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Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)

Honouring of obligations and commitments by Armenia

Information note by the co-rapporteurs on their fact-finding visit to Yerevan

(12-14 March 2019)

Co-rapporteurs: Ms Yuliya Lovochkina, Ukraine, Socialists, Democrats and Greens Group, and Mr Andrej Šircelj, Slovenia, Group of the European People's Party.

1. Introduction

1. Our visit followed the general elections of December 2018, which considerably changed the political environment in Armenia. They completed the change of power that started in May 2018² with the peaceful “Velvet revolution”. The new government is now supported by a huge majority within the Armenian National Assembly, which was not the case previously. The programme of the new government was submitted to the National Assembly for discussion on 12 February and adopted two days later, a month before our visit.

2. The aim of our mission was to gain an understanding of the state of the reform process in Armenia, the priorities and objectives of the new authorities in this respect. We ensured that our talks included a discussion not only of democratic and rule of law reforms, but also of reforms relating to societal human rights, such as anti-discrimination and domestic violence.

3. This fact-finding mission allowed us to gather factual and practical information and gave us a good idea of the general context. It is clear that February 2019, not May 2018, should be considered as the starting point of the reform process. It also helped us to engage in a dialogue with the new authorities, and to deliver some messages to them.

4. During our visit we met with, inter alia, the President of the Republic; the Prime Minister; the Speaker of the National Assembly, the Minister of Justice; the Deputy Minister of Foreign Affairs of Armenia, the leadership of all parliamentary factions in the National Assembly, the Chairman and members of the Armenian Delegation to PACE; as well as representatives of think tanks and civil society organisations in Armenia. The programme of our visit is attached to this note in Appendix.

5. We would like to thank the Armenian National Assembly for the excellent programme and hospitality, and the Head of the Council of Europe Office and her staff for the support given to our delegation in organising the programme.

¹ Document declassified by the Monitoring Committee at its meeting on 25 June 2019.

² This change of power was described in the previous information note: see [AS/Mon\(2018\)09rev](#).

2. Background prior to the rapporteurs' visit and general findings

2.1. The general elections of 9 December 2018

6. Following a tense political standoff between Prime Minister Pashinyan and the parliament dominated by the Republican Party, early parliamentary elections took place on 9 December 2018. Attempts by the Government to change the electoral code just before the elections – in order to, inter alia, remove the ranking system for candidates that had been much criticised at previous elections – were not agreed to by the parliament. To a certain extent this was a relief, as European norms and standards normally stipulate that election legislation should not be changed so short before election day. It should also be noted that some parties that were part of the then governing coalition (Bright Armenia) had expressed concerns about the principle of last-minute changes to the election code.

7. The democratic conduct of the elections was strongly welcomed by international observers, who noted that the elections were held with respect for fundamental freedoms and enjoyed broad public trust. A general absence of electoral malfeasance, including of vote buying and pressure on voters, allowed for genuine competition. While the post-revolutionary atmosphere was arguably not conducive to those parties that were in opposition to the new authorities, the observers noted that open political debate, including in the media, contributed to a vibrant campaign. However, cases of inflammatory rhetoric online were concerning.

8. Mr Aleksander Pocij, Chairperson of the PACE delegation charged with observing the elections, summed up the electoral momentum when he stated that “PACE has observed every election in Armenia since 1995 and [...] the recurring electoral irregularities which tainted many elections in the past were absent”.³ It is important to note that the legitimacy of the elections' results was also recognised by the vast majority of Armenian political actors we met as rapporteurs, including representatives of the current extra-parliamentarian opposition that formed the previous parliamentarian majority, even though early parliamentary elections made it difficult for small parties to have proper and sufficient time to prepare themselves and compete in these elections.

9. The International Election Observation Mission (IEOM), in which PACE took part, stated that the broad public trust observed in these elections needed to be preserved through further electoral reforms.⁴ During our visit, the authorities made clear that electoral reform remained one of their priorities (see 3 hereafter).

10. The elections were won with a landslide by Prime Minister Pashinyan's *My Step Alliance*, who won 70% of the votes and 88 out of the 132 seats in the new parliament. *Prosperous Armenia* became the second largest party with 8% of the votes (26 seats), followed by the *Bright Armenia* who obtained 6% of the votes (18 seats). Bright Armenia had previously been part of Mr Pashinyan's YELK coalition, but the parties in this coalition decided to run on individual lists. All other parties failed to pass the threshold in these elections. Of the previous ruling coalition, the Republican Party obtained 4.8% and the Armenia Revolutionary Federation obtained 3.9% of the votes, short of the 5% threshold needed to enter parliament.

