

OSCE/ODIHR Submission of Information about an OSCE Participating State or Partner for Co-operation under Consideration in the Universal Periodic Review Process

Participating State: Armenia

UPR Working Group Session and Date of Review: 35th Session, 01-02/2020

Background

1. Armenia has been a participating State in the former Conference on Security and Co-operation in Europe (CSCE) and the present Organization for Security and Co-operation in Europe (OSCE) since 1992 and 1994, respectively, and has thus undertaken and recently reaffirmed a wide range of political commitments in the human dimension of security, as outlined in relevant OSCE documents.¹

2. The OSCE Office for Democratic Institutions and Human Rights (ODIHR) has been mandated by OSCE participating States, including Armenia, to assist them in implementing their human dimension commitments. ODIHR assistance includes election observation and assistance activities as well as monitoring and providing assessments, advice and recommendations relating to the implementation of commitments in the fields of human rights, democracy, tolerance and non-discrimination, and the situation of Roma and Sinti in the OSCE area.

3. The present submission provides publicly available country-specific information that may assist participants in the Universal Periodic Review process in assessing the situation in Armenia and its implementation of past recommendations, as well as to formulate new recommendations that may be relevant to enhancing the enjoyment of human rights and fundamental freedoms in Armenia.

Election-related activities

Parliamentary Elections, 2 April 2017

4. Following an official invitation to observe the April 2017 parliamentary elections, and based on the recommendations of a Needs Assessment Mission, ODIHR deployed an Election Observation Mission (EOM) for the 2017 parliamentary elections.

5. The EOM report concluded that the elections “were well administered and fundamental freedoms were generally respected. Despite welcomed reforms of the legal framework and the introduction of new technologies to reduce the incidents of electoral irregularities, the elections were tainted by credible information about vote buying, and pressure on civil servants and employees of private companies. This contributed to an overall lack of public confidence and trust in the elections. Election day was generally calm and peaceful but marked by organizational problems and undue interference in the process, mostly by party

¹ <https://www.osce.org/odihr/76894>; <https://www.osce.org/odihr/76895>.

representatives”. The full report is available at <https://www.osce.org/odihr/328226?download=true>. Its priority recommendations were:

- a) Authorities and political parties should undertake measures to increase public trust in the integrity of elections, including public discouraging of selling and buying votes and to ensure pressure is not applied on citizens to attend campaign events or vote in a particular way.
- b) Further efforts should be undertaken to amend the legal framework and address the gaps and ambiguities identified in this report as well as previous ODIHR recommendations. Amendments should be based on broad consultation and adopted well in advance of the next elections.
- c) In order to ensure uniform implementation of the law and provide sufficient guidance to lower-level commissions, the Central Election Commission (CEC) should clarify legal provisions through binding decisions.
- d) To enhance the transparency and effectiveness of campaign finance oversight, the CEC’s Oversight and Audit Service (OAS) should have adequate resources, technical expertise, and independence.
- e) The election-dispute resolution system would benefit from additional review to eliminate gaps and ambiguities identified in this and previous ODIHR reports, including granting wider legal standing to subjects entitled to appeal and setting out sufficient and consistent deadlines for the adjudication of complaints and appeals. All election-related complaints and appeals should be considered within the electoral period and before the finalization of election results.
- f) Authorities should continue to develop effective safeguards against multiple voting and to ensure the secrecy of the vote, which should be implemented adequately and consistently. This could include enhanced training of election staff and targeted voter education as well as requiring that voters be informed about their right and obligation to secrecy at the polling station. Further steps should be taken to prevent interference by unauthorised people in the voting process.
- g) To guarantee equal suffrage, authorities should consider measures to enhance access to voting procedures for persons with physical disabilities and reduced mobility.

6. The follow-up of these (and all other) recommendations was assessed by the 2018 ODIHR EOM as follows: recommendations 1, 3, 17, and 23 from the final report on the 2017 parliamentary elections are fully implemented. Recommendations 2, 6, 20 and 21 are mostly implemented. Recommendations 2, 9, 11, 12 and 25 are partially implemented.

Early Parliamentary Elections, 9 December 2018

7. Following an official invitation to observe the December 2018 early parliamentary elections, and based on the recommendations of a Needs Assessment Mission, ODIHR deployed an EOM for the 2018 early parliamentary elections.

