

# *Council of Europe contribution for the 35<sup>th</sup> UPR session (Jan-Feb 2020) regarding Armenia*

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## Prevention of torture (CPT)

The 'European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment' organises country visits in order to visit places of detention to assess how persons deprived of their liberty are treated. After each visit, the CPT sends a detailed report to the State concerned. This report includes the CPT's findings, and its recommendations, comments and requests for information.

Report (including the executive summary) on the 2015 visit to Armenia:



CPT\_Inf\_2016\_31\_Armenia.pdf

Government's response



CPT\_inf\_2016\_2\_Armenia\_Gov\_resp.pdf

The CPT will carry out the next periodic visit to Armenia by the end of 2019.

## Council of Europe Commissioner for Human Rights

The Commissioner for Human Rights is an independent and impartial non-judicial institution established by Council of Europe to promote awareness of and respect for human rights in the 47 Council of Europe member States.

The Commissioner visited Armenia from 16 to 20 September 2018, focusing on women's rights, gender equality and domestic violence; the human rights of certain disadvantaged and vulnerable groups, such as persons with disabilities, children, older persons and LGBTI people; and questions of accountability for past human rights violations. In January 2019, the Commissioner published a [report](#) on her visit, to which the Armenian authorities provided [comments](#).



CommDH\_2019\_1\_Armenia.pdf



CoomDH\_Comments\_Armenia.pdf

In her report, the Commissioner urged the authorities to ensure full and effective representation of **women** in public decision-making as well as **equal pay and equal access** to the labour market, to counter persisting **discriminatory gender stereotypes**, to foster a gender-equal education environment, and to promote role models and champions of women's equality. Addressing the issue of **domestic violence**, the Commissioner welcomed the recent legislative changes and the signature by Armenia of the **Istanbul Convention**, and recommended that Armenia ratify the Convention while ensuring that the new domestic legislation is effectively applied in practice, particularly by increasing

the **availability of shelters** for victims of domestic violence and ensuring access to education for children staying in such shelters.

Welcoming Armenia's efforts towards the deinstitutionalisation of **persons with disabilities** and the commitment to make all education inclusive for children with disabilities by 2025, the Commissioner recommended that special attention be given to **making education inclusive** at the pre-school level, and to pursuing deinstitutionalisation equally for children with and without disabilities. She also called on Armenia to put an **end to plenary guardianship** for persons with psychosocial disabilities and to introduce a regime for **supported decision-making**. On **children's rights**, the Commissioner recommended that Armenia strengthen its efforts to combat **child poverty**. Particularly concerned by the **placement in state care of children** whose parents face socio-economic difficulties, she encouraged the authorities to allocate sufficient support to parents resuming care over their children and to continue in parallel to promote **foster care**, including for children with disabilities. She also recommended that Armenia improve its legislation protecting all children against **sexual exploitation and sexual abuse**, specifically by ratifying the Lanzarote Convention. To address the inadequate level of social protection of **older persons** in Armenia, the Commissioner recommended **raising old-age pensions**, increasing the availability of health care at home or in the community, and tackling the shortage of professionals specialised in geriatric care. She also recommended the prompt adoption of a **comprehensive anti-discrimination** law that includes sexual orientation and gender identity among the prohibited grounds for discrimination, and urged the government to take prompt and resolute action against all instances of **violence, hate speech and hate crime targeting LGBTI persons**. Moreover, she urged parliamentarians to unequivocally reject any legislative proposals that may infringe on the rights of LGBTI persons or stoke anti-LGBTI sentiments.

Regarding **accountability for past human rights violations**, the Commissioner welcomed the steps taken to establish responsibility for the ten deaths that occurred during the violent events of March 2008 but stressed the importance of carrying out the process in full respect of the rule of law, judicial independence and the presumption of innocence. She also urged politicians and opinion leaders to exercise special care to avoid using polarising, stigmatising or inflammatory language in their public discourse.

In September 2018, the Commissioner delivered a [\*keynote speech\*](#) "*Upholding the human rights of persons with disabilities in Armenia*" at the closing conference "Social Rights of Persons with Disabilities" organised in Yerevan. In her speech, the Commissioner praised Armenia's solid legal framework on **disability rights** but encouraged the Armenian authorities to take on further international commitments in that area. She also spoke about Armenia's **regime for legal incapacitation**, the policy aiming at **de-institutionalisation** and the government's goal of **inclusive education** for all children with disabilities.

