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## The honouring of obligations and commitments by Armenia

### Report<sup>1</sup>

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

Co-rapporteurs: Mr Kimmo KILJUNEN, Finland, Socialists, Democrats and Greens Group, and Ms Boriana ÅBERG, Sweden, Group of the European People's Party

### Summary

In this report, the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) assesses the honouring of obligations and commitments by Armenia. It commends the country for pursuing an ambitious reform agenda in spite of a complex international environment challenging the stability of the country.

The Monitoring Committee welcomes the reforms of the electoral legislation and the holding of three consecutive elections without serious irregularities and consider that the objective to hold genuinely democratic elections has to a large extent been achieved. At the same time, it regrets that these improvements have not helped to reduce the political polarisation and call on the majority and opposition parties to explore ways to create cross-party consensus.

The committee welcomes the continuous efforts to improve the independence of the judiciary and to fight systemic corruption and encourages Armenia to pursue its efforts to further bring legislation, institutions and practice in line with European standards in the areas of human rights, the rule of law and democracy. It decides to pursue the monitoring procedure and will attach particular importance to the implementation of reforms regarding the justice system, and in the fields of media and freedom of expression.

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1. Reference to Committee: Resolution 1115 (1997).



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## A. Draft resolution<sup>2</sup>

1. The Parliamentary Assembly commends Armenia for its continuous commitment to democratic development in spite of the considerable security challenges it is facing. Confronted with a complex international environment and challenges to the stability of the country, Armenia has been pursuing an ambitious reform agenda.
2. The Assembly has been following the developments in the country since the adoption of its [Resolution 2427 \(2022\)](#) “The functioning of democratic institutions in Armenia”. It refers to the Information Note ([AS/Mon\(2023\)05rev](#)) on the situation in the Lachin corridor and on the border between Armenia and Azerbaijan examined by the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) in March 2023 which called for immediate action and the cessation of the unlawful and illegitimate obstruction of the Lachin corridor, and to its [Resolution 2508 \(2023\)](#) “Ensuring free and safe access through the Lachin Corridor” in which it stressed that “the current situation is not sustainable and may well lead to the Armenian population being forced to leave their homes and communities”.
3. In September 2023, the Azerbaijani army entered the part of Nagorno-Karabakh remaining under the protection of Russian peacekeeping troops. Fearing the consequences, the vast majority of the population of the region fled to Armenia in a matter of days. The Assembly recalls its [Resolution 2517 \(2023\)](#) and [Recommendation 2260 \(2023\)](#) “The humanitarian situation in Nagorno-Karabakh”, in which it strongly regretted that almost the entire Armenian population of the region – more than 100 600 persons – had left its ancestral homeland and fled to Armenia. The Assembly also takes note of the “Observations on the Human Rights Situation of People affected by the Conflict between Armenia and Azerbaijan over the Karabakh region” issued in January 2024 by Dunja Mijatović, the then Council of Europe Commissioner of Human Rights, in which she concluded that the Armenians of Nagorno-Karabakh “found themselves abandoned without any reliable security or protection guarantees by any party and that for them at that moment leaving home was the only reasonable option available”.
4. The fate of the Armenian population of Nagorno-Karabakh has provoked extremely strong reactions in Armenia. Some protests organised by opposition parties calling for the resignation of Mr Pashinyan’s government turned violent as protesters tried to storm the government buildings. The Assembly expresses its relief that clashes with the police forces during these events brought no casualties, in sharp contrast with the 10 deaths that had occurred in March 2008, as deplored in [Resolution 1837 \(2011\)](#) which called, *inter alia*, for the introduction of measures to avoid similar situations in the future.
5. The authorities of Armenia have remained engaged in the negotiations of a peace treaty with Azerbaijan, in accordance with their commitment to settle international disputes by peaceful means.
6. The Assembly commands the ratification by Armenia of Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances (ETS No. 187), including for crimes committed in times of war and imminent threat of war.
7. The Assembly also welcomes the ratification by Armenia of the Rome Statute of the International Criminal Court.
8. With regard to the long-standing concerns relating to elections in Armenia, the Assembly commends the authorities for the inclusiveness and transparency of the legislative process that has led to the reform of the Electoral Code. It notes with satisfaction that the amendments to the Electoral Code and related legislation are in accordance with many of the recommendations of the European Commission for Democracy through Law (Venice Commission) and the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE/ODIHR), while regretting that some of these recommendations still remain unaddressed.
9. The Assembly welcomes the holding of the elections to the Yerevan city council in September 2023, which in spite of being held in a period of extreme tension around the situation in Nagorno-Karabakh, met democratic standards as acknowledged by [Recommendation 501 \(2023\)](#) of the Congress of Local and Regional Authorities of the Council of Europe. While the strengthening of the electoral legal framework and the reinforcement of the safeguards to eliminate the possibility of election fraud were welcomed by the

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2. Draft resolution adopted unanimously by the committee on 17 May 2024.

Congress, the authorities were further invited to, *inter alia*, implement existing legislation and regulations related to the misuse of public resources, strengthen oversight and control mechanisms with regard to political party and campaign financing, and strengthen the participation of women.

10. The 2023 elections in Yerevan have been the third consecutive elections, after the 2018 and 2021 national elections, which have been assessed by the international community, and accepted as such by national stakeholders, as being free of the irregularities that had tainted many earlier elections. In consequence, the Assembly considers that the objective to hold genuinely democratic elections which win the confidence of the Armenian people has to a large extent been achieved.

11. However, in order to further improve the electoral process in Armenia, the Assembly:

11.1. invites Armenia to implement the outstanding recommendations regarding the electoral framework, maintaining throughout this process the inclusiveness and transparency of the reform process;

11.2. draws the particular attention of the authorities to the need for implementation of the regulation on the misuse of public resources and the financing of political parties.

12. The Assembly regrets that the improvement in the electoral framework has not led to a better co-operation and mutual respect between the ruling majority and the opposition. All electoral observation missions have reported the excessive polarisation and the stigmatisation of political opponents from all sides. Mutual tolerance and acknowledgement of the legitimacy of political opponents are necessary elements of democratic societies and cement the legitimacy of democratic institutions.

13. The Assembly considers that in the context of deep polarisation, it is essential to protect the independence of collegial bodies representing public interest from undue political pressure. In this regard, the Assembly refers to its [Resolution 2537 \(2024\)](#) "Relationship between the parliamentary majority and the opposition in a democracy" and the Venice Commission Checklist on "Parameters on the Relationship between the Parliamentary Majority and the Opposition in a Democracy". The appointment procedure to top positions outside the government or to independent collegial bodies and agencies should be depoliticised and, to the maximum extent possible, based on a cross-party consensus. Mechanisms in place should reduce the dominance of the parliamentary majority within such collective bodies or limit the relevance of the affiliation of the officeholders with the governing party or coalition. In this regard, the Assembly expresses its concerns regarding the potential detrimental effects of the possibility for a party to appoint candidates single-handedly.

14. As a consequence, the Assembly:

14.1. encourages all political stakeholders to enter into dialogue about how to improve the existing rules on the relationship between the parliamentary majority and the opposition;

14.2. calls on the opposition to refrain from boycotting the work of the National Assembly and recalls that an organised boycott of the work of parliament by the opposition is permissible only in rare and extreme circumstances where legitimacy of parliament is questioned;

14.3. calls on the majority in parliament to exert self-restraint in the use of qualified majority decision and recalls that when the ruling coalition or party enjoys a large majority, it bears therewith a great responsibility to observe and safeguard the principles governing the smooth operation of democratic institutions, including the rights of the opposition;

14.4. invites the political parties represented in the National Assembly to find cross-party consensus for the appointments which require a two-third majority, taking into account the Venice Commission Checklist on "Parameters on the Relationship between the Parliamentary Majority and the Opposition in a Democracy"; and to introduce soft regulations or review the rules of the National Assembly in a consensual manner when necessary.

15. The Assembly commends the reforms aimed at safeguarding the independence of the judiciary and notes with satisfaction the openness of the Armenian authorities to a genuine dialogue with the Council of Europe and their continued effort to improve the system of judicial governance in line with European standards.

16. The Assembly regrets the still widespread perception that disciplinary procedures are being abused against judges in order to intimidate them or influence their decisions. It welcomes the Minister of Justice's request for a Venice Commission's opinion on a concept paper concerning reform of the Ethics and Disciplinary Commission of the General Assembly of Judges, which illustrates the political will to co-operate with Council of Europe bodies on this matter.

17. With a view to strengthening the independence of judges, the Assembly:

17.1. encourages the Armenian authorities to pursue the reform of the Ethics and Disciplinary Commission of the General Assembly of Judges; on the basis of the joint Opinion prepared by the Venice Commission and the Directorate General Human Rights and Rule of Law (DGI) of the Council of Europe;

17.2. calls on the Armenian authorities to ensure the political neutrality of the Supreme Judicial Council and to consider introducing restrictions for politicians to become the Supreme Judicial Council members;

17.3. hopes that once the reform of the Ethics and Disciplinary Commission of the General Assembly of Judges is completed and has proved its efficiency, the power of the Ministry of Justice to initiate disciplinary proceedings will cease.

18. The Assembly commends the real determination showed by the authorities to fight the problem of systemic corruption, evidenced by the creation of two specialised anti-corruption bodies and specialised anti-corruption courts, the reform of the Police, the introduction of integrity checks for judges, prosecutors and persons holding autonomous positions in investigative bodies. The Assembly notes that the draft constitutional and legislative measures are currently under discussion in parliament and encourages the authorities to pursue these efforts.

19. With regard to freedom of information, the Assembly welcomes the decision to present a new draft law “On Freedom of Information and Public Information” and the consideration given to public consultations on that draft; it encourages the authorities to pursue a comprehensive reform in the field of media, including a review of the 2020 law “On audiovisual media” in order to ensure alignment with Council of Europe standards on freedom of expression.

20. The Assembly welcomes the abolition of the criminalisation of defamation, in accordance with [Resolution 2427 \(2022\)](#), but expresses its concerns regarding the allegations of the selective use of the Criminal Code provisions on hate speech to target bloggers and activists opposing the ruling party. The Assembly reiterates its call for a uniform and restrictive application of the legislation on penalties for insult and defamation by the prosecutor’s office, to ensure that it is not used in an arbitrary manner against individuals and the media.

21. The Assembly acknowledges the progress made by Armenia towards compliance with its obligations and commitments, in particular in the field of electoral law. It decides to pursue its monitoring procedure and will attach particular importance to the implementation of reforms regarding the justice system, and in the fields of media and freedom of expression. In particular, it will follow the implementation of the co-operation programmes related to the themes contained in the Council of Europe Action Plan for Armenia 2023-2026.

22. The Assembly invites the authorities of Armenia to translate this resolution and the explanatory memorandum into the national language and to make this translation public.

## **B. Explanatory memorandum by Mr Kimmo Kiljunen and Ms Boriana Åberg, co-rapporteurs**

### **1. Introduction**

1. Armenia became the 42nd member State of the Council of Europe on 25 January 2001. On acceding to the Organisation, it accepted the obligations incumbent on all member States under Article 3 of the Statute: compliance with the principles of pluralist democracy and the rule of law as well as respect for human rights and fundamental freedoms of all persons placed under its jurisdiction. Moreover, Armenia has entered into, and has agreed to honour, a number of specific commitments which are listed in Parliamentary Assembly Opinion 221 (2000). Armenia has signed 83 treaties of the Council of Europe, of which 70 have been ratified.

2. The country has benefitted from co-operation programmes of the Council of Europe, including support for democratic reforms since 2012. Programmes backed by the European Union were implemented to assist the country in complying with Council of Europe standards. Voluntary contributions by Council of Europe member States allowed to enhance the application of human rights standards in the armed forces, supporting judicial reform and the establishment of a probation service, supporting constitutional reform, consolidating local democracy, decentralisation and good governance, combating domestic violence and violence against women.

3. Armenia has also been subject to a Parliamentary Assembly monitoring procedure from its accession, resulting in the adoption of 12 resolutions. The most recent report on Armenia's obligations and commitments was presented to the Assembly in 2007 and six resolutions on the functioning of democratic institutions in Armenia were adopted from 2008 to 2022. This emphasis on democratic institutions reflects the very deep institutional and political changes which occurred in Armenia since 2007, marked notably by the important constitutional reform of 2015 and the 2018 "Velvet Revolution".

