



**International Covenant on  
Civil and Political Rights**

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**Human Rights Committee**

**Consideration of reports submitted by States  
parties under article 40 of the Covenant**

**Joint second and third periodic reports of States parties**

**Armenia\*, \*\***

[28 April 2010]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

\*\* Annexes can be consulted in the files of the Secretariat.

## Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction.....	1–12	3
II. Implementation of the Covenant .....	13–670	5
Article 1 .....	13–66	5
Article 2 .....	67–106	12
Article 3 .....	107–152	18
Article 4 .....	153–175	24
Article 5 .....	176–179	28
Article 6 .....	180–203	28
Article 7 .....	204–243	31
Article 8 .....	244–255	37
Article 9 .....	256–282	39
Article 10 .....	283–314	43
Article 11 .....	315–316	47
Article 12 .....	317–331	47
Article 13 .....	332–339	49
Article 14 .....	340–411	50
Article 15 .....	412–417	58
Article 16 .....	418–422	58
Article 17 .....	423–431	59
Article 18 .....	432–446	60
Article 19 .....	447–473	63
Article 20 .....	474–480	68
Article 21 .....	481–495	70
Article 22 .....	496–516	71
Article 23 .....	517–537	74
Article 24 .....	538–571	76
Article 25 .....	572–607	80
Article 26 .....	608–624	84
Article 27 .....	625–670	86

## I. Introduction

1. The Second and Third Joint Periodic Report of the Republic of Armenia on the Implementation of the International Covenant on Civil and Political Rights (hereinafter referred to as “the Covenant”) is hereby presented according to Article 40 of the United Nations International Covenant on Civil and Political Rights based on the guiding principles elaborated by the United Nations for preparing reports. The Report has been elaborated by the interagency working group established upon the Decision of the Prime Minister of the Republic of Armenia No. 320-A of 21 April 2009, which was composed of the representatives from all the interested ministries and agencies:

- Ministry of Foreign Affairs of the Republic of Armenia
- Ministry of Healthcare of the Republic of Armenia
- Ministry of Labour and Social Affairs of the Republic of Armenia
- Ministry of Justice of the Republic of Armenia
- Ministry of Emergency Situations of the Republic of Armenia
- Government of the Republic of Armenia
- Ministry of Nature Protection of the Republic of Armenia
- Ministry of Energy and Natural Resources of the Republic of Armenia
- Ministry of Science and Education of the Republic of Armenia
- Ministry of Culture of the Republic of Armenia
- Ministry of Defence of the Republic of Armenia
- Ministry of Territorial Administration of the Republic of Armenia
- Police adjunct to the Government of the Republic of Armenia
- Staff to the President of the Republic of Armenia
- Staff of the Constitutional Court of the Republic of Armenia
- National Assembly of the Republic of Armenia
- General Prosecutor’s Office of the Republic of Armenia
- National Statistical Service of the Republic of Armenia
- Judicial Department of the Republic of Armenia
- Office of the Human Rights Defender of the Republic of Armenia
- Trade Union Confederation of the Republic of Armenia

2. This Report was approved by the Government of the Republic of Armenia on 29 January 2010. It covers the period from 1999 to 2009. The concluding observations and recommendations (CCPR/C/79/Add.100) made by the Human Rights Committee on the previous report of the Republic of Armenia have been taken into consideration in this Report.

3. In 2005, the President of the Republic of Armenia signed a decree on setting referendum on the draft law “On making amendments to the Constitution of the Republic of Armenia.” Based on Article 111 of the Constitution and Article 7 of the Law of the Republic of Armenia “On referendum”, as well as taking as a basis the draft law “On

making amendments to the Constitution of the Republic of Armenia”, the referendum was appointed for 27 November 2005. Amendments and supplements have been made through referendum to the Constitution of the Republic of Armenia (<http://www.genproc.am/main/en/70/>), where the provisions on fundamental human and civic rights and freedoms were also subjected to essential reforms by bringing them closer in line with the International Covenant on Civil and Political Rights.

4. Parliamentary elections were held in the Republic of Armenia on 30 May 1999, 25 May 2003, as well as on 12 May 2007, and the presidential elections were held on 19 February/15 March 2003 and then on 19 February 2008.

5. Since 1992, becoming a member of the United Nations and acknowledging the principles of the universal values, human rights protection and establishment of democracy as an inseparable part of the state ideology, Armenia has been actively involved in the activities launched within the framework of this universal organization and has cooperated with many structures and subdivisions of the organization.

6. As a result of the elections held at the United Nations in 2002, the Republic of Armenia was elected from among the Group of Eastern European countries as a member of the United Nations Commission on Human Rights and was re-elected in 2004. Moreover, in 2005–2006 the Armenian representative acted as the Vice-Chairman of the Commission. This was, first and foremost, a vivid evidence of Armenia’s international recognition and enhanced reputation, especially in the sphere of human rights protection.

7. The Criminal Procedure Code of the Republic of Armenia was adopted in 1998 and entered into force in January 1999. It is regularly amended, becoming more compliant with the international commitments of the Republic of Armenia. The Electoral Code of the Republic of Armenia was adopted on 5 February 1999. It was amended on 26 December 2008. The new Criminal Code of the Republic of Armenia was adopted on 18 April 2003 and entered into force on 1 August 2003. The Law of the Republic of Armenia “On Human Rights Defender” was adopted on 21 October 2003 and entered into force on 1 January 2004. The new Labour Code of the Republic of Armenia was adopted on 9 November 2004 and entered into force on 21 June 2005. The Judicial Code of the Republic of Armenia was adopted on 21 February 2007 and entered into force on 18 May 2007. The comprehensive national program on human rights protection is currently under development, pending approval in 2011.

8. The Republic of Armenia is a signatory to numerous international treaties including the fundamental international instruments in the sphere of human rights.

9. On 25 January 2001 Armenia became a full-fledged member of the Council of Europe and assumed relevant commitments to reform the legal system of the country and to adopt European values for human rights protection.

10. The blockade imposed by Azerbaijan and Turkey since 1991 is the main impediment to the development of Armenia and is deemed as a violation of all international norms. Every year the Armenian economy suffers grave losses due to the blockade.

11. As in the past, nowadays as well, Armenia — respecting the recognized international standards — is committed to finding a negotiable and peaceful solution to the Nagorno-Karabakh problem under the auspices of the OSCE Minsk Group (see the previous report, CCPR/C/92/Add.2 – para 20–33). Meanwhile, it is noteworthy that the massacres of the Armenians in Azerbaijan (Sumgait, Baku, and other cities), which — according to all the standards of international law — fall under the concept of genocide, resulted in current complete de-population of Azerbaijan from its Armenian population.

12. The State Parties to the present Covenant, including those bearing responsibility for administering Non-Self-Governing and Trust Territories, shall promote the realization of

the right to self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

## II. Implementation of the Covenant

### Article 1

13. Being committed to the provisions of the Charter of the United Nations, as well as guided by the principles enshrined in the Helsinki Final Act, the Republic of Armenia regards the right of peoples to self-determination as a fundamental and indispensable human right and takes consistent steps towards its realization. Armenia is guided by the fact that the principle of the right of peoples to self-determination is currently a binding and universally recognized fundamental norm of international and national law for all states with no exception, and its implementation derives from the international commitments assumed by the states.

14. There is no hierarchy in international law between the principles of territorial integrity of the state and the peoples' right to self-determination, and the very right to self-determination may not be restricted, suspended, or turned into an issue of territorial integrity of the state or of maintaining the existing state borders. Armenia has always expressed the position of inadmissibility of such hierarchy, and considers such attempts as efforts aimed at restricting, obstructing, or suppressing free expression of the will of people. The right of peoples to self-determination — as an imperative norm of international law — should be always and in all cases recognized, irrespective of when, in what circumstances and on what basis the unification, transfer or alienation of the territory, the population of which puts forward the question of self-determination, took place.

15. The people of Nagorno-Karabakh — acting in full compliance with the provisions of the USSR laws and the principles of international law — gained independence from Azerbaijan SSR through the referendum of 10 December 1991, and established a separate state unit called the “Republic of Nagorno-Karabakh” (NKR) (see the previous report of the Republic of Armenia, CCPR/C/92/Add.2 para 21–24). Since the establishment of independent statehood, the people of Nagorno-Karabakh have exercised their right to self-determination by forming public administration bodies, holding elections, adopting laws through the legislature, and performing other necessary functions of state governance. The Government of the Republic of Nagorno-Karabakh is responsible for political, civil, economic, social, and cultural rights of the people of the Republic of Nagorno-Karabakh through decisions it adopts and policies it implements. As a common principle and being committed to the objective of building a democratic society based on rule of law, the authorities of Nagorno-Karabakh have unilaterally acceded to the fundamental instruments of international law and transposed these instruments into their own legislation.

16. The Republic of Armenia is firmly committed to the exercise of the right to self-determination of the people of Nagorno-Karabakh and supports, by all possible means, the promotion of economic, social and cultural rights of its people.

17. Following its policy of forced suppression of the Nagorno Karabakh people's right to self-determination and its exercise, and as a result of the war unleashed by such policies which caused great human and material losses, Azerbaijan pursues a policy of economic blockade against Armenia and Nagorno Karabakh, which is a serious impediment to the full exercise of the right to development and a number of other rights, political and civil rights first and foremost.

18. While being part of the Azerbaijan SSR, Nagorno-Karabakh had experienced socio-economic and cultural decline; the Nagorno-Karabakh Autonomous Oblast (NKAO) had in fact become an appendage for raw materials for the Azerbaijan SSR; the Armenian population was being subjected to persistent discrimination there in all areas; the national dignity and its rights were being grossly violated; the demographic situation had become complicated, which was reflected in the explicit decreasing trend of the Armenian population. The Armenians of Nagorno-Karabakh had a clear understanding of the plotted destiny inside the Azerbaijan SSR based on the results of the policy geared towards changing the demographic situation in the Armenian territories, which was successfully carried out in the region of Nakhijevan, where during several decades the number of the Armenian population had been brought to naught through peaceful means of “white genocide” (see the previous report of the Republic of Armenia, CCPR/C/92/Add.2, point 22).

19. The historical memory of the Armenian population on the massacres of thirty thousand Armenians in Baku in 1918, of thirty-two thousand Armenians in Shushi in 1920, as well as the massacres by Azerbaijanis in Sumgait in 1988, and in Kirovabad and Baku in 1990 is tied together with the genocide of Armenians in 1915–1923. The past is linked to the present and the future here.

20. In 1988, having decided to fight for its very existence, security and its right to self-determination, Nagorno-Karabakh proved the impossibility of its further forced existence as part of Azerbaijan, no matter what level of autonomy it enjoyed, since the question was not only the infringement of social and economic, cultural and linguistic rights, but also the absence of physical security for the Armenian population, which was a real threat to its existence as a national group.

21. The violation by the state of the right of peoples to self-determination (for example, through forced annexation, etc.) entails political and international and legal responsibility for those states, and a criminal liability for individuals guilty of those offences in accordance with the decisions of authoritative national or international courts.

22. Article 2 of the Constitution of the Republic of Armenia, amended through the referendum on 27 November 2005, stipulates that in the Republic of Armenia the power lies with the people. People exercise their power through free elections, referenda, as well as through state and local self-governing bodies and public officials, as envisaged by the Constitution.

23. Chapter 7 of the Constitution covers the local self-government, according to Article 104 of which the local self-government shall be the right and the capacity of communities to settle local issues with the view of the well-being of the population under its own responsibility, in accordance with the Constitution and laws. According to Article 107, the community shall exercise its right of self-governance through local self-government bodies — the Council of the Aldermen and the Head of Community, both to be elected for a term of four years in the manner prescribed by law. According to Article 108, the city of Yerevan is granted a community status. On 31 May 2009, the first elections of the Mayor of Yerevan City were held.

24. On 7 May 2002, the Law of the Republic of Armenia “On local self-governance” was adopted, which defines the principles, bodies, powers of local self-governance, their legal, economic, financial grounds and guarantees, as well as regulates the relationships between state and local self-government bodies. Local self-governance is the right of independently functioning local self-government bodies and the capacity of a community, as ensured by the Constitution and laws of the Republic of Armenia, to manage the community’s property and to resolve the problems of community importance with a view to improving the well-being of the population.

25. According to Article 7 of the Law, local self-governance is implemented by the Head of Community and the Council of the Aldermen elected by the members of the community. The Law clearly defines their rights and obligations, the rules of procedure, and the principles.

26. Article 10 of the Constitution of the Republic of Armenia defines, “The state shall ensure the protection and reproduction of the environment and the reasonable utilization of natural resources.”

27. In 2005, for the first time it was directly stipulated in the Constitution of the Republic of Armenia that everyone shall have the right to live in an environment favourable to his or her health and well-being, and shall be obliged to protect and improve it in person or jointly with others (Article 33.2). It is of great importance that in light of the requirements of the Aarhus Convention, the same article stipulates the liability of a public official for concealing environmental information or his or her refusal to provide access thereto.

28. According to the Constitution, one of the basic tasks of the state in economic, social and cultural spheres is to pursue environmental security policies for the present and future generations (Article 48.10).

The Constitution of the Republic of Armenia stipulates (Article 31) that the right to property shall not be exercised to cause damage to the environment or infringe the rights and lawful interests of other persons, the society, and the state.

29. The main directions of the activities carried out by the Ministry of Nature Protection of the Republic of Armenia were the assurance of implementation of primary issues and measures in the field of nature protection approved by the Government of the Republic of Armenia. In this respect, the problem of Lake Sevan, preservation of biological and landscape bio-diversity, forest preservation, fight against desertification, reduction of motor-vehicle emissions, and the environmentally-safe disposal of hazardous wastes are among the most urgent national issues.

30. The list of measures for the fulfilment of the commitments of the Republic of Armenia arising from the international conventions of the Republic of Armenia was approved by the Government of the Republic of Armenia in 2004, also reflecting the commitments for 2005–2010 assumed under the United Nations Convention to Combat Desertification. Within the framework of the Berne Convention on the Conservation of European Wildlife and Natural Habitats, “Introduction of Emerald Network in the Republic of Armenia Pilot Project” was implemented in 2007–2008. The main objective of the Emerald Network was to develop a pilot database, which would have included information identified by the above-mentioned project on areas of special conservation interest to the Republic of Armenia for ameliorating the threats endangering the wildlife and plant species through global conservation network established based on the special conservation measures all over Europe.

31. According to the Decision of the Government of the Republic of Armenia No. 7 of 15 January 2004, the Ministry of Agriculture of the Republic of Armenia is the state authorized body in the sphere of forest preservation, protection, reproduction, and utilization in the Republic of Armenia; the Ministry of Nature Protection of the Republic of Armenia is exercising supervisory powers.

32. Within the frameworks of the United Nations Convention to Combat Desertification, the “National Action Plan to Combat Desertification in Armenia” is still in the implementation stage in the Republic of Armenia. Within this framework, in 2003 an opportunity was granted to implement two priority pilot projects through the support of the Ministry of Nature Protection of the Republic of Armenia and the Secretariat of the United

Nations Convention to Combat Desertification and the United Nations Development Program.

33. An inventory and bookkeeping of reserves of abandoned mines within the territory of the Republic of Armenia was implemented during 2004–2008, financed by the State Budget of the Republic of Armenia. These projects will contribute to the rehabilitation of degraded lands.

34. The current period is characterized by unprecedented growth of waste generation levels. The concept paper on Sustainable Development entails sustainable economic growth having no negative impact on human health and the environment. An environmentally-safe waste management also serves such purpose, keeping the field of waste utilization under control.

35. Currently, a more contemporary issue for the Republic of Armenia is the problem relating to the environmentally-safe disposal of hazardous industrial wastes, given the circumstance that there have never been waste recycling enterprises and landfill sites in the country, and a construction of waste processing factory is not envisaged in the near future.

36. On 24 November 2004, the Law of the Republic of Armenia “On wastes” was adopted, which regulates the collection, transportation, storing, processing, mining, disposal, and the reduction of volumes of wastes, and other relations in this regard, as well as legal and economic grounds for the prevention of negative impact on human health and the environment.

37. In parallel with enhancing the efficiency of inspection activities and development of the country’s economy, state budget revenues in terms of environmental and nature utilization fees have increased and continue to increase, thus creating favourable conditions and background for funding of programs and measures targeted at the settlement of environmental problems in the country.

38. The new Land Code of the Republic of Armenia was adopted on 2 May 2001. It establishes legal grounds for the improvement of state regulation of land relationships, development of various legal forms of land economy, enhancing land fertility, land utilization efficiency, protection of rights over the land on the assumption of environmental, economic and social significance of land owing to which the land in the Republic of Armenia is used and preserved as a living condition for people.

39. Land preservation includes a system of environmental, economic, organizational, legal and other measures, which are aimed at targeted and efficient use of lands. From the aspect of sustainable development, land preservation should include large-scale measures aimed at the efficient use of land reserves, since land degradation is caused by climate change, condition of natural reserves and socio-economic factors. Elaboration of zoning plans and land use schemes are of primary importance in land preservation.

40. Since 2003 master plans of a series of rural and urban community settlements are under elaboration, and the relevant land-plots thereof are alienated and provided to land-users for use. Moreover, the elaboration and approval of temporary schemes for community land use are also carried out in the prescribed manner.

41. The following legal acts have been adopted for improving the legislative framework:

(a) The procedure for alienating and providing for use of land-plots belonging to the state community was approved upon the Decision of the Government of the Republic of Armenia No. 286 of 12 April 2001;

(b) The procedure for elaboration and approval of land zoning and use schemes was approved upon the Decision of the Government of the Republic of Armenia No. 625-N of 2 May 2003;



(c) The procedure for activities in specially preserved territories was approved upon the Decision of the Government of the Republic of Armenia No. 613-N of 8 May 2003;

(d) The documents on zoning the coastal territories of Lake Sevan which are subject to primary development were approved upon the Decision of the Government of the Republic of Armenia No.1788-N of 11 December 2003;

(e) Specifics for leasing the land-plots in the territories of “Sevan” national park which are below the 1908-metre sea-level was established upon the Decision of the Government of the Republic of Armenia No. 766-N of 13 May 2004;

(f) The procedure for using the fertile soil layer was approved upon the Decision of the Government of the Republic of Armenia No.1622-N of 19 September 2002;

(g) The procedure for gratuitous transfer by title to communities of state-owned lands within the administrative frontiers of communities was approved upon the Decision of the Government of the Republic of Armenia No. 93 of 2 February 2002;

(h) The procedure for using the fund for environmental preservation and for determining the size of allocations was approved upon the Decision of the Government of the Republic of Armenia No.1128 of 14 August 2003;

(i) The procedure for assessing the impact of economic activities on land resources was approved upon the Decision of the Government of the Republic of Armenia No. 92-N of 25 January 2005;

(j) The Decision No. 204-N “On approval of the 2007–2011 management plan (land use scheme) of ‘Dilijan’ national park” was approved on 18 January 2007 by the Government of the Republic of Armenia;

(k) The Decision No. 205-N “On approval of the 2007–2011 management plan (land use scheme) of ‘Sevan’ national park” was approved on 18 January 2007 by the Government of the Republic of Armenia;

(l) “The 2003–2010 public strategy and national action plan for the development of specially protected natural areas of Armenia” was approved upon the Protocol Decision of the Government of the Republic of Armenia No. 54 of 26 December 2002;

(m) The Decision No. 259-N “On establishing a procedure for maintaining state cadastre of specially protected natural areas” was adopted on 20 March 2008 by the Government of the Republic of Armenia;

(n) The Decision No. 1044-N “On establishing a procedure for arranging and conducting monitoring of specially protected natural areas” was adopted on 30 August 2007 by the Government of the Republic of Armenia;

(o) The Law of the Republic of Armenia “On specially protected natural areas” was adopted on 27 November 2006.

42. The land preservation process can be successfully implemented through a unified strategy of actions in the field of nature protection. Consistent works are carried out in the country in this regard for eliminating the existing gaps and for fulfilling the objectives set forth in the decisions. However, there are still numerous issues to be settled in this sphere.

43. The Republic of Armenia is one of the regions characterized by rich mineral raw materials of Caucasus. During the longstanding works, various mineral deposits have been detected in the territory of the country. The gross economic value of 613 mines with around 60 types of currently known industrial mineral resources in the interior was estimated to more than USD 170 billion.

44. Precious, non-ferrous and ferrous metal deposits are of industrial value in the territory of the country. Kajaran copper molybdenum, Sotk and Shahumyan gold and polymetallic ore mines excel with their reserves.
45. Mineral salt, bentonite clays, perlites, diatomites, travertines, tuffs and tuffolavas, basalts, granites, and marble ores are characterized by industrial reserves from non-metallic mineral resources.
46. The country is also famous for its 43 deposits of underground sweet water and 23 deposits of underground carbon dioxide mineral waters.
47. The number of organizations exploiting mineral deposits (sites) has increased in the Republic of Armenia. If by 2002, 165 deposits have been exploited, as of 2005 more than 150 organizations were engaged in extracting.
48. For the purpose of regulating the relationships between organizations exploiting deposits and state authorities empowered in the field of deposit use and preservation, a new Code of the Republic of Armenia “On the interior” (2002) and the Law of the Republic of Armenia “On concession for study and extracting the subsoil for exploitation of mineral deposits” (2002) and around two tens of acts of secondary legislation arising therefrom have been adopted.
49. Extracting industry together with positive trends also brought about a series of environmental problems. The territories of lands disturbed due to mining are estimated to around 6500 ha, of which 4000 ha are exploited lands and 2500 ha are lands subject to re-cultivation.
50. In the field of subsoil use, new activities have been initiated since 2005, within the framework of measures targeted at the enlargement of the mineral raw material base, its reasonable use, and amelioration of the damages caused to the environment. For the purpose of implementing those, since 2005 — based on license contracts for subsoil use — the accumulation of relevant retention amounts has been initiated within the Fund for Environmental Protection, which will be exclusively used for re-cultivation, land forming, landscaping, planting and land development activities of territories disturbed due to subsoil exploitation. As of 1 September 2008, an amount of 180 million Armenian Drams (AMD) has already been collected.
51. The territory of Armenia is famous for its developed though non-homogeneous hydro-graphic network which is peculiar to mountainous countries. There are 9480 small- and medium-size rivers with the total length of 23000 km. There are more than a hundred small lakes within the territory of Armenia. The lakes of Sevan and Arpi are of greater importance from the aspect of their size and use by the national economy.
52. For the purpose of reasonable use of water resources and regulation of the flow of rivers, 74 water reservoirs have been constructed.
53. More than 120 regulatory legal acts have been approved by the Government of the Republic of Armenia for the purpose of ensuring the enforcement of the new Water Code of the Republic of Armenia adopted in 2002.
54. The Law of the Republic of Armenia “On main provisions of national water policy” was adopted in 2005. It is a prospective development concept paper on strategic use and preservation of water resources and water systems. Sound comprehensive management of water resources would be impossible to carry out without such approaches.
55. Based on the requirements of the Water Code of the Republic of Armenia, the Law of the Republic of Armenia “On national water program” was adopted in 2006 which establishes the capacities of national water reserves, the water demand, terms of reference for water standards, classifications of operational value of water resources and hydro-

technical structures, and the approaches and standards for the management and preservation of the field concerned.

56. According to the requirements of the Water Code of the Republic of Armenia, a relevant legislative framework has been established for setting up an unprecedented institution of state water cadastre. The State Water Cadastre (SWC) is a permanently functioning system which registers comprehensive data on quantitative and qualitative indicators of water resources, river basins, materials extracted from river channels and banks, composition and quotas of bio-resources, water users, permissions for water use and permissions for use of water systems.

57. The territory of the country was divided into five hydrological basins and five territorial basin management divisions have been established for the purpose of promoting more efficient, targeted and decentralized management of water resources in line with the Decision of the Prime Minister of the Republic of Armenia “On the list of basin management authorities, rules of procedure and the schedule of advancing towards basin management” and the Decision of the Government of the Republic of Armenia “On establishing the territories of basin management of the Republic of Armenia and their management plans.”

58. For the purpose of implementing the works in Sevan-Hrazdan basin territory more effectively, pursuant to the Decision of the Government of the Republic of Armenia No.1010-N of 6 August 2009 that division has been split into two divisions, namely Sevan and Hrazdan territorial basin management divisions, forming as a result six territorial basin management divisions. Considerable works have been carried out in the development of the legislation in the field of water resource management – the Law of the Republic of Armenia “On main provisions of the national water policy of the Republic of Armenia” and the Law of the Republic of Armenia “On national water program of the Republic of Armenia” have been adopted. Currently works are being carried out for the elaboration of basin management plans for the above-mentioned six basin territories, the adoption of which will ensure stable legislative grounds for the implementation of water resource management decentralization.

59. Programs assisting in the establishment of the state water cadastre institution have been elaborated, particularly works have been carried out for creating a dynamic informative-analytical system assisting in the management of the field through the application of geographic information system. 85–90% of water users and of water use volumes in the country was legalized through formalization of water use permissions.

60. Armenia is considered as a country rich in bio-resources. The mentioned wealth, which encompasses many economically valuable, rare, relict and endemic species, is conditioned by a great diversity of edaphic and climatic conditions, its complex geological structure as well as by the specific geographical location of Armenia.

61. Direct use of bio-resources is widely spread in Armenia, including the use of rough wood, use of pastures for grazing purposes, gathering of wild herbs, fishery and hunting. The use of some bio-resources is not yet regulated and certain species and populations are critically endangered, whereas the ecosystems are under an irrevocable change.

62. The issue of excessive use of bio-resources is still in the centre of attention of the state and a series of high priority measures have been implemented by the Government of the Republic of Armenia which are targeted at the assurance of sustainable use of bio-resources.

63. The issue of conservation and rehabilitation of fish bio-diversity is extremely important for water ecosystems. The two of the three endemic fish species of Lake Sevan, namely trout and barbel are on the verge of extinction and are listed in the Red Book of the

Fauna of Armenia. Measures for breeding of preserved subspecies of “Summer Trout” and “Gegarkunik Trout” have been implemented by the Ministry of Nature Protection of the Republic of Armenia. In that respect, the status of endangered subspecies may be deemed to have been improved. Though serious measures are implemented for the reproduction of endangered species, the result as such may be expected only upon their natural reproduction in the lake. However, there is yet no increase in the number of the mentioned fish species.

64. The Law of the Republic of Armenia “On the fauna” adopted in 2000 establishes a state policy on conservation, protection, re-production and use of wild species of fauna in the territory of the Republic of Armenia, and the state policy of the Republic of Armenia in the field of scientifically grounded conservation, protection, use and re-production of flora is implemented pursuant to the Law of the Republic of Armenia “On flora.”

65. For the purpose of sustainable use of fauna objects, the Law of the Republic of Armenia “On hunting and running the hunt economy”, as well as the decisions of the Government of the Republic of Armenia “On fauna objects for social purposes” (No. 884-N of 10 July 2003), “On approval of the rules for amateur hunting of animals and hunting of animals in objects not for fishery and hunting in the territory of the Republic of Armenia” (No. 646-N of 8 April 2004) and “On establishing a procedure for keeping and use of animals in captive and semi-captive conditions, including the ones listed in the Red Book of the Republic of Armenia” (No.725-N of 26 June 2009) were adopted.

66. Conservation and sustainable use of forest resources is one of the state priorities. The new Forest Code of the Republic of Armenia was adopted in 2005, which regulates the relationships pertaining to forests and forest land management in Armenia.

## **Article 2**

67. After 1998, especially following the constitutional amendments of 2005, the principle of equality enshrined in Article 2 of the Covenant was further elaborated in the legislation, and the grounds for prohibiting discrimination were also added by the Constitution. A series of new rights have been enshrined upon the constitutional amendments, and specific rights which previously have been preserved solely to the nationals of the Republic of Armenia, following the constitutional amendments have been enshrined as universal rights, as well as other rights previously prescribed by laws have been introduced in the Constitution.

68. The principle of equality is enshrined in Article 14.1 of the Constitution of the Republic of Armenia. If there were previously certain inconsistencies between the Constitution of the Republic of Armenia and the provisions of the Covenant, following the constitutional reforms of 2005 the mentioned contradictions and inconsistencies have been precluded with the restated Constitution of the Republic of Armenia as of 27 November 2005. Article 22 of the Constitution of the Republic of Armenia is also a result of such amendment; as compared to Article 42 of the Constitution of the Republic of Armenia as of 5 July 1995, Article 22 of the Constitution of the Republic of Armenia as of 27 November 2005 — adequate to Article 15 of the Covenant — enshrines both the principle of rejecting retroactive effect of the criminal law aggravating the liability and the principle of retroactive effect of the criminal law mitigating the liability.

69. As to the contradiction between the scope restricting the right and freedom of thought, conscience and religion envisaged by the Constitution of the Republic of Armenia and Article 18 of the Covenant, following the constitutional reforms of 2005, in the text of the Constitution of the Republic of Armenia as of 27 November 2005, an adequate Article 26 enshrining the right to thought, conscience and religion is embodied in compliance with the requirements of Article 18 of the Covenant and is nearly a literal restatement of Article

18 of the Covenant. Thus, Article 26 of the Constitution of the Republic of Armenia prescribes, “Everyone shall have the right to freedom of thought, conscience and religion. This right shall imply the freedom to change religion or belief and freedom to, either alone or in community with others to manifest the religion or belief through preaching, church ceremonies and other rites of worship. The exercise of this right may be restricted only by law, in the interests of public security, health, morality or the protection of rights and freedoms of others.”

70. The Republic of Armenia greatly emphasizes the education in human rights considering it as the most important factor contributing to the development of democracy. Thus, since 2001 Human Rights is included as a separate subject in the general education curriculum and is taught in the ninth grade. The students also study the subjects on “Civil Education” and “State and Law.”

71. The minimum requirements laid down for the content of the general curriculum of law departments in higher educational institutions of Armenia shall include the following courses: Theory of State and Law, Norms of Law, Legality, History of State and Law of Foreign Countries, Constitutional Law, Constitutional Status of a Human and Citizen: their Constitutional Rights, Freedoms and Duties, Constitutional Guarantees for their Realization, Constitutional Law of Foreign Countries, International Law, International Security Law, Human Rights and International Law, and other similar courses incorporating the provisions of the Convention.

72. Large-scale activities for studying human rights have been carried out not only for elaborating text books but also for training of teachers and professors. Moreover, non-governmental organizations also have had their contribution in these activities, for example the Armenian Human Rights School was set up by the Armenian Constitutional Right-Protective Center during the UN Human Rights Education Decade (1996–2004), where 360 teachers have passed training courses in the past six years. The foundation of Human Rights Library Network supplements these activities.

73. Since 2001, six human rights libraries have been set up as human rights education resource centers in different Marzes. The subject on “Human Rights” is also taught in higher education institutions of Armenia, including the Yerevan State University; UNESCO departments on human rights function as well. The Government of the Republic of Armenia also greatly emphasizes the issues of training special professional groups in this field, such as lawyers, police officers, judges, etc. International fundamental instruments on human rights are taken as a basis for educational programs, including the Universal Declaration on Human Rights and the two international covenants. Constitutional norms on the protection of human rights and freedoms are directly reflected in the legislation of the Republic of Armenia. Particularly, according to the Law of the Republic of Armenia “On the nationality of the Republic of Armenia” (adopted on 6 November 1995) every person shall have the right to acquire the nationality of the Republic of Armenia. The Republic of Armenia encourages stateless persons residing in the Republic of Armenia to acquire the nationality of the Republic of Armenia and does not hinder them in acquiring the nationality of another state.

74. The nationality of the Republic of Armenia is acquired by:

- (a) Recognition of the nationality;
- (b) Birth;
- (c) Obtaining the nationality;
- (d) Restoration of the nationality;

(e) Group acquisition of the nationality (in case of immigration and other cases prescribed by law upon a decree of the President of the Republic of Armenia).

75. Any stateless and capable person who has attained the age of eighteen has the right to apply for obtaining the nationality of the Republic of Armenia, if he or she:

(a) Has permanently resided for the last three years in the Republic of Armenia in the manner prescribed by law;

(b) Can communicate in the Armenian language; and

(c) Is familiar with the Constitution of the Republic of Armenia.

