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Meeting: 1514th meeting (December 2024) (DH)

Item reference: Action Plan (18/11/2024)

Communication from Armenia concerning the group of cases of VIRABYAN v. Armenia (Application No. 40094/05)

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Réunion : 1514^e réunion (décembre 2024) (DH)

Référence du point : Plan d'action (18/11/2024)

Communication de l'Arménie concernant le groupe d'affaires VIRABYAN c. Arménie (requête n° 40094/05)
(anglais uniquement)



DH-DD(2024)1340: Communication from Armenia.

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18 NOV. 2024

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

**THE GOVERNMENT OF THE REPUBLIC OF ARMENIA
UPDATED ACTION PLAN CONCERNING VIRABYAN GROUP OF CASES**

Supervised under the enhanced procedure

Office of the Representative on International Legal Matters
18 November 2024

**OFFICE OF THE PRIME MINISTER****OFFICE OF THE REPRESENTATIVE ON INTERNATIONAL LEGAL MATTERS****1. GROUP MEMBERS**

N	Case	Application number	Final judgment date	Status
1.	Virabyan v. Armenia	40094/05	02/01/2013	Pending
2.	Nalbandyan v. Armenia	9935/06	30/06/2015	Pending
3.	Gulyan v. Armenia	11244/12	20/12/2018	Pending
4.	Davtyan v. Armenia	54261/13	01/03/2022	Pending
5.	Davtyan v. Armenia	30779/13	01/03/2022	Pending
6.	Arsenyan v Armenia	45197/14	31/01/2023	Pending
7.	Vardanyan and Khalafyan v. Armenia	2265/12	08/02/2023	Pending
8.	Yengibaryan and Simonyan v Armenia	2186/12	20/09/2023	Pending

2. CASE DESCRIPTION

The *Virabyan group of cases* concerns ill-treatment, torture or death in police custody, that occurred in the period from 1999 to 2013, and lack of effective investigations in this respect (substantial and procedural violations of Articles 2 and 3).

In the *Virabyan* case the Court also found, under Articles 3 and 14 of the Convention that the authorities failed to investigate any political motives underlying the applicant's ill-treatment and the circumstances of his arrest, including inconsistencies and other elements pointing to political motives.

In the *Nalbandyan* case the Court found violations of Article 6 §§ 1 and 3(c) of the Convention in that the hearings in July and August 2005 before both the Regional Court and the Court of Appeal were held in an atmosphere of constant threats and verbal and physical abuse that was directed at the applicants, their family members and lawyers. The Court of Cassation acted with excessive formalism and lacked due diligence in refusing to admit the appeal filed by the lawyer, which resulted in a disproportionate limitation on the first applicant's access to that court.

This group also concerns the authorities' failure to comply with their obligation to minimise the risk of loss of life and to demonstrate sufficient consideration for the pre-eminence of the right to life in the planning and control of police operation.



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3. STATUS OF EXECUTION

Previous examination: The Committee of Ministers last examined the execution of this group of cases during its 1492nd DH meeting in March 2024, where adopted a decision¹ that stipulates as follows:

“The Deputies

1. recalled that these cases concern mainly substantive and procedural violations of Articles 2 and 3 of the Convention on account of ill-treatment, torture or death in police custody and the lack of effective investigations into these incidents.

As regards individual measures

(...) 3. reiterated its call to the authorities to rapidly complete the pending investigations in Nalbandyan and Gulyan cases and keep the Committee informed of their progress and results, as well as on the outcome of the applicants’ representatives reopening requests in the Davtyan (No. [30779/13](#)), Davtyan (No. [54261/13](#)), Arsenyan and Vardanyan and Khalafyan cases, once again highlighting the importance of avoiding, as far as possible, prescription or the loss of evidence due to the passage of time;

4. in the case of Yengibaryan and Simonyan, invited the authorities to clarify whether the competent authorities considered ex officio the possibility of reopening the investigation into the death of Mr Yengibaryan; (...)

As regards general measures

6. encouraged the authorities to continue promoting the “zero-tolerance” policy among all the police officers; invited the authorities to provide updated statistical data on the investigation of ill-treatment cases;

7. requested the authorities to provide information on the following:

- measures taken to enhance the institutional capacity of the Investigative Committee, including on the relevant training and capacity building activities;*
- progress in creation of the envisaged anonymous referral mechanism for complaints about alleged ill-treatment;*
- development of recommendations and forms for documenting and reporting ill-treatment in police custody;*
- measures taken to ensure that police operations are conducted in a manner compliant with the authorities’ obligation to minimise the risk of loss of life;*
- comprehensive information on police reform, in context of the general measures taken within this group of cases;(...)”*

¹ Reference document: CM/Del/Dec(2024)1492/H46-1



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The Government hereby provide the Committee of Ministers with the updated information with regard to the individual/general measures carried out in the course of execution of the cases of the present group for the December 2024 CM-DH 1514 meeting.

4. INDIVIDUAL MEASURES

Payment of just satisfaction

The amount of just satisfaction was paid within the deadline in all the cases of the group. The just satisfaction forms have been submitted to the Just Satisfaction Unit of the Department for the Execution of Judgments of the European Court.

