

Second report on Armenia

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COUNCIL OF EUROPE CONSEIL DE L'EUROPE

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TABLE OF CONTENTS

FOREWORD	5
EXECUTIVE SUMMARY	6
I. FOLLOW-UP TO ECRI’S FIRST REPORT ON ARMENIA	7
INTERNATIONAL LEGAL INSTRUMENTS	7
CONSTITUTIONAL PROVISIONS AND OTHER BASIC PROVISIONS	8
- The Constitution	8
- Draft law on national minorities	8
- Law on citizenship	9
- Law on Freedom of Conscience and Religious Organisations.....	10
CRIMINAL LAW PROVISIONS	10
CIVIL AND ADMINISTRATIVE LAW PROVISIONS.....	11
ADMINISTRATION OF JUSTICE.....	12
SPECIALISED BODIES AND OTHER INSTITUTIONS	12
- Human Rights Defender/Ombudsperson	12
- Department of National Minorities and Religious Affairs	13
- Co-ordination Council of Ethnic Minorities.....	14
EDUCATION AND AWARENESS-RAISING.....	14
- School education.....	14
RECEPTION AND STATUS OF NON-CITIZENS	15
- Asylum seekers and refugees	15
ACCESS TO PUBLIC SERVICES.....	18
- Access to education	18
JEWISH COMMUNITY	19
VULNERABLE GROUPS.....	19
- Yezidi community	19
- National minorities.....	20
MEDIA	21
CLIMATE OF OPINION.....	21
CONDUCT OF LAW ENFORCEMENT OFFICIALS	22
MONITORING THE SITUATION	23
THE NAGORNO-KARABAKH CONFLICT	23
II. SPECIFIC ISSUES	24
YEZIDI COMMUNITY	24
LAW ON ALTERNATIVE SERVICE.....	27
BIBLIOGRAPHY	29
APPENDIX	31

Foreword

The European Commission against Racism and Intolerance (ECRI) was established by the Council of Europe. It is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members, who are appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

One of the pillars of ECRI's work programme is its country-by-country approach, whereby it analyses the situation as regards racism and intolerance in each of the member States of the Council of Europe and makes suggestions and proposals as to how to tackle the problems identified.

The country-by-country approach deals with all member States of the Council of Europe on an equal footing. The work is taking place in 4/5 year cycles, covering 9/10 countries per year. The reports of the first round were completed at the end of 1998 and those of the second round at the end of the year 2002. Work on the third round reports started in January 2003.

The third round reports focus on "implementation". They examine if ECRI's main recommendations from previous reports have been followed and implemented, and if so, with what degree of success and effectiveness. The third round reports deal also with "specific issues", chosen according to the different situations in the various countries, and examined in more depth in each report.

The working methods for the preparation of the reports involve documentary analyses, a contact visit in the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidences. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on an important number of national and international written sources. The in situ visit allows for meeting directly the concerned circles (governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to propose, if they consider it necessary, amendments to the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final report of ECRI.

The following report was drawn up by ECRI under its own and full responsibility. It covers the situation as of 30 June 2006 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposal made by ECRI.

Executive summary

Since the publication of ECRI's first report on Armenia on 8 July 2003, progress has been made in a number of the fields highlighted in that report. On 15 October 2004, Armenia ratified Protocol No. 12 to the European Convention on Human Rights. The Armenian authorities have also amended the Constitution to provide for equality before the law for everyone under Armenian jurisdiction. Furthermore, on 1 August 2003, the Armenian authorities adopted a new Criminal Code which sanctions hate crimes. They have also created a Department of National Minorities and Religious Affairs which is, *inter alia*, entrusted with promoting minority languages and cultures. They have further amended the Law on Refugees to provide for temporary protection and passed a Law on Alternative Service. In 2004, the Armenian authorities created an Ombudsman's office.

However, a number of recommendations made in ECRI's first report have not been implemented, or have only been partially implemented. Although a bill on national minorities has been drafted, some minority representatives and NGOs have not endorsed it as they consider that it would bring little change to the existing situation. No comprehensive body of civil and administrative anti-discrimination provisions has been passed. The Yezidi minority continues to face problems with regard to land, water and grazing issues and some members of this community have still not acquired property titles for their land. A system for providing national minorities with greater access to the civil and political life of the country has yet to be established. There is also still a need for more and improved textbooks for minority pupils. The Law on Alternative Service as it currently stands does not provide a viable form of alternative civilian service for conscientious objectors who are primarily Jehovah's Witnesses.

In this report, ECRI recommends that the Armenian authorities take further action in a number of areas. ECRI recommends that the Armenian authorities adopt a law on national minorities which takes into account, as much as possible, national minorities' suggestions and points of view. It recommends that the Armenian authorities take more steps to address the problems faced by the Yezidi community, particularly with regard to policing, land, water and grazing disputes. ECRI also recommends that the Armenian authorities take measures to ensure minority access to the country's public and political life. It recommends that the Armenian authorities continue to take measures to ensure equal access to education for minorities by, *inter alia*, providing for positive measures to increase their chances of entering higher education institutions. Moreover, ECRI recommends that the Armenian authorities amend the Law on Alternative Service to provide a genuine alternative civilian service to conscientious objectors.

I. FOLLOW-UP TO ECRI'S FIRST REPORT ON ARMENIA

International legal instruments

1. In its first report, ECRI strongly encouraged Armenia to sign and ratify Protocol No. 12 to the European Convention on Human Rights. It also recommended that Armenia ratify the (Revised) European Social Charter as soon as possible.
2. ECRI welcomes Armenia's ratification, on 18 June 2004, of Protocol No.12 to the European Convention on Human Rights, which entered into force on 1 April 2005. ECRI is also pleased to note that Armenia ratified the (Revised) European Social Charter on 25 December 2003.
3. In its first report, ECRI noted that Armenia had not yet made a declaration under Article 14 of the Convention on the Elimination of All Forms of Racial Discrimination by which it would recognize the competence of the Committee on the Elimination of Racial Discrimination to examine complaints by individuals or groups of individuals claiming to be victims of a violation of any of the rights set forth in the Convention.
4. ECRI notes that Armenia has still not made a declaration under Article 14 of the Convention on the Elimination of All Forms of Racial Discrimination.
5. In its first report, ECRI also recommended that Armenia ratify the European Convention on Nationality, the European Convention on the Legal Status of Migrant Workers, the European Convention on the Participation of Foreigners in Public Life at Local Level as well as the Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems. ECRI further recommended that Armenia ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.
6. ECRI welcomes Armenia's ratification of the Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems. However, ECRI notes that Armenia has still not ratified the European Convention on Nationality, the European Convention on the Legal Status of Migrant Workers, the European Convention on the Participation of Foreigners in Public Life at Local Level or the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

Recommendations :

7. ECRI reiterates its recommendation that Armenia make a declaration under Article 14 of the Convention on the Elimination of All Forms of Racial Discrimination. ECRI also reiterates its recommendation that Armenia ratify the European Convention on Nationality, the European Convention on the Legal Status of Migrant Workers, the European Convention on the Participation of Foreigners in Public Life at Local Level and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

Constitutional provisions and other basic provisions

- ***The Constitution***

8. In its first report, ECRI was of the opinion that the Armenian Constitution should extend the right to equality to any person who is under Armenian jurisdiction and not just to citizens.
9. A package of constitutional amendments was adopted in a referendum held on 27 November 2005. ECRI is pleased to note that Article 14 (1) of the amended Constitution provides that everyone shall be equal before the law. This Article further states that “[a]ny discrimination based on any ground such as [...] race, colour, ethnic origin, [...], language, religion or belief, or [...] membership of a national minority [...] shall be prohibited”.
10. ECRI also notes that Article 3 of the amended Constitution provides that the State shall ensure the protection of fundamental human and civil rights in conformity with the principles and norms contained in international law. Article 26 provides for freedom of conscience, thought and religion or belief and Article 41 states that: “Everyone shall have the right to preserve his or her national and ethnic identity. Persons belonging to national minorities shall have the right to preservation and development of their traditions, religion, language and culture”.

