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PREFACE

By becoming a fully-fledged member of the Council of Europe on January 25, 2001, the Republic of Armenia assumed certain commitments as laid down in the Application for CoE Accession and PACE Opinion No. 221 (June 28, 2000) on the Application (see Appendix 1). Progress towards honoring of these commitments has been discussed in the Parliamentary Assembly of the CoE on several occasions, and resolutions have been passed (see Appendixes 2, 3, 4).

The objective of this Study is to determine how Armenia has honored its commitments and obligations in the field of human rights during the four years since accession; the monitoring gauges performance against not only the actual commitments, but also the resolutions of the PACE concerning their honouring.

The monitoring of each commitment covers the background of the issue, legislative amendments, practice, progress, and suggestions on how to make the reforms more effective. Laws, legal amendments, and various other legal acts adopted since 2001 have been reviewed. Relevant statistics and publications concerning the honouring of obligations, and facts of human rights violations have been studied. Surveys, individual interviews, mass media monitoring, institutional reform analysis, and monitoring of various institutions have been made.

The study was undertaken by Yerevan Press Club under the “Monitoring of Democratic Reforms in Armenia” project. Certain sections in this report were developed by members of “Partnership for Open Society” Initiative, including “Democracy” Center for Political and Legal Studies, the Helsinki Committee of Armenia, the Caucasus Center for Peace Initiatives, the Cooperation for Democracy, Internews Armenia, and the Bar Association of Armenia.

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1. CONSTITUTIONAL AMENDMENTS

Originally, the Council of Europe did not specifically impose a requirement of constitutional amendments upon Armenia, because Armenia had already officially launched the constitutional reform process, and the authorities were closely cooperating with the Venice Commission of the CoE on this matter. In its Opinion No. 221 (June 28, 2000) on Armenia's Application for membership in the CoE, the PACE only noted that "Armenia ... intends ... to grant access to the Constitutional Court, within two years of accession, also to the government, the Prosecutor-General, courts of all levels, and - in specific cases - to individuals; to reform the Justice Council in order to increase its independence within three years of accession...".

In Resolution No. 1304 adopted on September 26, 2002, PACE invited the Armenian authorities, in view of their commitment to adopt a new Constitution in 2003, to collaborate with the Venice Commission and to follow its recommendations. The Armenian authorities, which, in effect, stopped collaborating with the CoE Venice Commission in constitutional reform matters after receiving the July 2001 Opinion of the Commission, failed to adhere to PACE's suggestion: on May 25, 2003, the Armenian authorities held a referendum on a draft, the text of which was unknown to the Commission. Moreover, Resolution 1304 invited the Armenian authorities to consider the possibility in the draft Constitution of enhancing the oversight function of the National Assembly.

The constitutional amendments did not pass the referendum of May 25, 2003. In Resolution 1362 of January 27, 2004, PACE noted that the honouring of a number of legislative commitments by Armenia was still conditioned by the revision of the Armenian Constitution. PACE highlighted such issues as increased local self-government, introduction of an independent ombudsman, establishment of independent regulatory authorities for broadcasting, modification of the powers of and access to the Constitutional Court, and reform of the Justice Council. PACE once again called the Armenian authorities to hold a referendum as soon as possible and not later than June 2005. In Resolution 1405 of October 7, 2004, PACE noted progress in the constitutional reform process and called for the referendum to be held not later than June 2005.



In collaboration with the Venice Commission during 2000 and 2001, a draft was produced, on which the Venice Commission issued its opinion (CDL-INF(2001)17) during the 47th Plenary Session of the Commission held on July 6-7, 2001. Later, on September 8, 2001, the draft was submitted to the National Assembly by the President with virtually no modification.¹ Following debates in the National Assembly, the President submitted a Revised Draft to the National Assembly on March 27, 2003,² which was considerably different from the first draft. On April 2, 2003, the National Assembly endorsed the draft, after some revisions. On May 25, 2003, a referendum was held on the draft amendments, which did not pass.

During the summer and fall of 2004, three drafts of constitutional amendments were submitted to the National Assembly: (i) the draft of the three ruling coalition parties (August 8, 2004); (ii) Arshak Sadoyan's draft (August 16, 2004); and (iii) United Labor Party's draft (September 17, 2004). In its 61st Plenary Session held on December 3 and 4, 2004, the Venice Commission adopted its Interim Report (CDL-AD (2004)044) on these three drafts.

Considering that the ruling coalition has a majority of seats at the National Assembly, it is more likely that its draft (August 8, 2004) will be presented to the public in a referendum. Therefore, it is the only draft analyzed in this document. If adopted, a more thorough analysis will be made.

Concerning Chapter 2 of the Draft Constitution presented by the Coalition ("Fundamental Rights and Freedoms of Humans and Citizens")

1. The grounds for restricting human rights, which are listed in Article 43, are broader than those enshrined in the European Convention on Human Rights (ECHR).
2. These restrictions should be specifically defined for each fundamental right; otherwise, the legislature may restrict them even more at its discretion.
3. The Draft makes no direct reference to the principle of proportionality, which is crucial for human rights protection in a state where the rule of law is established. The principle of proportionality implies that a law may prescribe only such limitations of human and citizen's fundamental rights, which pursue a constitutional purpose and are relevant, necessary, and appropriate for attaining such a purpose.

¹ *Republic of Armenia* daily, February 1, 2002.

² *Official Bulletin of Republic of Armenia* publication, Issue 19 (254) of April 12, 2003. *Republic of Armenia* daily, April 12, 2003.

4. The Draft does not differentiate between civil and political rights, on the one hand, and social rights, on the other. The Chapter on Human Rights and Freedoms should only contemplate the rights backed by judicial remedy. The Chapter on Human Rights and Freedoms should contemplate economic, social, and cultural rights only to the extent to which the state is able to ensure judicial protection of such rights. Otherwise, such economic, social, and cultural rights should be prescribed in the special chapter on the obligations of the State.

5. Many articles in the Draft either are incomplete or contain dangerous provisions from a standpoint of human rights protection. Here are just a few of such articles:

- Article 15 does not provide a clear prohibition of the death penalty;
- Article 16 fails to list the cases in which a person may be deprived of liberty;
- The right to judicial protection has been removed from Article 18, though such right should not be seen as contrary to the right to expect effective protection from non-judicial authorities and cannot be compensated by the latter;
- Article 23(3) allows, in emergency cases, to restrict the right to privacy of correspondence, telephone conversations, mail, telegraph, and other communication before even getting a court order; however, there is no provision to require that such cases be later subject to mandatory judicial review by force of the Constitution, rather than at the request of the respective person;
- The provisions on the Human Rights Defender are inadequate (see Chapter 6 of this Report - "Institution of the Human Rights Defender in Armenia").

Concerning Chapters 3, 4, and 5 on the President, the National Assembly, and the Government

The Draft does not address one of the main goals of constitutional reform, i.e. to shift from a governance system that is completely concentrated in the President's hands to a system with separation of powers, which will be both stable and less prone to personal discretion. The separation of powers vested in Article 5 of the Constitution is in effect not respected in the remaining chapters of the Constitution.

It is not clear what the President's place will be in a system where the powers are separated. If there shall be three branches-the legislature, the executive, and the judiciary, then there must be a provision stating clearly which of these branches the President belongs to. By definition, the President may not be a part of the legislature and the judiciary; therefore, the President must be a part of the executive branch. However, the Draft does not make it clear.

The following provisions confirm the aforementioned assertions:

1. The Chapter on the President has a very distinct place in the Constitution, and Article 49 of the Constitution is a source of constant expansion of the President's powers;
2. The President has the power to adopt primary legal acts on all the spheres of public and state life, especially on matters that are not covered by laws, i.e. the President has the power to introduce "pre-legislative" regulation of social relations;
3. The President has the power to suspend any decision of the Government and request the Constitutional Court to determine the conformity of such a decision with the Constitution;
4. The Government has the obligation to follow not only the Constitution and the laws, but also the decrees of the President;
5. Under Article 55(4), the President has the unconditional right to dismiss the Prime Minister at his sole discretion, regardless of the procedure by which the Prime Minister was appointed.

Under the Draft, the President will lose the absolute right to dissolve the National Assembly; however, the President will gain over a dozen new powers.

The following new powers have been given to the President under the Draft:

- The right to appoint and dismiss the Prosecutor General without nomination by the Prime Minister (Article 55(9));
- The right to appoint to positions of state office in cases prescribed by law (Article 55(5));
- The right to legislative initiative (Article 75);
- The right to take the initiative to convene a session or a sitting of the National Assembly (Article 70(2)), and so on.

The Draft fails to strengthen the National Assembly. Under this Draft, the oversight functions of the National Assembly are minimal. Moreover, if there is no definite majority in the National Assembly, it can turn into an unmanageable and irresponsible body, which can easily trigger frequent crisis in governance.

Concerning the Chapter on Local Self-Government

Local self-government is an autonomous system, independent of central government, which is designed to enhance community residents' participation in the process of resolving local matters and, if necessary, also nationwide governance matters.

Article 109 directly contradicts this approach, because it not only retains the Government's right to dismiss an elected community head, but also expands the right by allowing the Government to dismiss also community councils of elderly.

The status of the City of Yerevan has been confused even further. On the one hand, Yerevan is declared a community. On the other, the head of this community, under Article 88.1, is appointed and dismissed by the President, rather than elected by its citizens. This provision comes into direct conflict with Article 3 of the Constitution, which provides that elections of local self-government shall be conducted on the basis of direct suffrage.

The creation of inter-community associations, the status of communities, separation of functions, differentiation of functions from powers, and a number of other crucial matters concerning local self-government have not been clearly regulated in the constitutional draft.

2. ELECTORAL LEGISLATION AND PRACTICE

By becoming a fully-fledged member of the Council of Europe and ratifying [on December 30, 2000] the Charter of the CoE signed in London on May 5, 1949 and the European Convention for the Protection of Human Rights and Fundamental Freedoms (on March 20, 2002), which provides in Article 3 of the First Protocol that “the High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot”, the Republic of Armenia has undertaken to harmonize elections held in the country with the requirements of the Council of Europe since ratification.

The Code of Good Practice In Electoral Matters adopted by the Council of Europe’s European Commission for Democracy Through Law (adopted in the 52 Plenary Session of the Venice Commission in Venice during October 18 and 19, 2002, and endorsed by PACE in 2003) defines the CoE’s standards on democratic elections with which elections held in the Member States must comply.

After signing the aforementioned documents, the legitimacy of elections held in Armenia and their compliance with international standards have been assessed primarily on the basis of these documents.

The first presidential and parliamentary elections held since accession to the CoE (i.e. the 2003 elections) were assessed by CoE Parliamentary Assembly as an “electoral process which as a whole had not complied with international standards [for democratic elections].” (See PACE Resolutions 1361 (2004) and 1374 (2004).) This was also the assessment of the OSCE Observer Mission.

Here are the main political and legal obstacles to the administration of free and fair elections in the Republic of Armenia in line with international standards:

- The Armenian authorities do not have the will to conduct elections in line with international standards in the Republic of Armenia;
- The governance system in Armenia, which is in effect a super-presidential one (all the political authority is concentrated in the hands of one person-the President), is not favorable for either political competition or the development of a strong civil society;

- There are no democratic traditions in Armenia; civil society and a multi-party system are just emerging, there is no legislative stability, and the existence of mass media independent of the state is questionable;
- As a consequence of fraud, elections in Armenia do not become a means for expressing the majority will, addressing political conflict, and forming the political elite; thus, the authorities do not become legitimized;
- Neither stakeholders nor society have ever concluded that elections were fair in Armenia (with the exception of the 1990 parliamentary and the 1991 presidential elections); as a consequence, elections in Armenia exacerbate in-country tension instead of fostering political stability;
- The political regime that has emerged in the Republic of Armenia as a consequence of regular election fraud, among other things, is characterized as a “nomenclature democracy”, i.e. a democracy of limited possibilities, where there are restrictions on all the rights the exercise of which may hinder “reproduction” of the authorities;
- As a consequence of fraudulent elections, the people and political forces that come to the power are unknown and have a suspicious past; most often, they do not have much in common with the collective will of society;
- The outcome of elections is decisively influenced by the administrative and financial resources, rather than the collective will of the voters;
- In Armenia, elections have been transformed from a democratic institution to an institution that serves the personal interests of individuals or inner circles;
- As political parties remain underdeveloped at best, campaigns turn into a struggle between individuals, with virtually no debate on core values and alternative paths of development;
- Those who perpetrate crimes during elections go unpunished. Even when the perpetrator is known and evidence is available, nothing is done about it. On the days following both the presidential and parliamentary elections in 2003, *Haikakan Jamanak* and *Aravot* published a long list of irregularities many of which contained elements of crime; however, no criminal cases were instigated in response. Even if any administrative penalties were ordered, they were ordered mostly against opposition representatives. To date, nothing has been done about the calls of the international community and the opposition to punish the perpetrators of electoral viola-

tions (which could have mitigated both political tension and the conclusions of the international community). The public conscience still fails to treat as crimes the criminal acts against electoral rights (forcing a voter to say how he voted - in order to violate the secrecy of the vote; checking the voted ballot to find out how the voter has voted; entering into the voting booth; violating secrecy of the vote in other ways; intentionally miscalculating the votes in the referendum or in elections; approving manifestly erroneous "results" of elections or the referendum; stealing ballot boxes; forging election or vote results in various ways; voters' producing fake documents and misrepresenting themselves to vote instead of someone else or to vote more than once; obstructing the free administration of elections or referendum; impeding the activities of the electoral or referendum commissions; obstructing the exercise of their rights by members of electoral or referendum commissions, or members of initiative groups, or candidates or their proxies, or observers, the mass media representatives, or party (party alliance) proxies. The public does not adequately respond to these cases. Shortcomings of the electoral legislation, too, hinder the administration of free and fair elections in the Republic of Armenia. Since the adoption of the Electoral Code in 1999, over 100 amendments have been introduced into the text. Interestingly enough, these amendments are typically made on the eve of elections. In order to conduct elections in accordance with the standards established by the Council of Europe, the electoral legislation needs to be amended to ensure the impartiality, professionalism, and transparency of electoral commissions.

- Under the current procedure of electoral commission formation (Chapter 8 of the Electoral Code), the executive branch of government, led by its de-facto head, the President, continues to have a predominantly biased impact on the performance of electoral commissions. There are no guarantees for the activities of independent, impartial, and professional electoral commissions. During both presidential and parliamentary elections held in 2003, virtually all of the chairmen of electoral commissions were those members that had been appointed by the incumbent President or the Ruling Coalition Government. Thus, the procedure of electoral commission formation should be modified fundamentally. Electoral commissions must be balanced, impartial, and professional. All of the political forces represented in the National Assembly should have their members in the electoral commissions; however, it must be ensured that no one has a predominant role, that the authorities and the political opposition are equally represented, and that non-parliamentary parties that are running in the elections also be represented in the electoral commissions by members that would have a consultative vote. In order to have balanced and impartial electoral commissions, nomination of electoral commission chairmen, deputy chairmen, and secretaries by lottery draw could be practiced (for both territorial and precinct commissions).

- Though the existant Electoral Code does not permit any restriction of proxies' rights, the 2003 elections were accompanied with numerous cases, in which proxies of opposition candidates were removed from the polling stations. Wherever it did not come down to inviting proxies to leave the polling stations, their involvement in the commissions' activities was minimized, and they were not allowed to see the voting documents, including even voted ballots.
- Lack of electoral commission members' legal knowledge remains another cause of poor electoral administration in Armenia. Training is the key to both proper enforcement of the electoral legislation and the exercise of voting rights. Having a certificate confirming that the person has adequate knowledge on voting rights must be a precondition for anyone to become a member of an electoral commission.
- There still remain problems in connection with the procedure of nominating and registering parliamentary and presidential candidates. First of all, it is necessary to revise the prohibition on party alliances nominating parliamentary candidates in the single-mandate (majority) contest. This restriction in effect hinders the formation of party alliances and the nomination of a unified team of alliance candidates in the single-mandate contest. The Draft Law on Amending and Supplementing the Electoral Code, which the National Assembly coalition forces circulated recently, does not institutionalize the collection of signatures to support nomination of candidates and party lists, proposing the introduction of very high "electoral deposits" instead. According to this Draft, the electoral deposit for presidential candidates would be increased to 1,000-fold the minimum salary, the electoral deposit for party lists in the proportional contest of parliamentary elections-to 5,000-fold the minimum salary, and the electoral deposit for a candidate nominated in the single-mandate contest of parliamentary elections-to 200-fold the minimum salary. These electoral deposits are a type of pecuniary quota that contradicts the obligations assumed by the Republic of Armenia.
- During the most recent elections held in Armenia, the equality principle was manifestly violated, because the state administration resources were used in favor of one candidate. During the campaign, the mass media, especially the public service mass media, were clearly biased. Despite the thorough regulation in the Electoral Code, violations were commonplace.
- Conditional division of voters into two groups is only one example of how equality of voting rights was violated: one group-military servicemen and those who were abroad on voting day were deprived of the right to vote in the single-mandate contest of parliamentary elections. As a consequence, some voters had only one vote during the voting, whereas others had two votes in the same voting.

- There still remain questions as to whether the electoral legislation of Armenia truly ensures universal suffrage. In the absence of any form of alternative voting, dozens of thousands of voters, who cannot show up to the polling station and vote on voting day, are practically deprived of possibilities to exercise their voting right.
- During the recent elections, a large share of irregularities had to do with the unauthorized use of ballots. Several days before the voting, unlawfully-printed ballots were circulating. Ballots with special protective signs could be used to avoid this problem.
- In order to prevent multiple voting, which was observed during the elections, voters' fingers could be marked with a sign that cannot be erased during a certain period after the voting.
- Especially during the most recent parliamentary elections, the decisive impact of finance became clearer than ever before, including the handing out of money in the form of electoral bribe. Commitment on the part of the authorities is necessary to punish the perpetrators. The existence of a body, independent from the electoral commissions, to monitor candidates' expenses would improve the situation, provided that proper arrangements are put in place.

3. JUDICIAL REFORM

The legal bases for separation of powers and the formation of an independent judiciary in the Republic of Armenia were enshrined in the 1995 Constitution. Article 5 of the Constitution provides: “State power shall be exercised in accordance with the Constitution and the laws based on the principle of the separation of the legislative, executive, and judicial powers.” Moreover, Article 91(1) provides: “In the Republic of Armenia, justice shall be administered solely by the courts in accordance with the Constitution and the laws.” Article 97(1) provides: “When administering justice, judges and members of the Constitutional Court shall be independent and may only be subject to the law.”

The safeguards of judicial independence [for both courts and judges] are enshrined in the Constitution and the respective laws. Here are some of these safeguards: impermissibility of interfering with the activities of a judge, liability for contempt of court, immunity of judges’ tenure, immunity and apolitical nature of judges, material and social guarantees of judges’ activities, and the like.

However, the formation of the judiciary remains the “Achilles’ heel” of judicial independent safeguards in Armenia.

First instance courts, Court of Appeals, and the Cassation Court, as well as the Economic Court and the Constitutional Court, each within their mandate, have the exclusive power to administer justice in the Republic of Armenia. The creation of extraordinary tribunals is prohibited.

The judicial authorities of Armenia are independent bodies-formed on the basis of the Constitution. They do not constitute a part of the legislative or executive branches.

Nevertheless, institutional independence of the Armenian judicial authorities can hardly be deemed adequate, because the executive branch has an excessive role in and impact on the formation of the judicial corps. This assertion is based on Article 94 of the Constitution, which provides that the President of the Republic shall be the guarantor of judicial independence.

As the guarantor of judicial independence, the President of the Republic heads a body that plays a crucial role in the appointment of judges, i.e. the Council of Justice. Moreover, the President has the power to directly appoint all the chairmen and judges of universal courts, as well as 4 out of the 9 Constitutional Court judges.

Here are other facts confirming that the executive branch is involved in the formation of the judiciary:

- a) 14 of the Justice Council members (including 9 judges, 3 prosecutors, and 2 legal scientists) are appointed by the President for a 5-year term (see Article 94(3) of the Constitution);
- b) The Minister of Justice is *ex officio* the Deputy Chairman of the Justice Council (Article 94(2) of the Constitution);
- c) The annual lists of judges pre-qualified for appointment and promotion are prepared by the Justice Council upon recommendation by the Minister of Justice (Article 95(1)(1) of the Constitution);
- d) The first instance, appellate, and economic court judge candidates are nominated to the Justice Council by the Minister of Justice Article 95(1)(3) of the Constitution).

The commitments concerning the Application for PACE membership reads: “to reform the Justice Council in order to increase its independence within three years of accession...”

The draft constitutional amendments, proposed by the ruling coalition, aim at minimizing the involvement of the judicial branch in the formation of the judicial corps. Article 100 of the Draft proposes a revision of Article 94(1) of the Constitution to read as follows:

“Independence of courts shall be safeguarded by the Constitution and laws.”

Moreover, Article 101 of the Draft proposes the inclusion of a new Article 94.1 in the Constitution to read as follows:

“The Justice Council shall be formed and shall operate in accordance with the procedure defined in the Constitution and laws.

The Justice Council shall comprise up to 9 judges elected for a 5-year term by secret vote by the General Assembly of Armenian Judges and 3 legal scientists appointed by the President of the Republic.

The Justice Council shall be headed by the President of the Republic.

The proposed amendments are, of course, to be seen as a step forward.

Nevertheless, they cannot be considered sufficient to safeguard the institutional independence of the judiciary. Under the Draft, the President continues to be the *ex officio* head of the Justice Council and to appoint its non-judge members. The President would also retain all of his rights connected with appointment and dismissal of judges.



The efficiency of justice should be assessed in the light of a number of factors.

Justice cannot be efficient, unless judicial independence and autonomy from other branches of government are truly safeguarded, unless judges are immune and have secured tenure, and unless their salaries are high enough to support a dignified life and work.

In 2002, *the American Bar Association Central and Eastern Europe Law Initiative* (ABA/CEELI) carried out a study using 30 factors that were assessed to develop the Judicial Reform Index for the Republic of Armenia.

In view of the complex nature of judicial efficiency, the index developed by ABA/CEELI can be considered an appropriate assessment of justice in Armenia. Experts assessed 19 factors as “negative,” 7 factors as “neutral,” and only 4 as “positive,”³ which is a sign of the inadequate efficiency of justice in Armenia.

The following factors were assessed as “negative”:

1. *Qualification and preparation of judges;*
2. *Selection/appointment process;*
3. *Continuing legal education;*
4. *Judicial review of legislation;*
5. *Budgetary input;*
6. *Adequacy of judicial salaries;*
7. *Judicial buildings;*
8. *Judicial security;*
9. *Objective judicial advancement criteria;*
10. *Removal and discipline of judges;*
11. *Case assignment;*
12. *Judicial decisions and improper influence;*
13. *Judicial conduct complaint process;*
14. *Publication of judicial decisions;*
15. *Maintenance of trial records;*
16. *Court support staff;*
17. *Judicial positions;*
18. *Computers and office equipment;*
19. *Distribution and indexing of current law.*

Since the assessment by ABA/CEELI, progress has been observed in respect of some factors assessed as “negative,” which will be discussed below.

³ See the Judicial Reform Index for Armenia, ABA/CEELI, April 2002, pp. 11-12.

Clearly, the efficiency of justice is highly influenced by the premises/facilities and financial conditions of the judiciary.

A study carried out in the frameworks of the “Support to Improving the Activities of Courts in the Republic of Armenia” project, implemented by the Open Society Institute and the Law School at Yerevan State University, suggests that 85% of the interviewed judges, prosecutors, attorneys, and judge assistants consider inadequacy of technology and facilities (inadequate premises, lack of necessary hardware, and the like) in courts the main obstacle to judicial review of civil and criminal cases. Studies have confirmed that inadequate material conditions have a negative impact on not only the effective functioning of courts, but also the administration of justice in civil and criminal cases. Nevertheless, some of the material and financial reforms in the Armenian judiciary can facilitate the efficient administration of justice.

A considerable increase in judicial salaries under the Republic of Armenia Law “On Official Pay Rates of Legislative, Executive, and Judicial Senior Officials” (effective from July 1, 2003) should be considered a positive step.⁴ In addition to supporting the independence of judges, it will ultimately boost the efficiency of justice.



The efficiency of justice will by and large depend on access to justice.

Article 38(2) of the Constitution provides: “Everyone is entitled to defend in court the rights and freedoms engraved in the Constitution and the laws.” Article 39 provides: “Everyone is entitled to restore any rights which may have been violated, as well as to a public hearing by an independent and impartial court, under the equal protection of the law and fulfilling all the demands of justice, to clear himself or herself of any accusations.”

Though citizens have a wide possibility for applying to court in criminal and civil cases, access to justice in the modern sense is far from adequate. Certain financial and institutional mechanisms have to be introduced in order to make the exercise of access to justice a real and effective right. The special importance of the financial component of access to justice is due to the inadequate economic conditions of the public. According to official data published by the National Statistics Service of Armenia (see <http://www.armstat.am/arm/StatData/2004/5%20living%20standart.pdf>), the per capita income is as follows:

1999	2000	2001	2002	2003
AMD 195,261	AMD 214,189	AMD 227,601	AMD 267,240	AMD 362,357

⁴ See Articles 2-5 and 7-9 of the Law.

In effect, annual per capita income was around US \$600 in 2003, i.e. on average US \$50 per month.

The Armenian legislation currently provides two financial arrangements in this context:

1. Some exemptions regarding judicial costs;⁵
2. Citizens' right to free legal aid in certain cases (Article 40(1) of the Constitution).

