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REPORT BY THE COMMISSIONER FOR HUMAN RIGHTS

MR THOMAS HAMMARBERG

ON HIS VISIT TO ARMENIA

7 – 11 October 2007

For the attention of the Committee of Ministers and the Parliamentary Assembly

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I. Introduction

1. The Council of Europe Commissioner for Human Rights, Mr. Thomas Hammarberg, conducted an official visit to Armenia from 7 to 11 October 2007 on the invitation of the Minister of Foreign Affairs. The visit was part of a continuous process of regular country missions by the Commissioner to all member states of the Council of Europe to assess their effective respect for human rights¹. The Commissioner was accompanied by Mr. Alexandre Guessel, Deputy to the Director of the Office, Mr. Roman Chlapak and Mr. Stefano Montanari, members of his Office.

2. In the course of his visit the Commissioner met with the President of Armenia Robert Kocharian, Prime Minister Serzhe Sargsyan, Chairman of the National Assembly Tigran Torosyan, Minister of Justice Gevorg Danielyan, Head of Police Haik Haroutunyan, Minister of Labour and Social Issues Aghvan Vardanyan, Minister of Defence Michael Haroutunyan, Prosecutor General Aghvan Hovsepian, Deputy Minister of Foreign Affairs Armen Baibourtian, President of the Court of Cassation Hovhannes Manukyan and President of the Constitutional Court Gagik Haroutynian. He also met with the Mayor of Yerevan Yervand Zakharayan and the Mayor of Gyumri Vartan Ghukasyan. Mr. Hammarberg held discussions with parliamentarians, the Ombudsman (Human Rights Defender) as well as civil society representatives. The Commissioner also visited institutions and sites of human rights relevance, such as: detention places, police stations, temporary shelters for the victims of the 1988 earthquake, a community centre and apartments for refugees as well as medical and education institutions in Yerevan and Gyumri and in their surroundings.

3. The Commissioner expresses his great appreciation to the Ministry of Foreign Affairs for its cooperation and for the organisation of his visit. He extends his gratitude to all interlocutors met during the visit for their open and constructive attitude and exchange of views. The Commissioner appreciated the constant support of the Human Rights Defender, Mr. Armen Harutynyan. He appreciated to have had the opportunity to meet with many civil society representatives who shared their expertise and valuable insights regarding the human rights situation in Armenia.

4. The purpose of the visit was to take stock of the current human rights situation, identify major shortcomings and their root causes as well as opportunities for improving the protection and promotion of human rights in Armenia. Following on from the open dialogue with all stakeholders during the Commissioner's visit, this report should serve as a tool for progression, future cooperation and follow-up. The Commissioner calls upon all authorities and institutions concerned to contribute their collective expertise for further progress in upholding human rights.

5. This report is based on information acquired during the visit along with statements and reports provided by the authorities and civil society organisations. Relevant reports prepared by monitoring mechanisms of the Council of Europe and other international organisations are also referred to. This first assessment report of the Commissioner in relation to Armenia does not provide an exhaustive analysis of the human rights situation in the country but rather reflects what the Commissioner considers to be the priorities for improving the protection of human rights in the country. These priorities include *inter alia*:

strengthening of independence of the judiciary, efficient prevention and countering of police ill-treatment, consolidation the freedom of expression and media, improving the conditions of the socially vulnerable groups of population such as victims of the 1988 earthquake and refugees as well as instituting a genuine alternative military service.

6. No effort is made in the report to elaborate on the general political, economic and social situation of Armenia today. A few key features are, however, useful to bear in mind from the outset: the considerable power vested in the executive (in practice); the landlocked geo-political position and the difficulties that have emerged from the unresolved problems with neighbouring countries.

II. National system for human rights protection

7. Armenia became the 42nd member State of the Council of Europe on 25 January 2001. The obligations and commitments of Armenia have been monitored by the Parliamentary Assembly of the Council of Europe (PACE) since its accession to the Council of Europe.

8. The European Convention of Human Rights (ECHR) was ratified by Armenia on 26 April 2002. The Convention is directly enforceable by domestic courts, and so constitutes a national legal framework for the realisation of the rights and freedoms therein.

9. Armenia has ratified most of the Council of Europe's and other key international human rights treaties save in particular additional protocols 9, 10 and 13 to the ECHR, the Council of Europe Convention on Action against Trafficking in Human Beings, Additional Protocol to the European Social Charter Providing for a System of Collective Complaints as well as of the UN Convention on the Rights of Persons with Disabilities. The Commissioner encourages the authorities to continue work on the future ratification of these important legal instruments.

10. The legal framework regulating the protection of human rights has developed considerably since Armenia joined the Council of Europe. The Constitution amended following a referendum in 2005 and the new law on the judiciary entered into force in its entirety on 1 January 2008 are significant steps forward (for further details see below). Efforts aimed at putting the internal legal framework in line with the revised Constitution and relevant international legal instruments should be actively encouraged. Despite clear progress with the legal framework, a lot remains to be done to ensure proper implementation of the new legislation.

11. Various national institutions and bodies implement human rights initiatives and projects. However, they often lack coordination with civil society as well as the national agencies concerned. Since the 1993 World Conference on Human Rights in Vienna, National Action plans on human rights have become a widespread practice in Europe. It would be useful to elaborate and adopt such a comprehensive Action Plan on human rights for Armenia in order to coordinate and unify human rights initiatives. The plan should thoroughly review national human rights needs and should be action-oriented with clear priorities, responsibilities, time frames and indicators of success. It should be elaborated in cooperation with relevant government institutions, the National Assembly and with the active involvement of civil society. Its implementation needs to be carefully coordinated and monitored. The action plan would demonstrate commitment to the constant improvement of human rights and would facilitate implementation of the Commissioner's recommendations.

1. Human Rights Defender (Ombudsman)

12. The current Ombudsman Mr. Armen Harutyunyan was appointed in February 2006 in a difficult climate following the adoption of a law "on the Ombudsman" leading to the anticipated departure of the first Ombudsperson, Mrs. Larisa Alaverdyan who was in conflict with the authorities because of her critical stance towards national policies. As the institution is gradually expanding its activities and being recognised, the number of individual complaints received is rising.

13. The Office's budget is currently 200,000 euros and needs to be increased to respond effectively to the needs. The Office contains 46 people and is planning to set up regional centres. According to Mr. Armen Harutyunyan, the office requires more resources. The Office is expected to establish special departments to deal with specific issues, such as women and children's rights. The Commissioner calls for greater assistance to be provided directly to the Human Rights Defender's Office. The Office should have the capacity to assess the effectiveness of the system of domestic remedies and monitor the case-law of the ECtHR. Two project proposals have been formulated by the Office: one on strengthening the institutional capacities and the other on "ensuring freedom of information". They deserve to be supported by the donor community.

14. The Commissioner met Mr. Armen Harutyunyan at the very beginning of the mission. The Defender took part in several of the Commissioner's meetings with the authorities. The staff of the Human Rights Defender's office also accompanied the Commissioner during some on-sight visits.

15. The civil society groups met by the Commissioner are concerned with the lack of independence of the Ombudsman's Office. They indicated that the Ombudsman should be conducting a closer dialogue with civil society to become a real interlocutor and partner.

2. Civil society

16. The Commissioner attaches great importance to the NGO community. Upon his arrival the Commissioner met two groups of NGO representatives: one focusing on the criminal justice problems and the other on socially vulnerable groups and discrimination. The Commissioner offers high praise for the quality of work and dedication of representatives of civil society groups in Armenia, but is concerned with the obstacles they seem to encounter in their daily work. NGOs complained of a lack of understanding of the usefulness of their work by the authorities. The civil society groups contended that they were left with a heavy burden due to insufficient resources and the absence of programmes financed by the State. Therefore, they rely mainly on support from international donors. This leads some officials to believe that the work of NGOs is related exclusively to requirements from donor institutions. The Commissioner underlines that society as a whole benefits from the work of non-governmental organisations, and that NGOs should receive support from the State and local authorities.

17. During the various meetings with NGOs, the Commissioner was informed of several cases of intimidation and pressure put on active members of civil society. The case of Mr. Sasun Saribekian, a Yerevan State university professor fired in 2007 allegedly due to his criticism of the government in his classes, was cited as an example.² Some representatives of civil society accused the authorities of constant monitoring of students and professors aimed at preventing "anti-government activities." According to them, critically-minded students are sometimes not allowed to attend courses delivered by outside lecturers. Such practices would be clearly unacceptable.

3. National Assembly Committee on Human Rights and Public Affairs

18. The Commissioner met Ms. Arevik Petrosyan, Chairperson of the Standing Committee on Protection of Human Rights and Public Affairs of the Parliament and some members of this Committee. The Commissioner welcomes the establishment of the Committee, which did not exist in the former Parliament.

19. The Committee has been operational since June 2007 and focuses on a variety of issues related to human rights including gender equality, children's rights, advocates, access to information, freedom of association, minorities etc. The Committee

deals with drafting new laws on human rights. It has a supervision function and receives a number of complaints from the general public (approx. 100 since June 2007).

20. The Chairperson underlined that the Committee has been working closely in co-operation with civil society and academic institutions and needs to develop cooperation with counterparts abroad. The Commissioner calls for further development of cooperation with the Ombudsman's office which has a particular function of reviewing all draft laws for compliance with international human rights standards. In this respect, public hearings on draft laws in the field of human rights should be systematically organised, with the involvement of the main stakeholders throughout the country. The members of the Committee who attended the meeting indicated that it would be useful to relate closely to the national PACE delegation.

III. Administration of justice

21. The existence of an independent and impartial judiciary, competent and efficiently organised, is a central pre-condition for the effective protection and enjoyment of human rights in any democratic society. Upon accession to the Council of Europe, Armenia undertook to fully implement a reform of its judiciary order to guarantee its full independence. Formally, the necessary legislative reforms have been conducted in Armenia to strengthen the independence of the judiciary. The adoption of the constitutional amendments in November 2005 and the adoption of the new Judicial Code in 2007 constitute important steps forward in this respect.