- ***Draft law on national minorities***

11. In its first report, ECRI encouraged the Armenian authorities to pass a law which would provide a framework for an overall vision and strategy on how to deal with issues relating to the situation of national minorities. ECRI further stressed the need to fully involve national minorities in the conception and preparation of such a law.
12. ECRI has been informed by the Armenian Department of Minorities and Religious Affairs¹ that a draft law on the rights of minorities which is entitled “The Republic of Armenia Law on the RoA Citizens of Non-Armenian Ethnicity and Ethnic Minorities” has been ready for adoption by the National Assembly since August 2005. However, some national minority representatives did not endorse this draft law as they, *inter alia*, consider it to be very general and that it would bring little change to the existing situation. ECRI notes in this regard that many of the provisions in this draft law, such as, for example the ones in Chapter 5 on cultural rights do contain rights which are already entrenched in the amended Constitution. ECRI therefore wishes to draw to the Armenian government’s attention the danger of defining in a specific law, rights which national minorities inherently enjoy on a par with everyone under Armenian jurisdiction. Such an endeavour might be interpreted either as purporting to provide national minorities with special rights whilst these same rights are unquestionably enjoyed by the rest of society or as calling into question the validity of the rights enjoyed by minorities under general legislation.
13. The definition of ethnic minorities contained in Article 1 of this draft law has also drawn criticism from minority representatives. Particularly, reference to “persons of non-Armenian ethnicity” seems problematic to them. Article 6 of the draft law, which contains anti-discrimination provisions, is entitled: “Prohibition against and prevention of ethnic discrimination”. However, this title does not

¹ For more information on the work of this Department, see “Specialised bodies and other institutions” below.

sufficiently encompass the notion of racial discrimination as defined in Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination which provides that “the term ‘racial discrimination’ shall mean any distinction, exclusion, restriction or preference based on *race, colour, descent or national or ethnic origin*²[...]”. ECRI also wishes to draw to the Armenian authorities’ attention the definition of racial discrimination contained in its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination.³ ECRI further notes that Article 6 relates to some issues which are outside the material scope of discrimination regulations such as the prohibition on deportations and ethnic assimilation, whilst, as mentioned above, not governing all aspects of the principle of equality and non-discrimination. Furthermore, this Article does not provide for positive measures for persons belonging to national minorities.

14. The Department of Minorities and Religious Affairs has informed ECRI that it had worked with 60 national minority NGOs and representatives on the above-mentioned draft law and sent them the first draft in Armenian and Russian. However, some minority representatives indicated to ECRI that their input on the draft law was not taken into consideration. Others have stated that although they fully participated in the drafting process, their conclusion was that such a law is unnecessary. ECRI notes, however, that other minority representatives have indicated that they consider this law to be a good piece of legislation. The diverging views among minority representatives about the quality and usefulness of the draft law on national minorities highlight the need for further dialogue between the Department and these representatives on the text in order to include as many of their viewpoints and suggestions as possible.

Recommendations :

15. ECRI strongly recommends that the Armenian authorities pass, as soon as possible, a law on national minorities that fully takes into account relevant national and international legal norms, principles and concepts. ECRI further recommends that the Armenian authorities continue to work with national minorities on the current draft law on national minorities and that it take into account their concerns and suggestions concerning this law in order to reach as wide a consensus as possible.

- Law on citizenship

16. Article 30 (1) of the amended Armenian Constitution provides that “[n]o person may be [...] deprived of the right to change citizenship”. Chapters 4 and 5 of the Law on the Citizenship of the Republic of Armenia establish the conditions and modalities for relinquishing Armenian citizenship.⁴ ECRI has received reports of undue delays in some members of minority groups being notified of the decision taken by authorities concerning their application for renouncing Armenian citizenship. As a result, some people who, because of this delay, were still in possession of their Armenian citizenship when they acquired that of their kin-State have been prosecuted for draft evasion and an international arrest warrant has been issued against them in CIS⁵ member States. On this point, the Armenian authorities have informed ECRI that even with the adoption of the new constitutional amendments, persons who acquire dual citizenship

² Emphasis added.

³ See CRI (2003) 8, paragraph 18 g).

⁴ See Articles 26 and 27 of the Law on the Citizenship of the Republic of Armenia.

⁵ Commonwealth of Independent States.

are not exempt from military duty if Armenia has not signed a bilateral agreement regulating issues relating to citizenship and military duty with the state in question.

17. ECRI further notes that Article 11 (3) of the amended Constitution provides that “Armenians by birth shall acquire citizenship of the Republic through a simplified procedure”, and that its Article 30 (1) states that: “The rights and responsibilities of citizens with dual citizenship shall be defined by law”. It has also been informed by the Armenian authorities that a working group has been established to draft a law on dual citizenship. ECRI therefore hopes that the combined aim of Article 11 (3) of the amended Constitution and this draft law is not to facilitate access to dual citizenship solely for ethnic Armenians living in the Diaspora, but that it will encompass all Armenian citizens.

Recommendations :

18. ECRI recommends that the Armenian authorities establish a swift and effective procedure for relinquishing Armenian citizenship in order to enable those who do not wish to have dual citizenship to acquire that of another State without incurring the risk of being prosecuted for, *inter alia*, draft evasion.
19. ECRI strongly recommends that any legislation passed in order to provide for dual citizenship not be discriminatory on ethnic or any other such grounds and it thus urges the Armenian authorities to implement Article 11 (3) of the amended Constitution carefully to that end.

- Law on Freedom of Conscience and Religious Organisations

20. In its first report on Armenia, ECRI hoped that the problems faced by Jehovah’s Witnesses in registering would be solved as soon as possible.
21. ECRI is pleased to note that on 8 October 2004, the State Registrar of the Republic of Armenia registered Jehovah’s Witnesses under the Law on Freedom of Conscience and Religious Organisations⁶. Jehovah’s Witnesses are thus able to print or import literature and to hold religious conventions on a par with other religious organisations.

Criminal law provisions

22. In its first report on Armenia, ECRI noted that a new Criminal Code which contained several provisions for combating racist acts was being drafted and hoped that it would be passed as soon as possible.
23. ECRI welcomes the entry into force, on 1 August 2003, of the above-mentioned Criminal Code. Article 226 of this Code, which prohibits incitement to national, racial or religious hatred, also provides that when this crime is committed publicly or by the media, by a public official or by an organized group, this is considered to be an aggravating circumstance.⁷ ECRI is further pleased to note that when crimes such as murder⁸, grievous bodily harm⁹, torture¹⁰, the

⁶ Jehovah’s Witnesses had previously unsuccessfully applied for registration on at least eight occasions.

⁷ Article 226 on “Inciting national, racial or religious hatred” provides that : “1. Actions aimed at the incitement of national, racial or religious hatred, at racial superiority or humiliation of national dignity, are punished with a fine in the amount of 200 to 500 minimal salaries, or with correctional labour for up to 2 years, or with imprisonment for the term of 2-4 years. 2. The actions envisaged in part 1 of this Article committed: 1) publicly or by mass media, with violence or threat of violence; 2) by abuse of official position; 3) by an organized group, are punished with imprisonment for the term of 3 to 6 years.”

⁸ Article 104 (13).

deliberate destruction or damage to property¹¹ and the defiling of dead bodies or burial places¹² are committed for reasons of national, racial or religious hatred, this is considered to be an aggravating circumstance. Article 143 of the Criminal Code provides that “direct or indirect breach of the human rights and freedoms of citizens, for reasons of the citizen’s nationality, race, [...], language, religion [...] which damages the citizen’s legal interests, is punished with a fine in the amount of 200 to 400 minimal salaries, or with imprisonment for up to 2 years”.