11. The broadcasters monitored by the ODIHR/IEOM generally covered all electoral contestants. However, many private outlets appeared to be strongly associated with political parties, with some demonstrating clear preferences.

12. These elections showed the large support that the new authorities enjoy among the population. The two thirds majority obtained by the ruling majority gives it a unique opportunity to implement its programme. At the same time, as also noted by the Chair of the PACE delegation that observed the elections, this majority is also an enormous challenge and responsibility for the new authorities, who should avoid pushing through policies without proper debate and consultation of the parliamentary minority, as often happened in the past.

³ [Doc. 14801](#), Appendix 3 – Press release of the International Election Observation Mission (IEOM).

⁴ ““Democracy cannot proceed without trust, so I am pleased that broad public trust was the central characteristic of this election”, said Peter Osuky, Special Co-ordinator and leader of the short-term OSCE observer mission. “Now that voters have delivered their message, it is up to the political leadership of Armenia to ensure that this momentum is maintained, and that further reforms are implemented to fully consolidate positive assessment we are making today””, [Doc. 14801](#), Appendix 3.

2.2. The new government and its programme

13. The new government was formally formed when its programme was adopted by the new parliament on 14 February 2019, after three days of discussions. The government programme reduced the number of ministries to 17 and was mostly focussed on reviving Armenia's stagnating economy⁵ through an "economic revolution."⁶ This initiative is designed to both shape the future economic model of Armenia and to reduce poverty levels. Other policies explicitly mentioned in the programme include: The resumption of peace talks over Nagorno-Karabakh (in the presence of their representatives), the deepening of cooperation with Russia, the furthering of relations with the European Union and the fight against corruption.⁷

14. It is interesting to note that this programme has not only been the subject of heated debate in the National Assembly but has also been heavily commented on by the Armenian press, either by echoing parliamentary debates or by offering its readers analysis of the principal measures. Both opposition parties, *Prosperous Armenia* and *Bright Armenia*, voted against the programme which they criticised for lacking details and/or leaving several areas unaddressed.⁸ This dynamic is important as it indicated the emergence of an active opposition (see 3 hereafter).

2.3. General findings

15. During our meeting with him, Prime Minister Pashinyan detailed four governmental priorities. The independence of the judiciary came as a top priority, followed by a general need to strengthen institutions, mostly through reforming the electoral system. Priority n° 3 would be the fight against corruption, with a need for anti-corruption institutions that were strong, but not any stronger than needed to achieve government objectives. At the same time, a specific concept of the anti-corruption reform alongside the transformation road map was not defined. Mr. Pashinyan also stressed the importance of the police reform, an issue that we will follow-up during a next mission. Last, but not least, he pleaded for making the Government system more "citizen friendly".

16. Apart from this programmatic aspect, we noted the following general trends. First of all, the idea that Armenia needs not only reforms, but a new political culture, is shared both by the current majority and the parliamentary opposition. which is quite in line with the rapporteurs' diagnosis and, all in all, encouraging. In addition, both members of the Government and of the parliamentary majority are aware that their victory in the elections of December 2018 with 70% of the votes imposes on them a great responsibility towards the electorate, because the expectations of profound change are very high. Prioritising different reforms and establishing timelines for implementation will therefore, to a certain extent, condition the implementation of the government programme. Finally, while civil society representatives were divided in their assessment of the first few months of the government's mandate, they all indicated that the change of tone and attitude of the authorities, especially on societal issues, was notable. At the same time, representatives of civil society noted that there were numerous discussions on the matters concerned, but no action or even timetable for action took place yet.

17. Beyond these general comments, major findings during our visit are detailed hereafter.

3. Democratic Reforms

3.1. Electoral reform

18. The current electoral legislation, that combined a two-tier proportional system with candidates elected from a closed national list and 13 open district list, has been described as "complex" by international observers. It was also criticised by the previous opposition for not being transparent to voters and for being designed to secure seats for the ruling majority. However, both the current majority and the opposition seem to agree on the need to change this system by amending the 2016 electoral Code and the Constitution.

19. The exact form of the new electoral system was not presented to us. However, it might be inspired by the unified proportional representative system that was proposed to the National Assembly in November 2018, but

⁵ See the 70 pages long document: <https://www.gov.am/files/docs/3133.pdf> (in Armenian).

