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Response

of the Armenian Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Armenia

from 15 to 17 March 2008

The Armenian Government has requested the publication of this response. The report of the CPT on its March 2008 visit to Armenia is set out in document CPT/Inf (2010) 7.

Strasbourg, 19 March 2010

Note:
In accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, certain names have been deleted.

The comments of the Government of the Republic of Armenia on the report presented by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter Report) on its visit to Armenia from 15 to 17 March, 2008 are stated below by areas.

The institutions under the jurisdiction of the Police under the Government of the Republic of Armenia

Concerning the 2nd part of the paragraph 14 of the Report

"A" by the notification he was invited to the Marash Police subdivision on the 4th of March, 2008, where he accepted the fact of his being in the area of the City Hall and of his participation in the mass disorder on the 1st of March. After the keeping several minutes in the subdivision, "*A"* was transferred to the Kentron Police division, from where he was transferred to the Special Investigation Service, where he was arrested.

"A" was not ill-treated, dirty-mouthed or illegally acted by anybody in the mentioned police subdivisions.

Concerning the ill-treatment, particularly hitting near the eye, by the policeman against *"A",* please be informed that according to the letter on the same question addressed to the Head of Police of the Republic of Armenia by the Ombudsman of Armenia, there was passed examinations and was established that the citizen "*A"* against whom was instituted a criminal proceedings-case according to the 2nd part of the Article 225 of the Criminal Code of the Republic of Armenia and the case was transferred to the court, declared that the injury on the right eyebrow he has got in the area of the City Hall before being invited to the police, which is confirmed with his signature in the protocol on transferring in detention area for the arrested persons.

Concerning the paragraph 15 of the Report

The police haven't received any application on actions of torture, beating or degrading dignity by police officers from the detained persons, their lawyers or legal representatives in relation to the post-election events during the eight months of 2008.

Concerning the paragraph 16 of the Report

According to the 5-C Instruction of the Head of Police from 05.06.2007 in police is being occurred centralized registration of official examination results on torture, violence or beating of persons was forcible appeared in police subdivisions or detained persons.

Concerning the 4th part of the paragraph 18 of the Report

During the operation on 1 March 2008 the police, in particular, police troops used the following special means from their gunsmith fixed by the law - rubber truncheons, tear gas, light and sound measures for drawing away attention, water cannons, as well as rubber bullet cartridges. In general was used 191 rubber bullet cartridges. Fire-arms shooting rubber bullet ammunitions are considered to be "special means'' for active defense. Those are "KC-23" special fire-arm and a tape of gun, named "Kornet".

Concerning the instructions and training for use of rubber bullets by law enforcement, in the 2nd point of the general principal rules of the "Basic principles of the usage of the force and fire-arms by the law enforcement officials" appendix adopted at the 8th Congress of the UN about the treatment with offenders and crime prevention is mentioned that the governments and law enforcement bodies... are working as far as possible wide gunsmith of means and providing of public order officials with the variety of fire-arm and ammunitions which will give opportunity to use force and fire-arm differential. Among them are projecting non death but rending harmless weapons, which will be used in proper situation aiming to narrow the sphere of the using means that can hurt or cause death.

According to above mentioned rules the Police found expedient to use rubber bullet ammunitions against armed offenders, who attack the police troops. By the way, according to the information of the police, on events of March 1st and 2nd of this year rubber bullet ammunitions did not cause death.

Now training is going on courses in the police troops on rules of using of special means for active defense, and on March 1st of this year those means were given to the most experienced employees.

Concerning the 6th part of the paragraph 21 of the Report

The results of examination of the events of 1st March and the legal value of the event can be given only after finishing of the criminal proceedings on that events.

Concerning the 2nd part of the paragraph 25 of the Report

The whole regulation of this question is given in the 15th Article of the law of the RA "On keeping of detained and arrested persons", where in the 3rd paragraph is mentioned that "Detained or arrested person or defender of the detained or arrested person in case of his /her/ consent are allowed to hold forensic medical examination".

Concerning the paragraph 27 of the Report

There was no information in the Police concerning the hinder of the employees of the Ombudsmen's office to visit the detained persons in the Police departments.

Offers, remarks and anxieties brought in the report, were investigated and discussed in the Police. We assure that there were given proper attention to them and in the future while continuing reforms the Police of the RA will pay attention to all these questions.

The institutions under the jurisdiction of the Ministry of Justice of the Republic of Armenia

Concerning the paragraph 24 of the Report

The working group established by the Ministry of Justice and Bar Association by the assistance of OSCE and Association of American Lawyers is implementing works for improvement of the Law of the Republic of Armenia "On Advocacy". So, the problems brought up by CPT regarding to "making of the system of legal aid truly effective" in the process of elaboration of amendments to the law would be also discussed.