24. The Armenian government has informed ECRI that two cases¹³ have been brought to court under Article 226 of the Criminal Code for incitement to racial hatred. Representatives of the Jewish community¹⁴ have expressed to ECRI their appreciation of the speed with which one these cases¹⁵ was investigated and brought to court, as well as of the sentence meted out to the culprit.

Recommendations :

25. ECRI recommends that the Armenian authorities ensure that judges, prosecutors and lawyers are trained on the implementation of the new hate crime provisions in the Criminal Code. ECRI further recommends that the Armenian authorities take measures to raise public awareness of these provisions and in particular among national minorities.

Civil and administrative law provisions

26. In its first report on Armenia, ECRI encouraged the Armenian authorities to consider the adoption of civil and administrative law provisions prohibiting racial discrimination in areas such as access to housing, employment, education, public and social services as well as to public places.
27. The Armenian authorities have informed ECRI that Article 3 (2) of the new Labour Code prohibits racial discrimination. A new Law on Social Assistance, which provides that Armenian citizens and legally resident foreigners have the right to social assistance, was also passed in 2005. However, the government has indicated to ECRI that no comprehensive body of civil and administrative anti-discrimination laws have been passed as it deems such laws unnecessary because they would duplicate existing provisions. The Armenian authorities have further informed ECRI that there is little discrimination in the employment sector and that no cases have been brought to court for racial discrimination in this field. On this point, no comparative study of the situation of ethnic minorities in the labour market appears to have been made. It is thus difficult to ascertain the existence or extent of any racial discrimination that may exist in that sector.

⁹ Article 112 (12).

¹⁰ Article 119 (2) (7).

¹¹ Article 185 (2) (4).

¹² Article 265 (2) (2).

¹³ One case concerned an ethnic Armenian refugee who had made incendiary remarks against Armenians. He was found to be suffering from diminished responsibility and committed to a mental institution. The second case concerned the head of an ultranationalist organisation who had made antisemitic statements. He was sentenced to a three year suspended sentence for incitement to racial hatred.

¹⁴ For further information on the situation of the Jewish community in Armenia, see “Jewish community” below.

¹⁵ The above-mentioned case against the head of an Armenian ultranationalist organisation.

Recommendations :

28. ECRI reiterates its recommendation that the Armenian authorities pass a comprehensive body of civil and administrative provisions prohibiting racial discrimination in areas such as employment, housing, education, access to public services and places. To that end, ECRI recommends that the Armenian authorities draw their inspiration from its General Policy Recommendation No.7 on national legislation to combat racism and racial discrimination.¹⁶
29. ECRI further recommends that the Armenian authorities carry out research on the situation of ethnic minorities in areas such as employment, housing and education in order to evaluate and address any discrimination they may face.

Administration of justice

30. In its first report, ECRI recommended that the training centre for judges which opened in 2003 include training and awareness-raising on issues pertaining to racism, intolerance, prejudice and racial discrimination.
31. ECRI notes that judges do not appear to receive training on questions of racism and racial discrimination. Furthermore, although the Armenian government has informed ECRI that a judicial reform program aimed at increasing confidence in the judiciary will be carried out, it has indicated that there are no specific plans to train judges on issues relating to ECRI's mandate.
32. In its first report on Armenia, ECRI recommended that the police, lawyers and prosecutors also receive training on racism and racial discrimination.
33. The Armenian government has informed ECRI that although police receive training on general human rights issues at the Police Academy for police officers and at an educational centre for junior ranking policemen, these institutions do not place a special emphasis on issues of racism and racial discrimination. Furthermore, prosecutors and lawyers do not appear to receive training on these issues either.

Recommendations :

34. ECRI recommends that as part of the planned reform of the judiciary, the Armenian government include compulsory training for judges on national and international norms relating to racism and racial discrimination and that this training be further provided to them on an on-going basis. Furthermore, ECRI recommends that the Armenian authorities ensure that the police, lawyers and prosecutors also receive basic and on-going training on these issues.

Specialised bodies and other institutions

- Human Rights Defender/Ombudsperson

35. In its first report on Armenia, ECRI stressed that the Human Rights Defender should be independent and impartial and hoped that he/she would be provided with sufficient funds and powers to enable him/her to function effectively.
36. ECRI welcomes the adoption, on 21 October 2003, of the Law on the Human Rights Defender which came into force on 1 January 2004. Article 83 (1) of the

¹⁶ See CRI (2003) 8, paragraph 11.

amended Constitution provides that the National Assembly shall elect the Human Rights Defender (Ombudsperson) by a 3/5 majority for a period of 6 years. Article 13 of the Law on the Human Rights Defender provides that he/she shall request clarification from the authorities regarding a complaint filed before him. Article 15 (1) of this Law provides that he/she can “propose to the state or local self-governing body [...] to eliminate the committed violations”.

37. The Human Rights Defender has indicated to ECRI that the Law on the Human Rights Defender will be amended to give his office more powers. In the framework of these amendments, he wishes to create different expert groups, some of which will deal with issues of interest to each national minority group. These expert groups will thus include members of national minorities. The authorities have informed ECRI that this law was amended in June 2006. ECRI thus hopes that these amendments will be fully implemented. The Human Rights Defender has also informed ECRI that in 2007, his office will be divided into departments which will be entrusted with the task of dealing with specific issues such as women and children’s rights. The Human Rights Defender has indicated that although no department will be specifically in charge of issues pertaining to racial discrimination, this question will be dealt with by the other departments.
38. The Human Rights Defender’s office currently functions on a yearly budget of 80 million AMD (approximately 200,000 euros) which the Human Rights Defender considers to be the absolute minimum. He has indicated to ECRI that his office needs double the amount currently allocated in order to function efficiently. The Human Rights Defender has also informed ECRI that his office is understaffed as there are currently only 10 lawyers dealing with the many matters which are within their remit.
39. In her 2004 annual report, the previous Human Rights Defender indicated that she had received no complaint or application in respect of any alleged cases of racial discrimination.¹⁷ ECRI has been informed that in 2005, the bulk of the Human Rights Defender’s caseload concerned police misconduct.¹⁸ Moreover, 250 Yezidi lodged a collective complaint about the village of Zovuni.¹⁹ It thus appears that for the moment, the Human Rights Defender has not been called upon to examine issues of racism and racial discrimination.

- ***Department of National Minorities and Religious Affairs***

40. ECRI is pleased to note that in January 2004, the Armenian authorities created a new government Department of National Minorities and Religious Affairs which replaced the former Council on Religious Affairs. The Department of National Minorities and Religious Affairs has informed ECRI that its goal is to “assist national minorities in promoting their language and culture, to combat racism and assimilation, and to promote cultural diversity”. The Department has also indicated to ECRI that one of the first initiatives it took was to organize an awareness-raising campaign about its work for national minorities. Furthermore, as previously mentioned²⁰, this Department drafted the bill on the rights of national minorities. It has further indicated to ECRI that the educational situation of the Yezidi, Kurdish and Molokan minorities is a problem

¹⁷ See, Annual Report, Activities of the Republic of Armenia’s Human Rights Defender, and on Violations of Human Rights and Fundamental Freedoms in Armenia During 2004, Yerevan 2004, p. 35.

¹⁸ For more information on this subject, see “Conduct of law enforcement officials” below.

¹⁹ For more information on the situation of Yezidi, see “Specific issues” below.

²⁰ See “Constitutional provisions and other basic provisions” above.

of particular concern, especially in rural areas.²¹ The Department has thus carried out research on this matter and organized discussions with these communities and mayors to discuss the problem and agree on priorities.²² The Department has further informed ECRI that it has been involved in other activities such as organizing cultural events and festivals and publishing a collection of legal documents concerning national minorities. ECRI welcomes the diligence with which the Department of National Minorities and Religious Affairs has undertaken its work with national minorities and hopes that it will continue its dialogue with minorities on matters, such as the draft law on national minorities, in order to ensure that these types of initiatives fully meet their needs.