4. The last debate on the honouring of obligations and commitments by Armenia took place in January 2022, following which Assembly adopted Resolution 2427 (2022). The Assembly welcomed the fact that Armenia had made marked progress in its democratic development since 2018 and had successfully emerged from the political crisis triggered by the outcome of the Nagorno-Karabakh conflict.

5. Since then, serious developments occurred, as the conflict over the situation in Nagorno-Karabakh escalated dramatically. The population of Nagorno-Karabakh has been cut-off from Armenian mainland and left in extremely dire humanitarian conditions by Azerbaijan. In February 2023, we visited Armenia and an information note on the situation on the border between Armenia and Azerbaijan and in the Lachin corridor was published. In 2023, the Assembly adopted Resolution 2517 (2023) and Recommendation 2260 (2023) "The humanitarian situation in Nagorno-Karabakh", Resolution 2508 (2023) "Ensuring free and safe access through the Lachin Corridor" and Resolution 2391 (2021) "Humanitarian consequences of the conflict between Armenia and Azerbaijan / Nagorno-Karabakh conflict", calling on Armenia and Azerbaijan to honour the commitment taken upon accession to settle the conflict in Nagorno-Karabakh by peaceful means only. In September 2023, the Azerbaijani military forcefully entered the part of Nagorno-Karabakh under protection of Russian peacekeeping troops. As a result, almost all the population of the region fled to Armenia in a matter of days. In its Resolution 2517 (2023) the Assembly strongly regretted that almost the entire Armenian population of the region had left its ancestral homeland and fled to Armenia, certainly because of the genuine threat of physical extinction, the long-standing policy in Azerbaijan of hatred towards Armenians and the lack of trust regarding their future treatment by the Azerbaijani authorities. It further noted that: "[t]he factual situation today, with the massive exodus of almost the entire Armenian population from this region, has led to allegations and reasonable suspicions that this amounts to ethnic cleansing."

6. From 6 to 8 November 2023, we carried out a fact-finding visit in Yerevan, Yeraskh and Artashat during which we met the Prime Minister Mr Nikol Pashinyan, several members of the government, parliamentarians from majority and opposition factions, members of the judiciary, members of independent institutions and representatives of civil society organisations.

7. During this visit, we also met refugees from Nagorno-Karabakh in Yerevan and Artashat. We were struck by their courage and their dignity. The families we met fled at very short notice, leaving behind almost everything they owned, because they were fearing for their lives. For some, it was the third time they had to flee because of this conflict. Most of them arrived in Armenia in a state of exhaustion, hunger and mental and physical distress worsened by the consequences of the lack of food, medicine and basic goods that they had suffered during the nine preceding months. The details of the circumstances in which these people left their homes can be found in the "Observations on the Human Rights Situation of People affected by the Conflict between Armenia and Azerbaijan over the Karabakh region" issued by the Commissioner of Human Rights of the Council of Europe.

8. On returning from Armenia, we stated that: “to ensure the sustainability of this assistance and help to all those who want to settle permanently in Armenia, the country urgently needs the solidarity of all Europeans.” We welcome the decision from the Council of Europe to launch a comprehensive response package to the influx of refugees and reiterate our call to all Council of Europe members States to provide long-term assistance to Armenia in order to face the socio-economic challenges posed by this massive influx of refugees.

9. The main purpose of the visit was however to carefully assess the numerous developments that have occurred since January 2022 regarding the functioning of democratic institutions, the rule of law and respect for human rights. In this timeframe, the Council of Europe monitoring bodies have issued several documents of importance regarding the honouring of obligations and commitments by Armenia: the European Commission for democracy through law (Venice Commission) has released five advisory opinions; the Group of States against Corruption (GRECO) has adopted a fourth report on the implementation of its recommendations on prevention of corruption in respect of members of parliament, judges and prosecutors<sup>3</sup> and the initial evaluation report on preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies,<sup>4</sup> the European Commission against racism and intolerance (ECRI) released its sixth monitoring cycle report on Armenia; the Commissioner for Human Rights made a visit to Armenia and Azerbaijan and issued “Observations on the Human Rights Situation of People affected by the Conflict between Armenia and Azerbaijan over the Karabakh region”.<sup>5</sup> Six groups of judgments of the European Court of Human Rights that are pending implementation are still under enhanced supervision, one was judged more than 10 years ago and eight were judged between ten and five years ago.

10. Moreover, the Council of Europe Action Plan for Armenia 2023-2026 was officially launched on 16 February 2023. Under this Action Plan, the Council of Europe and the Armenian authorities have agreed to carry forward jointly, through co-operation programmes, reforms aiming to enhance the effectiveness of the European Convention on Human Rights (ETS No. 5, “the Convention”) system and the protection of human rights in the biomedical field as well as the freedom of the media; to combat violence against women and improve children’s rights; to combat discrimination and promote the rights of minorities; to ensure respect for social rights; to enhance the independence and efficiency of justice; to fight corruption and cybercrime; to improve the healthcare conditions in prisons and enhance the role of probation in the judicial system; and to promote good governance and local government reforms.

11. The information note that we presented following the country visit was declassified by the Monitoring committee in January 2024.<sup>6</sup> A preliminary draft report was sent to all factions in the Armenian Parliament in order to receive their comments. We received contributions from the ruling majority and the governmental authorities and from the Hayastan and Pativ Unem factions. They provide contrasted views on some of the topics discussed in this report and give a good insight on the debates in the Armenian political sphere. This report has been prepared on these bases and on the reports from the aforementioned Council of Europe monitoring bodies, international and civil society organisations, as well as on the extensive and regular exchanges with various majority and opposition members of the Armenian National Assembly, independent State agencies, civil society organisations.

## 2. General context

12. In 2022 and 2023, the consequences of the conflict with Azerbaijan, the conditions for a lasting peace that would allow a normalisation of relations with Azerbaijan and Türkiye and the situation of Armenian population in Nagorno-Karabakh were the main focus of the public debate in Armenia. Nevertheless, domestic issues also gathered much attention. The government of Mr Pashinyan maintains its will to reform Armenia following the “Velvet Revolution”, in the sense of democracy, respect for rule of law and human rights. The situation of the judiciary, its independence and its perceived corruption and politicisation, are the subject of very intense political debates.

13. The last parliamentary elections were snap elections called in June 2021 following protests over the 9 November 2020 ceasefire agreement. The elections gave a large majority to the incumbent Prime Minister’s party: almost 54% of the votes cast went to his Civil Contract party (71 seats). The Hayastan Alliance came

3. [GrecoRC4\(2023\)6](#), 3 April 2023.

4. [GrecoEval5Rep\(2023\)2](#), 18 April 2024.

5. [CommHR\(2024\)1](#), 12 January 2024.

6. [AS/Mon\(2024\)01rev](#), Information note following the visit in Armenia from 6 to 8 November 2023.

second with 21% of the vote (29 seats), followed by the Pativ Unem Alliance which won 7 seats (5%). As a result, the political legitimacy of Mr Pashinyan was strengthened and his party, Civil Contract, has a two-third majority in the National Assembly.

14. After the elections, Mr Pashinyan announced a major reform of the armed forces, the purchase of modern weapons from the Russian Federation, closer ties with the Collective Security Treaty Organisation (CSTO), of which Armenia is a member, and the deployment of Russian border guards on parts of the Armenian-Azerbaijani border. In January 2022, we reported that in Armenia “there was a general political consensus that the Russian Federation is the first and only guarantor of the security that Armenia needs and that the country should strengthen its ties with the Federation.”<sup>7</sup> One of the most important Russian armed forces’ bases outside of the Federation is located in Gyumri, in the north-west of the country. The ceasefire agreement with Azerbaijan gave the Russian Federation a critical role for the protection of the Armenian population in Nagorno-Karabakh by providing that: “peacemaking forces of the Russian Federation ... shall be deployed along the contact line in Nagorno-Karabakh and along the Lachin Corridor.”

15. The military aggression of Ukraine by the Russian Federation had major consequences on the relations with the Russian Federation. In March 2022, Armenia did not vote against the United Nations General Assembly’s resolution condemning the Russian invasion. The Russian troops stationed in the country and the Russian border guards did not deter hostile military actions by Azerbaijan. In September 2022, a full-scale Azerbaijani offensive occurred along the border, involving artillery, heavy weapons and drones and resulting in 204 Armenian servicemen being killed or missing and 80 Azerbaijani fatalities. As a result of those clashes, the Azerbaijani army occupied important strategic positions and heights on the territory of Armenia, including those overlooking the main road linking the capital Yerevan to the Iranian border.<sup>8</sup>

16. Following this outbreak of violence, the President of Azerbaijan and the Prime Minister of Armenia met in Prague on 6 October 2022 at the invitation of the President of the French Republic and the President of the European Council. Armenia and Azerbaijan confirmed their commitment to the Charter of the United Nations and the Alma Ata 1991 Declaration through which both recognise each other’s territorial integrity and sovereignty.<sup>9</sup> The opposition in Armenia accused Mr. Pashinyan of implicitly recognising Azerbaijan’s sovereignty over Nagorno-Karabakh. During the meeting, Armenia agreed to facilitate a civilian EU mission alongside the border and Azerbaijan agreed to co-operate with this mission as far as it is concerned.<sup>10</sup> The EU Monitoring Capacity in Armenia became operational on 20 October 2022.<sup>11</sup>

17. On 12 December 2022, a group of people from Azerbaijan started to occupy the “Lachin corridor”, the only road linking Armenia with Nagorno-Karabakh, contrary to the provisions of the ceasefire agreement. On 21 December 2022, the European Court of Human Rights indicated that Azerbaijani authorities should “take all measures that are within their jurisdiction to ensure safe passage through the ‘Lachin Corridor’ of seriously ill persons in need of medical treatment in Armenia and others who are stranded on the road without shelter or means of subsistence.” To clarify the situation on the ground, on 18 February 2023, we went to the border on the Armenian side of the Lachin road.<sup>12</sup> On the basis of the findings we made, we called<sup>13</sup> “for the immediate cessation of the unlawful and illegitimate obstruction of the Lachin corridor.” On 22 February 2023, in provisional measures, the International Court of Justice ordered: “The Republic of Azerbaijan shall ... take all measures at its disposal to ensure unimpeded movement of persons, vehicles and cargo along the Lachin corridor in both directions.”<sup>14</sup> On 23 April 2023, Azerbaijani forces established a checkpoint on the Lachin corridor near the border with Armenia. The forced isolation of the population in Nagorno-Karabakh worsened.

18. On 14 May 2023, after one of several meetings organised in Brussels between President Aliyev and Prime Minister Pashinyan, the concluding remarks mentioned both leaders’ “unequivocal commitment to the 1991 Almaty Declaration and the respective territorial integrity of Armenia (29 800 km<sup>2</sup>) and Azerbaijan (86 600 km<sup>2</sup>).” This statement was a major milestone in the path towards a peace treaty as it explicitly recognised Azerbaijan’s sovereignty over the territory of Nagorno-Karabakh. The rest of the statement called for unblocking transport and economic links in the region, underlined the importance of stepping up work on addressing the fate of missing persons and on demining, and of guaranteeing the rights and security of

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7. [Doc. 15432](#), para. 59.

8. [AS/Mon\(2023\)05 rev.](#)

9. [European Council](#) (7 October 2022).

10. *Ibid.*

11. [www.eeas.europa.eu/eeas/eu-monitoring-capacity-armenia\\_en](http://www.eeas.europa.eu/eeas/eu-monitoring-capacity-armenia_en).

12. We asked the authorisation to access Nagorno-Karabakh to Azerbaijani authorities, who denied it.

13. [Statement](#) by the co-rapporteurs (24 February 2023).

14. [International Court of Justice](#) (17 November 2023).

Armenians living in the former Nagorno Karabakh Autonomous Oblast.<sup>15</sup> Mr Pashinyan has been severely criticised by opposition parties in Armenia for his approach to these negotiations, and street protests and disobedience movements have been a common feature in 2023.