⁶ Before our visit, a deeply debated issue in Armenia was the adoption of a new tax code.

⁷ See <https://jam-news.net/armenian-parliament-backs-govt-programme-to-revolutionize-the-economy/>.

⁸ See <https://eurasianet.org/armenia-adopts-plan-for-economic-revolution> and <https://jam-news.net/armenian-parliament-backs-govt-programme-to-revolutionize-the-economy/>.

which was rejected by the parliament at that time. While no time-frame was set at the time of our stay in Armenia, we recommend that the broadest possible consultation should be organised before introducing such reform. Additionally, we advised the authorities that the sooner the reforms could be adopted the better and reminded them that according to European standards they should, at the very least, be adopted one year before the next general elections. This reform should also be an opportunity to take into consideration recommendations issued by PACE⁹ and the ODIHR¹⁰ with regard to the conduct of elections in Armenia.

3.2. Checks and balances

20. The strengthening of institutions, the second priority of the government, was presented to us as a response to the often “emotional democracy” in Armenia. The absence of check and balances within the political and institutional system, as well as the need to put them in place, was acknowledged by most of our political interlocutors, including those from the ruling majority. The highest authorities of the state also emphasised that the culture of the “vertical of power”, inherited from tsarist and communist times, was still permeating the political and administrative life of the country. According to our interlocutors, changing this relationship with the authority will take time, even though changes are already under way. This acknowledgement of the politico-institutional reality of Armenia and the desire to transform it is to be particularly welcomed.

21. Although the Prime Minister stated his commitment to making the government system more “citizen friendly”, although he stressed the seriousness of “direct democracy” during the 2018 electoral campaign, and despite the fact that he sometimes calls on the people to express their views on the streets (see 4), no plan seems to be set for enlarging direct democracy mechanisms already provided by the Constitution.

22. Concerning the distribution of power within the Executive branch two major elements were worth noting. Prior to our visit, the Armenian National Congress of former President Levon Ter-Petrosyan, called for a return to the presidential system that Armenia had before it revised its Constitution. Prime Minister Nikol Pashinyan, made it clear that he opposed this. He also dismissed the idea of a new balance of power in favour of the President of the Republic, with some additional competencies being transferred to the latter. At the same time, we talked about the absence of the Minister of the Interior with other interlocutors. The police forces, as well as the national security service, are directly under the supervision of the Prime Minister. This raises the issue of political oversight and accountability, since questioning the actions of police forces triggers the political responsibility of the Prime Minister. On several occasions,¹¹ the Assembly recommended that the police forces be made responsible to a specific minister, who is subject to parliamentary scrutiny. This recommendation seems all the more appropriate in the context of the ongoing investigations into alleged criminal activities by high level personalities of previous governments. In any event, Armenia had ministers of interior in the past, this position being abolished in 2002. To this day, the current government has chosen not to reinstate it: the law on the Structure of the Government, which was promulgated on 16 May 2019 and which merged some ministers and reduced the size of the government from 17 to 12 ministers, did regrettably not reintroduce a Minister of the Interior or placed the responsibility for police and security forces under another specialised minister.

23. From our discussions with the political groups of the Armenian National Assembly and with its president, it emerged that:

- some factions would like to see a transition from a prime-ministerial system to a genuine parliamentary system,
- the majority group was in favour of a redistribution of competencies, without the pyramid of power being called into question,
- all our interlocutors were committed to strengthening the oversight of parliament over the government. We strongly supported this, especially in a context where the parliamentary majority won 70% of the votes.

24. Beyond the future relations between the Parliament and the government, it is important that, within the legislative, there is a change of perception towards the opposition and that it is viewed as legitimate in and of itself: although being the minority, the opposition is an integral part of the democratic system.

⁹ [Doc. 14801](#), Conclusions and recommendations.

¹⁰ OSCE/ODIHR Election Observation Mission Final report on early parliamentary elections (9 December 2018) in the Republic of Armenia, Warsaw, 7 March 2019.

¹¹ See [Resolution 1609 \(2008\)](#), §8.6, [Resolution 1677 \(2009\)](#), §14 and [Resolution 1837 \(2011\)](#), §9.2.