- **Co-ordination Council of Ethnic Minorities**

41. In its first report, ECRI encouraged Armenia to ensure that the Co-ordination Council of Ethnic Minorities fulfils its mandate fully and that it is perceived by national minorities to be fully representative of their membership and interests.
42. Minority representatives and NGOs have informed ECRI that they are represented in the Co-ordination Council of Ethnic Minorities. They have also stated that they consider that, in general, the Co-ordination Council of Ethnic Minorities' work is constructive, but that this body should be more active.

Recommendations :

43. ECRI recommends that the Armenian authorities ensure that the Human Rights Defender's office is allocated sufficient human and financial resources to enable it to function to its full capacity. It also recommends that any restructuring of the work and functions of this office take into account issues pertaining to racism and racial discrimination. ECRI further recommends that the Armenian authorities ensure that the Human Rights Defender's office continues to work with national minorities on issues of interest to them and that it carry out awareness-raising campaigns to make its work better known by the general public and by national minorities in particular.
44. ECRI recommends that the Armenian authorities continue to provide the Department of Minorities and Religious Affairs with sufficient powers and resources to enable it to carry out its mandate to the fullest. ECRI also recommends that the Armenian government continue to ensure that national minorities are fully consulted by the Department and that their input is taken into consideration whenever decisions and initiatives of concern to them are conceived and implemented.
45. ECRI recommends that the Armenian authorities ensure that the Co-ordination Council of Ethnic Minorities plays a more proactive role in its work with national minorities.

Education and awareness-raising

- **School education**

46. In its first report, ECRI recommended that Armenia continue to develop programmes for teaching human rights, by including issues such as racism, intolerance and discrimination at all levels of the education system. ECRI

²¹ For more information on the situation of national minorities in the education system, see "Access to public services" below.

²² For a more in-depth discussion on this question see "Access to public services" below.

further recommended that such initiatives include training teachers in human rights education.

47. The Armenian authorities have informed ECRI that issues concerning racism and other forms of discrimination are taught in 4th grade and that, in 5th grade, special attention is paid to questions of pluralism and cultural diversity. ECRI further understands that in the new educational reforms currently being examined, human rights in general and issues pertaining to racism in particular will be taught at all levels. ECRI is not, however, aware of any initiatives that have been taken to train teachers on these questions in preparation for these reforms.
48. In its previous report, ECRI recommended that the teaching of history be developed in a manner which avoids perpetuating or developing prejudices and stereotypes. ECRI further stressed the need to ensure that any school programmes concerning religion, especially if they are compulsory, not infringe upon the rights of children belonging to religious minorities. ECRI also highlighted the desirability of ensuring that all pupils are taught about a variety of religions and beliefs.
49. The Armenian authorities have informed ECRI that a school textbook on national minorities, their history and other aspects of their lives is currently being prepared. Furthermore, according to the Armenian authorities, the role and contribution of national minorities to Armenian society is included in history books. The Armenian authorities have also indicated to ECRI that the agreement between the Government and the Armenian Apostolic Church on teaching this Church's history is still in force. However, according to the Armenian authorities, school textbooks for the Yezidi minority contain a section on religion and Russian textbooks do not mention religion. Moreover, the Armenian authorities have indicated to ECRI that the study of the Armenian Church's history is not compulsory.

Recommendations :

50. ECRI recommends that teachers be provided with initial and on-going training in teaching issues concerning racism and racial discrimination.
51. ECRI reiterates its recommendation that the Armenian authorities ensure that history and other subjects are taught in a comprehensive and inclusive manner and that any compulsory component of the school syllabus takes into account the diversity of the pupils.

Reception and status of non-citizens

- Asylum seekers and refugees

52. In its first report, ECRI noted that the Law on Refugees came into force in March 1999 and that it was based on the 1951 Geneva Convention and its 1967 Protocol. ECRI further noted that a Law on Political Asylum by which prominent public figures could seek asylum from the Armenian President was passed in 2001 and it pointed out that the need for this law was unclear as it could lead to overlap and confusion with the Law on Refugees.
53. ECRI has been informed by the Armenian authorities that the Law on Refugees was amended in 2002 to include temporary protection for those fleeing armed conflicts. The Armenian authorities have also indicated that those who receive temporary asylum are protected by the principle of non-refoulement and that they receive a one-year residence permit which may be extended indefinitely

depending on the situation in their country. The Armenian authorities have further informed ECRI that people who are granted temporary protection enjoy virtually the same rights as refugees. They do not, however, receive financial assistance.

54. The Armenian authorities have indicated to ECRI that they are currently working on a consolidated version of all the laws and provisions concerning refugees and asylum seekers and that a new version of the Law on Refugees should be circulated among government agencies at the end of 2006. ECRI understands that this law should be adopted in 2007. ECRI is pleased to note that the United Nations High Commissioner for Refugees (UNHCR) and NGOs are fully involved in the government's work on the new consolidated version of the Law on Refugees. Furthermore, UNHCR has informed ECRI that it will organize a roundtable with key government agencies on this proposed law and carry out awareness raising measures to promote it. ECRI further welcomes the Armenian authorities' assurances that the above-mentioned Law on Political Asylum, which has never been applied, will most likely be repealed when the new Law on Refugees is adopted.
55. Article 329 of the Criminal Code and Article 7 of the Law on Refugees prohibit the penalization of *bona fide* asylum seekers who enter the country without the requisite papers. However, ECRI is concerned by reports according to which people who fall in this category have been arrested and prosecuted for illegally entering Armenia. It has been reported to ECRI that genuine asylum seekers are probably being turned away at border points, but that the extent of this problem is unknown. ECRI wishes to point out that Article 31 of the 1951 Geneva Convention provides that States are obliged not to impose penalties on asylum seekers on account of their illegal entry or presence.
56. Special concern arises with Russian guards who man land borders and Yerevan airport in accordance with an agreement between Armenia and the Russian Federation. On this point, the Migration Agency²³ has indicated to ECRI that it meets with the Heads of Russian border guards and provides regular training to these borders guards on issues pertaining to asylum seekers and refugees. It has, however, informed ECRI that no special training programme has been established to that end and that these guards last received training on these matters in late 2005. On this matter, UNHCR has informed ECRI that it has no access to Yerevan airport and that no other organisation has that possibility. As a result, it states that there is no organisation which is currently able to assess the number of people who try to seek asylum at the airport. ECRI is pleased to note that UNHCR has trained 35 newly assigned Armenian border guards who will be working at the airport and that it has given them leaflets on asylum in 6 languages to hand out to asylum seekers. However, it considers that more could be done to ensure that all border guards are adequately trained to receive asylum applications, especially as, according UNHCR, Armenia may, in the near future, face an increase in the number of asylum seekers.
57. The above-mentioned Migration Agency is the Armenian governmental body empowered to deal with asylum seekers and refugees. ECRI has been informed that when asylum seekers are interviewed by this body, they are assisted by the Bar Association of the RA (BARA) under UNHCR supervision. The Armenian authorities have further informed ECRI that an asylum seeker whose claim has been rejected by the Migration Agency can submit an appeal

²³ Ministry of Territorial Administration.

before the courts without paying the otherwise compulsory State fee and that he may also appeal to the Prime Minister.

