies to hold public consultations with civil society, expert bodies, or other stakeholders, with a view to assessing public opinion, to seek alternative proposals, and to evaluate the risks and financial costs of the proposed initiative.”*

Comment: The legislation quoted in the text was repealed in 2018. The new Law “On Normative Legal Acts” was adopted by the Parliament of Armenia on 21 March 2018 and entered into force on 7 April 2018. The new legislation contains similar regulations.

Page 12, paragraph 3: *“As the assessment of public participation made in 2014 by OSCE/ODIHR shows, “the public participation in the law-making process in Armenia is a “growing but ineffective” process.”*

Comment: We must admit that the inclusion of an outdated information of 2014 is quite odd. The political developments and the number of reforms implemented since have affected dramatically the public participation index in Armenia.

Page 12, paragraph 3: *“The ministries publish draft laws on the official website for public consultations (www.e-draft.am), but the suggestions are not usually taken into serious consideration”. Even in cases where inputs have been taken in consideration, NGOs are not made aware of this, have no way of checking and have no feedback. Without responsiveness there is no dialogue.”*

Comment: In accordance with the Law “On Normative Legal Acts” (Article 4), as well as the Government Decision on “The Order of Organizing and Holding Public Discussions” (Points 20-21) the state body is obliged to provide detailed answers to all suggestions received and to submit them to the Government along with the draft, as well as to publish it on the unified e-draft.am portal. The process is fully transparent and engaging.

Page 13, paragraph 5: *“The Law on Normative Legal Acts stipulates mandatory public consultations on draft legal acts both at the local and national level. The duration of public discussions is at least 15 days, and all drafts are published on the unified government website (www.e-draft.am), where anyone can provide feedback through submission of opinions, recommendations or amendments, as well as vote in favour or against the proposed text. **However, this period does not always seem to be respected.** CSOs noted that sometimes they have a very short period to submit their proposals on the draft policy documents and that as the period is not flexible, their proposals arrive too late and are therefore not accepted.”*

Comment: The minimum period of 15 days is prescribed by the law and is **strictly respected**.

Page 14, paragraph 1: *“Based on the analysis and the summary of the received proposals, the body carrying out the public consultation makes the necessary adjustments to the draft. **However, there is no guarantee that the work already done will be accepted by the government or parliament which can change the draft in its entirety.**”*

Comment: Please see the comment in respect of **“Page 12, paragraph 3”** above.

Page 15, paragraph 4: *“The selected NGOs must have the necessary expertise on the specific issues. **However, the Ministry of Justice did not provide sufficient information regarding the selection criteria.**”*

Comment: The selection criteria is clearly envisaged by the [National Strategy for Human Rights Protection](#) (Section VI).

Page 15, footnote 23: *“Approved by the Cabinet in March 2020. <https://news.am/enq/news/540871.html>.”*

Comment: The link provides information about only one among many of public consultations held, the *Strategy* and its *Action Plan* were approved by the Decision of the Government on December 26, 2019.

Page 17, paragraph 3: *“The RA Constitution provides that everyone shall be equal before the law. The Constitution, amended in 2015 in its **Art. 14.1** prohibits discrimination on the grounds of gender, race, skin colour and other social characteristics.”*

Comment: The provisions mentioned in the paragraph are contained in Articles 28 and 29 of the Constitution and not Article 14.

Page 19, paragraph 1: *“The draft Law “On Ensuring Equality before the Law” has some controversial points according to several NGOs. **The equality policy in Armenia was developed by previous governments. Today Armenia need a strong anti-discrimination policy.**”*

Comment: The equality policy of the Government of Armenia is enshrined in the program of the Government for the years of 2019-2023.

Page 19, paragraph 5: *“The Deputy Minister of Justice informed the delegation that **hate speech was finally regulated under the Criminal Code.** The latter was amended by a new provision that holds an individual accountable of his/her public “calls of violence, threatening the life or health of persons, publicly justifying violence threatening persons’ life or health or advocating such violence.”*

Comment: As the remainder of the paragraph explains, the amendments to Criminal Code relate to the public calls of violence (Article 226.2). The efforts aimed at defining liability for hate speech in accordance with Point 42 of the *Human Rights Action Plan* are ongoing.

Page 19, paragraph 6: *“According to NGOs, hate speech is not commonly defined and regulated by Armenian law. **Article 397 of the Criminal Code** additionally provides criminal liability for denial, mitigation, approval or justification of genocide and other crimes against peace and humanity on the grounds of race, skin colour, national or ethnic origin and religious belief.”*

Comment: The text should refer to Article 397.1 of the Criminal Code.

Page 19, Footnote 31: *“Armenia’s Justice Ministry seeks to criminalize hate speech <https://www.panorama.am/en/news/2019/08/14/Justice-Ministry-hate-speech/2153118> “*

Comment: This hyperlink refers to the draft law. The Law “*On making supplements to the Criminal Code*” was adopted on 15 April 2020.

Page 20, paragraph 5: *“**Law-enforcement bodies deny LGBTI victims to register themselves as victims,** which leads to further discrimination and utter ineffectiveness of investigation and punishment.”*

Comment: In Armenia, all persons are equal before the law, and protected from discrimination by the Constitution of the Republic. While it is possible that few incidents of the sorts could have occurred in the past, such a generalisation is not acceptable to the Armenian authorities.

Page 22, paragraph 2: *“In 2017, the Republic of Armenia adopted the Law on Domestic Violence. According to several interlocutors this law is not fully implemented. According to some CSOs, the law was adopted under the pressure of the European Union which requires such a law and policy under the specific grant agreement. In addition, several provisions of this law are seen by specialised NGOs as a kind of determination to “save the couple” rather than first and foremost protecting the victim.”*

Comment: The law adopted in December 2017 entered into force in January 2018, but the deadlines for implementation of several provisions were postponed from three months to a year due to the need to develop related legal acts ensuring implementation of the law and organization of the support procedures.

One of the important issues that required additional time was the establishment of support centres and shelters. In 2020 support centres have been operating in all provinces of the country, and two shelters were established in Yerevan alone. The services are provided by non-governmental organizations, while programs are implemented by co-financing at the expense of the state budget and the organization. All specialists have been trained and the trainings will be continuous, with the second round of trainings commencing this autumn.

The Ministry of Labour and Social Affairs is in the process of drafting the *2021-2023 Action Plan on the Fight against Violence* with the involvement of all stakeholders of public administration system. Moreover, amendments to the Law on Domestic Violence are also in the works. The relevant drafts will be posted in due time on the e-draft platform for public discussion.

Page 22 Footnote 41: *“The law requires that the victim goes to the police which in the context of violence is already very difficult for the victim. In the case of a first offence, the offender receives an official rebuke and only in the case of a second offence, can the offender be expelled from the home for 20 days. The court intervenes late in the proceedings with the possible proposal of professional mediation.”*

Comment: The police intervenes after receiving relevant notification from any source, be it the victim or anybody else.

Page 30, paragraph 3: *Moreover, the timeframe (15 days) for public consultation of legislative acts is short and public discussions are mostly limited to a number of selected NGOs who are invited by the body organising the debate and not open to all on the basis of objective criteria.*

Comment 1: Minimum 15 days.

Comment 2: Public hearings, discussions are open to all stakeholders.