22. Another important feature of the constitutional reform is the right given to citizens to apply to the Constitutional Court, as of 1 January 2006. According to the President of the Constitutional Court, the initial results of this reform are promising. So far the court had received 120 applications from citizens, 8% of which were accepted for consideration. Four applications have been lodged by the Ombudsman's office, two of which have been accepted for consideration. The applications concerned mainly issues of social security, expropriation and right to appeal. The President of the Constitutional Court believes that the decisions of the Court should bring relevant amendments to domestic legislation.

23. At the same time, as indicated by the President of the Court, many laws are still not compliant with the revised Constitution and the new legislation is not fully implemented despite the fact that the reform appears to have been completed for the most part at the end of 2007. Certain amendments however remain necessary. According to information provided by the government, a discussion with regards to these amendments is ongoing, more particularly concerning the judiciary .

24. The new Judicial Code regulating matters related to the organisation and functioning of the judiciary was adopted in February 2007 and entered into force in its entirety on 1 January 2008. It foresees the creation of administrative courts to deal with disputes between public administration and citizens. In order to make administrative justice operational, a new Code of Administrative Procedure was adopted and entered into force on 1 January 2008. To corroborate the adoption of legislation the necessary funds must be allocated.

1. Status of judges and their independence

25. Efforts aimed at making the judiciary more effective and responsive to the needs of a modern and democratic society will not bring the expected results until the justice system becomes truly independent. It was ascertained from his meetings with representatives of the chamber of advocates, judges, justice officials and NGOs, that the judiciary is still far from being independent. In practice the system of justice suffers from serious deficiencies. According to NGOs and advocates, pressure on the judiciary is common, including from central and local authorities and prosecutors. As a result, the court statistics from 2006 indicate that acquittals given by courts are less than 1%. According to the President of the Cassation Court, it is a "matter of legal tradition and culture". The representatives of the Chamber of Advocates (the Bar) confirmed that judges almost always take the side of prosecutors, giving less credence to the arguments presented by the defence. It would seem that judges fear to oppose prosecutors. The government informed the Commissioner that in order to protect the independence of the judiciary, a special procedure was envisaged in the Judicial Code, which obliges a judge to report to the Ethics Committee about any interference with the activities of a judge while exercising justice. Failing to do so is a basis to initiate disciplinary proceedings against a judge. However, this rule does not seem to be applied and practice thus not truly the defence of judges.

26. Justice cannot be independent if judges are not themselves independent. Therefore judges should have their independence and immunity safeguarded. As far as the Commissioner could ascertain from various meetings with his interlocutors, the legislative reforms introduced in recent years created the necessary legal basis for the proper exercise of the functions of a judge. However, it appears that much still needs to be done to ensure adequate implementation of the new legislation and improve the public trust in the judiciary. It was reported that in practice judges were often intimidated and were concerned about their safety. They also seem to fear allegations of corruption and other problems from prosecutors and public officials when taking unwanted decisions. Improper influence by public officials, and in particular prosecutors should not be tolerated and judges should themselves protect their integrity.

27. The revised Constitution gives the decisive role in the selection of judges to the Council of Justice, in which the majority of members are judges elected by their peers, and not to the President anymore. This is a positive step on the way to a real independence of the judiciary. The appointment, and dismissal, procedure is a crucial element when it comes to both independence and professionalism. Several of the Commissioner's interlocutors complained about insufficiencies in the system of the selection of judges which apparently contributed to lowering the standard of the judges' work and reduced public trust in the judiciary. Therefore, the adoption of measures that would make the process of judicial selection more transparent, fair and merit-based would be a step forward.

28. Although judges' salaries are among the highest in Armenia, they remain very low according to the European Commission study on the efficiency of the judicial system in Europe³. Their salaries do not reflect the level of responsibility entrusted in the profession and make judges vulnerable to corruption. Salaries of judges should be raised; this will contribute to reduce risks of corruption. Moreover, internal institutional measures, such as developing adequate systems of promotion and training on ethics should be taken to promote the integrity of judges.

29. Awareness and training of representatives of judicial professions should be further enhanced. The principles of the new Code of Judicial Ethics, which entered into force in December 2005, should be promoted in particular through training to strengthen independence, integrity, and impartiality of the judiciary. The Judicial School expected to open in January 2008

should bear a particular responsibility in this respect. Its success will greatly depend on the curriculum. Adequate training on the European Convention and case-law of the European Court of Human Rights is of significant importance. The professional ethics of judges, identification and resolution of conflicts of interest should also be part of the curriculum. This legal education should develop practical skills, not only theoretical knowledge. Improved education/training, based on the principles of independence, impartiality and respect of European standards, will progressively lead to change in the mentalities of judges and prosecutors. This would contribute to making the judiciary an independent and respected branch of power.

2. Auxiliaries of Justice

30. The situation of advocates (lawyers) reflects the situation of the judiciary in general. Important reforms have been undertaken. The Law on Advocates was adopted in 2004 and a single bar association, the Chamber of Advocates, was created in 2005. The Chamber of Advocates introduced a new charter and code of ethics as well as a new advocate qualification exam. Even if the advocate profession has gained independence through these reforms, its representatives underlined that in practice advocates are still heavily influenced by the legacy of the Soviet system. It appears that the principle of adversarial process is not respected in practice. As already indicated above, the advocates' role and pleadings are given little regard and acquittals remain extremely rare. Moreover, it was reported that advocates suffer from pressure exercised, in particular, by the prosecutors. Measures should be taken to relieve the advocates of undue pressure.

31. Furthermore, the number of advocates seems to be insufficient and their professional competencies are not always high enough especially outside of Yerevan and Gyumri.

32. Projects of technical assistance such as the European Commission project on advocates and the ABA-CEELI legal profession reform program should be fully taken advantage of to strengthen the advocacy in Armenia. Enhancing the professional capacities of lawyers through training requires further support.

3. The right to a fair trial

a) Access to justice and transparency of legal process

33. The right of access to justice is one of the principle rights enshrined in the ECHR. It is all the more important in a country where due to the Soviet legacy the resolution of conflicts did not traditionally happen in the court room.

34. Therefore, one of the priorities should be to further open the judicial system to citizens, and to provide them with the opportunity for speedy, assured and effective access to it. For that purpose the independence of the judiciary should be strengthened and public trust in it improved.

35. In any legal proceeding, it is necessary to guarantee the rights of the defence. In this context, the defendants have the right formally to choose a lawyer or to be provided with one upon request. However, the current scope of legal aid is limited in Armenia. It is provided in some criminal and non-criminal matters. Indeed, under the Law on Advocacy the opportunity for free legal aid is provided for alimony cases and cases of reimbursement of damage caused by harm to health or death of the breadwinner. Furthermore, the annual amount of the public budget allocated to legal aid was reported to be insufficient. As a consequence, public advocates as provided for in the framework of legal aid are paid extremely low fees for their services. Even if the salaries were reported to be equal to the ones of prosecutors, it appears that advocates deem that they remain too low. This situation does not contribute to attracting qualified advocates. In addition, as indicated by several of the Commissioner's interlocutors, the overall number of advocates is limited and the level of their professional skills is not always sufficient, especially outside Yerevan as mentioned above. Some of the inmates that the Commissioner met in pre-trial detention centres and prisons indicated that they did not trust public defenders and whenever possible preferred to hire private advocates. Given the average low income of the Armenian population, the above-mentioned problems constitute serious limitations to the access to justice.

36. The Commissioner was informed of the creation of the Public Defenders Office, which regroups public lawyers under the Chamber of Advocates. The relevant legislative provisions were adopted in 2005 and came into force on 1 January 2006. The Office has established an operational charter and manual. The Commissioner welcomes these developments and encourages the authorities to allocate the necessary funds to the Office.

37. As far as legal proceedings are concerned, they still lack transparency. Some progress has been noted in improving the openness of court hearings and accessibility of court decisions, in particular by creating a judicial decisions website. However, courts fail to properly substantiate their decisions. Even the motivations of decisions of the Cassation court currently provided are subject to criticism by lawyers because their briefness and formalness. The Commissioner stresses that a transparent legal process constitutes an absolute necessity for the organisation of fair, impartial and transparent proceedings.

b) Execution of judgments

38. The non-execution of court decisions remains an important problem. Many of the Commissioner's interlocutors underlined it, including the Presidents of the Constitutional and Cassation courts, the Minister of Justice and the Ombudsman. According to them, an important number of justice decisions remain unexecuted or are executed after a long delay. A matter of great concern is the fact that decisions involving the State remain largely unexecuted. Several explanations were advanced but they cannot justify the situation of poor execution of court judgements. Firstly, at the time of the visit, administrative justice was not yet operational and courts of general jurisdiction are cautious in cases where public interests are involved. Secondly, and this is particularly important, a special service under the executive power deals with the execution of judgements. The Service on Compulsory Execution of Judicial Acts was created in 1993

and attached to the Ministry of Justice. Being dependent on the executive, the Service seems to be reluctant to order the execution of judgements directed against State interests. There should be better a separation of powers and interests in this respect. It is important to mention the fact that, according to the information provided by the government, the administrative courts became operational as of 1 January 2008.

39. According to the President of the Cassation Court, a new law on the execution of judgements is necessary in order to introduce trust in the judicial system that seems to be lacking at present. This critical situation was presented to the Commissioner during his meeting with the Ombudsman, who is concerned with poor execution of court judgements. An important number of the complaints he receives refer to this problem. For example, according to the Ombudsman, during the last five years nobody has won against the State in cases related to the issue of property. It seems the courts did not want to take decisions in favour of plaintiffs because, as some interlocutors indicated, the State exerted pressure and warned that unfavourable decisions would not be executed. However, when one of these cases arrived at the European Court of Human Rights, the State, aware of the impossibility of winning the case, proposed a friendly settlement.⁴ This raises the following questions: Why did the national courts not decide in favour of plaintiffs from the first? Why was it necessary to wait for a case before the European Court of Human Rights before this happened? This problem reflects deficiencies in the Armenian justice system. The Commissioner calls upon the authorities to carefully study the issue and find adequate responses. This is necessary also to improve public confidence in the justice system in the country.

