

## **PART 1**

# **ASSESSMENT AND DEVELOPMENT OF THE POLITICAL SITUATION**

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Following the independence of Armenia, the Government of Armenia has carried out and continues to perform the state-building processes on the basis of internationally recognised democratic principles. These principles have been endorsed in the Constitution of the Republic of Armenia adopted in 1995, which is currently being improved through constitutional amendments. When undertaking democratic reforms, international and, in particular, European values and standards serve as reference points for Armenia.

Upon its accession to the Council of Europe (CoE) on 25 January, 2001, Armenia has undertaken certain commitments, including ratifying various CoE conventions and reforming the national legislation. The Council of Europe has already stated that the Armenian officials have made a significant improvement in establishing legal arrangements for human rights protection in Armenia, which can be proved by the ratification of relevant CoE conventions as well as by the approximation of national legal agenda to that of the European standards. However, additional efforts are still required from Armenian officials to uphold the reforms currently in process, taking into account the fact that the fulfilment of a part of commitments depends on the constitutional reforms.

#### **Human rights**

Upon its accession to the Council of Europe, Armenia has ratified fundamental legal instruments such as the European Convention for the Protection of Human rights and Fundamental Freedoms, the European Convention against Torture, the European Social Charter, European Charter for Regional and Minority languages. The ratification of the Protocol No. 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms concerning the Abolition of Death Penalty in 2003 also shows the sound determination of Armenia to assume the European standards in the area of human rights protection.

In 2004 the representatives of the CoE Committee on Prevention of Torture, based on the information obtained from their visits to prisons of the Republic of Armenia, have elaborated and submitted a report with relevant proposals to Armenian officials. The report specifically emphasized high probability of ill-treatment and even torture of temporarily detained persons by police officers at detainment facilities and police stations. The report also examines the unsatisfactory efforts of securing activities for inmates and issues related to overcrowding in prisons. Presently, the Armenian officials take all necessary measures for improving the conditions of prisoners and for reducing the threat of being ill-treated, attaching great importance in this respect to raising the level of proficiency of police officers at detainment establishments.

Given that human rights protection is a priority issue for the Government of Armenia at the current phase of democratic reforms, a representative office of the Government of Armenia was established in the European Court of Human Rights in March 2004. The representative is entitled to represent and defend the Armenian position in regard to the examined case.

#### **Human Rights Protection**

The Ombudsman Office was established in Armenia as an independent body for human rights protection; the legal basis for the functioning of which is Human Rights Protection Act adopted in 2003. Since the Constitution did not contain a stipulation on the election of a human rights defender by the National Assembly of Armenia, prior to the adoption of constitutional

amendments, the law, as interim measure, stipulated that human rights defender is appointed by the President of Armenia following consultations with groups and groupings of the National Assembly of Armenia. The first human rights defender of Armenia was appointed in February 2004, the liabilities of which have been terminated as of 6 January 2006.

According to the Constitution, human rights defender shall be appointed to office by the National Assembly for a term of six years, by the vote of minimum 3/5 of members of the National Assembly. In accordance with the said procedure, during its extraordinary session of 17 February 2006, the Armenian National Assembly appointed the new human rights defender.

### **Constitutional amendments**

The initiative of constitutional amendments in Armenia was related to the introducing European standards in several spheres, including human rights protection, territorial administration, judicial system, which required relevant amendments in the Constitution in force. Three packages of constitutional amendments have been elaborated and submitted to the Council of Europe for a peer review (one of them elaborated by the leading coalition, others – by parliamentary groupings and a member of the National Assembly). The National Assembly of Armenia, following the first and second readings in August 2005 and the third reading in September 2005, approved the last version of constitutional amendments elaborated by the leading coalition. The referendum on constitutional amendments took place on 27 November 2005, and the proposed amendments were adopted. The Constitution entered into force on 5 December 2005.

### **Freedom of thought and speech**

The new Mass Media Act has become effective from 2004. As a step made towards securing fully fledged freedom of thought and speech, Armenia, in accordance with Radio and Television Act adopted in 2000, undertook to turn the national television into a public one. With the aim of ensuring the independence, sovereign administrative bodies have been established to manage the public television and radio. Although the Public Television and Radio Council and the Television and Radio National Commission have already been established as an interim measure, the Armenian officials have, nevertheless, stipulated relevant clauses in constitutional amendments according to which the broadcasting should be free, independent and versatile. To this end, based on the constitutional amendments an independent body shall be established. One half of the members of this body will be elected by the National Assembly for a six-year term of office.