Free legal aid is given to citizens only in criminal cases, and only to suspects and defendants. In civil cases, government-supported arrangements for access to justice are limited to certain exemptions, discounts, or deferred payment of judicial stamp duties.

At present, the Armenian practicing advocates comprise the institutional grounds for the exercise of the right to free legal aid by citizens, whereas budgetary funding is the financial ground for the same (AMD 10 million under the 2004 State Budget).

There are some obstacles in the legislation concerning the possibility of appealing against unlawful or unfounded final judgments of universal courts. An appeal against a judgment, ruling, or decision that has become final may only be filed by the Prosecutor General, his deputies, or an advocate who is registered with the Cassation Court and has a special license (Articles 404(1) and 404(2) of the Criminal Procedure Code and Article 223(2) of the Civil Procedure Code). The number of advocates who have a special license is extremely limited. Moreover, the fees they charge are excessively high.

Still, there is some progress towards access to a higher judicial instance. The Law "On Amending the Criminal Procedure Code" (adopted on February 18, 2004) eliminated the unreasonable restriction on the victim's right to lodge an appeal. Under this Law, the words "the victim, his proxy, and successor may lodge an appeal only in cases that are instigated on the basis of victim complaint..." were removed from Article 404(2) of the Criminal Procedure Code.

Earlier, a law was adopted on June 13, 2000 to amend the Civil Procedure Code, which enables the parties to appeal against final decisions of the appellate court before they enter into legal force.

There are other problems concerning access to justice in Armenia. Constitutional justice is basically inaccessible for citizens, because "ordinary" citizens do not have the right to lodge an application to the Constitutional Court. In Opinion 221 on Armenia's Application for accession to the Council of Europe (June 28, 2000), PACE noted: "Armenia intends ... to grant access to the Constitutional Court, within two years of

⁵ See Article 70 of the 1998 Civil Procedure Code and Articles 21 and 22 of the 1997 Law on Stamp Duties.

accession, also to the government, the Prosecutor-General, courts of all levels, and - in specific cases - to individuals...” This commitment was not honoured within two years of accession. Paragraph 9 of PACE Resolution 1361 (2004) notes: “The Assembly notes that a number of legislative commitments - ... modification of the powers of and access to the Constitutional Court, ... - are still subject to a revision of the Armenian Constitution.” The proposed draft constitutional amendments presented recently by the ruling coalition are only the first attempt in this direction. The Draft proposes to paraphrase Article 101 of the Constitution to read as follows:

“The following may apply to the Constitution Court in accordance with the procedure defined in the Constitution and in the Law on the Constitutional Court:

... 6) everyone-in a specific case, if there is a final act of court, and if he/she is challenging the constitutionality of any provision applied in respect of him/her.”



There are some issues in Armenia related to the legislation on administrative infringements. To date, Armenia has not taken measures with regard to a number of PACE Resolutions⁶ recommending that Armenia revise the institution of administrative detention. Legislative amendments in this respect still have not been made, and apparently, none are planned.

Detention - as an administrative sanction, by its very nature is not much different from detention prescribed under the Criminal Code: both are sentences, and 15-day detention may be ordered for both an administrative infringement and a crime (see Article 57(1) of the Criminal Code and Article 31 of the Code of Administrative Infringements). However, the review of cases involving crimes is very different from the review of administrative infringements: under administrative proceedings, some of the universal guarantees of human rights are missing. The existant legislation does not prescribe the right of a person subjected to an administrative penalty to appeal the decision to the third instance (Cassation Court).

⁶ See Paragraph 9 of PACE Resolution 1304(2002), Paragraph 14 of Resolution 1361(2004), and Paragraph 5(a) of Resolution 1374(2004).

4. DEMONSTRATIONS, MEETINGS, AND FREE MOVEMENT OF PERSONS

Article 26 of the Republic of Armenia Constitution provides: “Citizens are entitled to hold peaceful and unarmed meetings, rallies, demonstrations and processions.”

Prior to April 2004, no law had been adopted on rallies and processions. There were no procedures on conducting rallies, demonstrations, and processions, and the constitutional provision on freedom of assembly was in direct effect. However, based on the Presidential Decree on Public Administration in the City of Yerevan (1997), the Yerevan Mayor would authorize or prohibit demonstrations (though the Decree did not vest such authority in the Mayor).

5 of the 6 opposition-requested demonstrations were refused. In his letter (01/03-3331h) on refusal, for instance, the Mayor stated:

“...taking into consideration the Message of Yerevan’s “Center” District Community Council from its extraordinary session convened on 01.04.04 urging to refrain from demonstrations, rallies, and processions in the territory of the “Center” District to the extent possible, we find it inappropriate that a demonstration be conducted near the Matenadaran (Ancient Manuscript Museum) at 7pm on May 21...”

The rallies and demonstrations conducted by the opposition during 2003 and 2004 were followed by mass arrests. Demonstration participants were arrested for participation in an unauthorized demonstration, rally, or procession, or for violating the established procedure; once arrested, they would be subjected to administrative sanctions in trials behind closed doors, without advocates and with procedural violations.

Article 22 of the Constitution guarantees the right to freedom of movement. Under this Article, each citizen has the right to move freely in the territory of the Republic of Armenia. However, during the demonstrations, the roads between Yerevan and the regions were blocked, traffic was disarranged, and people could not get either home or to work. Drivers who transported citizens to the demonstration in Yerevan were terrorized.

In particular, Nver Barseghyan (from Vardenis) and Karen Bayburdyan (from Malatia-Sebastia District in Yerevan) were apprehended to the Police

On April 27, 2004, the Law on the Procedure of Conducting Gatherings, Meetings, Rallies, and Demonstrations was adopted, and became effective on May 22. PACE described this Law as “highly restrictive.” Before the Law was adopted, the draft was characterized as “unacceptable and failing to comply with the European standards by OSCE¹² and experts of the Venice Commission (CDL(2004)022); PACE called upon the authorities to harmonize it with CoE principles and standards (PACE Resolution 1361, *ibid* 15, January 27, 2004, Document 10027).

In a conceptual sense, the Law defines the powers of competent authorities, rather than the safeguards of the exercise of the right to freedom of assembly; in effect, the Law is restrictive of the organization and holding of public events, because:

1. Under Articles 2, 10, and 12 of the Law, mass events (defined as events with up to 100 participants) may only be held after giving at least 3 days’ advance written notice to the competent authorities. As a consequence, holding a protest with over 100 participants becomes impossible, even if there is an urgent and unexpected issue.

2. The respective international standards and Article 48(2) of the Republic of Armenia Constitution provide an exhaustive list of the grounds upon which fundamental rights and freedoms may be restricted. However, this Law lays down additional wide grounds for prohibiting demonstrations. Under Article 13 of the Law, the bodies that review notification of a mass public event (i.e. the Mayor in Yerevan, and the community head in the regions) may prohibit the holding of a mass public event, if:

- “Some other mass event or other event that precludes convention of the first event takes place on the mentioned date, time and location...” In effect, the competent authorities have the discretion to determine whether events can be held concurrently, and the meaning of “precludes” has not been clarified.

- “There is reliable information that convention of the event on the mentioned date, time, and location poses a real threat to the life or well-being of persons...” The notions of “credible information” and the degree of threat have not been clarified. According to the international standards, using assumptions is not acceptable. Causing inconvenience upon others should not be construed as a situation in which the demonstration stops to be peaceful.

It is prohibited to conduct public events:

- “In the territory or within 150 meters of national, special, and vital facilities, cultural and sports complexes (if other events are being held inside such complexes).” Under the respective decree of the Armenian

¹² OSCE/ODIHR Opinion on Republic Armenia Draft Law of the Republic of Armenia on the Procedure of Conducting Gatherings, Meetings, Rallies, and Demonstrations” (April 4, 2004) prepared by Birmingham University professor Jeremy McBride.

Government on “State Protection of Special, Vital, and Historic-Cultural Facilities,” the administrative buildings located in the center of Yerevan are considered such facilities, which renders it impossible to hold such events in the center of Yerevan.

- “If other events are being conducted in the territory or within 150 meters of cultural and sports complexes.” It is not clear how the body reviewing the notification would have advance knowledge of “other events,” because notification for such “other events” is not required. Why are events held in the territory and within 150 meters of cultural and sports complexes considered superior to the constitutional right to freedom of assembly?
- “If holding a rally will disrupt either the traffic within that settlement or the inter-state road traffic.” Under international standards, the mere fact that holding a demonstration or a rally may disrupt road traffic cannot serve as a justification for terminating or prohibiting such an event. The Police are directly responsible for addressing these concerns by means of performing efficiently. OSCE characterized the traffic disruption clause as “extremely vague,” and the means available for compulsory termination of an event-“unclear.”¹³

In its 60th Session (Venice, October 8-9, 2004), the Venice Commission issued the opinion (CDL-AD(2004)039), (CDL(2004)42) that the Republic of Armenia Law “On the Procedure of Conducting Gatherings, Meetings, Rallies, and Demonstrations” did not correspond to the general requirement that laws on the right to assembly should be limited to defining the legislative bases of permissible interference by state authorities. Rather, the Law lays down inappropriate “permissible grounds” for restricting events.

In Resolution 1405(2004) adopted in October 2004, the Parliamentary Assembly of the Council of Europe called upon the Armenian authorities “to amend, no later than March 2005, the law on demonstrations and public assemblies to bring it into full conformity with Council of Europe standards to ensure freedom of assembly in practice.”

The authorities have prepared an 11-article Draft Law on Amending the Republic of Armenia Law on the Procedure of Conducting Gatherings, Meetings, Rallies, and Demonstrations. The Draft has been reviewed by experts of OSCE/ODIHR¹⁴ and the Venice Commission.¹⁵ Their opinions on the Draft coincide. Both of these institutions consider the proposed Draft amendments to the Republic of Armenia Law on the Procedure of

13 OSCE/ODIHR Opinion on Republic Armenia Draft Law of the Republic of Armenia on the Procedure of Conducting Gatherings, Meetings, Rallies, and Demonstrations” (April 4, 2004).

14 OSCE/ODIHR Opinion on Draft Law on Amending the Republic Armenia Law of the Republic of Armenia on the Procedure of Conducting Gatherings, Meetings, Rallies, and Demonstrations and Related Legislation”, Warsaw, February 9, 2005. Opinion ASSEMBLY - ARM/001/2005 (IU).

15 Opinion No. 290 / 2004 CDL(2005)018 adopted in Plenary Session of the Venice Commission, Strasbourg, February 8, 2005.

Conducting Gatherings, Meetings, Rallies, and Demonstrations to contemplate some progress; however, they note that the restrictions remain excessively onerous, and recommend taking additional steps in this direction. The majority of proposed amendments were assessed by the Venice Commission (Strasbourg, February 8, 2005, Opinion 290/2004 CDL(2005)018) as “amendments that do not result in significant improvement compared to the Law adopted on April 28, 2004”, “editorial amendments”, or “amendments that do not have an impact on the rights or responsibilities of the participants of public events.” The Venice Commission reiterated its opinion (CDL2004(42)) adopted in its 60th Plenary Session on harmonizing the Law with the requirements of the European Convention on Human Rights.

Under the Draft, Articles 3 and 4 of the Law on “The Rules of Other Events in Areas of Common Use” or “The Rules of Organizing Gatherings, Meetings, Rallies, and Demonstrations in Areas of Non-Common Use” were replaced with a new provision in Article 5, which maintains the provision in the current law. The Venice Commission noted the merely technical nature of this amendment, stating that it does not change the substance of the Law. The proposed amendment to Article 6 sets an additional condition for prohibiting public events on bridges, in tunnels, underground areas, dangerous buildings, and construction sites, contingent upon “...any threat upon public safety or the health of participants and others...” This provision was assessed as an improvement, though the authorities were once again called upon to amend the unacceptably long list of restrictions maintained in Article 9 of the Law (Opinion (CDL(2004)42). Though various provisions of the Law use the term “notification,” rather than “authorization,” the procedure required under the Law is in effect an authorization procedure, because a written application on conducting a public event must be presented, which may be refused.¹⁶ OSCE/ODIHR reacted negatively to the fact that this procedure was not amended in the Draft.¹⁷ Moreover, both OSCE and the Venice Commission highlighted that the Draft still maintains the onerous and detailed procedural requirements and compelling deadlines for authorization of mass public events. Furthermore, the Draft still contains prohibition of parallel events.¹⁸

On December 24, 2004, the Republic of Armenia Criminal Code and the Code of Administrative Infringements were amended. The amendments criminalized “the organizing or holding of unlawful public events or other public events” and “calls urging to disobey the decision on terminating an unlawful public event”,¹⁹ as well as “the organization of or active participation in unlawful group activities that crudely violate the public order, i.e. result in disruption of the activities of central or local authorities, communication entities, or the transport, and are accompanied with explicit disobe-

16 Articles 11 and 12 of the Republic Armenia Law of the Republic of Armenia on the Procedure of Conducting Gatherings, Meetings, Rallies, and Demonstrations, and Articles 8 and 9 of the Draft.

17 OSCE/ODIHR Opinion ASSEMBLY - ARM/001/2005 (IU), Warsaw, February 9, 2005.

18 Article 6(4) of the Draft, which makes a reference to Article 9(3f) of the Republic Armenia Law of the Republic of Armenia on the Procedure of Conducting Gatherings, Meetings, Rallies, and Demonstrations.

19 Article 225 of the Criminal Code.

dience of the lawful demands of the representatives of the power, unless the attributes of a more grave crime are present.”²⁰ Neither the Criminal Code nor any normative legal act define the notion of an “unlawful” public event. These provisions, too, have been criticized by OSCE and the Venice Commission, which think that these provisions can be rather problematic. They have doubts concerning the compatibility of these new provisions with the principle of legality, which is a key principle of criminal law that prohibits arbitrary enforcement of laws. They noted that introduction of criminal liability is possible only if a participant of the demonstration exerts violence or inflicts physical damage.

In Opinion CDL(2005)018, the Venice Commission concluded that the Draft Law on Amending the Republic of Armenia Law “On the Procedure of Conducting Gatherings, Meetings, Rallies, and Demonstrations” “does not guarantee the right to assembly and the right to freedom of expression ...” and that “the amendments to the Armenian Criminal Code and Code of Administrative Violations would prohibit and make illegal and subject to criminal and administrative sanction the organization and holding of demonstrations which should, in fact, be permitted.”

Since the Law entered into legal force (May 22, 2004), the Yerevan Mayor may only acknowledge holding of a demonstration, or prohibit it based on the grounds defined in law. The Mayor’s Office has come up with an odd interpretation of this provision, as described below.

Here is the text of the Mayor’s Decision 05/1 dated June 1, 2004 “On Prohibiting the Holding of a Mass Public Event”: “Having examined the 31.05.2004 notification by citizens Koryun Arakelyan, Albert Bazeyan, Victor Dallakyan, and others, and taking into consideration that criminal cases have been instigated in prosecutorial authorities of Armenia in relation to past demonstrations, and guided by Article 13(1)(3) of the Republic of Armenia Law “On the Procedure of Conducting Gatherings, Meetings, Rallies, and Demonstrations” and Yerevan Mayor’s Decision No. 856-A of 17.05.2004, citizens Koryun Arakelyan, Albert Bazeyan, Victor Dallakyan, and others shall be prohibited from holding a demonstration in the area adjacent to the Matenadaran from 6pm to 9pm on June 4 of this year.”

The June 16, 2004 demonstration was the only one that was not prohibited (during June 11-15, a corapporteur of the CoE Monitoring Committee was in Yerevan).

²⁰ Article 258 of the Criminal Code.

5. TORTURE AND ILL-TREATMENT

Since declaring independence in 1991, the Republic of Armenia has taken the following steps in respect of preventing torture and other cruel, inhuman, or degrading treatment and punishment: Armenia has joined the UN's Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (in 1991), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment (in 1993), the European Convention for the Protection of Human Rights and Fundamental Freedoms (in 2002), the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and its 1st and 2nd protocols (in 2002), thereby reiterating its commitment to rejecting torture and degrading treatment, and has undertaken to prevent, prohibit, and fight against torture and ill-treatment. Article 19 of the Republic of Armenia Constitution provides: "No one may be subjected to torture and cruel or degrading treatment and punishment." Article 42 provides: "Illegally obtained evidence shall be inadmissible."

The timetable of commitments assumed by Armenia in respect of Council of Europe accession clearly provides: "...To institute, without delay (*i.e., immediately after January 25, 2001*), a follow-up procedure which conforms to Council of Europe standards to complaints received on alleged ill-treatment in police custody, pre-trial detention centers, prisons and the army, and to ensure that those found guilty of such acts are punished in accordance with the law." However, this commitment has still not been honoured.

The transfer of the penitentiary system, including the pre-trial detention facilities, from the Ministry of Interior and Ministry of National Security systems to the Ministry of Justice, which was among the commitments related to CoE accession, was completed in January 2003. Normative legal acts have been adopted to improve the penitentiary system, including the Republic of Armenia Law "On Holding Detainees and the Arrested" (February 6, 2002), the Republic of Armenia Law "On Penitentiary Service" (December 15, 2003), and the Penitentiary Code (December 24, 2004), which provides: "Anyone deprived of liberty on the basis of a court judgment shall not be subjected to torture or other cruel, inhuman or degrading treatment or punishment. No circumstance may serve to justify torture or other cruel, inhuman or degrading treatment or punishment."

In 2004, the Council of Europe's Committee for the Prevention of Torture published the first report on Armenia, which was based on the findings of a visit to Armenia during 2002.

The Report notes that during their visit, CPT's representatives obtained an abundance of credible information on arrested persons allegedly being subjected to ill-treatment in pre-trial detention facilities. Beating and other torture by kicking, punching, and using hard objects were allegedly used during police interrogation (by operational officers of the police) to extort confession and other information. In a few cases, it was found, in the records of the medical examination of the persons concerned upon their arrival at pre-trial establishments, entries which mentioned injuries consistent with allegations made. The Report noted that information on torture had been obtained by the Human Rights Committee operating in attachment to the President (prior to 2004).

Article 47 of the Law on Holding Detainees and the Arrested provides the creation of a Group of Public Observers by the Ministry of Justice (MoJ). On May 14, 2004, the RoA MoJ Penitentiary Administration issued IDs to 11 members of the Group of Public Observers. The Group comprises a number of NGO representatives, including some from human rights NGOs, as well as a representative of the Armenian Apostolic Church. The Group was created by a decree of the Minister of Justice in accordance with the Law "On Holding Detainees and the Arrested" and the By-Laws "On Activities of the Public Observers' Group in the Penitentiary Institutions of the RoA Ministry of Justice". According to these By-Laws, the Group is defined as a monitoring body over respect for the rights and freedoms of those confined in detention institutions. According to the By-Laws, members of the Group may visit penitentiary institutions without any hindrance, have access to various documents (including, with the consent of the prisoner, his personal file and correspondence, with the exception of classified documents), and the conditions in the institution, and meet with detainees. The members of the Group are nominated for a 3-year period.

Both this Group and a number of non-governmental organizations have been monitoring penitentiary institutions. They have found that penitentiary institutions have been reformed and renovated with the support of various international organizations. In the "Prisoners' Hospital" Penitentiary Institution, a separate ward (building) for tuberculosis patients was built; the surgical and general practice wards were reconstructed in 2004. The "Vardashen" penitentiary institution has been reconstructed and upgraded to international standards. In the "Nubarashen" penitentiary institution, a number of cells have been renovated, and the former punishment cells, which used to be in the basements, are no longer being used. The Vanadzor pre-trial detention facility could be recalled as an example of inhuman conditions of detention; there, cell humidity is several-fold above the standard, and the walls have been depleted because of dampness. The Republic of Armenia Government had adopted a decision on moving the Vanadzor institution to another building, but according to the staff of this institution, this work is not done due to the shortage of funds. There are funds in the 2005 State Budget for renovating a new building to be used by the Vanadzor pre-trial detention institution.

Penitentiary institutions mainly lack medical service. The institutions do not have medical equipment and medication; prisoners often receive expired drugs. Medical screening and injury reporting are not properly done. The psychological service is inadequate. In the Goris penitentiary institution, there is no psychological service at all; in 2004 alone, two suicides were reported in this institution. Food provided to prisoners is insufficient: surveys suggest that those who afford use food brought by relatives. Prisoners are often deprived of meat courses. Surveys suggest that there is no longer any torture in pre-trial detention institutions, though about 60% of the detainees said they had been battered either during arrest or while in police custody. However, the pre-trial detention institutions' entrance registers either do not report injuries, or report injuries only superficially. Prisoners' access to information is limited; prisons do not receive newspapers and magazines, and the main source of information is television, though not all the cells have TV sets (the ones that do have TV sets got them from relatives). The prison libraries are scarce and outdated; new books have not been received for several years already.

In Armenia, torture is mainly used to extort self-incriminating confession, rather than to punish suspects or the accused. At later stages, courts mainly base their judgments on evidence produced by the charging authority, the bulk of which is self-incriminating testimony of the accused. Monitoring suggests that during trials, about 80 percent of the accused reject the testimony they gave during the pre-trial investigation claiming that they testified under the influence of torture and violence. However, their allegations do not lead to any consequences, and the perpetrators of torture and violence are not subjected to criminal liability. Even when violence exerted by pre-trial investigation authorities has led to death, a criminal case will not necessarily be instigated. Even if a case is instigated, the perpetrators are rarely convicted to a proportionate sentence. Some of these cases are dropped because of the lack of crime elements or because of the failure to reveal the perpetrators. In the better cases, the perpetrators are charged with abuse of power.

In 1999, 23-year old shepherd Armen Poghosyan from the Saratovka Village of the Lori Region was convicted to 15 years in prison on charges of murder; though he was later proven not to be involved, he served 5.5 years in prison instead of the actual murderer. In convicting him, the court had invoked his self-incriminating testimony as the only evidence, which had in fact been obtained through brutal torture. After some years, the real murderer (Yezidi by ethnicity) was caught in a similar crime (rape and murder of a juvenile) and confessed also to the 1999 murder. Thereafter, the Republic of Armenia Cassation Court acquitted Armen Poghosyan on April 2, 2004. Prosecutor General Aghvan Hovsepyan received him (Aghvan Hovsepyan had incidentally been the Prosecutor General when Armen had been convicted) and released him after presenting him the Count of Monte Cristo book. Around the same time, they declared that a criminal case was instigated and that all the guilty ones would be found and punished. It has been seven months since, but the guilty ones are yet to be punished.

At times of domestic political tension in Armenia, torture is also used as a punishment for one's political conviction. Here are some examples:

*During the night of April 12 to 13, 2004, when the law-enforcement officials attacked the offices of the Armenian Democratic Party, the Republic Party, and the National Unity Party and arrested a large number of people, violence and degrading treatment was exerted against women, among others. Ani Kirakosyan, Varduhi Shahbazyan, and Gayane Ashughyan were battered in a particularly cruel way. Naira Aghababyan, Gohar Kurazyan, Ani Khachatryan, and others were subjected to degrading treatment.*²¹

*A 45-year old resident of Artashat, teacher-historian Grisha Virabyan, a member of the ADP's Board, was apprehended by the Police to the Artashat Police Station on April 23 for taking part in the opposition meetings; after five hours of battering, he was thrown into an isolator. On April 24, an emergency vehicle took him to the hospital, where doctors operated him and removed his left testicle. However, a criminal case was not instigated against the police officers and investigators that had inflicted grave physical injuries upon him, though he had appealed to the Prime Minister, the Prosecutor General, the Police Chief for Armenia, and the Police Chief for the Ararat Region; rather, a criminal case was instigated against the victim himself for hitting a police officer in an act of self-defense (charged under Article 316(3) of the Criminal Code—"violence against a representative of the power", threatening 5-10 years in prison).*²²

On May 26, the First Instance Court of the Kentron and Nork-Marash Districts of Yerevan (judge Pargev Ohanyan) convicted 24-year old Edgar Arakelyan, a member of the Armenian Democratic Party, to 1.5 years of imprisonment for hitting a police officer in the head with an empty bottle of mineral water during the night of April 12 to 13 at the site of the demonstration on Baghramyan Avenue during a clash between law-enforcement officers and the demonstrators. The Court refused to take into consideration the statement by E. Arakelyan during the hearing that law-enforcement officers "were battering him to death till he fainted" during the pre-trial investigation in order to extort testimony. Moreover, the Court failed to take into consideration the fact that the traces of E. Arakelyan's physical injuries and the degrading treatment against him were seen and documented by representatives of the CoE and the Red Cross.

In 2004, the Council of Europe's Committee for Prevention of Torture urged Armenia to engage in intensive action to overcome the practices of torture (ibid, p. 61). In its response to the CoE's CPT, the Armenian Government stated that it was exerting efforts to improve police training, and that during 2001-2003, only 17 cases of procedure violations were reported in the penitentiary institutions (however, this number points to the inadequacy of complaint procedures, rather than the lack of such cases); the investigation

21 N. Mamikonyan, "Women up Next", Aravot daily, April 22, 2004.

22 "Real Perpetrators Go Unpunished," Aravot daily, April 18, 2004. "The Battered is Also Sentenced," ibid, April 18.

of these 17 cases, according to the authorities, had resulted in 12 staff members undergoing disciplinary fines, and 5 being fired (ibid, p. 5).

