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Date: 21/10/2024

**DH-DD(2024)1208**

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Meeting: 1514<sup>th</sup> meeting (December 2024) (DH)

Item reference: Action Plan (03/10/2024)

Communication from Armenia concerning the case of Oganezova v. Armenia (Application No. 71367/12)

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Réunion : 1514<sup>e</sup> réunion (décembre 2024) (DH)

Référence du point : Plan d'action (03/10/2024)

Communication de l'Arménie concernant l'affaire Oganezova c. Arménie (requête n° 71367/12) (**anglais uniquement**)

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**THE GOVERNMENT OF THE REPUBLIC OF ARMENIA**

**ACTION PLAN CONCERNING THE CASE OF OGANEZOVA v. ARMENIA** (application  
nos. 71367/12 and 72961/12, final on 17/08/2022)<sup>1</sup>

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DGI

03 OCT. 2024

SERVICE DE L'EXECUTION  
DES ARRETS DE LA CEDH

Office of the Representative on International Legal Matters  
3 October 2024

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<sup>1</sup> Supervised under the enhanced procedure



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## **INTRODUCTORY CASE SUMMARY**

This case concerns an aggressive homophobic campaign against the applicant, a well-known member of the lesbian, gay, bisexual and transgender (LGBT) community in Armenia, including an arson attack in May 2012 on the bar she co-owned and ran in Yerevan. The Court found that the authorities failed to offer adequate protection to the applicant from homophobic attacks and hate speech and to conduct a proper investigation into the hate-motivated ill-treatment against her including the arson attack on the club and the subsequent homophobic attacks. The Court further noted the lack of comprehensive legislation on discrimination in general, including the lack of a legal definition of discrimination and an adequate criminal-law mechanism for investigating discrimination complaints (violation of Article 3 taken in conjunction with Article 14).

## **INDIVIDUAL MEASURES**

The just satisfaction awarded by the Court was paid within the time limit. The applicant did not apply for the reopening of the criminal case within the period prescribed by law.

The criminal case is reopened in February 2022, before the judgment delivery based on the report of Ms. Oganezova's representative about someone's post on a social media platform presenting that the events took place based on a state security motive rather than on homophobe motive.

The Government of Armenia was informed that the investigation of the reopened criminal case is ongoing.

## **GENERAL MEASURES**

### **Developments from the previous examination of the case (CM 1468<sup>th</sup> DH meeting of June 2023)**

***[CM] “called on the authorities to promptly complete the drafting process of the Law on Equality in line with the relevant international standards and the Court’s findings in this case and to adopt it without further delay;”***

As mentioned in the previous Action plan, The Government's decision “On approving the national strategy for the protection of human rights and the resulting action plans for 2020-2022 and 2023-2025” specifies that the revised draft of the Law on Equality must be submitted to the National Assembly in 2024.<sup>2</sup>

Thus, the Ministry of Justice, after circulating the Draft Law on Equality (the Draft Law) among all relevant stakeholders and collecting all comments on the Draft Law as a result of large scale

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<sup>2</sup> Reference document: [DH-DD\(2023\)411](#)



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public discussions, including with NGOs, finalised the text of the Draft Law and submitted for the final adoption.

As a general note, the Draft Law is aimed at defining the list of protected characteristics on which discrimination can be based, concept of discrimination and its types, subjects, and mechanisms for ensuring equality before the law, as well as the status, objectives, and activities of the Equality Council.

The Government of the Republic of Armenia will further update the Committee of Ministers on the adoption of the Draft Law, as well as final regulatory framework.

Additionally, there is an initiative to amend the Code on Administrative Offences and classify hate speech as an administrative offence and establishes administrative liability for it.

***[CM] “welcomed the new elements introduced in the criminal legislation which allow an adequate criminal law response to homophobic hate crimes, invited the authorities to provide information on their practical application, including examples of criminal cases in which homophobic motives were investigated and taken into consideration when determining sanctions, as well as to provide statistical data on the number of complaints submitted on hate crimes and hate speech on SOGI grounds, the number of investigations initiated, the number of cases sent to court and their outcome”***

The new Criminal Code stipulates Article 264, which criminalizes the act of destroying or damaging property, explicitly defines as an aggravating circumstance the motive of “hatred, intolerance or animosity caused by racial, national, ethnic or social origin, religion, political or other views or other circumstances of a personal or social nature. In addition, Article 203 provide a provision of criminal liability for discrimination.

According to data from General Prosecutor’s Office, from July 2022 (after the implementation of the new Criminal Code of the Republic of Armenia) until July 2024, 2 criminal proceedings have been initiated under Article 203 of the Criminal Code of the Republic of Armenia, in which discrimination was determined on the basis of religious beliefs. In case of Article 71 (1) § 6, from July 2022 until July 2024, the aggravating circumstance stipulating in the abovementioned paragraph of the Criminal Code was mentioned in 3 protocols for initiating criminal proceedings. In one of the mentioned criminal proceedings, sexual orientation or gender identity was taken as another personal circumstance. The Criminal proceeding has been initiated under Article 194 (1) and Article 195 (2) §10 of the RA Criminal Code for both physical and psychiatric pressure. In this case number of investigative measures had been undertaken, including questioning the victim



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and witnesses, ordering forensic examination and examining the crime scene. A preliminary investigation is ongoing.