25. In terms of check and balances, oversight of the Government and the role of the opposition, positive trends can be noted. The chairmanships of the Committee on Protection of Human Rights and the Committee on Financial Affairs were attributed to the opposition. Above all, the two factions making up the opposition, *Prosperous Armenia* and *Bright Armenia*, both played their part as active opposition members when condemning the call of the Prime Minister to block courts, following the release of former President Kocharyan (see 4), as well as the Human Rights Defender.

4. The rule of law

4.1. Reform of the Judiciary

26. At the time of our visit, the Government Strategy and Action Plan for Legal and Judicial Reforms for 2019-2024 had not yet been adopted but was in the process of final revision. However, we were informed that the following structural reforms were ongoing: a new Code of Administrative Offences, a new Criminal Code, a new Code of Criminal Procedure and a new Penitentiary Code. Amendments to the Judicial Code, that had been adopted in early 2018, were either in the process of being drafted, or had already been drafted and sent to the National Assembly. The Council of Europe is closely assisting the authorities in drafting most of these texts. At the request of the Ministry of Justice, the Council of Europe Project "Support to the implementation of the judicial reform in Armenia" conducted an expert assessment of the draft Strategy and the Action Plan.¹²

27. According to concurrent opinions, including that of the Human Rights Defender, the new Criminal Code (CC), the new Code of Criminal Procedure (CCP) and the new Penitentiary Code are very respectful of international standards.¹³ The draft provisions of the CCP were commended for being "very progressive" and would require, once passed, a transitional period of six to twelve months before being fully implemented. We hope that the authorities will seek a Council of Europe's expertise before adopting it in a final reading.

28. The adoption of the CC and the CCP would not be simultaneous, since the CCP seems closer to being finalised than the CC. However, both laws would come into force in the same time. This solution could help avoid a situation whereby the CPC is adopted before the CC, thus depriving several provisions of the CPC of any effect. The predictions of our interlocutors as to when the CC would be passed varied from Autumn 2019 to May 2020.

29. Concerning the judiciary itself and its functioning, our discussion with the Chairman of the Supreme Judicial Council was very informative. However, the context changed after Prime Minister Pashinyan announced a "surgical intervention in the judicial system"¹⁴ on 20 May 2019.

30. This announcement followed the Yerevan court decision on 18 May 2019 to release former President Kocharyan on bail from pre-trial detention, based on personal guarantees offered by the former and current de facto presidents of the Nagorno-Karabakh region. Former President Kocharyan was charged in relation to his role as President during the events of 1st March 2008 that are still perceived as a national trauma.¹⁵ The charges cover three aspects: the responsibility for the outbreak of violence that led to the declaration of the state of emergency; the alleged use of the army to quell the protests (which would violate Constitutional provisions that explicitly forbid any use of the armed forces in domestic conflicts); and the responsibility for the sequence of events that led to 10 fatalities. Prime Minister Pashinyan controversially first called the people to block the courts throughout the country the next day and later visited protesters. On 20 May, he stated that the judiciary did "not enjoy the people's trust," and questioned whether the judicial system could conduct "an objective investigation into the March 1 case". He also pointed out that the lack of public confidence in the judiciary was adversely affecting the efficiency of investigative bodies dealing with the fight against corruption,¹⁶ a top priority for the government. In order to achieve a truly independent and impartial judicial system, he called on the National Assembly to set up an agenda with the

¹² The results of it is not yet public.

¹³ For instance, it seems that a lot of changes would affect preventive measures, detention being used as a last resort.

¹⁴ <https://www.primeminister.am/en/statements-and-messages/item/2019/05/20/Nikol-Pashinyan-Speech/>

¹⁵ For a detailed presentation of the events, see the report of Mr Colombier and Mr Prescott: [Doc. 11579](#). For a detailed presentation of the aftermath, see their reports: [Doc. 11656](#), [Doc. 11786](#), [Doc. 11962](#), and the report of Mr Prescott and Mr Fischer: [Doc. 12710](#). It is worth noting, that in their introduction of their first report ([Doc. 11579](#)), published just after the start of the crisis of 1st March 2008, Mr Colombier and Mr Prescott made a reference to the failure of the judiciary as a cause of deep malcontent: "the Monitoring Committee considers that the underlying causes of the crisis are deeply rooted in the failure of the key institutions of the state, including the parliament and courts, to perform their functions in full compliance with democratic standards and the principles of the rule of law and the protection of human rights."