19. On 19 September 2023, despite the presence of Russian peacekeepers in Nagorno-Karabakh and its repeated commitments not to use force, Azerbaijan launched a military offensive on the territory of Nagorno-Karabakh under the control of *de facto* authorities. Mr Pashinyan declared that the Armenian army would not get involved in the fighting. The following day, the *de facto* authorities agreed to disarm, and a ceasefire took effect. On 24 September 2023, Azerbaijan permitted civilians to use the Lachin corridor for one-way travel to Armenia.<sup>16</sup> By the 6 October 2023, the number of persons displaced from Nagorno-Karabakh reached 100 670,<sup>17</sup> almost the entire population of the territory.

20. The fate of the population from Nagorno-Karabakh provoked extremely strong reactions in Armenia itself, as in 2020. On 19 September 2023, on the first day of the attack, protesters gathered in Yerevan for a rally outside government buildings, calling on Mr Pashinyan to resign. The editor-in-chief of Russian State media RT wrote that: “The Armenian authorities personally handed over Armenia’s sacred place” and nicknamed Mr Pashinyan as “Judas”.<sup>18</sup> Mr Pashinyan declared on television that “there are already calls, coming from different places, to stage a coup in Armenia.” Protesters clashed with the police in an attempt to storm the government house. Others surrounded the Russian Embassy criticising Russia’s refusal to intervene in the conflict. On 20 September, thousands rallied in Yerevan, calling for a military intervention in Nagorno-Karabakh. The police started detaining protesters, stating that the rally was illegal.<sup>19</sup> By 25 September, more than 140 persons had been arrested by the police.

21. On 16 and 17 October 2023, Mr Pashinyan addressed the European Parliament and met with Council of Europe Secretary General Marija Pejčinović Burić. In his address, the Prime Minister said: “events taking place in the Republic of Armenia and in different places of the world raise the following question: is democracy able to provide security, peace, unity, prosperity and happiness? ... democracy in Armenia has continued and continues to receive strong blows, which operate with an almost exactly repeated formula: external aggression, then the inaction of Armenia’s allies in the field of security, then attempts to use the war or humanitarian situation or the external security threat to subvert Armenia’s democracy and sovereignty, which is expressed by inciting internal instability with hybrid technologies directed by external forces. ... when hundred thousand of Armenians fled from Nagorno Karabakh to the Republic of Armenia, our allies in the security sector not only did not help us, but also made public calls for a change of power in Armenia, to overthrow the democratic government.”<sup>20</sup>

22. On 24 October 2023, the Prime Minister declared: “the external security systems in which we are involved are not effective for the state interests and security of the Republic of Armenia. ... the illegal blocking of the Lachin Corridor, the September 19 Azerbaijani attack on Nagorno-Karabakh, raise serious questions in Nagorno-Karabakh as well about the goals and motives of the peacekeeping troops of the Russian Federation. ... We are also looking at the ratification of the Rome Statute as another measure which will enable the Republic of Armenia to use the capabilities of the International Criminal Court in ensuring external security. We made the decision to ratify the Rome Statute in December 2022, when it became clear to all of us that the CSTO and the instruments of the Armenian-Russian strategic partnership are not enough to ensure Armenia’s external security, and that decision is not directed against the CSTO or the Russian Federation in any way.” Indeed, on 3 November 2023, the Armenian National Assembly ratified the Rome Statute of the International Criminal Court (ICC). The Kremlin spokesperson, Mr Dmitry Peskov, described the Armenian decision to join the ICC as “inappropriate ... from the point of view of our bilateral relations.”<sup>21</sup>

23. On 7 December 2023, a joint statement was released by the Office of the Prime Minister of the Republic of Armenia and the Presidential Administration of the Republic of Azerbaijan which read: “The Republic of Armenia and the Republic of Azerbaijan share the view that there is a historical chance to achieve a long-awaited peace in the region. Two countries reconfirm their intention to normalise relations and to reach the peace treaty on the basis of respect for the principles of sovereignty and territorial integrity.”<sup>22</sup> Confidence-building measures have been agreed upon, including an exchange of prisoners. In conformity with the

15. [European Council](#) (14 May 2023).

16. [The Guardian](#) (24 September 2023).

17. Official figures from the International Organisation for Migration, [Armenia situation update](#).

18. [https://twitter.com/M\\_Simonyan/status/1704076507021218174?s=20](https://twitter.com/M_Simonyan/status/1704076507021218174?s=20).

19. [News.am](#) (20 September 2023).

20. [Website of the Prime Minister of the Republic of Armenia](#) (16-17 October 2023).

21. [The Guardian](#) (3 October 2023).

22. [Website of the Prime Minister of the Republic of Armenia](#) (7 December 2023).

agreement, 32 Armenian prisoners of war were released by Azerbaijan on 13 December and Yerevan handed over 2 Azerbaijani soldiers to Baku. There are still 23 Armenian prisoners confirmed by Azerbaijan, among them representatives of military and political leadership of Nagorno-Karabakh.

24. On 12 December 2023, the European Commission's High Representative Josep Borell announced that as a first step in the increasing co-operation between the European Union and Armenia, the Foreign Affairs Council agreed to strengthen the EU mission in Armenia, recognising that a historic chance to achieve peace in the region existed.

25. On 18 January 2024, Mr Pashinyan exposed that in his views: "the cornerstone of ensuring the security of the Republic of Armenia is legitimacy" and that the future of Armenia was to be a sovereign, legal, democratic and a social State. To adapt to the changing environment, the Prime minister declared that "the Republic of Armenia needs a new Constitution, not Constitutional amendments, but a new Constitution." He expressed his belief that: "the parliamentary model of governance of Armenia, taking into account our democratic aspirations and strategies, is the most suitable for the Republic of Armenia" but that a popular adoption of the Constitution would ensure its legitimacy, and that if "there is not much to change politically in the current model of governance", changes were needed in the judicial system.<sup>23</sup>

26. Following this statement, some Armenian opposition members indicated that Mr Pashinyan was in fact planning to accept Azerbaijan and Türkiye demands to remove any mention of Nagorno-Karabakh and the Armenian Genocide from the Constitution. Indeed, Azerbaijan's president Ilham Aliyev said that "peace could be achieved" between Armenia and Azerbaijan if Armenia changes its constitution and "other documents." The Speaker of the National Assembly of the Republic of Armenia Alem Simonyan said: "The Azerbaijani Constitution, the Azerbaijani legal acts also contain provisions that should be reciprocally changed."<sup>24</sup> In the preamble of the Armenian Constitution, reference is made to the fundamental principles of the Armenian statehood and the nation-wide objectives enshrined in the Declaration of independence of Armenia which itself in its preamble refers to the 1989 act of unification of Nagorno-Karabakh Autonomous Oblast with Soviet Armenia. In an interview with Armenian Public Radio on 1 February 2024, Mr Pashinyan said that the Declaration of Independence might hinder peace in Armenia, explaining that with Armenia's economy growing and the army being "transformed" and reformed, a reference to the Declaration in the country's Constitution could be perceived as Armenia preparing for war to fulfil the declaration's statement on the unification of Nagorno-Karabakh and Armenia. Armenia's leader said this would result in the country's neighbours uniting against Armenia to "destroy" it. On 7 February, Mr Pashinyan explained that the draft peace treaty stated that the parties cannot refer to their own legislation to avoid fulfilling any of their obligations under this treaty.<sup>25</sup>

27. On 9 March 2024, after the 7th joint session on the delimitation and border security issues between Armenia and Azerbaijan, Azerbaijan issued a statement demanding Armenia to withdraw its forces from four villages currently under Armenian control. On 18 March, Mr Pashinyan visited the border villages and said that Armenia should start delimitation of the border from Tavush region "not to allow a new war". He also said that the demanded villages had never been part of Soviet Armenia. The opposition accused the government of unilateral concessions and claimed that there was no true delimitation process but another act of capitulation.

### 3. Situation of refugees from Nagorno-Karabakh

28. Azerbaijan's military offensive in Nagorno-Karabakh led to the massive displacement of the local Armenian population to Armenia. In a few days, more than 100 000 people arrived in Armenia in dire need of humanitarian assistance. This represents 3 % of the total population of Armenia. The Armenian authorities have dealt with the emergency to the best of their possibilities: most refugees have found a hard shelter; pupils and students have been registered in Armenian schools and universities, and emergency relief has been distributed for the displaced persons.

29. The Government of Armenia has granted Nagorno-Karabakh Armenians the status of refugees which allows them to work and benefit from social security and medical care, education and freedom of movement. However, they do not have Armenian citizenship and therefore cannot own land, be employed in governmental agencies or participate in political life.<sup>26</sup> Two months after arriving in Armenia, some 5 350 refugees have found a job in Armenia. According to Nagorno-Karabakh's exiled leadership, some 6 000 Nagorno-Karabakh Armenians have left for other countries, mainly for the Russian Federation.

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23. [Website](#) of the Prime Minister of the Republic of Armenia (19 January 2024).

24. [First Channel News](#).

25. [ArmenPress](#).

30. Mr Pashinyan has stated that: “our policy on our sisters and brothers forcibly displaced from Nagorno-Karabakh is as follows: if they are objectively unable or unwilling to return to Nagorno-Karabakh, we will do everything to have them stay in Armenia.” Once the conditions of a conclusive peace treaty with Azerbaijan will be known, it is possible that a large part of the refugees from Nagorno-Karabakh will decide to settle permanently in Armenia. In such a case, the question of their citizenship will unavoidably be raised. Care must be taken so that the integration of this population in the Armenian society does not destabilise the Armenian political institutions. All political actors, majority and opposition alike, should refrain from unrealistic claims or blame game and avoid giving credit to foreign propaganda that tries to fuel the legitimate distress of the refugees to serve their own foreign policy goals. In this regard, European countries can play a decisive role by providing economical support to Armenia.<sup>27</sup> In so doing, they would also support the resilience of the democratic institutions.

#### 4. Functioning of democratic institutions

31. In January 2022, the Assembly adopted [Resolution 2427 \(2022\)](#) “The functioning of democratic institutions in Armenia” in which it acknowledged that “Armenia has made marked progress in its democratic development since 2018.”<sup>28</sup>

32. However, in its “Nations in transit” 2024 report, Freedom House lowered the National Democratic Governance rating from 2.50 to 2.25 due to: “the executive’s consolidation of power, the multiyear trend of central authorities overreaching and impeaching opposition mayors, and the lack of transparency in ruling party finances.”<sup>29</sup> On 16 April 2024, the leaders of the Hayastan and Pativ Unem factions issued a statement in which they declared that: “The current government of Armenia pretends to be developing democracy in the eyes of the international community while in fact grossly violating human rights and fundamental freedoms.” The statement concludes with a call on the Council of Europe “to strongly condemn the continuing decline of democracy in Armenia and the gross violations of human rights and fundamental freedoms.”

##### 4.1. Electoral reform and confidence in elections

33. The Assembly has observed every election in Armenia since 1995. In 2018, after observing the elections following the “Velvet revolution”, Assembly observers declared that: “the recurring electoral irregularities which tainted many elections in the past were absent. It is up to Armenia’s elected representatives to launch legal reforms to consolidate the democratic process in the country.”<sup>30</sup> Cementing the confidence in the electoral process through legal reforms was therefore an important task for the consolidation of democratic institutions in Armenia.

34. This reform process started before the snap elections of June 2021, when two packages of amendments to the Electoral Code were adopted in a consensual manner, after extensive consultations. Both were reviewed by the European Commission for Democracy through Law (Venice Commission) and the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE/ODIHR)<sup>31</sup> which “noted with satisfaction that consultations among the political stakeholders and non-governmental organisations were broad and took place within an adequate timeframe in order to ensure that amendments of such fundamental texts receive the widest possible support amongst different political forces, civil society and expert community... The changes have been discussed and prepared for a long time following an inclusive and transparent political process.” In January 2022, the Assembly welcomed “the marked improvement in the electoral framework in terms of the legislation on political parties and the funding of electoral campaigns, and in terms of the voting system” and called on the Armenian authorities “to complete the reform of the electoral framework by taking on board the recommendations of the Venice Commission and the OSCE/ODIHR”.

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26. In their comments, the Armenian authorities explained that “Although the Republic of Armenia provided temporary protection to the population of Nagorno-Karabakh and recognized them as refugees, this did not limit the right of refugees to obtain citizenship of the RA. At the same time, cases of persons applying for RA citizenship are accepted on an emergency basis and considered in a simplified procedure, in the shortest possible time”.