Examination status

1) Virabyan v. Armenia

It should be recalled that in the last examination the Committee noted the extensive measures taken by the authorities to achieve redress through the reopening of the investigation into the ill-treatment of Mr. Virabyan including of any political motives. Those proceedings resulted in the conviction of two police officers in 2019 for abuse of power accompanied by violence against Mr Virabyan, although without imposing a penalty (the translated decision of the Court of Cassation dated 22 December 2023 is attached). In view of the final decision of the Court of Cassation in this regard, the Committee noted that no further individual measures are necessary².

2) Nalbandyan v. Armenia

3) Gulyan v. Armenia

As a general note, it is worth highlighting that in 2021 a new Criminal Procedure Codes (hereinafter referred to as “CPC”) was adopted that among the others sets a high standard for termination of criminal cases, mainly aimed at fight the misuse of such institutes by the investigative authorities. This amendment was aimed at increasing the effectiveness and speediness of investigative activities of mainly ongoing cases.

Noting that material time of cases at issue are 1999-2013 and up to 25 years have passed since then and acknowledging that initial investigation of these cases were corrupted with loose of evidentiary basis, for the investigative authorities it is almost impossible to guarantee the effectiveness of reopened investigation. Thus, it is impossible to apply the high standard of CPC mentioned above for these cases.

At the current stage although the investigations are technically ongoing on the domestic level, the investigative authorities have reached a point where all available avenues of getting new evidences have been explored or exhausted leading them to so called a “passive preliminary investigation phase”. As a result, the Government of Armenia faces difficulties to update the Committee of Ministers each time on the progress of investigations at issue.

² Reference document: <https://hudoc.exec.coe.int/?i=CM/Notes/1492/H46-01E>



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Considering that these cases are in the phase of “passive investigation”, meaning that no investigative activities are ongoing and not feasible, the **Government kindly invites the Committee of Minister to close the supervision of *Nalbandyan v. Armenia* and *Gulyan v. Armenia* cases** (Statement of information for both cases is attached).

4) *Davtyan v. Armenia (no. 54261/13 and 18361/16)*

On 14 September 2022 the Court of Cassation adopted the decision accepting the appeal of defense attorney regarding the review of the judicial act on the ground of new circumstances concerning the criminal case against the applicant (violation of Article 6).

On 1 September 2023 the Court of Cassation upheld the appeal. After reviewing its 19 September 2015 and 7 November 2019 decisions, the Court of Cassation, reversed the judicial acts of the lower courts and transferred the proceedings to the First Instance Court for a new examination. Following the decision, Samvel Davtyan was immediately released.

As for the proceeding related to the ill-treatment (violation of Article 3), the Prosecutor General’s Office applied *ex officio* for the reopening of the proceedings related to the ill-treatment. On 18 December 2023 the Court of Cassation dismissed the appeal on the ground of submitting appeal after the deadline

Thus, no other procedural avenues exist at the domestic level to ensure effective investigation into the applicant’s ill-treatment or offer him other means of redress.

Hence, the Government kindly invites the Committee of Minister to close the supervision of the instant case in that respect.

5) *Davtyan v. Armenia (no. 30779/13)*

On 11 November 2022 the Court of Cassation adopted the decision accepting the appeal of defense attorney regarding the review of the judicial act on the ground of new circumstances. The decision of the Court of Cassation was reviewed and the investigative authority was instructed to address the violations of Arman Simonyan (Davtyan) rights.

6) *Arsenyan v. Armenia*

On 31 August 2023 the Court of Cassation adopted the decision accepting the appeal regarding the review of the judicial act on the ground of new circumstances.

On 22 December 2023, the Court of Cassation reversed the judicial acts of the lower courts and transferred the proceedings to the First Instance Court for a new examination.

7) *Vardanyan and Khalafyan v. Armenia*

On 26 May 2023 the Court of Cassation adopted the decision accepting the appeal regarding the review of the judicial act on the ground of new circumstances.



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On 16 April 2024 the Court of Cassation reversed the judicial acts of the lower courts and transferred the proceedings to the Anti-Corruption Court for a new examination.

8) Yengibaryan and Simonyan v. Armenia

The applicants did not apply for the reopening of the case. In this regard it is worth highlighting that the Prosecutor's Office considered ex officio the possibility of reopening the investigation into the death of Mr. Yengibaryan. However, the criminal case was instituted and examined by the Special Investigation Service of the Republic of Armenia under Article 107 (murder by exceeding the limits of the means necessary to catch a person who has committed a crime) of the former Criminal Code (hereinafter referred to as "CC")³, which following from the provisions of Article 83 § 9 of the CC of the Republic of Armenia presently in force, was not included in the list of crimes for which the statutes of limitations do not apply.

Therefore, the investigation remains not feasible, to reopen or resume it, even in the case of re-opening and re-examination of the case, it will not be possible to subject any person to criminal liability on the basis of the fact that their prosecution would become time-barred.