8. The EOM report concluded that the elections “were held with respect for fundamental freedoms and enjoyed broad public trust that needs to be preserved through further electoral reforms. Open political debate, including in the media, contributed to a vibrant campaign, although cases of inflammatory rhetoric online were of concern. The general absence of electoral malfeasance, including of vote buying and pressure on voters, allowed for genuine competition. The integrity of campaign finance was undermined by a lack of regulation, accountability and transparency. Despite the shortened timeframe, the elections were well administered. Election day proceeded calmly and peacefully with all stages assessed positively by almost all observers from this International Election Observation Mission (IEOM, i.e. the ODIHR EOM was joined by observer delegations from the OSCE Parliamentary Assembly –OSCE PA– and the Parliamentary Assembly of the Council of Europe –PACE–), indicating general adherence to the procedures”. The full report is available at <https://www.osce.org/odihr/elections/armenia/413555?download=true>. Its priority recommendations were:

- a) Efforts should continue among authorities, parties, media, civil society and citizens to sustain trust in the integrity of the electoral process by eradicating all forms of electoral malfeasance and fostering human rights and fundamental freedoms.
- b) In order to address gaps and ambiguities identified in this and past ODIHR reports, the legal framework should be reviewed well in advance of the next elections, through an inclusive legislative process.
- c) Authorities should undertake legal review of measures to guarantee the protection of voters’ private data while retaining meaningful access to the voter lists by electoral stakeholders.
- d) Authorities should continue to support editorial independence of the public media and foster citizens’ access to impartial, critical and analytical political information and programmes, including when reporting on activities of officials. In addition, diversification of sources of financing for public media could be considered.
- e) Awareness should be raised by and among all electoral stakeholders about the importance of equal participation of women and men in public and political life, with a particular emphasis on the role of women in political parties. Consideration should be given to enhancing special measures to promote women candidates. This could include placing women candidates in every second position on national candidate lists.
- f) The CEC should enhance the Precinct Election Commissions (PEC) trainings on the results protocols, with a special focus on vote count and completion of results protocols. To ensure the integrity of election results, all corrections to the result protocols made during tabulation should be consistent, accountable and made according to the law.
- g) As previously recommended by ODIHR, the legal framework should be amended to provide for accounting and reporting of all campaign-related expenditures and contributions, including organizational expenditures and those incurred before the official campaign period.

Electoral Follow-up in Armenia

9. ODIHR presented the 2017 EOM and 2018 EOM Final Reports to the authorities and other electoral stakeholders.

10. Following the requests from Armenian authorities, in 2016, ODIHR and the Venice Commission released a Joint Opinion on the Draft Electoral Code, which was adopted following changes in the electoral system.² The Opinion recommended addressing the following key issues:

- a) Clearly address the unity of content of the referendum proposal and the requirement for the question of the referendum to be clear and not misleading.
- b) Clarify and further develop provisions on complaints and appeals, to ensure an effective system of appeals enabling electoral stakeholders to appeal the decisions that affect them.
- c) Require authorities to provide objective information about the proposals put to referendum.
- d) Provide for submission of draft popular initiative for the Constitutional Court's review prior to the collection of additional signatures; entitle the Constitutional Court to provide nuanced ruling on the constitutionality of each proposed amendment, and allow for the valid provisions of a popular initiative to be submitted to the people's vote without a new collection of signatures.
- e) Clearly regulate the collection of a referendum initiative support signatures and their verification and ensure that these rules do not restrict the right of eligible citizens to sign popular initiatives.
- f) Allow more than one structure for "yes" and "no" votes, respectively, – including for financial reporting – while ensuring equality of opportunity between supporters and opponents of the referendum.

Legislation reviewed by ODIHR

11. Upon request by authorities of a participating State, an OSCE field operation or another OSCE institution, ODIHR reviews draft or enacted legislation of OSCE participating States on topics relating to the human dimension commitments.³

*Joint ODIHR and Venice Commission Opinion on the Draft Law Amending the Law of the Republic of Armenia on Freedom of Conscience and on Religious Organisations (20 March 2018)*⁴

² <https://www.osce.org/odihr/elections/armenia/362061>.