27. According to the Armenian Government, so far the foreign aid to refugees through relief organizations and direct budget support equals 109 million USD.

28. [Doc. 15432](#).

29. [Freedom House](#).

30. [Statement](#) by the Observation mission (10 December 2018).

31. [CDL-AD\(2021\)025](#).

35. Following these recommendations, another reform was introduced. The reforming process can be considered exemplary: “the elaboration of the draft amendments was preceded by extensive ten-month long public consultations with different stakeholders including civil society, and ... this process was supported by the International Foundation for Electoral Systems (IFES). Various interlocutors met by the rapporteurs confirmed this open and inclusive process involving representatives of relevant state bodies, of non-governmental organisations and international experts. The rapporteurs were informed that many of the recommendations proposed by electoral stakeholders during the consultative exercise facilitated by IFES in late 2022 have been incorporated into the draft. The Ministry of Justice has made available on “e-draft” the draft amendments for the citizens to comment on them, and the draft legislation has been subject to public debate”.<sup>32</sup>

36. Together with the Venice Commission and ODIHR, we welcome these broad consultations and public discussions and the fact that the draft amendments were proposed long before the next scheduled elections, which are due in 2026. The way the electoral law was reformed in 2021 and 2023 satisfies all the procedural conditions regarding transparency and consultations.

37. As far as the substance of the reform is concerned, the proposed amendments deal with some previously identified issues. In response to a recommendation from the Venice Commission, provisions have been drafted on the holding of elections during emergency situations, including epidemics and martial law. It appears however that the draft regulation might create a significant risk of a declaration of a state of emergency or martial law being exploited for political gain, and the Venice Commission and ODIHR have proposed several amendments to prevent this outcome.

38. Several new provisions aim to enhance the transparency of the electoral process. The ODIHR and Venice Commission assessed that they would increase the understanding of the electoral process for voters as well as increase voter confidence in the credibility of the process, in particular the work of the Central Electoral Commission.

39. Another set of measures deal with the electoral roll and voter registration. According to the Electoral Code, the initial list of voters shall be published for each electoral precinct, as well as signed lists of voters having participated in the vote. Our interlocutors explained that this measure was introduced to prevent election fraud and ballot stuffing, bearing in mind the high number of Armenians living abroad still registered in local lists of voters. This publication allows greater transparency, but the Venice Commission expressed concerns regarding the possibilities of voter harassment. As a consequence, the Venice Commission and ODIHR recommended reconsidering the relevant provisions in the light of best practice on personal data protection.

40. We have discussed this recommendation with numerous stakeholders in Armenia, and all considered that the publication of the list had a very positive effect on confidence in the election results and almost unanimously called for its continuation. We share the view of the Venice Commission that other mechanisms can be implemented to prevent voting on behalf of others and to allow sufficient scrutiny of the electoral roll while safeguarding the personal data of voters, but we understand that in the Armenian context, these measures have to be implemented in a way that will not give rise to any suspicion of fraudulent intent. Armenia has proven its capacity to undertake electoral reforms in an inclusive, transparent and consensual way and the same method should allow the progressive replacement of the publication of the electoral roll.

41. The draft amendments also propose new regulations for recounting voting results in polling stations. Unfortunately, previous recommendations from ODIHR and the Venice Commission to grant voters standing to challenge results have not been incorporated in the current draft. The current regulation does not provide an effective remedy according to international standards and OSCE commitments and should therefore be amended.

42. We will pay great interest to the follow-up given to these recommendations when the text will be debated in the Armenian National Assembly. At this stage, the proposed amendments already constitute a welcome improvement in key areas and the topics that require further improvements should not prove overly complicated to resolve.

43. The local elections to the Yerevan City Council in 2023 have provided an insight on the progress that have occurred, and on the work that still needs to be done. According to the monitoring mission from the Congress of Local and Regional authorities of the Council of Europe,<sup>33</sup> the campaign was competitive, despite the parliamentary opposition not running, and rather low-key due to the security situation. No case of

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32. [CDL-AD\(2023\)030](#).

election bribery was noted. The Congress delegation observed elections which were efficiently managed by a committed and transparent election administration. It welcomed the improvements made since 2018 to guarantee the integrity and transparency of the electoral process, reducing the possibility of carousel, family and assisted voting. The Congress also noted with satisfaction that the post-election period was not litigious and that all contestants widely accepted the results.

44. However, the Congress delegation called to pay special attention to the underrepresentation of women as heads of candidate lists and mayors in Armenia but also to ensure a more level playing field for all candidates. Indeed, allegations of misuse of administrative resources, the increasingly blurred distinction between official and campaigning activities, also visible in the media, and the important discrepancies in spending between contestants were not conducive to a fully balanced campaign.

45. The issue of the financing of political campaigns was raised by independent investigations released in 2024, according to which the donations to the Civil Contract party in 2022 and 2023 followed unusual patterns that give rise to suspicions of bypassing party financing rules.<sup>34</sup> According to Transparency international Armenia: “The findings imply there is need for institutional reforms and rigorous approach from public authorities towards the compliance to the political party finance rules.”

46. In a speech before the European Parliament in October 2023, Mr Pashinyan declared that: “democracy, for the Republic of Armenia, is a strategic choice and not something dictated by circumstances.” and continued stating that: “For the first time in the history of the Republic of Armenia, the elections became a way to overcome the internal crisis and not the other way around. This is the key difference between Armenia after and before the people's, nonviolent, “Velvet Revolution” of 2018. If, before the revolution, elections usually became the cause of internal crises due to the lack of public confidence in their results, after the revolution, elections prevent or overcome the crisis, because citizens have not only a theoretical but also a practical opportunity to make decisions and implement those decisions.”

47. Given the positive assessment of the international electoral monitoring missions on the 2018, 2021 and 2023 elections, and the general acceptance of their result by the Armenian population, we consider that the objective to hold genuinely democratic elections having confidence of the Armenian people has been achieved to a large extent.

#### ***4.2. Relations between parliamentary majority and opposition***

48. The above-mentioned improvements regarding the integrity of the electoral process have not yet improved mutual confidence between opposing political parties in parliament.

49. As regards institutional balance and enabling a democratic culture to take root in the political sphere, the Assembly in Resolution 2427 (2022) called “on the majority and the opposition to engage with each other in a constructive and respectful manner over clearly identified and divergent policy directions. It note[d] that functional mechanisms [were] in place to protect the opposition's rights, enabling it to play its role and propose alternatives.” The Assembly also called “on the parliamentary majority to fully perform its role in terms of oversight and review of government action, given that it holds the large majority of seats.”

50. This recommendation follows the findings of the Election Observation Mission which concluded that the elections “were characterised by intense polarisation and marred by increasingly inflammatory rhetoric among key contestants. ... the negative tone and the personality driven nature of the campaign hindered a policy-focused debate.” ODIHR electoral observers reported “increasingly high levels of intolerant, inflammatory and discriminatory rhetoric in the period leading up to election day”. During the electoral campaign, the Human Rights Defender issued a statement calling on all the political forces to exclude the use of insults and swearwords.<sup>35</sup> The final report on the June 2021 elections listed among the priority recommendations that “[p]ublic officials, political parties, their candidates and supporters should refrain from using inflammatory rhetoric. Clearly defined non-criminal dissuasive measures should be introduced, while protecting freedom of speech.”<sup>36</sup>

33. [CPL\(2023\)45-02](#), 25 October 2023, Elections to the Council of Elders, City of Yerevan, Armenia (17 September 2023).

34. [CIVILNET](#) (11 March 2024).

35. [Human Rights Defender](#) of the Republic of Armenia (31 May 2021).

36. ODIHR Election observation mission [final report](#), early parliamentary elections, 20 June 2021.

51. In its 2023 report on Armenia, ECRI wrote that “Hate speech incidents, including calls for violence, occur occasionally in the political and public spheres in Armenia. However, they do not usually have a racist or xenophobic motivation. According to several independent observers met during the visit, such incidents are mainly related to political figures, NGO representatives or journalists. ... the limited public awareness of what constitutes hate speech, including incitation to hatred and discrimination, has led to some confusion about what can be seen as acceptable debate in politics and in the media, including online, as well as to insufficient action to prevent and sanction hate speech, including criminal hate speech.”<sup>37</sup> ECRI reported cases of threats, insults and other manifestations of hate speech involving political figures on social media and in Parliament. Hate speech referring offensively to “Azeris” and “Turks” are used as tools against political opponents to exacerbate internal divisions and hinder any peace negotiations.<sup>38</sup>

52. ECRI recommends that “[e]lected bodies and political parties should adopt appropriate codes of conduct that prohibit the use of hate speech, call on their members and followers to abstain from engaging in, endorsing or disseminating it, and provide for sanctions.” Our Assembly has already invited Armenian lawmakers to “develop tools other than preventive punishment to combat disinformation and hate speech”.<sup>39</sup> This is in line with Recommendation CM/Rec (2022)16 of the Committee of Ministers to member States on combating hate speech and the Charter of European political parties for a non-racist and inclusive society as endorsed by the Assembly in its Resolution 2443 (2022), and we strongly invite Armenian Parliament to implement it. Political leaders and members of parliament should make it clear that the use of hate speech by persons affiliated with them is unacceptable and take action to prevent and sanction such use.

53. Mutual tolerance and acknowledgement of the legitimacy of political opponents is a necessary element of democratic societies that is lacking in Armenia. Respect for political opposition should be a rule during electoral campaign and restraint and moderation in the use of constitutional powers by the majority would be most welcome.

54. Within the Armenian National Assembly, the June 2021 elections have left the Civil Contract party with a two-thirds majority in Parliament which allows it to impose its choice in nominations to the most important positions in the State without consideration of the wishes of the minority. The misuse of such supermajorities to completely side-line the opposition has been observed in other countries and the Assembly recalled that: “This situation means that the ruling parties have a great responsibility to observe and safeguard the principles governing the smooth operation of democratic institutions, including the rights of the opposition...”<sup>40</sup>

55. According to article 104 of the Constitution of Armenia, one of the three deputy chairpersons of the National Assembly shall be elected from among the parliamentarians included in the opposition factions. According to article 106 “The positions of chairpersons of standing committees shall be distributed among factions in proportion to the number of parliamentarians included in the faction.” In accordance with these provisions, one deputy chairperson of the National Assembly and three standing committees’ chairpersons should be chosen among opposition members. These provisions are in line with the Venice Commission’s recommendations: “The Venice Commission endorses the principle of proportional representation in the positions of responsibility as an important instrument for ensuring opposition rights. In most important committees (for example, responsible for the budget or for the oversight of the security services) it is recommended to reserve certain seats for the opposition even going beyond its actual representation in Parliament or give the opposition the chairmanship positions. The principle of proportionate representation is also recommended for the composition of delegations of the national parliaments to the international parliamentary associations and other similar bodies.”

56. The Hayastan faction proposed the candidacy of Mr Artur Ghazinyan for Deputy Chairman of the Standing Committee on Defense and Security, which was rejected by the vote of the majority. Sixteen times, Hayastan proposed the same candidate, and sixteen times the majority rejected it. This repetitive pattern illustrates the lack of co-operation between opposition and majority in the National Assembly.

57. In our 2022 report on the functioning of democratic institutions, we were concerned “whether the majority that emerged from the 2021 elections and the new opposition [would] be able to play their roles in a constructive and non-confrontational way given that the election campaign was marred by inflammatory statements.”<sup>41</sup> Therefore, we were disappointed to learn that the deputy chairman of the National Assembly and the three chairpersons of standing committees from the opposition had left these positions. The Deputy

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37. [ECRI](#), Fifth report on Armenia (sixth monitoring cycle), adopted on 29 March 2023.

38. [CommDH\(2021\)29](#) of 8 November 2021, paras. 76-87.

39. [Resolution 2427 \(2022\)](#), para. 24.3.

40. [Doc. 15619](#), para. 48.

41. [Doc. 15432](#), para. 83.