¹⁶ <https://www.primeminister.am/en/statements-and-messages/item/2019/05/20/Nikol-Pashinyan-Speech/>

following aims: establishing a vetting procedure for all judges; removing judges who “have been recognised by the European Court of Human Rights as having committed gross violations of human rights”; and introducing transitional justice mechanisms. All this is to be done in close cooperation with international organisations, the Council of Europe being specifically mentioned.

31. On 21 May, we issued a statement expressing our concern about his actions and emphasising that the independence of the judiciary was a pre-requisite for the rule of law, and that the rule of law was therefore best served by the absence of any interference from political actors. We urged political stakeholders to refrain from any actions and statements that could be perceived as exerting pressure on the judiciary. At the same time, we recognised that the reaction of the public to this court decision underscored the low level of trust that the public still had in the judiciary.¹⁷ We also welcomed the Prime minister’s stated desire to conduct a far-reaching reform of the judicial system in cooperation with the Council of Europe. On 22 May, Secretary General Jagland offered the support of the organisation with the reform of the justice system and a delegation of experts was sent to Yerevan on 28-30 May, in order to examine the best way of delivering this support. As rapporteurs, we are pleased that Prime Minister Pashinyan has asked the Council of Europe to not only take part in the judicial reform, but also to be actively involved in it and we will closely follow developments in this area.

4.2. Transitional justice

32. Concerning transitional justice, we were informed that political actors were still in the process of defining this concept and that – as the Speaker of the National Assembly recently put it¹⁸ – different views were being expressed. The objectives and scope of a possible transitional justice system are being debated, which for some should also cover corruption and electoral fraud, as well as the events of 1st March 2008¹⁹.

33. As rapporteurs, we do recognise that certain forms of transitional justice did help countries with suffering pasts to heal their wounds, promoting truth and reconciliation and can be understood in the context of a country where the level of trust in the judiciary is low. We also agree that there is no universal model in this area, as our interlocutors mentioned. At the same time, we are not completely convinced that the current flaws of the judicial system should be addressed through transitional justice mechanisms, for fighting corruption and strengthening the independence of the judiciary in order to re-establish trust of the people in the judicial system can be achieved by other means, including by reinforcing the current judicial system.

4.3. Fight against corruption

34. As previously said, the fight against corruption is a top priority for the government. While using ordinary tools (Prosecutors’ office, administrative bodies...), the government has announced that it intends to establish a special anti-corruption body. At the time of our mission, its shape was not yet designed, and the Parliament had just started its consultations. The aim is to have a comprehensive law on anti-corruption passed by January 2020. Our interlocutors stressed the importance of not adopting an “imported model” and the current debates focus on whether the anti-corruption body should be set up as a single unified entity (the so-called “universal model”), or whether it should be separated into several entities, each of them being specialised in a particular area.

35. Concurrently with these discussions, the fight against corruption led by the judiciary and the administration since May 2018 has already led to results according both to the Prosecutor general and the head of the Special Investigation Service (SIS). The latter stated that over the past 12 months, 3,2 million USD of public money had been refunded and 7 million USD that could be linked to corruption had been frozen in bank accounts. This is the highest the amounts have ever been in the SIS’s 12 years of existence, during which reportedly refunding and freezing of illicit money linked to bribery represented 10% of what they are now.

¹⁷ It is worth noting, that, more than ten years ago, Mr Colombier and Mr Prescott made a reference to the failure of the judiciary as a cause of deep malcontent in the introduction of their first report ([Doc. 11579](#)), published just after the start of the crisis of 1st March 2008: “*the Monitoring Committee considers that the underlying causes of the crisis are deeply rooted in the failure of the key institutions of the state, including the parliament and courts, to perform their functions in full compliance with democratic standards and the principles of the rule of law and the protection of human rights.*”

¹⁸ <https://hetq.am/en/article/103983>.

¹⁹ For instance, some of our interlocutors made a distinction between two types of justice: transitional justice, i.e. a substitute for ordinary justice mechanisms when they are not functioning; and “restorative” justice, whose aim would consist both of finding alternative penalties towards people imprisoned and restoring the rights of people that had been undermined. There was also a debate over what tools should be used (an ad hoc Committee, a parliamentary Committee...). Many of our interlocutors pleaded for establishing a mechanism within a parliamentary Committee.