76. Without observing the above-mentioned requirements, any person not holding the nationality of the Republic of Armenia may obtain the nationality of the Republic of Armenia:

(a) Who has married a national of the Republic of Armenia or whose child is a national of the Republic of Armenia;

(b) Whose parents or any of them had previously hold the nationality of the Republic of Armenia or were/was born in the Republic of Armenia, and who applied for the nationality of the Republic of Armenia within a three-year period upon having attained the age of eighteen;

(c) Who is of Armenian origin, i.e., has Armenian ancestors;

(d) Who has renounced the nationality of the Republic of Armenia according to his or her application following 1 January 1995.

77. Amendments have been made in the Law of the Republic of Armenia "On the nationality" (26.02.07 HO-75-N) pursuant to which Article 13 on dual nationality has been added. A dual national of the Republic of Armenia is deemed to be any person who in addition to the nationality of the Republic of Armenia holds a nationality of another state (countries). A dual national is recognized for the Republic of Armenia solely as a national of Republic of Armenia.

78. The dual national of the Republic of Armenia has all the rights envisaged for the national of the Republic of Armenia and bears all the obligations and responsibilities envisaged for the national of the Republic of Armenia. The issues relating to compulsory military service of a dual national holding the nationality of the Republic of Armenia are regulated by Article 3.1 of the Law of the Republic of Armenia "On compulsory military service" (16.09.1998).

79. The Law of the Republic of Armenia of 25 December 2006 "On foreign nationals" establishes the residence status of foreign nationals, the grounds, terms for granting a residence status, the grounds for rejecting to grant a residence status, grant and refusal of a work permit of a foreign national, as well as departure and deportation procedures of a foreign national from the territory of the Republic of Armenia, and other issues.

80. In the Republic of Armenia foreign nationals have the same rights, freedoms and obligations as the nationals of the Republic of Armenia, and they bear the same responsibility in the territory of the Republic of Armenia as the nationals of the Republic of Armenia.

81. In the Republic of Armenia foreign nationals are obliged to respect the Constitution, laws, and other legal acts of the Republic of Armenia, as well as national customs and traditions.

82. The Law of the Republic of Armenia "On refugees" was adopted in 1999. Subsequently, supplements and amendments have been made three times to the mentioned

law. However, since that law had a number of gaps and shortfalls, for such reason the new Law of the Republic of Armenia “On refugees and asylum” was elaborated and adopted by the National Assembly of the Republic of Armenia on 27 November 2008. The Law is in compliance with the requirements of the Geneva Convention and other international fundamental instruments. Persons recognized as refugees enjoy the protection of the Republic of Armenia and are under its patronage. A foreign national or a stateless person may not be deported, returned or extradited to another country, where there are reasonable grounds to believe that there is danger he or she will be subjected to violent and inhuman or degrading treatment or punishment, including torture.

83. Refugees which were granted asylum in the territory of the Republic of Armenia shall have the right to benefit from the social services envisaged for the citizens of the Republic of Armenia as prescribed by the legislation of the Republic of Armenia, to receive state allowances and other monetary assistance, free medical aid and care guaranteed by the State, as well as the right to pension insurance specified by the legislation of the Republic of Armenia, and the right to social protection in case of unemployment, provided that they meet the requirements of the legislation of the Republic of Armenia regulating the relevant field. In accordance with the Civil Code of the Republic of Armenia, everyone shall have the right to apply to courts for protection of his or her rights; this provision extends also to refugees and asylum seekers. The Law of the Republic of Armenia “On refugees and asylum” guarantees the right to judicial protection for rejected asylum seekers.

84. In 2001, a supplement has been made to the Law of the Republic of Armenia “On state duty of the Republic of Armenia”, according to which the refused asylum seekers may appeal the rejection of their claim in judicial authorities without paying a state duty.

85. Asylum seekers and refugees have the same rights and obligations as stateless persons and foreign nationals lawfully residing in the Republic of Armenia. An asylum seeker cannot be deported from the territory of the Republic of Armenia before the final decision on his or her filed claim for asylum is adopted. The requested authorized body accommodates asylum seekers and their family members in the Temporary Accommodation Center, where they are provided with food and living conditions.

86. The Criminal Procedure Code of the Republic of Armenia was adopted in 1998 and entered into force in January 1999, aiming to ensure the protection of a person, society and the state from crimes, as well as the protection of a person and the society from arbitrary actions and abuses by state authorities. It also lays down as a principle the legality, assurance of the right to legal aid, personal immunity, inviolability of property and of dwelling, presumption of innocence, publicity of trial, adversary criminal proceedings and a number of other principles, which are aimed at ensuring fair, comprehensive and impartial examination of matters and administration of justice solely by independent and impartial courts.

87. On 5 May 1999 the Electoral Code of the Republic of Armenia was adopted which — owing to subsequent amendments and supplements — established stable legislative grounds for holding democratic elections in the country.

88. The new Criminal Code of the Republic of Armenia entered into force on 1 August 2003.

89. The Law of the Republic of Armenia “On Human Rights Defender” (the Law) was adopted on 21 October 2003 based on which the institution of the Human Rights Defender has been established and functions in the territory of the Republic of Armenia and which clearly defines its operational procedure and conditions. Thus, the constitutional norm for receiving the assistance of a human rights defender becomes practically applicable.

90. Article 7 of the Law provides for the scope of complaints subject to consideration of the defender. Point 1 of the aforementioned Article particularly stipulates that the defender shall consider the complaints of individuals regarding the violations — caused by the state and local self-governing bodies and their officials — of human rights and fundamental freedoms envisaged by the Constitution, laws and international treaties of the Republic of Armenia, as well as by the principles and norms of international law.

91. Article 8(1) of the Law defines the scope of persons eligible for applying to the defender and excludes any discrimination, “Any natural person may apply to the defender, regardless of national origin, nationality, place of residence, gender, race, age, political and other views and capabilities.” Part 2 of the same Article ensures the right of legal persons to apply to the human rights defender as well. At the same time, the Law envisages real guarantees for the immunity of the defender and the exclusion of any influence on the decisions thereof.

92. According to point 42 of the Decree of the President of the Republic of Armenia No. NH-174-N of 18 July 2007 “On establishing the procedure for arranging the activities of the Government of the Republic of Armenia and other public administration bodies adjunct thereto”, the draft laws concerning human rights and freedoms — before their submission to the Government — are communicated to the Human Rights Defender of the Republic of Armenia for opinion.

93. Among the standing committees of the National Assembly of the Republic of Armenia, the Standing Committee on Human Rights and Public Affairs was established in 2008 as well, which is engaged in the expertise of legislative drafts on human rights.

94. The Family Code of the Republic of Armenia was adopted in 2004 and it is in force since 2005.

95. Chapter 6 of the Constitution of the Republic of Armenia covers the judicial power, according to Article 91 of which in the Republic of Armenia justice is administered solely by the courts in accordance with the Constitution and the laws. Article 92 stipulates that the courts operating in the Republic of Armenia are the first instance court of general jurisdiction, the courts of appeal, the Court of Cassation, as well as specialized courts in cases prescribed by law.

96. The Judicial Code (the Code) of the Republic of Armenia, which was adopted on 21 February 2007 and entered into force on 18 May 2007, regulates relationships pertaining to the organization and operation of the judicial power (except for the Constitutional Court of the Republic of Armenia). It adheres to a number of principles peculiar to democratic countries and recognized in the international law, which are called to ensure the administration of justice only in accordance with the law and to give real guarantees of autonomy, independence and self-sustainability of judges and courts.

97. The right to judicial protection is clearly defined by Article 7 of the Code, according to which everyone shall be entitled to judicial protection of his/her rights and freedoms. No one can be deprived of the right to public trial of his or her case in a reasonable period by a competent, independent and impartial court under equal conditions and in compliance with all the requirements of justice. The right of everyone to exercise the right to judicial protection either through a representative or advocate, or in person, is not prejudiced.

98. In terms of covering the provisions of the Covenant in the legislation of the Republic of Armenia, it may be worth mentioning that the Law of the Republic of Armenia “On the profession of advocate”, adopted on 14 December 2004, establishes the institution of public defense, and that the state guarantees legal aid in criminal matters in the manner prescribed and in cases envisaged by the Criminal Procedure Code of the Republic of Armenia as well



as in the manner prescribed by the Civil Procedure Code of the Republic of Armenia and in the following cases:

(a) In matters with regard to levying maintenance payments;

(b) In matters with regard to compensation for losses incurred due to mutilation or other health injury, as well as due to the decease of the bread-winner.

99. The European Convention for the Protection of Human Rights and Fundamental Freedoms entered into force for the Republic of Armenia on 26 April 2002. Thereafter, every person under the jurisdiction of the Republic of Armenia is entitled to realize the right to judicial protection of his or her violated rights not only in domestic courts but also through applying to the European Court of Human Rights. As of 1 December 2009, the European Court rendered around 20 judgments.

100. The Law of the Republic of Armenia “On alternative service” was adopted on 17 December 2003, which regulates the relationships pertaining to replacing the compulsory military service of the national of the Republic of Armenia by an alternative service, as well as establishes the procedure for arranging and holding alternative service conscription.

101. The Law of the Republic of Armenia “On non-governmental organizations” adopted on 4 December 2001 and the Law of the Republic of Armenia “On political parties” adopted on 3 July 2002 have ensured legislative mechanisms for the implementation of the right to association prescribed by Article 22 of the Covenant. In addition, Article 3 of the Labour Code adopted on 9 November 2004 prescribes — as a principle of labour legislation — the right to freedom of association for the protection of labour rights and interests (including the right to establishing trade unions and employer associations or membership thereto).

102. Following the constitutional amendments, Article 30.2 of the Constitution stipulates that all nationals shall have the right to equal access to public service in conformity with the procedure prescribed by law. For the purpose of realizing this right, the National Assembly adopted numerous laws, of which the Law of the Republic of Armenia “On civil service” of 4 December 2001, the Law of the Republic of Armenia “On rescue services” of 8 July 2005, the Law of the Republic of Armenia “On tax service” of 3 July 2002, the Law of the Republic of Armenia “On special investigation service” of 28 November 2007, the Law of the Republic of Armenia “On special civil service” of 28 November 2007, the Law of the Republic of Armenia “On police service” of 3 July 2002, the Law of the Republic of Armenia “On customs service” of 3 July 2002, the Law of the Republic of Armenia “On community service” of 14 December 2004, the Law of the Republic of Armenia “On state service within the National Assembly” of 4 December 2002, the Law of the Republic of Armenia “On Judicial Service” of 7 July 2006, the Law of the Republic of Armenia “On penitentiary service” of 8 July 2005, the Law of the Republic of Armenia “On service ensuring compulsory enforcement of judicial acts” of 18 February 2004, the Law of the Republic of Armenia “On diplomatic service” of 24 October 2001, the Law of the Republic of Armenia “On service within National Security authorities” of 11 April 2003, which regulate public relationships arising in the field of public service.

103. The constitutional amendments objectively resulted in the need for radical changes in the Law of the Republic of Armenia “On the Constitutional Court.” At the legislative initiative of the Government of the Republic of Armenia a new Draft law of the Republic of Armenia “On the Constitutional Court” was submitted to the National Assembly of the Republic of Armenia. It underwent a detailed expertise by the European Commission for Democracy through Law of the Council of Europe. The new law entered into force on 1 July 2006.

104. The year of 2006 was unique for the constitutional review in Armenia in so far as the constitutional amendments of 2005 directly related to the overall system of constitutional justice. Primarily, Article 93 of the Constitution stipulated “the Constitutional Court shall administer the constitutional justice in the Republic of Armenia” (Articles 100 and 101 of the Constitution of the Republic of Armenia defining the powers of the Constitutional Court).

105. The major achievement in the above-mentioned constitutional amendments and further legislative amendments based thereon is that starting from 1 July 2006 natural and legal persons also obtained the right to apply to the Constitutional Court. According to Article 101(6) of the Constitution of the Republic of Armenia natural and legal persons may challenge before the Constitutional Court the constitutionality of the law provision applied by the final judicial act in their respect.

106. As a result of realizing the right of natural and legal persons to challenge before the Constitutional Court of the Republic of Armenia, the Constitutional Court, within the period from 1 July 2006 to 1 October 2009, examined 46 cases filed based on individual applications submitted by dozens of nationals, of which in 20 cases it has declared the legislative provisions appealed by natural and legal persons in contradiction with the Constitution of the Republic of Armenia and invalid (particularly, separate provisions of the Civil and Criminal Procedure Codes of the Republic of Armenia, separate provisions of the Law of the Republic of Armenia “On social security cards”, the Law of the Republic of Armenia “On bankruptcy”, and the Law of the Republic of Armenia “On television and radio”).

### **Article 3**

107. The legislation of the Republic of Armenia ensures equal rights of men and women and equal opportunities for the enjoyment of those rights. There is no discriminatory policy, decisions, orders or practice towards women in Armenia (see point 5 of CEDAW/C/ARM/4). Notwithstanding this, the level of representation of women in the decision-making process is still insufficient in the Republic of Armenia (see, particularly the Second and Third Periodic Joint Report of the Republic of Armenia on the Implementation of the Convention on Elimination of all Types of Discrimination against Women – CEDAW/C/ARM/4).

108. When defining human and civil fundamental rights and freedoms the phrases “every person” and “every national” are mentioned in the Constitution without any reference to either men or women. Moreover, Article 14.1 of the Constitution prohibits discrimination including discrimination on the basis of gender (see the information on Article 2).

109. The first strategic plan adopted upon independence, which outlined the main directions in public policy towards women was the National Plan of the Government of the Republic of Armenia “On the Improvement of Women’s Status and the Enhancement of their Role in the Society for the period of 1998–2000 in the Republic of Armenia” which was followed by the National Action Plan “On the Improvement of Women’s Status and the Enhancement of their Role in the Society for the period of 2004–2010” adopted upon the Decision of the Government of the Republic of Armenia No. 645-H of 8 April 2004. The aforementioned plan sets forth the public policy priorities targeted at the settlement of women’s issues and is based on the Constitution of the Republic of Armenia, the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), as well as on the instructions of the Fourth World Conference on Women, Beijing 1995 (see CEDAW/C/ARM/4 para 24–27). This document is targeted at ensuring the rights and fundamental freedoms of women, the guarantees for participation of women in public

administration, as well as maternity and infancy health preservation in the Republic of Armenia.

110. Continuing to operate in the Ministry of Labor and Social Affairs of the Republic of Armenia, the Department of Women's, Family and Children's Issues is in fact a major national mechanism ensuring the social protection of women (see CEDAW/C/ARM/4 para 37–39).

111. For the purpose of implementing point 128 of the 2009 Action Plan of the Government of the Republic of Armenia, a draft Concept Paper on Gender Policy is currently under elaboration which aims at establishing the core objectives, tasks, principles and directions of public policy towards men and women in the Republic of Armenia.

112. The Draft law of the Republic of Armenia “On state guarantees for equal rights and equal opportunities for men and women” is also in the process of elaboration.

113. The Council on Women's Issues was reorganized upon the Decision of the Prime Minister of the Republic of Armenia No. 426-A of 26 May 2009. The Prime Minister of the Republic of Armenia is the Chairperson of the Council. The task of the Council is to protect the women's rights, to take under control the measures of the National Plan for the improvement of women's condition and the gender-related issues.

114. The internal procedure for the Council of Female Police Officers was approved upon the Order of the Head of Police of the Republic of Armenia No.1430-A of 29 May 2009, the main task of which is the implementation of measures for settling social, economic, educational, and employment problems of female officers in the police system of the Republic of Armenia.

115. The constitutional norms ensuring the equality between men and women are directly incorporated in a number of legislative acts. Particularly, the Family Code of the Republic of Armenia (the Code) was adopted in 2004 and entered into force since 2005, which mentions — as core principles — that the legal regulation of family relationships is implemented based on the principles of voluntarism of marital alliance of men and women, equality of rights of spouses in the family, and settlement of family issues upon mutual consent.

116. Article 24 of the Code stipulates the equality of spouses in the family, mentioning that each of the spouses is free in choosing the work, occupation, profession, and place of residence. Spouses jointly settle issues of maternity, paternity, upbringing, and education of children, as well as other issues of family life based on the principle of equality between spouses. Article 25 establishes that — at marriage — the spouses, at their will, may choose the last name of one of the spouses as a joint last name or maintain the premarital last name.

117. Free mutual consent as well as marriageable age of men and women entering into marriage is necessary for concluding marriage. Spouses are obliged to build their relationships upon mutual help and respect, contribute to the strength of the family, and ensure the well-being and development of their children.

118. As a guarantee for equality, the Family Code of the Republic of Armenia has also declared the freedom to conclude a marriage contract and prescribed that a marriage contract is the agreement of marrying persons or the agreement of spouses, which determines the property rights and obligations during the marriage and (or) at dissolving a marriage. By defining the alimony duties of spouses and former spouses, Chapter 13 of the Code ensures equal conditions for both spouses.

119. The new Labour Code (the Code) of the Republic of Armenia was adopted on 11 October 2004 and entered into force on 21 June 2005, which establishes as principles the freedom to work, including the right to work, prohibition of any form (nature) of

compulsory work and violence against employees, equality of parties to labour relationships without distinction of any kind such as gender, race, national origin, language, origin, nationality, social status, religion, marital status, family status, age, beliefs or views, membership to political parties, trade unions or non-governmental organizations, other circumstances not related to practical features of an employee, as well as the assurance of the right to fair work conditions for each employee, equality of rights and opportunities of employees. The Code prescribed that men and women receive equal remuneration for the same or adequate work, moreover; when applying qualification system of works, the same criteria should be applied both towards men and women and such system should be elaborated in a way to exclude any discrimination based on gender. As guarantees provided to women and employees taking care of children, Article 117 of the Code establishes that an employment contract may not be rescinded with a pregnant woman during the overall pregnancy period (if necessary, in case of an available medical opinion), delivery leave and the month thereafter, as well as with an employee upbringing a child under one year of age.

120. Article 141(1)(3) lays down that a part-time working day or a part-time working week is prescribed upon the request of a pregnant woman or an employee upbringing a child under one year of age. Article 172 regulates the issues relating to pregnancy and delivery leaves.

121. Chapter 23 of the Code elaborates on the safety and health of employees, Article 258(1) of which claims that pregnant women as well as women upbringing a child under one year of age may not be involved in the performance of works with harmful conditions and dangerous factors having negative impact upon the health of the mother and the infant. The list of harmful conditions and dangerous work factors for pregnant women and for women taking care of a child under one year of age is established by the Government of the Republic of Armenia.

122. Part 3 of the same Article also establishes that an employer, in case there is no chance for eliminating dangerous factors, should undertake measures for improving the working conditions or — upon the consent of a woman — shift her to another work within the same enterprise. Part 5 claims that in addition to the general break-hours provided for resting and eating, a breastfeeding mother is granted with additional breaks — for feeding the newborn — lasting no less than half an hour and not less than once in every three hours. The breaks for feeding the newborn may at the will of a woman be combined and added to the common break or shift at the end of the working day with relevant reduction in the duration of a working day. During the break-periods provided for feeding the newborn, the employee is remunerated in the amount of the average salary, which is calculated based on the size of the average hourly wage.

123. Dismissal from work based on reasons pertaining to maternity is prohibited. Every employed woman shall have the right to paid pre- and post-natal leave, and the right to parental leave following the birth or adoption of a child.

124. Article 30 of the Constitution defines that every national of the Republic of Armenia, who has attained the age of eighteen, has the right to participate in elections and referenda, as well as the right to participate in the public administration and local self-government directly or through representatives elected through the expression of free will.

125. This constitutional norm is effective both immediately, and is directly reflected in the legislation of the Republic of Armenia. Particularly Articles 2 and 3 of the Electoral Code of the Republic of Armenia enforced on 28 February 1999 establishes that the nationals with the electoral rights irrespective of national origin, race, gender, language, religion, political or other views, social origin, property or other status, have the right to passive and active voting. Any restriction of the right to vote on these grounds is prosecuted by law. Thus, the Electoral Code of the Republic of Armenia also excludes any type of

discrimination, including on gender grounds. Moreover, by defining the procedure for nomination of candidates for members of the National Assembly, Part 2 claims that women should make at least fifteen percent of the candidates in the electoral lists presented by a political party for the elections to the National Assembly by proportional system, and at least each tenth person in the electoral list should be a woman.

126. Article 143 of the new Criminal Code of the Republic of Armenia entered into force on 1 August 2003 defines the violation of the equal protection of the law for citizens as a criminal offence, particularly, direct and indirect violation of human and citizens' rights and freedoms on grounds of person's national origin, race, gender, language, religion, political or other views, social origin, property or other status, which harmed the legitimate interests of a person; based on this, violation of Article 14.1 of the Constitution is criminalized. Article 57 of the Code defines detention as a measure of punishment and states in part 2 that detention shall not be imposed on pregnant women or persons taking care of a child under the age of eight, whereas Article 60 defines life imprisonment and states in part 2 that women pregnant at the moment of committing an offence or passing a judgment may not be sentenced to life imprisonment.

127. Under Article 63 of the Criminal Code, the commission of the offence against an obviously pregnant woman for the offender constitutes, among others, a circumstance aggravating the liability and the punishment. Article 78 of the Code envisages deferment of or exemption from punishment for pregnant women or persons having a child under the age of three.

128. Chapter 18 of the Code covers the crimes against sexual integrity and sexual freedom. Article 138 criminalizes rape defining it in the following manner: "Rape – sexual intercourse by a man with a woman against her will, by use or threat to use violence against her or other person or by use of woman's helpless situation."

129. Meantime, by defining the crimes against life and health in Chapter 16 of the Code, those acts are defined as criminal offences by the Code irrespective of the circumstance whether they were committed against men or women; moreover, there is also no differentiation in the Code as to the circumstance whether the act has been committed by the husband or by a third person, and the same punishment is prescribed in both cases.

130. Under the Criminal Code of the Republic of Armenia, in case of pregnant women or persons having a child under the age of three and sentenced to imprisonment, except for those sentenced to imprisonment for a term of more than five years for grave and particularly grave crimes, the court may defer or exempt from punishment for a term for which a woman is entitled to maternal leave due to pregnancy, delivery, as well as for a child to attain the age of three. In addition, criminal liability is established for unjustified refusal to hire or dismissal from work of a pregnant woman due to pregnancy or person having a child below the age of three – due to that fact.

131. According to Article 54 (4) of the Criminal Code of the Republic of Armenia, public works shall not be imposed on pregnant women, and according to Article 153 (4) of the Criminal Procedure Code of the Republic of Armenia, pregnant women may not be forcibly brought before a court, except for cases of being suspected of committing a grave or particularly grave crime.

132. The equal rights of men and women to exercise all the rights are also in a certain manner prescribed by the Law of the Republic of Armenia "On refugees", according to which every foreign national or stateless person, without any age limit, is entitled to apply for a refugee status.

133. Separate provisions on asylum seekers are envisaged by the Law of the Republic of Armenia "On refugees and asylum seekers", particularly interviews with female asylum

seekers which at the will of the latter are held by a female employee of an authorized body, and if appropriate is conducted with the assistance of a female interpreter.

134. The Judicial Code of the Republic of Armenia prescribes that when drawing up the list of candidates for judges, gender balance shall be considered. If the number of judges of either gender is less than 25 percent of the total number of judges, at least five places shall be secured in the list to the candidates of that gender. In the Republic of Armenia 46 out of 216 judges are women.

135. The issues of combating violence have always been in the centre of attention; these issues are regulated by the national legislation of the Republic of Armenia, particularly by a number of legal acts, including the Criminal Code, the Civil Code, and the Family Code. Gender distinction of violence victims is not provided for by these legal acts. Any violence — whether domestic or not — is criminally punishable. Crimes accompanied with violence, including domestic violence, are also criminally punishable. Such crimes include infanticide by the mother, incitement to suicide, causing intentional grave and medium-gravity harm to health, as well as battery, torture, insult, rape, violent acts of sexual nature, a threat of homicide, of causing grave harm to health or of destruction of property, etc.

136. The Law of the Republic of Armenia “On social aid” was adopted in 2005, which lays down the forms, terms of, and mechanisms for the aid provided by the State to the victims of violence.

137. Currently, the draft law on family violence is in the process of elaboration, upon the initiative of the “Centre for Women’s Rights” non-governmental organization and by the relevant interagency working group assisted by international organizations.

138. By 2006, various non-governmental organizations carried out studies aimed at revealing the phenomenon of violence against women in the Republic of Armenia. In 2006–2007, three studies on violence against women at home and at workplace were conducted with the participation of the State Statistical Service and non-governmental organizations upon the initiative of the Ministry of Labour and Social Affairs of the Republic of Armenia.

139. An important factor for eliminating violence is the prevention thereof, which is largely supported by raising the public awareness. Every year, a campaign entitled “Sixteen days of activity against gender violence” is organized with the assistance of UN institutions, other international organizations, non-governmental organizations, and state institutions, within the framework of which various events aimed at raising the awareness of the phenomenon on all levels, including national, regional, and community levels, are held.

140. Support to women subjected to violence is envisaged by the state program “Creation of Crisis Centres for Persons Subjected to Violence” approved within the medium term programs of the Government of the Republic of Armenia for 2009–2011.

141. At present, three “hot lines” (Yerevan-based “Maternity Centre of Armenia” and “Centre of Women Rights”, and Gyumri-based “Ajakits” non-governmental organization) and one Family Emergency Centre (“Maternity Centre of Armenia”) function in Armenia.

142. In 2008, functions relating to the protection of persons subjected to violence and prevention thereof were added in the statutory tasks of the Ministry of Labour and Social Affairs of the Republic of Armenia. It is envisaged that the relevant department of the Police will also be vested with special powers to deal with issues of prevention and punishment of violence against women.

143. Issues relating to the prevention of violence and support provided to persons and members of their families are included into the Action Plan of the Government of the

Republic of Armenia for 2008–2012. Funding of services provided to persons subjected to violence (around AMD16 million) was envisaged by the 2009 State Budget of the Republic of Armenia.

144. Women and men have equal opportunities for participating in the cultural life of the country; this right is primarily enshrined in Article 40 of the Constitution of the Republic of Armenia, which reads: “Everyone shall have the right to freedom of literary, artistic, scientific, and technical creation, the right to benefit from scientific achievements and to participate in the cultural life of the society.” Articles 27 and 41 of the Constitution of the Republic of Armenia are correlated with Article 40 of the Constitution.

145. In Armenia, culture has traditionally played an important role in the society, and women hold the highest positions in this field. In Armenia, women have always been and still are the bearers and upholders of national traditions and culture.

146. Access to cultural life and other values is enshrined in relevant provisions of the 1954 European Cultural Convention, to which Armenia acceded in October 2005.

147. The rights of citizens with regard to access to culture are also enshrined upon the Protocol Decision No. 46 of the Government of the Republic of Armenia “On concept provisions of preservation, dissemination, and development of culture in the Republic of Armenia” (adopted in October 2000), which clearly defines the principles of cultural policy, including freedom of cultural activity, access to cultural values, etc. The Law of the Republic of Armenia “On the fundamentals of cultural legislation” also includes relevant principles.

148. Having regard to the aforementioned legal grounds, all necessary measures for ensuring access to culture for all levels of the society are undertaken in the Republic of Armenia.

149. In a country where culture has always played an important role in the life of the society, women not only have the same possibilities as men, but are in the leading positions in the sphere.

150. In 2006, according to the statistical data, 90 out of 142 employees of the staff of the Ministry of Culture and Youth Affairs of the Republic of Armenia were women. In 2008, a new Ministry of Sports and Youth Affairs — having been separated from the Ministry of Culture and Youth Affairs — was established. In 2008, women made 63 out of 142 employees of the staff of the Ministry of Culture of the Republic of Armenia.

151. Women also hold leading positions in the sphere of culture. In 2003–2004, the Minister of Culture of the Republic of Armenia was a woman, and so is the current Minister of Culture, who took office in 2006. In 2004–2006, one of the Deputy Ministers of Culture and Youth Affairs of the Republic of Armenia was a woman. Currently one of the Deputy Ministers of Culture of the Republic of Armenia is a woman. As well as the leading positions in the culture sector is concerned, out of fourteen libraries functioning under the Ministry of Culture eight libraries are managed by women. In the field of museums, 21 out of 52 museums and their branches functioning under the Ministry of Culture of the Republic of Armenia are managed by women.

152. Statistics showing the overall ratio of men and women, including within the legislative power, as well as the gender balance among the students of secondary schools and higher educational institutions by Marzes are presented in the Annex attached to the Report. (See other details in the Third and Fourth Joint Periodic Report of the Republic of Armenia on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women – CEDAW/C/ARM/4).

#### Article 4

153. According to Article 55(14) of the Constitution of the Republic of Armenia, the power to proclaim a state of emergency in case of direct threat to the constitutional order and to take measures required by the situation is vested with the President of the Republic of Armenia. At the same time, the Constitution provides for a counterbalance with respect to limitation of human rights against the exercise of the President's right to declare a state of emergency. In case of necessity to declare a state of emergency, the President of the Republic of Armenia shall consult with the Chairperson of the National Assembly and the Prime Minister, as well as address the nation. In case of declaring a state of emergency, a special sitting of the National Assembly shall be instantly convened by virtue of law. According to Article 81, the National Assembly may revoke the implementation of measures required by the situation of the state of emergency declared by the President of the country.

154. It is envisaged to prescribe the legal regime of the state of emergency by law. For ensuring the implementation of this requirement, a draft law of the Republic of Armenia on the legal regime of the state of emergency has been included in the 2008 action plan of the Government of the Republic of Armenia and is currently put into circulation. It is envisaged that the legal acts on declaration of a state of emergency shall clearly specify the framework of temporary restrictions of human and civic rights and freedoms, the measures applied and additional obligations, as well as measures undertaken under a state of emergency and restrictions of constitutional rights and freedoms of natural persons. According to the draft law, any changes in the powers of state administration and local self-government bodies and additional obligations imposed on natural persons shall be exercised to the extent proportionate to the circumstances that served as grounds for declaration of a state of emergency, and shall be in compliance with the international commitments of the Republic of Armenia in the sphere of human rights protection and arise from the international commitments regarding the derogation from such commitments under a state of emergency (cases of emergency).

155. In this case, Article 14.1 of the Constitution shall have direct application, according to which everyone shall be equal before the law, and discrimination on the grounds of gender, race, colour, ethnic or social origin, language, religion, genetic features, outlook, political or other views, membership to a national minority, property status, birth, disability, age or other circumstances of a personal or social nature shall be prohibited.

156. Article 44 of the Constitution provides for the scope of rights and obligations subject to restriction in time of public emergency envisaged by Article 4 of the Covenant; according to Article 44 of the Constitution, special categories of fundamental human and civic rights and freedoms, except for those stipulated in Articles 15 (right to life, prohibition of condemning to death penalty or execution), 17–22 (prohibition of subjecting to torture, inhuman or degrading treatment or punishment; legal remedy of rights and freedoms; protection and reinstatement of violated rights; right to legal counsel; presumption of innocence; prohibition of use of evidence obtained through violation of law, etc.), and 42 (everyone shall have the right to act in a way not prohibited by law and not violating the rights and freedoms of other people; no one shall bear obligations not stipulated by law; laws and other legal acts exacerbating the legal status of an individual shall not have retroactive effect) of the Constitution, may be temporarily restricted in the manner prescribed by law in case of martial law or state of emergency within the scope of the assumed international commitments on derogation from obligations in cases of emergency.

157. Articles 43 and 44 of the Constitution of the Republic of Armenia — which clearly and exhaustively lay down in what cases and in what manner the fundamental human rights



and freedoms may be restricted, as well as define the specific rights which may be subject to restriction — provide an effective guarantee for compliance with the requirements of Article 4 of the Covenant. Article 43 states: “The fundamental human and civic rights and freedoms set forth in Articles 23–25, 27, 28–30, 30.1, and in the third part of Article 32 may be restricted only by law in case it is necessary in a democratic society for protection of national security, public order, prevention of crimes, protection of public health and morals, the constitutional rights and freedoms, as well as the honour and good reputation of others.

158. Restrictions of fundamental human and civic rights and freedoms may not exceed the scope defined by the international commitments assumed by the Republic of Armenia.”