Chairman for the opposition, Mr Ishkhan Sagatelyan, and the Chairman of the Commission on economic affairs Mr Vahe Hakobyan, were removed from their positions on 2 July 2022 on the ground of repeated absences.<sup>42</sup> These absences corresponded to a moment when both factions of the opposition, Hayastan and Pativ Unem, were boycotting the sessions of the National Assembly and participating in rallies and protests in Yerevan. It is useful to recall that in the parameters on the relationship between the parliamentary majority and the opposition in a democracy, the Venice Commission considered that: “an organised and prolonged mass boycott of the work of Parliament by the opposition ... cannot entirely be ruled out as a legitimate form of political behaviour, but it is permissible only in rare and very extreme circumstances where the legitimacy of Parliament is in doubt due to the actions of the majority. Disagreements about current politics, even major ones, cannot justify boycott.”<sup>43</sup>

58. After hearing members of opposition factions as well as representatives of the majority, we call on the sense of national interest and statesmanship of all the parties involved to find a swift solution so as to ensure that the opposition can fully play its part in parliament. Opposition's boycotts justify the majority's will to sideline its proposals, but both lines of action tend to discredit the work and legitimacy of Parliament, and in the end undermine the support for Armenian democratic institutions in the population. We recommend all stakeholders to implement the Venice Commission Checklist on the “Parameters on the Relationship between the Parliamentary Majority and the Opposition in a Democracy” and to review the rules of the National Assembly accordingly if necessary.

### **4.3. Appointments procedure in the National Assembly**

59. The proper functioning of the system of checks and balances also needs the full participation of the parliamentary opposition, in particular regarding appointments to independent collegial bodies. The Venice Commission is very clear in this regard: “Appointments to certain top positions outside the Government or to independent collegial bodies and agencies need to be depoliticised. Therefore, the procedure of selection, nomination and appointment should be, to the maximum extent possible, based on a cross-party consensus. At least, mechanisms should be in place which would reduce the dominance of the parliamentary majority within such collective bodies or limit the relevance of the affiliation of the office holders with the governing party or a coalition.”<sup>44</sup>

60. Furthermore: “[t]he qualified majority required for an appointment (3/4, 2/3, 3/5 etc.) would depend on the political context of each particular country. However, a qualified majority rule will not have any use in a system where the Government party or a block already has the necessary number of votes to appoint candidates single-handedly. In that case, the requirement of a qualified majority may be even detrimental to the opposition in the long run, if it is not supplemented with an efficient anti-deadlock mechanism: without such a mechanism the replacement of an official at the end of his or her term (and probably in the next electoral cycle) may be problematic, and the qualified majority rule will therefore help to cement the influence of the current governing majority.”<sup>45</sup>

61. Opposition factions as well as civil society organisations have brought our attention to some nominations to important positions in independent bodies. Candidates proposed by opposition parties have been rejected while the candidates from the majority were elected to the TV and Radio Commission. Mr Arthur Razmik Davtyan,<sup>46</sup> who had been parliamentarian in the ruling party since 2019, was elected by the National Assembly as a Judge of the Court of Cassation. Later the Supreme Judicial Council (SJC) proposed the candidacy of Mr Davtyan as chairman of the anti-corruption chamber of the Court of Cassation to the President of the Republic, who appointed him to this position on 3 March 2023. Mr Vahagn Hovakimyan,<sup>47</sup> who at the time was a member of parliament in the ruling party, was elected as Chairman of the Central Electoral Commission on 7 October 2022. Mr Karen Andreasyan,<sup>48</sup> then Minister of Justice, was elected by the National Assembly as a member of the SJC and was then elected as its chairman.

62. Each of these nominations may be perfectly founded taking into consideration the professional qualifications and the background of each of these candidates. However, the fact that these people have been perceived by the general public as related to the ruling party has adverse effects on the perception of their

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42. [JAMnews](#) (2 July 2022).

43. [CDL-AD\(2019\)015](#), para. 60.

44. *Ibid.*

45. *Ibid.*, [emphasis added].

46. We met Mr Davtyan on 7 November 2023 among other members of the Cassation Court.

47. We met Mr Hovakimyan on 7 November 2023 at the Central Electoral Commission.

48. We met Mr Andreasyan on 7 November 2023 at the Supreme Judicial Council.

political independence, and ultimately on the confidence in the institutions they now serve. The legitimacy of checks and balances and independent supervisory bodies is paramount and relies to a significant degree on the perception of their political independence. We encourage the political majority in Armenia to engage in open and transparent discussions with the opposition in the National Assembly on the nominations, even if the required majority is already secured, so as to guarantee the independence of appointed persons and to install good practices within the Armenian political system. Decisions which require a two-third majority in parliament should be taken with the consent of opposition members, even when these are not arithmetically required, unless the opposition is clearly engaged in dilatory tactics.

63. In this context, we are concerned by the alleged politicisation of the debates on the elections to the Corruption Prevention Committee (CPC) which took place on 6 and 7 December 2023. According to the ex-Chair, Ms Haykuhi Harutyunyan,<sup>49</sup> “the nature of the 2023 selection process and debate in the National Assembly have undermined both respect for diversity and the possibility that political opposition parties can exert any influence. As a result, the risk of the politicisation of the CPC has been increased.” As no candidates have yet been elected, it is still possible for opposition and majority to reach a consensual decision. We consider that such an outcome would be extremely positive for the democratic institutions of Armenia, as it would put the practice in accordance with the spirit of the Venice Commission’s recommendations on relations between majority and opposition and create a positive precedent. Furthermore, confidence in the political independence of the CPC is crucial for the credibility of the fight against corruption in Armenia and the appointment procedure has been identified by GRECO as a key element in this regard.<sup>50</sup>

## 5. Rule of law

### 5.1. Police reform

64. An ambitious reform of the Police is in progress. This reform is fundamental in many respects for the improvement of the rule of law in Armenia. In 2020, a comprehensive reform strategy was adopted with the stated aim to bring the police closer to the citizens. This reform is the outcome of a long process started in 2014.<sup>51</sup>

65. In January 2023, a Ministry of internal affairs was re-installed. Armenia had an interior ministry until former President Robert Kocharyan abolished it and turned the police into a separate structure subordinate to the president of the country. The police became accountable to the Prime minister after Armenia shifted to a parliamentary system of government. In Resolution 2427 (2022), the Assembly had called “on the Armenian authorities to implement their plan to reinstate a Ministry of the Interior and entrust it with some of the law-enforcement agencies which are currently under the direct authority of the prime minister.”<sup>52</sup>

66. On 24 November 2022, a draft law on the reestablishment of the Ministry of Internal Affairs was presented by the government and the National Assembly approved it in December 2022. We had the honour to meet the new Minister of Internal Affairs, Mr Vahe Ghazaryan, during our visit in Yerevan in November 2023.

67. The most important aspect of the reform is to change the police model into community policing. This implies the total change of the education and training system of the police, as well as the methods of recruitment and management of the personnel. Such reforms necessarily take time to produce effects, but a first achievement was the establishment of a new patrol police. This new patrol police was designed as a role model for the whole police force and it is hoped that it will produce major changes in the police-population relations.<sup>53</sup> The new patrol police started operating in Yerevan in July 2021 and was deployed nationwide in October 2023.

### 5.2. Independence of the judiciary

68. Reforming the judicial system in order to guarantee the full independence of the judiciary was one of the commitments by Armenia on accessing the Council of Europe. This reform has proven very difficult to implement and independence of the judiciary is still a major political issue. There is little trust in the judiciary in

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49. We met Ms Harutyunyan while she was still chairing the CPC on 7 November 2023.

50. See para. 91 of part 5.3 on the fight against corruption.

51. Parsons and Fluri, “Armenia, police reform as a cooperative effort, lessons learned from an international advisory mission 2014-2017”, *Nemzetbiztonsági Szemle*, 2022, pp. 25-43.

52. [Resolution 2427 \(2022\)](#), para. 12.

53. “With the establishment of Patrol Police, we want to change the quality of citizen-police relations: Nikol Pashinyan”.

Armenia. Widespread corruption, low professionalism and politicisation are among the most repeated criticisms. After the “Velvet Revolution” of 2018, the government envisaged a comprehensive vetting of all judges, and later proposed redefining the incompatibility requirements with retroactive effect. As a result of ongoing dialogue with the Council of Europe, the Armenian authorities abandoned these radical plans and, instead, developed a set of less radical measures which would aim *inter alia* to improve the disciplinary mechanisms for judges, which were seen as inefficient and over-protective of judges.

69. Several measures have been taken over the past few years to promote the independence of judges and thus strengthen the confidence of the Armenian population in the judiciary, including a raise in the remuneration of investigators and prosecutors in 2018, and of judges in 2024, as well as the establishment of new “anti-corruption” courts, and the screening of judges, prosecutors and investigators by the Corruption Prevention Commission. Some encouraging trends have been noted and a change of behaviour among judges is taking place.

70. In our January 2022 report, we concluded that in the judicial field, “many reforms have already been carried out or initiated. They will take some time to yield results of some magnitude, but the foundations for a more independent judiciary are being laid. The measures taken to enhance the transparency and independence of the recruitment and promotion processes of judges were considered satisfactory by both GRECO and the Venice Commission. The question of the disciplinary procedure is still under debate because it is perceived by the Armenian authorities as a fundamental lever to guarantee a more virtuous behaviour of the judges in place. That of the quality of justice as well.”<sup>54</sup>

71. The disciplinary procedure is focusing the criticisms because of its perceived lack of transparency. The Minister of Justice is accused by the opposition of using disciplinary proceedings to intimidate judges, to silence them or influence their decisions.

72. On 21 July 2022, the Government of Armenia approved the strategy of judicial and legal reforms for 2022-2026 and the resulting action plan. On 25 August 2022, the Minister of Justice of Armenia requested an opinion of the Venice Commission on a draft constitutional law on making supplements and amendments to the Judicial Code. The Venice Commission welcomed the openness of the Armenian authorities to a genuine dialogue with the Council of Europe, and their continued effort to improve the system of judicial governance in line with the European standards, within the boundaries set by the national constitution, and in view of the overall legal and political context of the country.<sup>55</sup>

73. As regards the contents of the proposed reform, two elements of the current disciplinary mechanism were in particular discussed between the Council of Europe and the Armenian authorities: the power of the Minister of Justice to initiate disciplinary cases against judges, and the absence of a proper system of appellate review of the decisions of the SJC in disciplinary matters.

74. Proceedings against a judge may be initiated by three bodies: the Ethics and Disciplinary Commission of the General Assembly of Judges (EDC), the Minister of Justice, and the Corruption Prevention Commission, but in this last case only for violation of declaration rules. The authorities initiating disciplinary proceedings have broad investigatory powers: they may request and study the relevant court files, request written explanations from the judge concerned, request information from the persons bringing complaints against judges as well as from the other natural and legal persons, State bodies or officials. Based on this inquiry, the body which has instituted the proceedings may either discontinue them or submit the case to the SJC for determination on the merits.

75. The lack of transparency in the Ministry of Justice’s decision-making process on whether to submit cases to the SJC for disciplinary proceedings is criticised. There was similar lack of transparency and no public oversight over the decisions of the EDC. Some decisions to initiate proceedings against judges based on the judgments of the European Court of Human Rights have been perceived as arbitrary, and the Corruption Prevention Commission suggested initiating such proceedings in a more transparent way, by applying objective criteria.<sup>56</sup>

76. The government, for its part, agrees with the idea that the power to initiate disciplinary proceedings should eventually be removed from the Minister of Justice, but strong corporatism within the magistracy survives and impedes any kind of disciplinary sanctions against judges. According to statistical data from the Ministry of Justice, the EDC and the Ministry of Justice receive almost the same number of applications

54. Doc. 15432, para. 109.

55. CDL-AD(2022)044.

56. <http://cpcarmenia.am/hy/news/item/2023/07/04/1/>.

(around 600 a year), but the Minister of Justice is initiating twice as many proceedings as the EDC (33 or 34 a year against 17), and transmits four times as many cases to the SJC at the end of the procedure: the Minister is on average sending 20 cases to the SJC, while the EDC is sending 4 or 5. According to the Minister of Justice, these figures show that the EDC is too lenient due to corporatism.

77. In the opinion of December 2022, the Venice Commission considered that: “even though the involvement of the Minister is currently seen as a tool helping to combat judicial corporatism...in a longer perspective it would be preferable to withdraw the power from the Minister, as soon as other mechanisms – namely the EDC – prove their efficiency.”