The Commissioner visited Armenia from 5 to 9 October 2014. The visit dealt with the following issues: administration of justice and the protection of human rights in the justice system; and women's rights and gender equality. The Commissioner's [\*report\*](#) following his visit was published in March 2015. The government of Armenia provided [\*comments\*](#) on the report.



CommDH\_2015\_2\_A  
rmenia.pdf



The Commissioner invited the authorities to conduct an on-going review of the implementation of the **National Human Rights Action Plan** for 2014-2016, which he welcomed. In relation to **the justice sector**, he emphasised that every effort should be made to enhance its impartiality, independence and effectiveness, and recommended reviewing the procedures for the selection, appointment, promotion and dismissal of judges in order to better ensure the independence of the judiciary from the executive. The Commissioner expressed concern about the **reported interference by senior judicial instances in the work of lower-court judges** and the alleged use of **disciplinary proceedings** as an instrument of influence or retaliation. Expressing concern about the **frequent use of pretrial detention**, he urged the authorities to enable the effective use of non-custodial preventive measures. In view of the persisting reports of **torture and ill-treatment by the police and other law enforcement** bodies and the related problem of **impunity**, the Commissioner recommended amending the **definition of torture** in the Criminal Code and the strengthening of safeguards in law and in practice. He regretted that the **investigation into the ten deaths** that occurred during the **March 2008 events** had not yet yielded results.

While commending the Armenian authorities for effectively addressing the long-standing issue of the right to **conscientious objection**, the Commissioner called upon them to tackle the problem of **non-combat violence in the army** through effective investigations with the involvement of the victims' families with a view to fostering public trust.

The Commissioner recommended further efforts to ensure the **equal status of women** in society and to combat **discrimination and bias on the grounds of sex**, including the adoption of a comprehensive anti-discrimination law. He called upon the Armenian authorities to take concrete measures towards **empowering women** and increasing their participation in public and political life, as well as to ensure that the education system is free of gender bias and stereotypes. The Commissioner called on political and community leaders to send an unequivocal message that **violence against women** can never be acceptable, and on the authorities to adopt specific legislation **against domestic violence** and to **ratify the Istanbul Convention**. He also called on the authorities to protect human rights organisations and defenders working in the field of women's rights.

### ***Fight against racism and intolerance (ECRI)***

*The European Commission against Racism and Intolerance (ECRI) is a human rights body of the Council of Europe, composed of independent experts, which monitors problems of racism, xenophobia, antisemitism, intolerance and discrimination on grounds such as "race", national/ethnic origin, colour, citizenship, religion and language. It prepares reports and issues recommendations to member States, in which its findings, along with recommendations are published. These reports are drawn up after a contact visit to the country in question and a confidential dialogue with the national authorities. The country monitoring takes place in five-year cycles. As part of the fourth round of ECRI's monitoring work, a new process of interim follow-up has been introduced with respect to a small number of specific recommendations made in each of ECRI's country reports.*

Fourth report on Armenia (adopted on 28 June 2016 / published on 4 October 2016):



ECRI\_2016\_37\_Armenia.pdf



ECRI\_Armenia\_Gov.pdf

## Protection of minorities

### Framework Convention for the Protection of National Minorities

*The monitoring procedure for this convention requires each state party to submit a report within one year following the entry into force of the Framework Convention and additional reports every five subsequent years. State reports are examined by the [Advisory Committee](#), a body composed of 18 independent experts responsible for adopting country-specific opinions. These opinions, on which States Parties have an opportunity to comment, are meant to advise the Committee of Ministers in the preparation of its resolutions, containing conclusions and recommendations to the State concerned.*

The Advisory Committee on the Framework Convention adopted the 4th Opinion in respect of Armenia on 26 May 2016.