We believe intensive urgent action is required to rectify the situation, including, in particular, the following measures:

1. Changing the procedural practice, including:

- Applying the respective provisions of the criminal legislation, which provide that any time an accused alleges torture, the court must immediately demand an investigation;
- Abolishing the practice of admitting self-incriminating testimony as primary evidence;

2. In cases of torture, enforcing criminal sanctions against the police officers involved;

3. To make a statement in accordance with the procedure defined in Article 22 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, whereby Armenia will recognize the authority of the UN Committee against Torture to receive and investigate personal complaints of individuals who allege violation of the aforementioned Convention;

4. Improving the criminal legislation, including:

- Amending and supplementing the provisions of the Criminal Procedure Code on interrogation of suspects, the accused, and witnesses to define an exhaustive regulation on how the police should manage the interrogation;

5. Training police officers and requiring professionalism and knowledge of the international standards in respect of new appointees;

6. Enhancing the transparency of police stations for non-governmental organizations;

7. Facilitating the institution of public monitoring over the conditions of convicted persons.

6. HUMAN RIGHTS DEFENDER INSTITUTION IN ARMENIA

The need for Human Rights Defender institute had matured since 1990s, yet the Armenian authorities did not include a provision on Human Rights Defender institute into the text of the Constitution adopted in 1995. This further became the motivation for the subsequent procrastination in adopting a law on Human Rights Defender.

On January 25, 2001 Armenia became a full-fledged member of the Council of Europe. By PACE Opinion 221 (2000), Armenia assumed a commitment to adopt a law on Ombudsman (Human Rights Defender) within six months after becoming a member of the Council of Europe.

In 2001 the RA Ministry of Justice drafted a law "On Human Rights Defender (On Ombudsman)", which, among other shortcomings, stipulated the appointment of the Human Rights Defender by the President of Armenia. The draft was strongly criticized by a number of human rights NGOs, and an opinion was expressed that the experts of the Council of Europe should recommend the adoption of the law "On Human Rights Defender (On Ombudsman)" only after constitutional reforms. The Council of Europe agreed that the implementation of the commitment must be deferred until the amendments to Constitution were introduced.

However, by the end of 2002 several deputies of the RA National Assembly came up with the new draft law "On Human Rights Defender", the Article 27 of provided that the Human Rights Defender (the Ombudsman) was to be appointed by the President of the Republic until the Constitution is amended.

In May 25, 2003 the draft package of constitutional reforms was rejected by referendum. One of the points in the package was related to establishment of Human Rights Defender (the Ombudsman) institute. Notably, in April, 2003 the National Assembly had the draft law "On Human Rights Defender (On Ombudsman)" in the first hearing.



On September 2-3, 2003 the working discussion of the draft law "On Human Rights Defender (On Ombudsman)" were held at the National Assembly with the participation of OSCE Yerevan Office, Council of Europe, OSCE Office for Democratic Institutions and Human Rights (ODIHR) and the Armenian NGO community.

The discussion mainly focused on the procedures of the institute formation, its structure and on the clauses on the appointment of Human Rights Defender, as spelled out in the draft law "On Human Rights Defender (On Ombudsman)". The Human Rights Defender institute, according to the international criteria, is a parliamentary institute and, by the Paris Principles, one of the basic criteria of its status is the independence, guaranteed by law or by Constitution. Meanwhile, the draft law under discussion called for the appointment of the Human Rights Defender by the President, which was an obstacle for the implementation of Paris Principles.

According to the authors of the draft law, Article 62 of the RA Constitution, giving an exhaustive definition of the powers of the National Assembly, does not allow for the appointment of the Defender by the National Assembly. For this reason, the authors were forced to reserve that power to RA President. The authors noted that after constitutional changes, according to the draft, the authority of the Defender will be terminated, and a new Defender will be elected by 3/5 of National Assembly votes. The authors of the draft did not take into account the objections that while Article 62 gave an exhaustive definition of the power of the RA National Assembly, however, it did not specify an exhaustive list of the authorities of an NA deputy. Therefore, it could be stipulated that the Defender be appointed by the President, having received a certain proportion of votes by the NA deputies.

International experts had recommended to the authors of the draft to address the Constitutional Court to find solutions for the issues disputed. But the authors of the draft rejected this option, too.

Notably, the report of the Ago Group, presented to the Council of Europe Committee of Ministers on September 3, 2003 mentions that during the past 18 months the honoring of commitments and obligations of Armenia to the Council of Europe had become more passive. Having singled out the commitments, conditioned by constitutional reforms, the Group recommended the authorities of Armenia to find practical transitional solutions.

We think it important to point out that in its recommendations the Ago Group stressed that the RA Constitution did not exclude the appointment of the Human Rights Defender (the Ombudsman) by the parliament.

In September 2003 the National Assembly, neglecting the recommendations made by international and Armenian experts, adopted the draft law "On the Human Rights Defender", explaining it by aspiration to avoid negative assessment by CoE.

Ombudsmen of several East European and post-Soviet countries, who had visited Armenia before the second hearing, qualified the appointment of the Defender by the President as dangerous and unacceptable - particularly since the RA Constitution allows for the appointment of the Defender by the National Assembly. They also recommended to make a compromise by

rephrasing the provision of the draft “The RA President appoints the Defender after **consultations** with the National Assembly groups and factions” into “The RA President appoints the Defender after **the approval of the candidacy by** the National Assembly groups and factions”. However, referring to the acting procedures of the National Assembly, by which the law to be approved in the third hearing is subject to editorial changes only, RA authorities did not make any concessions on the matter. On October 21, 2003 the National Assembly adopted the RA Law “On Human Rights Defender”, which was signed by the RA President on November 11, 2003 and came into force on January 1, 2004.



By assessments of experts, the law is generally compliant with international standards, in particular, with the principles on the status of national institutions adopted by the UN General Assembly on December 20, 1993 (Paris Principles). Yet the need for the substantial improvements of the law is obvious. This is particularly true for the Articles below.

Article 6. Termination of Defender’s Powers

The paragraph 2 of Article 6, which envisages the termination of Defender’s powers prior to the end of the term, is in need of serious revision. It is recommended that the dismissal reason be defined as violation of the official oath made, reserving a right to a motion to the political structure that had appointed the Defender (i.e., the National Assembly) and that the right to make the final decision on the dismissal be reserved to the Constitutional Court. This would ensure an elementary guarantee for the independence of the Defender.

The final decision-maker on the dismissal must be a judicial body, entitled to investigate whether the oath was really violated. Thus, this would become an act of justice, rather than a manifestation of political revenge.

Article 7. Appeals to be Considered by the Defender

The last sentence of Paragraph 1 of Article 7 that excludes the consideration of appeals against the judicial bodies and the judges is absolutely unacceptable. This means that the Defender is denied the possibility to help those whose fundamental right to a fair trial is violated, contrary to Article 6 of the European Convention of Human Rights and Article 38 of the Constitution of the Republic of Armenia. S/he will not be able to respond to cases of improper delays in court proceedings or infringement of the right to legal assistance. The right to fair trial is fundamental and a prerequisite for the realization of all other rights and freedoms. Thus, one of the three branches of power is out of the Defender’s scope, which is unjustified.

Article 8. Right to Appeal to the Defender

Paragraph 3 of this Article stipulates: “To protect the rights of another person, his/her attorney, family members or heirs - if the person is deceased - can appeal to the Defender”.

Such an indifferent and formal approach nullifies the possibility to be protected through the initiative of the third party, even if it is the duty of this third party to respond to human right violations committed by state authorities.

Article 12. Examination of the Appeals

According to Paragraph 2 of this Article, “by the relevant statutory procedure [as prescribed by law] the Defender can have access to information, constituting state and commercial secrets or other information, qualified as confidential by law”.

The expression “by the relevant statutory procedure [as prescribed by law]” is too broad. It means that the Defender can gain access to the aforementioned information similarly to any citizen, without the due confidentiality requirement, necessary for the Defender, as well as for other officials, gaining access to the aforementioned information ex officio.

Article 27. Transitional Provisions

The experts place a particular emphasis on the right of the Defender to appeal to Constitutional Court, important in terms of preventing the adoption of laws, limiting the fundamental freedoms and contradicting the RA Constitution. It was proposed to record the following in the transitional provisions, in force till the adoption of constitutional reforms. Until the prescription of the right to apply to Constitutional Court in the Constitution of the Republic of Armenia, the President of the Republic, upon the motion of the Defender, applies to Constitutional Court in order to resolve the need for harmonizing the laws on human rights and fundamental freedoms, with the Constitution”. While admitting the need for this provision, the Armenian authorities, however, refused to include it in the law.

We consider it essential to improve the internal structure of the law and make it as easily accessible for an ordinary citizen as possible, since this law touches upon the interests of each individual directly. It is for this reason that thorough re-editing and reformation of the structure must be made, so that citizens correctly perceive the significance of the Human Rights Defender institute, the procedure for making an appeal, the way the institute functions, its authority and opportunities at hand to influence state bodies and institutions. This will allow the citizen to have the realistic picture of what the opportunities offered by this agency are.



On February 19, 2004 by the decree of the President of the Republic of Armenia Larisa Alaverdyan was appointed the Human Rights Defender. While the RA President had had no consultations with the National Assembly groups and factions. He presented Larisa Alaverdyan, who, upon the request of the NA Secretariat, had meetings at National Assembly with the groups and factions, representing the ruling coalition, while the opposition factions refused to meet her.

CoE expert, the Director of Legal Department of the Ombudsman of Poland Dr. Andrzej Malanowski, who thinks the appointment of the Defender by the President to be a dangerous fact, stated, that ***at the very initial stage of introducing the institute of the Defender a temporary system is being instilled that has very little in common with democracy.*** The practice showed the validity of the assertions that the appointment of the Defender by the President will limit the independence of that institution.

The very first evidence of that was the appointment of the Deputy Defender. Article 22 of the Law prescribes that the Deputy Defender shall be appointed ***upon the recommendation*** of the Defender, by the same body and respecting the same procedure, as in the case of the Defender. Illustrating the fact that this puts the Defender under additional pressure from the President, we find it necessary to narrate how the deputy Defender was appointed:

- RA Human Rights Defender Larisa Alaverdyan, proceeding from the Law “On the Human Rights Defender”, proposed the President to appoint the candidate, nominated by her, but:

a/ the President in essence rejected the nomination;

b/ the President suggested the Defender to nominate another candidate, proposed by the President;

c/ after consultations, by mutual compromise, the Defender proposed to appoint as a Deputy Defender the candidate, nominated by the President;

d/ the President appointed the candidate, proposed by him, as a Deputy Defender, after the nomination of that candidate by the Defender.

The Chapter “Composition and Guarantees of Independence and Pluralism” of the Paris Principles stipulates the composition of the national institution of Human Rights Defender and the appointment of its members shall be defined so as to ensure all necessary guarantees for the pluralist representation of the social forces. In particular, it is recommended to ensure the representation of NGOs, different philosophical and religious movements, the Parliament and state agencies. However, it is unknown to this day what the criteria and principles for forming the staff of the Human Rights Defender are; the procedure of employment is not defined and is uncertain. Since the launch of the Defender’s Office no competitive recruit-

ment of employees was ever conducted, and currently there are no vacancies at the Office.

The expectations related to the formation of the Expert Council (Article 26 of the Law) did not come true, either. The Expert Council, composed of 15 members, includes 1 lawyer, 6 law professors, 2 employees of Legal Act Expert Assessment Department of the RA Ministry of Justice, 1 employee of Abovian Municipality, 1 judge (court of primary jurisdiction of the Malatia-Sebastia community of Yerevan), 1 legal advisor, employed by an international organization ("World Learning") and the 3 representatives of Armenian NGOs ("Association for Sustainable Human Development", "EPAC - Environmental Protection Advocacy Center", "Republican Center of Women"). We were unable to find out at the Human Rights Defender's Office how often sessions of the Expert Council convened and how many were already conducted. We were informed that "the sessions are not registered and no minutes of the meetings are kept". The monitoring conducted by the Caucasus Center of Peace Initiatives revealed that the three meetings convened until now were annulled as there was no quorum.

The employment policy of the Human Rights Defender's institution of Armenia as described above had logical development. On the assignment of the President, the RA Government has already come up with a legislative initiative of amending the RA Law "On the Human Rights Defender" so that the staff of the Human Rights Defender's Office are classed as civil servants. Once this initiative is put into practice, the Defender will be completely controllable and dependent on the executive branch of the power.

The Defender and the Appeal Procedure

The CCPI monitoring group was unable to receive information from the Defender's office regarding its 10-month activity, appeals addressed to it; the information was obtained the last press release issued by HRD office.

According to it, the RA Human Rights Defender during her 10-month activity received over 1800 appeals, of which 1345 were in written form. The number of complaints received from regions of Armenia was 710, of which 501 were in writing. 555 applications were accepted for consideration, 506 were not accepted, to 136 applicants the possibilities for the protection of their rights and freedoms were presented, 95 complaints were handed over to competent bodies. Overall, 85 complaints received positive solution, that is, 24% of appeals on offences. 121 decisions were made based on the results of investigations, and in 71 cases no facts on violation of human rights were recorded, and in 50 cases the investigation was terminated. 300 complaints received from the citizens were dealing with the local self-government bodies, 200 - with the courts. Notably, the number of complaints on real estate cadastre activity was three times greater than the number of complaints on the Ministry of Defense, and the smallest number of complaints, only 4, was related to the activities of the Government.

By the monitoring group conclusions, HRD office has no proper registration procedure for the appeals. This conclusion was made after the group was unable to get data and specific cases from the office, as well as by the comparison of reports published at different times, that contain contradictory data.

The Defender and the Issues of Utmost Public Concern or Flagrant and Mass Violations of Human Rights

The incidents on April 12-13, 2004, the preceding and subsequent events can be considered as the main stumbling point for the HRD institution in the context of Paragraph 2, Article 17 of the Law, stipulating that “in the cases that are source of public concern, or in cases of flagrant violations of human rights or mass occurrence of non-elimination of the violations, the Defender shall have a right to deliver unscheduled public reports“.

In the course of these events the HRD institution neglected the requirements of this provision, not releasing a public report. The assessments of the Defender were clearly political and were identical with the stance of the RA authorities. Whereas, when Armenian human rights organizations and a number of reputable international organizations made alarming assessments and recorded cases of excessive application of force, mass political arrests and the facts of tortures (see the chapters of this Study on free movement of people and torture), the HRD institution declared, that with the exception of several small, insignificant “components”, everything was within the law.

Later, under the pressure of international structures, RA authorities were forced to abstain from actions contradicting the European Convention of Human Rights, especially when, in accordance with the 9th rule of the ECHR protocol, the issue of the review of the powers of Armenian delegation was included into agenda. Proceeding from this political situation, when the political prisoners and ordinary demonstrators, subjected to administrative arrest, were being released, this was presented as if it had been a result of the motion of the Defender.



The Caucasus Center for Peace Initiatives has conducted a telephone survey on January 25, 2005 in Yerevan, and Armenian marzes (regions) of 1,000 citizens of different age and social groups.

The questionnaire was to reveal the level of public awareness of the Human Rights Defender institute and the perceptions of it. The answers to the first question of the questionnaire “Are you aware that an Office of Human Rights Defender operates in Armenia?” were: “Yes” - 42.5 %, “No” - 57.5%.

The second question asked what the name of the Defender was. 12.1% of the respondents mentioned the name of the Defender.

One part of the poll participants, who were aware of the HRD existence, believed that the Human Rights Defender of Armenia is Parujr Hayrikyan - 1.7%, Avetik Ishkhanyan - 1.5%, Michael Danielyan 0.2%.

Only 2.1% of the interviewed had correct understanding of the main function and responsibilities of the Defender, more than half of which were informed about international practices through reading press and literature.

Answering the question about the main function of the Defender and his/her powers, the following answer choices were specified:

- HRD office was created to inform the citizens about their rights - 8.1%;
- The Defender presents the interests of Armenia in international organizations, dealing with the human rights - 6.2% ;
- HRD office is a structure within the President's administration - 6 %;
- The Defender is dealing with the issues of Karabagh and Armenian Genocide - 3.5%;
- The Defender is a new type of the National Assembly deputy - 3.4% ;
- The Defender is dealing with the punishment of Azerbaijani murderer in Budapest - 1.7%;
- HRD office is engaged in the protection of women rights - 0.9%;
- The Defender is dealing with the social security card issues - 0.4%.

In the opinion of most respondents, HRD office is funded by international organizations, most often the answer "by the Council of Europe" was mentioned - 20.3%. 11.2% of the total number of the interviewed, while having answered "Yes" to question 1 of the questionnaire - "Are you aware that an Office of Human Rights Defender operates in Armenia?", mentioned they were absolutely unaware of the functions and powers of the Defender.

It should be noted also that the majority of the people unaware of the HRD institution, after receiving information from interviewers asked to give the address and the phone number of the Defender's office (29.8%).

The findings for Question 4 - "Do you believe it important to establish the Human Rights Defender institute as a part of Armenia's commitments to the Council of Europe?", 98.1% of those responding in affirmative, allow agreeing with one of the respondents, who noted: "For Armenia, this is not a commitment, but a necessity".

While attaching importance to the HRD institute, the majority of the respondents thought it was matter of very remote future, expressing their skepticism regarding any positive shifts in Armenia.

The respondents who gave a negative answer to the question (1.9%) believe that they can protect their rights themselves.

To sum up the analysis of the establishment and practices of the Human Rights Defender's institute as presented above, we think it important to mention that in Armenia there are no legislative and practical guarantees of

the independence of the Defender. It is impossible to analyze the activities of the current Defender institute against the common international standards, since the problem of the Armenian HRD transparency have not been resolved yet.

Thus, the following factors are impeding the establishment and development of the Human Rights Defender institute in Armenia:

- 1. *The pending amendments to the Law on HRD, as initiated by the executive power;***
- 2. *Lack of cooperation between human rights NGOs and the Defender;***
- 3. *Persistence of the situation in place and the absence of public opposition mechanisms.***

This discredits the idea of the protection of human rights and fundamental freedoms.

7. FREEDOM OF CONSCIENCE AND RELIGIOUS ORGANIZATIONS

Another obligation assumed by Armenia upon joining the Council of Europe was to ensure non-discriminated activities of all faiths and religious communities, especially those that are considered non-traditional.

The Republic of Armenia Law “On Freedom of Conscience and Religious Organizations” was passed on June 17, 1991, on the basis of the 1990 USSR law of the same name. The law was amended twice since its passage - in 1997 and 2001.

Article 17(c) added to the Soviet law proclaims that “government shall not hinder the carrying out of the following missions considered the prerogative of the national church (Armenian Apostolic Church) (i.e. others are forbidden to carry out those missions), and then it defines six of those prerogatives that contradict, one way or another, international documents on human rights and fundamental liberties ratified by the Republic of Armenia, Articles 23 and 24 of Constitution of the Republic of Armenia, other provisions of the same law, a number of other laws and legal acts of the Republic of Armenia. However, despite the contradictions, these provisions often serve as a ground for limiting the activities of some religious organizations registered by the Ministry of Justice.

It is considered to be the prerogative of the national church “to build new churches, reopen historical monuments-churches in its possession (both at the request of the congregation and at its own initiative) and engage in benevolent and charity activities,” which contradicts Article 7(j) of the same law, which clearly indicates that religious organizations have the right to “engage in charity work and to proselytize publicly, also through the media.”

On September 10, 1997, the RA National Assembly passed the Law on Amending the RA Law on Freedom of Conscience and Religious Organizations, which increased the minimum number of followers necessary to register a religious organization from 50 to 200. This provision is stricter than the one in force in the Soviet times that required 10 followers.

On April 3, 2001, the RA National Assembly passed another Law on Amending the RA Laws “On Freedom of Conscience and Religious Organizations” and “On Press and Other Media Outlets”, whose Article 1 replaced Article 14 of the 1991 law. It stipulated that, from now on, “a religious community or organization is considered a legal entity from the

moment of state registration by a central government registry agency in accordance with procedures set in the law.” To be registered, a religious organization is required to submit an expert conclusion to the authorized government agency in charge of religious affairs.

Until 2004, Jehovah’s Witnesses used to be denied state registration mostly on the grounds of their members’ refusal to serve in the army. The Law “On Alternative Service” was passed on December 17, 2003. Jehovah’s Witnesses were officially registered by the Ministry of Justice in the fall of 2004, after a second attempt, in accordance with new registration procedures.

During its December 28, 2004 session (attended by the Prime Minister) the RA Prime Minister’s Council on Religious Affairs approved the principles of a new draft law on freedom of conscience and religious organizations, which should serve as guidelines for the RA Government’s Department on National Minorities and Religious Affairs for developing the new law. These “principles”, which in many cases will limit the activities of religious organizations even more and make registration criteria even stricter. Thus, the new draft law’s section on “limitations” suggests considering the following as grounds for denying registration to or limiting the activities of religious organizations:

- refusal of individual members or groups of the society to participate in general cultural ceremonies suggested by the state for the society and disruption of society’s cultural integrity,
- advocating individual and social passiveness among the society, its groups and individuals,
- splitting the society into adversary and even hostile groups, etc.

The draft principles suggest extending the time for expertise required for registration to one year; for “newcomer” organizations that period would be extended to six years, “during which time they have to prove their humanitarian nature.” Passport data and residence addresses of 200 members are required to be submitted as part of the registration process.

“When a religious organization applies for registration, a psychologist and a psychiatrist shall attend the organization’s rituals, ceremonies, gatherings and meetings for a year, following which they shall submit a document certifying that the organization does not pose any threat to a person’s soul and group’s stable behavior (the form of that document to be developed).” “During one year of social expertise, social workers (accompanied by specialists on religion) shall regularly visit the families of the religious organization’s followers to make sure that the following of that particular religious belief has not produced any hard and destructive consequences for the families of the followers.” Essentially, a kind of religion police service is being proposed.

This and other similar provisions may become a reason for serious human rights abuses.

In 1992-1995, there were attacks on offices of religious organizations and members of various communities were physically hurt. There have been no more attacks since 1995. However, there are many cases of members and leaders of various religious organizations reporting harassment on the part of government agencies. Here is one of the typical recent examples: in January 2005, leader of the Tumanian village in Lori marz told local Evangelists that he had received orders from Marzpet's Office telling him to ban the activities of the Evangelical community. He said same orders had come from national security officers in Lori as well. It is worth mentioning that the Armenian Evangelical Church closely cooperates with the Armenian Apostolic Church. Such cases are typical, and representatives of other registered churches will be able to recall numerous similar instances. There are many cases of building managers rejecting meeting space rental proposals, saying they may be harassed later.

Periodically, one can hear expressions of intolerance and even calls for violence against other religious communities in Armenia's official and government press and television. So far, none of the authors of these calls for intolerance and violence have been prosecuted, even though such things are against RA legislation and international conventions. Statements containing religious intolerance can often be heard from government officials.

8. NATIONAL AND ETHNIC MINORITY RIGHTS

There are no specific obligations regarding national and ethnic minority rights in the Council of Europe membership application and the opinion on the application by the Parliamentary Assembly of the Council of Europe (June 28, 2000).

Armenia has ratified the Framework Convention on Protection of National Minorities (1998) and the Charter on the Rights of Regional Languages and Minority Languages (2002). Article 15 of the RA Constitution guarantees all the rights, liberties and obligations provided for in the RA Constitution and other laws to all citizens regardless of their nationality, race, language and religious beliefs, while Article 16 stipulates that everyone is equal before the law and is equally protected by the law without any discrimination. In addition, there is also a separate article, Article 37, that gives citizens from national minorities guarantees for preserving their traditions and developing their language and culture. There are also separate provisions in the Law “On Language” (Article 3), in the area of culture, trial proceedings and two articles in the Law “On Television and Radio” that refer to national minority rights. For example, Article 1 of the Law on Language encourages the use of national minority languages in the Republic of Armenia and guarantees everyone’s right to receive education in his/her mother tongue. According to Article 4, national minorities may use their mother tongue together with the Armenian language in official documents and seals. Article 8 of the law “supports and promotes conditions necessary for preserving the cultural identity of different national minorities...” Article 9 of the Criminal Code guarantees free interpreting during trials for both citizens and non-citizens.

There is still no law on national and ethnic minorities, even though various non-governmental organizations and parties have been calling for such a law since 2003. Thus, V. Khachikian (Republican Party MP) and another MP from “Dashnaktsutyun” (ARF) party have stated that their parties are working on developing a law on national minorities. These statements were made at a seminar on “National Minority Rights in Armenia: Armenia’s Prospects after Becoming a Member of the Council of Europe” organized by the Center for National and Strategic Studies on July 17, 2003. It is known that the Department of Migration and Refugee Affairs has developed two draft laws on the subject. One of the drafts was rejected by

minorities, while the second one was withdrawn without discussion.²³ Another draft has been developed and is currently under discussion; starting from October 2004, it is being discussed with participation of national minorities. The RA Government's Department on National and Religious Minorities has organized a number of roundtable discussions of that draft law.

According to the 2001 census, ethnic minorities make up 2.2% of Armenia's total population. This number includes 11 ethnic communities - Assyrian, Yezidi, Kurdish, Russian, Greek, Molokan, Jewish, Polish, Ukrainian, Georgian and German. The most populous communities are those of Yezidis (40,620 people), Kurds (1,519 people), Russians (14,660) and Assyrians (3,409).²⁴ Most of these communities appeared in Armenia in the beginning of the 19th century, when certain migrations took place after Eastern Armenia became part of Russia.²⁵ All ethnic groups are scattered around the country and the capital. There are no marzes or administrative units in the country that are populated completely by a minority group. In various villages and towns, ethnic minority groups are either a small part or the majority of the population.