78. As a consequence, the Ministry of Justice developed a “concept paper concerning the reform of the Ethics and Disciplinary Commission of the General Assembly of Judges” and submitted it to the opinion of the Venice Commission on 26 September 2023. The Venice Commission prepared a joint opinion with the Directorate General of Human Rights and Rule of Law (DGI) and adopted it on 15-16 December 2023.<sup>57</sup>

79. Currently, the EDC is composed of six judicial members and two lay members, all elected by the General Assembly of judges. The reform proposes modifying this composition. The General Assembly of Judges would retain the power to elect the lay members, but the candidates should be nominated by the Human Rights Defender of the Republic of Armenia, the Commission for the Prevention of Corruption, the Minister of Justice and by civil society organisations (nominating two members). The candidates would be subjected to equal eligibility requirements, and the selection would be carried out through a competition. The EDC would therefore be composed of eleven members, six judicial members and five lay members.

80. The Venice Commission and DGI positively evaluated the increased presence of lay members in the EDC to limit the risks of corporatism and welcomed the reform in that regard. However, they warned that the reform should ensure that the nomination procedure is not politicised and that the nominating bodies are not viewed as tools for exercising improper influence on the judiciary.

81. If the EDC, the Ministry of Justice or the CPC decides that the disciplinary case requires a sanction, the decision is submitted to the SJC. The SJC is composed of five judges elected for the period of five years by the General Assembly of Judges and five prominent lawyers elected for the same period by Parliament. As the SJC is currently chaired by the former Minister of Justice, some consider that the government is exerting control on its decisions. The election of non-judge members of the SJC by the parliamentary majority without disclosing the grounds of their selection is also fuelling criticisms of politically-motivated choices. The Venice Commission also expressed the view that the SJC should remain free from political influence, and proposed “Among the guarantees of political neutrality of the SJC, the authorities could consider, if necessary by way of constitutional amendment, the restrictions for the politicians (including recent politicians) to become the SJC members. The Judicial Code forbids the SJC members to engage, among other things, in political activities (Art 83, para.1), however this restriction is not sufficient, and it does not address the problem of politicians who, without a cooling-off period, may take up a position in the SJC.”<sup>58</sup> This recommendation is in line with our remarks on the nomination procedure in paragraph 54, and we fully endorse it.

82. There was no satisfactory review mechanism of the SJC decisions on disciplinary matters. The National Assembly amended the Judicial Code to set forth a mechanism of appealing based on the recommendations of the Venice Commission on 25 October 2023. This mechanism should contribute to alleviate the criticisms against the perceived politicisation of some decisions from the SJC, notably unclear or inconsistent justification for disciplinary action, penalties that lacked clear criteria or proportionality, and delays in proceedings that led to dropped cases and poor accountability. The CPC’s integrity evaluations for judicial candidates are not public and the SJC reportedly often ignored assessments when appointing judges, even in cases of political bias or unexplained wealth.

83. Overall, the Venice Commission and DGI gave a very positive assessment of the proposed reforms, and one should once again commend the Armenian authorities for their genuine commitment to reforming the judiciary in line with the European standards and relying on the expertise of the Venice Commission. Reforming the EDC to fight the risk of corporatism will allow to gradually remove the power of the Ministry of Justice to initiate disciplinary proceedings, therefore bringing a welcome solution to the concerns that remain regarding the independence of the judiciary in Armenia. We will closely follow the debates around the draft reform once it is presented to the National Assembly. Moreover, when discussing the opportunity of

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57. [CDL-AD\(2023\)045](#).

58. [CDL-AD\(2023\)045](#), para. 32.

constitutional changes, the possibility of reforms impacting the judicial power has been raised by Mr Pashinyan. Should such changes occur, we would of course be extremely mindful of their effect on the balance of powers and the functioning of the institutions.

### **5.3. Fight against corruption**

84. Fighting corruption is a priority for the Armenian authorities, and several important steps have been taken. Many institutional reforms have occurred in the last couple of years. Two specialised anti-corruption bodies have been created: the Corruption Prevention Commission established in 2019 and a specialised law enforcement agency called the Anti-Corruption Committee, established in October 2021, as well as specialised anti-corruption courts. There are two specialised anti-corruption departments in the Prosecutor General's Office of Armenia: the Department for Confiscation of Property of Illicit Origin and the Department of Supervision over Legality of Pre-trial Proceedings in the Anti-Corruption Committee. The Department for Confiscation of Property of Illicit Origin has been formed on 3 June 2020.

85. The Law on the Corruption Prevention Commission was adopted in 2017. The CPC is an autonomous, collegial body, composed of five members and is responsible for the prevention of corruption and the implementation of anti-corruption education functions. The CPC maintains the public register of assets, income, expenditure and interest declarations, conducts verification of the credibility of the submitted data and imposes administrative sanctions for the failure to declare any data. Recently, the powers of the CPC to review declarations have been expanded to proper verification of the declarations up to receiving information constituting banking secrecy. The CPC carries out integrity check in respect of the following categories of officials: candidates for judges of the Constitutional Court, candidates for the members to SJC, candidates for judges, candidates aspiring to be included in the promotion lists of judges, Prosecutor General and deputies of the Prosecutor General, candidates for prosecutors, prosecutors aspiring to be included in the promotion lists, head and deputy heads of the Anti-Corruption Committee as well as Anti-Corruption Committee investigators, officers of the Operational Intelligence Department. The methodology of those checks has gradually been improved with the technical assistance from the Council of Europe.

86. The law on the Anti-Corruption Committee entered into force in October 2021. It has exclusive competence for conducting pre-trial criminal proceedings and carrying out criminal intelligence operations in cases of alleged corruption. The creation of this committee is a welcome reform as the investigative functions of cases of corruption were dispersed among multiple agencies. The committee is now fully operational, and according to official statistics, the number of cases of corruption crimes recorded increased by 79.5 % between 2022 and 2023.<sup>59</sup> The number of cases sent to court also significantly increased over the last year. This is not the result of a real increase in corruption cases, but of an increase of the efficiency of the fight against corruption. This is made possible by improvements in the law enforcement agencies, an increase in the public confidence in those agencies and by a change in mentality in the population that now reports cases of corruption much more often.

87. According to GRECO evaluations, Armenia had implemented satisfactorily or dealt with in a satisfactory manner all 19 recommendations contained in the Third Evaluation Round report. The Fourth Evaluation Round, "Prevention of corruption in respect of members of parliament, judges and prosecutors", is pending, the second interim report was released in March 2023. With respect to members of parliament, progress is noted. Public consultation in the law-making process has been made mandatory for draft laws initiated by the government. A draft code of ethics for MPs and draft amendments to the National Assembly's Rules of Procedure intended to establish a mechanism to monitor members' compliance with ethical norms have been developed, but not yet presented to GRECO for scrutiny. The supervision of the side activities of MPs is yet to yield tangible results.<sup>60</sup> The Fifth Evaluation Round report of Armenia was adopted during the 96th plenary of GRECO (18-22 March 2024), it contains 11 recommendations regarding the prevention of corruption and the promotion of integrity in the top executive functions, and 11 regarding law enforcement agencies. We will closely follow the implementation of those recommendations by the Armenian authorities.

88. A new anti-corruption action plan has been adopted for the period 2023-2026.

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59. [Anti-Corruption Committee](#) of the Republic of Armenia (23 October 2023). These figures cover a 9-month period in 2022 and 2023.

60. See section 5.2.

89. These promising developments need to be confirmed in the long term, but they prove a real determination in the fight against corruption, as cases involving high-level officials demonstrate. On 13 February 2024, the Minister of Economy, Vahan Kerobyan, resigned from the government and placed under two months' house arrest on "abuse of power" charges following a probe into a government tender process for services designed for the Public Investment Projects Bank.

90. Nevertheless, annual reports from Transparency International on the Corruption perception index show that the perception of corruption is still high, and the encouraging progress seem to have stalled. Armenia's position in the Corruption Perception Index improved by one point in 2023, scoring 47 out of 100 possible points, and ranking 62nd among 180 countries.

91. In its 2023 second interim compliance report on its Fourth Evaluation Round<sup>61</sup>, GRECO recalled that "the independence of the CPC is crucial for public trust in the system." GRECO studied at length the process for the appointment of CPC members in order to ascertain its operational independence. We are therefore worried by the alleged politicisation of the debate regarding the appointment of the CPC members.<sup>62</sup> According to the civil society organisation Anti-Corruption Coalition of Armenia: "The bodies of the anti-corruption institutional system in Armenia continue to operate without real independence, and their management is carried out by persons appointed as a result of political agreements and nepotism rather than as a result of open and transparent, equal opportunity competitions, and as a result staffing of the bodies of the anti-corruption institutional system with professional, carrying integrity values and competitive staff is actually failing".<sup>63</sup>

92. The appointment procedure of CPC members will therefore be scrutinised with great care as it is crucial to settle it as an independent, non-politicised, institution.

## 6. Human rights

93. As of February 2024, 75 judgments of the European Court of Human Rights are pending execution. The issues undergoing enhanced supervision require continuous work and include cases related to ill-treatment and/or torture in police custody; absence of effective investigations into the death of military conscripts; denial of adequate medical care to prisoners, violation of the freedom of assembly and other violations relating to the policing of demonstration. Several of these issues were discussed during our exchanges with the authorities in Yerevan.

### 6.1. Situation in prisons

94. Armenia has for many years suffered from prison overcrowding and the dilapidated state of some of its prisons. The first report on Armenia from the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) was published in 2004 and nine other reports have been published since. The last visit from the CPT took place from 12 to 22 September 2023.<sup>64</sup>

95. In 2010, "[p]rison overcrowding was a common feature of all the penitentiary establishments visited [by the CPT delegation] ... most of the cells were seriously overcrowded, with a significant proportion of inmates taking turns to sleep on the available beds or on the floor (for example 19 prisoners in a cell of 26 m<sup>2</sup> containing 12 beds)." This situation was confirmed in the 2015 CPT report.

96. The situation has known a very welcome and radical change following the "Velvet revolution", as in 2019, the CPT was informed that prison overcrowding was no longer a problem in Armenia: "At the time of the visit, the capacity of the prison system was 5 346 and the prison population was 2 225 including 1 025 remand prisoners. This represented a major decrease as compared with the prison population at the time of the CPT's 2015 visit (approximately 3 900 inmates). It should be added that none of the prisons visited in 2019 was overcrowded (even locally, as had sometimes been the case in 2015), which is indeed a very positive and welcome development."

97. This development was largely due to a large-scale amnesty decided by the parliament in November 2018. The amnesty affected some 6 500 persons (not only inmates but also those who had been charged and under investigation but were awaiting trials without having been imprisoned) and resulted in the release of

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61. [GrecoRC4\(2023\)6](#).

62. See para. 63 above.

63. Statement of the [CSO Anti-Corruption Coalition](#) of Armenia about the result Armenia has recorded in the corruption perception index.

64. [Council of Europe anti-torture Committee \(CPT\) visits Armenia](#).

approximately 660 prisoners. Such an amnesty is a one-time measure and does not guarantee that the prison population will not raise over time, but the adoption of new Criminal Code and Penitentiary Code will hopefully provide long term results. According to the latest Council of Europe penal statistics, Armenia's rate of prison population was "very low" (meaning 25 % lower than the European median value), and prison density was also "very low". On 31 January 2022, the prison population in Armenia was 2 128, and the prison population rate was 71,6 %.<sup>65</sup>

98. The material state of detention facilities, however, has not known such a spectacular improvement. In its last (2021) report, the CPT reported that "the most important – and very positive – decision taken recently by the Armenian authorities was to close down several old prisons and to replace them with new prisons (or units) built from scratch according to contemporary international standards." Two penitentiary facilities have stopped operating since 1 January 2022 and design and estimate works are in progress in order to build new penitentiary facilities that meet international standards.

99. Nevertheless, the material conditions of prisons remain a major concern. In the most recently opened facility, Armavir prison, which opened in 2015, the CPT delegation reported: "Many parts of the prison had crumbling and wet walls, floors and ceilings, broken pipes and tiles, with the worst (indeed unacceptable) conditions being observed in the admission ("quarantine") wing ... and some parts of the prison were extremely filthy and infested with vermin."<sup>66</sup> Besides, "none of the prisons visited offered anything remotely resembling a regime of organised constructive out-of-cell activities; furthermore, there was still no individual risk and needs assessment, no individual sentence planning and hardly any preparation for release, and the lack of work opportunities for inmates meant that most of them could not qualify for early release."