***[CM] “welcomed further the readiness of the authorities to implement at the domestic level the Council of Europe guidelines on policing hate crimes and their plan to elaborate guidelines on the investigation of discrimination and hate speech, and encouraged them to take full advantage of cooperation possibilities with the Council of Europe in this field;”***

It is worth mentioning that currently Manual on Policing Hate Crime against LGBTI persons: Training for a Professional Police Response<sup>3</sup> and Manual for Police Education on Equality and Non-discrimination are translated into Armenian and are in the process of publishing. With the cooperation between CoE Office in Yerevan and the Government it is aimed to further add the translated guideline in the curriculum of Educational Complex of the Ministry of Internal Affairs.

***[CM] “encouraged further the authorities to continue taking determined action to raise awareness about discrimination and prejudice experienced by LGBTI persons, as well as conducting general and specialist training for law enforcement and criminal justice practitioners on issues related to effective investigation of hate crimes and needs of victims;”***

Awareness-rising campaigns and trainings are a crucial part of the execution of the *Oganezova* judgement helping to address the issues identified in the judgment.

As part of the local project "Promoting equality and non-discrimination in Armenia"<sup>4</sup> co-funded by the European Union/Council of Europe programme “Partnership for Good Governance” and implemented by the Council of Europe, several initiatives were carried out to enhance the expertise of Armenian police officers regarding international standards on non-discrimination and equality and introducing them with viable mechanisms to address hate motivated crimes, including on the SOGI grounds. Notably, five Armenian police officers participated in a Peer-to-Peer exchange in Skopje, North Macedonia, from 19-21 June 2024<sup>5</sup>, significantly improving their skills in

<sup>3</sup> More details on the Manual are available through the following link:

<https://edoc.coe.int/en/lgbt/7405-policing-hate-crime-against-lgbti-persons-training-for-a-professional-police-response.html>

<sup>4</sup> More details on the Project are available through the following link:

<https://www.coe.int/en/web/yerevan/promoting-equality-and-non-discrimination-in-armenia>

<sup>5</sup> More details on the Peer-to-Peer exchange are available through the following link:

[https://www.coe.int/en/web/yerevan/promoting-equality-and-non-discrimination-in-armenia/-/asset\\_publisher/XF08xdU0eu7P/content/strengthening-police-and-civil-society-collaboration-to-combat-racism-in-the-eastern-partnership-and-western-balkan-countries?\\_com\\_liferay\\_asset\\_publisher\\_web\\_portlet\\_AssetPublisherPortlet\\_INSTANCE\\_XF08xdU0eu7P\\_assetEn](https://www.coe.int/en/web/yerevan/promoting-equality-and-non-discrimination-in-armenia/-/asset_publisher/XF08xdU0eu7P/content/strengthening-police-and-civil-society-collaboration-to-combat-racism-in-the-eastern-partnership-and-western-balkan-countries?_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_XF08xdU0eu7P_assetEn)

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identifying and addressing hate-motivated crimes. During the exchange, they had the opportunity to learn best practices from colleagues in North Macedonia, Serbia, and Georgia.

Additionally, on 27 and 28 June 2024, 25 Armenian police officers completed a capacity-building training course<sup>6</sup> aimed at strengthening their ability to respond to hate-motivated crimes. During the sessions, participants learnt about the best practices from the Republic of Moldova and Montenegro on combating hate motivated crimes and on engaging with the CSOs for the better protection of the vulnerable communities. In this second phase of the training, participants deepened their understanding of how to identify and investigate hate crimes, while also learning about key Council of Europe and other European standards and recommendations in the field of non-discrimination and equality. In the meantime, two manuals on police education regarding equality and non-discrimination were translated, with the final publication expected by the end of 2024.

The second phase of this training was organised on 26-27 September, 2024<sup>7</sup>. Within the sessions several important topics were discussed, including execution of the *Oganezova* judgment,

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<sup>6</sup> More details on the training are available through the following link:

[https://www.coe.int/en/web/yerevan/promoting-equality-and-non-discrimination-in-armenia/-/asset\\_publisher/XF08xdU0eu7P/content/armenian-police-officers-trained-on-equality-and-non-discrimination?\\_com\\_liferay\\_asset\\_publisher\\_web\\_portlet\\_AssetPublisherPortlet\\_INSTANCE\\_XF08xdU0eu7P\\_assetEntryId=270322418&\\_com\\_liferay\\_asset\\_publisher\\_web\\_portlet\\_AssetPublisherPortlet\\_INSTANCE\\_XF08xdU0eu7P\\_redirect=https%3A%2F%2Fwww.coe.int%2Fen%2Fweb%2Fyerevan%2Fpromoting-equality-and-non-discrimination-in-armenia%3Fp\\_id%3Dcom\\_liferay\\_asset\\_publisher\\_web\\_portlet\\_AssetPublisherPortlet\\_INSTANCE\\_XF08xdU0eu7P%26p\\_p\\_lifecycle%3D0%26p\\_p\\_state%3Dnormal%26p\\_p\\_mode%3Dview%26\\_com\\_liferay\\_asset\\_publisher\\_web\\_portlet\\_AssetPublisherPortlet\\_INSTANCE\\_XF08xdU0eu7P\\_cur%3D0%26p\\_r\\_p\\_resetCur%3Dfalse%26\\_com\\_liferay\\_asset\\_publisher\\_web\\_portlet\\_AssetPublisherPortlet\\_INSTANCE\\_XF08xdU0eu7P\\_assetEntryId%3D270322418%23p\\_com\\_liferay\\_asset\\_publisher\\_web\\_portlet\\_AssetPublisherPortlet\\_INSTANCE\\_XF08xdU0eu7P#p\\_com\\_liferay\\_asset\\_publisher\\_web\\_portlet\\_AssetPublisherPortlet\\_INSTANCE\\_XF08xdU0eu7P](https://www.coe.int/en/web/yerevan/promoting-equality-and-non-discrimination-in-armenia/-/asset_publisher/XF08xdU0eu7P/content/armenian-police-officers-trained-on-equality-and-non-discrimination?_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_XF08xdU0eu7P_assetEntryId=270322418&_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_XF08xdU0eu7P_redirect=https%3A%2F%2Fwww.coe.int%2Fen%2Fweb%2Fyerevan%2Fpromoting-equality-and-non-discrimination-in-armenia%3Fp_id%3Dcom_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_XF08xdU0eu7P%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_XF08xdU0eu7P_cur%3D0%26p_r_p_resetCur%3Dfalse%26_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_XF08xdU0eu7P_assetEntryId%3D270322418%23p_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_XF08xdU0eu7P#p_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_XF08xdU0eu7P)

<sup>7</sup> More details on the training are available through the following link:

[https://www.coe.int/en/web/yerevan/news/-/asset\\_publisher/UINPvpZUDPS7/content/equality-and-non-discrimination-training-session-for-armenian-police-officers?\\_com\\_liferay\\_asset\\_publisher\\_web\\_portlet\\_AssetPublisherPortlet\\_INSTANCE\\_UINPvpZUDPS7\\_assetEntryId=272938614&\\_com\\_liferay\\_asset\\_publisher\\_web\\_portlet\\_AssetPublisherPortlet\\_INSTANCE\\_UINPvpZUDPS7\\_redirect=https%3A%2F%2Fwww.coe.int%2Fhy%2Fweb%2Fyerevan%2Fnews%3Fp\\_id%3Dcom\\_liferay\\_asset\\_publisher\\_web\\_portlet\\_AssetPublisherPortlet\\_INSTANCE\\_UINPvpZUDPS7%26p\\_p\\_lifecycle%3D0%26p\\_p\\_state%3Dnormal%26p\\_p\\_mode%3Dview%26\\_com\\_liferay\\_asset\\_publisher\\_web\\_portlet\\_AssetPublisherPortlet\\_INSTANCE\\_UINPvpZUDPS7\\_cur%3D0%26p\\_r\\_p\\_resetCur%3Dfalse%26\\_com\\_liferay\\_asset\\_publisher\\_web\\_portlet](https://www.coe.int/en/web/yerevan/news/-/asset_publisher/UINPvpZUDPS7/content/equality-and-non-discrimination-training-session-for-armenian-police-officers?_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_UINPvpZUDPS7_assetEntryId=272938614&_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_UINPvpZUDPS7_redirect=https%3A%2F%2Fwww.coe.int%2Fhy%2Fweb%2Fyerevan%2Fnews%3Fp_id%3Dcom_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_UINPvpZUDPS7%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_UINPvpZUDPS7_cur%3D0%26p_r_p_resetCur%3Dfalse%26_com_liferay_asset_publisher_web_portlet)



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identification and investigation of hate crime, European best practices to combat hate-motivated crimes, anti-discrimination legislative framework, respectful and non-discriminatory treatment of victims, community engagement and anti-discrimination policy as a whole.

Raising awareness is currently in the spotlight, given its vital importance. The Council of Europe and the United Nations Development Programme, in cooperation with the Government, are taking appropriate measures to produce informative posters and videos, which are set to be released by the end of 2024. The Government will also keep the Committee of Ministers informed about any relevant developments.

**STATE OF EXECUTION**

The Government will keep the Committee of Ministers duly informed of any further developments concerning the execution of this case.