159. The restrictions provided for by both Article 43 and Article 44 are made dependent — in a mandatory manner — on the international commitments undertaken by the Republic of Armenia, whereas rights such as the right to life, right to legal remedy of rights and freedoms, right to fair trial, right to legal counsel, presumption of innocence and several other rights are not subject to restriction, and some rights may be restricted exclusively by law.

160. Following the presidential elections held in the Republic of Armenia on 19 February 2008, the actions taken by the followers of Levon Ter-Petrosyan, one of the presidential contenders, resulted in the organization of public events in violation of law, which were accompanied by arson in the surroundings of the Yerevan Municipality and the streets of the center of the city, destruction of property and damages, use of firearms and explosives, as well as armed resistance against law-enforcement bodies. As a result of clashes between the demonstrators and the police, many people suffered bodily injuries, and ten people were deceased.

161. For the purpose of preventing the threat to the constitutional order and protecting the rights and lawful interests of the population in the Republic of Armenia, and guided by Articles 55(14) and 117(6) of the Constitution of the Republic of Armenia, on 1 March 2008 the President of the Republic of Armenia signed a Decree “On declaring a state of emergency” in the city of Yerevan for twenty days. The Decree of the President of the Republic of Armenia of 10 March 2008 made amendments to Point 4 of the Decree “On declaring a state of emergency” of March 1, partially lifting the restrictions imposed. On 21 March 2008, the Decree “On declaring a state of emergency” was terminated in accordance with the procedure prescribed by law. At the same time, according to Article 4 of the Covenant, other States Parties to the present Covenant were immediately informed, through a communication to the Secretary-General of the United Nations, of the provisions from which the State had derogated by declaring a state of emergency, as well as of further amendments thereto and the termination of the Decree. Similar letters were also communicated to the OSCE Office for Democratic Institutions and Human Rights in accordance with paragraphs 24 and 25 of the 1990 Copenhagen Document, and paragraph 28 of the 1991 Moscow Document, as well as to the Secretary General of the Council of Europe in accordance with Article 15 of the Convention on Human Rights and Fundamental Freedoms of the Council of Europe.

162. A criminal case was instituted with regard to the events of March 1–2 under Articles 225(3) and 235(2) of the Criminal Code of the Republic of Armenia, and the criminal cases were referred to court. Ten out of twenty seven persons accused were sentenced to one to five years of imprisonment; the punishment imposed on seventeen persons was conditionally not applied by virtue of Article 70 of the Criminal Code of the Republic of Armenia, and a probation period was set.

163. On 19 June 2009, upon the initiative of the President of the Republic of Armenia, an extraordinary session of the National Assembly was convened, which discussed the

proposal the President of the Republic of Armenia on declaring amnesty. Guided by Article 81 (1)(1) of the Constitution of the Republic of Armenia whereby “upon the recommendation of the President of the Republic of Armenia, the National Assembly shall declare amnesty”, the recommendation was accepted, and amnesty was declared (307 persons were released upon amnesty).

164. As to the cases of emergency created as a result of natural or man-made calamities, Article 1 of the Law of the Republic of Armenia “On protection of population in cases of emergency” lays down that a case of emergency is a situation created as a result of a major accident, dangerous natural phenomenon, man-made, natural, or ecological (environmental) calamity, epidemics, epidemics in animals (epizootics), widespread infectious diseases of plants and agricultural crops (epiphytotic disease) or use of certain types of weapons in a certain territory or facility, which causes or may cause loss of human life, serious damage to human health and environment, significant material loss, and disruption of normal conditions of people’s vital activity.

165. In the Republic of Armenia, the grounds for, and organization of the protection of population in cases of emergency, the rights and obligations of public administration and local self-government bodies, undertakings, institutions, organizations, as well as of officials and citizens are regulated by the Law of the Republic of Armenia “On protection of population in cases of emergency.”

166. According to Article 14 of the Law of the Republic of Armenia “On protection of population in cases of emergency”, the Ministry of Defence of the Republic of Armenia and the Police of the Republic of Armenia shall:

- (a) Organize the protection of their employees in cases of emergency;
- (b) Organize the activities of subordinate undertakings, institutions, and organizations in cases of emergency;
- (c) Ensure — within the scope of their authority — the protection of the population, and establish, for the purposes thereof, the necessary specialized units;
- (d) Exercise other authorities prescribed by the legislation of the Republic of Armenia relating to the protection of population.

Except for the aforementioned law, relations with regard to certain cases of emergency situations shall be regulated by:

- (a) The Law of the Republic of Armenia “On seismic protection”;
- (b) The Law of the Republic of Armenia “On fire safety”;
- (c) The Law of the Republic of Armenia “On state regulation of ensuring technical safety”;
- (d) Other legal acts.

167. According to Article 11(2) of the Law of the Republic of Armenia “On defence”, the functions of the Armed Forces of the Republic of Armenia include, inter alia, the participation in preventing cases of emergency, mitigation and elimination of possible consequences thereof, as well as in civil defence, evacuation, search and rescue, rescue, and humanitarian measures, as well as the honouring of commitments under international treaties, including participation in international humanitarian and rescue, peace-keeping and stabilization missions as part of international contingent.

168. In accordance with the Law of the Republic of Armenia “On protection of population in cases of emergency”, the supervisory mechanisms over the exercise of powers of public administration bodies are:

(a) The provisions laid down by Article 19, according to which every citizen of the Republic of Armenia — in the manner prescribed by the legislation of the Republic of Armenia — shall be entitled to compensation of losses incurred as a result of emergency situations, as well as to receive accurate information on the emergency situation, the threat of emergency situation, and the extent of his or her protection. In cases of emergency, the property of citizens may be taken into possession and temporarily used for public and state needs (only for expedient implementation of activities of life and health rescue) upon future adequate compensation in the manner prescribed by the Government of the Republic of Armenia;

(b) The provisions laid down by Article 23, according to which officials and citizens shall — in the manner prescribed by the legislation of the Republic of Armenia — incur liability for violating the requirements of the Law as well as for creating conditions and causes of emergency cases.

169. According to Article 16 of the Law of the Republic of Armenia “On the Police”, in cases of emergency the police is obliged to undertake immediate measures for rescuing people and providing them with first aid, as well as to maintain the property left unattended during accidents, calamities, fires, and other cases of emergency. Moreover, the police is obliged to participate, in the manner prescribed by law, in securing the legal regime of state of emergency or martial law within the whole territory or in certain parts of the Republic of Armenia, as well as in carrying out quarantine measures during epidemics.

170. According to Article 25 of the Law, in cases of emergency situations, as well as when carrying out special measures, the police is — in the manner prescribed by the legislation of the Republic of Armenia — entitled to:

(a) Upon the decision of the head of internal affairs body or his or her alternate, blockade (surround) parts of the relevant territories and, if necessary, carry out inspection of vehicles; prevent riots and actions impeding the operation of transport, communication and other organizations during natural calamities, epidemics, as well as when carrying out quarantine measures;

(b) By presenting, in the manner prescribed by law and in advance, the service identification card:

(i) Have unimpeded access to the apartments or other premises of the citizens, their land plots, premises or territories occupied by organizations, and carry out inspections with the purpose of ensuring the personal security of citizens and public safety in times of natural calamities, accidents, epidemics, and mass riots;

(ii) Use the transportation owned by organizations or citizens as well as officials in order to arrive at the sites of natural calamity, take citizens in need of immediate medical attention to medical institutions, chase criminals, as well as for the purposes of transporting the vehicles damaged as a result of the accident and for arrival at sites of accidents or for taking the Police personnel to the gathering place in response to an alarm bell – if necessary, taking over the driving.

171. For the above-mentioned purposes, communication means belonging to organizations or citizens as well as officials may also be used.

172. In cases referred to in this point, the damage caused to the transportation and other means belonging to citizens shall be subject to compensation in the manner prescribed by law.

173. Special purpose transportation means, and transportation means belonging to diplomatic, consular, and foreign state representatives, as well as international organizations may not be used for the above-mentioned purposes.

174. In 2008, the Ministry of Emergency Situations was established in the Republic of Armenia; the Ministry elaborates, implements, and coordinates the policy of the Government of the Republic of Armenia in the spheres of civil defense and protection of the population, vested in it by laws and other legal acts.

175. During the reporting period, state of emergency — due to a natural calamity — has not been declared in the territory of the Republic of Armenia (the extent of calamities occurred did not meet the criteria for declaring a state of emergency in the Republic of Armenia).

## **Article 5**

176. Article 2 of the Constitution stipulates: “Power in the Republic of Armenia lies with the people. The people exercise their power through free elections and referenda, as well as through state and local self-government bodies and officials as provided for by the Constitution. Usurpation of power by any organization or individual shall constitute a crime.”

177. According to Article 6 of the Constitution, international treaties are a constituent part of the legal system of the Republic of Armenia and the provisions thereof shall have direct effect.

178. The fourth part of Article 6 of the Constitution of the Republic of Armenia is in compliance with the content of Article 5 of the Covenant and it reads as follows: “International treaties shall enter into force only after ratification or approval. International treaties shall be a constituent part of the legal system of the Republic of Armenia. Where ratified international treaties lay down norms other than those provided for by laws, the norms of the treaties shall prevail. International treaties that contradict the Constitution may not be ratified.” According to the first and second parts of Article 42 of the Constitution of the Republic of Armenia, “Fundamental human and civic rights and freedoms enshrined in the Constitution shall not exclude other rights and freedoms prescribed by laws and international treaties. Everyone shall have the right to act in a way not prohibited by law and not violating the rights and freedoms of other people. No one shall bear obligations not stipulated by law.” Article 42.1 of the Constitution of the Republic of Armenia stipulates that: “Fundamental human and civic rights and freedoms shall also apply to legal persons to the extent these rights and freedoms are in their essence applicable to them.”

179. According to the first part of Article 43 of the Constitution of the Republic of Armenia, fundamental human and civic rights and freedoms enshrined in certain articles are restricted by law, in particular the right of citizens of the Republic of Armenia who have attained the age of eighteen to take part in elections and referenda as prescribed by Article 30 of the Constitution of the Republic of Armenia; whereas the second part of the same Article stipulates the following provision: “Restrictions of fundamental human and civic rights and freedoms may not exceed the scope defined by the international commitments assumed by the Republic of Armenia.”

## **Article 6**

180. Armenia pursues a consistent policy with regard to fighting against genocide both as a country having survived through genocide and suffered the consequences thereof, and as an advocate for preventing the recurrence of such crimes. At the end of the nineteenth and the beginning of the twentieth century, the Ottoman Empire carried out a policy of genocide against the Armenians, which reached its apogee in 1915–1923 by total physical extermination of Armenians. Many countries in the world have condemned this crime (see

the list of countries at [http://genocide.am/article/recognition\\_of\\_the\\_armenian\\_genocide.html](http://genocide.am/article/recognition_of_the_armenian_genocide.html)).

181. Armenia is committed to its efforts towards the recognition of the Armenian genocide by the international community, pursuing the objective of not only establishing the rule of international law and justice but also preventing the recurrence of such crimes in the future through exclusion of impunity.

182. In 1998, the United Nations Commission on Human Rights, upon the initiative of the Government of the Republic of Armenia, adopted the Resolution “On the 50th Anniversary of the Convention on the Prevention and Punishment of the Crime of Genocide” and in 1999 and 2001 the Resolution “On Prevention and Punishment of the Crime of Genocide.” The resolutions proposed by Armenia were aimed at, once again, drawing the attention of the world community to the Convention on the Prevention and Punishment of the Crime of Genocide through documents related thereto, emphasizing its vital importance, stressing the necessity of joint efforts of states aimed at the elimination of this terrible crime, as well as urging states which have not acceded to or ratified the Convention to do so in the shortest possible time.

183. On 28 March 2008, the 7th session of the United Nations Human Rights Council unanimously adopted the Resolution entitled “Prevention of Genocide”, co-sponsored by 62 countries. The adoption of the Resolution raised the issues of genocide recognition and prevention to a new level, thus establishing the direct responsibility of the states before their people. It is worth mentioning that owing to the above-mentioned resolutions, the international community currently focuses its attention to the issue of early warning in situations that could lead to genocide, which is pivotal in prevention of genocides.

184. The implementation of Article 6 of the Covenant is ensured by Article 15 of the Constitution of the Republic of Armenia, whereby “Everyone shall have the right to life. No one may be sentenced or subjected to death penalty.” In other words, death penalty as a type of punishment was abolished in the Republic of Armenia.

185. On 25 January 2001 Armenia signed and on 29 September 2003 ratified the Protocol No. 6 on the Elimination of Death Penalty to the Convention for the Protection of Human Rights and Fundamental Freedoms.

186. Article 6 of the Law of the Republic of Armenia of 18 April 2003 “On enacting the Criminal Code of the Republic of Armenia” envisaged that punishment imposed against persons sentenced to death penalty before 1 August 2003, under Article 22 of the Criminal Code of the Republic of Armenia adopted on 7 March 1961, should be replaced by life imprisonment by the courts having made the relevant judgment or by courts of the place of serving the sentence by the convict. Persons who have not attained the age of eighteen, as well as women who are pregnant at the time of committing an offence or when delivering the judgment, shall not be sentenced to life imprisonment.

187. With the purpose of protecting the right to life as enshrined by the Constitution, death penalty — as an exclusive type of sanction — has been removed from the general part of the new Criminal Code which entered into force on 1 August 2003.

188. The Decision of the Constitutional Court of the Republic of Armenia No. SDVo-437 of 15 July 2003 “On determining the compliance of the commitments laid down by Protocol No. 6 on the Elimination of Death Penalty, signed in Strasbourg on 28 April 1983, to the Convention for the Protection of Human Rights and Fundamental Freedoms with the Constitution of the Republic of Armenia” has had a significant legal contribution to the abolition of death penalty in the Republic of Armenia.

189. The Constitutional Court — systematically scrutinizing the Constitution of the Republic of Armenia, as well as studying the content of the international treaties of the

Republic of Armenia — has found that the Republic of Armenia, as a factor for guaranteeing the right to life, rejects death penalty as a sanction and provides for the abolition of death penalty as a rule.

190. Article 104 of the Criminal Code of the Republic of Armenia (the Code) lays down that murder is an unlawful intentional killing of another human being, whereas Article 393 prescribes that genocide is “the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such: killing the members of the group, inflicting grave damage to their health, preventing births within the group, forcibly transferring children of one group to another, forcibly resettling or inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part”, which is punishable by twelve to fifteen years of imprisonment or by life imprisonment.

191. The constitutional requirement of respect for and protection of the right to life has been reflected in the laws of the Republic of Armenia regulating the activity of law enforcement and other bodies within the framework of judicial reforms, which clearly lay down the cases and conditions of using physical force, special means, and firearms by employees of those bodies. In particular, the laws of the Republic of Armenia “On the Police”, “On police troops”, “On Military Police”, “On national security bodies” provide that officers of the mentioned bodies — prior to using physical force, special means, and firearms — shall be obliged to give a warning of their intent to use physical force, special means, and firearms, with sufficient time for the legitimate demand to be discharged and the violation to be terminated, unless to do so would pose an immediate threat to the life and health of citizens or the officer or may entail other grave consequences, or where the situation renders such warning impossible.

192. At the same time, it is prohibited to employ firearms against women with obvious signs of pregnancy, persons with obvious signs of disability, and minors (except for cases of armed or group attacks dangerous for the life of citizens, and armed resistance), as well as during considerable gatherings of people when other persons may suffer from employing firearms. Moreover, the law enforcement officer is entitled to remove the firearm from the holster and prepare it for an action if he or she finds that the existing situation may require employing a firearm pursuant to law; the employee shall have the right to employ a firearm without prior notification in case of any attempt by the person being arrested to approach the law enforcement officer (by violating the distance demanded by the officer) executing the arrest with the firearm removed from the holster, to make an unexpected abrupt movement without permission, to reach his hands into his pockets, or to reach for the firearm. According to the aforementioned laws, law enforcement officers are obliged to seek to minimize the damage inflicted on the offender taking into consideration the nature of the offence, the extent of danger posed by the action and by the offender to the public, and the extent of disobedience and resistance shown, as well as provide the persons who have received bodily injuries, including the offender, with first medical aid.

193. Article 20 of the Constitution of the Republic of Armenia lays down that “Every convict shall have the right to appeal for pardon or commutation of sentence.” Point 17 of Article 55 of the Constitution of the Republic of Armenia stipulates that the President of the Republic of Armenia shall “grant pardon to convicts.”

194. According to Article 16(4) of the Criminal Code of the Republic of Armenia, where laws of the country requesting the extradition of offenders envisage death penalty for the given crime, the extradition thereof may be refused.

195. The recognition of the right to life for each person — under legal norms, including those provided for in acts of supreme legal force — would be of a mere declarative nature in the absence of norm-guarantees called to assure the effective protection of the right. Article 38 of the Constitution of the Republic of Armenia may, inter alia, be pointed out,

whereby “Everyone shall have the right to receive medical aid and care in the manner prescribed by law. Everyone shall have the right to benefit — free of charge — from basic medical services. The list and procedure for provision thereof are prescribed by law.”

196. As a result of the constitutional amendments, the Constitution of the Republic of Armenia envisages the right of every natural person to receive medical aid and care in the manner prescribed by law; the Republic of Armenia has already assumed, on the constitutional level, the commitment to assure everyone’s access to free basic medical services.

197. The implementation of the mentioned constitutional norm is ensured by a number of legislative acts and the secondary legislation. These acts, inter alia, include the Law of the Republic of Armenia “On medical aid and care of the population” adopted on 4 March 1996, wherein a number of articles concern the provision of free medical aid and care.

198. In particular, Article 2 of the mentioned Law lays down that first medical aid — as a type of medical aid and care provided to every person free of charge and through more affordable methods and technologies — is guaranteed by the State.

199. Article 4 defines that everyone shall be entitled to receive free medical aid and care within the framework of state-provided target public health programs.

200. Article 10 sets forth that every child has the right to free medical aid and care within the framework of state-provided target public health programs.

201. Article 11 lays down that a person, suffering from a disease which poses a threat to the environment, shall be entitled to receive free state-provided medical aid and care, as well as undergo treatment at specialized medical aid and care institutions.

202. Article 14 defines that the persons injured during cases of emergency shall receive free medical aid and care in the manner guaranteed by the State.

203. On 4 March 2004, the Government of the Republic of Armenia adopted the Decision No. 318-N “On state-provided free medical aid and care”, which particularly regulates the procedures for arranging and funding of state-provided free medical aid and care, approves the list of persons included in socially vulnerable and separate (special) groups entitled to receive free state-provided medical aid and care, as well as regulates a number of other relations with regard to the arrangement of free medical aid and care.

## **Article 7**

204. Article 17 of the Constitution of the Republic of Armenia clearly prescribes that “no one shall be subjected to torture or to inhuman or degrading treatment or punishment. All arrestees, remand prisoners, and persons sentenced to imprisonment shall have the right to be treated with humanity and with respect for dignity.”

205. During the reporting period, the Republic of Armenia acceded to such important international instruments on combating torture as the Council of Europe Convention on Human Rights and Fundamental Freedoms (ratified and entered into force on 26 April 2002) and its Protocols (1–8, 11, 12, and 14), the European Convention on Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ratified on 18 June 2002, and entered into force on 11 October 2002) and its two Protocols; on 31 May 2006, the National Assembly of the Republic of Armenia ratified the Optional Protocol to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (entered into force on 22 June 2006).

206. Taking into consideration the commitments assumed, Article 119 of the Criminal Code of the Republic of Armenia qualifies torture as a criminal offence and stipulates a relevant punishment for such offence.

207. Pursuant to the mentioned Article, torture is any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person. Such act shall be punished by imprisonment for a maximum term of three years, and in case of aggravated circumstances – by imprisonment for a term of three to seven years.

208. The right to personal immunity is enshrined in the Criminal Procedure Code of the Republic of Armenia. In particular, Article 11 of the Criminal Procedure Code of the Republic of Armenia reads: “In the course of criminal proceedings no one should be subjected to torture, unlawful physical or mental violence, including through the use of medicinal products, hunger, exhaustion, hypnosis, deprivation of medical aid, as well as other cruel treatment. It shall be prohibited to extort evidence from a suspect, an accused, a defendant, a victim, a witness and other persons participating in criminal proceedings through violence, threat, fraud, violation of their rights, as well as other illegal actions.”

209. On 3 August 2006, the Government of the Republic of Armenia adopted the Decision No. 1543-N “On approving the internal regulations for remand facilities and correctional establishments of the Penitentiary Service of the Ministry of Justice of the Republic of Armenia”, which entered into force on 3 December 2006. The internal regulations lay down and regulate the manner of exercising the rights, freedoms, and obligations of remand prisoners and convicts, the rules of conduct for remand prisoners and convicts, the medical care as well as the conditions and rules of keeping personal hygiene, the accommodation of remand prisoners and convicts, their labor, education, access to literature and press, the manner of forming self-organized workshops by convicts and the functioning of such groups, participation in religious ceremonies, the manner of receiving visits, the manner of receiving and sending family parcels, parcels, and packages, the manner of receiving and making monetary transfers, filing of proposals, applications, and complaints by remand prisoners and convicts, correspondence, entitlement to phone conversations, and short leaves, etc. Compliance with the requirements of the Internal Regulations is compulsory for the administration of the remand facility and correctional establishment, remand prisoners and convicts, as well as other persons visiting remand facilities or correctional establishments.

210. According to the Constitution (Article 103), exclusive powers are vested in prosecution authorities with regard to exercising control over the legality of inquest and preliminary investigation and of the application of punishments and other compulsory measures. The Law of the Republic of Armenia “On Prosecutor’s Office” has entered into force since 2007. This Law regulates the issues related to the control over the legality of inquest and preliminary investigation, of the application of punishments and other coercive measures.

211. According to Article 29 of the mentioned Law, “punishment” means sanctions provided for by criminal law (fine, confiscation of property, remand detention, imprisonment, etc.). Deprivation of liberty, in cases envisaged by points 2–7 of the first part of Article 16 of the Constitution of the Republic of Armenia, is considered as another measure of coercion.

212. Article 29 of the Law envisages that while exercising control over the lawfulness of the application of punishments and other measures of coercion, a prosecutor shall be entitled to:

(a) Unimpeded access, at any time, to all the places where people deprived of liberty are held;



(b) Familiarize with the documents, on the basis of which the person has been subjected to a punishment or other coercive measures;

(c) Examine the compliance with the legislation in force of the orders, instructions, and decisions of the administration of bodies enforcing punishments and other coercive measures, which concern the fundamental rights of the person subjected to a punishment or other coercive measures. When revealing an act, which is not compliant with the legislation, the prosecutor shall file a motion for revising the act, and in cases where the prosecutor finds that any delay may have serious consequences, the prosecutor shall have the right to suspend the effect of the act and file a motion on the revision thereof;

(d) Interrogate persons subjected to a punishment or other coercive measures;

(e) Immediately release persons kept illegally in places of deprivation of liberty and in penal and disciplinary isolators of such places, and, where a person has been deprived of liberty on the basis of a legal act of the administration of the place of deprivation of liberty, the person having adopted the act is obliged to, upon the prosecutor's instruction, immediately abolish the act;

(f) Demand explanations from officials on actions taken by them or on their inaction in case of any doubt that the rights and freedoms of persons subjected to a punishment or other coercive measures have been violated.

213. The Prosecutor's Office of the Republic of Armenia is seriously engaged in the activities aimed at the arrangement and exercise of active control over the application of laws in penitentiary institutions and places of enforcing other coercive measures. During its sessions, the Board of the Prosecutor's Office regularly discusses issues relating to the rights of convicts, remand prisoners and arrestees, their accommodation and healthcare services, improvement of the manner and conditions of serving the sentence, release on parole or release due to grave illness, as well as issues relating to persons having committed acts dangerous for the public in a state of insanity, and numerous other issues; in addition, measures are undertaken in view of restoring the violated rights of such persons and eliminating the identified shortcomings.

214. On 11 April 2005, the Law of the Republic of Armenia "On approving the code of discipline of the Police of the Republic of Armenia" (the Law) was adopted, which lays down the rules of ethics for police officers.

215. According to Article 5 of the Law, subjecting of a human being to torture, cruel or degrading treatment, or use of violence against him or her by a police officer is prohibited and incurs liability in accordance with the procedure prescribed by law.

216. The Law of the Republic of Armenia "On the custody of arrestees and remand prisoners" was adopted in 2002; pursuant to Article 2 of the Law, an arrestee or a remand prisoner shall be respectively kept under arrest or remand detention based on the principles of legality, equality of arrestees and remand prisoners before the law, humanity, respect for individual rights, freedoms and dignity, in accordance with the Constitution of the Republic of Armenia, the Criminal Code of the Republic of Armenia, and the Criminal Procedure Code of the Republic of Armenia, as well as the universally recognized principles and norms of international law. Exercise of physical violence and inhuman or degrading actions against an arrestee or a remand prisoner is prohibited.

217. According to Chapter 7 of the Law, the courts, the prosecutor's office, higher instances and public observers exercise, within the scope of their powers, control and supervision over the activity of remand facilities and correctional institutions.

218. According to Article 18, an arrestee or a remand prisoner may file his or her proposals, applications, and complaints every day, both in writing and verbally.

219. Bodies and officials examining the proposals, applications, and complaints of arrestees or remand prisoners shall be obliged to undertake the examination in the manner and within the terms prescribed by the legislation of the Republic of Armenia, and inform the arrestees and remand prisoners about the decisions taken.

220. Proposals, applications, and complaints lodged with regard to the decisions and actions of the administration of police holding facilities (PHF) do not suspend those decisions or actions.

221. Proposals, applications, and complaints addressed to a prosecutor, judge, the Human Rights Defender, bodies exercising control over police holding facilities are sent to the addressee in a sealed package within one day.

222. Any form of prosecution of arrestees or remand prisoners for lodging proposals, applications, or complaints with respect to violations of their rights and lawful interests is prohibited. Persons carrying out such prosecution shall incur liability as prescribed by law.

223. According to Chapter 7 of the Decision of the Government of the Republic of Armenia No. 574 of 5 June 2008 “On approving the internal regulations of police holding facilities functioning under the Police of the Republic of Armenia”, the employees of police holding facilities are obliged to accept both written and verbal proposals, applications, and complaints from the arrestees in the course of routine inspections. Proposals, applications, and complaints addressed to the administration of the police holding facility are recorded in a registry and reported to the head of the given police authority. The latter undertakes measures aimed at the resolution thereof.

224. Proposals, applications, and complaints addressed to public authorities, local self-government bodies, and non-governmental unions are sent through the administration of the police holding facility, the counsel, or the legal representative. Replies to the proposals, applications, and complaints are immediately communicated to the arrestees, which are confirmed upon their signatures and are attached to their personal file. Temporary suspension or limitation of lodging applications, complaints, and proposals shall be prohibited. (See the Third and Fourth Joint Periodic Report of the Republic of Armenia on Implementation of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment).

225. Based on the “Rules of procedure of the public monitoring group of the police holding facilities under the Police of the Republic of Armenia”, approved by the Decision of the Head of the Police of the Republic of Armenia of 14 January 2005, a public monitoring group of the police holding facilities under the Police of the Republic of Armenia was established on 10 March 2006; the group is currently composed of nine members.

226. Upon the Order of the Minister of Justice of the Republic of Armenia No. QH-66-N of 18 November 2005, public control over penitentiary establishments and bodies of the Ministry of Justice of the Republic of Armenia is exercised by a public monitoring group currently comprised of 11 members. Members of the Group are entitled to unimpeded access to penitentiary establishments and bodies, to get familiar with the contents of various documents, including, upon the consent of a prisoner or a person under the control of penitentiary bodies, with their personal files and correspondence, except for confidential documents, to get familiar with the situation in the establishment, as well as to meet prisoners and persons under the control of penitentiary bodies.

227. The provision laid down by Article 7 of the Covenant that no one shall be subjected without his free consent to medical or scientific experimentation, has been incorporated into the Constitution of the Republic of Armenia and a number of other legal acts. In particular, Article 17 of the Constitution of the Republic of Armenia directly prohibits subjecting a

person to scientific, medical and other experimentation without his or her consent. This is of utmost importance taking into account that the mentioned prohibition, being laid down in the Constitution of the country as a norm of supreme legal force, may not be amended or bypassed through another legal act, except for the Constitution itself.

228. Such a prohibition is also laid down in Article 6 of the Law of the Republic of Armenia “On psychiatric treatment”, which sets out the rights of persons with mental disorders. In particular, according to the mentioned Article, persons with mental disorders have a right to give consent to and refuse therapeutic methods and agents at any stage where such are applied for scientific or experimental purposes, and are accompanied with photo and video recording and film shooting. Under Article 127 of the Criminal Code of the Republic of Armenia, criminal liability is imposed for subjecting a person to medical or scientific experimentation without free expression of his or her will, as well as without informed and properly formulated consent. Such acts are punishable by a fine in the amount of 200-fold to 400-fold of the minimum salary, with or without deprivation of the right to hold certain positions or to engage in certain activities for a maximum term of three years. Part 2 of the same Article sets out the following aggravating circumstances for the mentioned offence: (1) against a helpless person, (2) against a person in financial or other dependence upon the offender, and (3) against a minor. In the mentioned cases a heavier liability is imposed: imprisonment for a term of one to three years, with or without deprivation of the right to hold certain positions or to engage in certain activities for a maximum term of three years. The same act that has been committed by an organized group or has negligently caused grave consequences is punishable by imprisonment for a term of two to six years, with or without deprivation of the right to hold certain positions or to engage in certain activities for a maximum term of three years (Article 127 (3) of the Criminal Code).

229. Pursuant to Article 6 of the Penitentiary Code of the Republic of Armenia, the execution of a sentence, as well as imposition of compulsory medical measures combined with execution of the sentence, must not be accompanied by physical violence against a person, as well as such actions, which may lead to socio-psychological degradation of the person. No person deprived of liberty upon a judgment may be subjected to torture or other cruel, inhuman or degrading treatment or punishment. No circumstance may serve as a ground for justifying torture or other cruel, inhuman or degrading treatment or punishment.

230. Article 47 of the Criminal Code of the Republic of Armenia lays down that a person who issued illegal order or instruction shall be liable for the harm caused to the interests protected under criminal statute, while a person that committed an intentional crime upon an obviously illegal order or instruction, shall be held liable on general grounds.

231. In addition, abuse or excess of official powers by an official also constitute criminal offences, as laid down in Articles 307 and 308 of the Criminal Code of the Republic of Armenia.

232. Taking into account that the Office of the Human Rights Defender of the Republic of Armenia (hereinafter referred to as “the Defender”) conforms to the standards of an independent national preventive mechanism as provided for by the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and that it is able to assume the functions of such a mechanism in Armenia, on 20 September 2007 the Government of the Republic of Armenia approved the draft law of the Republic of Armenia “On making a supplement to the Law of the Republic of Armenia on the Human Rights Defender”, thus declaring the Defender as the Independent National Preventive Mechanism under the Optional Protocol to the Convention against Torture. The draft law was later submitted to the National Assembly of the Republic of Armenia and was adopted on 8 April 2008. Article 6.1 added to the Law lays down that the Defender is the National Preventive Mechanism under the Optional Protocol to the Convention against

Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The analysis and contents of the complaints concerning torture addressed to the Defender are included in its annual reports of 2004–2008 (see official website of the Defender: [www.ombuds.am](http://www.ombuds.am)).

233. Chapter 54 of the Criminal Procedure Code of the Republic of Armenia completely regulates the procedure for and the conditions of provision of legal assistance in criminal matters as well as extradition of persons having committed a crime to a foreign state, in accordance with international treaties, as well as determines the bodies competent to issue an extradition order or a decision on refusing the extradition.

234. Thus, pursuant to Article 479 (2) of the Criminal Procedure Code of the Republic of Armenia, the competent authority issuing an extradition order or a decision on refusing the extradition shall notify about the adopted decision the person concerning whom the decision has been adopted and explicate his or her right to have that decision reviewed. The mentioned provision allows for additional verification as to the existence of grounds for possible subjection of a person to torture or degrading treatment in the country concerned. Provisions laid down in articles on extradition of persons having committed a criminal offence have been incorporated in Article 16 of the Criminal Code.