100. On adopting the draft penitentiary code in May 2022, the Prime minister declared: "we have adopted significant reforms related to pre-trial detention and probation service. In the next stage, we should already address the issue of physical infrastructure in the penitentiary sector, because that is one of the most important issues. Our penitentiaries in terms of physical infrastructure and security in all respects do not meet the standards that we have set in the laws, in our ideology in general".<sup>67</sup> The issue needs to be addressed, as Armenia has been condemned by the European Court of Human Rights because the cumulative effects of detention conditions, including inadequate personal space in cells, amounted to degrading treatment.<sup>68</sup> In their comments, the authorities explained that the penitentiary service implements all possible measures within the limits of the financial resources allocated each year for the purpose of maintenance and repair of the buildings and structures of the penitentiary system to improve the conditions of detention.

## **6.2. Right to peaceful assembly**

101. Respect for the right to protest and response of law enforcement to protests have caused concerns.

102. In accordance with European human rights standards, any restriction on freedom of assembly must be established by law, necessary in a democratic society and pursue a legitimate aim. Article 136 of the Armenian Criminal Code criminalises the act of "materially motivating to participate or not participate in an assembly". According to the Guidelines on Freedom of Peaceful Assembly,<sup>69</sup> acts of coercing or obstructing participation in assemblies may be penalised. However, the practice of incentivised participation in rallies should not be subject to legal regulation unless the provision of such incentives would contravene with laws imposing proportionate limits on election campaign financing.

103. It seems that the provisions of article 136 have been used to sentence Mr Avetik Chalabyan, a public opposition political figure, for "materially motivating" students to participate in opposition rallies in 2022. Mr Chalabyan was deprived of his right to organise rallies and participate in other public events or assemblies, as well as to change his place of residence, for two and a half years.

104. In this case, the protests were not related to any election campaign, although the rallies were calling to the resignation of Mr Pashinyan. The alleged offence, therefore, was not an infringement on rules regarding electoral campaign financing. According to the Guidelines on Freedom of Peaceful Assembly, incentivising participation in rallies should not be criminalized and the use made of the criminal code in this case is disturbing. Such a sentence would certainly have a chilling effect on the people willing to organise rallies, and the risk of arbitrariness in the implementation of the law is high. In a joint report, the Helsinki Committee of

65. [SPACE](#) - Council of Europe Annual Penal Statistics.

66. [CPT/Inf \(2021\) 10](#), p. 24.

67. [Website](#) of the Prime Minister of the Republic of Armenia (13 May 2022).

68. European Court of Human Rights, *Volodya Avetisyan v. Armenia*, 3 May 2022.

69. [CDL-AD\(2019\)017](#).

Armenia and the Armenian Center for Political rights called on the Armenian Government to submit this article of the Criminal Code to the Venice Commission for expert opinion and we think that such a clarification is indeed necessary.

105. Regarding the behaviour of police forces, in its last published report on Armenia, in 2021, the CPT had found that “the great majority of the persons interviewed by the delegation, who were or had recently been in police custody, stated that they had been treated by the police in a correct manner. However, the delegation did hear some allegations of recent physical ill-treatment of persons detained by the police.” “Most of the allegations heard referred to the use of excessive force at the time of apprehension (consisting of punches, kicks, truncheon blows, violent pushing and throwing persons on the ground, to a wall or to a police vehicle) applied vis-à-vis persons who did not resist – or no longer resisted – arrest, as well as painful and prolonged handcuffing.”

106. The CPT called on the Armenian authorities to clearly inform police officers throughout the country that no more force than is strictly necessary is to be used when carrying out an apprehension and that, once apprehended persons have been brought under control, there can be no justification for striking them. Further, police officers must be better trained in preventing and minimising violence in the context of an apprehension. In cases in which the use of force becomes necessary, they need to be able to apply professional techniques which reduce as much as possible any risk of harm to the persons whom they are seeking to apprehend.<sup>70</sup>

107. In this context, the response of law enforcement to the movement of protests calling for the resignation of Mr Pashinyan over the policy regarding the situation in Nagorno-Karabakh has been criticised, in particular during the demonstrations on 19 September 2023 and the following days. In a statement from 9 October 2023, the Hayastan faction reported that “more than 700 people were taken to police stations during various acts of disobedience. In extreme cases, disproportionate force was used against them.”

108. The Armenian Helsinki Committee documented the opposition protests. According to their report, on 19 and 20 September, clashes took place between the participants of an assembly held in front of the government residence and police officers. “The police officers formed a chain and blocked the entrances of the Government building, and some of the participants tried to break the chain by pushing them, some protesters threw plastic bottles and other objects in the direction of the police. Several times, depending on the efforts of the police representative negotiating or the calls to calm in loudspeaker from participants in the gathering, the tension has eased.” “On the evening of September 19, at 20h50, during another clash between police and protesters, the police used stun grenades without warning. At least one of them exploded in a large crowd. As a result, some participants of the meeting received physical injuries. According to the Ministry of Health, 16 police officers were injured in the clashes and 18 civilians.”

109. In its country report on human rights practices, Freedom House assessed that: “On several occasions protesters, led by the opposition and reportedly instigated by foreign actors, employed aggressive behavior and violence, demanding the resignation of the prime minister and attempting to storm the government building where the prime minister worked. Police responded with limited use of force and stun grenades. There were limited reports of excessive use of force by police during those protest.”<sup>71</sup>

110. Systematically, the Human Rights Defender sent “rapid response groups” to visit the police departments where people had been detained. Private interviews were conducted with the detained persons, the grounds for detention as well as the protection of their rights in the police departments were assessed. From 19 to 26 September, the representatives of the Defender held private conversations with more than 350 persons deprived of their liberty.

111. In a statement released on 26 September 2023,<sup>72</sup> the Human Rights Defender emphasised that: “the fundamental right to freedom of assembly refers to peaceful assemblies. Guaranteeing the peaceful nature of assemblies is the responsibility of the State. At the same time, it is crucial that the participants of the assemblies, in turn, ensure the peaceful course of the assembly, exercise restraint and comply with the requirements set by law.” The Office of the Human Rights Defender recorded that, in a number of cases, the physical force used by police officers when detaining people was disproportionate and not justified by the need to take the person into custody. The Human Rights Defender recalled that the use of disproportionate force by police officers is inadmissible and unacceptable under any circumstances but also recorded cases of physical injuries inflicted on police officers by the participants of the gathering, which is deplorable. The Defender also ascertained that calls for violence and hate speeches were made by protesters.

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70. CPT/Inf (2021) 10.

71. US Department of State.

72. Human Rights Defender of the Republic of Armenia (26 September 2023).

112. It seems from the diversity of assessments that the assessment of the proportionality of the use of force by the police in response to sometimes violent protests is extremely delicate. Based on the reports of citizens brought to the police stations following these events, the internal security and anti-corruption department of the Ministry of Internal Affairs initiated 16 criminal proceedings over cases of torture, 5 criminal proceedings in connection to cases of abuse and 5 criminal proceedings of abuse of official powers by an official.

113. We discussed these issues during our meeting in Yerevan with the Minister of Internal Affairs, Mr Vahe Ghazarian. The major changes envisaged in the police reform strategy adopted in 2020 include a review of the initial basic training and continuous professional development training of police officers in regard to demonstrations in order to improve crowd management, proportionality of force, the practice in relation to other participants in meetings (journalists etc.). Regarding the events in Yerevan, he stated that the police did its best to restore public order and safety, that police refrained from using force and tried to negotiate to ensure the peaceful nature of demonstrations. Nevertheless, the police had been forced to apprehend those undertaking acts of civil disobedience, where people blocked the traffic, giving rise to tensions and risks of clashes between protesters and ordinary citizens. He added that 27 investigations had been opened against police officers in 2023, and as a result, 21 officers were suspended. In the framework of the national strategy for the protection of human rights, the government is considering a review of the laws on police to define more accurately the functions and required activities to be carried out by officers in relation to assemblies and rallies, in accordance with international standards. Trainings related to this topic are to be carried out for relevant law enforcement officers.

114. Our attention was also called on a very unfortunate case implying police officers, in which two lawyers who were beaten by policemen inside police stations when working to defend their clients. We discussed this with the Minister of Internal affairs during our meeting, who clearly condemned such events and told us that both cases were being investigated. Full information, including video and audio recording, had been provided to help identify the perpetrators and the cases were dealt with according to law. After this event, a meeting was held between the Ministry of Internal Affairs and representatives of the Bar Association to put in place a memorandum of understanding. A task team of barristers and policemen will be available 24 hours a day to prevent escalation and aggravation in case of tensions.

### **6.3. Freedom of information**

115. Journalists' access to information is regulated under the 2003 Law on Freedom of Information, which defines general rules for requesting public information by all categories of professionals (journalists, lawyers, civil society organisations), as well as by the general public. The law is enabling the right to access information, as it covers both State and local authorities, as well as private organisations providing public services.

116. However, despite the precisely defined procedures and rules for filing and processing information, effective enforcement mechanisms are lacking, which hinders the meaningful enjoyment of the right to freedom of information. The current legislation does not provide mechanisms of monitoring the implementation of the right to access to information, or an authorised body for the field. According to some civil society organisations, access to information has not improved in practice. Responses to enquiries are often delayed or rejected, and sometimes not provided at all. State bodies and municipalities often fail to publish complete and timely information. Additionally, the law on State secrecy adopted in 2023 introduced the new concept of "official information of limited distribution", providing legal grounds for further potential restrictions on information. Simply classifying information as "official information of limited distribution", State bodies will have a larger discretion in rejecting access to information.

117. In May 2022, Armenia ratified the Council of Europe Convention on Access to Official Documents (ETS No. 205, also known as the "Tromsø Convention"). The Convention aims at fully guaranteeing freedom of information, and domestic legislation and practice will need to be brought into line with its provisions. The first report from the authorities on its implementation was transmitted in January 2023.

118. A new draft law concerning a unified data policy and the State information system is being prepared. The Ministry of High-Tech Industry opened the draft law "On Freedom of Information and Public Information" for a two-week public consultation in December 2023. According to the assessment from civil society organisations, the draft law proposes extensive regulations on access to information and public data management. The draft is meant to replace the 2003 Law on Freedom of information, it introduces more extensive regulations on access to information and public data. In addition to the issues covered by the current law, among other provisions, it provides distinct definitions for concepts of "information" and "public information", sets regulations on State registers and databases, and identifies the authorised body responsible for the monitoring of the law.

119. Considering these concerns, on 19 January 2024, the government held a meeting with the stakeholders from State administration and civil society to discuss the concerns and recommendations on both sides. Based on the results of the discussion, the Chief of Staff of the Prime Minister assigned the authors of the draft to consider the opinions and proposals of the civil society organisations, and further discuss the revisions with all interested stakeholders.<sup>73</sup> We welcome this open dialogue and consultations in the preparation of the draft, it is a guarantee of the legitimacy and the quality of the future legislation.

120. Among the positive developments regarding freedom of information, the criminalisation of “grave insult” that had been introduced in July 2021 and received widespread criticism from international<sup>74</sup> and domestic observers, including the Human Rights Defender of Armenia, has been abandoned. We welcome this decision and recall the invitation to “develop tools other than preventive punishment to combat disinformation and hate speech.”<sup>75</sup>

121. Nevertheless, the end of criminalisation of defamation does not protect journalists from strategic lawsuits against public participation (SLAPPs). On 2 May 2023, the Court in Yerevan ordered a freeze of 9 million Dram (€21 890) of the assets of journalist Davit Sargsyan, as well as 9 million Dram of the assets of his employer, 168 Hours. The freeze stems from a civil defamation suit filed on 31 March by the Deputy Mayor of Yerevan, Tigran Avinyan, in response to a video report by Sargsyan released on 5 February. Sargsyan wrote that he relied on previously published material that Avinyan had not denied at the time, and that he believed the suit aimed “to cause me significant financial damage and thus to keep me silent”. On 18 May, the freeze of the assets was lifted at the plaintiff’s request, quoting that he had “no intention of bankrupting any media outlet or causing any financial inconveniences”.

