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**REPORT
OF THE
COMMISSIONER FOR HUMAN RIGHTS
OF THE COUNCIL OF EUROPE**

DUNJA MIJATOVIĆ

**FOLLOWING HER VISIT TO ARMENIA
FROM 16 TO 20 SEPTEMBER 2018**

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SUMMARY

Commissioner Dunja Mijatović and her delegation visited Armenia from 16 to 20 September 2018. During the visit, the Commissioner held discussions on issues pertaining to women's rights, gender equality and domestic violence; the human rights of disadvantaged or vulnerable groups; as well as questions related to accountability for past human rights violations. The present report focuses on the following major issues:

Women's rights, gender equality and domestic violence

The Commissioner is concerned that women in Armenia remain significantly underrepresented in public decision-making. She urges the authorities to ensure women's full and effective participation as well as equal opportunities for leadership at all levels of public life, including by adopting a comprehensive anti-discrimination law prohibiting sex-based discrimination in all aspects of life and all areas of society, including effective sanctions in cases of violation; as well as by appointing more women to higher public office. While calling on the authorities to pursue concrete and ambitious targets for women's participation in public-decision making, including through gender quotas as well as other positive action/temporary special measures, the Commissioner also recommends that the authorities do more to encourage women and girls to become actively engaged in the public life, for instance by promoting role models and champions of women's equality. In the sphere of employment, the Commissioner recommends that decisive steps be taken to effectively ensure equal pay as well as equal access to the labour market for women, including through abolishing the list of professions declared hazardous for women. Noting that discriminatory gender stereotypes continue to hinder equality in Armenia, the Commissioner recommends raising public awareness and promoting gender equality, especially through education.

The Commissioner welcomes the considerable advances made by Armenia in improving its legislative framework on combating domestic violence, and notes with satisfaction that these changes have been accompanied by open debate and a perceptible shift in the public opinion's view of this issue. She encourages Armenia to proceed to ratifying the Istanbul Convention while ensuring that new national legislation is effectively applied in practice. Specifically, she urges the authorities to increase the availability of places in shelters for victims of domestic violence, and to address the related issue of ensuring access to education for children staying in such shelters.

Human rights of certain disadvantaged or vulnerable groups

The Commissioner was gratified to hear the authorities' clear commitment towards de-institutionalisation of persons with disabilities. Noting that the pending revision of the legal framework governing state support to persons with disabilities, she recommends that the new legislation provide for concrete solutions to include persons with disabilities in all decision-making processes that concern them. Specifically, she calls on the authorities to put an end to plenary guardianship for persons with psycho-social disabilities and to move away from the substituted-decision making model towards a regime for supported decision-making for all persons who may require such support. Finding that isolating persons with disabilities in institutions perpetuates their social marginalisation, the Commissioner welcomes the de-institutionalisation measures envisaged by the Armenian authorities, including the gradual phasing out of the policy of confining persons with disabilities to large state residential institutions in favour of community living arrangements maximising autonomy and independence. The Commissioner moreover welcomes the government's commitment to make all education fully inclusive by 2025, and recommends that special attention be paid to ensuring inclusive education at the pre-school level and to pursuing de-institutionalisation equally for children with and without disabilities. The Commissioner recommends that Armenia solidify its commitment to international standards in this area by accepting additional provisions of

the Revised European Social Charter and by ratifying instruments allowing for individual and collective complaints. Finally, she encourages more government action on public awareness on the rights of persons with disabilities.

The Commissioner recommends that Armenia strengthen its efforts to combat child poverty and to guarantee the right of all children to an adequate standard of living. The Commissioner finds particularly concerning the phenomenon of children being placed in state care by parents facing socio-economic difficulties. While welcoming the authorities' efforts to allocate resources for parents resuming care over their children, she encourages them to continue and to expand such support while promoting foster care, including for children with disabilities, in situations when such type of care is in the child's best interest. The Commissioner also recommends that Armenia improve its legal framework for the protection of all children against sexual exploitation and sexual abuse, in particular by ratifying the Council of Europe Lanzarote Convention.

The Commissioner finds the current level of social protection of older persons in Armenia to be largely inadequate. Considering that taking decisive action against poverty would have a direct and positive effect on the welfare and dignity of older persons in Armenia, the Commissioner also recommends that authorities consider raising the overall level of old age pensions. The Commissioner further recommends that the authorities continue their efforts to increase the availability of primary and specialised health care at the home or in the community, and address the issue of shortage of physicians, psychiatrists and psychologists specialised in geriatric services.

On the rights of LGBTI persons, the Commissioner recommends that the authorities promptly adopt a comprehensive anti-discrimination law which should specifically include a clear reference to sexual orientation and gender identity (SOGI). The Commissioner moreover calls on the authorities to take prompt and firm action against all instances of violence, hate speech and hate crime targeting LGBTI persons in Armenia, and to ensure that any such incidents are duly condemned, investigated and prosecuted. Lastly, she urges parliamentarians to unequivocally reject any legislative proposals that may infringe on the rights of LGBTI persons or aim to stoke anti-LGBTI sentiments.

Accountability for past human rights violations

The Commissioner welcomes the steps taken by Armenia to finally establish criminal responsibility for the deaths which occurred during the violent events of March 2008 and to close this painful chapter in Armenia's recent history. However, she stresses the importance of ensuring that this process is conducted in a careful manner and in strict adherence to the principles of rule of law, judicial independence, transparency and guarantees of fair trial, in order to dispel any accusations of alleged revenge politics or selective justice. She also calls on the Armenian authorities to protect the presumption of innocence of any person charged with criminal misconduct and to avoid using polarising, stigmatising or inflammatory language in their public discourse, which the Commissioner believes to be an obstacle to building a cohesive society and healing past divisions.

INTRODUCTION

1. The Commissioner for Human Rights of the Council of Europe, Dunja Mijatović (the Commissioner), carried out a visit to Armenia from 16 to 20 September 2018.¹ The themes for the visit involved several sets of issues: women's rights, gender equality and domestic violence (section 1 of this report); the human rights of certain disadvantaged or vulnerable groups (section 2); as well as questions related to accountability for past human rights violations (section 3).

2. In the course of her visit, the Commissioner met with the President of the National Assembly, Ara Babloyan; the Prime Minister, Nikol Pashinyan; the Minister of Foreign Affairs, Zohrab Mnatsakanyan; as well as Deputy Prosecutors-General, Armen Harutyunyan, Davit Melkonyan and Hayk Aslanyan. Further, the Commissioner's delegation met with the Minister of Labour and Social Affairs, Mane Tandilyan, and her Deputies, Arsen Manukyan and Zaruhi Batoyan; Deputy Minister of Education and Science, Arevik Anapiosyan; Deputy Minister of Justice, Vigen Kocharyan; Deputy Minister of Healthcare, Anahit Avanesyan; the Chairman of the Investigative Committee, Arthur Ghambaryan, and his collaborators; as well as with the First Deputy Chief of the National Police, Colonel Arman Sargsyan, in the company of other high-ranking police officers. The Commissioner and her delegation also held meetings with the Human Rights Defender, Arman Tatoyan; representatives of the civil society; political scientists and legal experts; as well as representatives of international organisations and diplomats accredited to Armenia.

3. While in Armenia, the Commissioner sought to visit certain places with specific relevance to the themes being covered. In Yerevan, she visited a shelter for victims of domestic violence, operated by the NGO "Women's Support Centre"; the Dzorak Psychiatric Care Centre, a large residential state institution providing care for adults with intellectual or psycho-social disabilities; as well as Nork Children's Home, a state care home for small children with and without disabilities. The Commissioner also visited a small care home for persons with light psycho-social disabilities, operated by a local NGO and located near the town of Spitak in northern Armenia.

4. The Commissioner would like to thank the Armenian authorities for their help in organising her visit and the excellent cooperation extended to her and her delegation. She also wishes to thank all persons she has met with in Armenia for receiving her and sharing with her their knowledge and insights. Lastly, the Commissioner is indebted to Armenia's Permanent Representation in Strasbourg for its precious assistance in obtaining additional elements of information and clarifications after the visit.

5. Unless otherwise indicated, the present report covers the situation in Armenia up to the last day of the visit.

1 GENDER EQUALITY AND WOMEN'S RIGHTS

1.1. GENDER EQUALITY

6. Despite modest progress made in recent years, women in Armenia continue to suffer from major inequalities in political, social and economic life, as evidenced by several international rankings on gender equality and women's empowerment. The World Economic Forum (WEF)'s 2017 Global Gender Gap report ranked Armenia 97th out of 144 countries in terms of the overall gender equality.²

¹ The Commissioner was accompanied by Bojana Urumova, Deputy to the Director of her Office, and Andrzej Mancewicz, Adviser.

² "The Global Gender Gap [Report 2017](#)", insight report, World Economic Forum (WEF), 2017.

Armenia ranked 83rd in the 2017 female Human Development Index (HDI),³ a United Nations Development Programme's (UNDP) ranking consisting of a total of 190 countries, and also 64th out of 128 countries in the Economist Intelligence Unit's 2012 Women's Economic Opportunity Index.⁴

1.1.1. LEGAL, INSTITUTIONAL AND POLICY FRAMEWORK

7. In 1993, Armenia acceded to all the major international instruments containing provisions relevant to gender equality.⁵ Other standards applicable in Armenia in the field of women's rights and gender equality are the Council of Europe's,⁶ most notably the Recommendation of the Committee of Ministers (CM) (2003)3 on balanced participation of men and women in political and public decision making,⁷ and CM Recommendation (2007)17 on gender equality standards and mechanisms.⁸

8. The general prohibition of discrimination against women appears to be rather well-anchored in the Armenian domestic legal framework. The Armenian Constitution,⁹ amended in 2015, includes a general equality provision (Article 28) as well as one that specifically stipulates legal equality between women and men (Article 30). Article 86(4) of the Constitution makes promotion of actual equality between women and men one of the main objectives of Armenian socio-economic and cultural state policy. Equality between women and men is further stipulated by the Law on Provision of Equal Rights and Equal Opportunities for Women and Men, adopted in May 2013. In labour law, the Armenian Labour Code provides that women and men shall receive equal pay for equal or equivalent work, and prohibits discrimination in job application processes.¹⁰ The Commissioner was informed that the Ministry of Labour and Social Affairs envisages introducing additional provisions in the Labour Code, which would more explicitly set out the prohibition of discrimination in employment. The Law on Public Service, adopted in March 2018, provides for equal pay in the public sector, as does the Law on Remuneration of Persons Holding State and Public Service Positions. In the sphere of criminal law, Article 143 of Armenia's Criminal Code punishes violations of human rights based on discrimination (so-called "breach of citizens' legal equality"), including on the basis of sex, with fines and even imprisonment. However, the Commissioner understands that this provision has so far failed to generate any notable case-law.

9. The "Council on Ensuring Equal Rights and Equal Opportunities for Women and Men" under the Prime Minister, established in 2015, is an advisory body tasked with combating discrimination against women and promoting gender equality. Its membership¹¹ consists of selected ministers, deputy ministers and government officials, but the Commissioner understands that it does not include

³ United Nations Development Programme (UNDP) Human Development Index (HDI), a [composite index](#) measuring average achievement in three basic dimensions of human development—a long and healthy life, knowledge and a decent standard of living.

⁴ "Women's Economic Opportunity 2012" [index](#), Economist Intelligence Unit, 2012.