4. Reform of the Prosecutor's Office

40. The Public Prosecutor's Office has transitioned from being a Soviet-style institution to the present, at least formal, compliance with European practice. After the constitutional amendments of November 2005, the main functions of the Public Prosecutor's Office consist of: "start criminal prosecution; oversee the lawfulness of preliminary inquiries and investigations; present the case for the prosecution in court; bring actions in court to defend the interests of the State; appeal the judgments, verdicts and decisions of the courts; oversee the legality of discharge of penalties and other means of compulsion". As from 1 December 2007 the Prosecutor's Office no longer conducts pre-trial investigations. The Prosecutor General is now elected by Parliament and is not approved by the President anymore. The mandate of the current Prosecutor General, Mr. Aghvan Hovsepian, has been recently renewed by an overwhelming majority in the National Assembly.

41. The legal reforms undertaken in recent years to reform the institution are definitely an important step forward, but it is equally important to change practices in order to comply with the new standards. As it has already been indicated above, the Commissioner received complaints about prosecutors who allegedly exert pressure and use intimidation methods. Therefore, much still has to be done to change attitudes, in particular through improved training as well as development and application of a code of professional ethics.

IV. Law enforcement

1. Reform of law enforcement and public monitoring

42. The Commissioner visited the Gyumri city police division and the Erebuni district police division. He also visited several pre-trial detention facilities, in particular the detention centre of military police in Yerevan as well as Gyumri and Kentron pre-trial detention centres.

43. Since independence, the police have gone through several reforms. A new law on police was passed in 2002 outlining the roles and responsibilities of the police force. As a result, the Ministry of Interior has been renamed as Police Department. Police specialisation has been enhanced. The Centre for Induction Training of police was renovated in 2006 through the OSCE Police Assistance Programme. The Council of Europe has conducted several human rights training courses for police trainers. A specialised unit on trafficking in human beings has been created. Police have reportedly progressed in treating juveniles. However, despite the reforms undertaken in recent years, law enforcement still needs to undergo further reforms to comply with European standards.

44. It was reported to the Commissioner by representatives of civil society, as well as during meetings with the parliamentary opposition, that violations of human rights during arrest and detention continue to be systematic. Unfortunately, the police are still inspired by the Soviet system of performance, based on the number of cases solved and seeking conviction at any cost.

45. In this respect the Commissioner would like to underline that the police should both protect and respect human rights. Law enforcement agents need better training and education focused on acquiring practical skills, not only theoretical knowledge. In particular, the police officers should acquire communication skills and methods of working with the general public. Quality of police education is important in order to understand specific social problems such as domestic violence, trafficking in human beings, etc. The Commissioner is concerned about the low number of female staff in the police force, despite the creation of a separate section in the police academy. Female police officers could have a better understanding of and better handle cases regarding domestic violence, women and children and trafficking in human beings.

46. According to the Commissioner's interlocutors, the police force remains under-funded and understaffed. As a result, the police experience difficulties in recruiting reliable staff, mainly due to low salaries. Creating a professional police force with adequate salaries, social protection, clear duties and high ethical standards should be an objective for the government. Attracting more people to the police with a system of competitive recruitment would ensure more qualified and professional staff.

47. Efforts have been undertaken to strengthen public control of law enforcement. The Commissioner was informed that a group of public observers of detention facilities had been set up comprising representatives from the Ministry of Interior and civil society. Created in 2006, the group carries out regular monitoring of police detention facilities and produced a report for the period covering April-October 2006. The OSCE provided assistance to the group in capacity-building. At the same time the NGOs have complained about the current composition of the group. It seems that a number of members of the group representing civil society are in fact retired police officers. As a result, NGOs consider that the group lacks impartiality and thus several have withdrawn.

48. The reported decrease in efficiency and impartiality of this group is of concern. Effective public monitoring contributes to bridging the gap between society and police and to improving confidence in police. Therefore, a genuinely objective monitoring group with the participation of impartial representatives from civil society is essential to improving conditions in police detention facilities. The group should be granted access to all police detention facilities.

49. The Commissioner was informed that a draft law on special investigative means has passed two readings and is pending a third. It would be important to submit this draft for opinion to the Council of Europe.

2. Police arrest and detention

50. Administrative arrest can legally last up to three hours. According to the Criminal Procedure Code a criminal suspect may be detained by the police on their own authority for a maximum of 72 hours. Then a judge decides whether the person concerned is to be subjected to a procedural preventive measure (e.g. remand in custody, house arrest, bail, etc.) or released. People remanded in custody are transferred to pre-trial establishments under the Ministry of Justice ("SIZO"). The Criminal Procedure Code provides for the right of a suspect to an advocate from the moment of arrest (Art.63 and 211). It provides for other rights, in particular the right to notify, through the body conducting the criminal trial, close relatives of the place of imprisonment. The Head of Police indicated that amendments have been passed to introduce the right to be examined by a doctor and clarify the provisions on access to a lawyer as recommended by the European Committee for the Prevention of Torture or Inhuman or Degrading Treatment or Punishment (CPT). He also added that administrative detention has been abolished under the amended Constitution. The Head of Police extensively briefed the Commissioner on the steps taken in response to the 2006 report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) made public in December 2007.

51. After interviewing several detainees, the Commissioner was led to believe that the legal provisions are not systematically followed in practice. It seems that in certain cases advocates (lawyers) were not provided, the inmates were not allowed to inform their relatives of their detention and no information was made available on the rights of detainees. Moreover, most detainees were critical of the material conditions in police detention centres.

52. The Commissioner urges information to be provided without delay, in a systematic manner and in simple and non-technical language to the arrested and detained persons. All law enforcement agents should present arrested and detained persons with a list of their rights, including those rights which provide key safeguards against torture or ill-treatment. The Commissioner noticed also that the right to a lawyer was not systematically enforced.

53. The Commissioner was informed by several foreign detainees of difficulties encountered in understanding documents and replies sent exclusively in Armenian by various authorities including the Office of Ombudsperson. The Commissioner urges the Armenian authorities to communicate with foreign inmates in the languages they understand and to translate and make available information on rights in several foreign languages.

54. The Head of Police indicated that 47 police detention facilities have been renovated. For some other centres renovation is under way, as is the case for the Gyumri city police division and the Erebuni district police division.

55. When it comes to the conditions in the Kentron facility in Yerevan, located in the building of the Armenian National Security Service (NSS) and managed as a detention facility of the NSS, they can be considered as acceptable. However, as was underlined by the CPT, the conditions in the institution are not suitable for lengthy periods of detention.

3. Police ill-treatment and torture

56. Armenia has ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which entered into force on 1 October 2002, as well as the Optional Protocol to the UN Convention against Torture on 14 September 2006. Currently civil society is discussing the implementation of the Protocol with the State authorities. The institution of the Human Rights Defender has been proposed as a national monitoring body.

57. The Commissioner is particularly concerned with ill-treatment by the police, which seems to be very wide-spread, not least in police stations with the aim of obtaining confessions. It was reported from a variety of sources. Many of the inmates have been subjected to severe beatings and other forms of ill-treatment, in some cases resulting in damage to their health. NGOs mentioned cases of arbitrary detention of relatives as a means of exercising psychological pressure (called "taking relatives as hostages"). It seems that there is an atmosphere of impunity for officials involved in beating and torture.

58. The Head of Police admitted that cases of ill-treatment occurred. He underlined that the Internal Security Department was acting proactively, conducting internal investigations and reporting directly to himself. He indicated that so far 844 police officials have been subject to disciplinary liability, 78 have been dismissed and in 23 cases criminal proceedings have been instituted. The Prosecutor General indicated that based on police statistics police ill-treatment appeared to be a minor problem, but admitted that they may not reflect the extent of the phenomenon.

59. This response is clearly insufficient considering that almost all detainees the Commissioner met informed him of ill-treatment with the purpose of obtaining confessions as a quasi-normal practice. In this context, the Commissioner underlines that signed confessions should not be the dominating form of evidence, the police should look for other forms of evidence using modern investigation practices with finger prints, crime place investigations, accounts of witnesses etc. For that the police need to be more professional and with better equipment, training and attitude. The prosecutors also have a responsibility for supervising properly the legal collection of evidence.

60. Another substantial problem underlined by several interlocutors, including advocates, is linked to the conduct of investigations. An important number of complaints of police ill-treatment have been reported to advocates on a regular basis. However, it appears that plaintiffs are often too afraid to testify officially, fearing intimidation.

61. Efforts against ill-treatment and torture need to be enhanced. A society in which the inmates mention ill-treatment as a natural phenomenon cannot be considered fully democratic. The authorities should act in synergy with civil society to stop this unacceptable practice. Comprehensive measures are required, including prevention, training and better scrutiny. Those who are responsible for acts of ill-treatment and torture should be brought to justice. All injuries should be properly recorded. The group of public observers and the Human Rights Defender should increasingly focus on the issue of ill-treatment and torture.

V. Penitentiary system

1. General observations: "SIZOs", colonies and prisons

62. The responsibility for the country's prison system was transferred from the Ministry of Internal Affairs to the Ministry of Justice in 2003, following the recommendations of the Council of Europe.

63. In 2004 a group of public observers of penitentiary institutions, including representatives from civil society was established. The Minister of Justice believes that joint teams of representatives from the Public Prosecutor's Office, Ministry of Justice and the Office of the Human Rights Defender could be more efficient in monitoring the penitentiary institutions. The Commissioner thinks that the monitoring group should include independent and impartial representatives from civil society.