Hence, the Government kindly invites the Committee of Minister to close the supervision of the instant case.

GENERAL MEASURES

Introductory notes

For the purpose of effective execution of Virabyan group of cases the Government of Armenia carried out wide range of general measures which have already been comprehensively presented in the context of previous Action Plans. However, prior to presenting the developments carried out from the previous CM meeting, the Government of the Republic of Armenia would like to wrap up all the major activities carried out throughout these period for the execution of Virabyan group of cases, which are, *inter alia*, the following:

1. The Virabyan group of cases prompted a significant reform in the field of preventing ill-treatment. As a result, starting in 2014, the Republic of Armenia adopted a "zero-tolerance" policy towards ill-treatment and initiated various substantive and procedural measures aimed at addressing the issue comprehensively.
2. The new Criminal and Criminal Procedure Codes were adopted, that bring the statutory and procedural aspects of investigation of allegation on ill-treatment cases to a qualitatively new level. This development provides for the reboot of the criminal justice system of the Republic of Armenia completely in line with the international requirements and European standards.

³ Article 160 (murder by exceeding the limits of the means necessary to catch a person who has committed unlawful encroachment) of the new Criminal Code.



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3. The definition of torture, fully compliant with the UN and European standards, as well as an express ban on pardoning/amnesty and applying statute of limitation for acts of torture was introduced in the Armenian criminal legislation.
4. As mentioned in the Action Plan dated 12.01.2022, the new CC remains in full conformity with Article 1 of the UNCAT, recognizing the purposive element of the crime, as well as ensuring that the penalty for this crime is proportionate to the gravity of the act of torture according to Article 4 of the UNCAT. The new CC goes even further by prescribing 3 levels of penalty according to the aggravating circumstances set out by the Article 450.
5. Moreover, Article 450 § 2 (1) of the CC (Torture) stipulates an aggravating circumstance for the act committed against a person, his close relative or relative, in connection with the performance of his state, political, service, professional or public activity or duty by that person. This demonstrates that any plausible allegations of discriminatory motives for ill-treatment, including politically motivated grounds are being considered by the investigative bodies.
6. The whole institutional framework for investigation into allegations of ill-treatment was amended. In the newly adopted CPC the initiation of criminal proceedings has undergone substantial reform and now holds a fundamentally new significance. It represents a notable departure from the previous system, which commenced with the preparatory phase of so called “material collection”. The underlying principle of the new legislation is that initiating criminal proceedings should be the norm, with non-initiation being the exception. The new CPC adopted a human rights based approach, according to which the threshold of initiating an investigation of alleged ill-treatment is unprecedentedly low, even an oral statement could be a ground for initiating an investigation and only after some activities the authorities filter the ill-founded allegations. Although this measure increased the number of initiated criminal cases, however this is an important procedural safeguard and another step ahead in the “zero-tolerance” policy of Armenia.⁴
7. The Special Investigative Service was disbanded in 2021. With the enforcement of a new CPC on 1 July 2022, the responsibility to investigate criminal cases on torture was transferred to the Investigative Committee, but the function of preliminary investigation into crimes (including torture) committed by the officials of the Investigative Committee was assigned to the Anti-Corruption Committee.
8. The new CPC stipulates the minimum rights of the arrested person, which can be considered as a fundamental safeguard against any form of ill-treatment. It is worth to mention that the minimum rights granted to the arrested person prescribed in the Article 110 of the CPC are totally in conformity

⁴ More details were presented in the Action Report concerning cases *Mehrabyan v. Armenia* (no. 247/11, final on 19/03/2020), *Derenik Mkrtchyan and Gayane Mkrtchyan v. Armenia* (no. 69736/12, final on 28/02/2022), Reference document: [https://hudoc.exec.coe.int/?i=DH-DD\(2024\)965E](https://hudoc.exec.coe.int/?i=DH-DD(2024)965E).



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with the standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “CPT”).

9. Article 214 § 3 of the CPC provides that all the investigative actions, i.e. questionings, of the present code are to be audio and video recorded, with the exception of objective impossibility. The Article goes further to describe the procedure of conducting the video recording, establishing that the

investigative action should be video recorded from the starting point to the end with no interruptions. If for objective reasons the video recording was interrupted, the investigative action will also be stopped and the causes are to be described in a separate minutes. The CPC prescribes that the video recording cannot be edited in any way. The carrier of the video recording is attached to the minutes, thus making it accessible to the person or their representative.

10. The Committee of Ministers noted with satisfaction the new provision in the Code of Criminal Procedure placing an obligation on investigative authorities to conduct video recording of investigative actions as well as installing audio and video surveillance in the entry and exit points of police stations.⁵

11. On 18 December 2021 by the Prime Minister’s Decision No. 1443-N an Interagency Committee has been established, which among its various duties, will oversee the implementation and execution of ECHR judgments. The Interagency Committee seeks to generally guarantee the organization and implementation of the activities resulting from the obligations assumed by the European Convention on Human Rights. In this regard, during 2022 and 2023 several working meetings and sessions⁶ were organised aimed at the implementation of individual and general measures of the *Virabyan* group of cases. The results of the meeting will be presented below.