⁵ Including e.g. the International Covenant on Civil and Political Rights (ICCPR); the International Covenant on Economic, Social and Cultural Rights (ICESC); and Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). In 2004, Armenia acceded to the revised European Social Charter (ESC), accepting to be bound by its Article 4.3 which recognises the right of men and women workers to equal pay for equal value, and its Article 20 which recognises the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex. In the same year, Armenia also ratified Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms, which provides for a general prohibition of discrimination.

⁶ Council of Europe, "Gender Equality and Women's Rights, Council of Europe [standards](#)".

⁷ "Balanced participation of women and men in political and public decision-making", [Recommendation](#) Rec (2003) 3 of the Committee of Ministers and explanatory memorandum.

⁸ [Recommendation](#) CM/Rec 2007(17) of the Committee of Ministers to member states on gender equality standards and mechanisms, 21 November 2007.

⁹ The [Constitution](#) of the Republic of Armenia, as amended in 2015.

¹⁰ The Labour Code of the Republic of Armenia, 2004 (with subsequent amendments), Articles 3.1(3) and (5), 178.2 and 180.3.

¹¹ The composition of the Council can be consulted under the link <http://www.gov.am/en/councils/members/5/>.

representatives of the civil society or international organisations, in contrast to the previously existing Council of the Prime Minister on Women's Affairs, which the new body replaced. The new Council has only held several sessions since its establishment; in 2017, it reportedly met only once, and it appears that it has remained inactive throughout 2018.

10. Until 2015, the position of an Adviser on Women's Issues existed in the office of the Human Rights Defender. However, in 2016 the Committee on the Elimination of Discrimination against Women (the CEDAW Committee) noted¹² with concern reports that the incumbent was not actively fulfilling her mandate, and the Commissioner understands that the position was eventually abolished. The Human Rights Defender's office currently has a dedicated staff member appointed to act as the focal point on women's rights, and carries out a number of activities and projects related to women's rights, in addition to receiving and handling complaints about violations of women's rights.

11. The Commissioner recalls that in 2016 the CEDAW Committee expressed concern at the lack of comprehensive legal provisions prohibiting discrimination against women, and criticised Armenia's preference for gender-neutral policies and programmes.¹³ The Commissioner was informed that the government is currently preparing a comprehensive "Action Plan of the Government of the Republic of Armenia for 2019-2023", which will among other things address issues such as gender-based discrimination in the socio-economic sphere; improving participation and opportunities for women in governance and public decision-making, economy, education, science and health; prevention of gender-based discrimination; improving national mechanisms for the advancement of women; and helping to prevent and combat domestic violence.

1.1.2. PARTICIPATION OF WOMEN IN PUBLIC LIFE AND DECISION-MAKING

12. Women are significantly underrepresented in leadership positions in the public sector in Armenia, falling far short of the minimum target of 40% of women in public decision-making bodies set out by the CM Recommendation (2003)3 on balanced participation of men and women in political and public decision making.¹⁴ The above-mentioned 2017 Global Gender Pay Gap report ranked Armenia 111th out of 144 countries in terms of women's political empowerment.

13. The proportion of women members of parliament in Armenia, which used to be very low indeed, has seen a gradual increase in the last decade. The introduction of a quota of female candidates on party lists virtually doubled the number of women elected to the National Assembly, from 5.3% in 2005 to 9.9% by 2016.¹⁵ Further amendments to the Electoral Code, adopted in May 2016, increased the minimum quota for female representation to 25% for the 2017 parliamentary elections, and resulted in the election of 18 women (17%) among the 105 parliamentarians. The same set of amendments¹⁶ projects the existing quota to rise to 30% for any national elections held after 1 January 2021. The Commissioner understands that following her visit, the government tabled draft amendments to the Electoral Code which included the proposal to raise the quota to 30% for the early elections which took place in December 2018, but that these draft amendments were eventually voted down by the National Assembly.

14. Also in the executive, the participation of women at the highest levels of decision-making, at the regional and the local level, as well as in the diplomatic service, remains low. There are currently

¹² Concluding [observations](#) on the combined fifth and sixth periodic reports of Armenia, Committee on the Elimination of Discrimination against Women, 25 November 2016, in paragraph 12.

¹³ Idem, in paragraph 8.

¹⁴ [Recommendation](#) Rec (2003) 3, referred to in fn. 7 above, on pp. 7, 22 and 24.

¹⁵ Council of Europe, Gender Equality Commission, "Balanced Participation of Men and Women in Decision Making, [Analytical Report](#), 2016 Data", September 2017, p. 23.

¹⁶ Article 144 of the Electoral Code.

2 women among the 18 ministers (11%) in the government of Prime Minister Nikol Pashinyan, handling the portfolios of Labour and Social Affairs, and Culture. The Commissioner notes that the change in government had not brought about an increase in the number of women ministers, which was the same as during the visit of her predecessor in 2014.¹⁷ At the level of deputy ministers, the picture is slightly more positive, with 8 out of 57 posts being held by women. Similarly as in 2014, no women are to be found among the governors in any of Armenia's ten *marzes* (regions), and all of the six new governors appointed in October 2018 are men. However, the Commissioner was informed that women are deputy governors in 5 out of the 10 *marzes*. In 2018, women were also appointed at the helm of two governmental agencies, i.e. the Water Management Committee (a public agency existing under the Ministry of Energy)¹⁸ and the General Department of Civil Aviation.¹⁹

15. In the Foreign Service, the ratio of women ambassadors was reported to stand at 10% in 2016 (up from 2.9% in 2005) and the ratio of women envoys and ministers plenipotentiary stood at 25%.²⁰ In 2018, the ratio of women ambassadors remained unchanged, with only 5 women ambassadors out of 48, although the situation has improved in the lower tiers of the diplomatic service.²¹ Whereas in 2016 women accounted for only 23.5% of judges (up from 21% in 2005) and 22.2% of Constitutional Court judges (up from none at all in 2008),²² the Commissioner hopes that the adoption in 2015 of a "Plan of Action on gender balance among candidate judges" will contribute towards better gender parity.

16. In the government at local level, it appears that recent amendments to the system of self-governance resulting in the merger of communities across Armenia have brought about a decline in the number of female representatives. The only gender quota currently in place at sub-national levels of government concern local elections to the municipal councils (called "Councils of Elders") of Yerevan, Gyumri and Vanadzor, where the quota corresponds to those which apply in national legislative elections.²³ Of the 983 candidates who stood for the last local elections, only 5% were women, and only 4.4% of current municipal councillors are women.²⁴ The situation is slightly better in the Yerevan Council of Elders, with 18 women among its 65 members (28%). There are also currently only 7 women mayors of the total of 54 in the country. After the mayors of Echmiadzin and Hrazdan resigned in the wake of the April-May 2018 events, the new Prime Minister appointed two women as their interim replacements.

1.1.3. EQUALITY IN EMPLOYMENT

17. In its recent resolution on "Empowering women in the economy",²⁵ the Parliamentary Assembly of the Council of Europe (PACE) observed that inequality between women and men in the field of employment can take many different forms, such as difficult access to employment and higher ranking positions, being under-represented in certain jobs, over-represented in part-time and precarious work, or gender segmentation and lower wages. It also found that inequalities in the workplace have a severe impact on the economic well-being of women not only in the short term but

¹⁷ [Report](#) by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe, 10 March 2015, CommDH(2015)2, in paragraph 106.

¹⁸ See <http://www.scws.am/en>.

¹⁹ See <http://www.gdca.am/en/staffs>.

²⁰ See the [Analytical Report](#) referred to in fn. 15 above, on pp. 75 and 77.

²¹ With 5 women heads of department out of 14 (36%); 39 senior diplomats and civil servants out of 60 (65%) and 48 junior diplomats and civil servants out of 91 (53%); and a total of 97 women out of 213 MFA personnel of diplomats and civil servants (45%). Data provided by the Ministry of Foreign Affairs.

²² See the [report](#) referred to in fn. 15 above, pp. 67-69.

²³ Articles 130.2 and 144.14 of the Armenian Electoral Code.

²⁴ "Local Elections: Only 4,4% of the elected members of the council are women", [press article](#), Women & Society information portal, 17 November 2017.

²⁵ [Resolution](#) 2235 (2018), adopted by the Assembly on 29 June 2018.

also in the longer term, translating over time into a pension gap later in life, particularly affecting older women. The Commissioner also recalls that Armenia accepted to be bound by Article 27 of the Revised European Social Charter, which defines the right of workers with family responsibilities to equal opportunities and equal treatment.

18. In 2018, the average unemployment rate for women in Armenia stood at 17.3%.²⁶ However, the Commissioner notes that inequality is particularly evident and quantifiable in the area of wages. The gender pay gap, understood as the percentage shortfall in the average wage of women relative to the average wage of men,²⁷ is a particularly flagrant form of discrimination based on gender. According to a United Nations Population Fund (UNFPA) study, in 2016 women in Armenia earned on average 35.9% less than men.²⁸ In its 2016 conclusions,²⁹ the European Committee on Social Rights (the ECSR) found the unadjusted pay gap in Armenia “manifestly too high”, while the CEDAW Committee’s 2016 observations³⁰ found it to be “persistent”, recommending the authorities to apply the principle of equal pay for work of equal value as well as regular pay surveys. According to the above-mentioned UNFPA study, although circa 60% of government employees were women, they tended to occupy mostly lower-level positions, while circa 90% of senior positions were shown to be held by men.

19. Whereas women in Armenia enjoy equal access to education and obtain levels of education that are comparable, and often even superior to those of men, the CEDAW Committee in 2016 noted³¹ that the gender segmentation in education was similar to that in employment, with excessive concentration of girls in the fields of study considered “traditional”, such as education,³² health and welfare,³³ or arts and humanities, as well as their underrepresentation in traditionally male-dominated fields of study, such as mathematics, information technology, and science.³⁴ The above-mentioned 2016 UNFPA study on the gender pay gap in Armenia found both horizontal and vertical gender segmentation in the country’s labour market, with women being more prone to occupy lower-level and less-paid positions, and tending to be concentrated in part-time work, the informal sector, or sectors where wages are below the national average.

20. Discriminatory stereotypes and barriers are also in evidence in the sphere of actual employment. While Armenia’s Labour Code no longer includes provisions on “professions forbidden for women”, the Commissioner observes that women’s right to work remains restricted by the existence of a list of professions declared “dangerous for women”,³⁵ which reinforces occupational segregation.

²⁶ “Armenia Has Highest Female Unemployment Rate Among Post-Soviet Countries”, [press article](#) (based on ILO figures), Azatutyun/Radio Free Europe/Radio Liberty, 9 March 2018.

²⁷ International Labour Organisation, Global Wage [Report](#) 2016/2017.

²⁸ “Diagnostic Study on Discrimination Against Women in Armenia 2015-2016”, [report](#), United Nations Population Fund (UNFPA) (in Armenian); see also “The Gender Pay Gap in Armenia Is 35.9%”, [press article](#), Media Center, 7 March 2016. Another study published estimated the average gender gap in earnings to be between 20% and 33%, depending on the methodology used, see “The Economics of the Gender Wage Gap in Armenia”, policy research [working paper](#), World Bank, April 2018.

²⁹ ECSR [Conclusions](#) – Armenia, 2016, on p. 33.