64. Early release is recommended by Prison Administration and decided by a special State commission. Several interlocutors questioned the legality and impartiality of this commission. Some interlocutors cited the case of Mr. Arman Babajanian, jailed editor of the pro-opposition newspaper "Zhamanak Yerevan", whom the Commissioner met in the penitentiary hospital. The penitentiary administration proposed early release of the journalist once he had done 1/3 of his imprisonment term. However, the State Commission rejected the proposal without any explanation despite Mr. Babajanian's serious health problems, supposedly because of the perceived political dimension of the case. This is exactly the administrative character of the Commission that is criticised by NGOs and lawyers. The Commission was created by an order of the President in 2006 and cannot be considered as an impartial body. That is why the Commissioner recommends reviewing the procedure of reducing sentences and liberation on parole and considering the transformation of the Commission into a judicial body with all related guarantees.

2. Premises, conditions of detention

65. The Commissioner visited Artik prison, the Abovian prison for women and minors and the Republican Psychiatric Hospital of Nubarashen. He met the Deputy Head of Prison administration as well as the directors and competent staff of the above-mentioned penitentiary institutions.

66. The premises of the recently renovated Artik prison, reopened after renovation in January 2007, appeared to offer decent conditions (renovated cells, wooden beds and wardrobes). However, the heating system needs to be fixed as soon as possible. Moreover, the authorities should regularly deliver bedding to inmates. Although the Commissioner was informed that family visits and phone calls were not restricted, it appeared that the atmosphere was not particularly conducive to contacts with the outside world (see comments on searches and ill-treatment below).

67. There are 298 prisoners in the Artik prison, both on remand and convicted ("semi-closed" and "closed" regimes). The decision to transfer to "an open regime" depends on the inmate's conduct. Inmates are sometimes advised to apply for transfer to institutions with a closed regime, which is more severe than their present situation, under the pretext that they would supposedly be closer to their home place. In reality, the authorities strive to regulate over-population by using such mechanisms. This practice is unacceptable.

3. Medical treatment

68. The Commissioner visited the Central Penitentiary Hospital (Yerevan) and the Republican Psychiatric Hospital of Nubarashen.

69. The overall conditions in the Central Penitentiary Hospital (245 patients) appeared satisfactory. He was informed of progress in treating patients. Forty-four TB infected patients are kept apart. Sixteen cases of HIV/AIDS have reportedly been handled adequately. The Commissioner visited the renovated, well-equipped premises for surgery where, according to administration and inmates, experienced practitioners work. As indicated by staff, 200 operations are performed there yearly. Modern dental equipment has been installed. The supply of medicine was said to be sufficient. However, additional efforts are required to improve conditions in the cells.

70. The Republican Psychiatric Hospital of Nubarashen despite some improvements of conditions following the CPT October 2002 visit and the July 2004 report requires further efforts. The majority of CPT recommendations are still valid. It was reported that the funding of the institution has risen, but remains largely insufficient. The hospital buildings and wards are dilapidated. Renovations and equipment are needed to provide a positive therapeutic environment. The staff are dedicated but work in difficult conditions and feel that salaries are extremely low. The average monthly salary of a doctor amounts to the equivalent of 170 Euros. More particularly, the hospital lacks specialised nurses. Uniformed and armed police guards accompanied by a dog and responsible for security of "forensic" wards have a clearly intimidating effect on patients.

4. Ill-treatment and torture

71. The Commissioner received indications from several sources about systematic cases of ill-treatment, including psychological intimidation in the Artik prison. Such violence against inmates should stop and those responsible should be made accountable. Frequent searches of inmates and their relatives are highly questionable and the expropriation or extortion of personal belongings is clearly unacceptable. The Commissioner underlines that the penitentiary system should not break or ill-treat inmates, but create conditions for re-socialisation.

5. Women and juvenile in detention

72. The Commissioner visited the Abovian prison for women and minors. Women and children in detention were afforded better conditions than men. Although the limited financial resources do not allow for substantial improvements, the conditions of detention in the semi-closed regime appeared to be appropriate. Premises were clean and well maintained. Blankets and bedding were distributed by the administration. Food was reported to be good. However, cell corridors in the closed regime were in bad condition and required improvement. Globally, based on direct findings, it seems that detainees are well treated by prison administration. Apparently contacts with the outside were not obstructed. The detainees were allowed to receive short visits (lasting a few hours) and long visits (lasting from 1 to 3 days). They used landline phones to call outside.

73. The conditions offered to women were rather good. Women can keep their infants with them within the institution. The fact that women can stay in contact with their children is positive and represents a step forward towards reintegration, which is the ultimate goal of the judicial system. Even if the number of working places is limited, women can work. This is another measure that can ensure future re-integration into society.

74. Minors are kept until they are 21 in the institution. After that a government commission decides on transfer to regular prisons. Minors have the possibility of attending school and vocational training. NGOs assist in conducting vocational training, in particular in woodcrafts. The Commissioner was able to observe good treatment of minor orphans. The law on holding arrested and detained persons and the Criminal Code reportedly provide for the special treatment of minors during arrest and detention. In particular the Criminal code provides for the possibility of exempting first-time minor offenders who have not been convicted of serious or semi-serious crimes from criminal liability, assigning instead enforced disciplinary measures. Thus, minors can be exempted from criminal liability and punishment by placement in a specialised educational and disciplinary or medical and disciplinary institution. The Commissioner calls upon the courts to apply these provisions in practice. Imprisonment should be assigned to minors only as a last resort, as required by the UN Convention on the Rights of the Child.

75. The Minister of Justice informed the Commissioner of the measures to be taken to improve treatment of juveniles. These measures include training as well as on-the-job training of social-psychological and penitentiary staff; providing jobs to imprisoned minors and organising vocational training in penitentiary institutions; developing cultural and educational activities for imprisoned minors; and raising public awareness of measures to prevent violence against minors. The Commissioner urges the authorities to establish a comprehensive programme containing the above-mentioned measures and ensure its proper implementation.

VI. Social issues and vulnerable groups

1. General Observations

76. The socio-economic situation in Armenia remains difficult due to the unresolved conflict with the neighbouring Azerbaijan and the lack of diplomatic relations with Turkey. Despite this situation, there has been continuous economic growth in recent years, but it seems that only a fairly small part of the population benefits from it. For the majority, money sent by family members working outside of Armenia is the main source of survival. The Minister of Social and Labour Affairs mentioned the Poverty Reduction Strategy which is in effect until 2015. However, further practical measures are needed to reduce poverty and assist the most disadvantaged groups of population. The figures provided to the Commissioner show the low level of public expenditures for health and education (respectively 1.7% and 2.5 %).

77. In this context, NGOs make a valuable contribution (legal advocacy, representation in court, etc.) in assisting the socially vulnerable groups. In particular, they help refugees, labour migrants and people experiencing problems with registration and citizenship. They also deal with problems of expropriation and compensation.

78. The Commissioner was informed that government action is increasingly based on a strategy for improved social protection and the development of employment. The Ministry of Health has proposed several technical assistance projects, and local authorities are more and more involved in assisting vulnerable groups of the population.

79. However, some serious deficiencies in the social sector that have not been remedied since the severe economic depression of the 90s are of concern. In particular, a number of interlocutors complained about the low quality of medical assistance and the under-funding of hospitals, especially outside of the capital. Under-funding was evident during the Commissioner's visit of the Psychiatric Hospital of Nubarashen, mentioned above.

This institution was experiencing grave economic difficulties and has not been renovated since the 80s. According to our interlocutors, this is merely one example of the various existing problems. Public transportation is another serious problem.

80. During his visit to Gyumri the Commissioner was informed that public transportation is not fully functional and that the municipal trolleybus and bus lines have been completely dismantled. The mayor's promise to re-establish bus lines in 2008 is a positive step but not nearly enough to respond to the public transportation needs.

2. Victims of 1988 earthquake

81. Gyumri, then called Leninakan, was severely hit by a devastating earthquake in December 1988. As a result of this tragedy at least 25,000 people were killed (some sources count up to 45,000) in Armenia and a further 500,000 were left homeless. The number of victims in Gyumri and the surrounding areas was particularly high, with collapsed hospitals and schools. Immediately after the earthquake the victims received financial assistance from the Soviet authorities, but significant parts of these sums vanished due to very high inflation. Seventeen years later, thousands of families continued to live in temporary shelters (called *domics*).

82. The Armenia Earthquake Zone Alliance was created to unite efforts by international foundations and organisations aimed at recovery and promotion of local development in Armenia. The work of the Alliance was directed at meeting urgent humanitarian needs (i.e. removing *domics* and providing housing), promoting the social and economic development of Gyumri and the surrounding region and strengthening civil society. An ambitious programme of certificates was instituted allowing residents of temporary shelters to buy houses anywhere in Armenia. More than 7000 families received permanent modern housing through this programme. More than 100 public buildings and grounds – schools, kindergartens, museums, parks, and squares – have been reclaimed and returned to communities, and over 4,000 temporary shelters have been removed.

83. The Commissioner commends these achievements, but remains concerned with regard to 3800 families currently still living in temporary shelters so many years after the earthquake. These people are losing hope of ever receiving permanent housing. It was important for the Commissioner to visit the temporary shelters in order to fully grasp the major problems encountered by their inhabitants. The situation in the *domics* is difficult due to the dilapidated premises. They are poorly isolated, lack gas, running water, have problems with electricity and do not meet basic hygienic requirements. The inhabitants of the *domics* shared their concerns and desperation; the situation is particularly serious for the elderly and children.

84. As the people in *domics* have been there for many years, their families have grown, making living conditions even more unacceptable. They cannot take advantage of the certificate programme, as the additional money necessary over and above that sum to acquire decent housing is impossible for them to assemble. Moreover, among those still living in the shelters, many are poor, disabled or elderly and cannot afford to pay for electricity from their pensions. The Commissioner calls upon the Armenian authorities and the international community to find an acceptable solution so that decent housing can be allocated to the families still living in *domics*. These vulnerable groups of the population require assistance as a matter of urgency.