235. Regular training courses organized and held for officers of the Penitentiary Service of the Republic of Armenia include teaching materials clarifying such practices of treatment towards prisoners, which amount to torture or degrading treatment.

236. Issues relating to human rights, including issues of clarifying practices amounting to torture or degrading treatment, have been incorporated in the curriculum of the professional and combat-readiness trainings held in the police system. Relevant training courses are also held at the Police Academy of the Republic of Armenia and at the Police Training Center. Human rights issues are studied at the Police Academy of the Republic of Armenia within the frames of “Human Rights and the Police”, “International Humanitarian Law” and “Constitutional Law” subjects. OSCE has sponsored the opening of a special lecture room at the Police Training Center of the Republic of Armenia designed for trainings on human rights.

237. Topics on human rights issues and prohibition of torture are also included in the curricula of the National Health Institute after S. Kh. Avdalyan of the Ministry of Health of the Republic of Armenia, which are conducted for doctors and pharmacists for the purpose of their professional advancement and supplementary specialization. Since 1 September 2005, trainings are held on bioethics for medical postgraduates, clinical residents and students of the School of Young Scientists. Similar trainings are also held for doctors and nurses within the frames of continuous professional development curricula.

238. A course on Health Law has been elaborated and is currently taught at the above-mentioned institute, the main goal of which is to teach the medical personnel to make proper decisions in legal relations pertaining to medical aid and care as well as to the human health, to distinguish permissible and impermissible limits, to choose the legitimate ways of carrying out their activities and of exercising their rights and performing their duties, to get acquainted with the mechanisms for the protection of their rights and the liability they are amenable to in this sphere. The introduction of the curriculum will enable to enhance the knowledge of specialists engaged in medical aid and care within the territory of the Republic of Armenia, including on issues relating to torture, cruel, inhuman or degrading treatment. The mentioned measures will contribute to further development of the sector and will create conditions for the development and introduction of Health Law as a separate branch of law.

239. A methodical manual “Modern Theories of Medical Ethics, Medical Education and Medical Science” was published in 2007, which includes studies on human rights issues.

240. In the Republic of Armenia, the Law “On refugees” was adopted in 1999. The new Law of the Republic of Armenia “On Refugees and Asylum” was adopted by the National Assembly of the Republic of Armenia on 27 November 2008. The Law is in compliance with the requirements of the International Covenant on Civil and Political Rights and other international instruments.

241. An asylum seeker may not be expelled from the territory of the Republic of Armenia prior to the adoption of a final decision on the claim for asylum filed by him or her. A foreign national or a stateless person may not be expelled, returned or extradited to another country where there are reasonable grounds to believe that he or she faces the danger of being subjected to cruel and inhuman or degrading treatment or punishment, including torture.

242. Persons recognized as refugees enjoy the protection of the Republic of Armenia and are under its patronage.

243. Asylum seekers and refugees have the same rights and responsibilities as foreign nationals and stateless persons legally residing in the Republic of Armenia.

## **Article 8**

244. Provisions of Article 8 of the Covenant on prohibition of holding in slavery or servitude are reflected in the Constitution of the Republic of Armenia, namely Article 3 (The human being, his or her dignity and the fundamental human rights and freedoms are an ultimate value), Article 14 (Human dignity shall be respected and protected by the state as an inviolable foundation of human rights and freedoms), and Article 16 (Everyone shall have the right to liberty and security. A person may be deprived of liberty in cases and in the procedure defined by law. No one shall be deprived of liberty merely on the ground of inability to fulfill his or her civil and legal obligations).

245. The right of a person to freely choose his or her occupation and the provision on prohibiting compulsory labor is laid down in Article 32 of the Constitution of the Republic of Armenia, pursuant to which compulsory labor was removed from the Criminal Code and the Code on Administrative Offences of the Republic of Armenia as a form of criminal or administrative liability.

246. The right of a person to freely choose his or her occupation is implemented into the Labor Code of the Republic of Armenia adopted in November 2004, and the fundamental principles of labor legislation declared therein (Article 3) include freedom of labor, including the right to work (which everyone chooses freely or to which they freely agree), right to manage their work abilities, right to choose a type of profession and activities; prohibition of all forms (of any nature) of compulsory labor and violence against employees; equality of parties to labor relations irrespective of their gender, race, national origin, language, origin, nationality, social status, religion, marital and family status, age, beliefs or viewpoints, affiliation to political parties, trade unions or non-governmental organizations, and other circumstances not associated with the professional skills of an employee.

247. Taking into consideration the requirement of the Covenant according to which the term “forced or compulsory labor” shall not include any work or service normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention, as well as any alternative service to that of military character or any service exacted in cases of emergency or calamity threatening the life of the community, the Criminal Code of the Republic of Armenia (Articles 49 and 54) envisages public works as a type of sanction, which is the performance of socially useful works by the convict free of charge imposed by the court and in the place

determined by the competent authority. Public works may be imposed on persons convicted for committing crimes of minor or medium gravity and being sentenced to imprisonment for a maximum term of two years. Public works are imposed for a duration of 270–2200 hours as an alternative sanction to a fixed-term imprisonment, upon receiving the administrative order to execute the court judgment entered into force within a twenty-day period, in case of a written request of the convict, while a person sanctioned by a fine as defined by the Code and incapable to pay such is subjected to public works for five hours per minimum salary. Moreover, public works may not be imposed on persons with disability of the first or second group, persons below the age of sixteen at the moment of making the judgment, and persons in the retirement age, as well as on pregnant women and servicemen in regular military service.

248. The Efforts towards combating trafficking in human beings as one of the forms of modern slavery, characterized as such internationally and conditioned by illegal transfer and compulsory exploitation of human beings, started in the Republic of Armenia in October 2002, when upon the Decision of the Prime Minister of the Republic of Armenia an interagency commission was set up for the examination of, and the submission of relevant recommendations on, issues related to smuggling, illegal transfer and trade (trafficking) in human beings for exploitation. The commission has been operating under the supervision of the Ministry of Foreign Affairs of the Republic of Armenia and was composed of representatives of all interested ministries and agencies, experts of the National Assembly of the Republic of Armenia and of the Staff of the Government of the Republic of Armenia, as well as of representatives from non-governmental organizations. For the purpose of raising the effectiveness of the undergoing works, the Council on Trafficking Issues in the Republic of Armenia chaired by the Deputy Prime Minister, Minister of Territorial Administration of the Republic of Armenia was set up upon the Decision of the Prime Minister of the Republic of Armenia No. 861-A of 6 December 2007, while the Decision of the Prime Minister of the Republic of Armenia No. 591-A of 14 October 2002 “On setting up an interagency commission” was repealed. The Council is composed of the heads of all the interested ministries and agencies. A working group was also set up for the purpose of organizing the ongoing activities of the Council.

249. By Decision No. 58-N of 15 January 2004 the Government of the Republic of Armenia approved the Concept Paper on Combating Trafficking in Human Beings as well as the relevant National Program for 2004–2006 developed by the Interagency Commission on Trafficking in Human Beings in the Republic of Armenia. The National Program covered fields such as the improvement of the legislation on trafficking in human beings in the country, the survey of the extent of human trafficking within and outside the country, the implementation of preventive measures, the implementation of programs aimed at assisting the victims of human trafficking and their protection. Works in this direction are ongoing, which is evidenced by the second National Program elaborated for 2007–2009. In addition to the previous one, the second program also aimed at raising the awareness in this field among the population, expanding the international cooperation, and at issues of monitoring and evaluation.

250. In the previous period, efforts aimed at the improvement of the legislation on trafficking in human beings progressed in two directions: at national level, by making relevant amendments to the Criminal Code of the Republic of Armenia, and through acceding to international treaties. The UN Convention against Transnational Organized Crime and its two supplementing Optional Protocols, namely the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against Smuggling of Migrants by Land, Sea and Air, as well as the Optional Protocol supplementing the UN Convention on the Rights of the Child were ratified. On March 2008 the Republic of Armenia ratified the Council of Europe Convention on Action against Trafficking in Human Beings of 16 May 2005. A new Article 132 titled “Trade in

Human Beings” was incorporated in the Criminal Code of the Republic of Armenia on 1 August 2003. The reading of Article 132 of the Criminal Code of the Republic of Armenia was replaced in June 2006, which now defines the crime of human trafficking more clearly and comprehensively, changing the words “trading in human beings” with the word “exploitation.” Also, a new Article 132.1 was added, which prescribes heavier sanctions against organizers of trafficking in human beings. In 2009 the Draft law “On making amendments to the Criminal Code of the Republic of Armenia” was submitted to the National Assembly of the Republic of Armenia, which envisages heavier sanctions for organizers of human trafficking.

251. With regard to combating labor exploitation, the Labor Code of the Republic of Armenia incorporates certain articles on prohibiting compulsory labor, violence against an employee, admission of a child below the age of fourteen to work, as well as articles envisaging state supervision over the activities of an employer.

252. On 20 November 2008, the Government of the Republic of Armenia adopted the Decision No. 1385-A “On approving the procedure for assisting victims of trafficking in human beings at national level.” Currently, the 2010–2013 National Program is in the stage of elaboration.

253. A special subdivision on combating trafficking in human beings was established within the Police of the Republic of Armenia adjunct to the Government of the Republic of Armenia.

254. The Law of the Republic of Armenia “On alternative service” adopted in December 2003 envisages an alternative labor service instead of the compulsory military service (Article 2), which defines the labor of conscientious objectors within health or similar organizations. According to Article 19 of the said Law, a six-day working week shall be fixed for an alternative serviceman, and the duration of a working day shall not exceed or be less than eight hours, except for the cases of overtime service, which may be carried out for the prevention of natural or man-made calamity, fire or accident, or for the elimination of consequences thereof, as well as for the performance of such official duties which cannot be suspended or terminated due to their peculiarities.

255. As to the regulation of the work carried out with the involvement of capable citizens during a case of emergency or calamity, one of the main measures of protecting the population in cases of emergency as defined by the Laws of the Republic of Armenia “On protection of population in cases of emergency” (Article 11) and “On legal regime of martial law” is the involvement of capable citizens (upon their consent) in the process of eliminating the consequences of cases of emergency for the purpose of carrying out works aimed at the protection of the population, based on their professional and individual skills.

## **Article 9**

256. The amendments to the Constitution of the Republic of Armenia, made on 27 November 2005, may be considered a progressive step in the context of constitutional entrenchment of additional guarantees for ensuring the right to liberty and security of person. Formerly, Article 18 of the Constitution indirectly addressed the said right, but not only it failed to give an exhaustive list of lawful cases of depriving a person of his or her liberty, it also left all forms of restriction of liberty — to which the concept of arrest, search or detention did not extend — beyond the scope of the law. Article 16 of the amended Constitution declared the right to liberty and security of person as the highest and the most absolute legal value by incorporating the guarantees — laid down by the criminal procedure norm effective since 1999 — into the constitutional norm.

257. Article 16 of the Constitution of the Republic of Armenia states: “Everyone shall have the right to liberty and security of person. A person may be deprived of his or her liberty in cases and in the manner prescribed by law.

258. The law may provide for deprivation of liberty only in the following cases:

- (a) A person has been sentenced by a competent court for committing a criminal offence;
- (b) A person has not complied with a court order entered into force;
- (c) To ensure compliance with certain responsibilities prescribed by law;
- (d) There is a reasonable suspicion of a criminal offence, or when it is necessary to prevent a person from committing a criminal offence or from fleeing after its commission;
- (e) To place a juvenile under educational supervision or to bring him or her before another competent authority;
- (f) To prevent spread of infectious diseases or social danger emanating from persons of unsound mind, alcohol and drug addicts, or vagrants;
- (g) To prevent unauthorized entry of a person into the Republic of Armenia, to expel or extradite him or her to another State.”

259. Anyone deprived of his or her liberty shall be promptly informed of the reasons in a language understandable to him or her, as well as of any criminal charge brought against him or her. Each person deprived of his or her liberty has the right to promptly inform about it a person of his or her own choosing. If an arrested person is not put under remand detention upon a court decision within 72 hours following the arrest, he or she shall be subject to prompt release.

260. Everyone is entitled, on the grounds and in the manner prescribed by law, to compensation for damages in case of unlawful deprivation of liberty or unlawful search. Everyone has the right to appeal the lawfulness and validity of his or her deprivation of liberty or search before a higher judicial authority. No one may be deprived of his or her liberty merely on the ground of inability to fulfill civil obligations.

261. No one may be subjected to search in the manner and cases other than those prescribed by law.

262. Article 19 of the Constitution enshrines the right of a person to a public hearing of his or her case — for the purpose of restoring his or her violated rights, as well as determining the validity of charges against him or her — by an independent and impartial court within a reasonable time, under equal conditions and in full compliance with the demands of justice.

263. Article 11(3) of the Criminal Procedure Code of the Republic of Armenia, which was adopted in 1998 and entered into force in 1999, has been amended, which also serves as a guarantee in the process of ensuring the right to liberty and security of person. In order to meet the requirements of Article 16 of the Constitution of the Republic of Armenia, authorized confinement of a person due to his or her arrest has been reduced to 72 hours from 96 hours. Pursuant to Article 11(3) of the Criminal Procedure Code of the Republic of Armenia, a person may not be confined for more than 72 hours due to his or her arrest, unless the appropriate court order is issued.

264. The Penitentiary Code of the Republic of Armenia adopted in 2004 has been of great importance for ensuring the implementation of the requirements of Article 9 of the Covenant.



265. Article 3 of the Law “On Custody of Arrestees and Remand Prisoners” provides for the application of the right to liberty and security of person to arrestees and remand prisoners.

266. An arrest protocol drawn up in accordance with the Criminal Procedure Code or an arrest warrant issued by a criminal prosecution authority shall be a ground for keeping a person in a police holding facility. A court order imposing remand detention as a measure of restraint, issued in accordance with the Criminal Procedure Code, shall be a ground for keeping a person in a remand facility. It shall be prohibited to receive and keep a person in a police holding facility or remand facility in the absence of the said grounds.

267. Pursuant to Section 11 of Chapter 2 of the Decision of the Government of the Republic of Armenia No. 574-N of 5 June 2008 “On approving the internal regulations of the holding facilities under the Police of the Republic of Armenia”, arrestees are received at police holding facilities 24 hours a day. The police officer on duty checks the grounds for reception and custody of arrestees, shall verify the passport data stated in the arrest protocol or warrant by questioning the arrestees, and thereafter a relevant entry shall be made in the arrest record book and individual cards of arrestees.

268. Pursuant to Article 32 of the Law of the Republic of Armenia “On custody of arrestees and remand prisoners”, any arrestee in police holding facilities shall have the right to promptly inform thereabout a person of his or her own choosing, by any possible means of communication.

269. The administration of the police holding facility shall be obliged to promptly inform a person of the arrestee’s choosing about the reception of the latter in a police holding facility or transferring him or her from one facility to another, where it was not possible for the arrestee to exercise the right referred to in part 1 of this Article.

270. Respect for rights, freedoms and dignity of a person, security of a person, provision of the right to legal assistance, right of a suspect and an accused to defense and its provision, etc, are laid down in the Criminal Procedure Code of the Republic of Armenia (the Code) as principles.

271. Pursuant to Article 11 of the Code, everyone shall have the right to freedom and security. No one may be taken into and kept in custody on the grounds and in the manner other than provided for by this Code. Imposing and keeping in remand detention, forcible placing of a person in medical or educational institution shall be authorized only by a court order. Every arrestee and remand prisoner shall be promptly informed of the grounds for the arrest or remand detention, as well as of the facts and legal qualification of the criminal offence they are suspected in or charged with.

272. A court, as well as an inquest body, an investigator and a prosecutor shall be obliged to promptly release any person unlawfully confined.

273. The head of the administration of a remand facility shall not be authorized to receive a person to serve the remand detention without the appropriate court order and shall be obliged to promptly release any person whose detention period has expired.

274. Chapter 17 of the Code defines the concept of “arrest”, as well as its procedure and conditions. Namely, Article 128 states that only those persons who are suspected of a crime which may incur a punishment in the form of custody in a disciplinary battalion, detention, imprisonment for a certain period, or life imprisonment, as well as accused persons who have breached the conditions of the imposed measure of restraint, may be arrested. Arrest shall be effected upon an immediately evoked suspicion of a commission of a criminal offence or upon the decision of a criminal prosecution authority.

275. Article 131.1 of the Code states that within three hours after bringing a person suspected of a crime before an inquest body, an investigator or a prosecutor, a protocol on the arrest of the suspect shall be drawn up, the copy of which shall be submitted to the arrestee upon signature. A record is made in the arrest protocol on clarification of the suspect's right to defense, as well as on his or her rights and obligations provided for by Article 63 of the Code. Pursuant to the mentioned Article, the suspect shall have the right to know what he or she is suspected of, as well as the content of the suspicion; after arrested, immediately receive from the inquest body, the investigator or the prosecutor a written notification on and clarification of his or her rights; after arrested or informed of the decision on imposing a measure of restraint, receive, promptly and free of charge, from the criminal prosecution authority a copy of the arrest warrant or of the decision on imposing a measure of restraint issued by the criminal prosecution authority, and after the arrest protocol has been drawn up – a copy thereof; after informed of the arrest warrant issued by the criminal prosecution authority, the arrest protocol or the decision on imposing a measure of restraint, have counsel or waive counsel and defend himself or herself in person; file an appeal against the actions and the decisions of an inquest body, an investigator, a prosecutor, and a court.

276. Chapter 18 of the Code (Article 135) states the grounds for imposing measures of restraint. In accordance with Article 135 (2), remand detention and the measure of restraint alternative to it (bail) may be imposed on an accused only for a criminal offence for which the maximum term of punishment in the form of imprisonment provided for is more than one year, or there are sufficient grounds to believe that the accused may commit the acts provided for in Article 135 (1) (namely, hide from the body conducting the criminal proceedings, perform an act outlawed by criminal statute, escape criminal liability, etc.).

277. Article 136 of the Code states that remand detention may be imposed only pursuant to a court order. With regard to the detention period, Article 138 states that pre-trial detention in criminal proceedings may not exceed two months. Article 138 (5) states that pre-trial detention of an accused person in criminal proceedings may not exceed one year or the maximum term of imprisonment as provided for by the Criminal Code for the criminal offence incriminated to the accused, where the said term is less than one year.

278. Article 65 of the Code defines the rights and responsibilities of an accused person, including his or her right to defense. The body conducting criminal proceedings shall make provision for the exercise of the right to defense by the accused person through all means not prohibited by law. The accused person shall have the right to:

(a) Know what he or she is accused of, and receive, free of charge, from the criminal prosecution authority a copy of the decision on involving him or her as a defendant, immediately after the charge is brought, he or she is taken into custody, or the decision on imposing a measure of restraint is announced;

(b) Receive, immediately after taken into custody, from an inquest body, an investigator or a prosecutor a written notification on and clarification of his or her rights provided for by part 2 of this Article;

(c) Have counsel, waive counsel and defend himself in person, from the moment the charge is brought, etc.

279. In addition, the Criminal Code of the Republic of Armenia criminalizes unlawful arrest or remand detention (Article 348).

280. Under Article 19 of the Constitution, everyone has the right to restoration of his or her violated rights.

281. This norm has been reaffirmed in Article 2 of the Civil Procedure Code of the Republic of Armenia, which states that an interested person shall have the right to file a

request with court in accordance with this Code for the protection of his or her rights, freedoms and legitimate interests prescribed by the Constitution, laws and other legal acts of the Republic of Armenia or stipulated by an agreement.

282. Complaints concerning violations of the right to liberty and security of person make a significant part of the complaints addressed to the Human Rights Defender of the Republic of Armenia. Moreover, the statistics shows that the number of complaints concerning the issue at stake has increased as compared to previous years, which serves as an indication of the growth of awareness of individuals for their rights, as well as of the fact that they are more actively pursuing the protection of these rights.

## **Article 10**

283. All bodies and persons participating in criminal proceedings are required to respect the rights, freedoms and dignity of person. Courts authorize temporary restriction of rights and freedoms of persons. Procedural coercive measures are imposed on them only when it is proved to be appropriate in compliance with due process requirements. In the course of criminal proceedings no one may be subjected to degrading treatment and kept under humiliating conditions. No one may be forced to participate in degrading procedural actions.

284. Article 137 (1) of the Criminal Procedure Code of the Republic of Armenia prescribes that remand detention is the detention of a person in places and under conditions provided for by law.

285. Article 7 (1) of the Law of the Republic of Armenia “On penitentiary service” (adopted on 8 July 2005) prescribes that penitentiary establishments comprise correctional establishments and remand facilities.

286. The Law of the Republic of Armenia “On custody of arrestees and remand prisoners” and the Decision of the Government of the Republic of Armenia No.1543-N of 3 August 2003 approve and define the procedure for and conditions of custody of arrestees and remand prisoners.

287. Article 4 of the Law of the Republic of Armenia “On custody of arrestees and remand prisoners” reads that police holding facilities and remand facilities shall function within the structures of authorized state administration bodies of the Republic of Armenia and shall be established, reorganized and dissolved upon the Decision of the Government of the Republic of Armenia.

288. Article 13 of the said Law defines, among others, the right of an arrestee or a remand prisoner to file — both in person and through a counsel or a legal representative — requests and complaints concerning the violation of their rights and freedoms, before the administration of police holding facilities or remand facilities, their superior authorities, the court, the prosecutor’s office, the Human Rights Defender, state and local self-government bodies, non-governmental associations and parties, mass media, as well as international human rights bodies or organizations. The procedure for examination of requests and complaints is defined in Article 18 of the Law.

289. Article 27 of the Law regulates the specifics of keeping women and juveniles in custody or under detention; namely, Article 27 (1) states that improved material and living conditions shall be established for arrested or detained women and juveniles in police holding facilities and remand facilities.

290. Article 48 of the Criminal Code of the Republic of Armenia defines the concept and purposes of punishment and prescribes that the purpose of punishment is to restore social justice, to correct the person subjected to punishment, and to deter crimes.

291. The adoption of the Penitentiary Code of the Republic of Armenia on 24 December 2004 has been of great significance for ensuring the complete implementation of the provisions of Article 10 of the Covenant. The tasks of the Code are to establish a procedure for and conditions of execution of criminal punishments, as well as of imposition and serving of coercive measures of medical nature combined with punishment, to ensure necessary conditions for correction of convicts, and to protect their rights and freedoms. In order to fulfill the mentioned tasks, the Code lays down the ground for the execution of punishment, the principles of penitentiary legislation, the legal status of convicts, the guarantees for ensuring their rights and freedoms, the procedure for imposition of coercive measures of medical nature combined with punishment, execution of certain types of punishment, and, in case of conditional non-application of punishment, for setting of a probation period and exercising oversight during such a period, as well as the procedure for releasing from punishment.

292. The right to health care, including the right to receive sufficient food and medical treatment, is, among the other rights of convicts, clearly laid down in the Code. At the same time, the guarantees for the exercise of the said right are clearly emphasized in various articles.

293. Pursuant to Article 17 of the Code, the main measures of correction of convicts are the procedure and conditions set out for the execution and serving of punishments, social, psychological and legal activities carried out with convicts, engagement of convicts in working, educational, cultural, sport and other similar activities, as well as the public influence. Certain forms of correction measures are compulsory for juveniles.

294. Article 100 of the Penitentiary Code of the Republic of Armenia defines the procedure for determining the type of the correctional establishment for the purpose of executing the punishment and the factors to be taken into account while determining it.

295. Article 68 (2) of the Penitentiary Code of the Republic of Armenia lays down that juveniles shall be segregated from adults in correctional establishments, and Article 109 refers to the specifics of serving the punishment by juvenile convicts and establishes that a juvenile convicted to imprisonment for a definite period shall serve his or her punishment in the same correctional establishment till the expiry of the term of the punishment, but not more than his or her attainment of the age of twenty-one. It is prohibited to send a juvenile convicted to imprisonment for a definite period to serve the punishment in "closed" correctional establishment which is the most severe regime from among those provided for by the Penitentiary Code of the Republic of Armenia.

296. Upon the Decision of the Government of the Republic of Armenia No. 1015 of 19 October 2001, the institutions under the Department for Execution of Criminal Punishments under the Ministry of Internal Affairs of the Republic of Armenia have been reorganized into penitentiary establishments functioning under the central body of the Penitentiary Service under the Ministry of Justice of the Republic of Armenia, and the Penitentiary Service, which includes the Penitentiary Department and the institutions functioning under it, has been established in the system of the Ministry of Justice of the Republic of Armenia.

297. The transfer of the Penitentiary Department and the institutions under it to the Ministry of Justice of the Republic of Armenia was aimed at improving the whole system of the Penitentiary Service, as well as contributing to the improvement of conditions of prisoners, and ensuring the maximum protection of their rights.

298. Information concerning the cases of physical ill-treatment in penitentiary establishments under the Ministry of Justice of the Republic of Armenia is carefully examined, and appropriate measures are taken against the offenders.

299. Special attention is attached to proper recording of possible injuries of remand prisoners and convicts and to accurate response mechanisms to their complaints with this regard.

300. In cases when remand prisoners and convicts do not obey the requirements of the staff of a penitentiary establishment, obstruct the performance of their duties or commit unlawful acts, and penitentiary officers are thus sometimes forced to resort to physical force or apply special means, each case of using physical force or special means is recorded. Where a prisoner disagrees to the actions of the administration, he or she may file an appeal against them, as well as against any acts violating his or her rights.

301. Cases of causing harm to the health or causing death of a prisoner as a result of using physical force or special means are reported in a written form to the Head of the Penitentiary Department and the prosecutor. Prosecutors carrying out oversight examine, on regular basis, the cases of using force or special means, for determining the proportionality of the use thereof to the nature and level of dangerousness of the offence or resistance. The use of physical force or special means as a punishment is excluded.

302. Pursuant to Article 95 of the Penitentiary Code of the Republic of Armenia, only reprimand, severe reprimand and placing in a disciplinary cell for a period of fifteen days shall be applied to convicts. Any other sanction, particularly depriving of water, food and open air walk has not been and is not applied.

303. Article 99 of the Penitentiary Code of the Republic of Armenia (adopted on 24 December 2004) defines the types of correctional establishments, which, by their level of isolation, are “open”, “semi-open”, “semi-closed”, “closed”, and medical correctional establishments.

304. Article 107 of the Code covers keeping convicts in medical correctional establishments, pursuant to which a convict shall be kept in a medical correctional establishment under conditions provided for “semi-open” correctional establishments by the Code and other legal acts. A separate subdivision or housing or cell may be established in a medical correctional establishment for the purpose of keeping the convicts at various levels of isolation.

305. Infrastructure reforms of the Penitentiary Service of the Ministry of Justice of the Republic of Armenia are underway within the scope of a like-named program concept paper. The forecasts of such future capacity of the Service for the upcoming decade, which derives from the criminal policy, form the basis of the program concept paper for infrastructure reforms of the Penitentiary Service of the Ministry of Justice of the Republic of Armenia.

306. According to the mentioned concept paper, construction of several new penitentiary establishments, as well as termination of operation of some old ones is planned within the framework of the infrastructure reforms activities. Within this framework, a completely new penitentiary establishment will be put into operation following the completion of construction works which have commenced in 2007 on the site adjacent to the town of Echmiadzin, after which the operation of “Sevan” penitentiary establishment under the Ministry of Justice of the Republic of Armenia will be terminated, and a completely new penitentiary establishment will be constructed in lieu. The operation of “Gyumri” penitentiary establishment under the Ministry of Justice of the Republic of Armenia, as well as the exploitation of those premises of “Vanadzor” penitentiary establishment, which are old and unfavorable for persons serving their sentence has already been terminated.

307. The new building of “Vanadzor” penitentiary establishment under the Ministry of Justice of the Republic of Armenia was opened in the town of Vanadzor on 19 March 2007. Facility, space and cell conditions of the new building are exemplary in comparison to other

similar institutions in the territory of the Republic of Armenia and are, to the extent possible, in line with the international standards. The surface of cells provides each inmate with at least 4 square meters space, the cells have wide windows, toilet facilities are completely separated, backyards of required quantity and surface are available, etc. The institution is designed for holding remand prisoners and convicts serving their sentence in “closed type” correctional establishments.

308. Currently, each remand prisoner and convict held in “Goris” penitentiary facility under the Ministry of Justice of the Republic of Armenia is provided with at least four square meters of living space. In 2006, refurbishment works were initiated in the institution: toilets have been separated; the heating system has been renewed. The refurbishment works are ongoing. A new building for “Goris” penitentiary establishment in compliance with modern requirements is planned to be constructed in the nearest future.

309. For ensuring efficient outdoor leisure activities based on the daily plan for remand prisoners and convicts, engaging them in various types of activities (sport, education, work), and arranging leisure activities for prisoners in newly constructed establishments, relevant conditions in Vanadzor’s newly constructed penitentiary establishment have already been created. In other establishments, where there is a need for thorough refurbishment, the need for creating the mentioned conditions is also taken into account.

310. With the purpose of ensuring work activities for convicts, the Support to Convicts Fund established by the Government of the Republic of Armenia operates within the Penitentiary Service. Ways are being considered for establishing alternative employment arrangements through collaboration of the Penitentiary Service and the Fund. To this end, in 2006 an exhibition shop called “Prison Art” was opened in the city of Yerevan, where works of convicts are sold. The proceeds from sales are transferred to the personal accounts of convicts. The number of convicts involved in that activity is gradually increasing.

311. For the purpose of organizing educational and vocational training of remand prisoners and convicts, relevant arrangements with various educational institutions are planned. The issue of organizing general education of juvenile convicts has already been settled: since 1 December 2006, the Minister of Education and Science of the Republic of Armenia has reserved a right to Abovyan technical school No. 2 — where at present, lessons are held in accordance with education programs as established in the Republic — to organize the general education of convicts as well.

312. For the purpose of raising the level of employment, small workshops are designed to be established in operating penitentiary establishments (works have been carried out since June 2007), which will satisfy the minimum conditions for engaging remand prisoners and convicts in crafts.

313. According to the Internal Regulations for remand facilities and correctional establishments of the Penitentiary Service of the Ministry of Justice of the Republic of Armenia adopted by the Government of the Republic of Armenia, by the Decision No. 1543-N of 3 August 2006, a remand prisoner or a convict may, at his or her own expense, avail himself or herself of telephone communication installed in the site of remand facilities or correctional establishments respectively. The opportunity for making use of telephone communication is provided to remand prisoners by the authority conducting criminal proceedings, the duration for the use of which may not exceed 15 minutes in each case. However, where appropriate, the duration of the use of telephone communication may be prolonged for another ten minutes.

314. A special emphasis is also put on life-sentenced prisoners. During 2006, significant works have been carried out for improving cell conditions of life-sentenced prisoners. Custody conditions of life-sentenced prisoners, including education and work related issues are permanently in the focus of attention of penitentiary officers. Issues relating to

involvement of life-sentenced prisoners in rehabilitation programs have been discussed since the last year with the International Prison Reforms Organization, as a result of which an efficient settlement of the mentioned issues based on the international practice is expected. For ensuring their active communication with the outside world, in addition to their access to telephone calls, visits, library, there are TV sets, radio sets, tape recorders in almost all cells, a number of newspapers and entertainment magazines, monthly papers and other periodicals are also often distributed to convicts through which they are able to keep in touch with the outside world.

## **Article 11**

315. Article 16 of the Constitution states that a person may not be deprived of liberty merely on the ground of inability to fulfill civil obligations.

316. The legislation of the Republic of Armenia clearly defines that a person may be deprived of liberty only in certain cases and for the commission of certain offences. Moreover, the institute of holding a person liable through imprisonment is not present in the norms regulating civil law relationships.

## **Article 12**

317. Article 25 of the Constitution of the Republic of Armenia lays down that everyone lawfully within the Republic of Armenia shall have the right to liberty of movement and freedom to choose his or her residence in the territory of the Republic of Armenia.