5. Human rights, reforms relating to societal issues: media freedom, gender equality, domestic violence, LGBTI persons' rights and children's protection

36. There was a general consensus among our interlocutors—from civil society and the judiciary to the Human Rights Defender's office that the will to respect, protect and promote human rights is present at the highest levels of the State. One of the effects of this will to protect human rights is the widespread consultation of civil society, when it comes to draft laws on societal issues, such as gender equality or domestic violence. According to civil society representatives the administration has become supportive, when it comes to initiatives from civil organisations operating in the fields of gender equality or domestic violence.

37. As the authorities explained, they take any action on these issues in a cautious and gradual manner as they are concerned about possible attempts to politically exploit these societal issues, under the pretext that any measure in favour of gender equality or against domestic threatens "Armenian values" and the conservatism of the Armenian society (see 5. 4.). While we noticed progress and a genuine will to support positive trends, we made it clear to the authorities that hard and unpopular reforms would be much harder to implement as time goes by. We were informed that the budget and staff of the Human Rights Defender's office had been increased.

5.1. Media freedom

38. A worrying trend, also seen in other countries, the increase of hate-speech on social media and smear-campaigns, targeting politicians, social activists and journalists. was highlighted by several representatives of civil society, politicians, magistrates and the Human Rights Defender. The parliamentary majority was well aware of this issue but has refused until now to introduce a punitive draft law as that would, in their views, restrict freedom of expression in a disproportionate manner. The Ministry of Justice has started to work on criminalising hate-speech and a draft law on freedom of conscience is being elaborated.

39. Concerning the media, our attention was drawn to the continued need for changing broadcasting regulations, in order to take into account the consequences of the digital revolution and to impose transparency surrounding the ownership of media outlets. According to some, however, this was not on the government's agenda, nor was the improvement of the status of journalists whose financial conditions are very precarious. While media environment is diverse, many private outlets are demonstrating biased coverage.

5.2. Gender equality

40. The Commissioner for Human Rights of the Council of Europe stated in its 2018 report that "women in Armenia continue to suffer from major inequalities in political, social and economic life." Women are hence significantly underrepresented in leadership positions in the public sector. Although we noticed a genuine increase of their number in the Parliament following the December election (from 17% to 24% of MPs), and although the Electoral code stipulates that the existing quota for female representation of 25% should be raised to 30% for any national elections held after 1st January 2021, the report on the Observation of the early parliamentary elections in Armenia (9 December 2018) stated "parties rarely featured women candidates in their campaign – women candidates only occasionally campaigned on their own and rarely appeared as speakers in campaign rallies observed". At the local level, only 4,4 % of current municipal councillors are women. Before the election in December 2018, two of Mr Pashinyan's 18 government ministers were women, the same number as in the Government from 2014. After the government was downsized in June 2019, only one out of the 12 cabinet ministers was a woman.

41. Conditions in the field of employment could also be improved Whereas women in Armenia enjoy equal access to education and obtain levels of education that are comparable, and often even superior to those of men, according to the Committee on the Elimination of All forms of Discrimination Against Women (CEDAW) from the United Nations, they earn on average 35,9 % less than men. In 2018, their average unemployment rate stood at 17,3 %, which is the highest female unemployment rate among post-soviet countries.

42. The main criticisms issued addressed by CEDAW and the Commissioner for Human Rights of the Council of Europe regarding the legal framework, is that it lacks comprehensive legal provisions prohibiting discrimination against women, notably because Armenia has a preference for gender-neutral policies and programmes. For instance, according to the Commissioner for Human Rights, Article 143 of the Armenian Criminal code that punishes violations of human rights based on discrimination (so-called "breach of citizens' legal equality") "failed to

generate any notable case-law” for gender-based discrimination. Our discussion with the Deputy Ministers for Social Affairs confirmed that the gender-neutral policy would not be abandoned.

43. However, the Government is preparing a comprehensive Action Plan and a Strategy on Equal opportunities for 2019-23, that is said to address the gender equality issues. Moreover, a law on anti-discrimination – “on ensuring equality” – prepared by the Ministry of Justice was posted on its website for comments. It was then sent to the ODIHR for assessment, revised and then submitted to the government for expert level discussion. At the time of our visit, the law had not yet been included in the government’s agenda for discussion and approval. Civil society representatives who met the rapporteurs in May 2018 criticised a previous version of the draft law for not including sexual orientation and gender identity as prohibited grounds for discrimination. The then Minister for Justice did, however, tell the rapporteurs these issues would be addressed in a revised version of the draft law. When discussing the anti-discrimination law, representatives of civil society took the view that the independent body in charge of upholding the law should not be the Human Rights Defender, but a separate entity.