Developments from the previous examination of the case (CM 1492nd DH meeting of March 2024)

[CM] “encouraged the authorities to continue promoting the “zero-tolerance” policy among all the police officers; invited the authorities to provide updated statistical data on the investigation of ill-treatment cases;”

⁵ Reference document: CM/Notes/1428/H46-3.

⁶ On 11-12 May 2023 a high-level delegation of the Interagency Committee of Armenia for oversight over the execution of the ECtHR judgments made a visit to Strasbourg. More details are available through the following link: https://www.coe.int/en/web/yerevan/support-to-the-effective-execution-of-the-judgments-of-the-european-court-of-human-rights-in-armenia/-/asset_publisher/Utd3tOxp8d0/content/visit-of-a-high-level-delegation-of-the-interagency-committee-of-the-republic-of-armenia-for-oversight-over-the-execution-of-the-european-court-of-human-rights-judgments.

On 23 February 2024 Session of Interagency Committee of the Republic of Armenia for oversight over the execution of the European Court of Human Rights judgments was held. More details are available through the following link: <https://ril.am/en/events-en/session-of-interagency-committee-of-the-republic-of-armenia-for-oversight-over-the-execution-of-the-european-court-of-human-rights-judgments-ecthr-was-held/>.



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Taking into account the policy of “zero-tolerance” among all police officers adopted by the Government, the Internal Security and Anti-Corruption Department under the Ministry of Internal Affairs has been established to investigate and take disciplinary measures in cases of torture and other forms of violence.

In the course of 2024 (as of 23 September 2024), 47 disciplinary investigations were carried out in the internal security and anti-corruption department of the RA Ministry of Internal Affairs, of which:

- According to the results of 10, no factual data was obtained regarding the use of violence and torture by police officers, so its results were left without consequences,
- The process of 37 was suspended until the final legal acts of the initiated criminal proceedings enter into legal force.

In the course of 2023, 150 official investigations and examinations were carried out in the internal security and anti-corruption department of the RA Ministry of Internal Affairs and the competent police units, of which:

- According to the results of 58, no factual data was obtained regarding the use of violence and torture by police officers, so their results were left without consequences.
- the process of 92 official investigations was suspended until the final procedural acts of the initiated criminal proceedings entered into legal force.

As for the information regarding the statistical data *on the investigation of ill-treatment cases*, it should be mentioned that as a result of institutional set up and new procedural mechanisms (i.e. SIS was disbanded, low threshold of initiating an investigation was introduced), the relevant information is requested from the Prosecutor’s Office, that provides a unified statistic.

According to information from the Prosecutor General’s Office, in 2023, 507 criminal proceedings involving allegations of torture were investigated, with 106 of these cases being terminated and 5 sent to court.⁷ In 2022, 340 criminal proceedings related to torture were investigated, of which 90 were terminated, and 1 case was sent to court.⁸

Statistics of the previous years were presented in the Action Plan regarding *Muradyan* group of cases⁹.

The studies carried out by the Prosecutor General’s Office show that the large difference in the quantity of dismissed proceedings compared to proceedings sent to court is mainly due to the fact that the threshold of initiating an investigation of alleged ill-treatment is unprecedentedly low. Even an oral statement could be a ground for initiating an investigation and only after some activities the authorities

⁷ Annual report 2023 of the Prosecutor General's Office, page 36

https://www.prosecutor.am/storage/dynamic_web_pages/dyn_page_285_1465690793.pdf.

⁸ Annual report 2022 of the Prosecutor General’s Office, page 93

https://www.prosecutor.am/storage/dynamic_web_pages/rep_50_8560351818.pdf

⁹ Reference document:

[https://hudoc.exec.coe.int/#/{%22fulltext%22:\[%22muradyan%22\],%22display%22:\[2\],%22execidentifier%22:\[%22DH-DD\(2023\)1242E%22\],%22execdocumenttypecollection%22:\[%22CEC%22\]}](https://hudoc.exec.coe.int/#/{%22fulltext%22:[%22muradyan%22],%22display%22:[2],%22execidentifier%22:[%22DH-DD(2023)1242E%22],%22execdocumenttypecollection%22:[%22CEC%22]})



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filter the ill-founded allegations. Thus, the alleged high level of discontinued cases has an objective and legitimate ground.

Another aspect justifying the high number of terminated cases is due to the fact that individuals who have committed a crime often file numerous applications and complaints to defend themselves against accusations or to retaliate against those conducting the investigation. In such cases, perjury proceedings are initiated.

[CM] “requested the authorities to provide information on the measures taken to enhance the institutional capacity of the Investigative Committee, including on the relevant training and capacity building activities;”

First and foremost, it is important to highlight that in 2022, the Republic of Armenia took a significant step toward enhancing its mechanisms for investigating cases of torture and abuse of power by officials. Specifically, a new department was established within the Investigative Committee, dedicated to the investigation of such crimes. This department, composed of eight specialized positions, was created to ensure more focused and thorough investigations into instances where officials may have committed acts of torture or used violence while exceeding their official powers.