318. While in the text adopted on 5 July 1995 of the Constitution of the Republic of Armenia, Article 22 reserved the right to movement only to every citizen, which was not completely in line with Article 12 of the Covenant, in the new text, equivalent Article 25, which lays down the right to movement, prescribes that not “every citizen”, but “everyone” lawfully within the Republic of Armenia shall have the right to movement.

319. At present, a number of laws and regulatory legal acts in one way or another relate to the exercise of the right of citizens of the Republic of Armenia to free movement. At the same time, legislative reforms of the Republic of Armenia relating to the sphere are ongoing; in particular, at present the draft law of the Republic of Armenia “On the exit of citizens of the Republic of Armenia from and their entry to the Republic of Armenia” is being elaborated, which aims at eliminating the legislative gaps in this field.

320. The registration of the citizens of the Republic of Armenia is carried out in the Republic of Armenia for the purposes of ensuring the proper conditions for the realization of their rights and freedoms, as well as for the fulfillment of their obligations towards the state and other citizens.

321. The registration of the citizens of the Republic of Armenia is carried out by the place of temporary or permanent residence, only as per one address. Temporary place of residence is the place where the citizen of the Republic of Armenia temporarily resides. Permanent place of residence is the place where the citizen of the Republic of Armenia permanently or primarily resides. The registration of the citizens of the Republic of Armenia by temporary place of residence when the citizen does not have a permanent place of residence and by permanent place of residence regardless of the living space, is carried out by the bodies of internal affairs by making a relevant entry in the passport. Within three working days after filing the documents, the authorities responsible for registration register a citizen of the Republic of Armenia with no permanent place of residence by his or her temporary place of residence in residential premises that does not constitute his or her place

of residence. A citizen of the Republic of Armenia who has changed his or her place of residence shall be obliged to, within 10 working days after arriving at a new place of residence, file an application with the authorities responsible for registration in order to obtain a permanent registration. The registration of servicemen shall be made:

(a) By place of permanent residence on general basis (except for private corps and commissioned staff under compulsory military service, as well as cadets who are citizens of the Republic of Armenia);

(b) By the temporary place of residence on the basis of a referral.

322. Servicemen with no permanent place of registration and members of their families are, until provided with housing, temporarily registered in the place of location of the military unit. Citizens of the Republic of Armenia not registered by permanent place of residence are registered by temporary place of residence. Temporary, permanent and special residence statuses are established for aliens in the Republic of Armenia. Temporary residence status (a permit of the authorized state administration body of the Government of the Republic of Armenia that entitles an alien to reside in the territory of the Republic of Armenia for a certain period) is granted to an alien if the latter establishes the existence of circumstances (education, work permit, marriage to a citizen of the Republic of Armenia, being a close relative (parent, sibling, spouse, child, grandparent, grandchild) of the citizen of the Republic of Armenia) justifying his or her residence for one or more years in the Republic of Armenia.

323. Temporary residence status (temporary residence card) is granted for a period of one year with a possibility to be renewed each time for one year. Permanent residence status (a permit of the authorized state administration body of the Government of the Republic of Armenia that entitles an alien to reside permanently in the territory of the Republic of Armenia) is granted to an alien if the latter establishes the existence of close relatives in the Republic of Armenia, is provided with housing and means of livelihood in the Republic of Armenia and, prior to submitting an application for a permanent residence status, has been residing in the Republic of Armenia for at least three years in accordance with the law. The permanent residence status (permanent residence card) is granted for a period of five years with a possibility to be renewed each time for the same period.

324. Special residence status (a permit of the President of the Republic of Armenia that entitles an alien to reside in the territory of the Republic of Armenia within validity periods of documents certifying the status) is granted to aliens of Armenian origin, as well as to other aliens engaged in economic or cultural activities in the Republic of Armenia. The special residence status is granted for a period of 10 years and may be granted more than once.

325. Granting a residence status to an alien may be rejected in the following cases: where the latter has been expelled from the territory of the Republic of Armenia or the residence status has previously been withdrawn, and a period of three years has not yet expired since the entry into force of the decision on expulsion or withdrawal of the residence status; where he or she has been imprisoned in the Republic of Armenia for committing a grave or a particularly grave crime as provided for by the Criminal Code of the Republic of Armenia, and the conviction has not been cancelled or has not expired; where, upon claiming a status, he or she has provided false data; where there is reliable information indicating that he or she is engaged in such an activity or is a member to such an organization which has as its aim to cause injury to the national security of the Republic of Armenia, to engage in human trafficking, or to transfer weapons illegally, etc.

326. Aliens enter the Republic of Armenia through state border checkpoints on the basis of a valid passport, entry visa, or a document certifying the residence status, and upon the



permit of the authorized state administration body of the Government of the Republic of Armenia exercising border control.

327. Aliens under the age of eighteen may enter the Republic of Armenia together with their parents, other legal representative or an accompanying person, or alone where they arrive in the Republic of Armenia to meet their parents, other legal representative or a host organization.

328. Citizens of those countries, for which no entry visa is required to enter the Republic of Armenia, may stay in the territory of the Republic of Armenia for a period of maximum 120 days in a year. Aliens may exit the Republic of Armenia in case there is a valid passport and a valid document certifying their lawful stay or residence in the territory of the Republic of Armenia before their exit. The exit of an alien from the Republic of Armenia is prohibited in the following cases: where a decision has been made on involving him or her as a defendant — till the closure of the proceedings or the termination of the criminal prosecution against the person; where a punishment has been imposed on him or her, the serving of which is possible only in the Republic of Armenia — till the expiry of the term of the punishment or release from punishment in accordance with the law.

329. The right of each citizen to return to the Republic of Armenia is laid down by the Constitution of the Republic of Armenia.

330. At present, the Republic of Armenia is actively engaged in the conclusion of readmission agreements. The Republic of Armenia has concluded readmission agreements with Denmark, Lithuania, Switzerland, Germany, Bulgaria, Sweden, and the Benelux countries. Negotiations with the Republic of Poland and the Kingdom of Norway on the draft readmission agreements have been concluded, and negotiations are under way with the Russian Federation, Romania, Ukraine, Estonia, the Czech Republic, and Cyprus.

331. The right of refugees to free movement and freedom to choose their residence in the prescribed manner is laid down in the Law of the Republic of Armenia “On refugees and asylum” (Article 27, Chapter 2). Refugees that have been granted asylum in the Republic of Armenia, as well as asylum-seekers and members of their families lawfully within the Republic of Armenia enjoy the rights equal to those of citizens of the Republic of Armenia in terms of the right to choose their place of residence and to free movement in the territory of the State.

## **Article 13**

332. Article 16 (7) of the Constitution of the Republic of Armenia states that a person may be deprived of liberty in order to prevent unauthorized entry of a person into the Republic of Armenia, as well as to expel or to extradite him or her to another State.

333. The Law of the Republic of Armenia “On foreign nationals” (the Law), which regulates the relationships pertaining to the status of aliens in the Republic of Armenia, was adopted in December 2006 and entered into force on 3 February 2007. Chapter 5 of the Law governs the voluntary departure of an alien and his or her expulsion from the territory of the Republic of Armenia.

334. Article 31 of the Law states that when, in cases provided for by Article 30 thereof, an alien fails to voluntarily leave the Republic of Armenia, the Police of the Republic of Armenia shall file expulsion proceedings with a court.

335. Articles 30 to 36 of the Law cover the expulsion of aliens from the Republic of Armenia. They regulate in detail issues with regard to the institution of expulsion proceedings concerning an alien, examination thereof, execution of the rendered decision, as well as the circumstances prohibiting the expulsion of an alien. An alien subject to

expulsion from the territory of the Republic of Armenia pursuant to Article 33 shall enjoy the rights to judicial protection as provided for by the legislation of the Republic of Armenia, including the right to have the expulsion order reviewed.

336. It is prohibited to expel an alien to a State where he or she will face persecution on grounds of race, belonging to a religion, social origin, nationality, or political beliefs, or where he or she may be subjected to torture or cruel, inhuman or degrading treatment or punishment, or be executed.

337. The responsibility to furnish to the court evidence on the threat of persecution, as well as imminent danger of torture or cruel, inhuman or degrading treatment, or death penalty, shall lie with the alien. Expulsion of an alien from the Republic of Armenia shall be prohibited where the latter is a minor and his or her parents lawfully reside in the Republic of Armenia, or there is a minor under his or her custody, or he or she is over 80 years of age.

338. Collective expulsion of aliens shall be prohibited. Court order on expulsion shall contain a statement on the expulsion day of the alien, the route, the state border checkpoint, expulsion costs, his or her place of residence before leaving the territory of the Republic of Armenia, the obligation to appear — within certain intervals — before the appropriate subdivision of the authorized state administration body in the field of police, the prohibition to leave the place of residence without permission, and, if under arrest, on the issue of whether to keep him or her under arrest until expulsion or to release. An entry on the expulsion order is made in the passport of the alien.

339. Diplomatic representation or consular office of the State of origin of the alien to be expelled, or diplomatic representation of another State representing the interests of the State concerned shall be informed about the expulsion within a period of three days. Expulsion costs, unless borne by the alien, are covered from the State Budget of the Republic of Armenia. Where the return of an alien to the State of origin is impossible within 90 days, the alien shall be granted — by the authorized state administration body in the field of police — a temporary permit till the departure of the alien from the Republic of Armenia, but not more than for one year. So far, no cases of expulsion have been recorded.

## **Article 14**

340. The provisions prescribed in Article 14 of the Covenant have been incorporated into the legislation of the Republic of Armenia. These norms have been directly incorporated into the Criminal Procedure Code of the Republic of Armenia, Chapter 2 of which refers to the provisions expressed in the above-mentioned Article of the Covenant as principles of criminal procedure.

341. Pursuant to Article 7 of the Judicial Code of the Republic of Armenia, everyone shall have the right to enjoy judicial remedies for the protection of his or her rights and freedoms.

342. No one may be deprived of the right to public hearing of his or her case by a competent, independent and impartial court within a reasonable time, under equal conditions and in full compliance with the demands of justice.

343. Everyone shall be entitled to exercise his or her right to judicial protection either through his or her representative or counsel, or in person.

344. Pursuant to Article 15 of the same Code, all persons shall be equal before the law and the courts.

345. Discrimination concerning the rights, freedoms and duties based on gender, race, color, ethnic or social origin, genetic features, language, religion, outlook, political and other views, belonging to a national minority, property status, birth, disability, age, or other circumstances of personal or social nature, shall be prohibited.
346. Pursuant to Article 18 of the Criminal Procedure Code of the Republic of Armenia, any person suspected in or charged with a crime shall be presumed innocent, until proven guilty in the manner prescribed by this Code upon a judgment entered into force.
347. The inference that a person is guilty in a crime may not be based on assumptions; it shall be substantiated by sufficient accumulation of interconnected and reliable evidence concerning the case.
348. All doubts concerning the charge being proven that may not be dispelled through a due process hearing in accordance with the provisions of this Code, shall be construed in favor of an accused or a suspect.
349. Measures of restraint imposed on a suspect or an accused may not contain elements of punishment.
350. Pursuant to Article 19 of the Criminal Procedure Code of the Republic of Armenia, a suspect and an accused shall have the right to defense.
351. The body conducting criminal proceedings shall be obliged to explain a suspect and an accused their rights and to provide them with facilities to defend from the charge through all measures not proscribed by law.
352. Pursuant to Article 20 of the Criminal Procedure Code of the Republic of Armenia, no one shall be obliged to give testimonies concerning himself or herself, his or her spouse or close relative.
353. A person whom the body conducting criminal proceedings suggests to provide information or materials incriminating him or her or his or her spouse or close relatives in a criminal offence, shall have the right to refuse to provide such information and materials.
354. Pursuant to Article 21 of the Criminal Procedure Code of the Republic of Armenia, no one may be tried again for the same offence.
355. The existence of a judgment or an order entered into force with regard to the same person and the same incident, shall exclude any renewal of the criminal case with a view to substituting the charge with a graver one or to imposing a heavier punishment, or upon another ground that may result in the deterioration of a person's condition.
356. Pursuant to Article 22 of the Criminal Procedure Code of the Republic of Armenia, an acquitted person shall have the right to reinstatement of his or her rights, including to compensation for the pecuniary loss caused by the bodies conducting criminal proceedings.
357. Any person who has been unlawfully subjected to coercive measures by the body conducting criminal proceedings shall also have the right to compensation for pecuniary loss.
358. Bodies conducting criminal proceedings shall be obliged to implement all the measures provided for by this Code aimed at reinstatement of the rights of an acquitted person.
359. Article 65 of the Criminal Procedure Code of the Republic of Armenia provides for the right of an accused to defense. The body conducting criminal proceedings shall provide an accused with facilities to exercise his or her right to defense through all the measures not proscribed by law.
360. An accused shall, in accordance with this Code, have the right to:

- (a) Know what he or she is charged with, and, for this purpose, receive free of charge from the criminal prosecution authority a copy of the decision on involving him or her as a defendant, immediately after the charge is brought, after he or she is taken into custody, or the decision on imposing a measure of restraint is announced;
- (b) Receive, immediately after taken into custody, from an inquest body, an investigator or a prosecutor a written notification on and clarification of his or her rights provided for by part 2 of this Article;
- (c) Have counsel after the charge is brought, or waive counsel and defend himself or herself in person;
- (d) Have private, confidential and unhindered meetings with his or her counsel, without any restriction on the number and length of such meetings;
- (e) Be interrogated in the presence of the counsel;
- (f) Give testimonies or refuse to give testimonies, be interrogated through confronting witnesses against him or her;
- (g) Give explanations or refuse to give explanations;
- (h) Upon his or her motion and upon the permission of an inquest body, an investigator or a court, participate in person or through the counsel in investigative operations or other procedural actions, or refuse to participate therein, unless otherwise provided for by this Code;
- (i) Inform, through the body conducting criminal proceedings, his or her close relatives, and in case of a serviceman, also the command of the military unit, about the place of and the grounds for keeping him or her in custody, immediately after taken into custody, but not later than within twelve hours.

361. When a foreign national or a stateless person is taken into custody, the body conducting criminal proceedings shall, through diplomatic channels and within 24 hours, inform the State of his or her nationality, and in case he or she is stateless, the State of his or her permanent residence, and, where necessary, another interested State as well, about the place of and the grounds for keeping him or her in custody.

362. Pursuant to Article 62 of the Criminal Code of the Republic of Armenia, the minority of an offender at the time of committing an offence shall be a circumstance mitigating the liability and the punishment. Chapter 50 of the Judicial Code of the Republic of Armenia covers the special characteristics of juvenile proceedings. Pursuant to Article 443 of the Criminal Procedure Code of the Republic of Armenia, the court may release a juvenile from a punishment and impose on him or her coercive measures of educational nature, if, when entering a judgment, it arrives at a conclusion that the juvenile may be corrected without applying criminal sanctions.

363. Pursuant to Article 19 of the Judicial Code of the Republic of Armenia, legal proceedings shall be conducted in Armenian in the Republic of Armenia. Persons participating in the proceedings shall have the right to use in the court the language of their own choosing, as long as they provide interpretation into Armenian. The court shall provide persons participating in criminal proceedings and having no command of Armenian with interpreter's services at the expense of the Republic of Armenia.

364. The court shall provide persons participating in administrative proceedings, as well as civil proceedings as prescribed by law, with interpreter's services, where they have no command of Armenian and provided that they furnish evidence to the effect that they do not have sufficient means to provide paid interpretation.

365. In case there is a need to provide interpreter's services at the expense of the Republic of Armenia, an interpreter shall be appointed upon the court order, in accordance with the procedure established by the Government of the Republic of Armenia (hereinafter referred to as "the Government"). The amount and manner of remuneration of interpreters shall be defined by the Government.

366. Pursuant to Article 20 of the Judicial Code of the Republic of Armenia, examination of cases in the courts of the Republic of Armenia shall be public. Any adult person may attend public court hearings.

367. Pursuant to Article 114 (3) of the Civil Procedure Code of the Republic of Armenia, persons participating in proceedings and those present at public court hearing shall have the right to take notes, make verbatim records and audio recording.

368. Filming and photographing, audio-visual recording of a court hearing, as well as broadcasting by radio and television shall be made upon the consent of the parties and the permission of the court examining the case.

369. Pursuant to Article 314 (4) of the Criminal Procedure Code of the Republic of Armenia, persons under the age of sixteen shall not be allowed to enter the courtroom, unless they are a party or a witness.

370. The trial or a part thereof shall be held in camera only upon the decision of the court in cases and in the manner provided for by law for reasons of protecting public morals, public order, national security, as well as private life of the participants of the proceedings, or the interests of justice.

371. In adoption proceedings, the court hearing shall be held in camera at the request of the adopter.

372. Court judgments and other final decisions shall be announced publicly. When a trial is held in camera, only introduction and conclusion of a judgment or of other final decision may, upon the decision of the court, be announced publicly; the parts, which served as a basis for holding an in-camera trial shall not be announced.

373. The Judicial Code of the Republic of Armenia provides guarantees for the functioning of independent and impartial courts and for the independence of judges.

374. Pursuant to Article 92 of the Constitution of the Republic of Armenia, first instance courts of general jurisdiction, courts of appeal and the Court of Cassation, and, in cases provided for by law, also specialized courts shall operate in the Republic of Armenia.

375. The Court of Cassation shall, except for matters of constitutional justice, be the highest judicial instance of the Republic of Armenia, which is called to ensure the uniform application of law. Powers of the Court of Cassation are defined by the Constitution and by law.

376. Establishment of emergency courts shall be prohibited.

377. First instance courts and courts of appeal also operate in the Republic of Armenia. First instance courts are the following: courts of general jurisdiction and the specialized court. The specialized court is the administrative court. The courts of appeal are the following: the Criminal Court of Appeal and the Civil Court of Appeal.

378. The Court of Cassation of the Republic of Armenia has two chambers: the Criminal Chamber, and the Civil and Administrative Chamber.

379. Independence of judicial authorities from the executive power is ensured by the following guarantees:

(a) Pursuant to Article 94 of the Constitution of the Republic of Armenia, the independence of courts shall be guaranteed by the Constitution and by laws;

(b) Powers of courts, procedure for their formation and functioning shall be defined by the Constitution and by laws;

(c) Powers of the Constitutional Court and the procedure for the formation thereof are established by the Constitution, and the rules of procedure thereof are established by the Constitution and the Law on the Constitutional Court;

(d) Pursuant to Article 97 of the Constitution of the Republic of Armenia, when administering justice, the judge and the members of the Constitutional Court shall be independent, and shall be guided only by the Constitution and by law.

380. Guarantees for the functioning, as well as grounds and procedure for holding judges and members of the Constitutional Court liable are defined by the Constitution and by law.

381. Judges and members of the Constitutional Court may not be detained, involved as a defendant, and no legal proceedings on imposing administrative liability on them may be instituted without the consent of the Council of Justice or the Constitutional Court respectively. Judges and members of the Constitutional Court may not be arrested, except for the cases when the arrest is effected at the moment of committing a criminal offence or immediately after that. In such cases the President of the Republic of Armenia, as well as the President of the Court of Cassation or the President of the Constitutional Court respectively, shall be promptly informed about the arrest.

382. Pursuant to Article 98 of the Constitution of the Republic of Armenia, judges and members of the Constitutional Court may not engage in entrepreneurial activity, hold a position in state or local self-government bodies, which is not related to their duties, and a position in commercial organizations, as well as carry out other paid work, except for scientific, pedagogical or creative work.

383. Judges and members of the Constitutional Court may not be members to any party or engage in political activities.

384. Pursuant to Article 9 of the Judicial Code of the Republic of Armenia, the judiciary shall be autonomous. Self-governance of the judiciary shall be implemented through self-government bodies established by this Code.

385. Pursuant to Article 11 of the Judicial Code of the Republic of Armenia, judges shall be independent when administering justice or exercising other powers provided for by law.

386. When administering justice and exercising other powers provided for by law, judges shall not be accountable to anyone, which includes, but is not limited to, being free from the obligation to give any explanations, except for cases authorized by law.

387. Interference with the activities of a judge in a manner not authorized by law shall be prohibited. Such an offence shall be liable to criminal prosecution. In case of government officers, it shall also give rise to disciplinary liability up to dismissal from the position or service held, in the manner prescribed by relevant laws regulating the government service.

388. Judges shall be obliged to instantly inform the Ethics Committee of the Council of Courts Chairmen (hereinafter referred to as “the Council of Courts Chairmen”) about the interference — not authorized by law — with their activities related to administration of justice and exercise of other powers provided for by law. Where the Ethics Committee finds that interference — not authorized by law — with the activities of a judge has taken place, it shall be obliged to address a motion to the relevant authorities on bringing the offenders to justice.

389. During the term of office and after the termination of powers, judges may not be interrogated as a witness with regard to a case examined by them. Judges shall be irremovable.

390. Pursuant to Article 14 of the Judicial Code of the Republic of Armenia, a judge shall hold office until he or she attains the age of sixty-five, and his or her powers shall terminate on the day after he or she attains 65.

391. The role of the Council of Justice as an independent body, including from the executive branch, is the most important in the independence of judges, and the authority to subject judges to disciplinary liability is vested in it.

392. Pursuant to Article 155 (1) of the Judicial Code of the Republic of Armenia, the following shall have the right to institute disciplinary proceedings against judges of first instance courts and courts of appeal, as well as against the president of the court:

- (a) The Minister of Justice;
- (b) The Disciplinary Committee of the Council of Justice.

393. It should be mentioned that in its decisions on subjecting judges to disciplinary liability, the Council of Justice has, to some extent, viewed the fact of instituting disciplinary proceedings against judges by the Minister of Justice as a circumstance threatening the independence of the judge.

394. Pursuant to Article 115 of the Judicial Code of the Republic of Armenia, where as of 1 September of the current year the total number of persons having graduated from the Judicial School and of those studying there does not exceed 12, the President of the Court of Cassation shall, not later than 10 September, publish an announcement on holding qualification tests for the purpose of filling the list of candidates for judges. Qualification tests shall be held on a competitive basis, as per the results of written exams. Those citizens of the Republic of Armenia at the age of twenty-two to sixty — who have obtained a bachelor's degree or have a qualification of a certified specialist in higher legal education or have obtained a similar degree in a foreign country, which was recognized and was approved as adequate in the Republic of Armenia in the manner prescribed by law, and who have a command of Armenian, whose eligibility to apply to the Judicial School is not excluded under Article 185 of this Code, and who meet the requirements of Article 119 (1) of this Code — may participate in qualification tests.

395. Pursuant to Article 117 of the Judicial Code of the Republic of Armenia, the Council of Justice shall examine the nominated candidacies in its session and invite them to an interview. To fill the list of candidates for judges, the Council of Justice shall hold a secret ballot. Based on the vote results, a list of 10 persons having received the largest number of votes shall be compiled. In case of a tie vote, other persons having received equal votes shall also be included in the list. The list shall be submitted to the President of the Republic of Armenia no later than 15 December. When compiling the list, gender balance shall be taken into account. If the number of judges of either gender becomes less than 25 percent of the total number of judges, at least five places shall be reserved in the list for the candidates of that gender.

396. Not later than 25 December, the President of the Republic of Armenia shall, upon a decree, approve the list compiled by the Council of Justice, with candidacies acceptable to him or her.

397. Pursuant to Article 136 of the Judicial Code of the Republic of Armenia, the Council of Justice shall compile the official promotion list of judges and submit it to the approval of the President of the Republic of Armenia.

398. Pursuant to Article 135 of the Judicial Code of the Republic of Armenia, when voting by a secret ballot, a member of the Council of Justice shall take into account the following features as regard the compilation of the official promotion list of judges and appointment of a president of a court, of a judge of first instance specialized court and of court of appeal, as well as of a judge and a president of a Chamber of the Court of Cassation:

- (a) Professional knowledge of the judge, including the judge's professional activities and professional and post-university education;
- (b) Professional reputation of the judge;
- (c) Working skills;
- (d) Quality of judicial acts issued by the judge;
- (e) Upholding by the judge of the reputation of the court and of the judge and observance of the Code of Judicial Conduct;
- (f) Oral and written communication skills, based on the minutes of court hearings and the judicial acts issued by the judge;
- (g) Participation of the judge in educational and professional training programs as provided for by this Code;
- (h) Participation of the judge in the self-governance of the judiciary;
- (i) Participation of the judge in law and legislation development programs;
- (j) Attitude displayed towards colleagues while performing the duties of judge;
- (k) Organizational skills of the judge and qualities displayed by the judge in the performance of administrative duties.

399. Pursuant to Article 47 of the Law of the Republic of Armenia "On the profession of advocate", the Chamber of Advocates shall be the successor of the advocate unions operating in the Republic of Armenia. After the entry into force of this Law the powers of the other advocate unions operating in the Republic of Armenia shall be maintained until the formation of the Chamber of Advocates. Only one advocate association — the Chamber of Advocates — shall operate in Armenia under the law.

400. Pursuant to Article 5 of the Law of the Republic of Armenia "On the profession of advocate", practice of the profession of advocate shall be a form of advocacy aimed at enforcing, through means and ways not prohibited by law, the legitimate interests of person receiving legal assistance.

401. Practice of the profession of advocate shall include:

- (a) Advice, including advising clients on their rights and obligations, on activities of the judicial system with respect to the rights of the client, as well as examination of documents and drawing up of other documents of legal nature;
- (b) Representation, including court representation;
- (c) Defense in criminal cases.

402. Court representation, or defense in criminal cases, referred to in this Article, shall, as an entrepreneurial activity, be carried out solely by an advocate.

403. Legal assistance provided by persons in an employment relationship and acting for the benefit of the employer shall not constitute practice of the profession of advocate.



404. This Law shall not cover persons who are not advocates, but who carry out representation or defense in criminal cases, in the manner prescribed by law and not as an entrepreneurial activity.

405. Pursuant to Article 7 of the Law of the Republic of Armenia “On the profession of advocate”, the Chamber of Advocates of the Republic of Armenia (hereinafter referred to as “the Chamber of Advocates”) shall be a professional, independent, self-governed legal person, the peculiarities of which shall be defined by this Law. The Chamber of Advocates shall acquire the status of a legal person upon its registration in accordance with the law.

406. The Chamber of Advocates shall have the following tasks:

- (a) To create conditions for the exercise of professional practice by its members;
- (b) To protect the rights and lawful interests of its members in their interrelation with state and local self-government bodies and with organizations, as well as before court;
- (c) To arrange vocational education and training of its members;
- (d) To carry out supervision over the observance by its members of the requirements of the Code of Conduct for Advocates and the Charter of the Chamber of Advocates;
- (e) To take measures to strengthen the standing of the profession of advocate;
- (f) To ensure, in cases provided for by this Law, the provision of equally accessible and effective legal aid for everyone.

The Chamber of Advocates may cooperate with foreign structures of advocates, international and other organizations.

407. Pursuant to Article 8 of the Law of the Republic of Armenia “On the profession of advocate”, the bodies of the Chamber of Advocates shall be the following:

- (a) General Meeting of the Chamber of Advocates;
- (b) Board of the Chamber of Advocates;
- (c) Disciplinary Committee of the Chamber of Advocates;
- (d) Qualification Committee of the Chamber of Advocates.

408. Members of the bodies of the Chamber of Advocates shall work in those bodies without remuneration except for the Chairperson of the Chamber of Advocates. Members of the bodies of the Chamber of Advocates may, in parallel with their work in those bodies, practice the profession of advocate. Members of the Chamber of Advocates shall be eligible for only one body of the Chamber of Advocates. The powers, the manner of formation, operation, tasks and functions of the bodies of the Chamber of Advocates shall be defined by this Law and the Charter of the Chamber of Advocates.

409. Pursuant to Article 6 of the Law of the Republic of Armenia “On the profession of advocate”, advocates shall be entitled to remuneration for their services. The amount and the manner of remuneration for the practice of the profession of advocate shall be determined by a written contract concluded between the advocate and the client in accordance with the Civil Code of the Republic of Armenia.

410. The State shall guarantee legal aid in criminal cases in the manner and in cases provided for by the Criminal Procedure Code of the Republic of Armenia, as well as in the manner prescribed by the Civil Procedure Code of the Republic of Armenia in the following cases:

- (a) In actions with regard to collecting maintenance payments;

(b) Compensation actions for losses incurred as a result of mayhem or other injury to the health, as well as the death of the bread-winner.

411. Legal aid shall be provided by the Chamber of Advocates on account of the State, in accordance with Articles 41 and 42 of this Law. Free legal assistance may also be provided at the initiative of the advocate.

## **Article 15**

412. The norms laid down in Article 22 of the Constitution are in full compliance with the provisions contained in Article 15 of the Covenant (see also para. 49 of the Report). In particular, the Article states that it shall be prohibited to impose heavier punishment than the one applicable under the law in force at the time when the criminal offence was committed. No one shall be held guilty for a criminal offence if it did not constitute a criminal offence under the law in force at the time when the offence was committed. A law decriminalizing an offence or imposing a lighter punishment for the offence shall have retroactive effect. A law, which prescribes or aggravates liability, shall not have retroactive effect.

413. The above-mentioned norms are also laid down in the Criminal Code of the Republic of Armenia (the Code), Article 3 of which prescribes that commission of a criminal offence, that is, an offence containing all the elements of crime as provided for by the criminal statute, shall constitute the only ground for imposing criminal liability.

414. The Code lays down the principle of inevitability of liability, which means that any person committing an offence shall be subjected to punishment or other criminal law measures provided for by the Criminal Code of the Republic of Armenia.

415. Pursuant to Article 10 of the Code, the punishment and other criminal law measures imposed on a person committing an offence shall be just and adequate in terms of gravity of the offence, the circumstances of its commission, the personality of the offender, as well as be necessary and sufficient for correcting the offender and deterring new crimes.

416. It shall be prohibited to sentence a person twice for the same criminal offence.

417. Article 13 of the Code defines the retroactive effect of the criminal statute and states that a law decriminalizing an offence, providing for a lighter punishment or in any other way improving the condition of an offender, shall have retroactive effect, that is, it shall apply to persons who committed the offence before the entry into force of the said Law, including those persons who serve the punishment or have served it but their conviction has not been cancelled and has not expired. A law criminalizing an offence, providing for a heavier punishment or in any other way deteriorating the condition of an offender, shall have no retroactive effect. A law partially mitigating and at the same time partially aggravating the liability shall have retroactive effect only to the extent it mitigates the liability.

## **Article 16**

418. In Civil Law, legal personality includes passive and active legal capacity. Article 20 of the Civil Code of the Republic of Armenia (the Code) lays down that the capacity of holding civic rights and bearing responsibilities (passive civil legal capacity) is recognized equally for all individuals.

419. Part 2 of the same Article states that the passive legal capacity of an individual shall arise upon his or her birth and terminate upon the death thereof.

420. Article 24 of the Code defines the active legal capacity of an individual.

421. Particularly, part 1 of this Article states that the capacity of an individual to obtain and exercise civic rights, to create civil responsibilities and to fulfill them, by his or her actions (active civil legal capacity), shall arise in full scale upon reaching full age, i.e., upon reaching the age of eighteen.

422. Article 25 of the Code lays down the impermissibility of depriving and restricting passive and active legal capacity of an individual, stating that it may only be carried out in cases and in the manner provided for by law. Meanwhile, point 3 of this Article states that transactions directed at full or partial renunciation by an individual of his or her passive or active legal capacity or at restriction of passive or active legal capacity thereof shall be void.

## **Article 17**

423. While laying down individual rights and freedoms of a person and citizen, Articles 23 and 24 of the Constitution prescribe the right to respect for private and family life, secrecy of correspondence, telephone conversations, postal, telegraph and other communications and to inviolability of home. These rights may be restricted only in cases provided for by law, upon a court order.

424. Articles 11–14 of the Criminal Procedure Code of the Republic of Armenia (the Code) lay down the security of person, inviolability of home and of property, secrecy of correspondence, telephone conversations, postal, telegraph and other communications, as principles.

425. Chapters 31–33 of the Code provide for a detailed regulation of the grounds and the procedure for conducting investigative operations, which authorize the restriction of the said rights.

426. Having regard to the aforementioned guarantees for ensuring human rights, as provided for by the Constitution and the legislation, Articles 144 and 146–147 of the Criminal Code of the Republic of Armenia criminalize unlawful interference with private or family life, home, correspondence, telephone conversations, postal, telegraph and other communications.