58. Asylum seekers are housed in the Yerevan Reception Centre for the duration of their asylum procedure, which usually lasts three months. The living conditions in this Centre are, however, in need of substantial improvement. Furthermore, UNHCR has indicated to ECRI that neither management nor the guards at that Centre are trained in the rules and procedures concerning asylum seekers. ECRI is therefore concerned that if the number of asylum seekers does indeed increase, the Reception Centre in its current condition will be unable to adequately receive them. On this matter, ECRI has been informed that for the moment, the Armenian Red Cross provides non-ethnic Armenian refugees and asylum seekers with basic assistance and health care.
59. According to UNHCR statistics, four non-ethnic Armenian asylum seekers were granted refugee status in Armenia in 2005, bringing the total number of people in this category to 40. Moreover, there are currently 214 people who have received temporary protection and as of March 2006, 50 more were granted this form of protection. UNHCR has further informed ECRI that the number of asylum seekers in Armenia is increasing.
60. In its previous report, ECRI recommended that the Armenian authorities take more measures to further integrate into society ethnic Armenian refugees who came to Armenia during the Nagorno-Karabakh conflict.
61. The Armenian authorities have informed ECRI that ethnic Armenian refugees who arrived in Armenia as a result of the Nagorno-Karabakh conflict enjoy the same rights as Armenians with regard to social protection, health care, etc. Furthermore, the Armenian authorities have indicated to ECRI that in 2004, a programme for providing those who are still living in hotels, dorms and containers with accommodation was adopted; the Armenian authorities started implementing this programme in 2005. UNHCR has confirmed that ethnic Armenian refugees do not suffer from discrimination. They do however face difficulties in integrating into the employment sector as they are mostly Russian-speakers.

Recommendations :

62. ECRI recommends that people who have been provided with temporary asylum in Armenia be given financial assistance until they have found means to fend for themselves.
63. ECRI recommends that the Armenian authorities establish a program for providing all border guards with initial and on-going training on the 1951 Convention relating to the Status of Refugees, the Law on Refugees as well as all other international and internal legal norms concerning asylum seekers and refugees. ECRI also recommends that UNHCR and any other non-governmental organisation working on issues pertaining to refugees and asylum seekers be given access to points where people are likely to submit an application for asylum, including Yerevan airport.
64. ECRI recommends that the Armenian authorities improve the living conditions in the Yerevan Reception Centre.
65. ECRI recommends that the Armenian authorities continue their efforts to integrate into society refugees who fled the Nagorno-Karabakh conflict, especially in the employment and housing sectors. ECRI further recommends

that measures be taken to provide these refugees with Armenian language lessons in order to facilitate their integration into the Armenian labour market.

Access to public services

- Access to education

66. In its first report, ECRI considered that more resources and efforts should be spent on maintaining and promoting minority languages by, *inter alia*, training mother-tongue teachers, maintaining schools and developing textbooks.
67. The Armenian authorities have informed ECRI that measures have been taken to enable minorities to enter pedagogical institutions, such as scholarship programs for studying their national language or culture. The aim of this initiative is to facilitate the recruitment of teachers for minority schools. However, ECRI notes that these types of initiatives do not extend to other areas. On this point, minority representatives and NGOs have expressed the wish to have places allocated to members of their communities in higher education institutions.
68. The Armenian authorities have also indicated to ECRI that a textbook for Yezidi children²⁴ in some grades has been published and that one is currently being drafted for Assyrian pupils. Minority representatives and NGOs have informed ECRI that more textbooks and teachers are needed, especially in rural areas. ECRI has also been informed that textbooks used in Russian classes are published in the Russian Federation, although this country's syllabus differs from that of Armenia. Minority representatives have stated on this point that they have requested that the authorities provide them with modern Russian textbooks, but that there has been no follow-up given to this request.
69. The Armenian authorities have informed ECRI that schools provide teaching that allows national minorities to meet their cultural and linguistic needs. They have further stated that if minorities wish to be taught in their mother tongue, they must request it. Article 2 (2) of the Law on Language provides that national minorities may be educated in their mother tongue as long as they also learn Armenian. Some minority representatives have indicated, and the authorities have confirmed, that they would prefer that their children studied in Russian rather than in their minority language as they are mostly Russian speakers. However, as this is not, strictly speaking, the mother tongue of any minority other than the Russians, minority representatives have indicated that any endeavour to teach their children in Russian would not fall within Article 2 (2) of the Law on Language. ECRI has thus been informed that there is currently one private Russian school. On this point, ECRI notes that there are several schools in Yerevan and other regions which provide bilingual classes or classes where intensive Russian lessons are given. However, reports indicate that the methodology and textbooks used in those classes need some improvement.

Recommendations :

70. ECRI recommends that the Armenian authorities continue its programs for training minority teachers. ECRI also recommends that the Armenian authorities facilitate national minorities' access to higher education by, *inter alia*, providing for positive measures to that effect.

²⁴ For more information on the situation of Yezidi children in the school system, see "Specific issues" below.

71. ECRI recommends that the Armenian authorities continue to publish textbooks for minority children at all stages of the school system and that they do so consistently. ECRI further recommends that the Armenian authorities ensure that all textbooks published in minority languages correspond to the Armenian syllabus.
72. ECRI recommends that the Armenian authorities continue to provide bilingual and Russian classes. It recommends in this regard that the teaching methods and books used in those classes be refined and improved.

Jewish community

73. ECRI has been informed that the Armenian government has, in the last few years, increasingly taken swift and adequate measures against antisemitic incidents. An example of this diligence is the prosecutor's decision to prosecute, *proprio motu*, the previously-mentioned leader of an extreme right-wing organization for his antisemitic remarks.²⁵
74. Jewish representatives have indicated that a few antisemitic incidents have occurred, such as an attempt by some individuals to import antisemitic literature from the Russian Federation and Ukraine. ECRI is, however, pleased to note that the director of the printing house which had been contacted to print the material warned Jewish representatives of this attempt and that they were able to prevent the publication of this material. ECRI also welcomes the government's decision to confiscate antisemitic literature from a bookstore after representatives of the Jewish community brought this problem to its attention. ECRI has further been informed that the bookstore's owner was subsequently warned that he would be prosecuted for incitement to racial hatred should he reattempt to sell this material. Jewish representatives have also assured ECRI that antisemitic statements are very few and far between in Armenia.
75. ECRI has also been informed that in 2004, the Jewish community received a grant and organised, in cooperation with the Ministry of Education, seminars for training teachers to teach "Tolerance and the Lessons of the Holocaust" and that University students took part in these seminars. It has been indicated to ECRI that on the whole, the seminars were conducted in a positive atmosphere. Moreover, the Ministry of Education subsequently signed an agreement with representatives of the Jewish community by which the Holocaust would be taught in all schools.

Recommendations :

76. ECRI recommends that the Armenian authorities continue to combat antisemitism in all its forms by, *inter alia*, applying the relevant norms of the Criminal Code where necessary. ECRI recommends on this issue, that the Armenian authorities continue to work with representatives of the Jewish community. In this regard, ECRI draws the Armenian authorities' attention to its General Policy Recommendation No. 9 on the fight against antisemitism.

Vulnerable groups

- Yezidi community

77. For an analysis of the situation of Yezidi, see "Specific issues" below.

²⁵ See "Criminal law provisions" above.

- **National minorities**

78. In its first report, ECRI noted that a census was conducted in October 2001, but that the final results of this census were not yet available.
79. The Armenian authorities have informed ECRI that the results of the census were released in 2003 and that national minorities comprise approximately 3% of the population. According to the census, there are 40,620 Yezidi, 14,660 Russians, 3,409 Assyrians, 1,633 Ukrainians, 1,519 Kurds and 1,176 Greeks in Armenia. Moreover, representatives of the Jewish community have indicated to ECRI that there are 300 active families in Yerevan.²⁶ According to the Armenian authorities, other nationalities total 4,640 people.
80. In its first report, having noted that minority representation in the public and political life of the country was very limited, ECRI recommended that the Armenian authorities consider ways of improving this situation. ECRI further recommended that national minorities be more involved in decisions which affect their lives.
81. Minority representatives have informed ECRI that national minorities are still not represented in the National Assembly or the government. They have also indicated that political parties do not include minorities in their programmes and that minorities face difficulties in reaching the upper echelons of the country's political and public life. Considering the number of national minorities and the fact that they seldom live in areas where they are in the majority, minority representatives and NGOs have suggested that a quota system would be the best way of ensuring them political representation in the National Assembly. Minority representatives have also informed ECRI that the level of government consultation on decisions and measures affecting the lives of national minorities is not always satisfactory. They have pointed to the procedure used in connection with the above-mentioned draft law on national minorities as an example of this problem.²⁷
82. ECRI has been informed that the State has set aside a budget for promoting national minorities' culture. However, minority representatives have indicated to ECRI that their projects and initiatives are insufficiently funded. They have also informed ECRI that resources will be allocated to them in accordance with the number of people in a given community. ECRI notes in this regard that minorities who have a historic kin State are able to supplement the funding received from the Armenian government with aid provided by another country. However, those minority groups with no kin State cannot resort to such funding. ECRI understands that the previously mentioned draft law on national minorities initially addressed this problem and it hopes that a consensus will be reached on this point during further discussions between minority representatives and the government on this draft.