³⁰ Concluding [observations](#) on the combined fifth and sixth periodic reports of Armenia, Committee on the Elimination of Discrimination against Women, 25 November 2016, in paragraph 24.

³¹ Idem, Concluding [observations](#), in paragraph 22.

³² With 22% of female graduates as opposed to 7% of boys in 2017, according to the Global Gender Pay Gap report data.

³³ With 16% girls to 8% boys in 2017, according to the Global Gender Pay Gap report data.

³⁴ On the other hand, positive initiatives exist in Armenia, such as the [TUMO](#) Center for Creative Technologies, present in several cities, which encourages girls and boys to learn on an equal footing about design and creative technologies in traditionally male-dominated fields through hands-on activities, workshops and projects.

³⁵ Government decree of 29 December 2005 on the list of jobs and professions dangerous for women, minors, and people with limited capabilities for work.

1.1.4. CONCLUSIONS AND RECOMMENDATIONS

21. The Commissioner recalls the conclusion of the Council of Europe Committee of Ministers that gender equality is a necessity for genuine democracy and a prerequisite for social justice and economic development.³⁶ Achieving gender equality and empowering all women and girls is also the aim of Goal 5 of the UN 2030 Sustainable Development Goals (SDGs).³⁷

22. The Commissioner urges the Armenian authorities to ensure women's full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life. Specifically, Armenia should adopt a stand-alone, comprehensive law prohibiting sex-based discrimination in all aspects of life and all areas of society, which would include a broad definition of discrimination against women and include effective sanctions in cases of violation of the law. More generally, the Commissioner encourages the authorities to accord a much more prominent place to gender equality through the adoption and implementation of appropriate laws and policies in all areas of governance, both as the subject of a stand-alone strategy and as an element cross-cutting all other public policies.

23. During his meeting with the Commissioner, the Prime Minister emphasised the key role played by women in the recent political processes in Armenia, while at the same time recognising that the scale of engagement of women in the Armenian executive currently remains limited. In this regard, the Commissioner encourages the Prime Minister to consider appointing more women to top government positions, including at the ministerial level. She also recommends that participants from the civil society be actively included in the activities of the Council on Ensuring Equal Rights and Equal Opportunities for Women and Men under the Prime Minister, and encourages this body to adopt a more proactive role in steering the government's policies on gender equality and women's rights.

24. The Commissioner recommends that the authorities adopt and pursue concrete and ambitious targets for women's participation in elections. She notes the existing gender quotas in Armenia's electoral system, and recommends that the authorities consider raising them to the level of 40% recommended by the Council of Europe, as well as extending their application to all local elections. She also recommends that authorities consider the applicability in the Armenian context of other positive action/temporary special measures aimed at increasing the level of participation of women in public life.³⁸

25. During the visit, some of the Commissioner's interlocutors pointed out to her that the application of mandatory quotas for elections may be ineffective because many women in Armenia are not interested in, or are discouraged from, engaging in politics. The Commissioner agrees that quotas alone are insufficient to bring about gender equality, and recommends that the authorities do more to encourage women and girls to aspire to leadership positions in politics and to promote role models and champions, both male and female, of women's equality.

26. On the issue of equality in employment and education, the Commissioner considers that Armenia should take decisive steps to effectively ensure equal pay and equal access to the labour market for women, in line with the recommendations of CM Recommendation (2007)17 on gender equality standards and mechanisms (especially paragraphs 27-30), as well as by abolishing the list of professions declared hazardous for women. She also invites the authorities to carefully scrutinise the contents of textbooks and teaching curricula in order to foster a genuinely gender-equal education environment free from discriminatory stereotypes which reinforce perceptions of a narrowly

³⁶ [Recommendation](#) CM/Rec 2007(17), referred to in fn. 8 above.

³⁷ United Nations Sustainable Development Goals (SDGs); Goal 5: Achieve gender equality and empower all women and girls, see <https://www.un.org/sustainabledevelopment/gender-equality/>.

³⁸ The CEDAW Committee's General [Recommendation](#) 25 on temporary special measures. Also see the "Regional [Study](#) on Women's Political Representation in the Eastern Partnership Countries", Council of Europe, 2017, on p. 68, which found that quotas and affirmative actions introduced at legislative and/or local level in Armenia had a "limited but positive effect."

circumscribed position for women in the society, and to promote higher enrolment of girls and women in traditionally male-associated fields of study.

1.2. VIOLENCE AGAINST WOMEN

27. The issue of violence against women and domestic violence has already been the topic of a report on Armenia of the Commissioner's predecessor, published in 2015.³⁹ Since 2015, Armenia has made significant advances in creating and improving the legislative framework to combat domestic violence. Major legislative action was accompanied by awareness-raising campaigns, bringing about public debate and a perceptible shift of attitudes on the issue of domestic violence. Despite these welcome developments and very laudable efforts, domestic violence remains a serious, widespread, and to some extent still underestimated phenomenon in Armenia.

28. A comprehensive survey⁴⁰ carried out in 2015-16 by Armenia's National Statistical Service and Ministry of Health found that 10% of women and 23% of men in Armenia agreed that wife beating was justified in certain situations; acceptance of wife beating reached levels as high as 40-41% in some rural regions. According to the survey, 6% of women aged 15-49 have experienced physical violence at least once since the age of 15, and this figure stood even higher – at 8.2% in 2017 – according to data from the UNDP 2017 Human Development Index.⁴¹ The majority of reported perpetrators of violence were current (60%) or former husbands (39%). Meanwhile, another national survey carried out by the UNFPA in 2016 showed that 45.9% of female respondents reported being subjected to psychological violence, 21.3% suffered from economic abuse, and 12.5% reported physical violence. In 2016, a report by the Armenian NGO "Coalition to Stop Violence against Women" documented 30 deaths of women resulting from domestic violence in the period between 2010 and 2015.⁴² The same NGO recorded four more such deaths in the first half of 2017.⁴³ In 2017, the police registered 624 cases of domestic violence (excluding sexual violence) of which 456 were committed by the victim's husband or partner. The respective figures for the first 8 months of 2018 amounted to 448 and 218.⁴⁴ Police statistics generally show an average per year of 621 reported cases, while women's rights NGOs collectively have an average of 5,000 calls to hotlines a year.⁴⁵

29. Other than demonstrating the prevalence of domestic violence and its different forms, the above figures through their disparity show that different Armenian institutions mandated to deal with the issue used to apply different methodologies. This appears to have now been largely remedied through the adoption of the 2017 law on domestic violence, which provides for definitions of the various forms of domestic violence and makes it easier for the different actors involved in this area to collect and analyse data in a standardised manner. However, it cannot be excluded that the scope of the problem may remain difficult to gauge with precision also in the future. The Commissioner recalls that in its recent (2016) concluding observations,⁴⁶ the CEDAW Committee was concerned about underreporting of acts of gender-based violence against women by victims and the resulting lack of data; the same problem has also been signalled to the Commissioner by various international and local NGOs. For many Armenians, violence occurring within the home is still a private matter and

³⁹ CommDH(2015)2 [report](#), on pp. 29-35.

⁴⁰ National Statistical Service [Armenia], Ministry of Health [Armenia], and ICF. "Armenia Demographic and Health [Survey](#) 2015-16", 2017.

⁴¹ Violence against women ever experienced, intimate partner (% of female population ages 15 and older): 8,2% in 2017 as per the UNDP Human Development [Index](#).

⁴² "Femicide in Armenia: A Silent Epidemic", [report](#), Coalition to Stop Violence Against Women, 2016.

⁴³ "Bill Outlawing Domestic Abuse Stirs Debate in Armenia", [press article](#), Radio Free Europe/Radio Liberty, 22 October 2017.

⁴⁴ According to information provided to the Commissioner's office by the Office of the Prosecutor.

⁴⁵ "Regional [Study](#)" referred to in fn. 38 above, on p. 28.

⁴⁶ Concluding [observations](#) on the combined fifth and sixth periodic reports of Armenia, Committee on the Elimination of Discrimination against Women, 25 November 2016.

raising it outside of the family sphere is often considered as shameful or embarrassing. The Commissioner was informed during her visit that, in the past, some members of the judiciary reportedly criticised NGOs assisting victims of domestic violence for “threatening the stability of the family”.

1.2.1. LEGAL AND POLICY FRAMEWORK

30. On 13 December 2017, Armenia adopted a law on prevention of violence within the family, protection of victims of violence within the family, and restoration of peace in the family (“the law on domestic violence”) followed by signing, in January 2018, of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention).

31. The new law on domestic violence incorporated some elements and standards of the Istanbul Convention, defining various forms of domestic violence and imposing on state authorities a positive obligation to prevent such violence from occurring and to protect its victims. It also obliged the authorities to develop and to implement a national strategy on domestic violence, establish shelters for victims of violence, provide them with healthcare free of charge, and conduct regular trainings for all professionals working in this field.

32. The Commissioner’s delegation was informed that although the law on domestic violence entered into force on 31 January 2018, the practical implementation of its provisions was designed to follow in several stages and the entire law was expected to take full effect on 1 January 2019. The transitional period concerning some of the law’s provisions was intended for the state to train and sensitise its agents and any other persons called upon to apply them in practice, as well as to adopt a regulatory package of fourteen subordinate regulations intended to facilitate the law’s practical implementation. These additional regulations would regulate in more detail the activity of the Council for the Prevention of Violence in the Family, the requirements for support centres and shelters, the procedure for the centralised registration of cases of domestic violence, the financing and temporary support for victims, and the rehabilitation of perpetrators. The Commissioner would appreciate receiving more information on the status of elaboration and adoption of the aforementioned regulations and measures.

33. The Commissioner considers it positive that the adoption of the law was preceded by a dedicated information campaign developed and conducted by the Ministry of Justice, with assistance from the European Union, aimed at raising the awareness of the general public and decision-makers about the importance of the legal framework preventing domestic violence. Following the adoption of the new law, the government trained its civil servants, social workers, law enforcement officials and police recruits on gender-based violence, including through projects implemented with the assistance of the Council of Europe or certain of its member states.

1.2.2. INSTITUTIONAL RESPONSE AND THE ISSUE OF SHELTERS

34. Several Armenian law enforcement institutions have a mandate in relation to preventing and responding to incidents of domestic violence and violence against women.

35. Since 2014, Armenia’s Investigative Committee has been involved in pursuing investigations concerning cases of homicide or serious bodily injuries linked to domestic violence. The Commissioner was particularly glad to hear that the Committee’s investigators are instructed to pursue charges even in cases where the alleged perpetrator may have reached an amicable settlement with the victim, which was one of the recommendations of the Commissioner’s predecessor’s 2014 visit report on Armenia.⁴⁷ Between 2014 and 2016, Armenia’s Investigative Committee investigated 16 cases of murder or heavy bodily injury allegedly committed by family

⁴⁷ CommDH(2015)2 [report](#), in paragraph 154.

members: 8 of the victims were women and 3 were children. In 2017, the Investigative Committee reported 458 criminal charges related to domestic violence, leading to 86 indictments.

36. The 2017 law on domestic violence equipped the Armenian police with new protection measures in cases involving domestic violence. During the first two and a half months after the entry into force of the new law, the specialised police unit tasked with children and domestic violence cases, established in 2013, registered 463 reports on domestic violence and using the new measures at its disposal, issued 164 warnings and 34 emergency barring orders, removing the alleged perpetrators from the home in 24 cases. The Commissioner welcomed the assurance that, similarly to the approach applied by the Investigative Committee, the police carries out the investigation even in the absence of a complaint, or if the complaint is later withdrawn. The Commissioner notes that the law on domestic violence also entitles the Armenian Prosecutor to institute criminal proceedings in cases requiring private charges, regardless of the victim's position on such proceedings.

