

**Answers to the questionnaire of the Ad hoc Committee on the elaboration of
complementary standards to the ICERD**

▪ **Legal framework**

Constitution of the Republic of Armenia

Chapter 1

The foundations of Constitutional order

Article 3

The human being, his/her dignity and the fundamental human rights and freedoms are an ultimate value.

The state shall ensure the protection of fundamental human and civil rights in conformity with the principles and norms of the international law.

The state shall be limited by fundamental human and civil rights as a directly applicable right.

CHAPTER 2. Fundamental Human and civil rights and freedoms

Article 14.1

Everyone shall be equal before the law.

Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or other personal or social circumstances shall be prohibited.

The principle of equal treatment emphasized in many other articles of the Constitution:

Article 18

Everyone shall be entitled to effective legal remedies to protect his/her rights and freedoms before judicial as well as other public bodies.

Everyone shall have a right to protect his/her rights and freedoms by any means not prohibited by the law.

Everyone shall be entitled to have the support of the Human Rights' Defender for the protection of his/her rights and freedoms on the grounds and in conformity with the procedure prescribed by law.

Everyone shall in conformity with the international treaties of the Republic of Armenia be entitled to apply to the international institutions protecting human rights and freedoms with a request to protect his/her rights and freedoms.

Article 19

Everyone shall have a right to restore his/her violated rights, and to reveal the grounds of the charge against him/her in a fair public hearing under the equal protection of the law and fulfilling all the demands of justice by an independent and impartial court within a reasonable time".

The representatives of the mass media and the public may be excluded from all or part of the trial

in the interests of morals, public order, national security, protection of the private life of the participants, or if the administration of justice so require.

Article 20

Everyone shall be entitled to legal assistance. In cases prescribed by the law the legal assistance shall be provided at the expense of the state resources.

Everyone shall have a right to the assistance of a legal defender chosen by him/her starting from the moment of his/her arrest, subjection to a security measure or indictment.

Every convicted person shall have the right to review of the judgment passed on him/her by a higher instance court in conformity with the procedure prescribed by the law.

Every convicted person shall have a right to request pardon or mitigation of the punishment.

All damages incurred by the victim shall be compensated in conformity with the procedure prescribed by the law.

Article 25

Everyone legally residing in the Republic Armenia shall have the right to freedom of movement and choice of residence in the territory of the Republic Armenia.

Everyone shall have a right to leave the Republic of Armenia.

Every citizen and everyone legally residing in the Republic of Armenia shall have the right to return to the Republic of Armenia.

Article 30

Eighteen-year old citizens of the Republic of Armenia 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.

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

Citizens found to be incompetent by a court decision, duly sentenced to prison or serving the sentence, shall not be entitled to vote or be elected.

Article 39

Everyone shall have a right to education.

Basic general education shall be compulsory except the cases prescribed by law. The law may establish a higher level of compulsory education.

The secondary education in state educational institutions is free of charge.

The law shall define the principles of autonomy in higher educational institutions.

The procedures for establishing and operations of educational institutions shall be defined by the law.

All citizens shall have the right to free higher and professional education in state higher and other professional educational institutions on the basis of competition as prescribed by the law. In cases and in conformity with the procedure prescribed by law the state shall provide financial and other assistance to institutions conducting higher and other professional education programs, as well as their students.

According to the Criminal Code of the Republic of Armenia, penal legislation of the Republic of Armenia consists of this Code. New laws, which envisage criminal liability, are incorporated into the Penal Code.

The Criminal Code foresees the crimes committed with the motives of hatred in 3 aspects,

1. As the circumstance in general aggravating the liability and punishment, in particular according to the point 6 of the part 1 of the article 63 of the Criminal Code, committal of crime by ethnic, racial or religious motives, for religious fanaticism, as revenge for other people's legitimate actions is the circumstance in general aggravating the liability and punishment. That means, even if this aggravating circumstance is not stipulated in the list of aggravating circumstances of the given crime, the court is empowered to apply the mentioned provision and to appoint more strict punishment within the sanction foreseen for the given crime.