44. During our visit, we reminded our interlocutors of some of the recommendations issued by the Commissioner for Human Rights. These recommendations included adopting a comprehensive law that prohibited sex-based discrimination in all aspects of life and which included a broad definition of discrimination against women. The Commissioner also called for effective sanctions, and a modification of the 2005 decree fixing the list of professions considered hazardous for women. This decree had also been previously criticised by CEDAW for its provisions applying only to women.

5.3. Domestic violence

45. In December 2017, the Armenian authorities passed a law on the Prevention of violence within the family, the protection of victims of violence within the family, and the restoration of peace within the family (the law on domestic violence). In January 2018, Armenia signed the Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention). Regrettably, the domestic law as adopted falls far short of complying with all the provisions of the Istanbul Convention. For instance, one of its articles is not clear on the obligation for the victim to first enter into a conciliation phase with the perpetrator of violence, something which is highly prohibited by the Istanbul Convention. In other areas progress was made, for example, the law grants the police and the judiciary a range of powers designed to protect the victim from his/her perpetrator.

46. The authorities were considering issuing the 7 statutory orders needed for the full implementation of the law, but then waiting for a year before assessing it and finally taking corrective measures if needs be. The ratification of the Istanbul Convention therefore seems not to be on the agenda in the near future.

47. In a positive development, the law on domestic violence is in the process of being implemented. The Deputy Ministers for Social Affairs informed us that a memorandum of understanding with donors and civil society would shortly be signed. The memorandum aims to add four additional women’s shelters to the six facilities that are already in place – the lack of women’s shelters being a serious matter in Armenia. The Prosecutor General published guidance concerning the new possibility allowing for prosecutors to prosecute perpetrators of violence without the need for a private complaint; 70 cases have been prosecuted since December 2018 without the victim having previously pressed charges. This legal change is to be welcomed, but civil society representatives doubt that it offsets the general reluctance of women to go to courts.

5.4. LGBTI persons’ rights

48. As reported by the Commissioner for Human Rights, apart from the aforementioned draft law on anti-discrimination, the Deputy Minister of Justice acknowledged that, although the Criminal Code already criminalised hate speech, specific provisions explicitly criminalising hate speech motivated by sexual orientation may need to be added. It seems that the wide-spread anti-LGBTI sentiment in society may sometimes be used as an element of rivalry between opposing political groups. A notable example of this would be the drafting of private members’ bills, such the draft law known as P-379 that defines what a “traditional sexual intercourse” is and what it is not.

5.5. Children’s protection

49. We asked the Deputy Ministers for Social Affairs, when Armenia was intending to ratify the Lanzarote Convention, which it had already signed. We were told that the Minister was in favour but were not provided with a time-line for its ratification. According to representatives of civil society, the law on children’s protection is very

declarative and needs to be changed, especially when it comes to the provisions on child abuse. The demographic situation and low child birth rates in the country constitute the issues for consideration.

6. Conclusions

50. The new government has just launched several structural reforms. It benefits from wide-ranging support and has created a lot of expectations. The change of tune, spirit and attitude on many issues has been broadly recognised, especially in the field of human rights. After a peaceful democratic transition, time has come to deliver concrete results. Increasing the role of Parliament is key to the success of preparing and implementing measures aimed at consolidating democracy in the country.

51. Moreover, we urge the new government to develop a comprehensive programme, road map and legal framework and to send it to the parliament. This programme should include draft laws to reform all basic systems mentioned in this report. The rapporteurs would like to point out that changes are necessary in all basic fields: fight against corruption, judiciary system, executive branch, media freedom and gender equality for Armenia to fully meet European standards on the human rights protection, rule of law and democracy.

52. The assistance of the Council of Europe is now of great importance, as the events of last May showed: principles have been reiterated, a proposal of supporting judicial reform was made and it was welcomed by the authorities. As President Maury-Pasquier stated during her visit to Armenia on 27-29 March 2018, the Council of Europe remains at Armenia's disposal to help her deliver the promises made in the fields of democracy, the rule of law and human rights. Given the importance of our pan European institution in the eyes of Armenia, as Prime Minister Pashinyan underlined in his speech at the plenary session in April 2018, we have no doubt that she will not hesitate to ask for our support whenever it proves useful.