³ Legal reviews and opinions available at www.legislationline.org.

⁴ https://www.legislationline.org/download/action/download/id/7839/file/319_FORB_ARM_20March2018_en.pdf.

12. The new government halted the reform and the following key concerns regarding the existing 1991 Law on the Freedom of Conscience and on Religious Organizations remain:

- a) The lack of guarantee of the freedom of religion or belief to everyone, not only Armenian citizens, and the failure to expressly contemplate the freedom of *non-religious* belief and belief organizations.
- b) The mandatory registration system for religious or belief communities, which is excessive and cumbersome and based on stringent criteria likely to discriminate against smaller or newly-established religious or belief groups, and the impossibility for religious or belief groups to exercise their rights without state registration.
- c) The prohibition of proselytism currently provided in Article 8 of the 1991 Law, among others.

Tolerance and non-discrimination issues, including incidents of and responses to hate crime

13. OSCE participating States have committed to promote tolerance and non-discrimination and to combat hate crime, and ODIHR supports states in their implementation of those commitments. ODIHR produces an annual report on hate crime⁵ to highlight the prevalence of hate crimes and good practices that participating States and civil society have adopted to tackle them. ODIHR also helps participating States to draft legislation that effectively addresses hate crimes; provides training that builds the capacity of participating States' criminal justice systems and their law-enforcement officials, prosecutors and judges; raises awareness of hate crimes among governmental officials, civil society and international organizations; and supports civil society efforts to monitor and report hate crimes.

Addressing hate crimes

14. Information concerning Armenia in the most recent (2017) edition of the annual hate crimes reporting⁶ includes:

- Overview of officially reported data

15. Armenia has reported hate crime data to ODIHR. Armenia's hate crime laws consist of a combination of general and specific penalty-enhancement provisions. Hate crime data are collected by the police, the General Prosecutor's Office and the Ombudsman's Office.

16. In respect of the hate crime data collection mechanism in Armenia, ODIHR has observed that there is no special procedure for recording hate crimes. According to Government Decree 1495-N of 23 November 2017, hate crimes, like other crimes, are recorded in the police registers kept at police duty rooms. No separate reporting or compilation of statistics on hate crimes exists. General crime statistics are compiled according to the amended Government Decree No. 1225-N of 23 October 2008 and Joint Order No. 11/251 of the Prosecutor General and the Minister of Interior, adopted on 27 May 2002. Police and other investigating

⁵ <http://hatecrime.osce.org>.

⁶ <http://hatecrime.osce.org/armenia>.

agencies produce statistical data, which upon confirmation by the prosecutor are forwarded to the Police Information Centre for registration. The data on each registered crime are available on its official website⁷, but can only be accessed if a request is made.

17. In 2017, Armenia reported 14 hate crimes recorded by police and one case recorded by prosecution. ODIHR concluded that the law enforcement agencies of Armenia have not recorded the bias motivations of hate crimes.

- Overview of incidents reported to ODIHR by civil society

18. In 2017, 15 incidents in Armenia were reported to ODIHR by civil society organizations. 13 of those concerned incidents with a bias against other groups – sexual orientation and gender identity – and most of those (nine) were violent attacks against people.

Addressing racism and xenophobia (including national minorities and migrants)

19. For 2017, one hate incident motivated by racism and xenophobia, a violent attack, was reported to ODIHR by an intergovernmental organization. No hate incidents were reported to ODIHR for this category for 2015 and 2016.

Addressing anti-Semitism and intolerance against Muslims, Christians and other religions

20. Every two years, ODIHR publishes Holocaust Memorial Days: An overview of remembrance and education in the OSCE region⁸ to highlight good practices in participating States regarding Holocaust commemoration and education. For 2015-2017, ODIHR did not receive from Armenia information about the Holocaust commemoration and educational practices.

21. For 2015-2017, Armenia did not submit an official report on anti-Semitic hate crimes; there was also no information on anti-Semitic incidents from civil society organizations.

22. No hate incidents motivated by bias against Christians, Muslims or other religions were reported to ODIHR by civil society or intergovernmental organizations in 2015-2017.