This initiative is also aimed at ensuring that investigations into crimes of torture or abuse of power are conducted with a higher level of scrutiny, expertise, and resources, leading to a greater chance of bringing those responsible to justice.

It is important to highlight that according to Article 36 of the Law On the Investigative Committee of the Republic of Armenia, persons holding autonomous positions in the Committee, with the exception of the Chairman of the Committee and his deputies, are obliged to undergo training at least once every 2 years, which is carried out by the Academy of Justice in accordance with the law.

The courses related to the investigation of torture proceedings by the Committee's Qualification Commission decision on 01 June 2023 were included in the 2023 training program for autonomous positions (investigators). In particular, the following courses were included:

1. Criminal characteristics of torture and features of investigation

The course includes the criminal-legal characteristics of torture, the features of qualification, the issues of demarcation from related crimes, the specifics of the methodology of investigating cases of torture, as well as the issues of documenting traces of torture and ill-treatment in accordance with the standards of the Istanbul Protocol, ECHR practice on torture, etc.

2. Effective investigation of torture, ill-treatment and deaths in the armed forces.

The Course includes the nature of an effective investigation into ill-treatment, European standards of human rights related to ill-treatment, effective examination in that context, International best practice



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for conducting an effective investigation into ill-treatment in the context of the armed forces, ECHR case law on European human rights standards on ill-treatment.

In 2023, 168 investigators and 57 chief representatives were trained in the abovementioned trainings.

In addition to mandatory trainings, in 2023 the Academy of Justice organized series of additional training for the investigators in cooperation with international and national counterparts. Namely,

- 1) In cooperation with Raoul Wallenberg Institute for Human Rights and Humanitarian Law in 2023 a workshop was organized on the practical implementation of the guide on the Element of Severe Pain in the Definition of Torture.
- 2) On 23 and 30 April the CoE in coordination with the Justice Academy organised training seminars for 42 investigators on effective investigation of ill-treatment cases in the light of the national legislation and practice, as well as ECtHR case-law. It aimed at discussing the issues deriving from the *Virabyan* group of cases that concerns ill-treatment, torture in police custody and lack of effective investigations in this respect (substantial and procedural violations of Article 3 of the ECHR)¹⁰.

[CM] “requested the authorities to provide information on

- progress in creation of the envisaged anonymous referral mechanism for complaints about alleged ill-treatment;***
- development of recommendations and forms for documenting and reporting ill-treatment in police custody;”***

Armenian Government pays particular attention on the putting in place effective internal and external complaint mechanisms.

This is explicitly vivid from the newly adopted National Human Rights Strategy and its 2023-2025 Action Plan (hereinafter referred to as “HRAP”) provides for a number of measures aimed at prevention of torture within separate Chapter 2. The strategic aim is, *inter alia*, to ensure the absolute

¹⁰ Support to the effective execution of the judgments of the European Court of Human Rights in Armenia
https://www.coe.int/en/web/yerevan/support-to-the-effective-execution-of-the-judgments-of-the-european-court-of-human-rights-in-armenia/-/asset_publisher/Utd3tlOxp8d0/content/council-of-europe-provides-continues-training-for-investigators-of-armenia?_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_Utd3tlOxp8d0_assetEntryId=267142114&_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_Utd3tlOxp8d0_redirect=https%3A%2F%2Fwww.coe.int%2Fen%2Fweb%2Fyerevan%2Fsupport-to-the-effective-execution-of-the-judgments-of-the-european-court-of-human-rights-in-armenia%3Fp_p_id%3Dcom_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_Utd3tlOxp8d0%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_Utd3tlOxp8d0_cur%3D0%26p_r_p_resetCur%3Dfalse%26_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_Utd3tlOxp8d0_assetEntryId%3D267142114%23p_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_Utd3tlOxp8d0#p_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_Utd3tlOxp8d0



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realization of the right to be free from torture and other cruel, inhuman or degrading treatment or punishment in penitentiary institutions.

In Armenia, a complex mechanism has been implemented and is under continuous development to address cases of ill-treatment, ensuring that both internal and external complaint mechanisms are in place. This system is designed to provide comprehensive avenues for addressing grievances, ensuring transparency, accountability, and adherence to human rights standards in response to complaints of abuse or mistreatment.

Installing locked complaint boxes accessible to complainants in appropriate locations: In order to effectively protect the rights of persons deprived of liberty, the order of the head of the Penitentiary Service dated October 2, 2019 No. 5-L established a confidential (confidential) postal procedure for receiving applications, complaints and suggestions sent by persons detained in penitentiary institutions. In addition, special boxes with quadrilingual (Armenian, Russian, English and Persian) inscriptions were placed, with the help of which the applications and recommendations of the detained persons are sent to the addressees.

According to the order, it was ordered to place the application boxes in the high security zone and medium security zone of detention centers or prisons, as well as in places where detained persons are kept, on the promenade or on the most convenient part of the road leading to the promenade, in a place protected from bad weather conditions. In other penitentiary institutions, place the boxes inside the common accommodation, buildings intended for the detention of persons deprived of their liberty, if possible near the entrance door of the accommodation.