ACFC\_OP\_IV\_2016\_Armenia.pdf

Resolution CM/ResCMN(2018)5 on the implementation of the Framework Convention for the Protection on National Minorities by Armenia was adopted by the Committee of Ministers on 2 May 2018 at the 1315<sup>th</sup> meeting of the Ministers' Deputies



FCNM\_Resolution\_\_2018\_5\_Armenia.pdf

### European Charter for Regional or Minority Languages

*The [Charter's monitoring procedure](#) is based on state reports, as each State Party is required to present its first report within the year following the entry into force of the Charter with respect to the Party concerned. The subsequent reports are presented at three-yearly intervals. A committee of independent experts examines the state's periodical report and addresses an evaluation report to the Committee of Ministers, including proposals for recommendations.*

The European Charter for Regional or Minority Languages entered into force in Armenia in 2002. The authorities submitted their 4th periodical report in September 2015 and the 5<sup>th</sup> periodical report in June 2019.



MIN\_LANG\_2014\_PR\_4\_Armenia.pdf



MIN\_LANG\_2019\_PR\_5\_Armenia.pdf

The Committee of Experts adopted its evaluation report on Armenia in November 2016 and the corresponding Committee of Ministers' recommendations were adopted in May 2017.



CM(2017)49E\_Armenia.pdf



Rec\_2017\_2\_RecChL\_Armenia.pdf

### **Action against trafficking in human beings (GRETA)**

*The Council of Europe Convention on Action against Trafficking in Human Beings was adopted by the Committee of Ministers of the Council of Europe on 3 May 2005, following a series of other initiatives by the Council of Europe in the field of combating trafficking in human beings. The Convention entered into force on 1 February 2008, following its 10th ratification. While building on existing international instruments, the Convention goes beyond the minimum standards agreed upon in them and strengthens the protection afforded to victims.*

*The Convention has a comprehensive scope of application, encompassing all forms of trafficking (whether national or transnational, linked or not linked to organised crime) and taking in all persons who are victims of trafficking (women, men or children). The forms of exploitation covered by the Convention are, at a minimum, sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs.*

*The main added value of the Convention is its human rights perspective and focus on victim protection. Its Preamble defines trafficking in human beings as a violation of human rights and an offence to the dignity and integrity of the human being. The Convention provides for a series of rights for victims of trafficking, in particular the right to be identified as a victim, to be protected and assisted, to be given a recovery and reflection period of at least 30 days, to be granted a renewable residence permit, and to receive compensation for the damages suffered.*

*Another important added value of the Convention is the monitoring system set up to supervise the implementation of the obligations contained in it, which consists of two pillars: the Group of Experts on Action against Trafficking in Human Beings (GRETA) and the Committee of the Parties.*

*The Convention is not restricted to Council of Europe member states; non-members states and the European Union also have the possibility of becoming Party to the Convention.*

GRETA evaluation report (2<sup>nd</sup> evaluation round):



GRETA\_2017\_1\_Armenia.pdf

Press release:



GRETA\_Armenia\_press.pdf

## **Preventing and combating violence against women and domestic violence (GREVIO)**

The Council of Europe Convention on preventing and combating violence against women and Domestic violence (**Istanbul Convention**, [CETS No. 210](#)) is the most far-reaching international treaty to tackle this serious violation of human rights. It aims at zero tolerance for such violence and is a major step forward in making Europe and beyond safer. Preventing violence, protecting victims and prosecuting the perpetrators are the cornerstones of the convention. It also seeks to change the hearts and minds of individuals by calling on all members of society, in particular men and boys, to change their attitudes. In essence, it is a renewed call for greater equality between women and men, because violence against women is deeply rooted in the inequality between women and men in society and is perpetuated by a culture of intolerance and denial.

The Council of Europe Istanbul Convention provides for two types of monitoring procedures:

1. a country-by-country evaluation procedure;
2. and a special inquiry procedure in exceptional cases where action is required to prevent a serious, massive or persistent pattern of any acts of violence covered by the Convention.

**GREVIO**, the Group of Experts on Action against violence against women and domestic violence, is the independent body responsible for monitoring the implementation of CETS No. 210. GREVIO launched its first evaluation procedure in spring 2016, after adopting a questionnaire on legislative and other measures giving effect to the Istanbul Convention.

The Convention is not restricted to Council of Europe member states; non-members states and the European Union also have the possibility of becoming Party to the Convention.

Armenia has signed but not yet ratified this convention.