Women's rights and gender equality in the context of tolerance and non-discrimination

23. In 2017, no hate crimes motivated by bias against a person's sex were reported to ODIHR by Armenian authorities. One hate incident (threat) with such bias was reported by civil society organizations. Armenia had not reported hate crimes motivated by bias based on sexual orientation and gender identity, while civil society organizations reported 13 hate incidents motivated by this bias. Most of them (nine) were violent attacks against people.

24. For 2016, Armenia did not report hate crimes motivated by bias against a person's sex; there was also no information on hate incidents motivated by this bias from civil society organizations. No information on hate crimes motivated by bias based on sexual orientation and gender identity was received from Armenia; civil society organizations reported 13 hate incidents with this bias, most (10) of them being violent attacks against people.

⁷ <http://www.armstat.am/>.

⁸ <https://www.osce.org/odihr/hmd2018>.

25. For 2015, Armenia did not report hate crimes motivated by bias against a person's sex; there was also no information on hate incidents motivated by this bias from civil society organizations. No information on hate crimes motivated by bias based on sexual orientation and gender identity were received from Armenian authorities; civil society organizations reported nine hate incidents with this bias: five violent attacks against people and four threats.

Country-specific ODIHR monitoring, assessment, co-operation and assistance activities (other than elections)

26. On 19 April 2018, ODIHR's Director in a public statement urged the Armenian authorities to protect and ensure the right to freedom of peaceful assembly in the country.⁹

Other assessments and recommendations contained in ODIHR reports on thematic human dimension issues

The ODIHR report "The Responsibility of States": Protection of Human Rights Defenders in the OSCE Region (2014–2016)¹⁰ includes information about cases and issues related to human rights defenders in Armenia. The following is a selection of relevant information from this report.

27. The National Human Rights Institution (NHRI) in Armenia reported that law enforcement authorities frequently failed to adequately prevent, investigate, prosecute or punish threats and attacks against human rights defenders, including when allegedly committed by police.¹¹ The NHRI recorded allegations of threats and attacks against human rights defenders by authorities and non-state actors, including targeting of journalists and human rights activists by police, both during peaceful assemblies and in their daily life.

28. An LGBTI rights organization noted that police and prosecutors were generally unresponsive and declined to open criminal cases into widespread public threats against LGBTI people, including by authorities, news media and unknown individuals issuing online death threats. The resulting impunity reportedly created a climate of fear, in which human rights defenders and victims were reluctant to pursue justice, believing it could expose them to further threats.¹²

29. The NHRI in Armenia also reported bias-motivated threats, attacks and hate speech targeting especially women human rights defenders, as well as NGOs on account of their politically sensitive activities, reporting "cases of violence against women defenders", who "had become the target of threats and attacks, as well as hate-speech for carrying out their legitimate activities".

30. Five human rights defenders independently reported on the difficult situation of those defending LGBTI people's human rights, and several reported the same incidents of threats and attacks against them. Public officials, political parties and authorities reportedly remained

⁹ <https://www.osce.org/odihr/378325>.

¹⁰ <https://www.osce.org/odihr/341366>.

¹¹ Questionnaire response by the Human Rights Defender (Ombudsman) of Armenia.

¹² Questionnaire response from the NGO, PINK Armenia.

mostly silent on attacks against LGBTI defenders, which the defenders interpreted as tacit support for the discriminatory acts. In other accounts in 2014 and 2015, officials also made public remarks denouncing LGBTI people. In Armenia, sexual orientation is not a prohibited ground of discrimination under national law, and the courts were reportedly unresponsive to claims by LGBTI human rights defenders.

31. The NHRI identified persistent violations of journalists' rights and informed ODIHR it had received numerous complaints of abusive police conduct at public protests against electricity hikes in 2015. Recalling that the obstruction of journalistic activities is a criminal offence in Armenia, the NHRI elaborated: "The study of numerous videos which appeared in the media revealed disproportionate and inadequate use of physical force by police officers, including those disguised as civilians against a number of journalists (including representatives of Azatutyun radio station, Hetq.am, GALA TV, Armenian Times, News.am, PanArmenian.net, Epress.am, 1in.am, ArmTimes.com). The latter suffered physical harm and had their cameras and other devices confiscated by force and damaged before being taken into custody."