Responsible persons have been appointed to open the boxes and deliver the applications.

Whistleblowing system: In addition, according to the Law On Whistleblowing System adopted on 9 June 2017, the whistleblower can report anonymous information through the unified electronic whistleblowing platform. Through the unified electronic platform, the Republic of Armenia, represented by the Ministry of Justice of the Republic of Armenia, guarantees the protection of the whistleblower by ensuring his anonymity. It should be noted that anonymous notification is considered one of the main guarantees of the protection of the whistleblower, as it ensures the confidence of the whistleblowers in terms of the protection of their personal data, considering that they are not known either to third parties or to competent state authorities.

This procedure provides opportunity to report both on the police and penitentiary systems.

Documenting and reporting of ill-treatment: It should also be noted that in 2021 the procedure of filling and monitoring of the protocol form for the medical examination of the alleged torture or other forms of ill-treatment was introduced by the Government Decree. Moreover, the Minister of Justice adopted the form of the medical examination protocol form related to torture or other forms of ill-



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treatment and the guidelines for compiling the medical examination protocol related to torture or other forms of ill-treatment. In particular, if the physical injury found as a result of the medical examination or the complaint regarding the state of health, according to the statement of the detained person or the convicted person, is the result of any act containing features of a crime against him (or) having the nature of torture, then the doctor conducting the medical examination after completing the protocol and signing the relevant documents immediately sends the original report to the competent investigative body, notifying the Prosecutor General's Office about it in writing, and sends a copy of the report to the director of the Penitentiary Medical Center of the Ministry of Health.

If there are grounds for verification of the report, the Prosecutor General's Office sends the report in documentary form to the body carrying out operative-investigative activities. Moreover, the report is subject to verification in accordance with the Law On Operative-Investigative Activity, if the information presented in the report is sufficiently substantiated, refers to a specific official or body and contains data that can be verified. An employee responsible for internal and external whistleblowing has been appointed in the penitentiary system, and the whistleblowing system is functioning without interruption.

This mechanism has already demonstrated significant effectiveness within the penitentiary system. As a result of its success in this context, the Armenian government is now actively extending this mechanism to police units, with the goal of ensuring that similar standards of accountability and transparency are maintained.

The legal relations between the administration of the Police Units and the persons deprived of liberty are regulated by the Government's decision No. 574-N of June 5, 2008 "On approving the internal regulation of places of detention of detainees operating in the police system of the Republic of Armenia". In particular, unlike in the past, when a doctor was called whenever there was a sign of bodily injury, currently when someone is brought to a police detention facility, an ambulance is called and the person deprived of liberty is examined by a doctor who also describes any injuries that the person may have. This is a step forward in the combat against torture in police detention facilities. Furthermore, as an additional safeguard it is important to highlight that patrol police officers use body cameras whenever they carry out an apprehension.

In addition to the existing regulations, currently amendments are circulated in the Law On Holding Arrested and Detained Persons. Namely the Draft Law envisages specific regulations on the procedure of medical examination and proper documentation of alleged torture claims of arrestees and detainees. Moreover, the Draft provide legal basis for adopting form of the medical examination related to alleged cases of torture or other forms of ill-treatment and Guideline on developing form of the medical examination related to alleged cases of torture or other forms of ill-treatment by the ambulance service. The Form and Guideline will be adopted by the joint order of Ministers of Internal Affairs and Health (The Draft Form and Guideline are attached). The Draft Law also stipulates a direct obligation for the medical staff to immediately report on the alleged torture cases to the investigative



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bodies guaranteeing the confidential referral mechanism of the temples, which can be considered yet another step ahead in the establishment of effective and complex mechanism of unanimous referral of complaints for arrested and detained persons.

[CM] “requested the authorities to provide information on the following measures taken to ensure that police operations are conducted in a manner compliant with the authorities’ obligation to minimise the risk of loss of life;”

On 24 October 2024 the Law on Police Guard was adopted at the National Assembly of Armenia.

The Law stipulates several regulations on the police operations that are presented below:

1. Detailed and clear regulation of cases, grounds and proportionality conditions for the use of force by police officers: physical force, special means, firearms and combat equipment. In this context, taking into account the importance of the legality and proportionality of the use of force, the law exhaustively lists the types of force to be used, presents the cases or situations of their use, provides the general criteria for the selection of force and the special conditions for the use of each of them.

In addition, the duties and rights of the police guard officer in connection with the use of force measures, as well as the guarantees of protection of the rights and legitimate interests of persons subject to or subject to the influence of force measures, have been established.

2. The main directions of preparation and training of police guards were defined. The main directions of preparation and training of police guard officers will be directly determined by the functions of this police structure and the content of the powers of its officers. According to that, police officers, within the framework of preparation and training, among other things, must master the ethical principles of communicating with citizens during mass events, the skills of establishing psychological contact and conducting negotiations, the content of fundamental human rights, including those directly related to the implementation of their functions, and the bases of their lawful limitation, the European principles and standards regarding the use and limitations of force, the tactical skills of properly maintaining public order during mass events, the skills of proportionate and professional use of force and special means, arrest on the basis of immediately arising reasonable suspicion, conducting a personal search accompanying it, as well as the ability to draw up appropriate protocols, the procedural and organizational features of ensuring the protection of the scene.