## **Protection of children against sexual abuse (Lanzarote Convention)**

The Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse, also known as "**the Lanzarote Convention**", requires criminalisation of all kinds of sexual offences against children. It sets out that states in Europe and beyond shall adopt specific legislation and take measures to prevent sexual violence, to protect child victims and to prosecute perpetrators.

The "Lanzarote Committee" (i.e. the Committee of the Parties to the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse) is the body established to monitor whether Parties effectively implement the Lanzarote Convention. To do so, the Committee evaluates the information which has been provided by the national authorities and other sources in their replies to questionnaires developed by the Committee itself. This monitoring procedure is divided by rounds, each round concerning a theme; starting with sexual abuse in the circle of trust.

Armenia signed the Lanzarote Convention on 29 September 2010 but has not ratified yet (as of 30<sup>th</sup> June 2019).

## **Fight against corruption (GRECO)**

The 'Group of States against Corruption' (**GRECO**) monitors all its 49 members through a peer review evaluation procedure within thematic evaluation rounds. The evaluation reports contain recommendations aimed at furthering the necessary legislative, institutional and practical reforms. Subsequently, the implementation of

*those recommendations is examined in the framework of a “compliance procedure”, assessing whether they have been implemented satisfactorily, partly or have not been implemented 18 months after the adoption of the evaluation report.*

*Fourth Evaluation Round: “Corruption prevention in respect of members of parliament, judges and prosecutors”.*

The latest compliance report was published in December 2017:



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With respect to members of parliament, GRECO notes that progress has been achieved regarding the transparency of the legislative process in Parliament and measures to implement standards on incompatibilities. Further efforts are required to establish a code of conduct for the members of parliament and to strengthen the mechanism for monitoring members’ compliance with ethical norms and standards.

As far as judges are concerned, GRECO welcomes the constitutional amendments that reformed the judicial self-governance with the establishment of the Supreme Judicial Council. Furthermore, the immunities of judges have been limited to so-called “functional immunities”. Some progress has been achieved as regards the procedures for recruitment, promotion, dismissal and transfer of judges in that the Supreme Judicial Council has been given the key role. That said, more is expected to be done in relation to dedicated training and counselling of judges and with respect to safeguards against the use of disciplinary proceedings to influence or retaliate against judges. Effective rules against undue interference still have to be put in place. Regarding prosecutors, GRECO welcomes the adoption of the Law on Prosecutor’s Office; important steps to enhance the recruitment procedures of prosecutors and to strengthen the ethics committee of prosecutors have been made. More measures are necessary to introduce dedicated mandatory training and confidential counselling.

## ***Execution of judgments and decisions of the European Court of Human Rights***

### ***Statistical data***

At December 2018, there were 36 (30 cases at 31.12.2017) cases against Armenia pending before the Committee of Ministers (“CM”) for supervision of their execution. Among these cases, 13 cases were “leading cases” evidencing more or less important general problems (eleven leading cases at 31.12.2017).

In 2018, the CM was seized by two new leading cases (two new leading cases also in 2017) and the amount of just satisfaction awarded was € 195, 940 (€ 106,665 awarded in 2017). In 2018, nine cases (four cases closed in 2017) were closed by the adoption of a Final Resolution.



The main cases presently under the CM supervision cover notably the issues highlighted below. For fuller overview of the situation see the [Country factsheets](#) available on the website of the

Department for the Execution of Judgments of the European Court of Human Rights and in the Committee of Ministers' [Annual Reports](#) on its supervision activity. More detailed information on the status of execution in individual cases can be found through [HUDOC-EXEC](#) .



EJECHR\_Armenia\_Factsheet.pdf

### **Torture or loss of life and lack of effective investigations**

Virabyan group of cases, Application No. 40094/05, judgment final on 02/01/2013, enhanced supervision;

### **Ill-treatment in the armed forces**

Muradyan case, Application No. 11275/07, judgment final on 24/02/2017, enhanced supervision

Zalyan and Others group of cases, Application No. 36894/04, judgment final on 17/06/2016, standard supervision;

### **Various violations of Articles 3, 5, 6 and 11 of the Convention in the context of the dispersal by the authorities the opposition wide-scale protest against the outcome of 2008 presidential elections**

Mushegh Saghatelian group of cases, Application No. 23086/08, judgment final on 20/12/2018, enhanced supervision