National minorities do not have their own political parties and are not represented in the National Assembly. However, national minorities are represented in local self-government bodies as village mayors (for example, the mayor of Verin Dvin is an Assyrian, the mayor of Arme Taza is a Yezidi, etc.). In April 2004, the RA Government allocated a building to national minorities for cultural events. In addition, the RA Government allocated certain funds (more than \$100,000 worth of drams) in the 2005 state budget for renovating Armenia's National and Ethnic Minority Center.²⁶ Government sources say that some 10 million drams (about \$19,880) is given annually to national minority non-governmental organizations for various programs.²⁷ National minorities experience no resistance to the exercise of their right to study their native language. Ethnic minorities can study their mother tongue and receive education in their language in secondary schools in the Republic of Armenia. For example, the Assyrian language is taught in three villages - Dvin, Dimitrov and Arzni. However, almost all national minorities experience problems with specialists and curriculum development. The Russian community is in the best position, since they get all their educational materials from Russia, where teachers are trained as well.²⁸

23 This information was obtained from H. Kharatian, Head of the RA Government's Department of National and Religious Minority Affairs

24 Table 3. De Jure Population (Urban, Rural) by Ethnicity, Sex and Educational Attainment in The Results of the Census of the Republic of Armenia (Yerevan 2001) p. 360-363.

25 G. Asatryan, V. Arakelova The Ethnic Minorities of Armenia (Caucasian Center for Iranian Studies, Yerevan 2002) p. 5-17.

26 This information has been obtained from the Department of National and Religious Minority Affairs.

27 Document called "Grounds" that accompanies the draft Law on National Minorities developed by the RA Government's Department of National and Religious Minority Affairs.

28 Ibid.

There are some media outlets that give ethnic communities an opportunity to exercise their right to freedom of information. The Yezidis, Kurds, Ukrainian, Russians and Greeks have newspapers in their own languages.²⁹

Two groups of major issues related to Armenia's ethnic minorities have been noticed during 2004. There is some tension regarding recognition of a Yezidi ethno-confessional group, whose members speak the same language as the Kurds, but make up a separate ethnic group. Some heated discussions on the subject have taken place among the Kurds and the Yezidis throughout 2004 and in the previous years. However, the RA Government has adopted a neutral stance on this issue, hoping that these groups make a decision in a climate of tolerance and mutual understanding.³⁰

In 2004, representatives of two ethnic communities alleged discrimination against them. Thus, on September 24, 2004, local authorities refused to provide assistance to the village of Dmitrovo with a significant Assyrian population. According to I. Gasparian, discrimination occurred in that village during appointments to administrative posts.³¹ However, local authorities were accused of similar discrimination against the entire population of the country in general, regardless of ethnicity. The second case concerns representatives of the Jewish community, who accused ALM TV station and the Armenian Aryan Union NGO of igniting anti-Jewish sentiment.³² The 2005 State Department report on anti-Semitism around the world mentions the existence of anti-Semitic sentiment in Armenia as well, making a reference to ALM TV station and the Armenian Aryan Union.³³ However, even though there have been some statements by the aforementioned organizations, and especially by the Armenian Aryan Union³⁴, there seems to be no anti-Semitism in the society at large so far. The organization's influence is insignificant, and its opinion certainly does not reflect the wide spectrum of public opinion. This problem can become acute if similar speeches or statements about the existence of such sentiment play the role of actually encouraging anti-Semitism. It is necessary to take this issue very seriously and react immediately to all speeches against any ethnic minority group in Armenia. It is noteworthy that criminal charges against Armen Avetissian for public incitement of racial and religious hatred with threats of violence (Article 226, part 3, of the RA Criminal Code) were brought not after he had made his statements, but after the State Department report was released. A. Avetissian was arrested in the Yerevan City Prosecutor's Office on January 24, 2004, and the Kentron and Nork-Marash community court of the first instance issued an arrest warrant for him on the same day.

29 Government partially finances the Yezidi "Lalish" newspaper (in Armenian), Kurdish "Ria Taza" newspaper (in Kurdish), Ukrainian "Dnipro" and a number of other newspapers.

30 Also see: Sh. Khachatrian, The Identity of Armenia's Yezidis, (Ditord, Issue No. 8, 2005, p. 7-14)

31 Assyrians in Armenia Allege Discrimination in Radio Free Europe/ Radio Liberty
http://www.rferl.org/newsline/2004/09/_2-tca/tca-270904.asp 2004-09-27.

32 N. Zorabyan, New Armenian-Jewish Scandal (H. Zh., Issue No. 13, November 2004)

33 See: We had sang all the songs (Haykakan Zhamanak, January 13, 2005)

34 H. Ter-Vahanyan, If a country has a Jewish community, then that country's stability is jeopardized (Iravunk, November 27, 2004)

In June 1993, Armenia ratified the Convention against Racial Discrimination. The RA Constitution and laws guarantee equal treatment to all citizens regardless of their racial, ethnic, cultural and religious affiliation. In particular, Articles 15, 16 and 48 of the Constitution ***prohibit the exercise of one's rights and liberties for the purpose of inciting national, racial and religious hatred and calling for violence and war.*** The RA Criminal Code contains Chapter 19, which is dedicated to "Violations of People's Constitutional Rights and Liberties." Article 143 provides for criminal prosecution for violating anyone's rights because of his/her national, racial, religious and social affiliation, sex and political views.

9. ALTERNATIVE SERVICE

Serious discussions on alternative service started in Armenia after the country entered the Council of Europe (2001)³⁵; one of the commitments assumed upon entry was to pass a law on alternative service within three years and to release all persons sentenced to imprisonment for avoiding military service on the grounds of conscience and convictions. However, *in those three years, until 2004, there were about 100-150 people who refused military service on the basis of their convictions (all members of Jehovah's Witnesses religious community), and most of them were sentenced to imprisonment. According to the August 2003 data, 33 Jehovah's Witnesses who refused military service for religious reasons had already been detained, and another 25 (out of 40,000 conscripts) had been arrested.*

After two years of delays, a draft Law "On Alternative Service" was developed, which provided for alternative military service only, only for members of religious organizations officially registered in the Republic of Armenia, and for a longer period of time, which the Council of Europe thought to be punitive in nature. That draft failed to address the problems of the main group avoiding military service for religious reasons, namely the Jehovah's Witnesses religious community. This approach was criticized by NGOs and the Council of Europe.³⁶ After some amendments, the Law on Alternative Service was adopted on December 17, 2003. While the law allowed members of non-registered religious organizations also to opt for alternative service and the term of the service was somewhat reduced, a number of problematic provisions in the law remained in place: the law still did not provide for "alternative civil service." In particular, the law provides for two types of alternative military service - in the RA Armed Forces and an alternative labor service outside the RA Armed Forces. The terms are 36 months for alternative military service and 42 months for alternative labor service, whereas regular compulsory military service is 24 months. The law also retained some provisions that go against international standards, such as provisions that the conscription for alternative service shall be carried out and controlled by the same organizations that are responsible for drafting conscripts for regular compulsory military service. In addition, all persons in alternative service must wear a uniform as defined by the RA Government. Those who have completed alternative service may not work in any areas related to the right to carry, possess and use weapons.

³⁵ For details, see Ditord, Issue No. 3, 2002, p. 10

³⁶ M. Yesayan, Our Alternative Not Accepted by the Council of Europe (Aravot, October 29, 2003); Ibid., October 30; K. Danielyan, New Test for National Security (Azg, October 30, 2003)

The Law on Alternative Service went into force in July 2004. According to the law, a person subject to military draft must submit an application to the military commissariat in his place of residence by March 1 or September 1 proceeding to the draft, specifying the type of alternative service he wishes to choose and justifying his decision.

On June 25, 2004, the Government passed a decision “On Approving the List of Locations for Alternative Service, Uniforms for Alternative Servicemen and Procedures for Wearing the Uniforms.” According to this decision, persons in alternative military service shall serve as soldiers in **separate units** of military divisions of the RA Armed Forces (in Syunik, Gegharkunik and Tavush); persons in alternative civil service shall serve as medical orderlies in various institutions belonging to the RA Ministry of Healthcare and Ministry of Labor and Social Affairs (psychiatric clinics, nursing homes for the disabled, hospitals and other neurology and psychology institutions).

It is necessary to mention that, in many cases, not only do military commissariats fail to provide information about alternative service opportunities to citizens, who are subject to military draft and would like to apply for alternative service, but military commissariat’s officials themselves often have not been sufficiently informed about what alternative service is, and how and where persons drafted for alternative service can carry out their duties.³⁷

The examination of court rulings on avoiding military service reveals that prosecutors and courts continued to detain potential alternative service candidates and sentence them to prison terms after the passage of the law on December 17, 2003, when necessary legal changes were being made necessary for the law to go into force. *In its verdict No. 48203003 of 2004 on the A. Saiyan case, the Armavir marz court of the first instance ruled that using religious beliefs for justifying the refusal to perform military service is ungrounded, and that, in doing so, the defendant is trying to avoid criminal prosecution.*

*As of September 20, 2004, eight members of the Jehovah’s Witnesses community have been handed down prison sentences and are now serving their sentences in Kosh and Nubarashen penitentiaries.*³⁸ These eight people should have been released in accordance with Armenia’s obligations before the Council of Europe, and they should have been given information on alternative service and an opportunity to choose that service.

Under Article 32 (1) of the new Criminal Code, avoiding a regular draft for compulsory military service is punishable by a fine in the amount of 300-500 times minimum wage, or detention for a period of up to two months, or

³⁷ For details, see Ditord, Issue No. 4, 2004, p. 14

³⁸ This includes Aram Manukian, who was sentenced to two years in prison for refusing military service on religious grounds at the time when the Law on Alternative Service was already in effect.

*imprisonment for a period of up to two years, as opposed to three years under the old Criminal Code. In the past courts never used the **maximum punishment**, but since the new Criminal Code was adopted, they have been using mostly the maximum punishment (two years in prison). Even if a court of the first instance hands down a more lenient sentence, the court of appeals overturns the verdict and extends the terms of imprisonment, saying that “the punishment does not correspond to the seriousness of the crime” and “a more lenient sentence cannot serve the purposes of the punishment.”³⁹ Four of the eight Jehovah’s Witnesses have been sentenced to two years, three of them have been sentenced to 1.5 years and one has been sentenced to one year in prison. Only one of them, S. Yeremyan, has been punished by a 300,000 dram fine for avoiding military service (Article 327(1) of the RA Criminal Code).*

*After having served the sentence, many are drafted again; if they refuse military service again, they are handed down prison sentences for the second time. This violates the well-known principle of criminal law that forbids **punishing twice** for the same offense and Article 10 of the RA Criminal Code.*

Let us mention that the National Assembly was supposed to amend the law in accordance with the Council of Europe resolutions to remove any non-compliance with international standards. Amendments to the RA Law on Alternative Service were made on November 22, 2004. However, problems with the duration, procedures and locations for alternative service, as well as with agencies responsible for organizing and controlling the service, were not resolved. Moreover, while the December 17, 2003 law allowed persons in alternative service to switch to compulsory military service at any time, but had no provisions about switching from compulsory military service to alternative service, the amended law simply banned the switch from compulsory military service to alternative service.

Article 24 of the law required to pass laws regulating social security of persons in alternative labor service and members of their families and liability of persons in alternative labor service before the law went into force on July 1, 2004. However, those laws were never adopted, while the November 22, 2004 amendments stipulated that social security and liability issues shall be regulated by general principles defined in other legislation.

Alternative service applications were filled in the period from the time the Law on Alternative Service went into effect in July 2004 to September of the same year; all applications were from representatives of the Jehovah’s Witnesses community.

³⁹ See the Court of Appeals verdict N Z-94/04 of 2004 in the A.M. case, the Armavir court of the first instance verdict N 48203003 of 2004 in the A. Saiyan case, etc.



According to Articles 14(2) and 16(3) of the RA Law on Alternative Service, the list of locations for alternative service, the uniform for persons in alternative service and procedures for wearing it are to be approved by the RA Government. According to the RA Government decision N 940-N of June 25, 2004, persons in alternative service shall serve as medical orderlies in nursing homes, homes for the elderly, psychiatric and neurological hospitals and in the Nork hospital for infectious diseases, all of which report to the RA Ministry of Healthcare and the RA Ministry of Labor and Social Affairs.

During the Fall-2004 draft, 26 members of the Jehovah's Witnesses organization and one Molokan were sent to serve in the aforementioned institutions as part of their alternative service. According to the RA Ministry of Defense, only one of the 26 applicants for alternative service chose alternative military service, while the remaining 25 persons applied for alternative labor service. According to a Government decision, 349 slots were allocated for alternative service during the Fall-2004 draft. 300 of them could have served in alternative military service, i.e. in military units, but without having to deal with weapons, while others could have served in alternative labor service. According to a Government decision, control of the latter was assigned to the heads of the institutions where they would serve. In other words, one could say that the course of the service is largely determined by the institution director's attitude towards persons opting for alternative service.

The Armenian Helsinki Committee carried out monitoring in places of service. Four out of nine institutions where alternative service takes place were selected for the monitoring - psychiatric clinics in Vardenis and Gyumri, the Nork hospital for infectious diseases and the Nork nursing home. Thus, 13 out of 22 alternative servicemen participated in the survey. Detailed individual interviews with alternative servicemen were conducted.

The visits gave an impression that the Government had selected the locations for alternative service in haste and without appropriate examination. They had not taken into consideration whether or not these institutions need any alternative service or additional medical orderlies.

In the case of 11 out of the 13 alternative servicemen, the first and the biggest problem had to do with performing the duties of medical orderlies. There was no such problem in the Nork hospital for infectious diseases, where the two alternative servicemen were happy with their work. They simply do not perform the duties of medical orderlies. The hospital's Chief Doctor, Ara Asoyan said that the servicemen are engaged in various activities - construction, receiving medications from warehouses, cleaning away the snow, moving patients around the hospital, etc., but they are not asked to clean the toilets and clean after patients. The two servicemen working in the hospital confirmed the Chief Doctor's words. Their only complaint had to do with the length of the service and the fact that they cannot participate in the meetings of their religious community.

One of the servicemen in Vardenis honestly admitted that, because of the conditions, he had once regretted choosing alternative service and had decided to quit. However, he continued his service. Only one of the 13 servicemen who participated in the survey knew in advance he was going to work as a medical orderly. The other 12 said they had been told in advance that they were going to work in those institutions, but they hadn't been told about their duties.

Eight persons performing their alternative labor service in the Vardenis psychiatric hospital said during their interviews that, at first, they were told in military commissariats that they were not going to be assigned any undignified work, but two days after they had arrived in Vardenis, the military commissar visited them and informed them of the Government's decision, according to which they were supposed to work as medical orderlies, with duties including cleaning toilets and dressing cadavers. The servicemen refused to do that work. The management called in representatives of military police and military prosecutor's office, who keep watching them and saying: "If you refuse this work, you will be prosecuted under Article 364 of the Law on Military Service." At the moment, the servicemen are responsible for maintaining the hospital's sanitary condition, making beds for patients and washing the floors. However, they haven't cleaned toilets yet and haven't dressed any cadavers.

The servicemen complained about organizations in charge of control. In addition to being controlled by the hospital's management, they are constantly controlled by a number of RA Ministry of Defense structures - regional military police, prosecutor's office and military commissariat. According to international norms and the Council of Europe Assembly's recommendations, alternative labor service is a civilian service and it should be controlled by a civilian organization. The same civilian organization should also fulfill the medical needs of servicemen, if necessary.

The interviewees mainly do not use any means of communications: in one case, calling is expensive, in another case - there is no telephone, in other cases calling is allowed. They do not get any newspapers. Most of them do not have television sets either. In Vardenis, the servicemen were banned from reading their religious literature and even their Bible was taken away.

According to the survey, their sanitary-hygienic conditions (bathing, washing their whites and changing clothes) are also not good. The servicemen wash their clothes themselves. Servicemen eat in cafeterias in their respective institutions, with the menu designed for the sick and the elderly.

The RA Law on Alternative Service passed by the Council of Europe demands operates with an opposite logic in our country. This law, based on humanitarianism and tolerance, does not serve its purpose and is far from international standards. Alternative service itself is a foreign and

unacceptable concept for both the leaders and the public at large. That is why the media raises this issue rarely and in a one-sided way. This is the first military draft since the passage of the law, and it is unclear how the law will be implemented in the future and how it will all end. One thing is clear, though: the law needs to be amended immediately. Particularly, the monitoring arrived at a conclusion that labor service must turn into a real civilian service, i.e. it should not be controlled by military institutions, servicemen should not wear military uniforms, and their healthcare needs should be met in regular civilian healthcare institutions. The length of the service should be shortened, and professional skills of servicemen should be taken into consideration.

10. LEGISLATION ON PRIVATE INFORMATION PROTECTION

The right to privacy is one of the universally acknowledged rights. Individuals must be confident that their private information is handled properly. Private information includes identifying information in possession of government institutions. Government's activities in collection, maintenance and possession of private information of its citizens raise numerous problems.

Taking into consideration public's growing concern with privacy protection in government and business circles, the Council of Europe adopted Convention 108 Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (1981). The Convention defines some fundamental principles that member-states must adopt in processing of private information in public and private databases. Some of the Convention's most important elements are the obligations of the parties to take appropriate measures for protection of private information and provide for necessary sanctions and compensation for violating domestic laws on the subject, as defined in the Convention. Taking into consideration the importance of creating appropriate supervision agencies in countries-signatories of the Convention, the Council of Europe developed an additional Protocol to the Convention that was ratified by all the parties to the Convention. The Protocol also covers dissemination of private information outside the borders of the country. Armenia has not signed this very important international document, which was joined and ratified by most of the European states.

Despite the fact that the Republic of Armenia has not ratified the Council of Europe Convention 108, the RA National Assembly passed the Law "On Private Information" in 2003. In general, the law is in tune with the principles set out in the Council of Europe Convention 108. However, Armenian legislation has some drawbacks that weaken the protection of private information in public and private databases. Thus, the fact that the law is missing "appropriate sanctions and compensation for violation of domestic laws, in accordance with fundamental principles of data protection" goes against Article 10 of the Convention. Even though the RA Law "On Private Information" officially states that individuals must be held responsible for violating the law, the current law on information protection does not yet provide for criminal sanctions. One can assume that disciplinary action would be taken against officials who violate the law; however, no responsibility is envisaged for members of commercial or non-governmental organizations or regular citizens for violating the law. It is obvious that disciplinary measures cannot be regarded as a way to protect people's privacy.

The RA legislation fails to adequately address two important issues - creation of a supervision agency and disseminating private information outside the country. Even though the law provides for a supervision agency, it does not give that agency any control functions or responsibility to control the use of private information by non-governmental or private organizations. The RA Law "On Private Information" doesn't have a separate section on sending private information abroad. According to the law, the procedures for sending private information abroad should be set by international agreements or in accordance with Article 6, i.e. private information can be send abroad with the consent of the subject submitting that private information. The law does not provide details of conditions and procedures for getting that consent to send private information to subjects in third countries, and does not define the oversight agency's responsibility to check and grant these consents. This should also be regarded as violation of European principles and inadequate protection of privacy in the context of the Council of Europe Convention.

11. FREEDOM OF EXPRESSION AND INFORMATION

Having become a member of the Council of Europe on January 25, 2001, Armenia undertook two major commitments with regard to freedom of information and expression:

- a) to adopt a new law on mass media within a year;
- b) to transform the national television into a public service broadcaster, governed by an independent board.

Herein a detailed overview of these and other issues, related to the sphere, will be made in the context of the Armenia's commitment to the Council of Europe.



The Constitution of the Republic of Armenia was adopted in 1995. Its Article 24 guarantees freedom of expression:

“Everyone is entitled to assert his or her opinion. No one shall be forced to retract or change his or her opinion.

Everyone is entitled to freedom of speech, including the freedom to seek, receive and disseminate information and ideas through any medium of information, regardless of state borders”.

At the same time, Articles 44 and 45 also stipulate that the freedom of expression, ***“...may only be restricted by law, if necessary for the protection of state and public security, public order, public health and morality, and the rights, freedoms, honor and reputation of others” (Art. 44)***, as well as ***“may be temporarily restricted in a manner prescribed by law, in the event of martial law, or in cases prescribed under paragraph 14 of Article 55 of the Constitution” (Art. 45)***. According to this paragraph 14 of Article 55, the President of the country ***“in the event of an imminent danger to the constitutional order, and upon consultations with the Chairman of the National Assembly and the Prime Minister, shall take measures appropriate to the situation and address the people on the subject”.***

In compliance with its commitments, Armenia ratified the European Convention of Human Rights and Fundamental Freedoms, thus making it a part of domestic legislation. Accordingly, in terms of guaranteeing the freedom of expression, Article 10 of the European Convention applies, too.

RA Law “On Freedom of Information

Though Armenia had assumed no specific commitment with regard to the adoption of the Law “On Freedom of Information”, yet the adoption and implementation of such a law was necessitated by the need to realize the fundamental right to seek and receive information.

Until 2003 no law on freedom of information or access to information existed in Armenia. The RA Law “On Freedom of Information” was passed on September 23, 2003 and was enacted on November 14 same year.

The law is made up of 15 articles, referring to the main principles of guaranteeing freedom of information, recording, classifying and maintaining data, access to information and guarantees of transparency, restrictions of freedom of information, the procedures for making and discussing inquiries, the terms of information provision, the grounds for refusal in information, responsibility for violating freedom of information, etc.

This law was the first to provide for the constitutional human right to seek and receive information, in a way that would be close to international standards. One of the advantages of the law is also that it had defined the structures to which the obligations under this law apply. These are **“state bodies, local self-government bodies, state offices, state-subsidized organizations as well as organizations of public importance and their officials that hold information” (Article 3)**. Thus, for the first time in the Armenian legislation the notion of **“organization of public importance”** was introduced, defined by the same Article of the law as **“non-state organizations that have monopoly or a dominant position in the commodity market, as well as those providing services to public in the sphere of health, sport, education, culture, social security, transport, communication and utility services”**.

Article 7 of the Law, which we view as one of the most important ones, is titled “Ensuring Access to Information and Publicity”.

The Article stipulates, first of all, that **“Information holder works out and publicizes the procedures according to which information is provided on its part, as defined by legislation, which he places in his office space, conspicuous for everyone”**. The second clause of the Article requires that the information holder urgently publicize or via other accessible means inform the public about the information at its disposal, the publication of which can prevent dangers to the state and public security, public order, public health and morals, others’ rights and freedoms, environment, person’s property.

Clause 3 of this Article is also extremely important, listing the information types and the changes in them that the information holder is to publish at least once a year (this list includes 13 types).

It is very beneficial that the Law itself defines the procedure for submitting the inquiry and its discussion by Article 9, not leaving the development of the procedure to the discretion of the specific agency or the government. The Article has an important provision eliminating one of the previously existing obstacles for access to information. This provision runs as follows: **“The applicant does not have to justify the inquiry”** (Article 9, clause 4), which complies with the Recommendation (2002) 2 of the CoE Committee of Ministers to Member States on Access to Official Documents. Section 5 of this Recommendation says: **“An applicant for an official document should not be obliged to give reasons for having access to the official document”**.

Article 10 refers to the terms of providing information, noted that no fees are charged for the publication of the information in case of a response to an oral inquiry, in case of typewritten or copied information of up to 10 pages, provision of information by e-mail, etc. The Article also stipulates that should a fee be charged for the provision of information, that fee cannot exceed the expenditure necessary to provide information.

Finally, Article 8 of the Law refers to restriction on freedom of information, which corresponds to international standards, including the requirements of the CoE CM Rec (2002)2. To this day the Government has not adopted the Procedure for Providing Information or its copy by the state and local self-government bodies, state institutions and organizations, as the Law demands.

So far the Government has not performed the requirements of Article 5 and 10 of the Law and has not adopted procedures for registering, classifying and maintaining information, developed by information holder or directed to it, as well as for providing information or its copy by state or local governance bodies, state institutions and organizations.

The Law had just been enacted when in 2004 the situation with the Law became alarming for the civil society. The Government had developed a draft of amendments to the Law, which, in the case of adoption, would significantly damage it. Fortunately, the proceedings on the adoption of the draft have been halted.

However, short as the existence of this Law has been, cases of its infringement have already been recorded.

Thus, “Investigative Journalists” NGO addressed the Yerevan municipality, demanding the copies of the municipal resolutions on the construction made in the park around the National Theater of Opera and Ballet in 1997-2003. These documents were necessary for journalistic investigation. After numerous refusals the organization started litigation against the city authorities. After the courts of primary and secondary jurisdiction refused securing the suit, “Investigative Journalists” challenged the ruling with the Court of Cassation, which redirected the case back to additional consider-

ation of the Court of Appeals. The latter ruled to oblige the municipality to provide the information requested by the journalists. The municipality, on its behalf, challenged the case with the Court of Cassation; however, the court left the ruling unchanged on February 5, 2005. It appears that to fulfill the simplest stipulation of the Law “On Freedom of Information”, one has to pass through a year-long litigation process and courts of all jurisdictions. A similar incident occurred in Vanadzor where the municipality refused to provide the resolutions by the municipality and the Council of Elderly of 2002-2003 to the Vanadzor Branch of Helsinki Citizens Assembly (please see the annual reports of the Yerevan Press Club and Committee to Protect Freedom of Expression for more detail on the two cases: <http://www.ypc.am/eng/?go=act/studies/speech>).