Appendix
**Programme of the fact-finding visit to Yerevan
(12-14 March 2019)**

Co-rapporteurs: Ms Yuliya Lovochkina, Ukraine, SOC and
Mr Andrej Šircelj, Slovenia, EPP/CD

Secretariat: Mr Alexis Salanson, Secretary of the PACE Monitoring Committee

Interpreters: Mr Artashes Emin and Mr Aram Bayanduryan

Tuesday, 12 March 2019

12:30 Briefing on current situation by the Head of the Council of Europe Office.
Lunch meeting (*)

14:00 Meeting with independent experts on political developments (*)

- Mr Alexander Iskandaryan, Director, Caucasus Research Institute
- Mr Stepan Grigoryan, Chairman of the Board, Analytical Centre on Globalization and Regional Cooperation

15:30 NGO Roundtable on democratic and judicial reforms (*)

- Ms Larisa Minasyan, Executive Director, Open Society Foundation
- Mr Boris Navasardyan, President, Yerevan Press Club
- Mr Varuzhan Hochtanyan, Project Director and Mr Kima Khachatryan, Communication Coordinator, Transparency International

17:00 NGO Roundtable on social reforms and policies (*)

- Mr Mamikon Hovsepyan, Executive Director, PINK Armenia
- Ms Lara Aharonian, Co-director, Women's Resource Centre
- Mr Ashot Gevorgyan, Programs Officer, The Right side
- Ms Elen Sahradyan, Programme Coordinator and Ms Lusine Simonyan, Director, Child Development Foundation

18:30 Representatives of the international community (*)

Embassies of United Kingdom, United States of America, Sweden and the European Union were represented.

Wednesday, 13 March 2019

09:00-10:30 Meeting with His Holiness Garegin II, Supreme Patriarch and Catholicos of All Armenians

11:00-11:45 Meeting with Dr Arman Tatoyan, Human Rights Defender of the Republic of Armenia

12:30-13:15 Meeting with Mr Nikol Pashinyan, Prime Minister of the Republic of Armenia

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- 13:30-14:15 Meeting with Mr Gemafin Gasparyan, Mr Arman Udumyan and Ms Zhanna Andreasyan, Deputy Ministers of Work and Social Affairs of the Republic of Armenia
- 14:15-15:15 Lunch with Mr Ruben Rubinyan, Chairperson of the PACE Armenian Delegation
- 15:30-16:15 Meeting with Mr Gagik Harutyunyan, Chairman of the Supreme Judicial Council of the Republic of Armenia
- 16:30-17:15 Meeting with Mr Sasun Khachatryan, Head of the Special Investigation Service of the Republic of Armenia
- 17:30-18:15 Meeting with Mr Artak Zeynalyan, Minister of Justice of the Republic of Armenia
- 18:45 Meeting with legal representatives of former President Kocharian
- 20:00 Dinner

Thursday, 14 March 2019

- 09:00-10:00 Meeting with representatives of extra-parliamentary parties: Republican Party of Armenia, Armenian Revolutionary Federation-Dashnaksutyun (ARF-D), Free democrats, Hanrapetutyun Party
- 10:15-10:55 Meeting with «Bright Armenia» parliamentary faction
- 11:00-11:40 Meeting with «Prosperous Armenia» parliamentary faction
- 11:45-12:25 Meeting with «My Step Alliance» parliamentary faction
- 12:30-13:10 Meeting with Ms Ani Samsonyan, Deputy Chair of the Standing Committee on Protection of Human Rights of the National Assembly of the Republic of Armenia
- 13:15-13:55 Meeting with Mr Vladimir Vardanyan, Chairman of the Standing Committee on State and Legal Affairs of the National Assembly of the Republic of Armenia
- 14:00-14:30 Meeting with Mr Ararat Mirzoyan, President of the National Assembly of the Republic of Armenia
- 14:45-15:50 Lunch
- 16:00-16:45 Meeting with Mr Zohrab Mnatsakanyan, Minister of Foreign Affairs of the Republic of Armenia
- 17:00-17:45 Meeting with Mr Armen Sargsyan, President of the Republic of Armenia
- 18:00 – 18:45 Meeting with Mr Artur Davtyan, Prosecutor General of the Republic of Armenia
- 19:30 Official dinner on behalf of Mr Ruben Rubinyan, Chair of the Armenian Delegation to PACE

Friday, 15 March 2019

Departure of members of the Delegation

(*) organised by Council of Europe Office in Yerevan