Recommendations :

83. ECRI reiterates its recommendation that the Armenian authorities find ways of ensuring that national minorities are represented in the country's political and public life.
84. ECRI recommends that the Armenian authorities continue to consult and involve

²⁶ For more information on the situation of the Jewish community in Armenia see "Jewish community" above.

²⁷ See "Constitutional provisions and all other basic provisions" above.

national minorities in decisions and initiatives which concern them and that they ensure a continued dialogue with minority representatives on this point.

85. ECRI further recommends that the Armenian authorities continue to provide funding to national minority initiatives and that they assess with minority representatives the needs of their communities in order to ensure that they are met. ECRI also recommends that the Armenian authorities ensure that national minorities who have no kin State are able to benefit from sufficient financial assistance.

Media

86. In its first report, ECRI encouraged the Armenian authorities to provide support and undertake initiatives aimed at improving minorities' access to various media. ECRI also recommended that the Armenian authorities consider increasing the time allowed for minority languages.
87. The Armenian authorities have informed ECRI that Article 59 of the Law on Television and Broadcasting provides that national minorities should be fully represented on television and radio channels, including through programmes in their mother tongue. On this point, minority representatives have informed ECRI that they are able to broadcast information, especially on television. However, they consider that minorities as a whole need to be better represented. On this point, the Armenian authorities have indicated to ECRI that the Ministry of Culture and Youth Affairs provides one million Armenian Drams (approximately 1,820 euros) for minority print media. However, some minority representatives consider that insufficient measures have been taken to promote their print media.

Recommendations :

88. ECRI recommends that the Armenian authorities continue to strive for greater minority presence both in the audiovisual and printed media in accordance with, *inter alia*, the Law on Television and Broadcasting. ECRI further recommends that measures be taken to examine and, as appropriate, address complaints made by minorities regarding their under-representation in the media.

Climate of opinion

89. ECRI is pleased to note that minority representatives consider that, in general, national minorities do not suffer from any hostility or a negative image on the part of the majority population. They have indicated to ECRI that any problems encountered are usually on a personal level and that they are few and far between. Some minority representatives and NGOs have, however, stated that there is sometimes a lack of co-operation by individual government officials when they are dealing with issues of particular concern to minorities.

Recommendations :

90. ECRI recommends that the Armenian authorities continue to foster good relations between national minorities and the rest of the population, by *inter alia*, providing public fora for intercultural exchanges and, as appropriate, awareness raising for public officials.

Conduct of law enforcement officials

91. In its first report, ECRI recommended that the Armenian authorities improve and intensify human rights training for police officers by, *inter alia*, focusing on issues of racism and racial discrimination. ECRI also recommended that an independent mechanism be set up to investigate and deal with complaints of police misconduct.
92. The Armenian authorities have informed ECRI that the Police Academy which trains police officers provides several hours of compulsory human rights training. They have moreover indicated that an educational centre which trains junior ranking policemen also provides them with training in human rights. However, these courses do not place a specific emphasis on racism and racial discrimination, although ECRI notes with approval that once a week, policemen receive on-the-job training on human rights and national minorities. ECRI is not aware of the number of hours allocated to this training or of whether it is also provided outside Yerevan, and in particular in regions with a large percentage of national minorities. The Armenian authorities have further informed ECRI that the human resources division of the police circulates annual guidelines on the conduct of police officers which always contain points on the protection of human rights, including issues pertaining to racism and racial discrimination. The authorities have also stated that the 2007 guidelines will include a special focus on racism.
93. As previously indicated, the Human Rights Defender has informed ECRI that complaints of police misconduct, especially during the investigation stage, comprise the bulk of his office's caseload. He also stated that his office usually only receives such complaints one or two years after the facts, possibly due to fear, which makes it difficult for it to take any measures. On this point, ECRI is pleased to note that the Human Rights Defender is currently able to carry out on-site visits to police stations. It further welcomes the Main Department for Criminal Investigation of the Police's assurances that it plans on signing a memorandum of understanding with the Human Rights Defender in order to cooperate with him on this question.
94. ECRI has no information on whether members of national minorities are disproportionately affected by police misconduct. The police have informed ECRI that very few complaints have been filed by national minorities for police misconduct. On this point, ECRI has received allegations according to which Yezidi face discrimination in the police force and that Yezidi policemen are disproportionately dismissed from their work.²⁸ There are reportedly very few of them remaining in the police force. ECRI has no information on whether any investigation has been carried out on this matter and the authorities have stated that no case of a police officer being fired on the basis of his/her ethnicity has been recorded. On this point, the police authorities have indicated to ECRI that the Internal Security Department, which is the body in charge of dealing with complaints of police misconduct, carries out an internal investigation whenever complaints are brought before it. The police have indicated to ECRI that others are involved in this body's investigations. However, ECRI considers that this body does not appear to fulfil all the criteria of an independent mechanism.
95. The police authorities have informed ECRI that the Prosecutor's office and the police can start an investigation *proprio motu* concerning racist crimes. The Prosecutor's office is also empowered to lead and follow an investigation even if

²⁸ For more information on the situation of the Yezidi minority, see "Specific issues" below.

it was started by the police. It thus appears that there is currently no special procedure for investigating racist crimes. Although ECRI notes that, for the moment, these types of crimes are relatively rare in Armenia, it nevertheless considers that the situation could change.

Recommendations :

96. ECRI reiterates its recommendation that the Armenian authorities provide basic and on-going training to the police on issues concerning racism and racial discrimination.
97. ECRI reiterates its recommendation that the Armenian authorities ensure that an independent mechanism for dealing with complaints of police misconduct is established. ECRI further recommends that the Armenian authorities investigate any allegations of racial discrimination in the police force and that they continue to ensure that a diversified police force is recruited and maintained.

Monitoring the situation

98. In its first report, ECRI considered that a reliable system of ethnic data collection should be established in order to identify any areas in which national minorities may be disadvantaged and to provide a basis for developing government strategies and policies for dealing with issues of concern to them.
99. ECRI has been informed that there is no statistical information on religion but that information based on the ethnic name and mother tongue of individuals does exist. It appears, however, that the Armenian authorities have not established a policy of ethnic data collection which would enable them to establish the existence, if any, of racial discrimination in areas such as employment, housing and education and to set up policies for addressing this problem.

Recommendations :

100. ECRI reiterates its recommendation that the Armenian authorities establish and implement a system of ethnic data collection to assess and redress any racial discrimination that may exist in the country, in full compliance with all relevant national laws as well as European and international regulations and recommendations on data protection and the protection of privacy, as stated in ECRI's General Policy Recommendation No.1 on combating racism, xenophobia, antisemitism and intolerance. The Armenian authorities should ensure that data collection is carried out with full respect for the anonymity and dignity of the people involved and in accordance with the principle of full consent. Furthermore, the data collection system on racism and racial discrimination should take into consideration the gender dimension, particularly from the viewpoint of possible double or multiple discrimination.

The Nagorno-Karabakh conflict

101. In its first report, ECRI called on the Armenian authorities to pursue a constructive dialogue with all the relevant international interlocutors with a view to solving the conflict.
102. ECRI notes that since the publication of its first report, several high-level meetings have taken place between the Armenian and Azerbaijani governments in order to find a peaceful solution to the Nagorno-Karabakh

conflict. ECRI welcomes these initiatives and hopes that they will lead to a swift and peaceful resolution of the conflict.