3. Asylum seekers, refugees, Internally Displaced Persons and missing persons

a) Asylum seekers and refugees

85. Asylum seekers, refugees and Internally Displaced Persons (IDPs) usually live in community centres and experience problems with economic and social integration. There are 110 community centres throughout the country, many of them in appalling condition. Over 5000 apartments have been reconstructed by the international donor organisations, such as the UNHCR, the Danish Refugee Council, the Norwegian Refugee Council.... Hostel privatisation has provided apartments for over 2000 refugee families and 3500 families benefited from the apartment Purchase Certificate Programme". More than 60,000 people are under the aegis of UNHCR. The focus of international assistance has gradually shifted from humanitarian efforts to economic and social integration. Centres of legal aid for refugees have been operating, involving NGOs and civil society.

86. According to certain figures provided by international organisations, in May 2007, there were more than 3700 people with refugee status in Armenia. It seems that there is a large scale migration of refugees to other Commonwealth of Independent States (CIS) countries, mainly to the Russian Federation. Apart from refugees from Azerbaijan, Armenia also hosts a small number of refugees and asylum seekers originating from other CIS countries, but also Iran, Iraq and Lebanon. The crisis in Lebanon and the ongoing conflict in Iraq have brought an increased number of asylum seekers to Armenia in 2006 (the vast majority of refugees are of Armenian ethnicity).

87. Overall the asylum environment in Armenia is satisfactory, but still contains a number of gaps that need to be addressed by the government. Most refugees and asylum seekers are of Armenian ethnicity and, on the whole, are well received by the population and the authorities. However, recent Iraqi refugees have expressed a growing feeling of ostracism and have encountered difficulties with social integration. They generally belong to the middle class and experience a lot of stress due to losing their businesses and property. They usually speak Arabic or Western Armenian dialects. The Commissioner encourages the government to take further measures to assist the integration of this group of refugees.

88. The legal framework for asylum is also quite favourable. The refugee law was adopted in 1999 and amended in 2001, 2002 and 2004. The law provides for the granting of asylum or refugee status to persons in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to most refugees. The law, however, contains some gaps which, *inter alia*, include lack of specific provisions for the derivative status of family members, lack of clear appeal procedures and lack of specific provisions on cooperation of the national authorities with UNHCR within the Refugee Status Determination (RSD) process. New amendments are currently under preparation, with the participation of university scholars.

89. In general, the Armenian authorities provide protection against *refoulement*, but not in all cases. Despite assurances by the Prosecutor General that the Russian authorities have guaranteed the safety of Rashid Khachatryan, a Russian national whose extradition was ordered to the Russian Federation, several interlocutors told the Commissioner that Mr Rashid Khachatryan risked his life and physical integrity as there have already been four assassination attempts against him. The situation of this case will have to be

carefully monitored. The Commissioner reminds the Armenian authorities that national legislation and the European Court's case law provide for specific safeguards to protect people at risk upon return to their country of origin against torture or other forms of ill-treatment. Consequently, this provision should be implemented.

90. Other practical difficulties reported to the Commissioner include the frequent rotation of inexperienced border officials and little training on asylum procedures, at times causing delays and difficulties with refugee processing at airports and borders. It was reported that recently the Armenian and Russian border guards have been involved in training sessions which is a positive development.

b) Refugees and IDPs resulting from the Nagorno-Karabakh conflict

91. According to a government survey dated 1997, there were about 231,638 refugees from Azerbaijan at that time. These people fled their place of origin in 1988-1992 during the conflict over the disputed region of Nagorno-Karabakh. A large number of the refugees from Azerbaijan have since been naturalised (reportedly 80,000), but an even more substantial number have left the country, most probably for socio-economic reasons but also because the majority of these ethnically Armenian refugees spoke only Russian. The NRC found in a study released in 2005 that 8,399 IDPs live in Armenia. They come mainly from border areas and the Armenian enclave (Artsvashen) surrounded by the Azerbaijanese territory.

92. The Commissioner visited the former university campus in Yerevan which hosts a large community of refugees from Azerbaijan, mainly from Baku. The procedure for naturalisation is simple, but some refugees are reluctant to apply for citizenship as they fear losing the refugee right to priority for an apartment.

93. The Commissioner visited the new apartments that many of the refugees from Azerbaijan could obtain with the support of the UNHCR and the NRC. Several buildings of the former university campus have been completely renovated and turned into modern-type apartments. The families that were already occupying these apartments have been given ownership of them. The work of the NRC and the UNHCR was highly praised by all related interlocutors. Unfortunately, the NRC was closing its mission at the time of the Commissioner's visit.

94. The Commissioner also visited the buildings (former dormitories) that have not been renovated. Some 1,400 persons live there in poor conditions in dark, unhygienic and dilapidated premises. The poorest, disabled, elderly or female-headed households have been the most disadvantaged and have not been allocated new apartments yet. Some of them have lost any hope of getting decent housing. A representative of the Migration Agency of the Ministry of Territorial Administration, that accompanied the Commissioner, underlined that all refugees are entitled to property certificates and will receive housing. However, the certificates do not reflect market prices in Yerevan. In practice in order to buy decent housing, refugees must add a considerable amount of money themselves. As they belong to the poorest segment of the population, most of them are completely unable to contribute financially. Therefore, they have to refuse the certificates, losing any hope for a better future.

95. The Commissioner calls upon the Armenian authorities to provide support to these vulnerable groups of refugees and ensure that all refugees receive appropriate housing as soon as possible. The elderly people need particular assistance as they are left in difficult conditions and cannot even afford to pay for electricity or food from their meagre pension. Families that have enlarged over the many years in precarious conditions should be entitled to proper housing. Meanwhile, conditions in the temporary premises should be improved urgently. Toilets and showers should be cleaned and repaired.

c) Missing persons

96. The Commissioner was informed that a commission on war captives and missing persons was preparing an ante-mortem data collection system relating to the Nagorno Karabakh conflict. The Commissioner was promised additional information on this issue. So far it seems that little progress has been made in solving the issue of the missing with regards to the Nagorno Karabakh conflict.

97. The PACE recent report of on the issue of missing persons⁵ indicated that there are "unconfirmed reports that some of the missing from the conflict over the Nagorno-Karabakh region may still be alive and held in secret detention." The Minister of Defence denied this hypothesis saying that currently there are no missing people in detention.

4. Problems related to expropriation

98. The majority of Armenian cases pending before the European Court of Human Rights concern complaints about deprivation of property under Article 1 Protocol 1.

99. The issue of expropriation has become particularly acute with the intensification of urban construction in Yerevan. The State has expropriated and sold plots to developers, with the latter paying compensation to owners. One of the problems is that, according to owners, the compensation is inadequate and the State has abused its powers. Another is that many of the expropriated people do not possess ownership documents and are therefore vulnerable. The Constitutional Court declared that the first government decree on expropriation of land was for public needs (2001), which is only partly compliant with the Constitution. As a result, a law on expropriation has been adopted, elaborated with the assistance of the Office of the Human Rights Defender. The new law enhances safeguards for the protection of owners and provides for the right to challenge expropriation in court. Following adoption of this law, property is supposed to be appraised at market price by an independent commission.

100. A certain number of applications regarding expropriation have been lodged before the European Court of Human Rights under Article 1 of Protocol 1. As already mentioned above, the first case decided on by the Court benefited from a friendly settlement giving rise to satisfactory compensation to the plaintiffs but also opening the way to a general solution to the problem. It is unfortunate that the Government decided to act only once the question was raised by the Court, because these cases could have been solved before. The fact that national justice could not solve the issue without the intervention of the European Court of Human Rights confirms once more doubts as to its dependence on the executive power. These doubts were shared by the Ombudsman and the representatives of civil society that the Commissioner met.

101. The Constitutional reform has contributed to strengthening local self-government, although local and state authorities should be monitored closely by civil society. The mayor of Yerevan indicated that out of 800 people relocated, 25 have complained. According to him the number of complaints has decreased. The mayor indicated that these complaints are now visible to the public as they can be checked on the internet, following efforts aimed at expanding e-governance. The Commissioner encourages cooperation between the Mayor and the Human Rights Defender and calls for close and constant monitoring of this issue and progress achieved on it.

5. Persons with disabilities

102. A national strategy of social protection for persons with disabilities was adopted for the period 2006-2015 to ensure their full participation in all aspects of society. The strategy aims in particular at improving reasonable accommodation, education and employment. It also includes strategic planning to improve health care and socio-medical assessment. Finally, an emphasis is put on the importance of raising public awareness. The Commissioner suggests developing an action plan to ensure the implementation of this strategy. Such a plan should detail measures to be undertaken, agencies responsible, timeframes and indicators of success. In this context, the Minister of Social and Labour Affairs indicated that the Convention on the Rights of Persons with Disabilities is expected to be ratified soon.

103. The efforts made by the Mayor of Yerevan in providing better reasonable accommodation to persons with disabilities should be commended. The Commissioner was informed that pedestrian crossings are being equipped with special signs, and one trolleybus out of twenty will be designed to respond to the needs of persons with disabilities.

104. However, the situation remains difficult and the efforts deployed are certainly not sufficient. The difficult economic situation prevents the government from taking the necessary measures to substantially improve conditions of people with disabilities. It is nevertheless important to push for significant progress in this field.

6. Elderly people

105. The Commissioner visited the State Nursing House for the Elderly in Gyumri where the material conditions were satisfactory. In fact, the buildings that used to be completely dilapidated in the 80s and 90s have been renovated through an

USAID project in 2004-2006, implemented by the Armenian Relief Fund. Electrical wiring, potable and hot water supply systems, indoor plumbing, sewage systems and heating have all been repaired. Rooms for patients and collective spaces were renovated as well. The institution provides couples with special rooms. It was reported that the institution currently hosts 150 people, including 48 persons with disabilities.