The legislation that regulates the official publications and the communications is part of a broader legislative framework, ensuring the right of the citizens to seek, receive and impart information, according to the International Covenant on Civil and Political Rights (Article 19) and the European Convention of Human Rights (Article 10):

Taking into account the right of citizens to seek, receive and impart information and viewing the information technologies to be an important tool at the hand of governments, the Committee of Ministers of the Council of Europe has adopted Recommendation (2002)2 to Member states On Access to Official Documents. Rec (2002)2 defines the main principles of realizing the information rights of a citizens and narrates the general methodology for including such sections into national legislation. An important part of this Rec (2002)2 are the clauses describing the principles for requesting official documents and answering such requests.

The Armenian Law “On Freedom of Information” does not contain a specific provision, referring to the use of information technologies in using the official information or requesting such information, except clause 5 of Article 7 of the law, according to which: **“Information (...) is publicized via means accessible for public, and in cases when the information holder has a web-site, also via that site”**. In reality, the use of information technologies is limited by the publication of certain official information on the web-sites of the Ministries. Thus, the web-sites of the Ministry do not always present the whole range of information that is mandatory for publication, according to the RA Law “On Freedom of Information”.

The Republic of Armenia does not have special international obligations concerning the use of information technologies in public administration, and thus it would be wrong to conclude that Armenia’s policy on information society follows the European standards. Unlike many European countries, Armenia does not as yet have strategy for the development of information society and an action plan for introducing e-governance in the country. At the same time, there are several positive examples of IT use in Armenian public administration system; however, these are exception rather than a common trend. Such means of public communication are generally produced by the effort of international organizations and foreign

donors as well as the civil society. Armenia does not have official commitments with regard to the development of information society and e-governance, either. However, the development of IT in public administration is an important component of European political culture and the countries that aspire for rapprochement with European society must be up to the criteria of public administration.

RA Law “On Mass Communication”

As it has been noted above, upon its accession to the Council of Europe Armenia assumed the commitment of adopting a new law on media within a year. The first RA Law “On Press and Other Media Outlets” was adopted in 1991.

The new law, the draft of which was put into circulation since January 2002, initially was much more regressive than the law in force. Journalists and public organizations rejected the first version of the draft, pointing out justly that the adoption of draft in the current edition could result in the re-introduction of censorship and suppression of free expression. That version of the draft never reached the Parliament. The Government had several times reviewed the draft, retaining every time the main provisions, deemed unacceptable by the journalistic community. However, the stance on the draft seemed to change after the elections to the National Assembly - the authors and the specialized committee of the Parliament expressed their readiness to hear and take into account all the proposals that would aim to improve the draft and raise it to international standards.

Throughout this time, Yerevan Press Club, the Committee to Protect Freedom of Expression, Internews Armenia, Journalists Union of Armenia cooperated with the authors of the draft and the Parliament Committee. Owing to this Cooperation, the draft, although still in need of further amendment, became acceptable for the parties concerned.

Herein the main provisions of the Law will be considered.

Firstly, the Law defines the notions of “mass communication” and “mass communication medium” (it is only the definition of mass communication media that remains disputable to this day) and further, by Article 4, spells out the guarantees for freedom of expression in communications:

1. “Entities, engaged in communications activity, and journalists shall operate freely in compliance with the principles of equality, legitimacy, freedom of speech (expression) and pluralism.

Conducting his/her legitimate professional activities a journalist, as a person performing a social duty, shall be protected by the RA legislation.

2. Media products are produced and disseminated without prior or current state registration, licensing, declaration or notice to any state body.

The licensing of TV and radio broadcasting is conducted according to the RA legislation on television and radio.

3. The following is prohibited:

- 1. censorship;***
- 2. to compel the entity, engaged in communication activity, or a journalist to disseminate or refrain from the dissemination of information;***
- 3. interfering with the legitimate professional activities of a journalist;***
- 4. discrimination in public circulation of appliances and materials necessary for dissemination of information;***
- 5. restriction of a person's right to exploit media products of his/her choice, including those issued and disseminated in other countries."***

There are two clauses deserving particular attention in this Article: a) ***Conducting his/her legitimate professional activities, a journalist, as a person performing a social duty shall be protected by the RA legislation,*** and b) ***it is prohibited (...) to interfere with the legitimate professional activities of the journalist.*** It should be added here that the RA Criminal Code contains an Article on obstructing the legitimate professional activities of the journalist, quoted below.

Article 164. Hindrance to the legal professional activities of a journalist

- 1. Hindrance to the legal professional activities of a journalist, or forcing the journalist to disseminate information or not to disseminate information, is punished with a fine in the amount of 50-150 minimal salaries, or correctional labor for up to 1 year.***
- 2. The same actions committed by an official abusing one's official position, is punished with correctional labor for up to 2 years, or imprisonment for the term of up to 3 years, by deprivation of the right to hold certain posts or practice certain activities for up to 3 years, or without that.***

We dwell on this issue since after the adoption of the new law, in 2004 several outrageous examples of hindering the legal professional activities of journalists were recorded.

Thus on April 5, 2004 in the city of Ashtarak the police hindered the work of the correspondent of "Haikakan Zhamanak" newspaper Haik Gevorgian, later taking him to the police station, as he was taking pictures of the Ashtarak-Yerevan highway blocked by the police. (Note: the highway was blocked to prevent the inflow of participants to the opposition rally in

Yerevan). According to Haik Gevorgian, he had been “lectured on how to behave” for an hour at the police station.

On the same April 5 unprecedented violence was committed against journalists during the opposition rally. The attacks on journalists, damaging their cameras evolved in front of the policemen, none of whom interfered. During the incident cameras of private “Kentron” and “Hay TV” companies as well of Public Television of Armenia were broken, the camera of “Shant” TV was snatched away, the photo cameras of correspondents Onik Grigorian (“Hetq” online newspaper), Anna Israelian (“Aravot” daily), Haik Gevorgian (“Haikakan Zhamanak”) were destroyed. The journalists were also subjected to physical violence. Only after the active social protest wave were criminal proceedings instituted on this fact, and only versus two people. These two were found guilty and sentenced to a penalty of 100,000 AMD. Surprisingly, the proceedings were instituted not by Article 164 of the RA Criminal Code (“Hindrance to the legal professional activities of a journalist”), but on Article 185 (“Willful destruction or spoilage of property”), with the mildest punishment chosen out of all, stipulated by the Article.

Even more outrageous were the events of April 12-13, when the journalists reporting on the opposition rally were attacked by the policemen themselves. On that night correspondents of “Haikakan Zhamanak” daily Haik Gevorgian and Avetis Babajanian, the cameraman of the Russian ORT TV company Levon Grigorian and journalist of “Chorrord Ishkhanutiun” newspaper Mher Galechian were beaten. According to Haik Gevorgian, his camera was snatched out by the Deputy head of the RA Police Hovhanness Varian in person, and the violence was exercised by the policemen in his very presence. Even more horrifying is the narration of the cameraman of the Russian ORT TV Company Levon Grigorian, published in the Yerevan Press Club Weekly Newsletter (see YPC Weekly Newsletter, November 12-18, 2004). Despite the public attention that the case got, the numerous protests made by local and international public organizations, no criminal proceedings were instituted on the case, not even an administrative investigation was conducted.

The next vase of hindrance to the professional activities of journalists occurred on August 24, 2004. On that day the correspondent of “Aravot” newspaper Anna Israelian and the photo journalist of “Photolure” photo news agency Mkhitar Khachatrian were attacked by some Gagik Stepanian, as they were gathering information on the summer houses being built in Tsaghkadzor (please see the annual reports of the Yerevan Press Club and Committee to Protect Freedom of Expression for more detail on the two cases: <http://www.ypc.am/eng/?go=act/studies/speech>). On this fact, for the first time in the history of independent Armenia, criminal proceedings were instituted on Article 164 (“Hindrance to the legal professional activities of a journalist”,) and on November 11 the court ruled to sentence the defendant to six months’ imprisonment. By the assessment of

Yerevan Press Club, the punishment is too mild, particularly, since the law allowed for an early release. These expectations came true, the people guilty of violence against journalists were released already on October 26. Article 164 of the Criminal Code was also applied to Armen Vardanian, who committed violence against correspondent of “Haikakan Zhamanak” daily Arman Galoyan on September 23, in the vicinity of one of the Yerevan markets.

The RA Law “On Mass Communication” strengthens the provision on the projection of information sources (Article 5). It is stipulated that the identification of sources can only be imposed on the journalist and the medium by court, and only as necessary for the disclosure of grave and very grave crimes. It also specifies when can identification of sources be demanded (**“if societal interest in law enforcement outweighs the societal interest in protecting the sources of information, and all other means to protect public interest are exhausted”**). This clause was expanded at our insistence, stipulating that in this case the journalist can demand a court hearing in camera. Therefore, the Article should either be brought into compliance with Recommendation No. R (2000) 7 of the CoE Committee of Ministers to Member States on the Right of Journalists not to Disclose Their Sources of Information, or else amendments be introduced in other law in the spirit of this Recommendations. This is particularly important, since, as the practice shows, this provision is contradicting Article 86 of the RA Criminal Code, according to which the journalists are not included into the list of those who shall not be involved in criminal proceedings as witnesses. This issue first came up when the Chairman of “Investigative Journalists” NGO Edik Baghdasarian was summoned to the police station of Kentron community of Yerevan, where he was demanded to disclose the sources of information published in one of his articles. YPC believes that the problem is to be solved by amending Article 86 of the RA Criminal Procedural Code, including the journalists into the list of individuals who cannot be summoned to the court as witnesses - in terms of protecting information sources.

Article 6 of the Law “On Mass Communication” refers to the accreditation of the journalists, and Article 7 is titled “Article 7. Restrictions to the Freedom of Speech in Media” (quoted here in full):

1. “It is prohibited to disseminate information, defined by law as secret, or information advocating criminally punishable acts, as well as information violating the right to privacy of ones’ personal or family life.

2. It is prohibited to disseminate information obtained by video and audio recording, conducted without notifying the person of the fact or recording, when the person expected to be out of sight or earshot of the implementer of video and audio recording and has taken sufficient measures to ensure it, with the exception of situations when such measures were obviously not sufficient.

3. The dissemination of information related to one's personal or family life as well as those mentioned in the second part of this Article is allowed if it is necessary for the protection of public interest."

In this definition the phrase "**information, defined by law as secret**" is unclear. We have repeatedly stressed that the responsibility for the information defined as secret lies with the information holder. Should it become known to the journalist, the decision of whether to publish it or not rests with the journalist and his/her medium as an ethical dilemma. Also, Article 9 of the Law, "Responsibility of the Entity Engaged in Communication Activity" provides for certain protection in case of secret publication: "**The entity, engaged in communication activity, is not liable for dissemination of secret information as stipulated by law, provided the information in question was lawfully obtained, or it was not apparent that the information was secret according to the law**".

The right to response and refutation is stipulated in Article 8, specifying that the response and refutation can be demanded within one month since the publication, and is to be published within a week since the submission. It is also noted that the refutation must refer to only factual mistakes. The Law also lists the cases when the refusal to publish a response or a refutation is permitted.

Law "On Television and Radio" and Its Implementation

As it has been noted above, the commitments and obligations of Armenia also called for transformation of the state broadcaster into a public service one. The RA law "On Television and Radio" was adopted on October 9, 2000, that is, after the Opinion 221 of the PACE (June 28, 2000) and before Armenia became a full-fledged member of the Council of Europe.

The Law regulates the work of both private and public service broadcasters. The main point of debate remains the formation and the authority of the regulatory bodies - the National Commission on Television and Radio (regulating the private broadcasting) and the Council of Public Television and Radio Company. According to the Law, both the National Commission on Television and Radio and the Council of Public TV and Radio Company is formed by the RA President. Their independence is supposedly guaranteed by their terms of service, during which the authority of their members cannot be terminated but for several cases - the decease of a member, voluntary resignation, etc. Yet, is this sufficient to ensure the independence of the regulatory bodies? In the opinion of journalistic community, the answer is negative. Thus, the broadcast licensing competitions held in 2002-2003 have proved that our concern is valid: "A1+" TV company participated in all

frequency tenders announced and was every time refused a license by the “independent” Commission. Throughout this period “A1+” challenged the decisions of the NCTR at every judicial level in the country, and currently the case is being considered by the European Court of Human Rights.

The independence of the broadcast regulating bodies is the problem that has been particularly emphasized by the Council of Europe, its Committee of Ministers adopting a Recommendation on this - Recommendation (2000)23 of the Committee of Ministers to Member States on the Independence and Functions of Regulatory Authorities for the Broadcasting Sector. This issue was also addressed by PACE in its three resolutions on the fulfillment of commitments and obligations by Armenia, issued in 2004. Thus, PACE Resolution 1361 (January 27, 2004) says:

“The Assembly notes that a number of legislative commitments - increased local self-government, introduction of an independent ombudsman, **establishment of independent regulatory authorities for broadcasting**⁴⁰, modification of the powers of and access to the Constitutional Court, reform of the Judicial Council, etc. - are still subject to a revision of the Armenian Constitution”.

The same Resolution notes below:

“As regards freedom of expression and media pluralism, the Assembly is concerned at developments in the audiovisual media in Armenia and expresses serious doubts as to pluralism in the electronic media, regretting in particular that the vagueness of the law in force has resulted in the National Television and Radio Commission being given outright discretionary powers in the award of broadcasting licenses, in particular as regards the television channel A1+. However, it notes the adoption in December 2003 of the Law on the Mass Media and a law amending the Law on Radio and Television Broadcasting.”

On December 3, 2003 the RA National Assembly adopted the RA Law “On Introducing Amendments and Additions to the RA Law “On Television and Radio”. This followed another expert assessment of the existing Law by the Council of Europe. The authors of the amendments assured that the changes were developed proceeding from the CoE expert assessment, dated July 26, 2002. However, our analysis reveals that the main objections of the experts were not taken into account. Firstly, the reviewing expert placed a particular emphasis on the procedure of forming the regulatory bodies - the Council of the Public TV and Radio Company and the National Commission on Television and Radio. In particular, the expert points out that the member appointment policy for both the NCTR and the Council of PTRC should be aimed at ensuring the appointment transparency and the independence of the bodies from political influences. The experts also note that for the members of National Commission on Television and Radio this should be their main employment.

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This point made by the experts was not taken into account by the authors of amendments to the RA Law "On Television and Radio". To fill in the vacancies in the Council of Public TV and Radio Company the following procedure was stipulated:

"The Chair of the Board shall inform in writing the President of the Republic of Armenia whenever a vacancy opens in the Board. The President announces a competition for the opening in the mass media within a one-week period.

Anybody can be nominated for the vacancy of a Board member, according to the requirements of this law.

At least a 10-day term is stipulated for nominating the candidates.

The data about the candidates are published in the mass media.

The RA President, based on the competition procedure confirmed by him, appoints one of the winners of the competition as a Board member. The information about that is published in the mass media - with the necessary substantiation."

In January 2005 a competition was announced to fill in the vacancies at the Council of Public TV and Radio Company. The competition jury was headed by... the Chairman of the Council of the Public TV and Radio Company Alexan Haruitunian. Yerevan Press Club, Journalists Union of Armenia, Internews Armenia and the Committee to Protect Journalists qualified this competition as imitation of democracy. The winners of the competition became members of the Council. These were Stepan Poghosian and Henrik Hovhannisian, previously holding the same positions.

The same procedure applies to the National Commission:

"The Chairman of the National Commission shall inform in writing the President of the Republic of Armenia whenever a vacancy opens in the National Commission. The President announces a competition for the opening in the mass media within a one-week period.

Anybody can be nominated for the vacancy of a member of the National Commission, according to the requirements of this law.

At least a 10-day term is stipulated for nominating the candidates.

The data about the candidates are published in the mass media.

The RA President, based on the competition procedure confirmed by him, appoints one of the winners of the competition as a National Commission member. The information about that is published in the mass media - with the necessary substantiation.

These amendments yield no result whatsoever and do not adhere to the requirements of Recommendation (96) 10 of the Committee of Ministers to Member States on the Guarantee of the Independence of Public Service Broadcasting and Recommendation Rec(2000)23 of the Committee of Ministers to Member States on the Independence and Functions of Regulatory Authorities for the Broadcasting Sector, because the determination of competition winners thus remains a subjective decision to be made by the President or the Commission appointed by him.

The issue of independence of broadcast regulatory bodies was also addressed by the PACE Resolution 1374 (April 28, 2004):

“- create fair conditions for the normal functioning of the media, for example, as regards the issuing of broadcasting licenses to television companies, in particular, to television channel A1+”.

Notably, “A1+” TV Company continues to remain out of air. Moreover, “A1+” TV company, having founded “MS Explorer” company jointly with “Cooperation for Democracy” NGO, took part in the broadcast licensing competition for radio companies in January 2005 and was again refused a license by the Commission.



Among the problems faced by the post-Soviet Armenian media are their dependence of political and economic patronage, resulting in political bias, absence of due attention to the issues of public concern. The honoring of commitments to the Council of Europe was to bring about greater freedom of journalistic profession, instilment of certain legal mechanisms that would ensure objective reporting, proceeding from public interests. This applies primarily to the broadcast media, which are the main source of information for the population. Therefore, along with the assessment of the direct fulfillment of commitments with regard to legislation and the functioning of the reformed legal mechanisms, the present research also aimed at determining how much the reforms have affected media content, first of all focusing on the broadcasters. To this effect monitoring of the mainstream TV channels was administered. The necessity of this study was further confirmed by the fact that the broadcasting landscape of the country was formed after Armenia became a member of the Council of Europe and the adoption of the Law “On Television and Radio” as part of the commitments to the CoE, and was particularly affected by its practical implementation (replacement of state broadcasting with public service broadcasting and conductance of broadcast licensing competitions”).

The monitoring was implemented by Yerevan Press Club in February 2005 (see Appendix for the findings of the study in detail). The study focused on two tasks: to reveal whether and to what extent the major broadcasters meet the information demands of the society and the representation of diverse opinion on major events of public importance on the TV air.

The following conclusions can be drawn from the monitoring findings: 1) the major Armenian TV channels, deemed to be the main information sources for the population of the country by surveys and other tools for studying public opinion, do not cover a significant part of topical issues, thus restricting the right of the audience to be informed and neglecting its demands and needs. 2) Unlike the periods, decisive for the political future of the country (elections of various levels, referenda), when, according to the previous studies, the main TV channels displayed an obvious slant in favor of the incumbent authorities, this study did not record any prevalence of any political stance on TV air. 3) At the same time the certain passive behavior of the TV companies in terms of presenting the opinions of political and public figures on a whole range of issues was noted. Thus, the contribution of media in shaping the public policy culture in the country is unsatisfactory. 4) The analytical programs of most TV channels studied are not sufficiently contributing to the audience finding its way through information flow. 5) In particular, the international and social problems, which, according to the all public opinion polls of the past years, are of utmost interest to the audience, are not a priority in the programming policy of the media studied. 6) At the same time, the TV channels pay much attention to the routine, day-to-day activities of the state structures, the leadership of the country, the political figures and businessmen who have certain levers of affecting the given TV company. 7) As another monitoring, administered during the same period jointly by the Media Diversity Institute and Yerevan Press Club, shows, the broadcasters very rarely addressed the issues of socially vulnerable groups of the Armenian society. These subjects are covered only in the case of a news pretext and mostly address the official stance on the problem, as voiced by state and international structures.

Thus, it can be stated that during the period when commitments to the CoE were being fulfilled, the Armenian broadcast media market (even though their number is quite large for a country with a small area and population of 3 million people) is not adequately responding to the needs of the society and the problems of the social development of the country.

Decriminalization of Libel and Insult

In 2003 during the discussions of the draft of the new Criminal Code of the Republic of Armenia numerous public and international organizations were firm in their stance on the document, insisting that the libel and insult must be decriminalized. However, the authors of the draft refused to compromise. On June 17 heads of six diplomatic missions, active in Armenia, rep-

representatives of 11 international and local NGOs addressed the Speaker of the RA National Assembly Artur Baghdasarian, calling on him to decriminalize libel and insult and to transfer the regulation of these offences into the framework of civil legislation. The necessity to amend Article 135 (“Libel”), 136 (“Insult”) and 318 (“Insulting a representative of authorities”) was addressed by item 16ii of PACE Resolution 1361 (January 27, 2004). “(The Assembly) asks the Armenian authorities to start work on revision of Articles 135, 136 and 318 of the Criminal Code by March 2004, in co-operation with Council of Europe experts, to remove any possibility of making insult and defamation subject to a prison sentence”.

On June 9 the RA National Assembly adopted the RA Law “On Introducing Amendments and Additions to the RA Criminal Code”, by which amendments were introduced also in the three Articles mentioned above. According to the RA Minister of Justice David Haruitunian, the amendments are a compromise with the demands to decriminalize libel and insult. Currently, these Articles are phrased as follows:

Article 135. Libel.

1. Libel - the dissemination of obviously false information humiliating the person’s good reputation, dignity and honor - is punished with a fine in the amount of 100 to 500 minimal salaries.

2. Action envisaged in part 1 of the Article, if repeated, is punished with a fine in the amount of 300 to 1000 minimal salaries, or with imprisonment for up to 1 year.

Article 136. Insult.

1. Insult, the improper humiliation of other person’s honor and dignity, is punished with a fine in the amount of 100 to 400 minimal salaries.

2. Action envisaged in part 1 of the Article, if repeated, is punished with a fine in the amount of 200 to 800 minimal salaries, or with imprisonment for up to 1 year.

Article 318. Insulting a representative of authorities.

1. Publicly insulting a representative of authorities, in relation to the duties carried out by him, is punished with a fine in the amount of 100 to 500 minimal salaries.

2. Action envisaged in part 1 of the Article, if repeated, is punished with a fine in the amount of 300 to 1000 minimal salaries, or with imprisonment for up to 1 year.

By these amendments, from Articles 135 and 136 the second clauses were removed, that is, the libel and insult “expressed in public speeches, in publicly demonstrated works, or by mass media” is not distinguished. The punishments have been changed: presently, libel is punished by “a fine in the amount of 100 to 500 minimal salaries” (the fine amounts were increased and the phrase “correctional labor for up to a year” was removed). Insult is punished “with a fine in the amount of 100 to 400 minimal salaries” (the fine amounts were increased and the phrase “correctional labor for up to six months” was removed). From Article 318 the penalty of correctional labor for up to six months was removed, however, the fine amounts were increased, too. Again, the second clause no longer distinguishes the insult “expressed in public speeches, in publicly demonstrated works, or by mass media”, and penalties are stipulated in case of repeated offence.

In our opinion, these amendments do not fully solve the problem, since the Articles remain in the Criminal Code, thus allowing the media and journalists to be introduced to criminal charges. Moreover, a demand made in the PACE Resolution, “to remove any possibility of making insult and defamation subject to a prison sentence”, is not fully accomplished, since imprisonment is stipulated in Articles 135 and 318. While PACE Resolution 1405 has taken note of these amendments, we will insist for the Articles to be removed from the Criminal Code. In our opinion, their retainment in the Criminal Code has nothing in common with the freedom of expression and cannot be justified by Part 2 of Article 10 of the European Convention on Human Rights. Here the joint statement of UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and Organization of American States should be recalled, according to which: “Criminal defamation laws - including those that provide special protection to the Head of State or other public figures, - are unnecessary to protect reputations. Criminal defamation laws should be abolished and replaced with appropriate civil defamation laws”.

APPENDICES

Opinion No. 221 (2000)¹ Armenia's application for membership of the Council of Europe

1. The Republic of Armenia applied to join the Council of Europe on 7 March 1996. In Resolution (96) 21 of 15 May 1996 the Committee of Ministers invited the Parliamentary Assembly to give an opinion on this request in accordance with Statutory Resolution 51 (30A).
2. The Armenian Parliament obtained Special Guest status with the Parliamentary Assembly of the Council of Europe on 26 January 1996. This application was considered in the light of the adoption of Recommendation 1247 (1994) on the enlargement of the Council of Europe, in which the Assembly stated that "in view of their cultural links with Europe, Armenia, Azerbaijan and Georgia would have the possibility of applying for membership provided they clearly indicate their will to be considered as part of Europe".
3. Delegations from the Assembly observed the presidential election in March 1998 and the general elections in July 1995 and May 1999.
4. Since 1996 Armenia has been taking part in various activities of the Council of Europe through the intergovernmental co-operation and assistance programmes, and in the work of the Assembly and its committees through its special guest delegation.
5. Armenia is a party to the European Cultural Convention and the Council of Europe's Framework Convention for the Protection of National Minorities, a member of the Open Partial Agreement on the Prevention of Protection against and Organisation of Relief in Major Natural and Technological Disasters, and an associate member of the Venice Commission, with which it has developed close co-operation. The Assembly also takes note of the fact that Armenia has requested accession to the European Convention on Extradition and the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities, and that it has recently signed six other Council of Europe conventions.
6. The Assembly considers that Armenia is moving towards a democratic, pluralist society, in which human rights and the rule of law are respected, and, in accordance with Article 4 of the Statute of the Council of Europe, is able and willing to pursue the democratic reforms initiated in order to bring its entire legislation and practice into conformity with the principles and standards of the Council of Europe.

¹*Assembly debate* on 28 June 2000 (21st Sitting) (see Doc. 8747, report of the Political Affairs Committee, rapporteur: Mr Volcic, and Doc. 8756, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Spindelegger).

Text adopted by the Assembly on 28 June 2000 (21st Sitting).

7. In asking the Assembly for an opinion on the membership application, the Committee of Ministers reiterated that a closer relationship between the Caucasian countries and the Council of Europe would demand not only the implementation of substantial democratic reforms, but also their commitment to resolve conflicts by peaceful means.

8. The Parliamentary Assembly believes that the accession of both Armenia and Azerbaijan could help to establish the climate of trust necessary for a solution to the conflict in Nagorno-Karabakh.