2. As the circumstance aggravating the concrete crime. Such articles in the Criminal Code are following:

1) Murder by motives of national, racial or religious hatred or religious fanaticism (point 14, part 2, article 104 of the Criminal Code),

2) Infliction of willful heavy damage to health by motives of national, racial or religious hatred or religious fanaticism (point 12, part 2, article 112 of the Criminal Code),

3) Infliction of willful medium-gravity damage to health by motives of national, racial or religious hatred or religious fanaticism (point 7, part 2, article 113 of the Criminal Code),

4) Torture by motives of national, racial or religious hatred or religious fanaticism (point 7, part 2, article 119 of the Criminal Code).

5) Willful destruction or spoilage of property by motives of national, racial or religious hatred or religious fanaticism (point 4, part 2, article 185 of the Criminal Code),

6) Outrageous treatment of the bodies of the dead or places for the dead by motives of national, racial or religious hatred (point 2, part 2, article 265 of the Criminal Code).

3. As a separate article, which foresees the liability for inciting national, racial or religious hatred (article 226 of the Criminal Code).

• **National mechanisms**

- The Coordinating Council for National Minorities of the Republic of Armenia was established in March 2000 at the session of national and cultural organisations of the national minorities of the Republic of Armenia. Having regard to the necessity of ensuring the security of the national minorities, of activating their inter-community relations, as well as of making the State care with regard to specific educational-cultural, legal and other problems more effective, the President of the Republic of Armenia approved, upon his executive order of 15 June 2000, the setting-up of the Co-ordinating Council for the activities of national and cultural unions of the Republic of Armenia adjunct to the Advisor to the President of the Republic of Armenia.

Members of the Co-ordinating Council are elected in the following manner: each of the 11 national minorities residing in the Republic of Armenia nominated two representatives who represent different organisations of each community. Where the Community has one non-governmental organisation, both members are elected from this organisation, and where the community has two or more non-governmental organisations, members of the Council are elected from representatives of various non-governmental organisations representing the community concerned.

Thus, the Council has 22 members. It is an advisory body which implements its activities through sittings, in accordance with the rules of procedure approved by the Council.

The main functions of the Council are:

- support for and protection of the rights and freedoms of the national minorities;
- preparation of recommendations concerning the main issues pertaining to the rights of the national minorities;
- discussion and analysis of draft legal acts on rights and freedoms of the national minorities, and preparation of recommendations thereon;
- discussion of issues pertaining to educational and cultural programmes of the national minorities.

International instruments ratified by the Republic of Armenia are discussed at the sittings of the Council about which the members of the Council inform wide circles of communities of the national minorities.

The Coordinating Council also actively participates in the political and social life of the Republic of Armenia. Its members initiated and representatives of national minorities organized several thematic discussions and press conferences regarding the issues of amendments to the RA Constitution, issues of great importance to the national minorities in the country and neighboring states. Periodically the Coordinating Council meets the President of the Republic of Armenia in order to directly discuss the issues of concern.

At the beginning of each year, the list of joint activities is approved and discussed at the sitting of the Council. The representatives of 11 nationalities represented in the Council participate in the activities. Moreover, each community invites the representatives of all other ethnic communities to celebrate its national holidays. Thus, both national holidays of the Republic of Armenia and those of ethnic minorities are jointly celebrated, conferences and seminars, as well as trips for the purpose of getting acquainted with historical sites of Armenia, concerts, readings, evening events dedicated to famous figures of different nationalities, and other activities are organised.

- The Department for Ethnic Minorities and Religious Affairs of the Government of the Republic of Armenia was established in January 2004. This structural subdivision participates in the drawing up of the Action Plan of the Government of the Republic of Armenia, submits recommendations on the implementation of the Plan and on making necessary amendments thereto, exercises the functions of the authorised body of the Government of the Republic of Armenia regulating the relations between the state and religious organisations as prescribed by the Law of the Republic of Armenia "On Freedom of Conscience and Religious Organisations", as well as ensuring the protection of traditions of persons belonging to the national minorities and their right to the development of language and culture

Staff of the Government of the Republic of Armenia regulates the relationships between state institutions and religious organisations in the manner prescribed by the legislation through the Department for Ethnic Minorities and Religious Affairs. The Department carries out extensive activities for raising awareness on religious rights of persons and groups, responds to the issues raised by religious organisations, and organises discussions and conferences. The Department which in the manner prescribed by the Law gives an expert opinion has never impeded the registration process of the religious communities expressing willingness to register. Moreover, the process of registration of religious organizations is quite transparent and is carried out within reasonable timeframes. There are 65 religious organizations currently registered in the RA State Register, including various confessions and religious movements.