427. Arbitrary or unlawful interference with private and family life, home or correspondence of person, as well as unlawful attacks on his or her honor and reputation are outlawed by Articles 18, 23, 24, 26, and 27 of the Constitution of the Republic of Armenia.

428. The Law of the Republic of Armenia “On personal data” was adopted on 8 October 2002 which regulates “relationships pertaining to processing of personal data by state and local self-government bodies, state or municipal institutions, legal or natural persons.” Article 6 of the Law defines the lawfulness of processing of personal data and, particularly, point 1 stipulates: “personal data shall be processed with the consent of the data subject.” Article 7 of the Law emphasizes that “state and local self-government bodies, state or municipal institutions shall be entitled to process personal data only in cases and in the manner provided for by the legislation.” As to the law enforcement authorities, Article 10 of the Law clearly states: “the legal regime of personal data collected in the course of the activities of law enforcement authorities shall be prescribed by law.” According to Article 14 of the Law, in cases “where the data subject considers that illegal actions have been taken against his or her personal data, he or she shall be entitled to file an administrative or judicial appeal against those actions.”

429. The Law of the Republic of Armenia “On social security cards” was adopted on 24 September 2003. According to Article 5 of the Law, “the aim of establishing a social cards

system shall be to identify a citizen in the course of individual data processing in information systems, to regulate and improve the process of transfer of information in accordance with the legislation, and to ensure the confidentiality of citizens' personal data.

430. The Law of the Republic of Armenia "On operational intelligence activity" was adopted on 22 October 2007, the objectives of which is detection and disclosure of crimes, detection of persons planning, committing or having committed a crime, acquisition of information necessary for ensuring national security, etc (Article 4). According to Article 8 of this Law, bodies carrying out operational intelligence activity are as follows:

- (a) The police;
- (b) National security bodies;
- (c) Tax authorities;
- (d) Customs authorities, with an objective to preclude and disclose smuggling and other crimes;
- (e) Penitentiary service – only in penitentiaries.

431. Interception of correspondence, postal, telegraph and other communications, as well as wiretapping are among the types of operational intelligence measures defined by Article 14 of the said law.

## **Article 18**

432. The legislation of the Republic of Armenia on freedom of conscience, religion and belief comprises:

- (a) The Constitution of the Republic of Armenia;
- (b) International treaties entered into force for the Republic of Armenia;
- (c) Laws of the Republic of Armenia "On freedom of conscience and religious organizations" and "On relations between the Republic of Armenia and the Armenian Apostolic Holy Church";
- (d) Other laws and legal acts regulating freedom of conscience, religion and belief, as well as activities of religious organizations.

433. As stated in the previous report (see CCPR/C/92/Add.2, para. 197), the Law of the Republic of Armenia "On freedom of conscience and religious organizations" (adopted on 17 January 1991) was among the first laws adopted after independence of the Republic of Armenia.

434. The Constitution of the Republic of Armenia of 2005 clearly lays down the principle of non-intervention by authorities and religious organizations in affairs of one another. Article 8.1 of the Constitution states, "In the Republic of Armenia, the church shall be separate from the State." The Constitution also provides for mutually beneficial cooperation between the State and various religious organizations and freedom of their activities by stating, "Freedom of activity of all religious organizations functioning in the manner prescribed by law shall be guaranteed in the Republic of Armenia."

435. By recognizing and accepting the exclusive role of religion and, particularly, of the Armenian Apostolic Church as a spiritual, moral and cultural value of the nation, the same article lays down, "The Republic of Armenia recognizes the exclusive mission of the Armenian Apostolic Holy Church as a national church in the spiritual life, development of the national culture and preservation of the national identity of the Armenian people." The Constitution provides that the relations between the Republic of Armenia and the Armenian

Apostolic Holy Church may be regulated by law. Pursuant to this provision of the Constitution, the Law of the Republic of Armenia “On relations between the Republic of Armenia and the Armenian Apostolic Holy Church” was adopted on 27 February 2007. The mentioned law was adopted taking into account the historical role of the Armenian Apostolic Church in the life of the Armenian people. Meanwhile, it should be mentioned that the provisions of this law do not impair in any way the rights and freedoms of other religious organizations stipulated by the legislation of the Republic of Armenia and by international treaties. This step of the State aims, among others, to compensate the harm inflicted on the Church in the years of regime of atheism.

436. Upon accession to the Council of Europe in 2001, Armenia undertook a commitment to adopt the Law “On alternative service.” Upon the adoption of such a law on 12 December 2003, the Republic of Armenia met its commitment. Thus, the law affords an opportunity to discharge the civic duty to protect the country both through military and alternative service. The Law was twice amended in 2004 and 2006 for bringing it in line with international standards.

437. In the years following its independence, Armenia undertook serious steps aimed at ensuring religious diversity in the country. While 14 religious organizations were registered in the State Registry of Armenia in 1997 (see CCPR/C/92/Add.2, para. 204), the number thereof reached 66 as of 2009.

438. According to the Law of the Republic of Armenia “On freedom of conscience and religious organizations”, a group of individuals shall be recognized as a religious organization if no coercion or violence towards an individual is not allowed, if it is based on any historically canonized holy book, belongs, with its belief, to the system of world contemporary religious and church communities, is void of mercenary motives, is directed at spiritual fields, and includes at least 200 believers. Children under the age of eighteen may not become a member of a religious organization irrespective of the fact that they participate in religious rituals, and other circumstances. Articles 14–16 of the Law addresses the special characteristics of the procedure for registration of religious organizations.

439. The mentioned organizations represent 13 religious flows:

- (a) Armenian Apostolic Holy Church – 1
- (b) Armenian Catholics – 3
- (c) Evangelic denominations – 4
- (d) Evangelical-Baptist denominations – 10
- (e) Adventist denomination – 1
- (f) Pentecost denominations – 23
- (g) Ecumenical organizations – 1
- (h) New religious movements – 6
- (i) Religious-charitable organizations – 6
- (j) Religious organizations of national minorities – 8, including:
  - (i) “Russian Orthodox Church” – 4
  - (ii) Yezidi religious organization – 2
  - (iii) “Jewish Religious Community of Armenia” – 1
  - (iv) Assyrian religious organization – 1

- (k) Pagan religious organization – 1
- (l) Other religious organization – 1
- (m) Center of Theological Studies – 1

440. The Molokan (Russian old believers) community and Persian Blue Mosque in Yerevan function without registration.

441. There exist religious communities registered as non-governmental organizations benefiting from the shortfall of the legislation covering that field.

442. Religious associations (religious organizations and groups or communities) functioning in the Republic of Armenia may be divided into three groups based on their de jure and de facto status:

- (a) Associations registered as religious organizations;
- (b) Groups registered as a non-governmental organization but practicing a religion or groups known as religious in the world;
- (c) Groups having no state registration but functioning as religious, ideological or philosophical, or catechism groups, whose legal status has not yet been defined by the legislation of the Republic of Armenia.

443. The Decree of the President of the Republic of Armenia No. NH-269 of 21 December 1993 “On measures ensuring lawfulness of religious activity in the territory of the Republic of Armenia” was repealed by the Decree of the President of the Republic of Armenia No. NH-836 of 15 March 2001. As a result, the following powers of the State Council on Religious Affairs adjunct to the Government of the Republic of Armenia were terminated:

- (a) Control over production and sale of religious literature and ritual items;
- (b) Religious propaganda through public mass media only with the knowledge of the State Council;
- (c) Allocation of spaces only upon co-ordination with the State Council in advance;
- (d) Representatives of foreign religious organizations may be invited only through the State Council;
- (e) Visits of citizens of the Republic of Armenia to foreign countries upon invitation of foreign religious organizations only with the knowledge of the State Council.

444. Upon the Decision of the Government of the Republic of Armenia No. 204 of 6 March 2002, the State Council of Religious Affairs adjunct to the Government of the Republic of Armenia was dissolved. Functions reserved to the State Council, including the power to furnish expert opinions in accordance with Article 5 (b) – (e) of the Law of the Republic of Armenia “On freedom of conscience and religious organizations” has been reserved to the Staff of the Government of the Republic of Armenia. In the initial phase, this function was performed by the Department of Social Affairs of the Staff of the Government. According to the Decision of the Government of the Republic of Armenia No. 1556-N of 27 November 2003, functions of the authorized body on national minorities were reserved to the Staff of the Government of the Republic of Armenia, and the Department for Ethnic Minorities and Religious Affairs of the Government of the Republic of Armenia was established.

445. All the historical and architectural, cultural, and religious constructions located within the territory of the Republic of Armenia are under state protection in Armenia,

irrespective of their ethnic or religious belonging. According to the data presented by the Agency for Preserving Historical and Cultural Monuments under the Ministry of Culture of the Republic of Armenia, besides the historical monuments of the Armenian Apostolic Church (e.g. a pagan temple, Chalcedonian churches, etc) among the historical places of worship of religious and ethnic communities currently existing and non-existent in the territory of the Republic of Armenia, the following monuments are protected by the State:

- (a) Armenian Catholic church in Gyumri, built in 1848–1855 by Rev. Kanonikos Araratyan;
- (b) Russian church in Vanadzor, built in 1895, reconstructed in 1977;
- (c) Russian church in Gyumri (Plplan Zham), built in 1904;
- (d) Russian church in Yerevan, built in 1913;
- (e) Blue Mosque (Gueoy Mosque) in Yerevan, built in 1766 (it was reconstructed in 1992 and is currently open to visitors. The Mosque has a library, museum, cultural center, and school of Persian language. The Blue Mosque in Yerevan is valuable as a vivid example of late Persian architecture preserved in the South Caucasus);
- (f) Abas Mirza (Sardar) Mosque in Yerevan, built in late 19th century;
- (g) St. Kyril Church (Assyrian church), Ararat Marz, Dimitrov village, built in 1840;
- (h) St. Tovmas Church (Assyrian church), Ararat Marz of the Republic of Armenia, Verin Dvin village, built in late 19th century;
- (i) St. Sava Church (Greek church), built in 1909 in Lori Marz of the Republic of Armenia, Shamrugh village. It is valuable as a specimen of a Greek church preserved in Armenia;
- (j) Greek churches in Hankavan (Kotayk Marz) and Yaghdan village (Lori Marz);
- (k) Jewish cemetery dating back to the 14–17th centuries, Vayots Dzor Marz of the Republic of Armenia, Yeghegnadzor region, Yeghegis village, South-Eastern edge of Yeghegis village, on the left bank of Yeghegis river;
- (l) Kurdish cemetery dating back to the 16–18th centuries, Aragatsotn Marz of the Republic of Armenia, Aragats subregion, Rya Taza village.

446. On June 2004, the Department for Ethnic Minorities and Religious Affairs under the Staff of the Government of the Republic of Armenia published “Freedom of Conscience, Religion and Belief (Rights, Opportunities, Obligations)” manual which includes laws and other legal acts existing in the Republic of Armenia and governing freedom of religion and conscience, including international treaties entered into force for Armenia, the list of religious organizations registered in the Republic of Armenia, information on religious communities not registered or functioning upon other status, as well as concise analysis of the religious situation in the Republic of Armenia.

## Article 19

447. As stated in the previous report (see CCPR/C/92/Add.2, para. 209), among the first laws adopted on 8 October 1991 by the Republic of Armenia following its independence was the Law of the Republic of Armenia “On the press and other mass media.”

448. The Law of the Republic of Armenia “On the press and other means of mass media” was repealed following the adoption of the Law of the Republic of Armenia “On mass

information” adopted on 13 December 2003. The following provisions of the Law are among the most important.

449. Article 4 of the Law provides for a system of guarantees for ensuring the right to freedom of speech in the field of dissemination of information. They are as follows:

(a) Entities engaged in dissemination of information and journalists operate freely based on the principle of equal protection of the law, lawfulness, freedom of speech (expression), and plurality;

(b) Journalists, during their professional activities, as persons discharging public duty, shall be protected by the legislation of the Republic of Armenia;

(c) Media are issued and distributed without preliminary or current State registration, licensing, declaration in state or other bodies or notice to any body.

450. Article 7 of the Law, which defines limitations of the right to freedom of speech in the field of dissemination of information, states that dissemination of information constituting a secret under law or propaganda of criminally punishable offences, as well as of information that infringes the right of a person to respect for private and family life, shall be prohibited. It shall be prohibited to disseminate video recorded information where it was obtained without a person’s knowledge of the video recording being made, and that person expected that he or she is out of seeing and hearing distance of the person making video recording and has taken sufficient measures to that effect, except when the measures taken to be out of seeing and hearing distance of the person making video recording were obviously insufficient.

451. Main principles ensuring freedom of information laid down in Article 4 of the Law of the Republic of Armenia “On freedom of information” adopted on 23 September 2003, which is closely related to the right provided for by Article 19 of the Covenant, are important guarantees for the exercise of the right to receive information. Those principles are as follows:

(a) Establishment of a unified procedure for recording, classifying and storing information;

(b) Protection of the freedom to seek and receive information;

(c) Provision of accessibility of information;

(d) Publicity.

452. Article 5 of the Law states that the recording, classification and storage of information processed by the possessor of information or of information delivered to him shall be implemented by the procedure defined by the Government of the Republic of Armenia, whereas Article 10 (1) states that the provision of information or of a copy thereof by state and local self-government bodies, state institutions and organizations shall also be implemented by the procedure defined by the Government of the Republic of Armenia.

453. Article 6 of the Law of the Republic of Armenia “On freedom of information” lays down that:

“1. Every person shall have the right to get familiar with the information he or she is seeking and/or file, in the manner prescribed by law, a request with the possessor of the information to receive that information, and receive that information.

“2. Aliens may benefit from the rights and freedoms provided for by this Law only in cases prescribed by law and/or an international treaty.



“3. Freedom of information may be restricted in cases provided for by the Constitution of the Republic of Armenia and by law.”

454. Article 4 of the Law of the Republic of Armenia “On television and radio” adopted on 9 October 2000 which is closely related to the freedom of information, stipulates that the right to free selection, production and broadcasting of television and radio programs shall be ensured in the Republic of Armenia, and censorship of television and radio programs shall be prohibited.

455. Consumers have the right to freely receive television and radio programs and additional information, including through satellite and cable (wire) networks, on free or paid basis, both via decoding means and open networks of television and radio broadcasting.

456. The State shall create necessary conditions and undertake measures for receiving, on the whole territory of the Republic of Armenia, the programs of the Public Television and Radio Company (at least one television channel and one radio channel).

457. Television and radio broadcasting companies shall not, in the areas where relevant coverage zones overlap, limit the right of the television and radio audience to receive other television and radio programs.

458. Also related to the right under consideration is the Law of the Republic of Armenia “On Regulations of the National Commission on Television and Radio” adopted on 28 December 2001, which stipulates that the National Commission for Television and Radio shall be an independent regulatory body the objective of which shall be to ensure freedom, independence and diversity of broadcast media, as well as to license and supervise activities of television and radio companies in accordance with the legislation.

459. Constitutional amendments of 2005 enabled the widest possible incorporation of the provisions laid down in Article 19 of the Covenant into the legislation of the Republic of Armenia. Particularly, Article 27 of the Constitution reads, “Everyone shall have the right to freely express his or her opinion. No one may be forced to renounce his or her opinion or to change it. Everyone shall have the right to freedom of speech, including the freedom to seek, receive and impart information and ideas through any media and regardless of state frontiers. Freedom of media and other means of information shall be guaranteed”. According to Article 27 of the Constitution of the Republic of Armenia of 2005, “The state shall guarantee the existence and functioning of an independent public radio and television offering a variety of informational, educational, cultural and entertainment programs.”

460. Freedom, independence and diversity of media are of great importance in the context of ensuring the realization of the constitutional right of person to receive information. In this respect, as a result of the constitutional amendments of 2005, Constitution of the Republic of Armenia was supplemented with Article 83.2 which stipulates that, for ensuring freedom, independence and diversity of broadcast media, an independent regulatory body shall be established by law, half of the members of which shall be elected by the National Assembly of the Republic of Armenia, and the other half shall be appointed by the President of the Republic of Armenia for a term of six years. Transitional provisions of the Constitution (Article 117 (11)) stipulated that acting members of that independent body shall continue to hold office until the expiry of the term of their office as prescribed by the Law of the Republic of Armenia “On television and radio”, whereas in case of expiry of the term of office or early termination of powers, the vacancy shall be filled subsequently by the National Assembly and the President of the Republic of Armenia. For bringing the existing legislation in line with the Constitution, the National Assembly of the Republic of Armenia adopted laws of the Republic of Armenia “On television and radio” and “On amendments and supplements to the Regulations of the National Commission on Television and Radio”, according to which the composition (9 members) of the National

Commission on Television and Radio was replaced by 8 members and, unlike the previous law, when members of the Commission were appointed solely by the President of the Republic of Armenia, it was stipulated that four members of the Commission shall be elected by the National Assembly of the Republic of Armenia, and the other four members shall be appointed by the President of the Republic of Armenia. The amendments made are of great importance in the context of ensuring freedom, independence and diversity of mass media, since they provide for participation of the National Assembly in the formation of the Commission.

461. According to the amendment made to the Law of the Republic of Armenia “On television and radio” adopted on 10 September 2008, no tenders for licensing of television and radio broadcasting shall be made until July 2010. The television companies whose licence validity expires by 21 January 2011 may file an application with the National Commission for renewal of the license. Validity of the license shall be renewed for the requested period but not more than 21 January 2011 (Article 59). This step was dictated by international commitments of the Republic of Armenia to shift to digital broadcasting by 2012.

462. Upon the Law of the Republic of Armenia “On making amendments and supplements to the Law of the Republic of Armenia on television and radio” adopted on 26 December 2008, Article 6 of the Law “On television and radio” was supplemented with a new point (f) according to which public television should provide airtime for broadcasting of special program services and programs in the languages of the national minorities of the Republic of Armenia. The overall proportion of those programs shall not exceed two hours per week on television, and one hour per day on radio. Special program services and programs in the languages of the national minorities of the Republic of Armenia shall be accompanied by subtitles in Armenian. Such a restriction is due to the fact that the audience (television and radio audience) is few. It should be mentioned that the national minorities make to 2 per cent of the total population of the Republic of Armenia.

463. Discussions, including on draft laws on making amendments and supplements to the Laws of the Republic of Armenia “On television and radio” and “On Regulations of the National Commission on Television and Radio” were held on 1–3 of December 2008 in the Standing Committee of the National Assembly of the Republic of Armenia on science, education, culture, youth and sport affairs, with participation of an independent expert from the Council of Europe, as well as Special Representative of the Secretary General of the Council of Europe in Armenia.

464. The Law of the Republic of Armenia “On making amendments and supplements to the Law of the Republic of Armenia on television and radio” adopted on 29 April 2009, defines a new procedure for the formation of the National Commission on Television and Radio. According to the new procedure, a member of the National Commission on Television and Radio may be a person having professional experience in the fields of journalism, economics, religion, law, television, and art. Members are appointed on a competitive basis.

465. Articles relating to sponsorship of television and radio programs, provision — by television and radio companies — of the transparency of their funds, the Council of Public Television and Radio Company, National Commission on Television and Radio, as well as a number of other articles were amended and supplemented by the mentioned Law.

466. The Law of the Republic of Armenia “On making amendments and supplements to the law of the Republic of Armenia on regulations of the National Commission on Television and Radio” adopted on 28 April 2009 made, among others, a supplement to Article 36, according to which the National Commission shall, by 1 April of each year, submit to the National Assembly of the Republic of Armenia a communication on the

activity report of the National Commission for the previous year. The communication shall be submitted to the National Assembly of the Republic of Armenia by the chairperson of the National Commission, whereas in his or her absence – by the deputy chairman. The communication shall be discussed in the National Assembly of the Republic of Armenia in the manner prescribed by the Law of the Republic of Armenia “On the rules of procedure of the National Assembly” and shall be for its information. The National Commission shall publish its communication in the press and post it on the website of the National Commission. All regulatory decisions adopted by the National Commission are published in the press.

467. As to the procedures for examination of complaints relating to media, the legislation of the Republic of Armenia has prescribed unified rules on examination of complaints by all state bodies. The National Commission also examines the complaints in accordance with those rules. Moreover, all discussions in the Commission are open to the public, and mass media are given a prior notice thereon.

468. Article 19 (3) of the Covenant provides for certain limitations of rights laid down in the Article.

469. Article 2 of the Law of the Republic of Armenia “On state and official secrets” (adopted on 12 December 1996) reads that a state secret is the information in military, foreign relations, economic, scientific and technical, intelligence, counter-intelligence, and operational intelligence fields of the Republic of Armenia, which are protected by the State, and the spread of which may seriously prejudice the security of the Republic of Armenia, which is in line with the requirements of the relevant paragraph of the said Article of the Covenant.

470. Article 33.1 of the Constitution outlaws abuse of a monopoly or dominant position and unfair competition in a market. Moreover, the Law of the Republic of Armenia “On electronic communication” (the Law) was adopted on 8 July 2005, which regulates the procedure for licensing and operation in that field. Under the law, licensing is carried out by the Public Services Regulatory Commission (Regulator), which is set up pursuant to Article 7 of the Law of the Republic of Armenia “On the regulatory body for public services” (adopted on 25 December 2003). It comprises five members who are appointed by the President of the Republic of Armenia upon submission by the Prime Minister, by the principle of annual rotation (one member is appointed each year), with a five-year term of office. Members of the Commission hold office until the age of sixty-five.

471. Article 10 of the Law lays down the procedure for licensing or authorization to use a radio frequency (the latter is granted through tender applications or auction). Applications for licenses and authorizations to use radio frequencies should be submitted to the Regulator in the form established by that body, should contain information required pursuant to the Law of the Republic of Armenia “On licensing” (adopted on 30 May 2001) and other necessary information required by the rules of the Regulator and should be accompanied by the fee set forth for submission of applications. Information contained in the application should be accessible to the public. The Regulator may not reject the applicant meeting all the requirements for granting a license or authorization solely on the ground that it belongs, in whole or in part, to a foreign citizen or to an organization established in accordance with the laws of any foreign State.

472. Chapter 3 of the Law of the Republic of Armenia “On licensing” lays down licensing conditions and requirements, such as compliance with environmental, hygienic and sanitary-epidemiological safety, fire-protection norms and rules, fulfillment of requirements of professional qualification, compliance with technical requirements and conditions, etc.

473. Chapter 4 of the Law provides competition guarantees. Article 24 of the Law prescribes that the Regulator may set rules prohibiting anti-competitive price fixing and other practices, may require from a dominant operator or service provider to render, on a competitive basis, public electronic communication services through one or more subsidiaries or affiliated persons that are completely separated from him, to separate, in terms of structural organization, his dominant activity from the competitive one, may restrict transactions or information transfer or overlap of positions or undertake other steps it will consider appropriate and necessary for ensuring competition.

## **Article 20**

474. Any war propaganda, as well as advocacy of racial or religious hatred is prohibited in the territory of the Republic of Armenia. The principle of equality before the law and non-discrimination is stipulated in Articles 14.1, 26 and 47 of the Constitution of the Republic of Armenia. Acts aimed at incitement to national, racial or religious hatred are criminalized under Articles 63, 104, 112, 113, 119, 226, 185, 265, 393, 397.1 of the Criminal Code of the Republic of Armenia. Particularly, Article 226 of the Criminal Code of the Republic of Armenia reads, “Actions aimed at incitement to national, racial or religious hatred, or aimed at racial superiority or humiliation of national dignity shall be punishable by a fine in the amount of 200-fold to 500-fold of the minimum salary or corrective works for a maximum term of two years or by imprisonment for a term of two to four years. Acts referred to in part 1 of this Article committed publicly or by use of media, by use or threat of violence, by use of official position, by an organized group shall be punishable by imprisonment for a term of three to six years.”

475. The Department for Ethnic Minorities and Religious Affairs of the Staff of the Government of the Republic of Armenia conducts everyday monitoring of mass media in order to ensure speedy response by law enforcement bodies or through an analytical discussion in case they contain materials with racist or xenophobic ideas, inciting to discrimination against any religion or its adherents, violence or hatred. Moreover, the Republic of Armenia actively cooperates with the OSCE Office for Democratic Institutions and Human Rights on crimes committed on grounds of hatred.

476. With regard to national hate propaganda, incitement to hatred towards Armenians and apparent war-mongering by Azerbaijan have become a matter of major concern in recent years. Such actions by the mentioned country constitute violation of obligations undertaken under the UN and the present Covenant, in particular. Many authoritative structures engaged in the protection of human rights and, first of all, independent monitoring bodies which monitor the fulfillment of commitments undertaken by Azerbaijan in the field of human rights, expressed their strong concern on such a behavior displayed by Azerbaijan.

477. Second Opinion of the Advisory Committee on the Council of Europe Framework Convention for the Protection of National Minorities on Azerbaijan,<sup>1</sup> as well as the Council of Europe Resolution CM/ResCMN(2008)11, which was adopted on 9 November 2007, state:

“39. Despite this absence of case-law and reported claims, the Advisory Committee has, however, collected information from various sources indicating that persons belonging to the Armenian minority are facing widespread discriminations

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<sup>1</sup> Available from [http://www.coe.int/t/dghl/monitoring/minorities/3\\_FCNMdocs/PDF\\_2nd\\_OP\\_Azerbaijan\\_en.pdf](http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_2nd_OP_Azerbaijan_en.pdf).

in various spheres. These include obstacles in access to public employment, housing, public services, payment of pensions and other social benefits and difficulties in restitution of properties. The Advisory Committee is deeply concerned by statements made during its visit by representatives of the authorities. They have either denied that ethnic Armenians face discrimination problems in Azerbaijan, or attempted to justify discriminations against them by the absence of a solution to the conflict of Nagorno-Karabakh.

...

“67. The Advisory Committee is deeply concerned by the widespread manifestations of intolerance, and even hate speech, against persons of Armenian origin. It notes that the media actively contribute to disseminating hostility against them. Moreover, these manifestations seem to be tolerated by the authorities, with the justification of the unsettled conflict over Nagorno-Karabakh. The Advisory Committee also finds it disconcerting that the mere fact of being suspected of being of Armenian origin, or of having contacts with Armenia, can be problematic and lead to being suspected of ‘disloyalty’.”

478. The European Commission against Racism and Intolerance (ECRI) in its Second Report on Azerbaijan,<sup>2</sup> which was published in May 2007, states, among other types of discrimination, particularly, in paragraph 110 of the report:

“Another problem is the oral and written inflammatory speech on the conflict over Nagorno-Karabakh. These statements do not only target Armenia and Armenian citizens. It also often portrays Armenians living in Azerbaijan as enemies and traitors. ECRI is concerned to learn that some media, and particularly certain TV channels, some members of the general public, some politicians and even some authorities at local and national levels apparently fuel negative feelings among society towards Armenians in general, and ethnic Armenians living on Azerbaijani territory in particular. At present, ECRI notes that no steps have been taken to use the relevant criminal law provisions to prohibit material inciting to racial hatred against Armenians ... As already described in ECRI’s first report, the mere attribution of Armenian ethnic origin to an ethnic Azerbaijani may be perceived as an insult.”

479. Paragraphs 114 and 115 of the same report state:

“ECRI strongly recommends that the Azerbaijani authorities contribute more actively to generating a climate where Armenians do not feel threatened when exposing their identity publicly ... ECRI once more urges the Azerbaijani authorities to ensure an adequate response to all instances of discrimination and hate-speech against Armenians, including through the use of the relevant legal provisions.”

480. Following his visit to Azerbaijan from 3 to 7 September 2007, the Council of Europe Commissioner for Human Rights states in his report:<sup>3</sup>

“Armenians should not have to live in an atmosphere of fear. The authorities should raise awareness campaigns to avoid social prejudice against Armenians. They should

<sup>2</sup> Document CRI(2007)22. Available from [http://hudoc.ecri.coe.int/XMLEcri/ENGLISH/Cycle\\_03/03\\_CbC\\_eng/AZE-CbC-III-2007-22-ENG.pdf](http://hudoc.ecri.coe.int/XMLEcri/ENGLISH/Cycle_03/03_CbC_eng/AZE-CbC-III-2007-22-ENG.pdf).

<sup>3</sup> Document CommDH(2008)2, para. 93. Available from <https://wcd.coe.int/ViewDoc.jsp?id=1251577&Site=CommDH&BackColorInternet=FEC65B&BackColorIntranet=FEC65B&BackColorLogged=FC679>.

provide proper training for law enforcement authorities to avoid any tendency towards discriminatory conduct.”

## **Article 21**

481. The Constitution adopted in 1995 reserved the right to peaceful, unarmed meetings, assemblies, rallies and demonstrations only to the citizens of the Republic of Armenia, whereas, as a result of constitutional amendments of 2005, that right was reserved to every person, i.e., that right was extended to foreign citizens and stateless persons.

482. Restrictions on the exercise of that right by officers of the armed forces and of the police, officers of national security authorities and prosecution authorities, as well as by judges and members of the Constitutional Court, may only be authorized by law (Article 29 (2) of the Constitution).

483. The Constitution of the Republic of Armenia provides for two mechanisms for limiting the rights of a person and of citizen (including the right to peaceful assemblies). One of the mechanisms is applied in ordinary conditions, in case when it is necessary to protect the national security, public order, prevent crimes, protect public health and morals, constitutional rights and freedoms, honor and good reputation of others in a democratic society (Article 43). The other one is applied during martial law or state of emergency. (For details see para. 89 and 90 addressing Article 4 of the Covenant).

484. The Law of the Republic of Armenia “On conducting meetings, assemblies, rallies and demonstrations” adopted on 28 April 2004 provided for specific mechanisms for the realization of the right to peaceful assemblies. Article 1 of the mentioned law stipulates: “The objective of this Law is to create conditions necessary for the citizens of the Republic of Armenia, foreign citizens, stateless persons and legal persons to exercise their right to hold peaceful, unarmed meetings, assemblies, rallies and demonstrations. The exercise of this right shall not be subject to any restriction, except in cases prescribed by law and those necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder and crime, for the protection of health or morals or the rights and freedoms of others.” This Article shall be without prejudice to the imposition of lawful limitations by the police and state authorities on the exercise of those rights.”

485. The law regulates in detail the rights and duties of organizers of public events, the powers of the authorized bodies and the police, limitations on organizing and holding public events, procedure for notification on public events, etc.

486. The law states that mass public events may be organized only following a written notice to the authorized body. Organizers shall notify the head of the community where the mass public event is to be held (the Mayor of Yerevan in case the event is to be held in Yerevan); notification is considered as lawful and subject to discussion where it is submitted not later than three working days and not earlier than twenty days prior to the holding of the event. Should the mass public event be held in the form of a rally, such notification is to be submitted to authorized bodies of all areas on the route of such rally.

487. The examination of the notification may also be attended by the organizers, as a result of which the notification on the mass public event is taken for information where circumstances authorizing prohibition to hold the mass public event are absent, whereas in case there are circumstances authorizing the prohibition, a decision prohibiting the mass public event is delivered.

488. The authorized body immediately informs the organizers and the police on its decision taken as a result of examination of the notification.

489. Assemblies, rallies, demonstrations with more than 100 participants are considered mass events during which police officers must act in accordance with the Law of the Republic of Armenia “On conducting meetings, assemblies, rallies and demonstrations” for ensuring public order and safety. The powers of the police are prescribed by the Law of the Republic of Armenia “On the Police”, whereas the order of the police actions and operational duties – by the “Patrol Code of Conduct.”

490. Article 15 of the Law of the Republic of Armenia “On conducting meetings, assemblies, rallies and demonstrations” prescribes liability for violation of the requirements of the Law: “the state or the community shall compensate any material loss caused to organizers and participants of the public event or other event due to unlawful prohibition or unlawful termination thereof by their respective bodies or officials.”

491. Officials of state or local self-government bodies shall be held liable for unlawful hindrance, interference in or termination of a public event.

492. The Law also provides for the liability of organizers of a public event or other event conducted in violation of the requirements of the law or organizers and participants failing to comply with requirements of an order to terminate the event.