9. The Assembly considers that the OSCE's Minsk group is the optimum framework for the negotiation of a peaceful settlement to the conflict.

10. The Assembly takes note of the letter from the President of Armenia in which he undertakes to respect the cease-fire agreement until a final solution is found to the conflict and to continue the efforts to reach a peaceful negotiated settlement on the basis of compromises acceptable to all parties concerned.

11. The frequency of meetings between the presidents of the two countries has been stepped up. The speakers of the parliaments of Armenia, Azerbaijan and Georgia have decided to institute regional parliamentary co-operation, consisting in particular of meetings of the speakers of the parliaments and parliamentary seminars to be held in the capitals of the three countries and in Strasbourg. The first meeting in the region, which was held in Tbilissi in September 1999, made it possible to establish an atmosphere of trust and *détente* between the parliamentary delegations of Armenia and Azerbaijan.

12. The Assembly calls on the Armenian and Azerbaijani authorities to pursue their dialogue with a view to achieving a peaceful settlement of the conflict in Nagorno-Karabakh and giving new impetus to regional co-operation.

13. The Parliamentary Assembly takes note of the letters from the President of Armenia, the speaker of the parliament, the Prime Minister and the chairmen of the political parties represented in the parliament, and notes that Armenia undertakes to honour the following commitments:

i. conventions:

a. to sign, at the time of its accession, the European Convention on Human Rights (ECHR), as amended by Protocols Nos. 2 and 11 thereto, and Protocols Nos. 1, 4, 6 and 7;

b. to ratify the ECHR and Protocols Nos. 1, 4, 6 and 7 thereto during the year following its accession;

c. to sign and ratify, within one year of its accession, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and its protocols;

d. to sign and ratify, within one year of its accession, the European Charter for Regional or Minority Languages;

e. to sign and ratify, within one year of its accession, the European Charter of Local Self-Government;

f. to sign and ratify, within two years of its accession, the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities and its additional protocols, and the Council of Europe conventions on extradition, on mutual assistance in criminal matters, on laundering, search, seizure and confiscation of the proceeds from crime, and on the transfer of sentenced persons, and in the meantime to apply the fundamental principles contained therein;

g. to sign the European Social Charter within two years of its accession and ratify it within three years of accession, and to strive forthwith to implement a policy consistent with the principles of the Charter;

h. to sign the General Agreement on Privileges and Immunities of the Council of Europe and the protocols thereto at the time of its accession, and to ratify these within one year of its accession;

ii. the conflict in Nagorno-Karabakh:

a. to pursue efforts to settle this conflict by peaceful means only;

b. to use its considerable influence over the Armenians in Nagorno-Karabakh to foster a solution to the conflict;

c. to settle international and domestic disputes by peaceful means and according to the principles of international law (an obligation incumbent on all Council of Europe member states), resolutely rejecting any threatened use of force against its neighbours;

iii. domestic law:

a. to adopt, within one year of its accession, the second (specific) part of the Criminal Code, thus abolishing *de jure* the death penalty and decriminalising consensual homosexual relationships between adults;

b. to adopt, within six months of its accession, the law on the ombudsman;

c. to adopt, within one year of its accession, a new law on the media;

d. to adopt, within one year of its accession, a new law on political parties;

e. to adopt, within one year of its accession, a new law on non-governmental organisations;

f. to adopt, within six months of its accession, the law on the transfer of responsibility for the prison system, including pre-trial detention centres and work colonies, from the Ministry of the Interior and the Ministry for National Security to the Ministry of Justice thus ensuring

the thorough reform and demilitarisation of the system, and to ensure the effective implementation of this law within six months after it has been adopted, except as regards the effective transfer of the pre-trial detention centres and work colonies, which must be implemented within one year after the law has been adopted;

g. to adopt, within one year of its accession, the law on the civil service;

h. to amend, before the next local elections, the current legislation governing the powers of local authorities so as to give them greater responsibilities and independence, taking into account the recommendations made in this respect by the Congress for Local and Regional Authorities of Europe (CLRAE);

i. to remedy the deficiencies of the new electoral law before the next elections, in particular as regards the procedural aspects of the work of the electoral committees and the authorities responsible for drawing up electoral registers;

iv. human rights:

a. to fully implement the reform of the judicial system, in order to guarantee, *inter alia*:

- the full independence of the judiciary;

- full and immediate access to a defence lawyer in criminal cases (compulsory for minors); if necessary, the costs should be borne by the state;

b. to ensure that all churches or religious communities, in particular those referred to as “non-traditional”, may practise their religion without discrimination;

c. to co-operate fully with NGOs in ensuring that the rights of prisoners and conscripts are respected;

d. to adopt, within three years of accession, a law on alternative service in compliance with European standards and, in the meantime, to pardon all conscientious objectors sentenced to prison terms or service in disciplinary battalions, allowing them instead to choose, when the law on alternative service has come into force to perform non-armed military service or alternative civilian service;

e. to turn the national television channel into a public channel managed by an independent administrative board;

v. monitoring of commitments:

a. to co-operate fully in the implementation of Assembly Resolution 1115 (1997) on the setting up of an Assembly committee on the honouring of obligations and commitments by member states of the Council of Europe (Monitoring Committee); and

b. to co-operate fully in the monitoring process established pursuant to the declaration adopted by the Committee of Ministers on 10 November 1994 (95th session).

14. The Parliamentary Assembly notes that Armenia shares fully its understanding and interpretation of commitments entered into as spelt out in paragraph 13, and intends:

i. to ensure that parliament is kept fully informed about the investigation into the events of 27 October 1999, in conformity with the existing legislation;

ii. to grant access to the Constitutional Court, within two years of accession, also to the government, the Prosecutor-General, courts of all levels, and – in specific cases – to individuals;

iii. to reform the Judicial Council in order to increase its independence within three years of accession;

iv. to institute, without delay, a follow-up procedure which conforms to Council of Europe standards to complaints received on alleged ill-treatment in police custody, pre-trial detention centres, prisons and the army, and to ensure that those found guilty of such acts are punished in accordance with the law;

v. to consider, at least partially, time served in a disciplinary battalion as compulsory military service, and to ensure that the sentence of time to be served in such a battalion can be shortened if the soldier conducts himself well;

vi. to pay special attention to the fate of homeless children and those in conflict with the law.

15. On the basis of these commitments, the Assembly is of the opinion that, in accordance with Article 4 of the Statute of the Council of Europe, Armenia is able and willing to fulfil the provisions of Article 3 of the Statute, setting forth the conditions for membership of the Council of Europe: “Every member of the Council of Europe must accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms, and collaborate sincerely and effectively in the realisation of the aim of the Council (of Europe).”

16. With a view to ensuring compliance with these commitments, the Assembly decides to monitor the situation in Armenia closely, with immediate effect from the date of accession, pursuant to its Resolution 1115 (1997).

17. On the understanding that the commitments set out above are firm and will be fulfilled within the stipulated time limits, the Assembly recommends that the Committee of Ministers:

i. invite Armenia to become a member of the Council of Europe;

ii. allocate four seats to Armenia in the Parliamentary Assembly;

and requests that the necessary additional resources be made available.

18. Furthermore, in order to enable Armenia to honour its commitments and obligations as a member state, the Assembly also recommends that the Committee of Ministers develop its assistance to the Armenian authorities in the framework of the activities for the development and consolidation of democratic stability (Adacs). In addition, the Assembly recommends that the Council of Europe Development Bank provide assistance where appropriate.

Resolution 1361 (2004)¹ Honouring of obligations and commitments by Armenia

1. Armenia has been a member of the Council of Europe for three years. On 26 September 2002, the Parliamentary Assembly considered its first report on Armenia's progress in honouring its obligations and commitments. It concluded in its Resolution 1304 (2002) that "since its accession to the Council of Europe, Armenia has made substantial progress", while regretting that it had not honoured some fundamental commitments within the time-limits previously agreed upon.
2. The year 2003 was a busy electoral year for Armenia, and as a result no further progress has been made in the current reforms. Nevertheless, since September 2003, Armenia's undeniable efforts show that it is once more committed to making progress towards honouring its obligations and commitments.
3. The Assembly notes that Armenia has honoured all of its commitments with regard to conventions, and welcomes the fact that it has ratified Protocol No. 6 to the European Convention on Human Rights, the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities, the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and the Revised European Social Charter.
4. It considers that the ratification of the Revised European Social Charter will permit positive social progress in Armenia and asks the Armenian authorities to launch a comprehensive debate on how social rights should be effectively promoted in the country.
5. The abolition of the death penalty as a result of the ratification of Protocol No. 6 to the European Convention on Human Rights in September 2003 constitutes essential progress in the honouring of commitments and is a positive, strong and symbolic signal.
6. In this connection, the Assembly welcomes the adoption, in April 2003, of a new Criminal Code that no longer includes the death penalty; it takes note of the Armenian authorities' assurances that the law concerning the implementation of the Criminal Code, which was adopted at the same time and maintained the death penalty for a number of serious crimes, has become obsolete following the entry into force of Protocol No. 6.

¹ *Assembly debate* on 27 January 2004 (3rd Sitting) (see Doc.10027, report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), co-rapporteurs: Mr André and Mr Jaskiernia).
Text adopted by the Assembly on 27 January 2004 (3rd Sitting).

7. It notes that the presidential decree of 1 August 2003 commuting the death sentences of forty-two persons to life sentences has raised strong protests from some of them. It believes that this issue should be dealt with on a case-by-case basis and urges the authorities concerned to re-examine as soon as possible the cases of those who have asked for a change of sentence or a retrial.

8. As regards domestic legislation, the Assembly acknowledges the significant law-making activity achieved since September 2003. It particularly welcomes the adoption of a new Criminal Code, the Law on the Ombudsman, the Law on Alternative Service, the Law on the Media and the Law on Radio and Television Broadcasting.

9. The Assembly notes that a number of legislative commitments – increased local self-government, introduction of an independent ombudsman, establishment of independent regulatory authorities for broadcasting, modification of the powers of and access to the Constitutional Court, reform of the Judicial Council, etc. – are still subject to a revision of the Armenian Constitution. The rejection of constitutional reform in the referendum held in May 2003 has caused a delay in the entry into force of these fundamental reforms, most of which were to be completed by specific deadlines, stipulated in the Assembly's Opinion No. 221 (2000) on Armenia's application for membership of the Council of Europe; these deadlines have now expired.

10. The Assembly considers that these commitments must not be deferred any longer and invites the Armenian authorities to speed up the revision of the constitution. It takes note of the authorities' resolve to genuinely involve the opposition parties and civil society in discussions about the future of the country's institutions. Nevertheless, it expects the Armenian authorities to establish and keep to a detailed timetable and to rapidly prepare draft amendments to the constitution and to present them to the Council of Europe for expertise by the end of April 2004, so that a referendum can be held as soon as possible, and in any case not later than June 2005.

11. The Assembly notes that the Law on the Ombudsman, adopted in October 2003, stipulates that, pending the revision of the constitution, the ombudsman shall be appointed by the President of the Republic. It expressly recalls its Recommendation 1615 (2003) on the institution of ombudsman, and believes that the planned method of appointment does not provide sufficient guarantees of the independence of the ombudsman, who must have citizens' full confidence. It urges the Armenian authorities to set up a transparent and credible interim procedure enabling the Armenian National Assembly, including the opposition parties, to examine and give their opinion on candidatures, while officially preserving the President's right to nominate the successful candidate.

12. With regard to the right to free and fair elections, the Assembly cannot but express its profound disappointment at the conduct of the elections – the presidential election in February and March 2003 and the parliamentary elections in May 2003 – which gave rise to serious irregularities and massive fraud, and led the international observers to conclude that the electoral

process as a whole had not complied with international standards. It invites the Armenian authorities:

i. to revise the Electoral Code in close co-operation with the Council of Europe and the Organisation for Security and Co-operation in Europe (OSCE)/Office for Democratic Institutions and Human Rights (ODIHR), especially the provisions concerning the composition of electoral commissions, the role and status of observers, and the transparency of vote counting and the totalling of the results;

ii. to conduct a thorough investigation into the electoral fraud and put an end to the judicial impunity of those responsible for it by the end of 2004.

13. The Assembly is alarmed that the fundamental reforms concerning the judicial system and the independence of the judiciary have still not been completed. It urges the Armenian authorities to:

i. present by April 2004 a precise timetable for the effective implementation of these reforms;

ii. adopt the law on the status of judges, the law on the Judicial Council and the law on the judiciary by the end of 2004, taking account of the Council of Europe's recommendations and expert opinions.

14. The Assembly is shocked by the scandalous use that continues to be made of the arbitrary procedures concerning administrative detention provided for in the Administrative Code, which is totally incompatible with its strongly-worded statement in Resolution 1304 of September 2002 that the Armenian authorities should no longer make use of these procedures. It firmly condemns the arrest and conviction of over 270 people – members of the opposition parties, sympathisers and office-holders – between the two rounds of the presidential election and at the end of the second round. It expects the Armenian authorities to discuss by February 2004 the issue of administrative detention provided for in the Administrative Code in co-operation with Council of Europe experts and to send the draft amendments for the Council of Europe's expertise by April 2004.

15. The Assembly asks the Armenian authorities to immediately begin examining, in co-operation with the Council of Europe, the question of the balance to be struck between freedom of assembly and demonstration and respect for public order, and to adopt a law on demonstrations and public meetings in full compliance with Council of Europe principles and standards.

16. As regards criminal legislation, the Assembly:

i. is alarmed at the fact that on 5 November 2003 the Armenian National Assembly adopted amendments to the Criminal Code excluding persons serving life sentences from amnesty or conditional release and observes that these provisions are entirely contrary to

Committee of Ministers Recommendation Rec(2003)22 on conditional release (parole). It urges the Armenian authorities to repeal them without delay;

ii. asks the Armenian authorities to start work on revision of Articles 135, 136 and 318 of the Criminal Code by March 2004, in co-operation with Council of Europe experts, to remove any possibility of making insult and defamation subject to a prison sentence;

iii. urges Armenia to undertake the revision of the Code of Criminal Procedure without delay, in co-operation with the Council of Europe experts and with due regard for the recommendations already made and those yet to be made.

17. The Assembly expects the Armenian authorities to make further efforts to improve conditions of detention, which includes speedily implementing the recommendations of the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT).

18. It also asks the authorities to take resolute and more active steps to remedy misconduct by law enforcement officials, especially acts of violence, ill-treatment, corruption and bribery, which remain commonplace. It expects the authorities to revise the Law on the Police by March 2004 in compliance with the Council of Europe's recommendations.

19. As regards freedom of expression and media pluralism, the Assembly is concerned at developments in the audiovisual media in Armenia and expresses serious doubts as to pluralism in the electronic media, regretting in particular that the vagueness of the law in force has resulted in the National Television and Radio Commission being given outright discretionary powers in the award of broadcasting licences, in particular as regards the television channel A1+. However, it notes the adoption in December 2003 of the Law on the Mass Media and a law amending the Law on Radio and Television Broadcasting.

20. As regards local self-government, the Assembly:

i. takes note of Recommendation 140 (2003) of the Congress of Local and Regional Authorities of Europe on local democracy in Armenia;

ii. expects the Armenian authorities to draw up by April 2004, and adopt by the end of the second quarter of 2004, in full co-operation with the Congress and Council of Europe experts, a law on the status of Yerevan, a law on the territorial administration of the state, a law on municipal staff and a law amending the Law on Local Self-Government;

iii. asks the Armenian authorities to submit by April 2004 a specific and definitive timetable for the implementation of these reforms.

21. The Assembly is concerned at the scale of corruption in Armenia, which has reached intolerable proportions. It expects the Armenian authorities to

undertake a genuine change of attitude and express a real political will to take effective action against corruption. The Assembly:

- i. welcomes Armenia's membership of the Council of Europe's Group of States against Corruption (GRECO);
- ii. welcomes the Armenian Government's adoption of the national anti-corruption strategy and the action plan for its implementation, and its transmission to the Council of Europe for opinion;
- iii. asks the Armenian authorities to co-operate closely with the Council of Europe's experts;
- iv. expects the Armenian authorities to speedily draw up a modern and comprehensive law on the fight against corruption;
- v. expects the Armenian authorities to ratify the Criminal Law Convention on Corruption and to sign and ratify the Civil Law Convention on Corruption as soon as possible.

22. The Assembly welcomes the adoption of the law introducing an alternative military and civilian service broadly consistent with Parliamentary Assembly Recommendation 1518 (2001) on exercise of the right of conscientious objection to military service in Council of Europe member states. However, it considers the length of the alternative civilian service, set at forty-two months, unacceptable and excessive and asks that the law be amended on this point, reducing the length of service to thirty-six months before it comes into force on 1 July 2004.

23. It points out that Armenia undertook on joining the Council of Europe to pardon conscientious objectors serving prison terms. It expresses its indignation at the fact that twenty or so young people who refuse to perform military service are still in prison. It therefore demands that they be released immediately by presidential pardon pending the entry into force on 1 July 2004 of the law on alternative civilian service.

24. As regards freedom of religion, the Assembly:

- i. notes that, despite the commitment made and the Assembly's repeated appeals, Jehovah's Witnesses are still not registered as a religious organisation. It asks that this registration be done without delay, after their statute has been brought into conformity with the legislation in force;
- ii. takes note of the assurances given by the Armenian authorities that Order No. 551-A issued by the Minister of the Interior, which leads to serious discrimination and infringement of freedom of conscience and religion, has indeed been repealed;
- iii. asks the Armenian authorities to set up a truly independent body representing all Armenia's religious organisations and communities.

25. The Assembly also calls on the Armenian authorities to take effective steps, in co-operation with the international organisations concerned, to prevent and combat trafficking in women and minors for prostitution purposes.

26. As regards the settlement of the conflict in Nagorno-Karabakh, the Assembly:

i. notes that there has been no progress in the negotiations on a settlement of the conflict over Nagorno-Karabakh and the occupied territories of Azerbaijan;

ii. calls on the Armenian and Azerbaijani authorities to intensify top-level contacts in order to reach a peaceful settlement of this issue as soon as possible;

iii. is disturbed at the serious incidents that took place in the north-east border area in July and August 2003, which are reported to have caused fifteen deaths.

27. Recalling that in its Opinion 221 (2000) the Assembly considered that the simultaneous accession of Armenia and Azerbaijan could help to establish the climate of trust and *détente* needed for a peaceful solution to the Nagorno-Karabakh conflict, and noting its call on the Armenian and Azerbaijani authorities to continue their dialogue to give new impetus to regional co-operation which could contribute to this climate; the Assembly calls on the Bureau of the Assembly to consider how regional parliamentary dialogue and co-operation involving the speakers of parliaments, that had been established, can be restored and progress as soon as possible.

28. The Assembly expresses satisfaction at its excellent co-operation with the Armenian authorities, their open-minded attitude and the quality of the ongoing dialogue on compliance with obligations and commitments.

29. The Assembly recognises that Armenia has recently made considerable efforts to honour the obligations and commitments entered into. However, given the obligations and commitments that remain to be honoured, particularly those concerning pluralist democracy, the Assembly decides not to end the current monitoring procedure until Armenia has made further substantial progress on its outstanding commitments, and notably has proved that it is able to organise the next presidential and parliamentary elections in compliance with international democratic standards.

Resolution 1374 (2004)¹ Honouring of obligations and commitments by Armenia

1. Since the end of March 2004, a series of protests have been organised by the opposition forces in Armenia, calling for a “referendum of confidence” in President Kocharian. The possibility of such a referendum was first mentioned by the Armenian Constitutional Court following the presidential elections in February and March 2003. The Constitutional Court later clarified its proposal and the authorities are calling the opposition demands and protests an attempt to seize power by force.
2. The demonstrations, although announced, were not authorised by the authorities, who have threatened the organisers with criminal prosecution. Following the demonstrations on 5 April, the General Prosecutor opened criminal investigations against several members of the opposition and arrested many more, in connection with the opposition parties’ rally. On the same occasion, several journalists and politicians were beaten up by unknown persons while the police stood by and took no action.
3. New demonstrations took place on 9, 10 and 12 April in Yerevan. In the early morning of 13 April, the security forces violently dispersed some 2 000 to 3 000 protesters who were attempting to march towards the presidential palace, calling for President Kocharian’s resignation. The police reportedly used truncheons, water cannons and tear gas, causing dozens of injuries. A number of protesters were arrested, including members of parliament, some of whom are members of the Assembly, and some were allegedly mistreated by the police while in custody. The security forces also assaulted and arrested several journalists who were covering the opposition rally.
4. Tensions in Armenia continue to run high; new protests are planned for the week of 26 April. For the time being, there seems to be little room for dialogue between the authorities and the opposition, even if some offers have been made and some members of the ruling majority – for example, the Speaker of the Armenian Parliament – have begun criticising the heavy-handed crackdown on demonstrations.
5. With regard to the conduct of the authorities, the Parliamentary Assembly recalls that its actions are contrary to the spirit and to the letter

1. *Assembly debate* on 28 April 2004 (13th Sitting) (see Doc. 10163, report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), co-rapporteurs: Mr André and Mr Jaskiernia).
Text adopted by the Assembly on 28 April 2004 (13th Sitting).

of the recommendations formulated in its Resolution 1361 (2004) on the honouring of obligations and commitments by Armenia, adopted in January 2004. It is particularly concerned with the fact that:

i. arrests, including those carried out on the basis of the Administrative Code, ignored the demand to immediately end the practice of administrative detention and to change the Administrative Code used as a legal basis for this practice;

ii. the authorities refused to authorise opposition rallies for reasons not permitted under the European Convention on Human Rights. Moreover, the new draft law on the procedure for conducting gatherings, meetings, rallies and demonstrations, currently undergoing parliamentary procedure, was evaluated as excessively restrictive by experts of the Venice Commission;

iii. persons detained during the recent events were reportedly subjected to brutality and ill-treatment by police and security forces while in custody, in spite of the Assembly's demands that resolute and more active steps be taken to remedy misconduct by law enforcement officials;

iv. freedom of expression continues to be seriously curtailed and several acts of violence against journalists, which took place during the recent events, were carried out, or were allowed to happen, by the police and security forces.

6. With regard to the conduct of the opposition, the Assembly stresses that they should do their utmost to avoid any future violence.

7. As to their demands for a "referendum of confidence" and for the resignation of President Kocharian, the Assembly stresses that:

i. both the presidential elections, and the parliamentary elections which followed in May 2003, were severely criticised by the international community, including by the Assembly delegations. The electoral process as a whole did not comply with international standards and the irregularities observed included, amongst others, biased media coverage, detention of opposition members and campaign staff, falsification of results, intimidation of observers, as well as a generally inadequate performance by the elections administration;

ii. although this fraud did not decisively change the outcome of the elections nor invalidate their final results, in spite of its magnitude, in its Resolution 1361 (2004), the Assembly expressed profound disappointment at the conduct of the elections and called for a thorough investigation into electoral fraud and for an end to the judicial impunity of those responsible for it.

8. While insisting that the Armenian authorities must fully comply with its recommendations concerning 2003's flawed elections, the Assembly considers that the opposition, while fully entitled to enjoy its constitutional right to peaceful assembly, should strive to achieve its goals within the constitutional framework.

9. The Assembly calls upon the Armenian authorities to:

i. allow peaceful demonstrations and refrain from any further action which would legally, or in practice, lead to unjustified restrictions to the freedom of assembly guaranteed by the European Convention on Human Rights;

ii. guarantee freedom of movement within Armenia;

iii. immediately investigate – in a transparent and credible manner – the incidents and human rights abuses reported during the recent events, including assaults on journalists and human rights activists, and inform the Assembly of their findings and of any legal action taken against persons responsible;

iv. immediately release the persons detained for their participation in the demonstrations, immediately end the practice of administrative detention and amend the Administrative Code to this effect;

v. take note of the fact that the immunities of members of the Parliamentary Assembly of the Council of Europe are valid for the whole year (Resolution 1325 (2003) and Recommendation 1602 (2003)); accordingly it invites the competent Armenian authorities to henceforth inform the President of the Assembly as soon as possible when Armenian members of that Assembly are prosecuted or detained;

vi. create fair conditions for the normal functioning of the media, for example, as regards the issuing of broadcasting licences to television companies, in particular, to television channel A1+;

vii. send a written report to the Assembly, before the opening of the June 2004 part-session, on the steps it has taken with regard to sub-paragraphs 9.i to 9.vi above.

10. The Assembly calls upon the authorities and the opposition to refrain from any action which may lead to further violence, and to engage in a dialogue without preconditions, with a view to resolving the present conflict in accordance with Council of Europe standards and European democratic practice.

11. The Assembly believes that the recent events have added a measure of urgency to its demands for Armenia's full and unconditional compliance with their obligations and commitments. It resolves to instruct the Monitoring Committee to send its rapporteurs to Armenia to present a report on the situation, particularly on the follow-up of the recommendations set out in sub-paragraphs 9.i to 9.vi above, as soon as appropriate, and well before the opening of the October 2004 part-session. If no progress with regard to sub-paragraphs 9.i to 9.vi is made by the opening of that part-session, it resolves to reconsider the credentials of the Armenian delegation in accordance with Rule 9 of the Rules of Procedure.

Resolution 1405 (2004)¹ Implementation of Resolutions 1361 (2004) and 1374 (2004) on the honouring of obligations and commitments by Armenia

1. Armenia was the subject of Assembly debates on its democratic future on 27 January 2004 and 28 April 2004 respectively and the country embarked upon further reforms following Resolutions 1361 (2004) and 1374 (2004).