37. The Commissioner was pleased to hear that the past issue of questioning victims of domestic violence in the presence of several police officers, criticised⁴⁸ by the Commissioner's predecessor, has been addressed by creating special rooms for such questioning and imposing the maximum number of two officers present. In cooperation with the Council of Europe and the UNFPA, since May 2018 the Armenian police have been conducting training and workshops, followed by examinations designed to verify the level of understanding of the provisions of the new domestic violence law. Efforts are currently underway to develop a structured referral mechanism and a police manual on domestic violence, as well as to organise trainings with international partners on international best practices in responding to domestic violence. The Commissioner particularly appreciated to learn that the police actively cooperate with civil society organisations involved in assistance to victims of domestic violence in the process of the referral of victims to the existing shelter.

38. Already in April 2008, one of the Commissioner's predecessors urged Armenia to maintain operational shelters for victims of domestic violence and to support financially the building of new ones.⁴⁹ The Commissioner notes that no state-run shelters are currently in operation in Armenia. Until recently, two shelters existed for women victims of domestic violence, both operated by NGOs and located in Yerevan, each with a capacity to host 5 women with children. However, shortly before her visit, the Commissioner was informed that only one shelter operated by the NGO Women's Support Center (WSC) remained operational while the other one, managed by a different NGO, reportedly had to close down.

39. The Council of Europe reference study "Combating violence against women: minimum standards for support services" recommends for each member state to provide the core services in the form of helplines, shelters, rape crisis centres and sexual assault centres with an adequate geographical distribution, supplemented by advice, advocacy, counselling and outreach services.⁵⁰ In addition, recommendations by the Council of Europe Task Force to Combat Violence against Women (and GREVIO)⁵¹ specify the minimum standards for the provision of such specialised services, including at least one free national helpline covering all forms of violence against women, operating 24 hours a day 7 days a week; safe accommodation in specialised women's shelters, available in every region, with one family place per 10,000 inhabitants; one rape crisis centre per 200,000 women; one women's counselling centre for every 50,000 women; and outreach services in all regions. All these services should also provide adequate support for their children.

⁴⁸ Recommendation made in paragraph 152 of the [report](#) CommDH(2015)2.

⁴⁹ [Report](#) by the Commissioner For Human Rights Mr Thomas Hammarberg on his visit to Armenia, 7 – 11 October 2007, CommDH(2008)4.

⁵⁰ Combating violence against women: [minimum standards](#) for support services, Council of Europe, September 2008.

⁵¹ [Explanatory Report](#) to the Council of Europe Convention on preventing and combating violence against women and domestic violence, Istanbul, 2011, paragraph 135.

40. The Ministry of Labour and Social Affairs plans to create shelters for women victims of domestic violence in 2019. The Commissioner's delegation was informed that legislation providing the legal basis for these new structures was under elaboration. The Commissioner understands that these new shelters would not be operated by the state; rather, the government would support existing structures managed by NGOs which provide shelter services. The Commissioner would welcome receiving additional information in this regard, including the envisaged number and approximate geographical distribution of shelters or places to be created, as well as a timetable for their establishment.

41. During her visit, the Commissioner visited the office of the NGO Women's Support Center as well as the shelter it operates, the same one her predecessor had visited in 2014. She was informed that the NGO also offers a hotline for victims of domestic violence, walk-in services, legal and psychological counselling, training sessions and community outreach. The shelter operated by the NGO is situated at an undisclosed location in Yerevan out of concern for the safety and privacy of its residents. Residents shared with the Commissioner accounts of their traumatising experiences; most of them were in the shelter because the violence had reached the point of a "life-or-death situation". At the time of the Commissioner's visit, the shelter provided accommodation and care for a maximum of 5 women with their children, who – regrettably - could not benefit from schooling during their stay, due to well-founded fears that attending a school outside the shelter would expose them and their mothers to further attacks or intimidation by the violent family member(s). As regards the interruption of the children's schooling, the authorities informed the Commissioner that a draft government decree⁵² will require shelters to have adequate conditions for child education, which meet the requirements of the general legislation, in addition to a space with necessary equipment and furnishings to facilitate the learning process.

1.2.3. CONCLUSIONS AND RECOMMENDATIONS

42. The Commissioner welcomes the adoption in Armenia of the law on domestic violence and the signature of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. She considers that the prompt ratification of that Convention would confirm the country's international commitment in that sphere, and she recommends that the authorities promptly undertake that step.

43. Meanwhile, the Commissioner encourages the Armenian authorities to ensure that the existing legislation is effectively applied. The Commissioner notes with satisfaction the already undertaken training, awareness-raising and capacity-building of officials in the law enforcement and judiciary on handling domestic violence cases, and recommends that the authorities pursue these activities while making use of the existing expertise in that area of the civil society and the Council of Europe. The Commissioner wishes to reiterate that it is domestic violence itself and not the fact of providing assistance to its victims that endangers family unity, and she urges the authorities to ensure that this basic premise is shared by all the relevant officials.

44. The Commissioner regrets to note that the situation with regard to the availability of shelters in Armenia has not improved in the four years since her predecessor's last visit, as the shelter for victims of domestic violence she visited remains the only operational one in the country. As this clearly falls far short of existing needs, the Commissioner urges the authorities to bring the situation in line with the relevant Council of Europe recommendations as soon as possible. In this regard, she welcomes the Armenian government's plans to make available additional state-funded shelters as from the beginning of 2019.

⁵² Decree on "Approval of the requirements for shelters and their staff for the victims of violence within the family and on settlement of exemplary form of the financing agreement of shelters for the victims of violence within the family".

45. The Commissioner notes that in near future, with the creation of additional shelters for victims of domestic violence, Armenia will be increasingly confronted with the problem of ensuring meaningful access to education to children staying in them. During her visit, representatives of NGOs working with children complained that Armenia lacked a system of support for children exposed to domestic violence. The Commissioner urges the authorities to ensure that no child exposed to domestic violence is forced to stay out of school involuntarily, and she would be particularly grateful if the authorities could ensure that all children staying in the shelter she has visited receive assistance to pursue their schooling as soon as possible, while paying due attention to the security of those children and that of other shelter residents.

2 HUMAN RIGHTS OF CERTAIN VULNERABLE OR DISADVANTAGED GROUPS

2.1. THE HUMAN RIGHTS OF PERSONS WITH DISABILITIES

46. According to official statistics, as of July 2018, there were officially 192,743 persons with disabilities recorded in Armenia's national register, including 92,587 women and 8,165 children (of which 2,569 girls). This corresponds roughly to just over 6% of the overall population (estimated at 3,045 million in 2017), which is considerably less than the worldwide ratio of about 15%, according to 2011 WHO estimates.⁵³ Research studies pointed out that the notion of disability is interpreted restrictively in Armenia, in that it does not encompass e.g. light and moderate forms of disability.⁵⁴ Moreover, during her visit, the Commissioner was informed by representatives of the NGOs active in this field that some persons, particularly those resident in rural areas, may prefer to abstain from applying for disability status for their children or family members out of concern for the effect that the stigma of disability may bear on the family's reputation in the community. Therefore, it cannot be excluded that a number of persons with disabilities may remain, for these or various other reasons, outside of the official registers and that the actual prevalence rate of persons with disabilities may be underestimated.

47. The UN Committee on the Rights of Persons with Disabilities ("the CRPD Committee") recommended in 2017 that Armenia develop a system for systematic data collection and reporting on the characteristics of the population living with disabilities, including on the barriers that persons with disabilities face in society. Armenia currently collects information on persons with disabilities through the electronic registration system, which allows for the recording of information about gender, age, disability group, state of health, region and place of residence, employment status, and types of guaranteed rehabilitation provisions. The Commissioner was informed that the authorities intend to further revise the system to bring it in line with the WHO standards⁵⁵ in order to allow for better analysis of the obstacles affecting the inclusion of persons with disabilities in the wider society.

2.1.1. LEGAL AND INSTITUTIONAL FRAMEWORK

48. In acceding to the revised European Social Charter (RESC) in 2004, Armenia accepted to be bound by Article 15 which recognises the right of persons with disabilities to independence, social integration and participation in the light of the community; however, the country has not yet ratified the Additional Protocol to the European Social Charter providing for a system of collective complaints. In 2010, Armenia ratified the UN Convention on the Rights of Persons with Disabilities (CRPD), though not its Optional Protocol recognising the right of individual communication. By acceding to the above-mentioned treaties, Armenia agreed to ensure to persons with disabilities,

⁵³ World [Report](#) on Disability, World Health Organization (WHO), 2011.

⁵⁴ "Employment of People with Disabilities in Armenia: Needs and Barriers", [study](#), Save the Children, 2013, p. 9.

⁵⁵ WHO International [Classification](#) of Functioning, Disability and Health.

irrespective of age and the nature and origin of their disabilities, the effective exercise of the right to independence, social integration and participation in the life of the community, and in particular to take the necessary measures to provide persons with disabilities with guidance, education and vocational training, to promote their access to employment, and to promote their full social integration and participation in the life of the community, in particular through measures aiming to overcome barriers to communication and mobility, and by enabling access to transport, housing, cultural activities and leisure.

49. Article 29 of the Armenian Constitution prohibits discrimination based, inter alia, on disability. Pursuant to Article 83, all persons with a disability have the right to social security, and Article 86.8 stipulates that state policy has among its key objectives disability prevention, treatment and rehabilitation of persons with disabilities, and the promotion of participation of persons with disabilities in public life. Regulations governing the rights of persons with disabilities can also be found in a number of laws, such as the Labour Code, the 1996 Law on Medical Care and Services to the Population, the Law on Education of Persons with Special Education Needs, and the Law on Urban Development, as well as in governmental decrees.

50. In 2016, the Ministry of Labour and Science developed a comprehensive bill on the protection of the rights of persons with disabilities and their social inclusion, and tabled it in the Parliament in 2017. During her visit, the Commissioner and her delegation were informed that upon her appointment in 2018, the new Minister of Labour and Social Affairs had withdrawn the bill from the Parliament with the intention of making it more inclusive and better adapted to international standards. The Commissioner's delegation was informed that a new draft proposal is currently under preparation.

51. On 12 January 2017, the government approved a comprehensive plan for 2017-2021 on social inclusion of persons with disabilities. The National Commission on Issue of Persons with Disabilities, set up in February 2008 and chaired by the Minister of Labour and Social Affairs, serves as a consultative body and the governmental coordination mechanism on disability issues, with representatives of public administration bodies and non-governmental organisations dealing with the issues of persons with disabilities participating on an equal footing. The last session of the National Commission was held on in December 2017. The Commissioner understands that the government envisages making certain changes to the composition of the Commission before this body reconvenes for its next regular session.

2.1.2. LEGAL CAPACITY, THE RIGHT TO LIVE INDEPENDENTLY AND BE INCLUDED IN SOCIETY

52. The Commissioner recalls that Article 12 of the CRPD provides for the right to enjoy legal capacity on an equal basis with others in all aspects of life, and notes that a person's status as a person with a disability or the existence of an impairment must never be grounds for denying legal capacity.⁵⁶ The CRPD notably requires the states to replace their guardianship systems by alternatives, and in particular methods of supported decision-making. The Commissioner also recalls that the European Court of Human Rights has established in its case-law that the non-recognition of a person's legal capacity severely limits their human rights, and that full deprivation of legal capacity is a very serious interference with the right to private life protected by Article 8 of the European Convention on Human Rights.