More detail will be presented in the framework of execution of Mushegh Saghatelyan group of cases.

[CM] “requested the authorities to provide comprehensive information on police reform, in context of the general measures taken within this group of cases;”



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The new police reform strategy and 2024-2026 action plan was adopted on 15 November 2024 by the Government.

In particular, the new police reform strategy and 2024-2026 action plan envisages 9th direction titled “Sensitive issues of human rights protection”, targeted the proper protection of human rights and freedoms within the framework of the Police Service, according to which the implementation and achievement of the following measures in the field of guaranteeing the rights of persons deprived of their freedom and preventing ill-treatment are planned as follows:

- To develop a completely new draft of the Law on Holding Arrested and Detained Persons, ensuring its full compliance with international standards, as well as carrying out training of law enforcement personnel.
- To Introduce a mechanism for recording alleged cases of ill-treatment of persons deprived of their liberty, in line with the Istanbul protocol. In the context of the event, development of an evaluation report on improving the capacities of the Ministry of Internal Affairs in relation to the recording of cases of alleged ill-treatment of persons deprived of their liberty will be carried out, and based on it, the form for recording the alleged case of ill-treatment and the guidelines for its completion will be approved.
- To equip all police units (departments, police stations) with a unified video surveillance system in a phased manner, which should at least include video surveillance of entrances, exits and all common areas, with centralized storage of video footage within clearly defined periods.
- To acquire vehicles providing necessary conditions for transportation of persons deprived of liberty.
- To ensure provision of written notices of the rights of the arrested persons in a language they understand. Moreover, it is planned to translate the notice of rights into 10 languages.
- To train relevant police officers on torture and other forms of ill-treatment. Moreover, in the context of the process, a special methodology will be developed and implemented to evaluate the quality of trainings and courses on the UN Convention against Torture and the Istanbul Protocol, to ensure that the thematic courses are based on the needs of the target groups;
- To review order of the Chief of Police “On approving the order of activities of the group of public observers at the places of detention of the arrested persons of the Police System of the Republic of Armenia” and based on that to draft “Formation and public control of the group of public observers exercising public control at the places of detention of the arrested persons of the Ministry of Internal Affairs and the center of temporary accommodation of asylum seekers of the Minister of Internal Affairs”. It is noteworthy that the members of the groups of public observers formed by the new procedure will also be trained.

CPT Report

The CPT made positive records in a number of directions. According to the CPT Report of 13 November 2024, most of the persons interviewed by the delegation, who were or had recently been in police custody, stated that they had been treated correctly by the police. While referring to the legal safeguards against ill-treatment (information on rights, notification of custody, access to a lawyer and to a doctor), the delegation’s preliminary findings suggest that the situation has generally improved as



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compared to the 2019 periodic visit. This is, no doubt, at least in part due to the entry into force of the new Criminal Procedure Code (2022)¹¹.

Ongoing cooperation projects

The following projects are implemented by the Council of Europe Office in Yerevan that positively affect the execution of *Virabyan* group of cases:

1. Strengthening the Protection of the Rights of Persons in Detention

In the framework of the Council of Europe project “Strengthening the Protection of the Rights of Persons in Detention,” which is implemented as part of the Council of Europe Action Plan for Armenia 2023-2026, the new working plan was presented. Particularly, according to respective working plan one of the main achievements of the Project should be the development of recommendations and forms regarding the documentation and reporting of cases of ill-treatment of persons detained by the police. Furthermore, the medical staff responsible for documenting injuries should be trained to document injuries of inmates and those in police custody.

Thus, in the framework of the project the following activities, *inter alia*, were implemented:

- On June 2024 a workshop focusing on the documentation of alleged ill-treatment cases in police detention facilities was organised. The aim of the workshop was to align Armenia's practices with international standards, ensuring that every sign of alleged ill-treatment is meticulously recorded and investigated. The workshop's agenda was comprehensive and built around international standards in the documentation of alleged ill-treatment cases. Experts and participants discussed the protocols and best practices that should be adopted to ensure thorough and transparent documentation¹².

In addition, the Council of Europe consultants presented specific recommendations for establishing an effective system to document such cases within police detention facilities. They proposed to create an independent and transparent mechanism that would systematically record and address allegations of ill-treatment. By adopting international standards and implementing a structured documentation system Armenia aims to strengthen its human rights framework for the protection of individuals in police custody from any form of ill-treatment.