### **Freedom of peaceful assembly, demonstrations and unions**

Armenia has adopted Political Parties Act so as to regulate activities of political parties as the core subjects of political life. However, there are still several shortcomings in the said Act related, especially, to the grounds of liquidation of parties and refusal of the state registration thereof, which should be eliminated.

Armenia has also adopted Non-Governmental Organizations Act and Trade Unions Act, which assure the freedom of unions.

In April 2004, the National Assembly of Armenia adopted the Act on Conducting Meetings, Assemblies, Rallies and Demonstrations, partially covering the remarks made by the Venice Commission. However, it still has certain shortcomings to which the Council of Europe had drawn attention. Based on the remarks made by international experts, the Law is problematic insofar as the standards for restriction of freedom for organizing public events are not in line with the standards defined by the European Court of Human Rights. Relevant activities have

been carried out at the end of September 2005 for eliminating these shortcomings. The National Assembly of Armenia adopted a law on making changes and amendments to the mentioned Act based on the remarks made by the Venice Commission.

### **Gender policy**

A greater attention is paid to the protection of rights and freedoms of women within the context of internationally adopted principles for human rights and freedoms. In 1993 Armenia joined the UN Convention on the Elimination of All Types of Discrimination Against Women, which is the most comprehensive international document referring to the rights of women. Moreover, the Republic of Armenia has also ratified the European Social Charter which, irrespective of gender, guarantees such fundamental human rights as the rights for residence, education, health, work, legal and social protection and prohibition of discrimination. Although state bodies and civil society have greatly contributed to the implementation of the mentioned rights, there are still several issues to be settled so as to provide evidence of fully-fledged gender equality. In particular, special attention should be paid to issues such as the level of representation of women in all government branches and in politics, in general their participation in the highest levels of banking and financial systems, creation of equal chances for women entrepreneurs in medium and large size businesses.

### **Minority rights**

Among the CoE commitments undertaken by the Republic of Armenia, as a characteristic feature for democratic society, Armenia has committed to ensure equal chances for all churches and religious communities, in particular those referred to as “non-traditional” to practise their religion without any discrimination. The Armenian officials have undertaken certain measures in that respect. Thus, the freedom of religion is governed by the Constitution. Besides this issue is closely linked to the problem of alternative military service of the Republic of Armenia as several representatives of the religious sect (organization) of “Jehovah’s Witnesses” were imprisoned because of evasions from military service. The situation improved in 2004 after the adoption of the Alternative Service Act, which provides an opportunity of alternative civil service for those evading from military service out of religious convictions. At present the Armenian officials are carrying out activities aimed at eliminating the shortcomings of the Act pinpointed by the Council of Europe and the OSCE. The matter particularly refers to the identification of those evading from military service out of religious convictions and, classification of the types of activities carried out by them.

As to national minorities, Armenia attaches great importance to that issue understanding the necessity to show tolerance in the modern world which suffered a lot from ethnic conflicts. Currently a state body has been established, i.e. the Department of Religion and Minority Issues under the Staff of Government, which is assigned to protect the rights of national minorities. Furthermore, Armenia has already signed and ratified the European Charter of Regional and Minority Languages, which serves as a legal basis, at the international level, for protection of minority rights in a consistent and accountable way. Financial means have been allocated from the state budget for implementing educational and cultural programmes for minorities.

### **Local self-governing system**

The Local Self-Governance Act was adopted in 2002, and later amended according to the recommendations submitted by CoE experts. A number of other legislative acts have also been adopted for the increasing the efficiency of local self-governance and the sense of responsibility of community servants, among which Community Service Act is of high importance. The status of the city of Yerevan has been changed by the Constitution, and henceforth Yerevan is deemed to be a community. The community head shall be elected according to the procedure

stipulated by law. Meanwhile, the administrative control of communities has been improved, and an opportunity has been afforded for establishment of intercommunity units.

### **Judicial system reforms**

The expected amendments to the Constitutional Court Act are among the most important reforms of the judicial system, which is necessary for the implementation of relevant provisions in the Constitution relating, in particular, to the obtaining of the right to apply to the Constitutional Court on individual basis. There are also a number of other laws related to the Armenian judicial system, which are regularly amended in accordance with the requirements of state-building process. Thus, Armenia has adopted three fundamental laws reinforcing the independence of judiciary, namely, Court Composition Act, Council of Justice Act and Status of Judge Act. Armenian authorities are firm in their determination to accept the proposals submitted by CoE experts for the adoption of European standards in the judicial system.