53. Armenian legislation does not currently provide for supported decision-making or a mechanism for partial deprivation of legal capacity for persons with intellectual and psychosocial disabilities. Persons with psychosocial and intellectual disabilities are often fully deprived of their legal capacity and placed under plenary guardianship, which may be exercised either by individuals or by

⁵⁶ [General Comment](#) on Article 12, Committee on the Rights of Persons with Disabilities, in paragraph 9.

institutions. A report by Human Rights Watch (HRW), published in 2017, found that Armenia regularly deprived persons with intellectual or psychosocial disabilities of legal capacity upon reaching adulthood.⁵⁷ In addition, the Armenian Code of Civil Procedure and the Law on Psychiatric Assistance allow for the deprivation of liberty, including involuntary hospitalisation and treatment, of persons with intellectual or psychosocial disabilities for extended periods of time, sometimes their entire life, which has been criticised by several international monitoring mechanisms.⁵⁸

54. The Commissioner further recalls that Article 19 of the CRPD recognises the equal right of all persons with disabilities to live independently and to be included in the community. In particular, such persons shall have the opportunity to choose their place of residence, access in-home, residential and other community support services, to prevent isolation or segregation from the community.

55. In its concluding observations on Armenia, the CRPD Committee expressed concern about the large number of children and adults with disabilities still living in residential institutions and the very limited support to enable them to live independently within the community.⁵⁹ As per the information shared with the Commissioner by the Ministry of Labour and Social Affairs, 603 persons with disabilities currently reside in care institutions and orphanages in Armenia, and a further 270 reside in boarding institutions.

56. During her visit, the Commissioner visited two institutions providing accommodation and care to persons with psychosocial or intellectual disabilities. The first of these was the Dzorak Psychiatric Care Centre, a large state residential institution providing care for persons with disabilities located on the outskirts of Yerevan. Dzorak accommodates about 120 adults with psychosocial, intellectual, sensory or other disabilities, all of whom have been deprived of legal capacity. For many of its younger residents, Dzorak is a continuation of life in an orphanage, while others are persons with disabilities who have no relatives or other people to help them. Some residents are older persons with sensory disabilities, like impaired hearing. Although Dzorak is technically a semi-open facility, closed only at night and open during the day, the majority of residents remain on the premises full time. The institution has a farming ground and its residents are encouraged to assist in growing produce. The Commissioner was shown some of the living quarters, which looked tidy but were rather impersonal, and she observed that the institutional setting was not conducive to fostering a sense of agency of the residents.

57. The Commissioner also visited a much smaller care home for persons with light psychosocial disabilities, operated by a local NGO just outside of the town of Spitak in the northern part of the country. The home currently provides shelter for a dozen or so inhabitants who enjoy full freedom of movement. Some of the residents shared with the Commissioner stories of their prior confinement for many years in the psychiatric clinics in Sevan and Vardenis, and made it clear that they did not wish to be made to go back. In Spitak, they are apparently able to lead a more autonomous life in the community, and some of them were successful in challenging their incapacitation orders in courts, assisted by NGO representatives. Overall, the Commissioner found the care home in Spitak to provide a more conducive environment for the residents' individual empowerment and self-reliance, and a much better alternative to large state institutions like the Dzorak. The Commissioner notes that

⁵⁷ "When will I get to go home? Abuses and Discrimination against Children in Institutions and Lack of Access to Quality Inclusive Education in Armenia", [report](#), Human Rights Watch, 2017, p. 37.

⁵⁸ CRPD Committee [Concluding Observations](#) (2017); [Report](#) to the Government of Armenia on the visit carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Council of Europe, 2015, CPT/Inf (2016)31, pp. 58-67; and, most recently, [Report](#) of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health on his visit to Armenia, 26 April 2018, A/HRC/38/36/Add.2, in paragraph 57.

⁵⁹ CRPD Committee's [Concluding Observations](#) (2017), in paragraph 31.

her observations are in line with those of the UN Special Rapporteur on the right to health, who had visited the care centre in Spitak in 2017.⁶⁰

58. The Minister of Labour and Social Affairs indicated to the Commissioner's delegation that the Ministry's approach to de-institutionalisation will consist of gradually phasing out large institutions in favour of smaller care homes, and eventually transferring the focus towards care at the home or in the community. The stated de-institutionalisation goal is the annual reduction of 30% of institutionalised residents. However, the Minister cautioned that small care homes needed to continue to exist to ensure the availability of state care where family care is unavailable or incompatible with the person's best interest. She also clarified that the three main large state institutions which currently provide care and shelter to persons with disabilities were expected to remain in operation in the short to medium term.

2.1.3. INCLUSIVE EDUCATION

59. According to the Ministry of Education and Science, in the school year 2016/2017 there were 6,700 children with "special educational needs" enrolled in ordinary (mainstream) schools providing inclusive education, while 2,134 children remained enrolled in special schools. According to the figures for 2017/2018, 201 public schools provided education deemed "inclusive" – 81 more than in the previous year.

60. As stipulated by the 2014 amendments to the Law on General Education, the Armenian government has committed to making all primary and secondary compulsory education inclusive for all children, regardless of any considerations and specifically including children with disabilities, by August 2025. The Ministry of Education and Science has prepared a timetable to that end for all of Armenia's *marzes* (regions).

61. NGOs representatives who met with the Commissioner recognised that inclusive education has to a considerable extent been implemented in secondary education; however, they pointed out that difficulties remained in the implementation of the concept to other tiers of education, in particular at the pre-school level. In their view, parents of children with disabilities are often not aware of existing alternatives to home upbringing, while others move their children from schools labelled as "inclusive" to residential schools where specialised services and treatment can be accessed more easily.

62. The Deputy Minister of Education and Science who met with the Commissioner's delegation shared the concerns regarding the need to improve inclusivity in pre-school education and the inclusion of children with disabilities in mainstream education. In particular, the Minister explained that only one kindergarten in Yerevan currently offered inclusive education,⁶¹ although a number of others provided children with the services of specialised psychologists. The Commissioner's delegation was also informed that the Ministry has already prepared a draft law on pre-school education, which the Minister hoped would soon be presented to the National Assembly. In addition, in 2019 the Ministry plans to release a concept paper clarifying its understanding of the concept of inclusive education, along with an analysis of the lessons learned and stumbling blocks identified thus far in the implementation of this policy in Armenia.

⁶⁰ [Report](#) of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health on his visit to Armenia, 26 April 2018, A/HRC/38/36/Add.2, in paragraph 63.

⁶¹ The UN Special Rapporteur on the right to health referred to Kindergarten No. 92 in Yerevan as the only fully "inclusive" kindergarten in Armenia, and recommended that it serves as an example to be replicated throughout the country; [Report](#) referred to in fn. 58 above, in paragraph 62.

2.1.4. CONCLUSIONS AND RECOMMENDATIONS

63. The Commissioner believes that everyone should enjoy legal capacity on an equal basis with others and has the right to receive adequate support to do so. While she recognises and welcomes Armenia's commitment to improve the social inclusion of persons with disabilities, she considers that the legal framework governing state support to persons with disabilities should be revised. The authorities should use the opportunity of the on-going revision of the draft bill on the rights of persons with disabilities to put an end to plenary guardianship for persons with psycho-social disabilities and to move away from the a substituted decision-making model towards a regime for supported decision-making.

64. The Commissioner recalls that Article 19 of the CRPD provides that persons with disabilities should be able to fully enjoy their rights, including social rights, by living independently as part of the community, and receive there the services to which they are entitled, including the personal assistance necessary to support their life in the community. She finds that isolating persons with disabilities in institutions perpetuates their stigmatisation and social marginalisation. While welcoming the measures envisaged to gradually phase out large institutions in favour of community-based services and home-based care, the Commissioner considers that there already needs to be a moratorium on any new placements in large residential state institutions. In the Commissioner's view, "family-type" care homes offer a much better alternative to large state institutions and might be viable in some cases; nevertheless, she encourages the Armenian authorities to create new living settings which fully comply with the requirements of Article 19 of the CRPD. The Commissioner wishes to reiterate that the more services are provided within the residence, the fewer opportunities for contacts with the outside world become available to the residents in practice, as highlighted in the relevant Issue Paper⁶² published by the Commissioner's Office. In this connection, Armenia should take due account of the Concluding Observations of the CRPD Committee which recommend the adoption of legal measures and allocation of sufficient resources for the development of support services, including personal assistance, that would facilitate independent living.

65. School segregation of children with disabilities is a violation of their right to equal access to quality education. Moreover, it deprives them of opportunities to develop important social and life skills, and perpetuates their marginalisation. The Commissioner therefore commends the authorities' commitment to make all education fully and genuinely inclusive by 2025, and encourages them to pursue their efforts to achieve this goal. She recommends that special attention be paid to ensuring inclusive education at the pre-school (kindergarten) level, including outside of Yerevan, and to providing all children with disabilities with individualised support, reasonable accommodation and adequate access to educational facilities.

66. The Commissioner further recommends that Armenia accept Article 15§1 of the Revised European Social Charter, by which states undertake to take the necessary measures to provide persons with disabilities with guidance, education and vocational training. In this regard, she recalls that the European Committee of Social Rights has concluded that no major obstacles in law and practice exist to the acceptance by Armenia of that provision of the Charter.⁶³ Moreover, the Commissioner encourages Armenia to consider ratifying the Optional Protocol to the CRPD, which recognises the right of individual communication, and to consider ratifying the Additional Protocol to the European Social Charter providing for a system of collective complaints (ETS No. 158), which in the Commissioner's view would contribute to furthering the implementation of the rights of persons with disabilities.

⁶² "The right of people with disabilities to live independently and be included in the community", [Issue Paper](#) published by the Council of Europe Commissioner for Human Rights, 2012.

⁶³ [Report](#) on the non-accepted provisions of the European Social Charter, European Committee of Social Rights, April 2016, on p.3.

67. The Commissioner was informed that public perceptions of persons with disabilities, as well as media coverage of disability in Armenia, remain based on stereotypes and perpetuate discriminatory attitudes. In this regard, she welcomes the recent appointment of a well-known disability rights activist as Deputy Minister of Labour and Social Affairs, and recognises that this appointment provides persons with disabilities in Armenia with an important voice and role model. However, the Commissioner encourages the government to also consider adopting more comprehensive and wide-reaching measures, including public information campaigns, to increase public awareness on the rights of persons with disabilities.

68. In the planning, implementation and monitoring of all its policies regarding disability, including the de-institutionalisation process, the Armenian authorities should systematically involve persons with disabilities themselves, e.g. through their representative organisations.

2.2. THE HUMAN RIGHTS OF CHILDREN

2.2.1. LEGAL AND INSTITUTIONAL FRAMEWORK

69. Armenia ratified the UN Convention on the Rights of the Child in 1993, in addition to a number of other UN and International Labour Organization's (ILO) instruments protecting the rights of children. In 2010 it signed the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention), but has as of yet not ratified it. At the domestic level, the 1996 Law on the Rights of the Child and Armenia's Family Code were accompanied by a number of policy measures, such as the 2013-2016 National Programme for the Protection of Children's Rights and, more recently, the Strategy and Programme on the Protection of Children's Rights for the years 2017-2021.