493. Article 163 of the Criminal Code of the Republic of Armenia criminalizes the acts of obstruction of conducting or participating in lawful meetings, assemblies, rallies or demonstrations or the acts of compelling to participate in meetings, assemblies, rallies or demonstrations by use or threat of violence, whereas Article 225.1 criminalizes the acts of organizing and conducting public events in violation of the procedure prescribed by law.

494. Although the Law was positively assessed by the Council of Europe Venice Commission, certain controversial issues arose in practice, particularly during assemblies conducted in the period of 2008 presidential elections. Particularly, the law did not define the concept of “spontaneous public event” which served as a basis for the opposition to conduct legally controversial assemblies. The amendment recently made to the Law stated that “spontaneous public event” is a peaceful public event, which had a task of responding without delay to a specific phenomenon or event and had not been announced prior to that phenomenon or event. Meanwhile, it was prescribed that a spontaneous mass public event might not last for more than six hours, as well as any subsequent mass event related to the same phenomenon or event might not be deemed spontaneous and should be conducted in accordance with the due notification procedure.

495. On 17 March 2008, an amendment was made to the Law resulting in certain restrictions of this right: “In cases when a mass public event has turned into mass disorders leading to human losses, the authorized body may, in order to prevent new crimes, temporarily prohibit the holding of mass public events until the disclosure of the circumstances of the crime and of the offenders (Article 13 (6)). The restriction imposed by the National Assembly of the Republic of Armenia on 11 June 2008 was lifted.

## **Article 22**

496. Establishment of non-governmental and political associations and the procedure for their operation are prescribed by the Laws of the Republic of Armenia “On freedom of conscience and religious organizations” adopted in 1991, “On non-governmental organizations” adopted on 4 December 2001 and “On political parties” adopted on 3 July 2003. The registration of associations is governed by the Law of the Republic of Armenia “On state registration of legal persons” adopted on 3 April 2001 and by the aforementioned laws.

497. According to the Law of the Republic of Armenia “On non-governmental organizations”, a non-governmental organization is a type of (non commercial) organization, i.e., non-governmental association, which does not pursue a goal to gain profit and distribute it among the members of the organization, and which unites, in the manner prescribed by law, natural persons, i.e., citizens of the Republic of Armenia, foreign citizens, stateless persons, based on shared interests, to satisfy their spiritual but not religious or other non-material needs, to protect their rights and interests and that of others, to ensure material and non-material support to the public or its separate groups, and to implement other activities for public benefit. According to Article 8 of the Law, an organization can be set up through its establishment by founders or reorganization of an organization(s) having any of the legal forms of a non-governmental association. The organization is considered established from the moment of its state registration in the manner prescribed by law. Article 12 of the Law prescribes peculiarities of the state regulation of non-governmental organizations. In Armenia, there exist more than 3000 registered non-governmental organizations, but not all of them function actively.

498. Article 3 of the Law of the Republic of Armenia “On political parties”, which defines the concept of a political party, prescribes that a political party is a non-governmental association established based on individual membership, the objective of which is to participate in the political life of the society and the State. According to Article 5 of the Law, a political party must have not less than 200 members at the moment of its state registration. The political party must have regional subdivisions in at least 1/3 of Marzes of the Republic of Armenia, including in Yerevan. Not later than six months following the state registration, a political party must have not less than 2000 members, moreover, not less than 100 members in each Marz of the Republic of Armenia. Articles 11, 12 and 13 of the Law respectively address forms of establishment of political parties, holding of founding congress and peculiarities of state registration of political parties.

499. Seventy-four political parties are registered in Armenia, five of which are represented in the National Assembly as a result of 2007 parliamentary elections. They are as follows: Republican Party of Armenia (Hayastani Hanrapetakan Kusaktsutyun), Prosperous Armenia (Bargavach Hayastan), Armenian Revolutionary Federation (Hay Heghapokhakan Dashnaktsutyun), Rule of Law (Orinats Yerkir), and Heritage Party (Zharangutyun Kusaktsutyun).

500. Article 28 (previously Article 25) of the Constitution of the Republic of Armenia enshrining the right to form associations was supplemented with a new paragraph which reads, “The rights to form political parties and trade unions and to join them may be restricted in the manner prescribed by law for the officers of the armed forces and of the police, officers of national security authorities and prosecution authorities, as well as for judges and members of the Constitutional Court.”

501. Forming of associations is also regulated by the Labor Code of the Republic of Armenia (RA LC) adopted on 9 November 2004 and amended and supplemented by laws HO-140-N of 3 August 2005, HO-210-N of 25 November 2005, HO-22-N of 14 January 2006, HO-23-N of 14 January 2006, HO-39-N of 27 February 2006, Article 21 of which states, “employers and employees may, at their will, form associations in the manner prescribed by law with the purpose of protecting and promoting their rights and interests by establishing trade unions and employers’ associations.”

502. “When protecting employment, professional, economic and social rights and interests of employees, trade unions shall act in accordance with the Labor Code of the Republic of Armenia, as well as laws governing the functioning of trade unions, and their charters.” (Article 24 of RA LC)



503. The Law of the Republic of Armenia “On trade unions” was adopted on 5 December 2000 and was amended by the Law HO-171-N of 13 November 2006, according to which a trade union organization shall be founded based on the decision adopted during the founding meeting (conference, congress) convened at the initiative of its founders (minimum three employees).

504. The founding meeting approves the charter of the organization as well as elects the governing and supervisory bodies.

505. Two and more trade union organizations and/or associations of trade union organizations may, upon the decision adopted during the meeting (conference, congress) of their representatives, establish a single association of trade union organizations by approving its charter and electing the governing and supervisory bodies.

506. Republican and republican branch unions of trade union organizations have the right to use the name “Republic of Armenia” or its abbreviation in their name.

507. According to Article 9.1 of the Law of the Republic of Armenia “On trade unions”, state registration, re-registration of a trade union, as well as registration of amendments to the charter or of restated charter and state registration of liquidation shall be implemented in accordance with the procedure prescribed by this Law, as well as the procedure prescribed by law for state registration of legal persons.

508. For state registration of a trade union, an appropriate application and other documents provided for by law are submitted to the state registration authority.

509. The state registration authority must, in a period of 30 days following the making of an entry in the register on accepting the application and the other documents for registration of a trade union, examine the application and register the trade union or reject the registration of a trade union upon appropriate justifications. State registration of a trade union may be rejected in cases and the manner prescribed by law.

510. According to Article 13 of the same law, a trade union shall be independent from state and local self-government bodies, employers, other organizations and political parties, shall not be accountable thereto and shall not be supervised by them, except for cases as provided for by law.

511. State and local self-government bodies, employers, other organizations and natural persons may not obstruct or interfere with the exercise of the rights stipulated by a trade union’s charter, except for cases as provided for by law.

512. There are 24 republican branch unions (member organization), 726 trade union organizations within the Confederation of Trade Unions of Armenia. 278, 949 trade union members are involved in trade union organizations.

513. “Activities of employers’ associations shall be governed by the Labor Code, by law and their charter.” (Article 27 of RA LC)

514. According to Article 2 of the Law of the Republic of Armenia “On employers’ associations”, “Employers may, at their will, establish employers’ associations for the protection of their members’ rights in relationships with state and local self-government bodies, trade unions, staff and employees, as well as for representation of their legitimate interests in the process of drafting and discussing labor legislation and other regulatory legal acts containing norms of labor law, as well as in labor and related social and economic relations.

515. Employers’ association is a non-commercial organization having a status of a legal person that unites employer organizations and employer citizens.”

516. On 27 April 2009, the Government of the Republic of Armenia, the Confederation of Trade Unions of Armenia and the Republican Employers' Association of Armenia signed, in accordance with the Labor Code of the Republic of Armenia, a Republican collective agreement which prescribes additional guarantees for regulating social and labor relations and joint actions of the parties for implementation thereof. The collective agreement will promote sustainable development of social and labor relations aimed at effectively ensuring employment in the country, encouraging dignified work, establishing and developing social partnership and cohesion. The agreement is also aimed at ensuring as wide a range of participation of social partners as possible in the processes of elaborating and implementing the policy in the labor and social protection sector, as well as institutional and operational capacity building of employers and trade unions. For ensuring the performance of contractual obligations, a commission was set up on the principle of equal participation of representatives of the parties. Republican collective agreement will be effective until 30 June 2012.

### **Article 23**

517. Article 34 of the Constitution of the Republic of Armenia lays down that everyone is entitled to adequate standard of living for himself or herself and for his or her family, including the right to housing and improvement of living conditions. The State shall undertake necessary measures for the realization of these rights of citizens.

518. Pursuant to Article 35 of the Constitution of the Republic of Armenia, family is the natural and fundamental group unit of society.

519. Article 48 of the Constitution of the Republic of Armenia prioritizes the protection and patronage of family, the motherhood and the childhood among major issues of the State's concern in the economic, social and cultural fields.

520. The Family Code of the Republic of Armenia was adopted on 9 November 2004. According to the Code, the family, the motherhood, fatherhood, and the childhood are under the patronage and protection of society and the State in the Republic of Armenia.

521. Men and women of marriageable age have the right to marry and to found a family with the free consent of the intending spouses. The spouses are entitled to equal rights as to marriage, during marriage and at its dissolution.

522. Marriage is entered into in bodies of State Registration of Civil Status Acts in the manner prescribed by the legislation of the Republic of Armenia with mandatory presence of the intending spouses. Rights and duties of spouses arise upon the state registration of the marriage in bodies of State Registration of Civil Status Acts.

523. For entering into marriage, mutual voluntary consent of the man and the woman getting married, as well as attainment of the age of seventeen for the woman, and that of eighteen for the man, is required.

524. Entry into marriage is prohibited where there exist circumstances provided for by Article 11 of this Code. Entering into marriage is prohibited:

- (a) Where at least one of the intending spouses is in another marriage registered in the manner prescribed by law;
- (b) Between close relatives (relatives in the direct ascending and descending line, i.e., parents and children, grandfathers, grandmothers and grandsons, as well as full and half siblings, maternal and paternal cousins);
- (c) Between adoptive parents and adoptee;

(d) Between the parties, at least one of which has been declared as having no active legal capacity by a court.

525. Dissolution is effectuated in bodies of State Registration of Civil Status Acts in cases provided for by this Code, in the manner prescribed by the legislation, as well as through judicial procedure. In case of dissolution upon mutual consent of the spouses, the dissolution is effectuated in bodies of State Registration of Civil Status Acts.

526. The dissolution is effectuated in bodies of State Registration of Civil Status Acts upon the request of one of the spouses, where the other spouse has been:

- (a) Declared by a court as missing;
- (b) Declared by a court as having no active legal capacity;
- (c) Sentenced to imprisonment for a term of not less than three years.

527. Disputes on the division of common property of spouses, on maintenance payments to vulnerable spouse having no working capacity, as well as disputes arising between spouses concerning children are considered through judicial procedure, despite of the fact of dissolution of the marriage in bodies of State Registration of Civil Status Acts, in accordance with Article 17 of this Code.

528. When dissolving marriage through judicial procedure, as well as irrespective of the fact of dissolution of marriage in bodies of State Registration of Civil Status Acts, spouses may file an agreement with a court as to which of the parents the children are going to live with, on the procedure for maintenance payments to children and/or vulnerable spouse having no working capacity, on sizes of those payments or on division of common property of spouses.

529. In case of disagreement between spouses, the court is obliged to:

- (a) Decide upon which of the parents the children should live with upon dissolution;
- (b) Decide upon which parent and in what amount maintenance payments should be levied from;
- (c) Divide property deemed to be a common ownership, upon the request of the spouses (of one of the spouses);
- (d) Decide, upon the request of the spouse entitled to maintenance payments by the other spouse, upon the amount of those payments.

Where the division of property affects the interests of third parties, the court may separate the claim on the division of property to be heard in separate proceedings.

530. Each of the spouses is free to choose a job, occupation, profession, and place of residence. Spouses settle issues pertaining to maternity, paternity, upbringing and education of children, as well as other family issues jointly, based on the principle of equality of the spouses.

531. Spouses must build their family relationships on mutual help and respect, contribute to building of a strong family, and ensure the well-being and development of their children.

532. Relations pertaining to common joint ownership of spouses are regulated by the Civil Code of the Republic of Armenia, as well as by the marital agreement entered into between spouses. Marital agreement is an agreement between the intending spouses or spouses, which defines the property rights and responsibilities of spouses during marriage and/or at its dissolution.

533. According to the Civil Code of the Republic of Armenia, property acquired by spouses during marriage shall be their joint ownership unless otherwise stipulated by an agreement concluded between them.

534. Property of each spouse before the marriage, as well as property received by one of the spouses as a gift or inheritance during the marriage shall be his or her ownership.

535. Property of personal use (clothing, footwear, etc), except for jewellery and luxury items, shall be considered the ownership of the spouse who has used that property, even when it has been acquired at the cost of common funds of spouses during the marriage.

536. Property of each spouse may be recognized as their joint ownership where it is established that contributions at the cost of common property of the spouses or personal property of the other spouse have been made during the marriage, which have significantly increased the value of that property (capital repair, reconstruction, re-equipment, etc), unless otherwise stipulated by the agreement concluded between the spouses.

537. Property under the ownership of one of the spouses, as well as his or her share in common property of the spouses may be levied in execution to provide for the fulfillment of his or her obligations.

## **Article 24**

538. The Republic of Armenia, which prioritizes issues of children, has elaborated the 2004–2015 National Program on the Protection of Children’s Rights. It clearly defines the mechanisms, which enable the fulfillment of obligations assumed towards children. The National Program defines issues and proposes specific measures, which should be carried out through state and local self-government bodies, non-governmental organizations and other structures. The aforementioned program was approved upon the Decision of the Government of the Republic of Armenia No. 1745-N of 18 December 2003.

539. The Republic of Armenia has ratified the most important international and regional human rights instruments that include separate provisions on the rights of the child as well. Moreover, the Republic of Armenia has also ratified a number of fundamental conventions directly related to the rights of the child, such as the UN Convention on the Rights of the Child, Optional Protocols to the Convention on the involvement of children in armed conflict and on child prostitution and child pornography, the 1980 Hague Convention on the Civil Aspects of International Child Abduction, 1993 Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children, etc.

540. The Republic of Armenia, in line with international commitments, adopted a great number of laws and acts of secondary legislation with regard to the rights of the child. Relevant amendments and supplements were made to the existing legal acts.

541. Article 36 of the Constitution of the Republic of Armenia, which is the cornerstone for the protection of the rights of the child, prescribes: “Parents shall have the right and obligation to take care of upbringing, health, full and harmonious development and education of their children ... Deprivation or restriction of parental rights may be exercised only by a court order in cases and in the manner prescribed by law.”

542. The Family Code of the Republic of Armenia addresses in detail the fundamental issues relating to the sector of the rights of the child.

543. Article 4 of the Law of the Republic of Armenia “On the rights of the child” lays down the equality of all children before the law: “Children shall have equal rights

irrespective of their national origin and that of their parents or other legal representatives (adoptive parents, guardians or custodians), race, gender, language, religion, social origin, property or other status, education, place of residence, birth of the child, health or other condition.”

544. Article 10 of the same Law emphasizes “the right of the child to freedom of thought, conscience and religion,” particularly: “Every child shall have the right to freedom of thought, conscience and religion.”

546. “Views, convictions and opinion of the child deserve proper attention in conformity with their age and maturity.”

547. The Law of the Republic of Armenia “On social protection of children left without parental care” was adopted on 24 September 2002. Scope of the law extends to children left without parental care (under eighteen years of age) and persons under twenty-three years of age having equal status to them.

548. The objective of the Law is to implement state social protection policy of children left without parental care, i.e., to ensure the protection of the rights and legitimate interests of such children provided for by the Constitution, laws and other legal acts, to reinstate their rights in case they are violated, not allow any discrimination against them, promote physical, mental, spiritual development of these children and their inclusion in society, and prevent occurrence of social difficulties.

549. According to Article 5 of the mentioned Law, social protection of children left without parental care is one of the priority issues of the State social security policy.

550. In accordance with Article 9 of the Law, the Government of the Republic of Armenia approved the procedure for provision of housing to children left without parental care based on the Decision No. 983-N of 23 July 2003.

551. Upon the Decision of the Government of the Republic of Armenia of 29 December 2001, “Assistance to Children” Foundation was set up, the founder of which is the Republic of Armenia. The main objectives of the Foundation are to accommodate in families children left without parental care (orphan, beggar, vagabond, etc), as well as children with birth, physical and mental defects, arrange their recreation, education and medical treatment, organize concerts, exhibitions, seminars for children and with participation thereof, ensure their employment (undertake publication, campaign and information activities directed at education and protection of those having reached working age).

552. With a view to protect the rights of the child, several institutions have been established on national and local levels (including National Commission for the Protection of the Rights of the Child, Divisions for the protection of children’s rights in Marzpetarans, (Yerevan Municipality), Guardianship and Custodianship agencies in local self-government bodies).

553. Upon the Decision No. 1654-N of 27 November 2003 the Government of the Republic of Armenia approved the State Reform Strategy Paper for Child Care Institutions.

554. To the best effect of special state protection and care, the 2006–2010 Strategy Paper on reforms for social protection of children in difficult life situations was approved upon the Decision No. 206-N of 12 January 2006, and the Procedure for elaborating the individual program for socio-psychological rehabilitation of children in difficult life situations was approved by the Government of the Republic of Armenia upon the Decision No. 1288-N of 8 November 2007.

555. On 8 May 2008, the Government of the Republic of Armenia has also approved the procedure for placing a child in a foster family, as well as the procedure and the size of the

payment of monthly allowance to a foster family for taking care of each child and of compensation to foster parents for the care and upbringing of a child.

556. Chapter 20 of the Criminal Code of the Republic of Armenia defines the criminal offences against family and child interests.

557. Article 49 of the Civil Code of the Republic of Armenia defines the civil status acts — primarily the birth — subject to state registration performed by bodies registering civil status acts through making respective records in the registries of civil status act registration (act books) and providing certificates to citizens based on such records.

558. Article 22 of the Civil Code stipulates that a citizen acquires and exercises rights and duties in his or her name, which includes his or her last name and first name, as well as patronymic name, if he or she so desires. Part 3 defines that the name obtained by a citizen at birth, as well as any change of the name thereof are subject to registration in the manner defined for the registration of civil status acts.

559. Article 45 of the Family Code envisages that a child is entitled to have a first name, a patronymic name and a last name. A child is given a name at the consent of both parents and is given a patronymic name by the name of the father in the manner defined by the Code (part 2, Article 45). The last name of a child is determined by the last name of the parents. When the parents have different last names, the child acquires either father's or mother's last name at the consent of both parents (part 3, article 45).

560. Disputes arising from the lack of agreement between the parents with regard to the first name and the last name of the child are resolved by the custody and guardianship authority (part 4, Article 45).

561. If the fatherhood of a child is not determined, the child acquires the first name by the instruction of the mother, the patronymic name — by the name of the person recorded as the child's father, and the last name — by the mother's last name (part 5, Article 45).

562. The legal relationships with regard to citizenship are regulated by the Law of the Republic of Armenia "On citizenship" (adopted on 6 November 1995), the Articles 11 to 12 whereof regulate issues with regard to citizenship of children.

563. Article 24 of the Criminal Code of the Republic of Armenia defines the age for criminal liability according to which criminal liability is charged against a person who has attained the age of sixteen before the offence was committed. The persons who have attained the age of fourteen before committing the offence are subject to criminal liability for murder (Articles 104–108), intentionally inflicting grave or medium gravity injury to health (Articles 112–116), kidnapping (Article 131), rape (Article 138), violent actions of sexual nature (Article 139), robbery (Article 175), theft (Article 177), burglary (Article 176), extortion (Article 182), taking illegal possession of a vehicle or other means of transport without an intention to steal (Article 183), intentional destruction or damage to property under aggravating circumstances (second and third parts of Article 185), stealing or extortion of weapons, ammunition, explosives or explosive devices (Article 238), stealing or extortion of narcotic drugs or psychotropic substances (Article 269), wrecking means of transportation or communication (Article 246), and hooliganism (Article 258). If a person has attained the criminal liability age but due to inferiority of mind is not capable to realize the nature and the meaning of his or her action or control it, he or she shall not be subject to criminal liability.

564. Pursuant to Article 24 of the Criminal Code of the Republic of Armenia, a minor who has attained the age of sixteen, may be recognized fully capable if he or she works with an employment contract or is engaged in entrepreneurial activity, upon the consent of parents, adopters or a guardian. Recognition of a minor as fully capable (emancipation) is carried out upon the decision of the custody and guardianship authority at the consent of the

parents, adopters and the guardian, and in case there is no such consent, upon a court judgment. The parents, adopters and the guardian bear no responsibility for the obligations of a minor recognized as fully capable, particularly, for the obligations arising due to damage caused by him or her. Pursuant to Article 29 of the Code, transactions, except for those referred to in point 2 of the Article, can only be concluded on their behalf by the parents, adopters and guardians of minors (juniors), who have not attained the age of fourteen. A junior of the age of six up to fourteen is entitled to independently conclude small economic transactions, as well as transactions for receiving gratuitous benefits that do not require notary certification or state registration of rights arising from such transactions, and transactions in regard to means provided by a legal representative or, at the latter's consent, by third persons for free use or for a specific purpose. Property liability on transactions of a junior, including transactions concluded by him or her independently, shall be borne by the parents, adopters and the guardian if they fail to prove that the liability was not incurred due to their fault. Those persons bear liability also for the damage inflicted by a junior, in accordance with the law.

565. Part 2 of Article 15 of the Labor Code of the Republic of Armenia defines that a citizen's legal capacity in labor matters and the capacity (labor capacity) to acquire labor rights and exercise them, as well as to create employment responsibilities and exercise them arises from the moment he or she attains the age of sixteen.

566. Providing the definition of an employee, Article 17 of the Code states that minor citizens of the age of fourteen to sixteen working with an employment contract at the written consent of one of the parents, adopter or the guardian are deemed to be employees. Signing employment contracts with citizens under the age of fourteen or involving them in works is prohibited. Article 257 of the Code envisages that persons under the age of eighteen may not be involved in performance of hard labor, works in workshops affected by hazardous, cancerous or other factors dangerous for health, works which may be affected by ionized radiation, works which have high probability of accidents or occupational diseases and works the performance whereof demands high alertness or experience.

567. Chapter 50 of the Criminal Procedure Code of the Republic of Armenia defines the peculiarities of proceedings on juvenile cases, which apply to crime cases committed by persons who have not attained the age of eighteen at the time when the crime was committed.

568. Article 68 of the Penitentiary Code of the Republic of Armenia stipulates that juvenile convicts are kept separately from adults in the correctional establishments. Article 109 defines the peculiarities of serving the punishment by a juvenile convict according to which a juvenile convicted to imprisonment for a certain time serves the punishment in the same correctional establishment until the time when punishment elapses but no more than the moment he or she attains the age of twenty-one. The peculiarity provided for in part 1 of the Article shall not apply if a convict who has attained the age of eighteen displays negative behavior. Sending a juvenile convicted to imprisonment for a certain period to a closed correctional establishment for serving the punishment is prohibited.

569. Matters related to the children's rights protection are also under the care of the Human Rights Defender of the Republic of Armenia. In the course of the year 2008, 11 complaints were addressed to the Defender with regard to issues relating to this area. They mainly concern problems related to the execution of judicial acts on payments of alimony, abuse of rights with regard to a child by parents, who live separately, and complaints with regard to the actions (inaction) of the custody and guardianship authority relating to the opinions and decisions issued thereof with regard to disputes on assigning the child under the care of one of the parents, deciding on the expediency on which parent the child should stay with and other child-related disputes.

570. The Defender's Office does not limit itself only to the discussion of the few complaints addressed to it, but at its own initiative has started a process of examining the legislation of the Republic of Armenia related to children's rights and developing specific recommendations aimed at its improvement. The first results were reflected in the extraordinary public report of the Defender "On certain problems in the legislation of the Republic of Armenia related to children's rights."

571. The employees of the Defender's staff regularly pay visits to different child care and upbringing institutions, as well as women's and juveniles' prisons, and get acquainted with the existing situation and conditions.

## **Article 25**

572. Pursuant to Article 2 of the Constitution of the Republic of Armenia, in the Republic of Armenia the power belongs to the people.

573. The people exercise their power through free elections, referenda, as well as through state and local self-governing bodies and public officials as provided by the Constitution.

574. The usurpation of power by any organization or individual constitutes a crime.

575. Pursuant to Article 4 of the Constitution, the elections of the President, the National Assembly and local self-governing bodies of the Republic of Armenia, as well as referenda, shall be held on the basis of the right to universal, equal and direct suffrage by secret ballot.

576. Pursuant to Article 30 of the Constitution, citizens of the Republic of Armenia who have attained the age of eighteen have the right to take part in the elections and referenda, as well as the right to take part in the public administration and local self-governance through their representatives chosen directly and through the expression of free will.

577. The law may define the right of suffrage for the elections of the bodies of local self-government and for the local referenda for the persons who are not citizens of the Republic of Armenia.

578. Citizens found to be incapable upon a court judgment, as well as those duly sentenced to prison or serving the sentence, shall not be entitled to vote or be elected.

579. Based on the aforementioned fundamental provisions pertaining to electoral relations, the National Assembly of the Republic of Armenia adopted on 5 February 1999 the new Electoral Code of the Republic of Armenia and on 12 September 2001 – the new Law of the Republic of Armenia "On referendum", which have been supplemented and amended numerous times for the purpose of fully ensuring the aforementioned constitutional guarantees.

580. Article 2 of the Electoral Code of the Republic of Armenia defines that citizens of the Republic of Armenia, who have attained the age of eighteen and, in case of the elections of local self-governing bodies, any person who has at least one year of registration in the respective community and actually resides in that community shall have suffrage. The rights and responsibilities envisaged by the Code for the nationals of the Republic of Armenia during the elections of the local self-governing bodies shall apply to persons with suffrage who are not nationals of the Republic of Armenia. A national of the Republic of Armenia and simultaneously of another state as well, who is registered in the Republic of Armenia, takes part in the voting according to the procedure prescribed by the Code.

581. Pursuant to the Law of the Republic of Armenia "On local self-governance" currently in force, every national who has attained the age of twenty-five, is a resident of a given community for at least one year and has suffrage of the Republic of Armenia may be elected as the head of the community.



582. The head of a community must have secondary professional or higher education.
583. Whereas according to the Electoral Code of the Republic of Armenia, every citizen who has attained the age of twenty-five and is registered in the given community, and in case of district communities of Yerevan – is registered in the city of Yerevan for at least last two years, and has the suffrage of the Republic of Armenia, as well as persons envisaged in Article 2 of this Code may be elected as head of community.
584. In this contradiction, the Electoral Code of the Republic of Armenia prevails by virtue of the Law of the Republic of Armenia “On legal acts”, since all other laws of the Republic of Armenia must comply with the codes within the scope of legal relations that such code regulates.
585. After the capital of Yerevan was granted a community status, the principle of electing the mayor of Yerevan was laid down. The Law of the Republic of Armenia “On local self-governance in the city of Yerevan” has been effective since 26 December 2008. The elections of the Mayor of the city of Yerevan were held for the first time on 31 May 2009.
586. The Administrative Court of the Republic of Armenia implements judicial review over the legitimacy of the conduct of referenda and elections, except for the matters pertaining to the correction of voters lists which are examined by the first instance courts of general jurisdiction of the defendant’s place of residence. And pursuant to Article 100 of the Constitution of the Republic of Armenia, the Constitutional Court of the Republic of Armenia shall, in conformity with the procedure defined by law, resolve all disputes arising from the outcomes of referenda and from decisions adopted with regard to the elections of the President and the members of the Parliament of the Republic of Armenia. The decision of the territorial election commission on the outcomes of the election of a community head and council of aldermen may be appealed in the Administrative Court of the Republic of Armenia.
587. To challenge the results of the referenda, the President of the Republic of Armenia, the National Assembly and at least one fifth of members thereof may apply to the Constitutional Court. To challenge the results of the elections, candidates for the president and for the members of the National Assembly may apply to the Constitutional Court. The decisions of the Constitutional Court shall be final, not subject to review, and shall enter into force upon their publication.
588. Upon the constitutional amendments implemented in 2005, the periods for electing the National Assembly for a five-year term instead of the previous four-year term, as well as for electing heads of communities for a four-year term instead of the previous three-year term were laid down.
589. Moreover, it was stipulated upon the constitutional amendments that the Government may remove the head of the community based on the conclusion of the Constitutional Court in cases provided for by law, whereas in the past the Government could remove the head of the community at the recommendation of the head of Marz in cases provided for by law.
590. Thus, the Constitution envisages two methods of participation by the citizens in the administration of the state, those being the direct participation (through referendum) and participation through elections.
591. Unlike the Law of the Republic of Armenia “On referendum” as of 2 April 1991 which is currently not in force and according to which a referendum (national voting) was a means for directly implementing the power of people, i.e., solving significant issues of state life, adopting laws and decisions of the Republic of Armenia, and disclosing public opinion, the Law of the Republic of Armenia on Referendum as of 12 September 2001

completely defines the purpose of a referendum, mentioning that a referendum (national voting, hereinafter referred to as “referendum”) is a way to exercise the power of people directly by the citizens of the Republic of Armenia, to adopt a constitution or to make amendments therein as well as to adopt laws.

592. The following issues also constitute principal differences:

(a) If in the past the law prescribed that public participation is ensured in the course of the whole conduct of the referendum, at present, participation in the referendum is free and control over the expression of citizens’ will is prohibited;

(b) If in the past only citizens of the Republic of Armenia permanently residing in the territory of the Republic of Armenia had the right to participate in a referendum, at present, this right is also vested in citizens with the right to participate in a referendum who reside or are located abroad;

(c) If previously the right to set a referendum was vested in the Supreme Council of the Republic of Armenia, under the law in force the right to initiate a referendum on adopting a constitution or making amendments thereto is vested in the President and the National Assembly of the Republic of Armenia, and the right to initiate a referendum on adoption of laws is vested in the National Assembly and the Government.

593. After the adoption of the Declaration on Independence of Armenia, four referenda were held in the territory of the Republic of Armenia: the first in 1991 whereby the people decided to secede from the USSR; the second in 1995 whereby the people adopted the new Constitution of the Republic of Armenia; the third in 2003 whereby the people declined the amendments to the Constitution of the Republic of Armenia; and the fourth in 2005 whereby the people adopted the amendments to the Constitution of the Republic of Armenia. All four referenda were held under the conditions of publicity and with the participation of international observers.

594. In accordance with the Constitution of the Republic of Armenia, the following elections are held in the Republic of Armenia:

(a) Presidential elections;

(b) Elections of the members of the National Assembly of the Republic of Armenia; and

(c) Elections of local self-governing bodies (head of community and members of the council of the aldermen).

595. Currently, the Electoral Code of the Republic of Armenia regulates the three aforementioned types of elections.

596. Pursuant to the Electoral Code of the Republic of Armenia, the elections in the Republic of Armenia are held exclusively in the territory of the Republic of Armenia. Moreover, by virtue of dual nationality declared by the Constitution, the Electoral Code of the Republic of Armenia stipulated that a national of the Republic of Armenia and simultaneously of another state as well, who is registered in the Republic of Armenia, takes part in the voting according to the procedure prescribed by the Code. And the nationals of the Republic of Armenia and simultaneously of another state, who are not registered in the Republic of Armenia, do not take part in the voting during the elections since the Republic of Armenia does not arrange elections abroad.

597. Pursuant to Article 30.2 of the Constitution, all nationals shall have the right to equal access to public service in conformity with the procedure prescribed by law. The principles of and the procedure for organizing public service are defined by law.

598. The adoption by the National Assembly of the Law of the Republic of Armenia “On civil service” of 4 December 2001 was an important step in the field of public service. Pursuant to the Law of the Republic of Armenia “On civil service”, public service is the exercise of the authorities vested in the state upon the legislation, including policy implementation by the state and local self-governing bodies, public service and community service as well as civil service in the state and local self-governing bodies.

599. The state and local self-governing bodies exercise policy through persons occupying political, discretionary and civil positions within the framework of authorities vested upon the legislation of the Republic of Armenia who adopt political decisions and coordinate their execution.