106. The Commissioner was only able to visit one institution for the elderly, but encourages the further renovation efforts to be undertaken in other places. The funds allocated for food and care should be increased, as requested by both administration and medical staff. The daily amount allocated per person is 2235 drams or the equivalent of 5 euros, which is extremely low. Shortages in medicine have been reported. Moreover, there are not enough places in the institutions for the elderly. With the steadily growing elderly population the need for nursing home facilities will increase.

107. It is important to intensify efforts to assist particularly vulnerable groups of isolated elderly people, especially the victims of the 1988 earthquake still living in *domics* and refugees. Very often these people have lost their close relatives, receive meagre pensions and live in economic hardship. They need more assistance from the State and their communities.

7. Women's rights and domestic violence

108. The Commissioner discussed the issue of women's rights on several occasions during the visit, both with government representatives and NGOs. All interlocutors agreed on the need for constant progress to improve the status and role of women in society, while others insisted on the need to take into account the country's "cultural specificities and traditions". The government has adopted a national action plan on improving the status of women and enhancing their role in society for the period 2004-2010. This plan covers specifically: equal rights and opportunities, improving social and economic conditions, education, health, eliminating violence against women, the role of mass media and institutional reforms.

109. The Commissioner was told that women constituted 50 % of all public servants. and receive equal pay. In some areas, like health and education, they are in the majority. Some ministries, like the Ministry of Labour and Social Affairs, have specialised units on gender issues. There is one woman in office as a minister in the government – the Minister of Culture. The number of women parliamentarians has increased, though remains low.

110. At the same time, ninety percent of the NGOs are reportedly led by women. Many of the women currently in politics come from the non-governmental sector. These positive developments are encouraging and encourages more progress to empower women. Nonetheless, as one of the NGOs representatives mentioned, social conditions for the professional promotion of women remain largely unfavourable. It was also noted that few women are being promoted within political parties.

111. The delegation noticed a certain embarrassment when the issue of violence against women, including domestic violence, was raised. Some officials declared that this wide-spread European problem was nonexistent in the country because of strong family traditions in Armenian society. Others recognised its existence but considered it part of the private and family sphere where the State should not intervene. As would be expected, the representative of NGOs active in the field of the protection of women's rights expressed a different opinion. The NGO "Women's Rights Centre" administers a 24/7 hotline free of charge for victims of domestic violence and says that the number of daily calls is considerable, which illustrates the existence of a serious problem.

112. The issue here is about fundamental rights of individuals, and it is relevant for any society. Further studies, surveys and research on this subject should be undertaken. The role of the media in raising awareness and breaking taboos is crucial. The government should be actively involved and the work of NGOs supported. Working in favour of victims, both women and children, does not destroy family values, but help the most unprotected people in extreme cases, saving physical integrity and very often lives.

113. Public financing to help counter domestic violence appears to be practically nonexistent. The only shelter for victims of domestic violence, supported by international donors, was closed or is about to close soon because of shortage of funds. The Commissioner calls upon the national authorities and international donors to find an acceptable solution to maintaining the last operational shelter in Armenia and to finance the building of new ones. Victims, and their perpetrators, should be offered assistance, in particular psychological assistance.

114. Despite the establishment of a police unit specialised in domestic violence, police treatment of this problem, according to NGOs, still appears to be inadequate. The police officers are not ready psychologically to communicate with female victims, while the number of female police staff is insufficient. The newly-created unit should be provided with proper resources and training.

115. It was also noted that legal means in Armenia for treating this problem are inadequate. Female victims are torn between distress and shame and are reluctant to report violence. It is very important that authorities seriously consider what responses they need to develop to alleviate the problem of domestic violence. The Commissioner was pleased by the information about Armenia joining the Council of Europe campaign to combat violence against women, "Stop Violence Against Women!". According to the authorities an action plan for the campaign was developed and persons responsible for its implementation were appointed. The Action plan includes the organisation of joint round tables with civil society, international organisations and the media, awareness raising through posters, bookmarks, booklets, translation of necessary documentation and leaflets as well as the elaboration of a needs assessment questionnaire. A study of the scale of domestic violence is underway and several training programmes for social workers were organised in cooperation with UNDP. An ad hoc working group, which includes representatives of government agencies and independent experts, has been established to draft a law on domestic violence. It is important to have established a working group to that effect. The Commissioner hopes that the new law will be adopted quickly and be applied in the near future.

8. Children's rights

116. The Commissioner also noted with regret the lack of a system of specialised juvenile justice, including specialised courts. He recommends opening discussion on the creation of special courts for juveniles. He was informed that the 2004-2015

National Plan of Action for the protection of the rights of the child envisages the establishment of a juvenile system among the main directions and goals of the state policy for the improvement of the situation of children in Armenia.

117. The Commissioner visited the Zatyk orphanage. The representative of the Ministry of Social and Labour Affairs, who accompanied the Commissioner, indicated that the State increasingly promoted a policy of de-institutionalisation, providing family and community-based care alternatives for orphans. There are currently eight orphanages in Armenia with a total of 900 children.

118. The Zatyk orphanage has been operational for the past 14 years. It was reported that there are currently 100 children placed in the institution supervised by 80 staff members. The institution offers good conditions for the well being of children. Education is carried out in a warm atmosphere. The personnel are very devoted and considerate. Despite financial difficulties, efforts are made to arrange at least two weeks of the summer holidays in resorts.

119. However, the financial difficulties are evident in the very basic food ratio and the amount of pocket money allocated per child, which is fairly small (2000-3000 drams or 4.5 - 6.7 euros per month).

120. Problems also arise for children who leave the institution once they come of age. Although the State tries to provide them with housing, since 2004 140 apartments have been allocated to Zatyk orphans, even if the children are generally provided with accommodation in a foster home.

121. The Minister of Social and Labour Affairs indicated that a national strategy on the protection of children was adopted for the current period, ending in 2015. Another strategy was elaborated for reforms of social protection of children in difficult situations covers the period 2006-2010.

122. The efforts deployed by the municipality of Yerevan, consisting of a series of projects of technical assistance aimed at renovating schools and boarding schools should be highlighted. The Minister of Justice mentioned the special school for street children and children with disabilities in Vartashen. The Commissioner hopes that this school is benefiting from the necessary support.

123. The Commissioner is in favour of such developments and underlines that it is of the utmost importance to actively promote integration of vulnerable children into mainstream education and life. Because of their socio-economic situation, orphans are more vulnerable to crime and require more support from the State and the community.

9. Trafficking in human beings

124. Armenia is a country of origin for trafficking in women and young girls for sexual exploitation to the United Arab Emirates and Turkey. Some sources indicate that, to a lesser extent, Armenian men and women are trafficked to Russia for forced labour. The official statistics of the General Prosecutor's Office and Police recorded up to 200 trafficking cases since 2003.

125. The authorities have undertaken significant steps to comply with international standards in the fight against trafficking in human beings. The legal basis to fight human trafficking appears sufficient. The amendments to the criminal, labour and other relevant laws adopted by the Parliament in 2006 significantly increased the penalties for trafficking in persons and distinguished the crime of trafficking from that of organised prostitution or pimping. The Council of Europe has delivered a legal opinion on the amendments. A working group has also been set up to elaborate national referral mechanisms, as Armenia needs to improve the formal procedures for the identification of victims and their referral.

126. The Commissioner welcomes the elaboration of an action plan against trafficking in human beings that is currently under way. An anti-trafficking inter-agency commission, composed of representatives of government agencies and NGOs and supported by international organisations, has been established for that purpose. The Government informed the Commissioner that since his visit, the 2007-2009 National Action Plan for Combating Trafficking in Human Beings together with the Timetable for the Implementation was adopted by Government Decree 1598-N on 6 December 2007. It envisages the improvement of the legislative base, increased public-awareness campaign aimed at prevention of trafficking in human beings, improved protection and prosecution mechanisms and capabilities, as well as broader cooperation with regional partners to make the fight against trafficking more effective. On 6 December 2007, by the Prime Minister's decree, the level of the Interagency Commission on Trafficking in Human Beings was raised to Council on trafficking issues headed by the Vice Prime Minister, Minister of territorial administration. It has Ministers and heads of the respective Government Agencies as its members.

127. On the other hand, the main deficiencies that exist concern the capacity to implement these laws and plans. It has been noted that the government failed to make progress in victim identification and referral, and that there have even been cases of corrupt government officials complicit in trafficking.⁶

128. Human rights concerns should be at the centre of any national policy against trafficking in human beings. The authorities should increase public awareness and prevention efforts and do more to protect victims, providing them with assistance, rehabilitative counselling, and shelters. Currently only NGOs provide this assistance. It is important that a comprehensive national anti-trafficking system be fully operational in the near future.

VII. Fundamental freedoms

129. The Commissioner received complaints from NGOs and opposition representatives regarding deficiencies in the political process. The Commissioner deliberately chose not to address freedom of election as this has been widely discussed in international reports, including those drafted by the Council of Europe and OSCE. Sufficient analysis and recommendations have been provided in this area to guide the necessary improvements for the next presidential and other future elections.

130. The provisions of Art. 301 of the Criminal Code have been criticised on several occasions. They criminalise "public calls for seizing State power by force, changing the constitutional order of the Republic of Armenia by force". The manner they are applied is reminiscent of the Soviet past; they seem to be used to intimidate and oppress political opponents. For example, this Article was used to detain Zhirayr Sefilyan and Vardan Malkhasyan, both very critical of the authorities. The Commissioner met them in the Kentron detention centre in Yerevan. These detainees drew his attention to their situation, more particularly to the use of Art. 301 against them which they alleged was inappropriate. The Commissioner deems that the

provisions of Art. 301 of the Criminal Code should be carefully reviewed to put them in line with relevant international standards, in particular Art. 10 of ECHR, and with the Armenian Constitution, while taking into account the relevant opinion of the Venice Commission. The Office of the Human Rights Defender has recently requested a legal opinion from the Venice Commission.