2.2.2. POVERTY AND CHILDREN

70. In 2016, the poverty and extreme poverty rates in Armenia, calculated according to national criteria,⁶⁴ were 29.4% and 1.8%, respectively, but for children these rates stood at 34.2% and 2%, respectively, according to the report "Social Snapshot and Poverty in Armenia", published by Armenia's statistical service.⁶⁵ Meanwhile, according to UNICEF, although children represent 22% of the overall Armenian population, they account for 26% of the "poor population" and 30% of the "extremely poor" population.⁶⁶ These figures demonstrate quite clearly that poverty in Armenia is more likely to affect children. Moreover, youth poverty in Armenia appears to be a growing phenomenon – in 2008, the ratio of children living in poverty amounted to 29.8% but grew to 34.2% in 2016. Youth poverty is also gender-relative, with 36.1% of Armenian girls qualifying as "poor" as opposed to 32.4% of boys. The same UNICEF study, which examined deprivation among Armenian children in its multiple dimensions, found 64% of children to be deprived in two or more dimensions, and that same ratio reached 82% in rural areas. Children were found to be deprived on average in 3 dimensions at the same time, most of them in the area of utilities (e.g. poor access to water and heating), housing and leisure. About a third of children under the age of 5 were found to be deprived in nutrition; two-fifths of the same age group were reported to have neither firewood nor heating at home.

71. The government effort to reduce poverty is guided by the "Strategic Perspective Development Program for 2014-2025", on the basis of which it adopts annual poverty reduction targets.⁶⁷

⁶⁴ See the [press release](#) on the publication of the "Social Snapshot and Poverty in Armenia Report", 5 December 2017, for clarifications on the methodology.

⁶⁵ "Social [Snapshot](#) and Poverty in Armenia", Statistical Committee of the Republic of Armenia, 2017 (in Armenian only). Meanwhile, [UNICEF data](#) for 2016 gave account of slightly different figures: 36% of Armenian children being "poor" and 3 per cent "extremely poor"; see the report referred to in fn. 66 below.

⁶⁶ Child poverty in Armenia: National Multiple Overlapping Deprivation Analysis, [report](#), UNICEF Armenia, 2016.

⁶⁷ "Poverty in Armenia", [press article](#), Ampop.am, 7 August 2018.

Moreover, in 2014, the Law on State Benefits entered into force, followed in 2015 by the Law on Social Assistance. In the course of 2012-2015, changes were introduced to the system of family and social benefits, mainly concerning the improvement of the procedure and administration of assessment of the level of indigence of families. As a result, families with low income, especially those with a child, acquired the right to a family benefit. The Ministry of Labour and Social Affairs informed the Commissioner that the amount of the benefit varied depending on the degree of vulnerability, place of residence, and the number of children. It consists of the base benefit currently amounting to 18,000 AMD (ca. €32.5), accompanied by an extra supplement for each child, which ranges from 5,500 to 8,000 AMD (ca. €10 to €14.5). Additional lump-sum urgent assistance is provided e.g. on the occasion of childbirth, and families under the marginal poverty line may be entitled to a three-month emergency assistance. However, the Commissioner notes that while 24% of all households with children received family benefits in 2016, it appears that the same held true for only 34.7% of households categorised as “poor”, and just roughly a half of all households categorised as “extremely poor”.⁶⁸

2.2.3. CHILDREN IN STATE CARE AND FOSTER CARE

72. According to UNICEF data, in 2016 there were about 3,500 children living in state residential care institutions in Armenia. A submission by the HRW to the CRPD Committee estimated this number to be 3,700 in April 2016.⁶⁹

73. The UN Convention on the Rights of the Child (the CRC), the Armenian Family Code and the Law on the Rights of the Child (Articles 12 and 13) all provide for the child’s right to live in the family. In addition, Armenia introduced a number of institutional and policy measures such as the Programme of State Support to Graduates of Child Care Institutions (2004-2015), the Programme on De-institutionalization of Children (2004-2015) and, most recently, the Strategic Programme on the Protection of Children’s Rights for the years 2017-2021. In recent years, the government also carried out several projects aimed at de-institutionalisation and returning children to their biological or foster families.

74. However, the Commissioner was concerned that a high number of children with living parents are placed in state residential institutions. The UN Committee on the Rights of the Child (the CRC Committee) expressed concern about this phenomenon already in 2013,⁷⁰ and the above-mentioned HRW 2017 study estimated that 90% of children in residential care in Armenia have at least one living parent.⁷¹ The same study claimed that most children in Armenian orphanages and other residential institutions were placed there either because of their disability or on account of poverty, or other difficult family situation.

75. Meanwhile, potential alternatives to institutionalisation, such as foster care, remain underdeveloped. In 2013, the CRC Committee complained about there being “only few foster families” in Armenia.⁷² In 2016, there were a total of 23 foster care families in all of the country, against budget support allocated for a total of 25. Armenia’s current medium-term expenditure programme for 2018-2020 provided for an almost four-fold increase, with annual support earmarked for the upbringing of 94 children in foster families. However, only about 50 foster care places are

⁶⁸ According to data of the National Statistical Service, the average wage in Armenia in 2017 was 180,354 dram (around €320) per month for the public and private sector combined. In the public sector in 2017 it was 151,534 dram (around €267). In the private sector in 2017, 216,804 dram (around €381).

⁶⁹ Human Rights Watch [Submission](#) on Armenia to the Committee on the Rights of Persons with Disabilities (CRPD), 15 February 2017.

⁷⁰ [Concluding observations](#) on the combined third and fourth periodic reports of Armenia, Committee on the Rights of the Child, 8 July 2013, CRC/C/ARM/CO/3-4.

⁷¹ [Report](#) referred to in fn. 57 above, p. 1.

⁷² [Concluding observations](#), CRC Committee, 2013, paragraph 31.

currently filled. The Commissioner understands that this is partly because foster care is only available for children of parents deprived of parental authority, and that Armenian courts are sometimes reluctant to deprive parents of parental authority out of concern for preserving family unity, preferring instead to extend the temporary stay of such children in residential care homes.

76. Another closely related problem is that although the total number of children placed in care homes in Armenia is decreasing, the ratio of children with disabilities placed in care homes appears to be on the rise. This trend has already been signalled by the CRC Committee in 2013, which explained this by the lack of alternative family and community-based care options.⁷³ In 2017, the CRPD Committee criticised the persistently high number of children with disabilities institutionalised in orphanages and residential special schools, pointing to the phenomenon of so-called “trans-institutionalisation”, i.e. the process of transferring children from one institution to another under the guise of de-institutionalisation, and the continuing investments in such institutions.⁷⁴ According to official statistics made available by the Ministry of Labour and Social Affairs, in December 2017 there were 620 children living in orphanages, of which 450 (ca. 72%) were children with disabilities.⁷⁵ Representatives of NGOs working with children’s rights, met by the Commissioner, estimated that about 80% of the 3,500 children remaining in state care institutions have a disability. The Commissioner understands that many children with disabilities remain in state care even after they reach adulthood. Young institutionalised adults remain in institutions like the Dzorak centre,⁷⁶ often because they are deprived of legal capacity and are under the plenary guardianship of the institution, or due to a lack of other perspectives. The Commissioner understands that addressing these problems through de-institutionalisation proves difficult because in many parts of Armenia, care institutions serve as the main vehicle for the government’s delivery of social services to families in difficult life circumstances, as well as to children with disabilities and their families.

77. One of the establishments visited by the Commissioner was the Yerevan Children’s Home (also known as the Nork orphanage), a state care institution housing approximately 70 children under the age of six. The majority of children currently residing in the home are under the age of three. They are divided into age groups, but within each group children with and without disabilities live and play together. The Commissioner was informed that ca. 60% of the children have certain health issues or light disabilities, while others are children placed by their parents on account of indigence or difficult social or family situation. Parents who decide to temporarily place their children in the care home are required to sign a consent form, which can be extended more than once, if necessary. The Commissioner was informed that some parents regularly visit their institutionalised children. The care home has 105 staff members, 5 trained paediatricians, 1 psychologist and 1 social worker, and a special unit devoted to physical rehabilitation. The deputy director of the home informed the Commissioner that the institution receives adequate support from the government and that in addition, donations are also accepted from private and institutional donors. On the basis of her brief visit, the Commissioner found the material conditions in the care home to be adequate.

78. The authorities informed the Commissioner that the Strategic Programme for the Protection of the Rights of the Child for 2017-2021 included - among its main priorities - securing the right of the child to live in the family, and that work was being carried out to expand government funding of social services in the community as well as free-of-charge social services to children in difficult life situations, particularly to those without parental care and to children with disabilities. The Ministry of Labour and Social Affairs provided the Commissioner with a detailed description of measures envisaged to address the problem of children placed in state care institutions because of poverty or

⁷³ Idem, in paragraph 35.

⁷⁴ [Concluding observations](#) on the initial report of Armenia, Committee on the Rights of Persons with Disabilities, 8 May 2017, CRPD/C/ARM/CO/1, in paragraph 11.

⁷⁵ UNICEF recorded roughly similar [figures for 2016](#): 70% (469) children with disabilities out of 670 children in orphanages.

⁷⁶ See paragraph 56 above.

difficult family situation. Such measures involved, among other things, creating community-based child and family assistance centres to provide children with services including food, social and pedagogical assistance, counselling, professional orientation, health care and services, as well as entertainment. Three such day-care centres reportedly already provide social support services to about 300 children aged 6 to 18 in a difficult life situation as well as to their families. Moreover, in cooperation with a local NGO, the Ministry envisages extending such services to at least 250 more children through four other community centres. The Ministry also plans to improve assistance to the return of children to their families, including through material support, social and psychological assistance, and targeted employment. In 2015, the Ministry and a local NGO reportedly returned 40 children from state institutions back to their biological families and prevented the institutionalisation of another 60 by providing families with material aid as well as energy subsidies. The Ministry envisages continuing these measures by encouraging foster care, de-institutionalisation and prevention of placement of at least 120 children.

2.2.4. LEGAL FRAMEWORK FOR COMBATING SEXUAL EXPLOITATION AND ABUSE

79. Article 7§10 of the Revised European Social Charter, which Armenia ratified, requires states parties to take specific measures to prohibit and combat all forms of sexual exploitation of children. However, in its 2015 Conclusions, the ECSR found that the Armenian domestic legislation did not adequately protect children from all forms of sexual exploitation, a situation not in conformity with the Charter.⁷⁷ Moreover, as noted above, Armenia has not yet ratified the Lanzarote Convention.

80. The Commissioner's delegation met with the Deputy Minister of Justice, who drew their attention to the fact that the ratification of the Lanzarote Convention would normally require amendments to existing legislation, most notably the Criminal Code. However, he noted that there were no objections of principle regarding the subject-matter regulated by the Convention, and reaffirmed the authorities' readiness to progress towards the ratification of the Convention, if necessary even prior to the envisaged revision of the Criminal Code in order to avoid further delay.

2.2.5. CONCLUSIONS AND RECOMMENDATIONS

81. The Commissioner welcomes the provision by Armenia of family benefits for indigent families with children. She considers that family allowances are among the most crucial tools to combat child poverty, and recommends that Armenia strengthen its efforts to combat poverty and to guarantee the right of all children to an adequate standard of living, including by raising awareness about the available benefits to so that more families - especially in rural areas - entitled to such benefits can actually receive them.