¹¹ Reference document: <https://rm.coe.int/1680aeb3f7>

¹² More details are available through the following link: https://www.coe.int/en/web/yerevan/strengthening-the-protection-of-the-rights-of-persons-in-detention/-/asset_publisher/3KegHqTjgqtf/content/workshop-in-yerevan-addresses-ill-treatment-documentation-issues-in-police-detention-facilities?_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_3KegHqTjgqtf_assetEntryId=268417408&_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_3KegHqTjgqtf_redirect=https%3A%2F%2Fwww.coe.int%2Fen%2Fweb%2Fyerevan%2Fstrengthening-the-protection-of-the-rights-of-persons-in-detention%3Fp_p_id%3Dcom_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_3KegHqTjgqtf%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_3KegHqTjgqtf_cur%3D0%26p_r_p_resetCur%3Dfalse%26_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_3KegHqTjgqtf_assetEntryId%3D268417408%23p_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_3KegHqTjgqtf#p_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_3KegHqTjgqtf



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2. Support to the Effective Execution of the Judgments of the European Court of Human Rights in Armenia

In the framework of the project the following activities, *inter alia*, were implemented:

- On 24 and 25 January 2024 a workshop with the participation of 35 stakeholders, including judges and judicial experts of the Court of Cassation and staff of the Office of the Representative of Armenia on International Legal Matters was organized on practical aspects of reopening of cases at the domestic level following ECtHR judgments and decisions¹³.
- On 23 and 30 April 2024 the CoE in coordination with the Justice Academy organised training seminars for 42 investigators on effective investigation of ill-treatment cases in the light of the national legislation and practice, as well as ECtHR case-law. It aimed at discussing the issues deriving from *Virabyan v. Armenia* group of cases that concerns ill-treatment, torture in police custody and lack of effective investigations in this respect (substantial and procedural violations of Article 3 of the ECHR)¹⁴.

New communications

Currently 3 cases are communicated, material time of which are relevantly old and cannot reflect anyhow the prescribed and ongoing reforms made in the field. The cases are as follows that are as follows, *Zakaryan v. Armenia* (48147/16, material time of the case – 2016), *Gevorgyan v. Armenia* (429/15, material time of the case – 2011), *Sargsyan and others v. Armenia* (47131/15, material time of the case - 2012).

¹³ More details are available through the following link: https://www.coe.int/en/web/yerevan/support-to-the-effective-execution-of-the-judgments-of-the-european-court-of-human-rights-in-armenia/-/asset_publisher/UtD3tIOxp8d0/content/practical-aspects-of-reopening-of-cases-at-the-domestic-level-following-ecthr-judgments-and-decisions?_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_UtD3tIOxp8d0_assetEntryId=264082904&_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_UtD3tIOxp8d0_redirect=https%3A%2F%2Fwww.coe.int%2Fen%2Fweb%2Fyerevan%2Fsupport-to-the-effective-execution-of-the-judgments-of-the-european-court-of-human-rights-in-armenia%3Fp_p_id%3Dcom_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_UtD3tIOxp8d0%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_UtD3tIOxp8d0_cur%3D0%26p_r_p_resetCur%3Dfalse%26_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_UtD3tIOxp8d0_assetEntryId%3D264082904%23p_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_UtD3tIOxp8d0#p_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_UtD3tIOxp8d0.

¹⁴ More details are available through the following https://www.coe.int/en/web/yerevan/support-to-the-effective-execution-of-the-judgments-of-the-european-court-of-human-rights-in-armenia/-/asset_publisher/UtD3tIOxp8d0/content/council-of-europe-provides-continues-training-for-investigators-of-armenia?_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_UtD3tIOxp8d0_assetEntryId=267142114&_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_UtD3tIOxp8d0_redirect=https%3A%2F%2Fwww.coe.int%2Fen%2Fweb%2Fyerevan%2Fsupport-to-the-effective-execution-of-the-judgments-of-the-european-court-of-human-rights-in-armenia%3Fp_p_id%3Dcom_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_UtD3tIOxp8d0%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_UtD3tIOxp8d0_cur%3D0%26p_r_p_resetCur%3Dfalse%26_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_UtD3tIOxp8d0_assetEntryId%3D267142114%23p_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_UtD3tIOxp8d0#p_com_liferay_asset_publisher_web_portlet_AssetPublisherPortlet_INSTANCE_UtD3tIOxp8d0.



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CONCLUSION

In conclusion, it is evident that the Armenian Government has embarked on a comprehensive and ongoing reform initiative aimed at improving the system for combating and investigating cases of ill-treatment. The substantive and institutional frameworks for investigating allegations of ill-treatment cases have undergone significant updates, reflecting Armenia's commitment to aligning its practices with international human rights standards. Given the substantial progress made, particularly in the completion of institutional and legislative reforms, taking into consideration that the case of Virabyan was closed as regards individual measures, as well as considering the Committee of Minister's previous practice¹⁵, the Government kindly invites the Committee of Ministers to reconsider the name of the instant group of cases thus highlighting that the outstanding issues reflected in the Virabyan case have been resolved. Finally, the Government kindly invites the Committee of Minister to close the supervision of the *Nalbandyan v. Armenia*, *Gulyan v. Armenia*, *Davtyan v. Armenia* (no.54261/13), *Yengibaryan and Simonyan v. Armenia* cases.

¹⁵ Reference document: [CM/Del/Dec\(2024\)1501/H46-2](#)