### **Health-care in prisons**

Ashot Harutyunyan case, Application No. 34334/04, judgment final on 15/09/2010, enhanced supervision

### **Denial of access of six Azerbaijani refugees to their property in Lachin district and the lack of compensation for this**

Chiragov case, Application No. 13216/05, judgment final on 16/06/2015, enhanced supervision

### **Violation of the right to liberty and security (unlawful detentions)**

Poghosyan group of cases, Application No. 44068/07, judgment final on 20/03/2012, standard supervision

### **Violation of the right to a fair trial on account of unreasonable restriction to examine witnesses whose testimony played a decisive role in securing the applicants' conviction**

Gabrielyan group of cases, Application No. 8088/05, judgment final on 10/07/2012, standard supervision

## Social and Economic Rights (ECSR)

The European Committee of Social Rights (ECSR) monitors compliance with the [European Social Charter](#) under two procedures: the national periodic reporting system and the collective complaints procedure. Following a decision taken by the Committee of Ministers in 2006, the provisions of the Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years.



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## Venice Commission

The [European Commission for Democracy through Law](#) (Venice Commission) is the Council of Europe's advisory body on constitutional matters. It provides States and international organisations working with it (EU, OSCE/ODIHR) with legal advice in the form of opinions.

Since 2014 the Commission adopted several opinions on the constitutional reform of 2015 and the amendments of 2016 of the electoral code, as well as on the legislative texts concerning inter alia the human rights defender and the freedom of conscience, the judiciary, and political parties of **Armenia**.

## Constitutional reforms

### **CDL-AD(2015)038**

Second Opinion on the draft amendments to the Constitution (in particular to Chapters 8, 9, 11 to 16) of the Republic of Armenia



CDL-AD\_2015\_038\_Armenia.pdf

### **CDL-AD(2015)037**

First Opinion on the draft amendments to the Constitution (Chapters 1 to 7 and 10) of the Republic of Armenia



CDL-AD\_2015\_037\_Armenia.pdf

**CDL-AD(2014)027**

*Opinion on the draft concept paper on the constitutional reforms of the Republic of Armenia*



CDL\_AD\_2014\_027\_  
Armenia.pdf

***Democratic institutions and fundamental rights***

**CDL-AD(2016)033**

*Opinion on the draft constitutional law on the Human Rights Defender*



CDL-AD\_2016\_033\_  
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**CDL-AD(2018)002**

*Joint Opinion on the draft law amending the Law on Freedom of Conscience and on Religious Organisations*



CDL-AD\_2018\_002\_  
Armenia.pdf

**CDL-AD(2015)035**

*Joint Opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the draft amendments to the Law on the Human Rights Defender of the Republic of Armenia*



CDL-AD\_2015\_035\_  
Armenia.pdf

***Judiciary***

**CDL-AD(2017)019**

*Opinion on the draft Judicial Code*



CDL-AD\_2017\_019\_  
Armenia.pdf

**CDL-AD(2017)011**

*Opinion on the draft constitutional law on the Constitutional Court*



CDL-AD\_2017\_011-A  
rmenia.pdf

**CDL-AD(2014)021**

Opinion on the draft law on introducing amendments and addenda to the judicial code of Armenia (term of Office of Court Presidents)



CDL-AD\_2014\_021\_  
Armenia.pdf

**CDL-AD(2014)007**

Joint Opinion of the Venice Commission and the Directorate of Human Rights (DHR) of the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the draft law amending and supplementing the Judicial Code (evaluation system for judges) of Armenia



CDL-AD\_2014\_007\_  
Armenia.pdf

***Elections, referendums and political parties***

**CDL-AD(2017)029**

Joint Opinion on the draft law on referendum



CDL-AD\_2017\_029\_  
Armenia.pdf

**CDL-AD(2016)038**

Joint Opinion on the draft constitutional law on Political Parties



CDL-AD\_2016\_038\_  
Armenia.pdf

**CDL-AD(2016)031**

Second Joint Opinion on the Electoral Code (as amended on 30 June 2016)



CDL-AD\_2016\_031\_  
Armenia.pdf

**CDL-AD(2016)019**

Joint Opinion on the draft electoral code as of 18 April 2016



CDL-AD\_2016\_019\_  
Armenia.pdf