Recommendations :

103. ECRI recommends that the Armenian authorities continue to fulfil the undertaking given upon its accession to the Council of Europe to “pursue efforts to settle [the Nagorno-Karabakh] conflict by peaceful means only, to use its considerable influence over the Armenians in Nagorno-Karabakh to foster a solution to the conflict, and to settle international and domestic disputes by peaceful means and according to the principles of international law [...], resolutely rejecting any threatened use of force against its neighbours”.
104. ECRI further recommends that the Armenian authorities take measures to raise public awareness of the benefits of a peaceful solution to the Nagorno-Karabakh conflict and to foster mutual understanding.

II. SPECIFIC ISSUES

Yezidi community

105. In its first report, ECRI urged the Armenian authorities to closely examine the situation of the Yezidi community (which is a predominantly pastoral community), particularly with regard to issues of land privatisation, the adjudication of land, water and grazing disputes and the manner in which members of this community are treated by the police and the army, in order to resolve these matters.
106. ECRI notes that these issues are still current. According to some representatives of Yezidi, there is a degree of insecurity with regard to pasture lands and they are vulnerable to manifestations of ill will on the part of local authorities in allocating land. ECRI has further been informed that there is no adequate irrigation or water management in some villages with Yezidi residents although irrigation is also said to be a general problem.
107. On the question of land privatisation, there are questions about the proportion of Yezidi who have been given property rights to their land. On this matter, the government’s assertion that members of the Yezidi community did not fill in the requisite application forms in order to acquire these titles has been challenged by NGOs. Moreover, ECRI has been informed by minority representatives, and the authorities have confirmed that, in 2000, a new law provided for the privatization of land by auction. This system appears to have further disadvantaged the Yezidi community which is largely poor. ECRI encountered suggestions that, in exchange for good land, Yezidi received wasteland or unworkable land in the mountains.²⁹ ECRI, however, also heard arguments defending the present system of land privatisation and the amount of land allocated to members of the Yezidi community and pointing out that the courts provided a remedy for any disputes.

²⁹ Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe, *Honouring of obligations and commitments by Armenia*, Doc. 10027, Parliamentary Assembly, 12 January 2004, § 216.

108. The village of Zovuni³⁰, which has the largest Yezidi population (approximately 300 families) in Armenia, appears to be particularly problematic. ECRI has been informed that although the process of land privatization started years ago, Yezidi still do not have privatization certificates. On this point, it has been indicated to ECRI that in April 2006, the government assured them that they would receive these certificates. The Defender of Human Rights has further informed ECRI that in 2005, he received a complaint filed on behalf of 250 Yezidi from Zovuni village. The complaint is currently being examined and the Defender of Human Rights has stated that he will carry out an on-site investigation in this village. ECRI has also received reports of an inadequate sewage system and of generally bad living conditions in the part of Zovuni village inhabited by Yezidi.
109. Concerning the relationship between the police and members of the Yezidi community, ECRI has received allegations according to which problems remain. Yezidi appear, for example to be reluctant to seek police assistance when they need it. On this point, it has been indicated to ECRI that the issue has been brought to the authorities' attention and that many letters of complaints have been sent, with no results. Moreover, as previously indicated³¹, ECRI has received allegations of Yezidi police officers being disproportionately dismissed from the police force. However, the existence of any such problems is difficult to assess due to a lack of statistics. The authorities have informed ECRI that no complaints have been received concerning police misconduct and that there is no discrimination in the police force. ECRI has further received reports that Yezidi recruits have complained of being mistreated in the army. Here again, there is no corroborative statistical evidence.

Recommendations :

110. ECRI calls on the Armenian authorities to review the issues relating to Yezidi land, water and grazing rights and in the process to ensure a fair and equitable land acquisition procedure for members of the Yezidi community.
111. ECRI urges the Armenian authorities to investigate allegations of unfair land allocation and treatment against the Yezidi community in Zovuni. It also recommends that the Armenian authorities ensure that complaints raised by Yezidi in this village concerning their living conditions are duly examined.
112. ECRI strongly recommends that the Armenian authorities ensure that any allegations of police misconduct and mistreatment in the army against members of the Yezidi community are investigated and that those found guilty of such acts are punished. ECRI further recommends that a system of collecting disaggregated statistics be established in order to assess the existence, if any, of discriminatory behaviour or practice within the police and the army.
113. In its first report, ECRI felt that special attention should be paid to the situation of Yezidi children in the education system and recommended that the Armenian authorities investigate the matter and take the necessary corrective measures.
114. As previously indicated³², ECRI has been informed that a Yezidi textbook, which is designed for children until the third grade, has been published. The Armenian authorities have stated that they are considering improving currently

³⁰ Zovuni is located approximately 6 kilometres outside of Yerevan.

³¹ See "Conduct of law enforcement officials" above.

³² See "Access to public services" above.

available Yezidi textbooks and producing new ones. The Armenian authorities have also informed ECRI that consultations are frequently organised between school directors and the authorities to raise awareness on working with Yezidi parents. On this point, it has been reported to ECRI that there is a need for more Yezidi classes. Moreover, ECRI received information, which the authorities have confirmed, that some Yezidi children are harassed in class by fellow pupils and that this has resulted in their parents requesting separate classrooms.

115. It has also been brought to ECRI's attention that as Yezidi lead a semi-nomadic lifestyle, their children tend to leave school in April to move with their parents to the mountain pasture where they take part in various household tasks. The children then return to school in autumn. As a result, they are all placed in separate classes in order to catch up. According to the Armenian authorities, although Yezidi leaders had initially agreed to the children being placed in the same class as the others in order to improve their chances of catching up, they appear to have changed their mind. ECRI is unaware of the reasons for this decision and of whether any measures have been taken to enter into a new dialogue with them on this subject. The authorities have also indicated to ECRI that they try to offer Yezidi children opportunities to study in the schools when they are in the mountains. ECRI is, however, not aware of whether this policy is consistently implemented. ECRI has also been told that there is a tendency for some Yezidi children to be withdrawn permanently from school at a relatively early age.
116. As previously indicated³³, the Armenian authorities have taken measures to train and recruit more teachers within minority groups in general and among Yezidi in particular. Yezidi thus benefit from positive measures which enable them to have easier access to pedagogical schools to learn the Yezidi language and literature. However, according to the authorities, Yezidi have expressed little interest in these measures as only two members of this group applied for scholarships for these subjects two years ago. ECRI has no information on the reasons for the low-turn out and is unaware of whether the causes for this apparent lack of interest have been examined. On this point, the authorities have indicated to ECRI that Yezidi prefer to study other subjects and have stated that in spring 2005, they met with 15 Yezidi Sheiks to request them to encourage members of their communities to study the Yezidi language and literature. ECRI has no information on the outcome of this request.

Recommendations :

117. ECRI recommends that the Armenian authorities continue to publish Yezidi textbooks for children at all levels of the school system and that they work closely with members of the Yezidi community on this matter.
118. ECRI recommends that the Armenian authorities take measures to combat any harassment suffered by Yezidi children by, amongst others, raising teachers', parents' and children's awareness of the gravity of this type of behaviour and by ensuring that appropriate action is taken towards children involved in these acts. ECRI further recommends that the Armenian authorities continue their dialogue with Yezidi representatives on the best manner of ensuring an equal, all inclusive access to education for Yezidi children.
119. ECRI also recommends that the Armenian authorities continue to ensure that

³³ See "Access to public services" above.

solutions are found for providing Yezidi children with educational opportunities which fall within their lifestyle.