1. Freedom of expression

a) Right to information and pluralism of opinions

131. Freedom of information is crucial to freedom of expression. While Armenia has made considerable progress in improving the legislative framework, some of the Commissioner's interlocutors indicated that the implementation of relevant legal provisions is not satisfactory. A law on the press and mass media was adopted in 1991 and played an important role in developing an independent press. The Law on Freedom of Information was adopted in 2003 creating a legal basis for free access to public information. However, limited pluralism of opinions in the broadcasting sector seems to be an important problem. NGOs confirmed that there is a lack of alternative voices on the air. Some civil society representatives said that the broadcasting media were under strict control. It appears that self-censorship is widespread. The printed media however seem to be free but financially weak and with limited influence. Reportedly, none of the papers exceeds a circulation of 3-4000 copies daily. A survey mentioned by the Office of the Human Rights Defender indicated that people trust TV (60,5%) most of all and newspapers (6,7%) least of all.

132. Amendments to the laws "On Television and Radio" and the "Regulations of the National Commission on Television and Radio" were adopted by the Parliament in February 2007. The new definition of the National Commission on Television and Radio as an "independent regulatory body, which ensures the freedom, independence and diversity of the broadcasting media" is a step forward. According to the amendments the Commission is composed of eight members, half to be appointed by the National Assembly and the other half by the President.

133. However, some NGOs indicated that the amendments were adopted "in a rush" and without proper consultation. According to the Commissioner's interlocutors, although the amendments improve the law, they are still not satisfactory and fail to guarantee the

autonomy and independence of the Commission. Moreover, there are no provisions stating that the members should reflect Armenia's social and political diversity, or that the appointment process should be open and transparent.

134. The Commission deals with licensing of radio and television, as was the case before the introduction of amendments. In the past it was a particularly controversial problem as the Commission rejected all licensing bids by A1+ and Noyan Tapan television companies, private channels which had their broadcasting licences withdrawn in 2002. Radio Liberty has recently had serious restrictions imposed on them.

135. The Head of the National Council of Public Television and Radio, met by the Commissioner, informed him of the latest developments in the field of public broadcasting. He underlined improvements in conducting pre-electoral debates and advocated the adoption of a code of conduct for covering election-related news. He also added that a grant had been received from the European broadcasters union for the pre-electoral period.

136. The Commissioner considers it of utmost importance that there is an open and transparent process of appointment of members of the National Commission on Television and Radio. Measures should be taken to enhance freedom of expression and pluralism on the public television and radio as they are the main source of information in Armenia, in particular during electoral periods. The pre-electoral action plan adopted by the Committee of Ministers of the Council of Europe should be fully implemented.

b) Defamation and attacks against journalists

137. In practice, criminal cases of defamation have not been initiated for several years. Legally, since the 2004 amendments of the Criminal Code, imprisonment for defamation has remained an option for punishment only when the offence is committed more than once by the same person. A maximum criminal pecuniary penalty of a thousand times the minimum wage is applicable for defamation. These developments are positive but it is regrettable that a full decriminalisation of did not follow. Moreover, the length of imprisonment has recently been prolonged, with amendments of Art. 318 of the Criminal Code, providing liability for "insulting a representative of the authorities". Defamation should be completely decriminalised and Art. 318 repealed.

138. Incidents of violence and intimidation of journalists are common and occur on a regular basis. One of the latest physical attacks on a journalist happened right before the Commissioner's visit. On 15 September 2007 Hovhannes Galajyan, the editor-in-chief of the Iskakan Iravunk newspaper, was reportedly beaten up severely when leaving his office in the centre of Yerevan. The Commissioner calls upon the Armenian authorities to urgently adopt the necessary measures to prevent violence against journalists. Those responsible for such acts should be made accountable.

139. Many of the Commissioner's interlocutors indicated that Arman Babajanian, editor of the opposition newspaper Zhamanak Yerevan and convicted of forging documents to avoid military service (case already mentioned above), was treated more harshly than one would expect in his situation.

2. Freedom of assembly

140. The Armenian Constitution provides for freedom of assembly, but there are limits to the exercise of this freedom. Organisers are not required to obtain a government permit to stage a rally or demonstration, but are required to notify authorities in advance of their

plans for such events. The law empowers police to break up illegal rallies and demonstrations, particularly those that encourage violence and the overthrow of the government. While the law appears fair, it is subject to abuses when enforced.

141. According to NGOs, disproportionate police action occurs rather often. Authorities need to put an end to such inappropriate behaviour as was suggested by the PACE Resolution 1361 of 2004.

142. The Commissioner had the feeling that the authorities took a very negative view of street protests in general. He was informed that people were threatened and intimidated by local authorities when they expressed an interest in attending rallies.

143. Freedom of assembly is one of the essential human rights and must be respected. Violations of the right to peaceful protest put in doubt the government's commitment to democratic values and have to stop.

VIII. Discrimination

1. Ethnic minorities

144. The Armenian population is very homogeneous and composed of 97 % ethnic Armenians. The overwhelming majority of people traditionally belong to the Armenian Apostolic Church. However, there are some small ethnic and religious minorities in Armenia.

145. One of the most important of these is the Yezidi community, which numbers between 30,000 and 40,000 people according to its leaders. This community speaks Yezideren, generally considered a Kurdish dialect. The Yezidi practice a religion derived from Zoroastrianism, Islam and animism.

146. The Commissioner visited the village of Azatan where a part of the population belongs to the Yezidi minority (reportedly 250 out of 6000). He was warmly received by the local mayor and other leaders of the community and had discussions with representatives of the community in the village hall.

147. Important efforts are being made by central and local authorities aimed at maintaining good relations between the Yezidi minority and ethnic Armenians. Both groups have lived together for many centuries. The measures taken by the Armenian authorities aimed at preserving the culture and language of the Yezidi minority are positive. While visiting the local school in Azatan, the Commissioner went to newly created classes where the language and literature of Yezidi are taught. Since 2007, 15 Yezidi pupils have had textbooks in their native language. There is a daily radio programme and a newspaper for the Yezidi in their native language.

148. Despite all this, according to some interlocutors, the socio-economic situation of the Yezidi minority remains difficult and is worse compared to the average in the country. Many people continue to migrate abroad in the search of work.

149. In this context it is important to underline the action of the NGO *Azatan Community Centre*. One of the focuses of the *Azatan Community Centre* is the promotion of the Yezidi language and culture, providing pre-school education, raising civic awareness and participation and building capacities for social and economic development.

150. Cases of discrimination against Yezidi in the matter of adjudication of land were reported. While authorities outwardly preserve this minority culture and language, this group still suffer socio-economic disadvantages. Authorities must not only take preventive measures against discrimination but also take action in all reported cases of discriminatory practices.

2. Freedom of religion

151. The amended Constitution provides for freedom of religion (Art. 23). The law recognises the Armenian Apostolic Church as the national church and gives it privileges not afforded to other faiths. Negotiations between the Government and the Armenian Church resulted in the signing of a law in March 2007 that codified the church's role. The Commissioner was informed that the history of the Armenian Apostolic Church was reported to be a compulsory subject in schools.

152. It appears that there are some restrictions on minority religious groups. The law requires all religious organisations to obtain prior permission to engage in public religious activities. Non-registered denominations cannot possess or rent property, publish newspapers or magazines, broadcast television or radio programs nor sponsor official visitors.

153. A law on the freedom of conscience prohibits "proselytising", but the term "proselytizing" is not defined legally and leaves room for discretion by the authorities. Respect for the rights of other denominations established in Armenia in recent years is an area of concern. In particular, the Commissioner was informed by representatives of the Jehovah's Witnesses of the difficulties they encounter in Armenia. Those include occasional obstacles to free assembly and obstacles in arranging clearance for shipment of religious literature. The issue of alternative military service remains unsolved in practice for these people. It is covered in a separate section below.

154. The Commissioner is also concerned with several apparently isolated cases of religious propaganda against minority faiths, in particular anti-Semitic comments occurred on TV. The Commissioner calls upon the authorities to enhance efforts aimed at promoting religious tolerance and respecting the freedom of religion.

3. LGBT

155. Since the adoption of the new Criminal Code (2003), same-sex acts are no longer a criminal offence in Armenia (under the old Criminal Code, same sex acts were punishable by imprisonment for up to five years). However, the legal framework in Armenia does not expressly protect LGBT people from discrimination, harassment and violence. The Commissioner therefore

calls for the elaboration and adoption of specific legislative provisions against discrimination based on sexual orientation and gender identity.

156. During his visit, the Commissioner was informed by representatives of the LGBT community about cases of violence and discrimination encountered by LGBT people, including cases of students kicked out from universities, deprivation of housing and discriminatory treatment in healthcare institutions.

157. Homophobia is reportedly widespread in society and politics, and the media are silent on cases of violence against LGBT persons. As a 2005 UNESCO report noted, "public opinions on homosexuality are rather tough: traditional Armenian society rejects displays of non-heterosexual relations."⁷ It thus comes as no surprise that LGBT people are invisible in society and that the LGBT community is fragmented and vulnerable. Nevertheless, the NGO "We for the civil equality" is working on improvement of the position of LGBT people. The Commissioner encourages the work of other NGOs that promote equality for LGBT people, in particular by raising awareness as well as providing support to those whose rights are violated, in particular victims of violence.

158. The Commissioner welcomes the reported positive change of attitude of law enforcement authorities towards the LGBT community and encourages dialogue between the LGBT community and the authorities.

IX. Military and civilian service

159. The Commissioner was informed of persisting negative trends of violence in the army, including cases of physical abuse and even murders of conscripts. He calls for thorough investigation of these cases and for punishment of those responsible for such acts. Systematic measures are required to prevent similar incidents in the future. Civic control of the army should be further promoted.

160. During the visit of the military police detention centre in Yerevan, the Commissioner noted that the conditions of detention were adequate except for the showers and toilets, which need to be renovated urgently. According to administration, people subject to disciplinary sanctions are detained in the institution for a period up to three months. The most frequent offences for conviction are deserting the military detachment and theft. After the three months period the courts sent the convicted persons to disciplinary battalions, where conditions are reportedly extremely harsh. Soldiers punished for more than 2 years imprisonment were sent to penitentiary institutions. The Minister of Defence indicated that disciplinary battalions have recently been abolished which constitutes a positive step forward.