2. The Parliamentary Assembly expresses satisfaction at its excellent co-operation with the Armenian authorities, their open-minded attitude and the quality of the ongoing dialogue on compliance with obligations and commitments.

3. The Assembly is pleased to note that Armenia has complied with the request to submit a report on paragraphs 9.i to 9.vi of Resolution 1374 (2004) and takes note that:

i. authorities have refrained from interfering with the conduct of assemblies and, after the law “On gatherings, assemblies, rallies and demonstrations” entered into force, a legal basis has been established for holding them only by notification;

ii. the Constitution guarantees freedom of movement and laws provide for maintenance of public order;

iii. the investigations on the incidents and human rights abuses reported during the recent events, including assaults on journalists and human rights activists, were led and information was provided to the Assembly on a case of legal action against persons responsible for assaults against journalists;

iv. the persons detained for their participation in the demonstrations were released and an end to the practice of administrative detention is expected as the Administrative Code is in the process of being amended;

v. in this period one frequency has been freed, without contest, on the basis of an intergovernmental agreement and within the framework of

¹ *Assembly debate* on 7 October 2004 (31st Sitting) (see Doc. 10286, report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), co-rapporteurs: Mr André and Mr Jaskiernia). *Text adopted by the Assembly* on 7 October 2004 (31st Sitting).

the law “On Television and Radio”, a frequency which was given to the Russian “Kultura” TV Channel for rebroadcasting;

vi. the authorities have taken note of the fact that the immunities of members of the Parliamentary Assembly of the Council of Europe are valid for the whole year (Resolution 1325 (2003) and Recommendation 1602 (2003)).

4. Despite Armenia’s declared wish to reach a peaceful solution with Azerbaijan to the Nagorno-Karabakh situation, the Assembly is forced to conclude that no tangible progress has been achieved for the past year, whether at the level of the direct talks between the presidents of the two countries, which are continuing, or at the level of the Minsk Group.

5. The Assembly recalls that it had asked for a thorough investigation into electoral fraud in the 2003 elections and for an end to the judicial impunity of those responsible. In this connection, the Assembly considers that it has not received a convincing reply from the authorities. It is confident, however, that the process of revising the Electoral Code will soon be completed, in keeping with the recommendations of the Venice Commission.

6. It notes that legislative measures have been taken in order to introduce into the Criminal Code a provision on conditional release for all persons convicted of serious offences, including persons with life sentences.

7. It notes that the constitutional revision needed to ensure that certain commitments are fully honoured is making good progress. It asks that the authorities should rapidly prepare draft amendments to the Constitution, present them to the Council of Europe in 2004 for expert appraisal and organise a referendum as soon as possible and in any event by June 2005 at the latest.

8. The Assembly takes note of the timetable for effective implementation of the basic reforms concerning the judicial system and the independence of the judiciary and of the intention to adopt the law on the status of judges, the law on the judicial council and the law on the judiciary before the end of 2004.

9. The Assembly notes that the last amendments to the Law on Radio and Television request that the National Broadcasting Commission should add arguments when awarding broadcasting licenses, thus preventing the adoption of arbitrary decisions.

10. With regard to its other requests, the Assembly notes the steps taken to:

i. continue discussion of the question of administrative detention in the Administrative Code in co-operation with the Council of Europe’s experts in order to end administrative detention;

ii. adopt a law on demonstrations and public assemblies in co-operation with the experts of the Council of Europe and the Venice Commission;

- iii.** amend the Criminal Code in order to introduce the possibility of conditional release for prisoners serving life sentences;
- iv.** revise, in co-operation with the Council of Europe's experts and with due regard to the recommendations already made and those yet to be made, Articles 135, 136 and 318 of the Criminal Code in order to remove any possibility of making insult and defamation subject to a prison sentence ;
- v.** revise the law on the police in co-operation with the Council of Europe's experts;
- vi.** adopt a law on the status of Yerevan, a law on territorial autonomy, a law on local government staff and a law on local self-government;
- vii.** combat corruption and sign the Civil Law Convention on Corruption; it asks that this Convention be ratified within the shortest possible time;
- viii.** grant an amnesty to conscientious objectors who are serving prison sentences and release those who refused to perform military service.

11. Furthermore, the Assembly is expecting rapid progress concerning:

- i.** the revision of the Code of Criminal Procedure, in accordance with the standards of the Council of Europe;
- ii.** improvements to conditions of detention and, in that connection, the implementation of the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT);
- iii.** the developments in the media sector in Armenia: it expects that, on the basis of the recent amendments to the Law on radio and television, the composition of the National Broadcasting Commission will be renewed as soon as possible and that fair conditions for awarding broadcasting licenses to televisions, in particular to A1+ television channel, will be created;
- iv.** the excessive length of the period of alternative civilian service, which has been set at 42 months;
- v.** the registration of the association of Jehovah's Witnesses;
- vi.** the creation of an independent body representing all Armenia's religious organisations and communities;
- vii.** in accordance with Resolution 1374 (2004), paragraph 9.iv, the end to the practice of administrative detention until the Administrative Code is amended;

viii. the amendment, no later than March 2005, of the law on demonstrations and public assemblies to bring it into full conformity with Council of Europe standards to ensure freedom of assembly in practice.

12. In the light of the foregoing, the Assembly calls on the Armenian authorities to continue to take appropriate measures to honour the remaining obligations and commitments set out in Resolutions 1361 (2004) and 1374 (2004).

REPORT ON TV CHANNEL MONITORING IN ARMENIA

I. GENERAL INFORMATION

The TV channel monitoring in Armenia was administered in the course of one month, February 1-28, 2005, under the Yerevan Press Club project “Monitoring of Democratic Reforms in Armenia”, supported by the Open Society Institute Human Rights and Governance Grants Program.

Monitoring Group: coordinator - Elina Poghosbekian; monitors - Armineh Sukiassian, Seda Shiganian, Gohar Hovsepian, Ruben Shkhikian, Alexander Iloyan.

The purpose of the monitoring was to determine, by gaining and analyzing quantitative data:

- the attention of the leading TV companies of Armenia to the most significant public and political events in the country and world;
- the correspondence of TV coverage and reporting on the issues to their true relevance and the demand of the audience;
- the degree to which broadcast media perform their mission to meet the need of the society to know;
- the degree to which various viewpoints on the most important public and political problems is presented on TV air.

The monitoring objects were the main newscasts, news/analysis programs and current affairs programs of 5 broadcast media of Armenia: 4 national TV companies - Public Television of Armenia (PTA); “ALM”; “Armenia”; Second Armenian TV Channel (Second Channel) and 1 local TV company - “Shant”, broadcasting in Yerevan and Gyumri (the monitoring object was the Yerevan program). The main criterion for the TV channel selection was the coverage area of the channel (see below the list and brief profile of the TV channels and programs studied).

II. MONITORING METHODOLOGY

Monitoring methodology differed depending on the type of the programs/shows studied.

A. NEWS AND NEWS/ANALYSIS PROGRAMS

Methodology of monitoring newscasts and news/analysis programs included:

- count of the total number of TV pieces (in absolute values) in each main newscast, each issue of news/analysis program of the TV company, except the weather forecast, commercial advertising, including announcements and TV schedule presentations, etc.;
- count of the total duration of the TV pieces (in seconds) of each main newscast, issue of news/analysis program, except the weather forecast, commercial advertising, including announcements and TV schedule presentations, etc.;
- recording the sequence of the TV pieces in the program;
- recording the subject matter of each TV piece;
- recording the duration of each TV piece (in seconds);
- development of unified wording for pieces on general issues (in certain cases the events close by content and significance were grouped together);
- unification of events, having current, chronicle nature and not called by experts as urgent, in common thematic groups (issues of RA economy and finance, current activities of the RA President and his administration; events in RA culture and science , etc.)

The following was understood to be a TV piece:

The airtime unit, distinct in its theme, composition and design, i.e.:

- a.** a separate story in the newscast;
- b.** a separate communication, presented by the program host;
- c.** a thematically distinct part (section, story) of the program, touching on different issues/problems;
- d.** a thematically distinct question and answer to it in a TV interview, touching various issues/problems;
- e.** a program or an interview on one issue/problem was not subdivided and was viewed as a single piece;
- f.** introductory announcements of the TV pieces were viewed as a part of the story they referred to;
- g.** the headline/subheadline, the lead, the text of the host introducing the TV piece (report, etc.), were viewed as a part of this piece (report, etc.)

B. CURRENT AFFAIRS PROGRAMS

Methodology for monitoring current affairs programs included:

- recording the main program participants, specifying the first and last names, the position/occupation of each of the participants;
- recording the sequence of the issues, discussed in the program;
- recording the subject/s of the program.

III. THE LIST AND BRIEF PROFILE OF THE TV CHANNELS AND PROGRAMS STUDIED

PUBLIC TELEVISION OF ARMENIA (PTA) - public TV and radio company, founded in 2001. The governing body is the Council of Public TV and Radio Company. Airtime periodicity is 19 hours per day.

The study objects on PTA were: the main newscast “**Haylur**” and the Sunday news/analysis program “**360 degrees**”; “**5th wheel**” current affairs program.

“**Haylur**” newscast was aired 7 days a week: on Monday-Friday – 8 times a day, on Saturday – 3 times a day, on Sundays – 1 time a day. The monitoring object was the main “Haylur” issue at 21.00, totaling at 24 during the study period. Throughout the monitoring a total of 592 pieces was studied, their overall duration amounting to 58,716 seconds.

“**360 degrees**” news/analysis program was aired once a week on Sundays, at 20.00. During the study period there were 4 issues of “360 degrees”. Throughout the monitoring a total of 26 pieces was studied, their overall duration amounting to 10,825 seconds.

“**5th wheel**” (“guest-in-studio” genre) was aired once a week on Mondays, at 22.00. During the study period there were 4 issues of “5th wheel”.

“**ALM**” – private TV company, founded in 2000 by the President of “ALM-Holding” Tigran Karapetian. Airtime periodicity is 20 hours per day.

The study objects on “ALM” were: “**Day by Day**” main newscast and its Sunday news/analysis issue; “**Position**” and “**Price of the Question**” current affairs program.

“**Day by Day**” newscast was aired 6 days a week (Monday-Saturday), four times a day. The monitoring object was the main issue of “Day by Day” at 20.00. During the study period these were 24. Throughout the monitoring a total of 309 pieces was studied, their total duration amounting to 34,068 seconds.

Sunday news/analysis issue of “Day by Day” was aired once a week at 17.00. During the study period there were 4 issues of “Day by Day”. Throughout the monitoring a total of 41 pieces was studied, with a total duration of 6,325 seconds.

“Price of the Question” current affairs program (“guest-in-studio” genre) was aired twice a week (on Tuesdays and Saturdays) at 21.30. During the study period there were 8 issues of “Price of the Question”.

“Position” current affairs program (“guest-in-studio” genre) was aired once a week (on Thursdays) once a day at 21.30. During the study period there were 4 issues of “Position”.

“ARMENIA” – private TV company, founded in 1998. The founders are the Cafesjian Family Fund and “Sargsian Family” Fund. Airtime periodicity is 24 hours per day.

The research object on “Armenia” TV channel were: **“Zham”** main newscast and **“Express”** news/analysis program; **“Indeed”** current affairs program.

“Zham” newscast was aired 7 times a week: six times a day on Monday-Saturday, once a day on Sunday. The monitoring object was the main “Zham” issues at 20.30. During the study period these issues were 28. Throughout the monitoring a total of 267 pieces was studied, their overall duration amounting to 37,909 seconds.

“Express” news/analysis program was aired 5 times a week (Monday-Friday) once a day at 22.40. During the study period there were 20 issues of the program. Throughout the monitoring a total of 388 pieces was studied, their overall duration amounting to 29,597 seconds.

“Indeed” current affairs program (“guest-in-studio” genre) was aired 5 times a week (Monday-Thursday, Saturday) once a day at 19.30. During the study period there were 20 issues of “Indeed”.

SECOND ARMENIAN TV CHANNEL (SECOND CHANNEL) – private TV company, founded in 1998 by private persons. Airtime periodicity is 18 hours per day.

The study object on the Second Channel were: **“Lraber”** main newscast and **“Sunday Lraber”** and **“Saturday Report”** news/analysis programs; **“Right to Tell”** and **“Ojakh”** current affairs programs, as well **“Fourth Studio”** current affairs section.

“Lraber” newscast was aired 6 days a week: on Mondays – 3 times a day, on Tuesday-Saturday – 5 times a day. The monitoring object were the “Lraber” issues at 23.00. During the study period these were 24. Throughout the monitoring a total of 434 pieces was studied, their overall duration amounting to 45,403 seconds.

“Sunday Lraber” news/analysis program was aired once a week on Sundays at 21.00. During the study period there were 4 issues of “Sunday Lraber”. Throughout the monitoring a total of 24 pieces was studied, their overall duration making 5,713 seconds.

“Saturday Report” news/analysis program was aired once a week on Saturdays at 20.40. During the study period there were 4 issues of “Saturday Report”, their overall duration amounting to 3,660 seconds.

“Right to Tell” current affairs program (“guest-in-studio” genre)was aired once a week on Saturdays at 21.30. During the study period there were 2 issues of the “Right to Tell”.

“Ojakh” current affairs program (“talk-show” genre) was aired once a day at 21.00. During the study period there were 4 issues of “Ojakh”.

“Fourth Studio” current affairs section (“guest-in-studio” genre) went on air within “Lraber” and “Sunday Lraber” news programs. During the study period there were 4 issues of “Fourth Studio”.

“SHANT” – private TV company, founded in 1994 by Artur Yezekian. The airtime periodicity is 19 hours daily.

The study object on “Shant” were: **“Horizon”** main newscast; **“Perspective”** and **“Second Glance”** current affairs programs.

“Horizon” newscast was aired 6 days a week (Monday-Saturday) 8 times a day. The monitoring object were the main issues of “Horizon” at 22.00. During the study period there were 24 issues. Throughout the monitoring a total of 325 pieces was studied, their overall duration amounting to 47,892 seconds.

“Perspective” current affairs program (“guest-in-studio” genre) went on air 5 days a week (Monday-Friday) once a day at 22.45. During the study period there were 20 issues of “Perspective”.

“Second Glance” current affairs program (“talk show” genre) went on air once a week on Sunday at 23.00. During the study period there were 4 issues of “Second Glance”.

IV. EXPERT SURVEY

To determine the extent to which information demands of the society are met by the leading broadcast media, along with the TV channel monitoring, on February 1-28 expert survey among representatives of various areas was administered.

The survey covered 10 people:

Levon Barseghian, chairman of the Board of “Asparez” Journalist’s Club;

Karen Bekarian, head of “European Integration” NGO;

Marina Grigorian, head of Information and Public Relations Department of the RA Human Rights Defender’s Office;

Stepan Grigorian, head of Analytical Center for Globalization and Regional Cooperation;

Nina Kevorkova, dean of Social and Cultural Service and Tourism Department of the Russian-Armenian (Slavic) State University;

Karineh Khodikian, playwright, publicist, RA deputy minister of Culture and Youth Issues;

Ida Martirosian, director of “Political Modeling”, vice-chairman of the Christian-Democratic Union of Armenia;

Ashot Melikian, chairman of the Committee to Protect Freedom of Expression;

Artur Sakunts, head of the Vanadzor Branch of Helsinki Citizens Assembly, editor of “Civil Initiative” newspaper;

Isabella Sargsian, co-chair of “Youth for Democracy” NGO.

The selection of people, conventionally classed as “experts”, was made out of those who closely follow the media due to their professional activities and represents mostly the humanitarian and social sphere. These are the representatives of both non-governmental and state sector, who do not have direct relations with the main political players of the country. To a certain extent the gender (5 male and 5 female respondents), age (from 21 to 50) and geographic (cities of Yerevan, Gyumri, Vanadzor) balance was taken into account.

The experts traced the current affairs in the world and in Armenia and on weekly basis answered the question: “**Which three events of the last week do you see as the most important?**”

Event (theme) priority was defined by each expert by assigning a score of 3 to 1. The cumulative data for each of the themes, distinguished by the experts, was the basis for comparing with the event coverage by the TV channels.

To ensure comparability of findings, the definitions of the events/themes, noted by experts as most urgent, were phrased in accordance with the definitions of events/themes, recorded during the TV channel monitoring (in certain cases events, close in content and significance, were grouped into one theme).

V. TECHNIQUE FOR TV CHANNEL MONITORING AND EXPERT SURVEY

In order to obtain comparable data, the findings of the expert survey and the findings of the monitoring of news, news/analysis and current affairs programs of each TV channel were analyzed on weekly basis.

VI. WEEKLY FINDINGS OF TV CHANNEL MONITORING AND THE EXPERT SURVEY

Herein the comparative analysis of the expert survey and each TV channel on weekly basis is presented.

FEBRUARY 1-6, 2005

EXPERT SURVEY

On February 1-6 the experts noted a total of 17 events, of which the following were the leading five:

1. Decease of Georgian Prime Minister Zurab Zhvania and the subsequent events (25 points).
2. OSCE fact finding mission at the occupied territories of Azerbaijan, surrounding Mountainous Karabagh (7 points).
3. Parliamentary elections in Iraq and the post-election situation (5 points).
4. Report on Mountainous Karabagh by PACE Rapporteur David Atkinson and the response to it (3 points).
5. Statement of the US Secretary of State Condoleezza Rice that the US does not intend to attack Iran (3 points).

Other events mentioned by experts as priority scored from 2 to 1 points.

PUBLIC TELEVISION OF ARMENIA

In the main issues of “Haylur” newscast and “360 degrees” news/analysis program on February 1-6 the greatest attention was paid to the subject, named as priority by the experts – “Decease of Georgian Prime Minister Zurab Zhvania and the subsequent events”.

The themes of the week rated as second and third by the experts - “OSCE fact finding mission at the occupied territories of Azerbaijan, surrounding Mountainous Karabagh” and “Parliamentary elections in Iraq and the post-election situation” - on the news air of PTA studied were 17th (258 sec.) and the 50th (28 sec.), respectively. In other words, the elections in Iraq received less than half a minute of coverage, which is obviously insufficient to inform the audience. While the reporting on other events in Iraq received 132 seconds, these were short reports on terrorist attacks in the country, out of the post-election context, most probably resulting in complicating the viewers’ perception of the situation in Iraq.

“Report on Mountainous Karabagh by PACE Rapporteur David Atkinson and the response to it”, scoring the 4th and 5th rates in the expert survey, was the 7th on the news air of PTA (634 seconds). Besides, other pieces on Karabagh conflict resolution received 439 seconds of coverage.

“Statement of the US Secretary of State Condoleezza Rice that the US does not intend to attack Iran” – the subject that shared the 4th-5th places with the one above – was not stressed in the PTA news programs. The same is true for other international news that attracted the attention of experts, in particular, “Shamil Basaev’s interview to British Channel 4” and “Early payment of most of the Russian debt to Paris Club”.

The theme of “Return of opposition parliament factions to the RA National Assembly”, singled out by one expert as being the second important, was in the 10 most covered subjects of the week, being the 6th (779 seconds).

“Proposal of the Speaker of the National Assembly of France Jean-Louis Debre on the researching into the Armenian Genocide problem by the experts of UN, NATO, Council of Europe and independent Swiss experts, made during his visit to Turkey” was covered by the PTA, although it was defined by the experts to be a priority the next week (February 7-13). In other words, the referral of the PTA to this event to a certain extent fore-stalled the public interest to it.

In general, the news coverage on PTA is characterized by particular attention to the official communications, the event chronicles in Armenia and the world with a small emphasis on the subjects of primary interest.

The absence of a such accent on the key issues in the main newscasts is particularly felt as the urgent issues of the week, the month are seldom a subject for discussion in the commenting programs. The latter ones, in par-

ticular, the weekly “5th Wheel” current affairs program, in accordance with its specialization, addresses mostly general issues, with no linkage to the hot events.

“ALM”

The greatest attention in “Day by Day” newscast and its Sunday news/analysis issue on February 1-6 was paid to the trips of the TV company owner Tigran Karapetian in the regions of Armenia (1,142 sec.)

The next two places were taken by subjects, reflecting current affairs: issues of RA economy and finance (1,093 sec.); chronicle, the situation in Armenian regions (697 seconds).

The subjects, defined by experts to be most significant for the given period - “Decease of Georgian Prime Minister Zurab Zhvania and the subsequent events”; “OSCE fact finding mission at the occupied territories of Azerbaijan, surrounding Mountainous Karabagh” – were on the 10th (348 seconds) and 19th (135 seconds) places, respectively.

“Report on Mountainous Karabagh by PACE Rapporteur David Atkinson and the response to it”, named the fourth by the experts, was rated the 4th in the news coverage of “ALM” (646 sec.). The pieces on the Karabagh conflict resolution were on the 8th place (423 sec.)

The situation with the parliamentary elections in Iraq and the statement of the US Secretary of State on Iran were completely out of the “Day by Day” issues during the first week of February. The same is true for another event, pointed out by experts – “Ailing of Pope John Paul II”.

Of other themes, singled out by experts, “Return of opposition parliament factions to the RA National Assembly” was the fifth of the subjects covered, receiving 612 sec.

Herein it should be noted that the international affairs are mostly covered by “Planet Pulse” program, aired after “Day by Day” issues and was not monitored. This probably accounts for the lack of attention of “Day by Day” to events abroad.

The current affairs programs of “ALM”, “Price of the Question” and “Position” have a wide variety of issues discussed, including some subjects named by the experts. Yet, this failed to compensate significantly for the lack of attention to these issues in the newscasts.

“ARMENIA”

In the main issues of “Zham” newscast on February 1-6 of the subjects, classed by experts in the first five, only two gained the top lines in the news coverage: “Decease of Georgian Prime Minister Zurab Zhvania and the

subsequent events” - 4th place (473 seconds) and “Report on Mountainous Karabagh by PACE Rapporteur David Atkinson and the response to it” - 7th place (435 seconds). “OSCE fact finding mission at the occupied territories of Azerbaijan, surrounding Mountainous Karabagh” was 26th (108 sec), followed by “Parliamentary elections in Iraq and the post-election situation”, the 27th (107 sec.)

Ahead of all these subjects mentioned was “Return of opposition parliament factions to the RA National Assembly”, also distinguished by the expert survey and taking the 3rd place on the air of “Zham” (493 sec). The greatest coverage was given to the subjects, reflecting current events: the issues of RA economy and finance (763 sec.), and the chronicle of the life of the capital (591 seconds).

Of the subjects, named important by experts, “Zham”, similarly to other news programs studied, did not pay attention to the statement of the US Secretary of State on Iran, Shamil Basaev’s interview to British Channel 4 and the payment of the Russian debt. Similarly, to “ALM”, in the main newscast of “Armenia”, there were no pieces on the ailing of Pope John Paul II, - subject, named by the experts. Thus, it cannot be inferred that the TV program gave sufficient information to the viewed on the most urgent events. At the same time, the little difference in the airtime amount allocated by “Zham” to various subjects is noteworthy.

To a certain, yet insufficient extent, the absence of due attention to the urgent themes by “Zham” program was compensated by another program of the TV channel, “Express”, which combines news and comment. During the period of February 1-6 it, particular, covered the interview of Shamil Basaev to British Channel 4, the early payment of most of the Russian debt to Paris Club, the ailing of Pope John Paul II, the process of resolving the Israel-Palestine conflict, i.e., the subjects noted by experts as important and omitted from the direct coverage by “Zham”.

“Indeed” current affairs program, as a rule, addresses the issues of public importance, but not always related to the hot events.

SECOND ARMENIAN TV CHANNEL

The subject of “Decease of Georgian Prime Minister Zurab Zhvania and the subsequent events”, leading in the expert survey with huge distance, was the 8th in the issues of “Lraber” newscast and “Sunday Lraber” news/analysis program on February 1-6 (307 sec). And the second significant subject, singled out by experts, “OSCE fact finding mission at the occupied territories of Azerbaijan, surrounding Mountainous Karabagh”, was the 7th in the news programs mentioned (318 sec). Another subject, “Report on Mountainous Karabagh by PACE Rapporteur David Atkinson and the response to it”, rated the 4th by experts, received 244 seconds of airtime, being on the 10th place.

The situation on parliamentary elections in Iraq, rated the third by experts, was in no way emphasized on the news air of the Second Armenian TV Channel studied. Neither were some other subjects noted by experts as priority. At the same time, similarly to PTA, the Second Channel informed about the proposal by the Speaker of the NA of France Jean-Louis Debre to research the Armenian genocide by international specialists, thus, “jumping ahead” of experts, who specified the theme in the next week survey. And vice versa, the statement of the US secretary of State Condoleezza Rice that US do not intend to strike Iran, was directly covered by the Second Channel only during the second week of the research.

Of the first six subjects in “Lraber” and “Sunday Lraber” programs the greatest advantage was given to the issues of RA economy and finance (710 sec.), current activities of the RA National Assembly (509 sec), international programs and activities of international organizations in RA (506 sec), chronicle of events in the regions of Armenia (465 sec.), current affairs of the RA President and its administration (389 sec). In other words, the focus of attention was on events of current, chronicle nature. The news programs did not accentuate any specific event, separate from those singled out by experts. Rather, in case of rather a broad coverage of events there is no focus on the subjects of greatest current interest.

The commenting programs of the Second Channel, while touching mainly issues of public interest, insufficiently contribute to the adequate perception of the main up-to-date events by the audience.

“SHANT”

On February 1-6 in “Horizon” program the first place in terms of attention (874 sec.) was taken by the subject, rated the most important by the experts – “Decease of Georgian Prime Minister Zurab Zhvania and the subsequent events”.