120. ECRI recommends that the Armenian authorities continue to take measures to train and recruit minority teachers in general and from the Yezidi community in particular. It recommends in this regard, that the Armenian authorities carry out awareness-raising measures to that end and that they continue their dialogue with Yezidi representatives on this question.
121. In its first report on Armenia, ECRI urged the Armenian authorities to ensure that good relations were maintained between different minorities, especially where they may be under the impression that they were competing for the allocation of resources.
122. ECRI notes that there is a divergence between some Yezidi and Kurd representatives on whether these communities are separate and distinct. On this point, in May 2001, the National Assembly passed a resolution recognizing the Yezidi language as a separate language and in the previously mentioned 2001 census³⁴, Yezidi were mentioned as a distinct national minority. However, ECRI hopes that specific measures will be taken by the Armenian authorities to provide fora where members of the Yezidi and Kurdish communities can engage in a dialogue in order to mutually accept and appreciate each others' differences.
123. ECRI is pleased to note that the relationship between Yezidi and their fellow Armenians is generally good and that Yezidi consider that they do not suffer from stereotypes. It has, however, been reported to ECRI that Yezidi feel neglected by the authorities and that there are situations in which they feel that they do not receive adequate service from them.

Recommendations :

124. ECRI recommends that the Armenian authorities investigate and address any complaints of lack of interest or inadequate service provision by the authorities where the Yezidi community is concerned and that they keep the issue under review.

Law on Alternative Service

125. In its first report, ECRI noted that upon accession to the Council of Europe, Armenia committed itself to adopting a new law on alternative service that would enable conscientious objectors to choose to perform non-armed military service or alternative civilian service. ECRI therefore recommended that the Armenian authorities pass such a law in accordance with its commitments.
126. The overwhelming majority of conscientious objectors in Armenia are Jehovah Witnesses. They are thus disproportionately affected by the issue of alternative service. On this point, the Armenian Parliament passed, on 1 December 2003, a Law on Alternative Service which took effect on 1 July 2004. This law provides for an alternative military service of 36 months and an alternative civilian service of 42 months. ECRI notes that alternative civilian service, which lasts longer than actual military service, is carried out under military supervision. ECRI has further been informed that directors of institutions (which include hospitals) where conscientious objectors carry out their duty receive their instructions about the conditions and modalities of their service from the

³⁴ See "Vulnerable groups" above.

military. Moreover, conscientious objectors are sent to military hospitals for medical treatment, they are largely confined to their place of service and required to wear military uniform. They also receive assignments and changes of assignment which are determined by the military.

127. ECRI has been informed that there are currently 48 Jehovah's Witnesses who have either been imprisoned or are on remand for refusing to participate in the above-mentioned alternative civilian service or for ceasing to participate in it. ECRI wishes to point out that the aim of the Law on Alternative Service was to prevent conscientious objectors from being imprisoned for refusing to carry out military service. However, as a number of people are currently in prison for leaving or refusing to join the alternative civilian service due to the military influence on this service, the aim of the Law on Alternative Service has unfortunately not been met.

Recommendations :

128. ECRI recommends that the Armenian authorities review both the substance and implementation of the Law on Alternative Service to ensure that it fulfils its commitments to the Council of Europe by providing a genuine opportunity for conscientious objectors to perform an alternative civilian service.
129. ECRI further recommends that those who have refused to perform the alternative civilian service not be prosecuted and imprisoned, but that they be given an opportunity to perform their duty to society in conditions which are in line with their conscientious objection to military service.

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This bibliography lists the main published sources used during the examination of the situation in Armenia it should not be considered as an exhaustive list of all sources of information available to ECRI during the preparation of the report.

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APPENDIX

The following appendix does not form part of ECRI's analysis and proposals concerning the situation in Armenia

ECRI wishes to point out that the analysis contained in its second report on Armenia, is dated 30 June 2006, and that any subsequent development is not taken into account.

In accordance with ECRI's country-by-country procedure, ECRI's draft report on Armenia was subject to a confidential dialogue with the Armenian authorities. A number of their comments were taken into account by ECRI, and integrated into the report.

However, following this dialogue, the Armenian authorities requested that the following viewpoints on their part be reproduced as an appendix to ECRI's report.

***Observations and Comments of the Government of Armenia
concerning the ECRI report on Armenia***

The Government of Armenia welcomes the continued dialogue with ECRI and uses this possibility to submit some comments as concerns to its third report regarding the points where, as Government believes, there is a further need for clarifications or additional information. In order to better reflect the current situation and developments in the field of combating racism and promoting tolerance and non-discrimination in Armenia the following remarks relating to individual paragraphs of the Report are made.

P. 11-15

The Government continues to closely cooperate with the representatives of national minorities to overcome the difficulties and disagreements in order to ensure the development of an inclusive legislation which would satisfy all the minority groups. In its work the drafting group strongly follows the principle of continued dialog and of achieving a broadest possible agreement.

The national minorities have been actively involved in the elaboration of the draft law and most of their comments were incorporated in the text. However, understandably, the positions of the minority groups varied and sometimes were even mutually exclusive, and the drafting group made every effort to try to find compromise wordings. Such compromise solutions could not, for obvious reasons, satisfy all the representatives of all the minority groups.

P 16, 18 and 19.

The Report has taken in the comments of the Armenian Government with regards the constitutional amendments, but we would like to stress that process of relinquishing the Armenian citizenship takes certain time and the delays do not affect representatives of minorities but have impact on all citizens.

In this regard, the Government would also like to ensure the Commission that in elaborating the legislation on dual citizenship, the drafting commission will be guided by the principles and provisions of the Constitution (in particular by Article 14(1)) and cannot propose or adopt any legislation which would be in violation of such provisions.

P52.

The Law on Refugees and the Law on Political Asylum differ in the field of application and in their goals. They clearly define the difference between a refugee and a political asylum seeker. Besides, the Law on Political Asylum stipulates that the Law does not apply to those foreign nationals and persons without citizenship, who have acquired the refugee status or any other status as stipulated by law.

P 56-58.

Armenia received a significant number of refugees during the escalation of the situation in the Middle East in summer 2006. The existing capacities and the support from the communities and families, allowed to receive and provide shelter to all those who applied for asylum and assistance.

However, if inflow of refugees increases, Armenia would need to set up a more efficient government body, in which regard the Government might need consulting and guidance from relevant international bodies.

The Government would also highly appreciate if in its comments and recommendations the Commission takes into account the Government's limited resources.

P 107

Pursuant to 1991 law on Rural and Rural Collective Farms and the Land Code, Armenia privatized its agricultural lands, livestock and equipment. Around 460 thousand hectares of the total 1.391 thousand hectares of agricultural land has been privatized as of January 2001. The allocation of land among villages was based on the lands owned by former kolkhoz and sovkhoz farms and on the place of residence.

The allocation was done as per 3 members of the household, and Yezidi and Kurdish communities, having larger households, received larger land slots. The average size of land slot was estimated at 1.4 hectares, while in the case of Yezidi families I can reach from 7 to 10 hectares.

The other problem, however, is the scarcity of land resources in Armenia, especially for animal husbandry, and the animal breeding communities sometimes do not have enough land slots to satisfy their needs. But the problem is common for all communities and ethnic groups, Armenian or non-Armenian in origin.

P108.

The village of Zovuni is only one among the mostly Yezidi populated villages, at least 7 or 8 other villages have a very dense Yezidi population. However, the root of the problem lies in the fact that the Yezidi households of Zovuni did not take part in the privatization of the land, hence does not possess certificate of ownership.

The Government has decided to grant them ownership certificate for plots attached to the houses and the real estates. This process is financed through budget allocations because the Yezidi community continues to refuse to pay for the certificates at the State Cadastre. In fact the Government has engaged in a positive discrimination of the Zovuni Yezidi community and made an exception from its own regulations and policies.

P126.

The Report refers to the complaint of the conscientious objectors about being required to wear military uniform. Such complaints are groundless since Article 16 of the Law on Alternative Service clearly defines the special uniform for those opting for alternative service and the regulations for wearing it. Such uniform can under no circumstances be of military nature.