161. A new law on alternative service does not provide for a genuine civilian service as the service is still managed and supervised by the Ministry of Defence. According to NGOs, this is the main reason why Jehovah's Witnesses refuse to benefit from this law. Moreover, the length of alternative service is far too long (42 months) and needs to be shortened.

162. The Minister of Defence indicated that 26 Jehovah witnesses were drafted pursuant to the new law. He confirmed that they were drafted and supervised by the Ministry of Defence, but were undergoing their service in civilian institutions (in civilian clothes) under the relevant ministries. Twenty-three Jehovah's Witnesses of these 26 people "deserted simultaneously", he said, were convicted and later released. A Jehovah's Witness reports contradicts this, saying that some of these people are still detained. While the Minister of Defence underlined that there were no criminal prosecutions of conscientious objectors in 2006 and 2007, there are still past deserters in prison.

163. Furthermore, the Commissioner is concerned with the continuous imprisonment of conscientious objectors and the practical problems they encounter once liberated, e.g. lack of registration documents. He calls for a pardon of all conscientious objectors sentenced to prison terms.

164. NGOs confirmed that refugees from Azerbaijan continued to be drafted in the army although they are not Armenian citizens. The Minister of Defence said the refugees are drafted only if they wish to do so, and once their parents agree. The Commissioner underlines that it is unacceptable that refugees continue to be enrolled under constraint or any kind of direct or indirect pressure.

X. Recommendations

National system for human rights protection

1. Seriously consider the ratification of important legal instruments in the field of human rights, in particular additional protocols 9, 10 and 13 to the ECHR, the Council of Europe Convention on Action against Trafficking in Human Beings, Additional Protocol to the European Social Charter Providing for a System of Collective Complaints as well as of the UN Convention on the Rights of Persons with Disabilities;
2. Elaborate and adopt a comprehensive Action Plan on human rights for Armenia in order to coordinate and unify human rights initiatives;
3. Allocate the necessary funds to the Ombudsman's Office;
4. Provide support and promote the work both nationally and locally of NGOs and develop partnership with them;
5. Investigate systematically allegations of intimidation and pressure on active members of civil society and take decisive measures to prevent them in the future.

Administration of justice

6. Complete the reforms of the justice system and ensure compliance of domestic legislation with the revised Constitution and the new legislation on judiciary:

- Strengthen the independence of the judiciary and take measures to prevent improper influence and pressure on judges and advocates;
- Make the process of selection of judges more transparent, fair and merit-based; develop adequate systems of promotion;
- Raise salaries of judges;
- Enhance awareness and training of representatives of judicial professions;
- provide appropriate support to the Judicial school; develop a curriculum of studies for judges including adequate training on the European Convention and case-law of the European Court of Human Rights as well as professional ethics of judges, identification and resolution of conflicts of interest;
- Ensure effective system of legal aid to guarantee equal access to justice; allocate the necessary funds to the Public Defenders Office;
- Fully implement the recently adopted code of administrative procedure and make administrative justice fully operational as soon as possible;

7. Find adequate remedies to the problem of non-execution of court judgements; ensure independence of the Service on Compulsory Execution of Judicial Acts;

8. Provide proper training for prosecutors and fully implement a code of professional ethics to change attitudes and improve compliance with new standards.

Law enforcement

9. Continue the reforms of law enforcement to ensure compliance with European standards:

- Systematically investigate cases of police abuse to avoid impunity and put an end to wide-spread ill-treatment by police;
- Ensure adequate training of police officers; focus training and education on acquiring practical skills, including skills of working with the general public;
- Strengthen public control of law enforcement; the group of public observers of detention facilities should include impartial representatives from civil society;
- Take measures to avoid arbitrary arrests and detention and systematically enforce legal provisions of access to a lawyer, right to inform relatives about detention and providing timely information to arrested and detained about their rights; including to foreign inmates in the languages they understand;
- Ensure sufficient funding of the police and increase salaries for the staff;
- Improve material conditions in police detention centres.

Penitentiary system

10. Improve public monitoring of the penitentiary institutions, with particular emphasis on ensuring that the group of public observers include independent and impartial representatives from civil society;

11. Take measures to prevent violence against inmates and systematically make those responsible for such acts accountable;

12. Review the procedure of reducing sentences and of liberation on parole and consider the transformation of the Commission into a judicial body with all related guarantees;

13. Improve material conditions in prisons; ensure that bedding is regularly provided to inmates; improve living and medical care conditions in the Central Penitentiary Hospital; improve conditions for re-socialisation for male inmates;

14. Increase funding of the Republican Psychiatric Hospital of Nubarashen and urgently improve conditions in this institution; conduct renovation and supply the necessary equipment; raise salaries for the staff.

Social issues and vulnerable groups

15. Enhance efforts to reduce poverty and strengthen social cohesion:

- As a matter of priority find an acceptable solution to allocate decent housing to the families still living in *domics* after 1988 earthquake;
 - Ensure that all refugees and IDPs that fled their places of origin as a result of the conflict over Nagorno-Karabakh receive proper housing; enhance assistance to the vulnerable groups of refugees, in particular elderly; improve conditions in the temporary premises;
 - Develop an action plan to ensure the implementation of the national strategy of social protection for persons with disabilities; enhance efforts to achieve a significant progress in improving conditions of people with disabilities;
 - Take measures to improve the quality of medical assistance and funding in the health sector;
 - Allocate more budget resources to ensure better quality health care, not least for the poorest fractions of the population;
 - Continue renovation of nursing houses for the elderly throughout the country; increase funds allocated for food and care in these institutions;
16. Ensure that foreigners are not returned to their country of origin if there is a risk of torture or other forms of ill-treatment; monitor the cases of the persons already extradited;
17. Enhance cooperation between the local authorities and the Ombudsman on the issue of expropriation; conduct the constant monitoring in this field;
18. Provide adequate responses to the problem of domestic violence including by amending domestic legislation; allocate public funds to counter the problem; maintain operational shelters for victims of domestic violence and support financially the building of new ones; provide proper resources and training to the police unit specialised in domestic violence;
19. Continue to actively promote integration of vulnerable children into mainstream education and life, in particular by
- increasing funding of orphanages and improving material conditions in these institutions;
 - enhancing efforts aimed at providing orphans who have come at age with housing;
 - ensuring adequate funding and support to the special school in Vartashen for street children and children with disabilities;
20. Contribute to proper enforcement of provisions allowing exempting minor offenders from criminal liability, ensuring that imprisonment is assigned to minors as a last resort; open discussion on the creation of special courts for juveniles; elaborate and ensure proper implementation of a comprehensive programme aimed at improving the treatment of juvenile delinquents;
21. Increase public awareness and prevention efforts against trafficking in human beings; improve protection and support to victims, providing them with assistance, rehabilitation counselling and shelters; make progress in victims identification.

Fundamental freedoms

22. Take measures to enhance freedom of expression and pluralism on the public television and radio; ensure an open and transparent process of appointment of members of the National Commission on Television and Radio; fully implement the pre-electoral action plan adopted by the Committee of Ministers of the Council of Europe;
23. Complete the decriminalisation of defamation and repeal Art. 318 of the Criminal Code;
24. Urgently adopt the necessary measures to prevent violence against journalists and ensure that those responsible for such acts are made accountable;
25. Ensure the respect of the freedom of assembly; put an end to disproportionate use of police force against peaceful street protests;
26. Review the provisions of Art. 301 of the Criminal Code to put them in line with relevant international standards and taking into account the opinion of the Venice Commission;
27. Take measures to improve the socio-economic situation of the Yezidi minority and stop any discriminatory practices, in particular in the matter of adjudication of land;
28. Respect the rights of religious groups including minority groups; promote religious tolerance and adequately address cases of propaganda against minority faiths;
29. Prevent violence and discrimination against LGBT community; elaborate and adopt specific legal provisions against discrimination based on sexual orientation and gender identity; conduct dialogue with organisations representing the LGBT community.

Military and civilian service

30. Address still persisting tendencies of violence in the army, including cases of physical abuse and murders of conscripts; conduct thorough investigation of these cases and punish those responsible for such acts; take systematic measures to prevent similar incidents in the future and promote civic control of the army;

31. Elaborate and enforce provisions providing for a genuine civilian service, not managed and supervised by the Ministry of Defence; shorten the length of alternative service;

32. Ensure liberation of all conscientious objectors sentenced to prison terms; find adequate remedies to practical problems encountered by conscientious objectors once liberated, in particular the lack of registration documents;

33. Ensure that refugees are not drafted to the army under constraint or any kind of direct or indirect pressure

¹ See the Commissioner's mandate – Article 3 (e) of the Committee of Ministers Resolution (99) 50 on the Council of Europe Commissioner for Human Rights.

² The Court of Appeal "ruled that Saribekian's dismissal was unfounded, but declined to reinstate him, citing his "strained relationship" with the university authorities" <http://www.rferl.org/newsline/2007/07/2-tca/tca-190707.asp>

³ Report by the European Commission for the efficiency of justice (CEPEJ); "European judicial systems; edition 2006"; published 5 October 2006.

⁴ *Gevorg Tchghlyan v. Armenia* of 7 June 2007

⁵ Report "Missing persons in Armenia, Azerbaijan and Georgia from the conflicts over Nagorno-Karabakh, Abkhazia and South Ossetia regions" of 7 March 2007, Committee on Migration, Refugees and Population, Rapporteur: Mr Leo Platvoet, Netherlands, Group of the United European Left (Doc.11196)

⁶ U.S. Department of State; "Trafficking in Persons Report"; 12 June 2007.

⁷ 'HIV/AIDS in Armenia: A socio-cultural approach'. UNESCO, 2005, p. 29.