122. The implementation of the new Criminal Code provisions on hate speech that call for or justify violence are raising concerns. Since they were adopted in 2020, 36 out of the 38 cases that reached the courts concerned alleged calls for violence against the Prime minister or his supporters. The number of cases has more than doubled in 2023 compared to 2022. Among the defendants are opposition politicians and active social media users, who claim that the law is applied selectively and that law enforcement agencies have dismissed open calls and threats of violence by ruling party members.<sup>76</sup>

123. On 17 April 2024, the European Federation of Journalists denounced the authorities’ misuse of anti-hooliganism legislation to suppress press freedom and freedom of expression.<sup>77</sup> In this case, two authors of a podcast had been arrested and given two-months pre-trial detention for “showing an openly contemptuous attitude towards moral norms and swearing at Mr Pashinyan and his cabinet”. We were also informed of the situation of several activists incriminated for incitations to violence following posts on Facebook.

124. Physical safety of journalists remains a concern. Physical violence and attacks against journalists have decreased in recent years, however a rise of cases was reported in 2022, perpetrated by both public officials and private individuals. Most happened during various opposition protests. In many cases, threats of violence and attacks against journalists are not properly investigated. Attacks from previous years have not been followed up, nor adequately publicised by the law enforcement bodies, and no one has been convicted for attacking journalists in 2020 or 2021. This impunity emboldens the perpetrators of these crimes and at the same time, has a chilling effect on society, including journalists.<sup>78</sup>

125. On 25 May 2023, a group of civil society organisations<sup>79</sup> issued a joint report revealing that Pegasus spyware was used to spy on a number of public figures in Armenia, including at least five journalists. The report entitled “Hacking in a war zone: Pegasus spyware in the Azerbaijan-Armenia conflict,” identified at least 12 people whose devices were infected by Pegasus, a spyware produced by the Israeli company NSO Group. NSO Group claims that they sell their technology exclusively to governments. Many of the infections clustered around the 2020 war between Armenia and Azerbaijan and its subsequent military escalations. The targets included Armenian human rights activists, academics, and State officials, two media representatives who

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73. The [Government](#) of the Republic of Armenia (19 January 2024).

74. In [Resolution 2427 \(2022\)](#), the Assembly reiterated its position that defamation should not be criminalised.

75. [Resolution 2427 \(2022\)](#), para. 24.3.

76. Lusine Hakobyan, “Դատարանում քննվող բռնության կոչերի 95%-ը ուղղված է Փաշինյանին և նրա աջակիցներին” [95% of calls to violence examined in court are aimed at Pashinyan and his supporters], [Hetq Online](#), 26 January 2024, <https://hetq.am/hy/article/163786>.

77. [European Freedom of Journalists](#) (17 April 2024).

78. In their comments, the authorities indicated that in 2020-2021, 4 persons under 1 criminal case were convicted for obstructing the legitimate professional activity of journalists.

79. Joint investigation between Access Now, CyberHUB-AM, the Citizen Lab at the Munk School of Global Affairs at the University of Toronto (the Citizen Lab), Amnesty International’s Security Lab, and an independent mobile security researcher.

requested to be kept anonymous, and three identified journalists. The report did not specifically accuse Azerbaijan of wrongdoing but it notes that the authorities of Azerbaijan have used Pegasus “extensively” to spy on a “wide range of journalists”. The authors also note that, at the time of the writing of the report, they were unaware of any technical evidence suggesting that Armenia has ever been a Pegasus user.

#### **6.4. Situation of the media**

126. Since joining the Council of Europe in 2001, there have been systemic and recurring challenges to media freedom in Armenia. The 2018 “Velvet Revolution” ushered in a period of reforms which brought Armenia closer to Council of Europe freedom of expression standards. In particular, independent online media outlets have demonstrated their ability to fulfil the essential democratic role played by the media.

127. In 2022, we considered that the diversity of the media landscape had generally flourished since 2018 but noted that Armenian media remained highly polarised. Positive changes are also reflected in improved international rankings by organisations such as Reporters without Borders and Freedom House. These reports, too, acknowledge the diversity – although not full independence – of the media, as well as the relatively free operation of online independent and investigative media. At the same time, concerns relate to continued legal actions and violence against journalists; political influence and business controls in the print and audio-visual media; and the polarisation of the media caused by the editorial representation of their owners' interests.

128. The sources of information used by Armenian audiences are now overwhelmingly internet-based media and social media. Television is the second leading source of information, although its consumption has steadily declined since 2015. Local television and Russian television channels are used by a considerable number of Armenians and stakeholders suggested that in particular international news is provided through Russian TV channels. The influence of print media has dramatically decreased.

129. Most media outlets are affiliated with and directly controlled by larger political or business interests, creating systemic and persistent limits to press freedom and thus, to democratic media performance. The advertising market is underdeveloped, which leads to the media getting sponsorship and support from politicians and other influential public figures. The same applies to public media, which, in many cases, refrains from government criticism. These factors limit the financial independence of the media. Revealing the true owners of media outlets in Armenia is one of the main challenges in the sector.

130. The Law on Audio-visual Media, which replaced the outdated Law on Radio and Television, was adopted in 2020 and aimed to reflect the significant changes in the nature of content production and dissemination in the digitally transformed media environment. Its provisions have raised concerns, and the law needs to be revised to ensure alignment with Council of Europe standards. The Council of Europe DGI released a technical paper in March 2022 on Armenia's media sector needs assessment<sup>80</sup> which recommended that national authorities carry out a major legal reform process. Under the Council of Europe Action Plan for Armenia 2023-2026, the Council of Europe and the Armenian authorities have agreed to carry forward jointly, through co-operation programmes, reforms aiming to enhance the freedom of the media. We will carefully follow the developments on this issue.

#### **6.5. Violence against women**

131. Armenia has recently taken a number of steps to advance gender equality, combat domestic violence and provide for legal protection of women victims of violence by adopting relevant legislation and policies. The adoption of the law against domestic violence in December 2017, the signature of the Convention on preventing and combating violence against women and domestic violence (CETS No. 210, “Istanbul Convention”) in January 2018 as well as the 2019-2023 Strategy and Action Plan for Implementation of the Gender Policy in the Republic of Armenia underscore the government's commitment to work in the area of domestic violence. According to the authorities, State funding of non-governmental organisations providing support services to persons subjected to violence increased in 2023. Currently, the Strategic Plan for Implementation of Gender Policy in the Republic of Armenia for 2024-2028 is being developed.

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80. Council of Europe, Directorate General of Human Rights and Rule of Law, “Overview of the national legislative framework covering media freedom, freedom of expression, public service media and its compliance with Council of Europe standards”, [DCF-ARM-NAR-TP-1/2022](#).

132. Upon request of the Ministry of Justice, the Venice Commission has prepared an opinion on the constitutional implications of the ratification of the Istanbul Convention which helped raise awareness of this instrument at institutional level. While progress has been made towards improving women's equal access to both legal protection and effective remedies for violations of their rights, many challenges remain, including persistent legal, institutional, socio-economic and cultural barriers to gender equality and women's access to justice, and limited access to legal aid and support services for women.

133. On 7 February 2024, the National Assembly adopted at first reading a bill on preventing domestic violence and increasing the effectiveness of the protection of domestic violence victims. The purpose of the draft law, according to its authors, is to increase the effectiveness of the prevention of domestic violence and protection of victims. Among other measures, the bill is defining "virginity testing" as a form of violence. According to the author of the bill, 14 women died in 2023 as a result of domestic violence. Under the bill, the aggravating factors listed in a number of articles of the Criminal Code will be reviewed, including factors determined by gender, as well as whether the crime was committed by a close relative, partner or ex-partner.

134. Some members of the opposition argued that the topic was artificially introduced, which seems to indicate that the extreme polarisation of the political debate is spilling over into other topics that should be of consensual nature, such as the question of violence against women.

## **6.6. Fight against discrimination/inclusive society**

135. The European Commission against Racism and Intolerance (ECRI) published its fifth report on Armenia (sixth monitoring cycle) on 20 June 2023. The report is assessing that progresses have been made and good practices have been developed in a number of fields.

136. ECRI was pleased to note that representatives of ethnic and religious minorities generally do not face obstacles concerning their participation in public life and their relations with other groups. In the field of inclusive education, ECRI is praising Armenia for the measures taken, in order to ensure continuation of education for 80% schoolchildren from low-income families in rural areas affected by school closures in primary and upper-secondary education due to the Covid-19 pandemic. Some of the matters of concern in the ECRI report correspond to our own findings about hate speech.

137. The Criminal Code adopted in 2021 expanded the scope of aggravating circumstances to include the motive of hatred, intolerance or animosity caused by racial, national, ethnic or social origin, religion, political or other views or other circumstances of a personal or social nature. Unlike the former code, the bias motives in the new Criminal Code are presented in a non-exhaustive manner, thus ensuring that bias related to sexual orientation or gender identity falls under the criterion of "other circumstances of personal nature".

138. The Council of Europe Commissioner on Human Rights, in her latest country visit report on Armenia, pointed out the lack of a comprehensive anti-discrimination law which would explicitly refer to the prohibition of discrimination on the basis of sexual orientation or gender identity. She also called on the authorities to take action to counter discrimination targeting LGBTI persons in Armenia. The Assembly Resolution 2418 (2022) "Alleged violations of the rights of LGBTI people in the Southern Caucasus" reiterated the recommendation made by the Commissioner.

139. In its 2023 report, ECRI noted that: "Reference to the 'Armenian identity' is all too often misused to fuel intolerance in speech and action towards LGBTI communities and, to some extent, religious and other minorities, instead of promoting respect for diversity, which is considered to be closely associated with Armenian tradition."

140. According to ECRI, several documented cases of threats, insults and other manifestations of hate speech targeting LGBTI persons involved political figures on social media and in parliament. A public parliamentary hearing on human rights organised in April 2019, during which a transgender activist intervened to raise the issue of transphobic hate crimes in Armenia, was accompanied by an unprecedented flow of anti-LGBTI hatred. For instance, some members of parliament stated that "such individuals should be burned" and committed to fight "sexually deviants". LGBTI-phobic arguments depicting LGBTI people as threats to family values, national identity and national security have been frequently used in the political sphere and remained grossly unchallenged.<sup>81</sup> ECRI deplored the lack of a code of conduct sanctioning racist and LGBTI-phobic political discourse in parliament. Political leaders and members of parliament should make it clear that the use of hate speech by persons affiliated with them is unacceptable and take action to prevent and sanction such use.

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81. "2021 Report on Armenia", Human Rights Watch; ECRI 6th Monitoring [report on Armenia](#), p. 14.

141. A comprehensive monitoring of hate speech incidents and a proper data collection mechanism are needed in Armenia. According to ECRI's findings, the few data available on hate speech incidents of a criminal nature and hate crimes do not reflect the actual size of the problem.<sup>82</sup> According to public sources, 68 hate crimes were recorded by police in 2021. The perpetrators were prosecuted in 9 cases and convicted only in 3 cases. The data reported by police included 27 homicides, 8 cases of damage to property, 21 cases of incitement to violence, and 2 cases of "breach of citizens' legal equality". However, in most cases the information on bias motivation was unavailable. To get a consistent view of prevalence of hate crimes and the investigative and judicial authorities' response to such crimes, the authorities have been invited to ensure that a proper system of registration and data collection on hate crimes is put in place and to provide information on the number of complaints submitted on hate crimes and hate speech, the number of investigations initiated, the number of cases sent to court and their outcome. Following the adoption of the new Criminal Code in January 2023, a separate statistic is maintained for all the articles under which the motives of hate, intolerance or animosity were caused by the following conditions: race, nationality, ethnicity or social origin, religion, political or other views or other circumstances of personal or social nature, which are qualified as aggravating circumstances.

142. A draft Law on Equality before the law is being elaborated with the involvement of international experts and is envisaged to be submitted for adoption by the National Assembly in 2024. It aims to ensure equal opportunities for the implementation of the rights and freedoms of every person without discrimination. This law will define the concept of discrimination and its types, the subjects of discrimination and the mechanisms for ensuring equality, as well as the status, objectives, and activities of the Equality Council.

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82. [Report](#) on collection of data on discrimination, hate crimes and hate speech in Armenia (November 2019).