82. The Commissioner recalls that all children have the right to grow up in a family and neither disability nor poverty should justify their placement in institutions. The Commissioner urges the authorities to pursue measures aimed at de-institutionalisation. First and foremost, sufficient resources should be allocated for community support to parents resuming care over their children, including children with disabilities. Should care within the family not be possible, family-type solutions such as foster care - which in principle offer a better solution from the point of view of a child's best interest - should prevail over institutionalisation. The Commissioner welcomes the efforts made by the Ministry for Labour and Social Affairs to fill the available quota of foster care placements, including through awareness-raising measures. She invites the authorities to continue those efforts, while also aiming to increase the number of foster families providing care for children with disabilities.

⁷⁷ European Committee on Social Rights, [Conclusions](#), 2015.

83. The Commissioner invites the Armenian authorities to proceed with ratifying the Lanzarote Convention. She also invites them to improve monitoring of sexual abuse and sexual exploitation of children, as well as to take steps to improve awareness in society of such crimes.

2.3. THE HUMAN RIGHTS OF OLDER PERSONS

84. Like in many other countries, the population of Armenia is aging rapidly. The ratio of older persons in the country is currently estimated at 13% but, according to the UNFPA, by 2050 the number of persons older than 65 is projected to reach 22-23%, while almost one-third of the population will be older than 60.⁷⁸

2.3.1. INTERNATIONAL AND DOMESTIC STANDARDS

85. Whereas there is currently no international treaty protecting the rights of older persons, nor is there any specialised agency dealing with such rights at the global level, the standards and principles applicable to older persons can be found in core international and regional human rights treaties.⁷⁹ Eighteen “Principles for Older Persons”, adopted by the United Nations General Assembly resolution 46/91 in December 1991, provide general policy guidance grouped according to key themes of independence, participation, care, self-fulfilment, and dignity.⁸⁰ More specific guidance on the economic, social and cultural rights of older persons is provided by CESCR’s General Comment No. 6 on the economic, social and cultural rights of older persons⁸¹ on the basis of the UN International Covenant on Economic, Social and Cultural Rights (ICESC), which Armenia ratified in 1993. The International Labour Organisation (ILO) has two technical conventions concerning older persons: the 1952 Convention on Social Security (Minimum Standards) (No. 102) and the 1967 Invalidity, Old-Age and Survivors’ Benefits Convention (No. 128), neither of which has, however, been ratified by Armenia. As regards the standards of the Council of Europe, Armenia ratified the Revised European Social Charter in 2004, but has not accepted to be bound by its Article 23 on the right of elderly persons to social protection. Other Council of Europe standards on the human rights of older persons include the 2014 CM Recommendation CM/Rec(2014)2 on the Promotion of the Human Rights of Older Persons⁸² and the 2017 PACE Resolution 2168 (2017) on the Human Rights of Older persons and their comprehensive care.⁸³

86. Article 83 of the Armenian Constitution stipulates the right to social security for the old age, among other things. Its Article 84 stipulates that the elderly shall have the right to a decent living. On 18 June 2017, the government adopted a “Strategy on the Solution of Issues Arising from the Consequences of the Population Ageing and Social Protection of the Elderly” and the 2017-2021 Action Plan on its implementation.

2.3.2. POVERTY AND OLDER PERSONS

87. Retirement pensions alone are seldom sufficient to afford dignified and autonomous living to older Armenians, who very often have to rely on the support of their families. As has been noted above, when Armenia ratified the 1996 Revised European Social Charter in 2004, it did not accept to be bound by its Article 23 on the right of elderly persons to social protection. However, the European Committee of Social Rights holds that even in cases where states have not accepted Article

⁷⁸ See “Partnering to Tackle the Problem of Ageing”, [press article](#), UNFPA Armenia, 7 March 2018; see also, “Sex imbalances at birth in Armenia: Demographic Evidence and Analysis”, [report](#), UNFPA Armenia, Yerevan 2013, p. 20.

⁷⁹ See Office of the UN High Commissioner for Human Rights, [International Standards and Principles](#).

⁸⁰ United Nations [Principles](#) for Older Persons, UN General Assembly Resolution 46/91, adopted on 16 December 1991.

⁸¹ [General Comment](#) No. 6: The Economic, Social and Cultural Rights of Older Persons, Committee on Economic, Social and Cultural Rights, 8 December 1995, E/1996/22, page 34.

⁸² [Recommendation](#) CM/Rec(2014)2 of the Committee of Ministers to member states on the Promotion of the Human Rights of Older Persons, 19 February 2014.

⁸³ PACE [Resolution](#) 2168 (2017) on the human rights of older persons and their comprehensive care.

23, they are nevertheless bound to ensure a minimum level of well-being for older persons, in light of other provisions of the Revised Charter, such as e.g. Article 13 paragraph 1 on the right to social and medical assistance, which Armenia has accepted. In this regard, it should be noted that the Committee found in its 2009 Conclusion in respect of Armenia that the level of social assistance paid at the time to a single person without resources was “manifestly inadequate” and “not compatible with the poverty threshold”.⁸⁴

88. Currently, an old age pension system applies to all Armenian residents. According to official statistics, in 2015 the number of beneficiaries was 305,600 for the old age labour pension and 10,800 for the survivors’ pension.⁸⁵ According to the 2010 Law on State Pensions, retirement pension is granted at the age of 63 to persons who had been employed for at least 10 calendar years. The minimum monthly amount of the old age pension currently stands at 24,000 AMD (ca. €43.3). As reported by the National Statistical Service, the average state age retirement pension per month for the period of 2012-2016 amounted to 40,396 AMD (about €70). As of July 2018, that average amount stood at 40,196 AMD (ca. €72.5). By comparison, the minimum monthly wage in Armenia in 2017 was 55,000 AMD (ca. €98), while the national indicators of poverty applied in Armenia in 2015 were as follows: the upper poverty line: AMD 41,698 (ca. €79) per month; the relative poverty line of AMD 36,791 (€70), the lower poverty line of AMD 34,234 (€65) per month, and finally, the extreme poverty line of AMD 24 109 (€46) per month.⁸⁶

89. National legislation provides several additional benefits to certain pensioners, e.g. for having four or more children, being a war veteran or a victim of Soviet repression; etc. Those registered as having a disability are also entitled to a disability benefit; currently, there are 71,530 persons (including 39,043 women) over the age of 63 who are registered as having a disability. In addition, since 2014, a state benefit exists for older persons who are not otherwise entitled to a retirement pension. The benefit, which is payable upon reaching the age of 65 and assigned for life, currently amounts to 16,000 AMD (ca. €29).

90. The Ministry of Labour and Social Affairs informed the Commissioner that it has prepared draft legislation proposing to set the minimum monthly amount for old age pension, as well as the minimum size of disability and other benefits, at 25,500 AMD (ca. 46 EUR), starting from 1 January 2019.

2.3.3. ACCESS TO AFFORDABLE HEALTHCARE

91. By virtue of the 1996 Law on Medical Assistance and Service to the Population, access to primary medical care requiring basic methods and technology is in principle free of charge. However, representatives of the civil society pointed out to the Commissioner that access to specialised treatment requires patients to pay a fee. In particular, access to palliative care and pain relief for persons suffering from chronic and terminal illnesses remains problematic; the issue has been raised in a HRW report in 2014, as well as in the Ombudsman’s annual reports for many consecutive years. Representatives of NGOs met by the Commissioner during her visit complained about the lack of physicians specialised in geriatrics or support for geriatric care in the home or in the community. The shortage of geriatric specialists among psychiatrists and psychologists providing care for the elderly in Armenia was also recently noted by the UN Special Rapporteur on the right of health.⁸⁷

92. Issues with access to palliative care and care at home or in the community have to a certain extent been addressed with the adoption of a palliative care concept (2012-2016) and, in 2017, of a

⁸⁴ ECSR [Conclusions](#) - Armenia , 2009 (Article 13-1).

⁸⁵ ECSR [Conclusions](#), 2017.

⁸⁶ Idem, on p. 108.

⁸⁷ [Report](#) of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health on his visit to Armenia, 26 April 2018, A/HRC/38/36/Add.2, in paragraph 49.

government decree on palliative care, service strategy, and an action plan for the period 2017-2019. The government has also passed decrees on in-house or hospital social services provided to older persons living alone and on procedures and terms of providing care to children, older persons and persons with disabilities. The Commissioner's predecessor notably welcomed the progress made in Armenia in this area in his human rights comment published in January 2018.⁸⁸ However, the Commissioner learned from the NGO representatives she has met that palliative care remains out of reach for many Armenian patients in need on account of the prohibitive cost of such treatment, only partly alleviated by the limited government funding available. In this respect, the Commissioner notes that Armenia's public expenditure on health, at less than 2% of the GDP, is among the world's lowest.⁸⁹

93. The Deputy Minister of Health informed the Commissioner's delegation that the Ministry's policy goal is to have health institutions transformed from permanent care facilities to places where persons would receive treatment on an outpatient basis. The Ministry also considers it a priority to improve access to painkillers and to regulate the activity of palliative care centres. One such centre already exists in Yerevan, while the establishment of two more is said to be under consideration.

2.3.4. CONCLUSIONS AND RECOMMENDATIONS

94. The Commissioner finds the current level of social protection of older persons in Armenia to be far from adequate. Recalling her recent human rights comment titled "Keeping the promise: ending poverty and inequality",⁹⁰ the Commissioner believes that taking decisive action against poverty would have a direct positive effect on the welfare and dignity of older persons in Armenia. She particularly recommends that the authorities consider increasing old age (retirement) benefits in order to ensure that any such benefit exceeds Armenia's main poverty threshold. She also recommends that Armenia accept to be bound by Article 23 of the Revised European Social Charter on the right of elderly persons to social protection.

95. The Commissioner recalls that the premise of principle no. 6 of the UN Principles on older persons is that older persons should be able to reside at home for as long as possible, or for as long as they wish. She is convinced that many of the older persons who currently receive healthcare in residential care homes in Armenia could, with additional support, lead an autonomous life outside of these institutions. The additional support should include the availability of healthcare in the community and home-based services. The Commissioner also recommends that the authorities take steps to address the issue of shortage of physicians, psychiatrists and psychologists specialised in geriatric healthcare.

2.4. THE HUMAN RIGHTS OF LGBTI PERSONS

2.4.1. LEGAL AND INSTITUTIONAL FRAMEWORK

96. Armenia ratified Protocol No. 12 to the European Convention which provides for a general prohibition of discrimination, which entered into force in 2005. General equality and anti-discrimination clauses are included in Articles 28 and 29 of the Armenian Constitution; however, these provisions do not make any reference to sexual orientation or gender identity (SOGI). Moreover, the Commissioner notes that one legal study of 2016 found most anti-discrimination

⁸⁸ "The right of older persons to dignity and autonomy in care", [Human Rights Comment](#) by Commissioner Nils Muižnieks, January 2018.

⁸⁹ [Report A/HRC/38/36/Add.2](#), in paragraph 28 (on the basis of the WHO Global Health Expenditure Database).