Though the Government of the Republic of Armenia has not received complaints on racial discrimination, violation and humiliation of rights on the ground of national belonging, the national minorities of the Republic of Armenia apply to the aforementioned Department with different types of complaints, requests and proposals. Where appropriate, the employees of the aforementioned Department visit the places concerned, conduct on-site examination of the situation and apply to the competent authorities. The complaints are multiple and multifaceted. They are examined, and the applicants are informed of the solutions and results. These complaints are also published in the print media of the Republic of Armenia.

There is a package of related documents posted on the website of the Government of the Republic of Armenia for interested bodies, organizations and persons including international documents ratified by the Republic of Armenia, the RA legislation, opinions of Council of Europe experts and comments on them in Armenian, Russian and English.

There are officials responsible for issues of minorities in Marzpetarans (regional administrative bodies) in those Marzes (regions) of the Republic of Armenia compactly populated by representatives of national minorities.

According to the RA legislation, representatives of minorities are recruited to executive bodies without any discrimination if they meet legal requirements. In places of compact residence they are also involved in bodies of territorial administration and local self-government.

- 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. With regard to the adoption of this Law, the Decree of the President of the Republic of Armenia of 27 April 1998 on Establishing a Human Rights Commission adjunct to the President of the Republic of Armenia was repealed by the Decree of the President of the Republic of Armenia of 19 February 2004.

Upon the Decree of the President of the Republic of Armenia of 19 February 2004, the first Human Rights Defender of the Republic of Armenia was appointed who assumed her duties from 1 March 2004. The aims of the newly established institute are the protection and restoration of the human rights and fundamental freedoms violated by state administration, local self-government bodies and other officials, as well as the establishment of guarantees for state protection of human rights and fundamental freedoms.

During the first quarter of each year, the Human Rights Defender submits a report on his/her activities and on violations of human rights and fundamental freedoms during the previous year to the President, as well as executive, legislative, and judicial authorities of the Republic of Armenia; the report is presented at a sitting of the National Assembly during the spring session of the National Assembly. The Human Rights Defender also presents the report to the mass media and corresponding non-governmental organisations. In cases of specific issues of public resonance or of gross violations of human rights, as well as of mass occurrence of non-elimination of violations, the Human Rights Defender may make extraordinary public reports.

Cooperative relations are established between heads of the communities of national minorities and the Defender's Office. The Defender and his/her staff participate in all activities of the communities of national minorities.

Since 2011 a legal officer dealing with the rights of national minorities has been functioning within the staff of the Human Rights Defender's Office. In 2012 Department of protection of vulnerable groups and cooperation with non-governmental organizations was established in the Office, which has as one of its strategic purposes the protection of language rights of national

minorities. The Human Rights Defender and his Staff participate in all events of national minorities.

- Upon the Order of the President of the Republic of Armenia dated June 13, 2008 a new consultative body has been established, that is the Public Council of the RA. The Public Council is a non-politicized body acting upon the principle of voluntary participation of the RA citizens, non-governmental unions, Diaspora representatives. The Public Council contributes to the progress of democracy and protection of human rights and freedoms, prevention of the atmosphere of intolerance in the society and development and strengthening of the civil society, confidence-building between state authorities and citizens, civil institutions, establishment of dialogue and firm cooperative relations between the state authorities and society, increasing the level of their inclusion in the state administration, as well as the implementation of public control.

In order to address the issues of protection of the rights of national minorities the Commission of National Minorities has been established in the Public Council consisting of the representatives of all national minorities of the Republic of Armenia. This Commission consists of the following sub-commissions:

- Sub-commission on the socio-economic issues
- Sub-commission on legal issues and international relations
- Sub-commission on culture, education and language

The Commission of National Minorities periodically holds discussions and sessions, including outgoing ones, to discuss the issues pertaining to the implementation of obligations undertaken by the State in this area, as well as the recommendations and applications addressed to the Public Council.

• For additional information, please, see the Fifth and Sixth (joint) Periodic National Report of the Republic of Armenia on the Implementation of the International Convention on the Elimination of all Forms of Racial Discrimination (CERD/C/ARM/5-6) and the attached information provided by the Government of the Republic of Armenia on the implementation of mid-term CERD recommendations.