As to the Advocacy Act, which was adopted in 2005, it entirely complies with CoE standards. Armenia will highly appreciate further CoE assistance in the practical enforcement of the mentioned law as well as in the improvement of the Code of Advocacy Conduct within this context. It is envisaged to adopt a Law on the Code of Bar Conduct.

For the time being, the Ministry of Justice is elaborating a draft law on Higher School of Justice. Upon the fulfilment of required activities, it is envisaged to submit the draft law to the Council of Europe for additional peer review.

It should be mentioned that certain actions are currently being undertaken for updating (amending) the laws on judicial system, which will lead to a new phase of judicial reforms to take place within the aforementioned context. The draft laws on Judicial System, Arbitration are currently under elaboration. Among the 2006 priorities of the second phase of judicial system reforms are the elaboration of the codes of judicial system, civil proceedings, administrative proceedings, and the establishment of administrative courts.

### **Electoral system**

The Republic of Armenia has undertaken a commitment to eliminate the shortcomings in the new Electoral Code for securing democratic elections as a mechanism necessary for formation of a legitimate government.

These drawbacks are particularly related to the establishment of an Electoral Commission and the procedural issues of the activities of bodies responsible for making electoral lists. Based on the recommendations and joints conclusions (opinions) of the OSCE and the CoE Venice Commission, in 19 May 2005 the National Assembly of Armenia adopted and on 19 June 2005 the President of Armenia ratified the Law on Making Amendments to the Electoral Code, which mainly covers the following issues:

- organization of elections, particularly, establishment of electoral administration, preparation of electoral lists;
- electoral campaigns, preconditions for candidacy;
- restrictions of chances to be elected;
- continuous updating of the publication of preliminary voting results;
- obligations of proxies, monitors and mass media representatives;
- registration procedures for election-related complaints and appeals.

## Anticorruption measures

Based on the necessity to coordinate the activities of state authorities to ensure comprehensive and efficient implementation of the Armenian anticorruption policy, as well as to eliminate the causes for emergence and spread of corruption, to improve the policy applied for prevention of these causes, a Council on Combating Corruption was established by the RoA Presidential Decree No. PD-100-N of 01.06.2004. The staff of the Council comprises the RoA Prime Minister (Head of Council), National Assembly Deputy Speaker (with consent), Minister/ Head of Staff of the Government, Minister of Justice, Advisor to the President (Head of Monitoring Commission for Implementation of Anticorruption Strategy), Supreme Judge (with consent), President of the Central Bank (with consent) Chairman of the State Commission for Protection of Economic Competition, President of the National Assembly Chamber of Control (with consent) and Head of Supervision Services of the Staff of the President.

The main functions of the Council are:

- a) to coordinate and monitor the activities of implementation of Armenian Anticorruption strategic programme measures;
- b) to approve the staff of the Monitoring Commission for Anticorruption Strategy Implementation;
- c) to discuss the recommendations submitted by the Monitoring Commission for Anticorruption Strategy Implementation;
- d) to juxtapose the activities of bodies empowered with relevant authorities when elaborating measures aimed at the prevention of cases of corruption;
- e) to undertake measures based on the anticorruption strategy and international commitments, as well as tasks for securing the fulfilment of other commitments made by the Republic of Armenia;
- f) to ensure cooperation with regional and international organizations when combating corruption;
- g) to organize and coordinate the process of elaboration and implementation of Armenian state anticorruption programmes;
- h) to submit quarterly reports to the President of Armenia on the results of activities.

The 2003-2007 Action Plan for Implementation of the State Anticorruption Strategy envisages undertaking of 98 measures, 62 out of which were completely implemented in 2003-2004; the remaining 36 are still subject to implementation.

Although the Action Plan is envisaged so as to cover the year 2007 as well, it does not imply that measures for combating corruption will not be continued following the fulfilment of measures covered by this programme. There will be ongoing combat with view of reducing all types of corruption risks to the minimum.

Armenia became a member of GRECO (Group of States against Corruption) in January 2004, and in accordance with GRECO assessment procedures, it should be subject to evaluation within certain deadlines. According to the Statute of GRECO, the aim of the Group is to improve the capacity of its members to fight against corruption by monitoring the fulfilment of commitments undertaken by these states in the mentioned field. Thus, it enables to detect the shortcomings in state mechanisms during the process of combating corruption, as well as to contribute to necessary legislative, institutional and practical reforms in this field.