The second subject rated as the most important by experts, “OSCE fact finding mission at the occupied territories of Azerbaijan, surrounding Mountainous Karabagh”, came at the end of the ten the most actively covered (335 seconds). other pieces on Karabagh resolution, as well as the report by the PACE Rapporteur David Atkinson on Mountainous Karabagh and the response to it (also named by experts as one of the most important ones) were the 3rd (482 sec.) and 8th (373 sec.) All this is sign of adequate attention of the news program to this given subject matter.

Two other subjects, specified by experts – “Parliamentary elections in Iraq and the post-election situation” and “Statement of the US Secretary of State Condoleezza Rice that the US does not intend to attack Iran” – also found reflection in “Horizon” issues. Yet, if the first subject mentioned got sufficient attention (6th place - 417 sec.), the second was addressed by the program only once throughout the week, receiving 105 seconds (32nd place).

Of the other subjects, noted by experts as priorities, “Horizon” did not pay attention, in particular, to the early payment of most of the Russian debt to Paris Club, cases of bribery at the US Consulate in RA. The latter got direct coverage on the news air of all the TV channels studied, but for “Shant”. The subject of “Shamil Basaev’s interview to British Channel 4” got direct coverage in “Horizon” only during the next studied period (February 7-13).

Finally, “Shant” was another TV company (along with PTA and the Second Channel), the news air of which gave floor to the proposal of the Speaker of the NA of France Jean-Louis Debre on the research of Armenian Genocide – the subject noted by experts in the survey for the subsequent period.

The commenting current affairs programs of “Shant”, “Perspective” and “Second Glance”, during the study period paid most of the attention to David Atkinson and PACE resolution on Mountainous Karabagh. Another subject of “Perspective” issue was the return of opposition parliamentary factions to the RA National Assembly, seen by experts as urgent.

FEBRUARY 7-13, 2005

EXPERT SURVEY

During the period of February 7-13 experts were not so distinct in selecting the main themes. Out of the 21 events mentioned the following three subjects were most frequently mentioned:

1. Nuclear weapons development in North Korea and Iran (12 points).
2. Israel-Palestine conflict resolution process (8 points).
3. Bloodful fire exchange in the vicinity of Yerevan Thermal Power Plant (5 points).

The remaining themes scored from 3 to 1 points.

It should be noted here that the “Israel-Palestine conflict resolution process” rated as second was already mentioned by experts among the priority themes during the first week of study. Another subject – “OSCE fact finding mission at the occupied territories of Azerbaijan, surrounding Mountainous Karabagh” also “recurred” in the expert survey. Another subject that can be classed as “continuing to raise attention” was “Visit of Condoleezza Rice to the countries of Europe and Middle East”. Besides, if on February 1-6 the “Bloodful fire exchange in the vicinity of Yerevan Thermal Power Plant” was mentioned by only one expert, on February 7-13 it was among the leading three. Among the “adjacent” themes the experts mentioned also “Assassination of the President of “Armenia-Lada” Company Rafael Shakhmuradian in Toliatti” and “Intensification of criminal situation in Armenia”, by which primarily the crimes above were meant.

As to the top themes of early February, the decease of Georgian Prime Minister Zurab Zhvania and subsequent events, while not being mentioned by experts for the week, all the TV companies studied continued referring to it, although less actively. This is particularly true for “Shant”, in the news coverage of which this subject was among the top ones (the 3rd most actively covered).

PUBLIC TELEVISION OF ARMENIA

“Haylur” newscast and “360 Degrees” news/analysis program also focused on February 7-13 on current events, chronicles of various spheres: mostly on the events in culture and science (2,272 sec.) and RA NA activities (1,658 sec.)

Of the subjects named by the experts the greatest coverage was provided by the PTA newscasts to “70th anniversary of writer Hrant Matevosian and the events on the date” (622 sec.), “OSCE fact finding mission at the occupied territories of Azerbaijan, surrounding Mountainous Karabagh” (390 sec.) and “Israel-Palestine conflict resolution process” (378 sec.)

Overall, of the 21 themes, noted by experts, 10 received direct coverage on the news air of PTA, including all the three subjects leading in the expert survey for the period: Arab-Israeli conflict as mentioned above, as well as “Nuclear weapons development in North Korea and Iran” (264 sec.) and “Bloodful fire exchange in the vicinity of Yerevan Thermal Power Plant “ (106 sec.)

At the same time “Haylur” covered the litigation against writer Orhan Pamuk in Turkey (362 sec.), the destruction of Armenian tombstones at Our Lady Church in Tbilisi (37 sec.) and addressed the referendum in Spain on adoption of the Constitution of European Union (35 sec.). Thus, the TV company raised the subjects, mentioned by experts in the survey for the next period, February 14-20, forestalling the public attention towards them.

“ALM”

The greatest attention in the main issues of “Day by Day” newscast and its Sunday news and analysis issue on February 7-13 was placed on the current events. In particular, the current activities of the RA NA received 1,679 sec., news from Armenian regions - 1,019 sec. and the chronicle of inner political life - 973 sec.

Of the subjects, mentioned by experts as most urgent for the week, the greatest direct coverage was given to “Failure to start the spring session of RA NA” (557 sec.), “70th anniversary of writer Hrant Matevosian and the events on the date” (307 sec.), “Intensification of criminal situation in Armenia” (186 sec.) and “Assassination of the President of “Armenia-Lada” Company Rafael Shakhmuradian in Toliatti” (147 sec.)

Of the 21 subject, mentioned by experts, “Day by Day” only covered 6, and of the three subjects deemed as priority for the period by the experts (development of nuclear technologies in Iran and North Korea, process of Arab-Israeli conflict resolution and the course of investigation of the fire exchange in the vicinity of Yerevan TPP), none got direct coverage.

At the same time, “Day by Day” addressed the issue of destruction of Armenian tombstones at Our Lady Church in Tbilisi (43 sec.) and the upcoming visit of the RF Foreign Minister Sergey Lavrov to Armenia (92 sec.) – subjects, covered by experts as priorities in the next study period.

The commenting programs of “ALM” studied on February 7-13 did not directly address the subjects, mentioned by experts, either.

“ARMENIA”

“Zham” program was the only of the news programs studied, where the biggest attention of February 7-13 was paid not to current news, but to a specific subject – “Failure to start the spring session of RA NA” (913 sec.), also mentioned in the expert survey for the period. The current activities of the Parliament were not omitted from “Zham” camera, either, taking the second place (805 sec.) besides, the news program continued addressing the “Return of opposition parliament factions to the RA National Assembly” (238 sec.)

Of the three themes, taking the first lines in the expert survey, direct coverage was only given to the investigation of the fire exchange in the vicinity of Yerevan TPP (55 sec., rated 33rd). Much more attention was paid to the murder of the President of “Armenia-Lada” company Rafael Shakhmuradian in Toliatti (254 sec., rated 13th).

Only two subjects of the 21, named by experts, got direct coverage in “Zham”: “70th anniversary of writer Hrant Matevosian and the events on the date” (235 sec.) and “Visit of Condoleezza Rice to the countries of Europe and Middle East” (35 sec.)

The last subject was three times addressed by “Express” commenting program. Three times a reference to resolution of Arab-Israeli conflict was made and once – to the nuclear weapon development in North Korea and Iran. Thus, “Express” to a certain extent compensated for the lack of attention of “Zham” newscast to the urgent issues of the period. The other commenting program of “Armenia TV channel, “Indeed” also touched upon a number of urgent themes, yet failing to address any of those, omitted by “Zham”.

SECOND ARMENIAN TV CHANNEL

In “Lraber” and “Sunday Lraber” news programs on February 7-13, similarly to the previous period, the current events and chronicles of various areas

of public life were predominant. The most active coverage was given to the events of culture and science (1,940 sec.), social issues (1,198 sec.), issues of economy and finance (1,074 sec.) and news from regions of Armenia (1,012 sec.)

Out of the 21 subjects, mentioned by experts throughout the period, direct coverage on the news air of the Second Channel was given to 9, also two of the three leading in the expert surveys. These are the resolution of Arab-Israeli conflict (319 sec.) and the problem of nuclear technologies development in Iran and North Korea (211 sec.)

Greatest attention of all the subjects singled out by experts was paid to the “Forecast of the McKinsey international consulting company on the prospects of tourism development in Armenia” (439 sec.) and “70th anniversary of writer Hrant Matevosian and the events on the date” (349 sec.)

Besides, the Second Channel continued addressing the “Return of opposition parliament factions to the RA National Assembly”, that was the 7th (699 sec.) most actively covered news themes of the TV company.

“Lraber” covered the destruction of Armenian tombstones in the Our Lady Church in Tbilisi (35 sec.) and the upcoming visit of RF Foreign Minister Sergey Lavrov to Armenia (33 sec.) – subjects, mentioned by experts as priorities in the subsequent period of study.

The commenting programs of the Second Channel studied did not address any of the themes, noted by experts, thus failing to compensate the lack of attention of the news programs to the most urgent issues of the period.

“SHANT”

The absence of dominating public interest on February 7-13 towards certain events, as noted above, affected the news coverage of “Shant” too. While its priorities on February 1-6 mainly coincided with expert assessments, this time the TV company concentrated on current events and chronicles in different spheres. In particular, the greatest attention in “Horizon” news program was paid to social (1,093 sec.) and inner political (849 sec.) questions,

Of the 21 themes, mentioned in the survey by experts, nine were directly covered in “Horizon” airtime. All three main subjects, defined by experts, were reflected in “Horizon” issues: the resolution of Israel-Palestine conflict (498 sec.), the problem of nuclear technology development in Iran and North Korea (288 sec.) and the course of investigation of the fire exchange in the vicinity of Yerevan TPP (188 sec.)

The greatest interest of the themes mentioned by expert was paid by “Horizon” to the failed start of the spring session at the Parliament (614 sec.)

The somewhat late reference of “Horizon to the subject mentioned by experts in early February, “Shamil Basaev’s interview to British Channel 4” (278 sec.), is smoothed out by the fact that Armenian media in general paid little attention to it. Besides, “Horizon” was the only news program who informed about the Grammy Award Ceremony to be held on February 13 (287 sec.) This subject was named by one of the experts during the period and was covered during the subsequent week, yet only by the news programs of two TV companies, “Shant” and “PTA”.

“Second Glance” weekly current affairs program referred this week to the intensification of the criminal situation in Armenia, which was justified by the public interest. At the same time, the other commenting program, “Perspective”, in its five issues, except for this subject and the failure of the start of the spring session of the Parliament, did not refer to any of the 21 events, mentioned by experts.

FEBRUARY 14-20, 2005

EXPERT SURVEY

On February 14-20 the experts noted 15 events overall, of which the following were rated as the leading five:

1. Assassination of former Prime Minister of Lebanon Rafik Hariri (18 points)
2. Enforcement of Kyoto Protocol (7 points)
3. Referendum on the Constitution of European Union in Spain (6 points)
4. Visit of Russian Foreign Minister Sergey Lavrov to Armenia (6 points)
5. Visit of RF Foreign Minister Sergey Lavrov to the countries of South Caucasus (4 points)

The remaining subjects mentioned by experts scored from 3 to 1. Among them the results of elections in Iraq and the visit of US State Secretary Condoleezza Rice were named as priorities again.

PUBLIC TELEVISION OF ARMENIA

Of the 15 themes, named by experts as most important for the period of February 14-20, 8 were reflected in the main issues of “Haylur” newscast and “360 Degrees” news/analysis program. In this, the significant part of other events covered by these programs was named in the previous expert surveys that can be considered a good indicator under this study.

At the same time, the PTA news programs, similarly to the previous period, focused on current events and chronicle of various spheres of public life. The first five places among themes that received the greatest attention is given to the chronicle and events, with the following subjects leading: sport (1,564 sec.); international programs and the activities of international

organizations in RA (1,256 sec.); issues of RA economy and finance (998 sec.); current activities of the RA Government (996 sec.); current activities of the RA President and his administration (971 sec.)

The broadest coverage of the themes defined by the experts on the PTA news air was given to the main, in the opinion of experts, event of the period – the assassination of Lebanon former Prime Minister Rafik Hariri and the subsequent political developments in the country (629 sec.) The enforcement of Kyoto Protocol (rated as the second most important event by the experts) received 157 sec. Much more attention was paid to the two subjects at the bottom of the experts' leading five: the visits of the Russian Foreign Minister Sergey Lavrov to Armenia (444 sec.) and to the countries of South Caucasus (84 sec.)

Besides, similarly to the previous period, on PTA news air, subjects, singled out by experts the next week (February 21-28), were raised. These were: "Agreement between Russia and Iran on exporting nuclear waste" and "Statements of the US Ambassador in Armenia John Evans during the meetings with Armenian Diaspora in California".

"ALM"

Along with the current activities of the RA President and his administration (673 sec.) and the issues of RA economy and finance (636 sec.), one of three subjects, most extensively covered by "Day by Day" newscast and its Sunday news/analysis issue on February 14-20 was the visit of RF Foreign Minister Sergey Lavrov to Armenia (619 sec.), named by the experts to be one of the most important events.

Of the two events, viewed by the experts to be of utmost interest (assassination of Lebanon former Prime Minister Rafik Hariri and the political developments in the country, the enforcement of Kyoto Protocol), the former received 46 seconds of coverage and the other was completely out of attention focus. Besides these two themes, only two of those named by the experts were reflected on the air of "Day by Day" program: the refusal of a broadcast license to "MS Explorer" radio company, one of the founder of which is "A1+" TV company (185 sec.) and the presentation of encyclopedia "Karabagh Liberation War. 1988-94" in Yerevan (131 sec.) Along with this, on the news air of the TV company continued coverage was given to certain subjects, singled out by experts during the previous surveys.

The commenting programs of "ALM" did not add anything substantial to the coverage of current and urgent events.

"ARMENIA"

The "airtime leaders" in the main newscasts of "Zham" during the period of February 14-20 were two subjects reflecting current events and chronicle (the current activities of the RA President and his administration - 889 sec.,

and RA economy and finance issues - 779 sec.), as well as the anniversary of the murder of Armenian officer Gurgen Margarian in Budapest by Azerbaijani officer Ramil Safarov and the litigation on the case (816 sec.)

Only after these does one of the subjects mentioned by experts as to be important for the period come: the visit to the RF Foreign Minister Sergey Lavrov to Armenia (783 sec.) The visit of the head of the Russian foreign office to the countries of South Caucasus was given 211 seconds of news coverage.

Overall, of the 15 issues mentioned by experts, 6 found their place on the air of “Zham”. The hottest theme of the week, as seen by experts (assassination of former Prime Minister of Lebanon Rafik Hariri and the subsequent political developments in the country) was the 12th in the main issues of “Zham” newscast (292 sec.). The themes rated as 2nd and 3rd most important ones by experts – the enforcement of Kyoto Protocol and the referendum in Spain on EU Constitution were not reflected in the program at all.

The two of the last three themes mentioned were compensated for the lack of attention in the news program by the active coverage of “Express” commenting program.

SECOND ARMENIAN TV CHANNEL

10 of 15 themes, (including 4 priority ones), mentioned by experts to be most important for February 14-20, were reflected in the main issues of “Lraber” news program and “Sunday Lraber” news/analysis program. The visit of RF Foreign Minister Sergey Lavrov to Armenia was the 4th most actively covered event (855 sec.) The three leaders of the news air are the subjects, uniting current events and chronicle of various public life spheres: RA economy and finance (1,893 sec.); current activities of the RA president and his administration (968 sec.); current activities of the RA Government (932 sec.)

Besides, the news programs of the TV company continued to cover a number of themes, defined by experts in the previous surveys. Also, forestalling the public interest, there was information on the visit of US President George Bush to Europe and on Russian-Iranian nuclear cooperation. These subjects were mentioned by experts as urgent during the subsequent period (February 21-28).

The commenting programs of the Second Channel did not add anything substantial to the coverage of current and urgent events.

“SHANT”

During the period of February 14-20 the greatest coverage in “Horizon” newscast was given to the visit of RF Foreign Minister Sergey Lavrov to

Georgia (863 sec.), that occurred during his visit to the countries of South Caucasus (an event, rated the 5th by the experts). The third most covered subject on the air of "Horizon" was Lavrov's official visit to Armenia (742 sec.)

Two more themes, named by experts as being most urgent during the period, were among the seven leaders of the news air of "Shant". The event, rated by experts as the top news, the assassination for former Prime Minister of Lebanon Rafik Hariri and the subsequent political developments in the country, was the fifth in "Horizon" (622 sec.) The post-election situation in Iraq, that shared the 6th-8th places with the experts, was the 7th (436 sec.)

Besides, the main newscasts of the TV channel continued the coverage of many themes, mentioned by experts during the previous surveys. One of them, the issue nuclear development in North Korea and Iran, even became one of the leaders on the news air of "Shant", becoming the fourth and getting 682 seconds of coverage.

The commenting programs of "Shant" TV channel, namely, the "Position" and "Second Glance", did not address the problems seen as most important by experts.

FEBRUARY 21-28, 2005

EXPERT SURVEY

On February 21-28 the experts noted a total of 19 events, of which the following 6 were most frequently mentioned:

1. Meeting of Presidents of the USA and Russia George Bush and Vladimir Putin in Bratislava (18 points);
2. Visit of the US President George Bush to Europe (5 points);
3. Securing of the suit of Chechnya residents versus Russia by the European Court of Human Rights (5 points);
4. Visit of the NATO Special Representative for the Caucasus and Central Asia Robert Simmons to Armenia (5 points);
5. Statements of the US Ambassador in Armenia John Evans during the meetings with Armenian Diaspora in California (4 points);
6. Tension between "Orinats Yerkir" party and Republic Party of Armenia, making up the ruling coalition (4 points).

The remaining subjects mentioned by experts scored from 3 to 1.

PUBLIC TELEVISION OF ARMENIA

13 of 18 themes, named by experts on February 21-28 as most important ones, were covered in the main issues of "Haylur" newscast and "360 Degrees" news/analysis program for the period. Yet, they failed to be pres-

ent among the air leaders: the biggest coverage was given to events commemorating the anniversary of Armenian pogroms in Sumgait, also named by experts, scoring the 7th place (598 sec.) The greatest attention was paid to current events and chronicle in various public life spheres: sport (1,882 sec.); events in RA culture and science (1,642 sec.); current activities of the RA President and his administration (1,316 sec.); international programs and activities of international organizations in Armenia (1,166 sec.)

A number of subjects, named by experts at the previous stages of the research, remained at focus of the PTA news programs, yet being at low level of coverage, too.

The PTA commenting program, “5th Wheel”, similarly to the previous researcher stages, did not address the subjects seen as most important by experts.

“ALM”

The biggest coverage in the main issues of “Day by Day” news program and its Sunday news/analysis issue was given to the trips of the owner of “ALM” TV company Tigran Karapetian in the regions of Armenia (1,406 sec.) Of the 12 themes, leading on the air of “Day by Day”, 10 were devoted to current events and chronicle of various spheres, including the inner politics (1,098 sec.) and current activities of the RA President and his administration (622 sec.)

Of the subjects, mentioned by experts as most urgent ones, the greatest coverage was given to the working meeting of the RA President Robert Kocharian with the members of the Government on the issue of capital construction (497 sec.)

The leader of the expert survey, “Meeting of Presidents of the USA and Russia George Bush and Vladimir Putin in Bratislava”, was the 26th in “Day by Day” (150 sec.), and the next two subjects, singled out as priorities by the experts (“Visit of the US President George Bush to Europe” and “Securing of the suit of Chechnya residents versus Russia by the European Court of Human Rights”), were not covered directly by the program at all.

The visit of the NATO Special Representative for the Caucasus and Central Asia Robert Simmons to Armenia received much more coverage (350 sec.), than the other theme, also mentioned by experts as most urgent – the statements of the US Ambassador to Armenia John Evans during the meetings with Armenian Diaspora in California (89 sec.)

Of the 18 themes, mentioned by experts as the most important ones, only five were covered in “Day by Day”.

The commenting program of “ALM” studied did not touch on the themes, named by experts as most urgent in the given period.

“ARMENIA”

The first 10 places among the subjects, receiving the greatest coverage in the main issues of “Zham” program on February 21-28, were taken by those on current events and chronicles of various public life spheres. In particular, the leaders of the news air were the official visits of the Armenian leadership (810 sec.), the chronicle of events in Yerevan (787 sec.) and the current activities of the RA President and its administration (732 sec.)

The second ten are opened by the subject, named as most important by the experts – “Statements of the US Ambassador in Armenia John Evans during the meetings with Armenian Diaspora in California” (356 sec.) The leader of the expert survey, “Meeting of Presidents of the USA and Russia George Bush and Vladimir Putin in Bratislava”, was the 23rd (175 sec.) The visit of NATO Special Representative in the Caucasus and Central Asia Robert Simmons received 286 sec.

Overall, 7 of the 18 themes mentioned by experts to be most urgent were covered by “Zham”.

The commenting program “Indeed” addressed two themes specified by experts in great detail. These were – the visit of Robert Simmons to Armenia and statements of the US Ambassador in RA John Evans.

9 events, named as important by the experts on February 21-28, were covered by the commenting “Express” program: events commemorating the anniversary of pogroms in Sumgait (6 times); meetings of US and Russian Presidents in Bratislava (6 times); visit of the US President to Europe (3 times); tension between “Orinats Yerkir” and Republican Party of Armenia, making up the ruling coalition (3 times); political consequences of the murder of Lebanon Prime Minister Rafik Hariri (3 times); the visit of the NATO Special Representative to Armenia (2 times); Oscar Award Ceremony (2 times); earthquake in Iran (2 times); terrorist attack in Iraqi El-Hilla town (1 time). Besides, “Express” continued addressing some of the subjects, mentioned by experts before.

SECOND ARMENIAN TV CHANNEL

The greatest attention in the main issues of “Lraber” newscast and “Sunday Lraber” news/analysis program on February 21-28 was given to the current events in various public life spheres, in particular: international programs and activities of international organizations in RA (1,371 sec.); current activities of the RA President and its administration (1,294 sec.); social issues (1,105 sec.)

The event number one in the eyes of experts, the meeting of US and RF Presidents in Bratislava received 394 seconds on the news air of the Second Channel. Yet the visit of the US President George Bush to Europe (rated as second by experts) was the fourth in the list of subjects covered the most (941 sec.)

Of the subjects, sharing the 3rd-4th places by urgency in the opinion of experts (“Visit of the NATO Special Representative for the Caucasus and Central Asia Robert Simmons to Armenia” and “Securing of the suit of Chechnya residents versus Russia by the European Court of Human Rights”) the former was covered (361 sec.), and the second – not.

Overall, of the 18 themes named by experts to be most important, the news programs of the Second Channel covered 13. Besides, a number of themes, specified by experts at previous research stages, remained at focus of newscasts.

The commenting programs “Right to Tell” and “Fourth Studio” several times referred to the events that were mentioned as most important by experts and were related to Karabagh conflict (in particular, the anniversary of Armenian pogroms in Sumgait).

“SHANT”

The undisputed leader among the themes, singled out by experts as the most important ones on February 21-28, the meeting of the US and Russian presidents in Bratislava, was the second covered in the main issues of “Horizon” program (1,004 sec.) Ahead of it was the theme “Demands of Azerbaijan to recognize the Khojalu events to be genocide” (1,073 sec.), not specified by experts at all.

Of the 18 themes, mentioned by experts, 11 were covered on the air of “Horizon”. These included events, commemorating the anniversary of Armenian pogroms in Sumgait, being the fourth most covered subject (637 sec.)

Of the themes, sharing 2nd-4th places in the expert survey only “Securing of the suit of Chechnya residents versus Russia by the European Court of Human Rights” was omitted. “Visit of the US President George Bush to Europe” received 330 seconds of coverage and “Visit of the NATO Special Representative for the Caucasus and Central Asia Robert Simmons to Armenia” - 174 sec. “Statements of the US Ambassador in Armenia John Evans during the meetings with Armenian Diaspora in California”, another priority theme for the experts, received 341 seconds of news coverage.

Besides, “Horizon” continued to address a number of events, specified by experts during the previous stages of the study.

The commenting “Perspective” program devoted 3 of its 6 issues to themes mentioned by experts in various stages of the study: history and process of resolution of Karabagh conflict (twice) and the failure to start the spring session at the RA NA in the context of the next session (once).

VII. CONCLUSION

1. The major Armenian TV channels, deemed to be the main information sources for the population of the country by surveys and other tools for studying public opinion, do not cover a significant part of urgent issues, thus restricting the right of the audience to be informed and neglecting its demands and needs.
2. Unlike the periods, decisive for the political future of the country (elections of various levels, referenda), when, according to the previous studies, the main TV channels displayed an obvious slant in favor of the incumbent authorities, this study did not record any prevalence of any political stance on TV air.
3. At the same time, the certain passive behavior of the TV companies in terms of presenting the opinions of political and public figures on a whole range of issues was noted. Thus, the contribution of media in shaping the public policy culture in the country is unsatisfactory.
4. The commenting programs of most TV channels studied are not sufficiently contributing to the audience finding its way through information flow.
5. In particular, the international and social problems, which, according to the all public opinion polls of the past years, are of utmost interest to the audience, are not a priority in the programming policy of the media studied.
6. At the same time, the TV channels pay much attention to the routine, day-to-day activities of the state structures, the leadership of the country, the political figures and businessmen who have certain levers of affecting the given TV company. Yet, this information is not much of demand with the society.

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**MONITORING
OF DEMOCRATIC REFORMS IN ARMENIA**

INTERIM REPORT

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