⁹⁰ "Keeping the promise: ending poverty and inequality", [Human Rights Comment](#) by Commissioner Dunja Mijatović, July 2018.

provisions which exist in the Armenian legal system to be “declarative in nature” for want of functioning enforcement mechanisms.⁹¹

97. Homophobia remains widespread in the Armenian society. In the most recent, 2018 ILGA-Europe ranking, Armenia scored 48th out of 49 European countries for LGBTI rights.⁹² The Commissioner recalls that in their comments to her predecessor’s last visit report, which among other things recommended⁹³ the adoption of comprehensive anti-discrimination legislation, the Armenian authorities stated⁹⁴ that adopting such legislation was a priority policy issue included in the Plan of Action for implementation of National Strategy for Human Rights Protection. While noting that almost four years later such legislation has yet to be adopted, the Commissioner was nevertheless encouraged to learn that, in early 2018, the Ministry of Justice prepared an anti-discrimination bill in the form of a draft law on legal equality. However, following the events of April-May 2018 and the ensuing change of government, this legislative process has stalled.

98. Several NGOs complained to the Commissioner that the draft law on legal equality did not include an explicit reference to SOGI as a prohibited ground of discrimination. In this regard, the Deputy Minister of Justice informed the Commissioner’s delegation that the current draft of the law would indeed not include such an explicit reference, as its wording would be modelled after the respective provisions of Protocol No. 12 to the European Convention on Human Rights and the Armenian Constitution, none of which includes such a reference, but rather non-exhaustive lists of grounds of discrimination. In this regard, the Commissioner notes that the case-law of the European Court of Human Rights considers sexual orientation a prohibited ground for discrimination.⁹⁵ In addition, the CM Recommendation CM/Rec(2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity, adopted in March 2010, recommends that member states ensure that “legislative and other measures are adopted and effectively implemented to combat discrimination on grounds of sexual orientation and gender identity”.⁹⁶ Furthermore, the PACE Resolution 1728 (2010) entitled “Discrimination on the basis of sexual orientation and gender identity”⁹⁷ urges member states to “adopt and implement anti-discrimination legislation which includes sexual orientation and gender identity among the prohibited grounds for discrimination, as well as sanctions for infringements”. Including a specific reference to sexual orientation and gender identity in anti-discrimination legislation sends a clear signal that such discrimination is forbidden. Moreover, the Commissioner has not been made aware of any relevant domestic case-law which would demonstrate that the general anti-discrimination standards already present in the Armenian legislation are being applied to LGBTI persons in court or administrative proceedings.

99. The Commissioner notes that Armenia currently does not criminalise hate speech on the basis of sexual orientation or gender identity, nor does it make SOGI-motivated hate an aggravating circumstance in the context of other crimes. Hate crimes against LGBTI persons are therefore reportedly often classified as lesser crimes, without taking into account the hate element. Several NGO interlocutors expressed concern about the increasing occurrence of hate speech against LGBTI persons in public discourse in recent times. In this regard, the Deputy Minister of Justice indicated to the Commissioner’s delegation that although the Criminal Code already criminalised hate speech,

⁹¹ “The Human Rights of LGBTI individuals in Armenia: A practical assessment”, [report](#), Society Without Violence NGO, Yerevan, 2016, p. 23.

⁹² Rainbow Europe 2018 [ranking](#), International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA-Europe), 2018.

⁹³ CommDH(2015)2 [report](#), paragraph 114 of the report.

⁹⁴ CommDH(2015)2, Government’s [comments](#).

⁹⁵ For an overview of the relevant case-law of the Court, see its [Factsheet](#) – Sexual orientation issues, November 2018.

⁹⁶ CM [Recommendation](#) CM/Rec(2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity, March 2010.

⁹⁷ PACE [Resolution](#) 1728 (2010) “Discrimination on the basis of sexual orientation and gender identity”.

specific provisions may need to be added to explicitly criminalise hate speech motivated by sexual orientation.

100. Furthermore, the Commissioner would like to underscore the importance of training law enforcement officers to adequately address hate speech and hate crimes targeting LGBTI people. The Council of Europe has published a training manual to that effect.⁹⁸ In addition, some Council of Europe member states have created dedicated contact teams for LGBTI matters within their respective police forces in order to increase trust and facilitate reporting of hate crime.⁹⁹

2.4.2. FURTHER DEVELOPMENTS DURING AND AFTER THE COMMISSIONER'S VISIT

101. The Commissioner notes that raising public awareness on the need for tolerance and respect for the rights of the LGBTI remains challenging in Armenia. Similarly as in previous years, the International Day Against Homophobia, Transphobia and Biphobia (IDAHOT) was not celebrated in Armenia in 2018, except for a rainbow flag-hoisting ceremony held at one foreign embassy. The Commissioner was also disappointed to learn that in 2017, posters raising public awareness on LGBTI rights, put up by the NGO "PINK Armenia" in Yerevan, had been promptly removed on instruction of the municipal authorities.

102. During her visit, the Commissioner received information that a prominent parliamentarian had introduced a legislative proposal proposing to make it criminal for persons of the same sex to kiss in public. Several NGOs informed the Commissioner during her visit that the law was perceived as deliberately targeting the LGBTI community and that it was labelled as the draft bill "prohibiting propaganda of homosexuality" in a number of media reports.

103. The Commissioner noted with concern that following her visit, another legislative proposal, i.e. draft law P-379 on amendments to the 1996 law of the Republic of Armenia "On the Rights of the Child", was introduced in the National Assembly by several members of parliament. The bill in question proposes to outlaw the "dissemination or propagation of information threatening the physical, mental or spiritual development of children", such as disseminating information on "non-traditional sexual relationships". The draft law defines "traditional sexual intercourse" as sexual intercourse between men and women, with any other type of sexual intercourse being "non-traditional", and explicitly including in this category the example of homosexual relationships together with incest, zoophilia and paedophilia. The bill further proposes to make it an administrative offence to "propagate non-traditional sexual relations" among children. The statement of reasons which accompanies the bill specifies that it is intended to strengthen the basis of the Armenia's positive obligation to "protect public morality". At the time of writing of the present report, the bill has not yet been formally included in the parliament's session agenda.

104. The Commissioner was moreover disappointed to learn that the Eastern European and Central Asian Forum Conference of LGBTI+ Christians, which was to take place in Armenia from 14 to 18 November 2018, was ultimately cancelled.¹⁰⁰ Its organisers, the European Forum of LGBT Christian Groups and the NGO New Generation, cited death threats, incitement to hate - including by public figures and opinion makers - and concerns about the safety of participants as the reasons which motivated the cancellation.

⁹⁸ "Policing Hate Crime against LGBTI persons: Training for a Professional Police Response", [manual](#), Council of Europe, May 2017.

⁹⁹ [Compendium](#) of good practices on local and regional level policies to combat discrimination on the grounds of Sexual Orientation and Gender Identity, Council of Europe, June 2016.

¹⁰⁰ See the organisation's [press release](#) on the event's cancellation, 6 November 2018.

2.4.3. CONCLUSIONS AND RECOMMENDATIONS

105. The Commissioner recalls that the Armenian authorities are under the obligation to ensure that no-one is discriminated in any domain of public and private life in Armenia, and to this end she reiterates the recommendation that the authorities should adopt a comprehensive anti-discrimination law, which in her view should specifically refer to sexual orientation and gender identity as a prohibited ground for discrimination, in order to make it as effective as possible.

106. The Commissioner is highly concerned by the introduction in the parliament of bills targeting the LGBTI community. While the perspectives of adoption of both bills remain uncertain, the Commissioner is worried that such attempts may be designed to stoke anti-LGBTI sentiments as an element of rivalry between opposing political groups. Not only are such bills likely to be instrumentalised to the detriment of the rights of LGBTI community in Armenia, but they are also a distraction from other core issues – such as poverty – that the country urgently needs to tackle, not least due to their impact upon vulnerable groups (see previous sections). She urges the National Assembly to unequivocally reject these and any other legislative proposals which may infringe on the fundamental rights of LGBTI persons to freedom of expression.

107. Finally, the Commissioner encourages the government to take a prompt and firm stance against all instances of violence, hate speech and hate crime targeting LGBTI persons, including LGBTI activists, and ensure that any such incidents are duly condemned in public statements, investigated and prosecuted. In addition to adopting legislation criminalising hate speech motivated by SOGI, and making SOGI-motivated hate an aggravating circumstance in criminal law, the Commissioner recommends that the authorities conduct training and awareness-raising in this area for law enforcement officials and judges.

3 ACCOUNTABILITY FOR PAST HUMAN RIGHTS ABUSES

108. The issue of investigation and accountability in connection with the violent events and deaths which occurred on 1 March 2008 have already been the topic of several reports and other documents resulting from several missions and country visits by the Commissioner's predecessors, published in March 2008,¹⁰¹ September 2008,¹⁰² May 2011,¹⁰³ and March 2015.¹⁰⁴ Key recommendations which have been reiterated on numerous occasions to the Armenian authorities were: to establish and to pursue vigorously a comprehensive inquiry which would be independent, impartial, transparent, and perceived as credible by the population; to clarify the question of the command responsibility of senior police and security officials who were in charge during these events; to ensure that the families of the victims were fully involved and informed about the course of the investigation; and to keep the public informed of its progress and outcome. The Commissioner notes that despite the fact that more than a decade has passed since March 2008, the investigation has not yet been brought to a conclusion.

109. Following the appointment by Prime Minister Nikol Pashinyan of the new head of Armenia's Special Investigation Service (SIS), on 26 July 2018 the SIS charged Armenia's former president Robert Kocharyan and two former high-ranking army officials with the criminal charge of "overthrowing constitutional order". Mr Kocharyan dismissed the charges as "political vendetta" and was briefly detained on remand before being released on bail by decision of an appellate court, while the other two charged former officials were granted bail. The Commissioner understands that Mr Kocharyan was, however, later again put in pre-trial detention on 7 December 2018, and the proceedings against all three indicted persons are currently pending.

110. The Commissioner believes that accountability for the violent events and deaths of March 2008 constitutes a burden that has weighed on the Armenian society for far too long. She welcomes the steps taken by Armenia to finally establish that responsibility and to close this painful chapter. However, she stresses that this process should be conducted in a careful manner and in strict adherence to the principles of rule of law, judicial independence, transparency and guarantees of fair trial, in order to dispel any accusations of alleged revenge politics or selective justice. The Commissioner also stresses the importance of preserving the presumption of innocence of any person charged with criminal misconduct, and especially for politicians to avoid creating impression in the society, through their public statements, that the persons charged are guilty before a judgment is handed down by the competent judicial authority.

111. Finally, several interlocutors complained to the Commissioner and her delegation that they have witnessed or even themselves been exposed to divisive, abusive or inflammatory language or comments made by political actors and social media users in Armenia in recent months, often in connection with attempts to attribute blame for the actions of the previous government. The Commissioner believes that this kind of language can be an obstacle to building a cohesive society and healing past divisions. She urges all politicians and opinion leaders to exercise special care and to avoid using polarising, stigmatising or inflammatory language in their public discourse.

¹⁰¹ [Report](#) by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, 20 March 2008, CommDH(2008)11.

¹⁰² Special Mission to Armenia. [Summary of findings](#) by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, 29 September 2008, CommDH(2008)29.

¹⁰³ [Report](#) by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, 9 May 2011, CommDH(2011)12.

¹⁰⁴ [Report](#) CommDH(2015)2, referred to in fn. 17 above.