600. The state service is a professional activity aimed at the execution of issues and functions vested in state bodies upon the legislation of the Republic of Armenia.

601. The state service includes civil service, judicial service, special services in defense, national security, police, tax, customs, rescue service in the central executive bodies, National Security Council as well as other diplomatic services and those provided for by laws.

602. The community service is a professional activity aimed at the execution of issues and functions vested in local self-governing bodies upon the laws and the Constitution of the Republic of Armenia.

603. The civil service is the execution of specific issues and functions vested in state and local self-governing bodies upon the Constitution and the legislation of the Republic of Armenia through hired employees.

604. The Law defines the main principles of the civil service in the Republic of Armenia and regulates the classification of civil service positions and the assignment of classification ranks within the civil service and the appointment to a civil service position, the attestation and training of civil servants, the relations in connection with the reserve of civil service staff, the legal status of civil servants, the organization and management of civil service, as well as other associated relations, and is called to guarantee the engagement in civil service on general conditions of equality.

605. Pursuant to the Law of the Republic of Armenia “On civil service”, the citizens of the Republic of Armenia meeting the job requirements for a given civil service position, having command of the Armenian language, and having attained the age of eighteen shall have the right to occupy a position in civil service irrespective of nationality, race, gender, religion, political or other views, social origin, property or any other status. A vacant position in civil service is filled either with or without competition.

606. The Civil Service Council plays an important role in the management and organization of civil service and implements a common state policy on civil service. The members of the Civil Service Council are appointed and dismissed by the President of the Republic of Armenia at the recommendation of the Prime Minister of the Republic of Armenia.

607. Currently the laws of the Republic of Armenia “On consular service”, “On diplomatic service”, “On customs service”, “On tax service”, “On state service in the National Assembly of the Republic of Armenia”, “On service in the national security authorities”, “On service ensuring compulsory enforcement of judicial acts”, “On community service”, “On penitentiary service”, “On rescue service”, “On judicial service”, “On special investigation service”, “On police service”, and “On special civil service” are in force in the Republic of Armenia, which are also called to ensure the principle of engaging in state service under general conditions of equality.

## Article 26

608. As already stated, Article 14.1 of the Constitution prescribes equality of all before the law and proscribes discrimination on the grounds of gender, race, color, ethnic or social origin, genetic peculiarities, language, religion, outlook, political and other opinions, belonging to a national minority, property status, birth, disability, age or other personal or social circumstances.

609. Information pertaining to this Article has been also presented in the information provided on several other articles of the Covenant. The principles of equality before the law and the right to equal protection of the law have been also stipulated in the Articles 19, 20, 25 and 27 of the Constitution of the Republic of Armenia.

610. Upon the constitutional amendments of 2005, it has been also stipulated that every person may apply to the Constitutional Court for a specific case, when the final act of the court is available and all the means of judicial protection are exhausted, and dispute the constitutionality of the law provision applied in his or her respect. This norm is also an important guarantee for the principle of equality of all before the law.

611. As a guarantee for equality of all before the law, it is noteworthy that a norm prohibiting the creation of emergency courts is stipulated by the Constitution.

612. The principles of the right to judicial protection and the equality before the law and the court are reflected in the Judicial Code of the Republic of Armenia adopted by the National Assembly of the Republic of Armenia on 21 February 2007 according to Article 7 whereof everyone is entitled to judicial protection of his or her rights and freedoms.

613. No one may be deprived of the right to public trial of his or her case in a reasonable period by a competent, independent and impartial court under conditions of equality and in compliance with all the requirements of justice.

614. Every person is entitled to exercise his or her right to judicial protection either through a representative or council, or personally.

615. According to Article 15 of the same Code, every person shall be equal before the law and the court.

616. Discrimination of rights, freedoms and duties on the grounds of gender, race, color, ethnic or social origin, genetic peculiarities, language, religion, outlook, political and other opinions, belonging to a national minority, property status, birth, disability, age, or other personal or social circumstances shall be prohibited.

617. Every person shall be entitled to refer to justifications of an enforced judicial act (including, interpretations of the law) issued by a court of the Republic of Armenia in regard to a different case with similar facts as legal evidence during the examination of his or her case.

618. The justifications of a judicial act of the Cassation Court or of the European Court of Human Rights in regard to a case with certain facts (including, interpretations of the law) are mandatory for the court during the examination of cases with similar facts except for the case when the court justifies based on substantial argumentation that they are not applicable to those particular facts.

619. As an important guarantee for the principle of equality of all before the law, the introduction of the case law system in the legislation of the Republic of Armenia stipulated by parts 3 and 4 of the aforementioned articles should be mentioned.

620. The principle of equality of all before the law in the relations with administrative bodies has been reflected in the Law of the Republic of Armenia "On administrative

proceedings and fundamentals of administrative action” adopted by the National Assembly of the Republic of Armenia on 18 February 2004, according to Article 7 whereof the administrative bodies shall be prohibited from manifesting unequal treatment towards the similar facts, unless there is any ground for their differentiation.

621. Administrative bodies are obliged to manifest individualized treatment towards essentially different facts. If the administrative body has exercised its discretionary power in a particular manner then, in similar cases in the future, it is obliged to exercise the discretionary power in the same manner. The administrative body may derogate from that restriction if, on the grounds of supervening interest, it intends to consistently adopt this other approach to the exercise of its discretion.

622. Within the meaning of this Article, the Law of the Republic of Armenia “On the procedure of examining citizens’ proposals” should be mentioned, according to which the Law regulates the relations pertaining to the examination of the proposals from citizens, legal persons as well as from foreign citizens and stateless persons located in the territory of the Republic of Armenia by the state, non-governmental and other bodies, local self-governing bodies, the officials thereof and organizations – in the manner and terms defined by law, as well as to responding to facts of infringement of legal interests of citizens and legal persons and to the elimination of such infringements and to the prevention thereof. This Law does not apply to the procedure for examining the proposals, applications and complaints of citizens, which is defined by the criminal procedure, civil procedure, labor and other legislation of the Republic of Armenia.

623. Another expression of the principle of equality of all before the law is the constitutional norm whereon every person is entitled to receive the assistance of human rights defender on the grounds and manner defined by law for the protection of his or her rights and freedoms. Based on this constitutional norm, Article 8 of the Law of the Republic of Armenia “On Human Rights Defender” stipulates that any natural person can appeal to the defender irrespective of his or her national origin, citizenship, place of residence, gender, race, age, political and other views, and capability. Having appealed to the defender shall not result in any administrative, criminal or other liability, or in any discrimination towards the applicant. Legal persons may also appeal to the defender.

624. The Law of the Republic of Armenia “On Financial Ombudsman” was adopted on 17 June 2008 and entered into force on 2 August 2008 under which equal conditions are ensured for all customers in relation to appealing to the financial ombudsman. The Financial Ombudsman Office has been launched since 24 January 2009. Below, the statistics for the period from 24 January 2009 to 2 November 2009 is shown.

<i>Number of complaints received</i>	<i>292</i>
Subject to Ombudsman’s examination	136
Problem was solved without considering a written claim	23
Written claim was received	45
Examination of the claim was declined	2
Claims accepted for examination	43
Decisions with regard to the claims	
Termination of the examination of the claim based on settlement	27
Refusal of the claim	7

<i>Number of complaints received</i>	292
In the process of examination	8
Termination of the examination of the claim based on customer's application	1

## Article 27

625. In states where there are national, religious or language minorities, the right to practice culture with members of the same group, to practice their religion and conduct ceremonies as well as use of the mother tongue may not be denied to persons belonging to such minorities.

626. Securing the rights of national minorities has always been in the center of attention for the Government of the Republic of Armenia. Prior to becoming a member of the Council of Europe, Armenia had signed in 1997 and ratified in 1998 the Council of Europe Convention for the Protection of National Minorities (1 November 1998). In 2001, Armenia also signed the European Charter for Regional or Minority Languages (1 May 2002). Thus, in addition to the commitments undertaken within the framework of the UN and the OSCE, the Republic of Armenia has also undertaken the commitments arising from the instruments having mandatory legal force within the framework of the Council of Europe (for the list of international instruments ratified by the Republic of Armenia with regard to minorities, see Annex 1).

627. More than 20 nationalities reside with the Armenians in the Republic of Armenia, 11 of which are national minorities. These are the Assyrians, Greeks, Georgians, Jews, Yezidis, Kurds, Germans, Poles, Russians, Belarusians and the Ukrainians.

628. According to the 2001 Census, the national minorities comprise 2.2 percent of the permanent population of the Republic of Armenia, i.e., 67,657 people (see the Annex on the distribution of the population in Marzes of the Republic of Armenia per nations, by urban/rural distribution, according to the results of the 2001 Census).

<i>Total</i>	<i>Armenian</i>	<i>Assyrian</i>	<i>Yezidi</i>	<i>Greek</i>	<i>Russian</i>	<i>Ukrainian</i>	<i>Kurd</i>	<i>Other</i>
<b>3 213 011</b>	3 145 354	3 409	40 620	1 176	14 660	1 633	1 519	4 640

629. Yezidis comprise the majority among the national minorities, 40,620 people or 73 percent of all foreign citizens of the Republic of Armenia. A considerable segment of them is distributed within the Marzes of the Republic of Armenia and lives dispersed, which to some extent complicates the exercise of collective rights to education, culture and identity of certain groups of national minorities. Naturally, all of them taken together and separately as ethnic communities and as individual citizens are holders of the rights of national minorities, however, their number and the fact of being dispersed complicates the implementation of state assistance for the exercise of the rights of national minorities. However, the Government of the Republic of Armenia pays special attention to the educational and cultural problems of ethnic communities residing in the territory of the Republic of Armenia and having no national statehood. Currently, these are the Yezidis, Assyrians and Kurds.

## Culture

630. On 20 November 2002, the Law of the Republic of Armenia "On fundamentals of cultural legislation" was adopted, the Article 8 whereof defines "the attitude towards the

cultures of national minorities.” The article states, in particular: “the Republic of Armenia shall support the preservation and development of cultural identity of the minorities residing in its territory, contribute to the creation of conditions for the preservation, dissemination and development of the religion, language, cultural heritage and culture thereof.” Article 9 of the same Law guarantees participation in the cultural life and exercise of cultural activities in the Republic of Armenia for everyone irrespective of national origin, race, gender, language, religion, opinions, social origin, property or other status. Article 6 of the Law also considers the languages, national traditions, customs, and geographic names as cultural value.

631. Since 2000, grants to address cultural and educational issues of national minorities are allocated from the State Budget of the Republic of Armenia, in the amount of AMD 10 million annually. It is used by the non-governmental organizations of national minorities.

632. Provisions and respective measures relating to the issues of national minorities are included in the 2005–2008 three-year State Program within the Law of the Republic of Armenia “On the 2004 annual state program for the preservation, dissemination and development of culture.”

633. Every year, together with the representatives of non-governmental organizations of national minorities, the Ministry of Culture of the Republic of Armenia examines, preliminarily arranges and develops projects such as exhibitions and music festivals, which are addressed to the national minorities and supported by the Ministry. The officials responsible for the organization of state and cultural activities addressed to the national minorities in the Republic of Armenia may not implement any measure without consulting and discussing it with respective ethnic communities. However, ethnic communities have the right to hold and implement various cultural programs without coordinating it with state bodies. In such cases too, they may expect organizational, methodical and, sometimes, financial assistance from the respective state bodies. In 2005, by the efforts of Razmik Khosroev, an Assyrian by ethnic origin, and through the financial assistance of the Government of the Republic of Armenia, “The Assyrian woman” drama authored by Khosroev was staged. In 2006, the Archaeology and Ethnography Institute of the National Academy of Sciences of the Republic of Armenia published the work “Beliefs of Yezidis and Kurds” by Amine Avdal; 100th anniversary of Amine Avdal was celebrated. The Union of Writers of the Republic of Armenia has a division of “Kurdish Writers” and the Institute of Oriental Studies of the National Academy of Science of the Republic of Armenia has a department of Kurdish studies.

634. Greek “Pontos” band and Greek authors perform at all festivals and exhibitions.

635. Russian state drama theatre after K. Stanislavsky continues operating with great success, which is preferred not only in the Russian community but also among the whole population of Armenia. Within the last two years only, more than 100 events were organized in the Russian community. Among them the international contest of romance, days of the Russian culture in Armenia, Russian films festival, music events and other interesting initiatives. It is worth mentioning that many events are called to life with the support of the Union of Armenians in Russia. Currently, dance groups “Orfey” and “Solnishko” function in the Russian community, and they perform concerts on different stages. Meetings of Russian and Armenian people of art, ambassadors and politicians have become a tradition in this community.

636. Several films dedicated to the national minorities of Armenia were shot during 2007 among which films shot by Nika Shek on Jews, Assyrians and Yezidies and Georgi Parajanov’s film on Yezidi wedding are most memorable.

637. In 2004, statues of cultural and historical-political persons of other national origins were raised in one of the parks in Nor Nork community of Yerevan, including the monumental bust of Yezidi agha Jhangir.

638. Groups comprised of Greek, Yezidi, Belarusian, Assyrian, and Polish community representatives participated in the “Festival of cultures of Armenia” held in Tsaghkadzor on 8–13 December 2008.

639. All ethnic communities are involved in the two annual programs implemented by the Ministry of Culture of the Republic of Armenia, which are the “Art exhibition of ornamental articles and fine arts of national minorities” and the “Music festival of children of national minorities.” Both programs are intensively covered and commented by the means of mass media.

640. The Law of the Republic of Armenia “On holidays and memorial days” has a special article on the right of national minorities of the Republic of Armenia to celebrate their national holidays.

641. Upon the Decision of the Government of the Republic of Armenia No. 565-A of 22 April 2004, an 800-square meter space was allocated in downtown Yerevan to establish a cultural center for national minorities. In the course of 2006 the space was renovated, improved and furnished. The Center, which opened in 2007, largely contributes to the exhibition and development of cultural diversity of national minorities and to the increased information on such cultures. It provides all the opportunities for learning, using and enhancing the languages of national minorities. Such opportunities are provided to all the ethnic communities of the Republic of Armenia.

### **Language**

642. The legislation of the Republic of Armenia makes provision for all the national minorities residing in the Republic of Armenia to preserve their mother tongue. The main provisions of the language policy of the Republic of Armenia are defined by the Constitution of the Republic of Armenia, Law of the Republic of Armenia “On language”, as well as State Program on Language Policy of the Republic of Armenia. The Constitution and the Law state that free usage of the languages of the national minorities shall be guaranteed in the territory of the Republic of Armenia, including in the field of education. Article 41 of the existing Constitution states that “Everyone shall have the right to preserve his or her national and ethnic identity.” Persons belonging to national minorities shall have the right to preservation and development of their traditions, religion, language and culture.”

643. The existing legislation of the Republic of Armenia provides for no obstacles to the usage of the languages of national minorities and does not provide for or implement any legislative or practical measures aimed at harming or endangering the preservation or development of any language. The State Program on Language Policy states that respect for linguistic and cultural diversity, promotion of the development of the language and culture of national minorities are among the conditions securing the standing of the Republic of Armenia in the international arena. The supremacy of the state language of the Republic of Armenia goes parallel in a harmonized manner with the principles of preservation of the languages of national minorities and mutual respect of all cultures, in compliance with international law and the norms of Council of Europe on language policy. One of the objectives of the program is to ensure the right of all citizens of the Republic of Armenia to receive education and upbringing in mother tongue. Section 7 of the State Program on Language Policy is titled “Ensuring the rights of the national minorities of the Republic of Armenia in the field of language.” The following are mentioned as key issues in this field:



(a) The languages of the national minorities are an indispensable part of the linguistic culture of the Republic of Armenia and constitute its richness. The State care towards these languages has key significance for the further democratization of our country and development of civil society.

(b) The rights of the citizens of the Republic of Armenia in the field of language are twofold – national and social. At the national level, the right to know the mother tongue, to be educated therein and to use that language is ensured; at the social level, the right and responsibility of all citizens of the Republic of Armenia to know and use Armenian as a state language is ensured.

(c) State support to the preservation of national identity of some national minorities may expediently bridge our country with the fatherlands of such nations.

644. The following are mentioned as program activities:

(a) Comprehensive support to the preservation and development of the languages of the national minorities;

(b) Support to effective linguistic communication and mutual understanding among national minorities, in compliance with the norms of the Council of Europe on language policy;

(c) Inclusion of the scientific and pedagogical potential of the intellectuals belonging to a nation concerned to ensure the right of national minorities to receive education and upbringing in the mother tongue;

(d) Support to preparation and training of teachers of the languages of the national minorities.

645. A number of articles of the Law of the Republic of Armenia “On the fundamentals of the cultural legislation” adopted in 2002 cover the linguistic rights of the national minorities. Article 8 states: “The Republic of Armenia shall support the preservation and development of the cultural identity of the minorities residing in its territory and contribute to the creation of conditions for the preservation, dissemination and development of their religion, traditions, language, cultural heritage, and culture.” Article 9 of the same Law guarantees participation in the cultural life and exercise of cultural activity in the Republic of Armenia for everyone irrespective of national origin, race, gender, language, religion, beliefs, social origin, property or other status Article 6 of the Law declares, among others, languages, national traditions, customs and geographic names as cultural values. Currently, the draft new State Program on Language Policy is under discussion, a section whereof is dedicated to the solution of linguistic problems of the national minorities of the Republic of Armenia.

646. In reality, it is difficult to present in absolute figures the picture in the Republic of Armenia of proficiency by the representatives of national minorities or ethnic communities of their mother tongue or minority language. When collecting the materials of Census 2001, some representatives of the national minorities and ethnic communities named their ethnic language as their mother tongue; however, this does not mean that they have a command of that language. Others have stated the language in which they are proficient as their mother tongue. Particularly, a considerable segment of Ukrainians, Poles, Germans, Jews, Belarusians, and some segment of Greeks and Assyrians have better command of Russian and have mentioned Russian as their mother tongue. There are very few persons of non-Armenian origin in Armenia who consider Armenian as their first language. Such may be met among Yezidies, Greeks, and Assyrians. In settlements where Armenians reside with citizens of other ethnicity, a considerable segment of Armenians has command of the language of the national minority to some extent. Thus, a segment of Armenians residing in the Assyrian Dimitrov and Verin Dvin villages speak Assyrian; Armenians residing in

Amre Taza/Sadunts, Alagiaz, Derek, Jamshlu, Avshen, Yeraskhahun, Zovuni and other villages with Yezidi population have command of Yezidi language to some extent. Therefore, it is not possible to identify the carriers of a minority language with a given ethnic community.

647. More than 50 self-organized non-governmental organizations of about 11 ethnic communities function in the Republic of Armenia, which, among others, pursue activities directed at the preservation and development of mother tongues. Non-governmental organizations of Assyrian, Yezidi, Russian, Greek, Kurdish, Ukrainian, Jewish, Polish, Georgian, Belarusian, and German ethnic communities function actively.

648. The Publishing Agency of the Ministry of Culture of the Republic of Armenia has been allocating more than one million AMD annually for the publication of the press of the national minorities in the recent years. Yezidi “Lalysh” and “Ezdikhana” (“Voice of Yezidies”) newspapers in Armenian and “Ria Taza” (“New way”) and “Zagros” newspapers in Kurdish, Ukrainian “Dnipro”, Russian “Respublika Armenia”, “Urartu”, and “Novoye Vremia” newspapers, “Literaturnaya Armenia” magazine, as well as Greek “Byzantine heritage” magazine are published on such subsidies. Since 2009, Georgian “Iveria” newspaper has been published on State funding.

649. “Magen David” (“Shield of David”) of the Greek community in Russian, “Cohélet” official newspaper (Jewish religious community of Armenia), of Kurdish community, “Puki mi jiviemi” Polish quarterly are also published in the Republic of Armenia in the languages of the national minorities. Regular radio programs are broadcast in Georgian; the German ethnic community has published books on history and everyday life of the German community in the South Caucasus and, particularly, in Armenia. The majority of the aforementioned ethnic communities (Polish, Ukrainian, Georgian, Belarusian) have arts groups, i.e., bands in national languages, national dance groups, which, alongside with other ethnic groups, regularly participate in different festivals in different Marzes of Armenia as well as in Yerevan, presenting songs in national languages. This initiative of non-governmental organizations largely contributes to more active usage of the mentioned languages if not in social then at least in cultural terms, as well as provides opportunities to interact with the mother tongue by the younger generation. The Ministry of Culture of the Republic of Armenia largely supports and encourages their cultural activities; however, considerable number of activities are organized by non-governmental organizations as well.

650. The cooperation among different ethnic communities within Armenia takes different forms. There are unions and associations of non-governmental organizations of national minorities. In 2000, the Coordinating Council on National Minorities adjunct to the Adviser to the President of the Republic of Armenia was founded, and 2 representatives from each of 11 ethnic communities are represented there (Yezidi, Russian, Assyrian, Kurdish, Georgian, Polish, Ukrainian, Belarusian, Jewish, German and Greek). The Coordinating Council was created to ensure the protection of the rights of the national minorities, to boost their inter-community relations, as well as to promote the effectiveness of State care with regard to special educational and cultural, legal and other issues. The distribution of budgetary funds allocated to ethnic communities by the State is implemented through the Coordinating Council. The projects to be funded are selected and the form of distribution is decided upon by the representatives of the ethnic communities themselves.

651. According to established tradition, a significant part of cultural festivals, exhibitions of the ethnic communities are held jointly; in other cases, representatives of different ethnic communities mutually participate in all important holidays and exhibitions of each other. The Department for Ethnic Minorities and Religious Affairs under the Staff of the Government of the Republic of Armenia co-operates, through simultaneous projects, with the representatives of all ethnic communities when raising awareness on the rights or providing information, discussing decisions or legislative initiatives relating to the life of

the national minorities, as well as other issues. Today, when a cultural center has been created with the support of the Government of the Republic of Armenia, the meetings and cooperation, as well as closer ties among the national minorities have become easier and more effective.

652. With the view to support regional or minority languages, financial incentive measures from the State Budget are allocated to non-governmental organizations of ethnic communities; print media published by them is subsidized; radio programs are broadcast in several languages (Russian, Assyrian, Kurdish, Yezidi, and Georgian); most of the national laws have been and are being translated into Russian; an attempt was made to translate into Yezidi the existing Constitution of the Republic of Armenia. Notwithstanding the policy implemented by the State, i.e., to encourage usage of languages of national minorities, some of the carriers of those languages fail to take up all opportunities in this regard. Thus, “Magen David” (“Star of David”) of the Jewish community published in the Republic of Armenia and the Russian language official newspaper “Cohélet” published by the Jewish religious community of Armenia are published in Russian. Ukrainian “Dnipro” newspaper is published in two languages – Ukrainian and Armenian, and the “Puki mi Jiviem” periodical of the Polish community is published in three languages (Polish, Armenian, and Russian).

653. Recently, book publishing has considerably livened as well. In 2003, the German ethnic community published “Shvabs of Black Sea Basin and Caucasus” (in Russian and German); in 2007, “Fate: a Russian German” (in Russian) books were published. Many books are published in Russian. In particular, in 2001 the Russian ethnic community published “History of Transcaucasus Molokans and Dukhabors” (in Russian); in 2001, 3 books in Russian were published at the initiative of “Rossia” NGO: “A. S. Griboyedov and Armenia”, “Russia and Armenia: 19th century”, and “Forever together: on Russian-Armenian historical-cultural and literary links.” In 2003, Yezidies published the book “We are Yezidi”, and in 2007 – the “Kurdish-Yezidi beliefs” by Amine Avdal, both in Armenian. In 2002, Publishing House “Mijagetk” published the book in Armenian “The role and significance of the Yezidi reality in Kurdistan.” Six collections of stories by Kurd publicist Amarike Sardar were published in Yerevan in Kurdish, and 2 of them were translated into Russian. A collection of Kurd poets and other books were published in Kurdish. A. Hakobyan’s work “Classical Assyrian” was published, which is the first Armenian-language textbook dedicated to one of the ancient languages in the Middle East. In 2008, the Institute of Oriental Studies of the National Academy of Sciences of the Republic of Armenia developed and published a booklet dedicated to the 100th anniversary of honorable Kurdish expert Hajie Jndi Jauari. Efforts are made to encourage the representatives of ethnic communities to make publications in their national languages.

654. Two thousand books in Kurdish and Yezidi, many books in Greek, Ukrainian, German, Polish, Georgian, and Belarusian, and millions of books in Russian are kept and used in the languages of minorities at the National Library of the Republic of Armenia. In the recent years, the library resources have been supplied with 35 Ukrainian, 75 Polish, 21 Hungarian, 17 Kurdish, 470 Greek, 5 Georgian, and 1 Yezidi books, as well as books in other languages. There is also a large volume of books in these languages in other libraries of the Republic; books in Russian are available in school libraries as well. An extensive volume of literature is available in the mentioned languages, as well as in the languages of other minorities in the libraries of the National Academy of Sciences of the Republic of Armenia and respective scientific and research institutes, as well as educational institutions. That literature is always within the scope of usage for all, including ethnic communities.

655. The right granted to organizations of national minorities under Article 4 of the Law of the Republic of Armenia “On language” to formulate their documents, forms and stamps in their language is one of the norms fostering the development of written language.

656. Article 27 of the Law of the Republic of Armenia “On administrative proceedings and fundamentals of administrative action” also contribute to the preservation and development of the languages of national minorities, according to which, “Persons in the Republic of Armenia mastering the languages of the national minorities may submit an application for conducting administrative proceedings, as well as its supporting documents in the language of the minority concerned, in accordance with the law or international treaties of the Republic of Armenia.” Part 4 of Article 27 permits the participants of administrative proceedings to use foreign languages. Moreover, it is only in case of impossibility to provide respective translation by the administrative body that the participant of the proceedings mastering a foreign language is obliged to provide the translation. Pursuant to Article 59 of the Law, at the request of the participant of the administrative proceedings, he or she may be provided with a copy of the administrative act translated into a foreign language, which must be approved by the official stamp of the respective administrative body. Article 93 of the Law prescribes that the body conducting the administrative proceedings bears the expenditures related to remuneration of translator during the administrative proceedings. In case the translator is invited by the participant of the proceedings, he or she bears the respective costs.

657. The policy applied to languages has always been discussed and continues to be discussed with the representatives of ethnic communities – both with groups and with individuals. The findings of the study on educational issues of some national minorities conducted by the Department for Ethnic Minorities and Religious Affairs under the Staff of the Government of the Republic of Armenia, alongside with the recommendations for their solution, were discussed during September–October 2006 with non-governmental organizations, principals of schools, teachers, village administration heads, before they were submitted to the Ministry of Education and Science.

658. The Ministry of Education and Science plans the policy applied to the languages of national minorities, as well as trainings of specialists in collaboration with representatives of the ethnic communities of the Republic of Armenia.

659. Article 2 of the Law “On Language” provides that the general education and upbringing in the communities of national minorities may be organized in their mother tongue based on State curricula, upon sponsorship of the State and with Armenian as a compulsory subject. Article 1 of the same law declares: “The Republic of Armenia shall guarantee free usage of the languages of national minorities by such minorities in its territory.”

660. The National Institute of Education has developed and introduced “Exemplary plan of secondary school (classes) of national minorities”, according to which 42 hours per week are allocated for the teaching of mother tongue and literature of national minorities in the 1st to 10th grades.

661. All persons of non-Armenian origin residing in the territory of the Republic of Armenia have access to education in the Republic of Armenia at all stages. In case of sufficient number and organizational opportunities, the users of regional or minority languages can always expect support in the Republic of Armenia.

662. Since 2005, the subject committees for Iranian studies and semitology of the Ministry of Education and Science function at the National Institute of Education, which conduct expert testing of curricula, textbooks, manuals in Yezidi and Assyrian languages. In 2006, a Yezidi by nationality specialist was hired at the National Institute of Education upon the recommendation of the Yezidi community with the view to study and serve the educational needs of Yezidis and other national minorities.

663. Mid-secondary education in languages under the protection of the Republic of Armenia is available for the national minority communities that are carriers of the

language, or the teaching of respective minority languages is ensured within the framework of mid-secondary education as an indispensable part of curricula at least with regard to students who (or whose families) have submitted such a request and whose number is deemed sufficient. Pursuant to the Decision of the Government of the Republic of Armenia No. 1392-N of 25 July 2002 and to secondary education criteria, the average capacity of classes of an institution is set at 25–30 students for primary and middle schools, and 20–25 students for high school. However, in specific cases (in schools of mountainous, high mountainous, border rural settlements, urban and rural schools that have classes where languages protected by the Charter are taught, as well as in other cases), classes with less capacity may be opened either at the permission of the Ministry with prior arrangement with the Ministry of Finance and Economy or at the expense of additional financial resources of the institution, upon the decision of the Board. In fact, such teaching is carried out also in case of insufficient number of children. For example, in the village of Dmitrovo, 4th and 5th grades of Assyrian language function even in case of two students, and in the 5th, 8th and 9th grades in school No. 8 of Yerevan – in case of one student in each grade. The situation is the same in rural schools in areas inhabited with Kurds and Yezidis.

664. Activities implemented within the Council of Europe “All different – all equal” cultural program also expediently contribute to this cause, which have been widely accepted especially among the younger generation of the Republic. A source of information about persons of non-Armenian origin and their languages is also the presence of their children in schools, of students — in higher educational institutions, and of servicemen — in the army. In such cases some events are held in the languages of persons in respective places; for example, in case of presence of a military serviceman of non-Armenian origin in the army, he is congratulated in his mother tongue and is invited to make a speech in his mother tongue, etc. These are all small steps, but to some extent they contribute to the formation of an atmosphere of respect to other languages in Armenia.

#### **State institution on the issues of national minorities**

665. In 2000, the Council of Religious Affairs functioned adjunct to the Government of the Republic of Armenia, and it was dissolved on 6 March 2002. Special employees were hired at the Social Department of the Staff of the Government of the Republic of Armenia. Later, in January 2004, the Department for Ethnic Minorities and Religious Affairs of the Staff of the Government of the Republic of Armenia was established. This structural subdivision participates in the drawing up of activity plans of the Government of the Republic of Armenia, submits recommendations on the implementation of these plans, as well as necessary changes therein, performs the functions of a body — authorized by the Government of the Republic of Armenia — responsible for coordinating relations between the State and religious organizations as defined by the Law of the Republic of Armenia “On freedom of conscience and religious organizations,” and for “Ensuring preservation of the traditions of persons belonging to national minorities and protection of their right to the development of their language and culture.” One of the Department employees is Yezidi by origin. In general terms, in the course of recent years, in addition to dozens of meetings with non-governmental organizations of the national minorities, employees of this Department visited communities of the national minorities residing in the territory of the Republic of Armenia, religious organizations, including more than 30 religious organizations, 4 Assyrian communities, 2 Russian-Molokan sectarian communities, as well as many Yezidi-Kurdish settlements.

666. In March 2004, the Department published the book “National minorities in Armenia: obligations, opportunities” in Armenian, which includes the following documents: “Framework Convention for the Protection of National Minorities”; “First report of the Republic of Armenia on implementation of the Framework Convention for the Protection of National Minorities”; “Advisory Committee on the Framework Convention for the

Protection of National Minorities: Opinion on Armenia”; and “Comments of the Republic of Armenia on the Opinion on Armenia of the Advisory Committee on the Framework Convention for the Protection of National Minorities.”

667. The periodicals published by the national minorities which include information on the community life and present to the representatives of the communities their country’s history and culture, and reflect on traditions are being studied.

668. At the request of the Department, Yezidi and Ukrainian children have started attending free English classes organized by “World Independent Youth Union” NGO.

669. All journalists who have prepared publications on issues pertaining to national minorities and religion have received support.

670. On 26 December 2008, an amendment was made to Article 28 of the Law of the Republic of Armenia “On television and radio”, under which the Public TV and Radio Company is obliged to broadcast such programs for the audience that consider the interests of national minorities, as well as to broadcast programs in the languages of the national minorities running up to two hours per week on public TV and up to one hour per day on public radio. The legislation of the Republic of Armenia does not provide for any differentiation in terms of accessibility of the media for the citizens of the Republic of Armenia based on national belonging. The program services of television companies operating in the territory of the Republic of Armenia are equally accessible to everyone within their coverage range.

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