Concerning the paragraph 30 of the Report

Concerning to the right of outdoor exercises in Place of detention of the Ministry of Justice "Nubarashen", it should be mentioned that according to the internal rule of places of detention of the Criminal Executive Services of the Ministry of Justice of the Republic of Armenia the discipline set by the director of the prison, the prisoners have a right for one hour outdoor walking from which 15 minutes for exercises per day.

Besides, it should be mentioned that according to the Article 91 of Criminal Executive Code of Armenia currently they start the process of establishing cultural, religious, and sport communities of the prisoners in the prisons. The Criminal Executive Department of the Ministry of Justice of the Republic of Armenia organizes a series of sport activities, such as soccer, cheese, tennis and etc, to develop the active procedures of the prisoners.

As regards Place of detention of the Ministry of Justice "Yerevan-Kentron", the Criminal Executive Department takes measures to repair all the cells and shower facilities and to improve the establishment's exercise yards.

The institutions under the jurisdiction of the National Security Service under the Government of the Republic of Armenia

Concerning the 4th part of the paragraph 18 of the Report

During the events mentioned in the report, the units of the National Security Service of the Republic of Armenia did not carry out activities connected with the protection of public order and did not use "special means". It is necessary also to mention, that National Security Service stuff during the implementation of its functions is always duly executes the provisions of national legislation and requirements to the Republic of Armenia under international treaties.

Concerning the paragraphs 23, 24 and 25 of the Report

After the apprehension of a person the official who had carried out that activity always took and conducted the corresponding measures on the notification of his relatives about the given fact within 12 hours as provided for by the law, by drawing up the corresponding protocol which had been attached to the materials of the criminal case.

The right of detained persons to defense, to the carrying-out of their forensic-medical or of any other type of examinations was ensured. In such cases the corresponding protocols had always been drawn up, which were attached to the materials of the criminal case.

The officials of the National Security Service of the Republic of Armenia undeviatingly ensured the implementation of the rights of the detained persons to get medical care and of their other rights, particularly the ensuring of the process to have a lawyer.

Concerning the 2nd part of the paragraphf 28 of the Report

National Security Service of the Republic of Armenia will take into consideration the recommendation of CPT concerning the 7 m^2 cell, which should preferably be used for single occupancy.

The institutions under the jurisdiction of the Prosecutor General's Office of the Republic of Armenia

Concerning the paragraph 11 of the Report

Concerning the detention time-limit by the police more than 72 hours in regard with persons detained regarding to events of 1 March 2008 in some cases and their late transfer to pre-trial establishments we want to inform, that terms for detention prescribed by the Criminal Procedure Code of the Republic of Armenia had not violated. In regard with detained persons within the time-limit prescribed by the law in accordance with decisions of appropriate courts were constituted apprehensions or other procedural preventive measure.

It is possible, that in some cases after the decision of the court on detention the persons was remanded in places for apprehended persons because of necessary and immediate investigative procedures or reception and preparation of required documents for their transfer to custody, as well as because of other technical reasons.

Nevertheless, the recommendation of CPT is taken into consideration and the corresponding instructions in this occasion were given.

Concerning the paragraphs 12, 13 and 14 of the Report

All recorded information concerning the torture and other forms of physical ill-treatment in respect of persons who had been detained by law enforcement officers have generalized character, the place and grade of ill-treatment had not indicated. By the investigation had found out that the above-mentioned wounds they had received during and because of participation in mass disorders.

During the initial investigation illegal or degrading methods had not been used.

Some accused and suspected persons directly or by their lawyers had applied climes during the initial investigation, alleging that they had been physically ill-treated at the time of their apprehension by police officers. These climes had duly investigated, in case of necessity the corresponding examinations had executed, but the facts of ill-treatment by concrete police officer had not been confirmed.

Concerning the paragraph 13 of the Report, in regard with *"A"* the necessary investigation had conducted on results of which the public also had been informed.

Based on a number of obtained evidences in result of conducted initial investigation, as well as based on the videotape reflecting the events of 1 March 2008, had confirmed, that "*A"* had participated in the beating of the head of Division of Criminal Investigations of Gugarq Section of the Police of the Republic of Armenia.

"A" had given a testimony that he was appeared near of the territory of Yerevan municipality by accident. Then he had stand mute and his lawyer solicited the judges that his client alleged, that some persons in civilian attire had beaten him on which the newsletters of opposition had written as well.

In this occasion the expertise was immediately appointed, the investigation had conducted and had found out, that suspect *"A"* alleged at time of reception in police detention place, that the scratch on his right eyebrow he had received near the Yeravan municipality before his apprehension. Besides, the protocol conducted by officers of the place of detention on the fact of this wound and notification about it, he had approved by his signature.

In accordance with the conclusion of forensic medical examination that wound on right eyebrow of *"A"* is not containing the characters of the little damage to his health.

It is essential, that "*A"* only during the last phase of judicial inquiry, i.e more than five months after his apprehension had "remembered" and alleged who had beaten him.

In general, the allegations on ill-treatment and other illegal methods implemented during the investigation aimed to save himself or his relative from liability.

Another instance:

During the judicial inquiry of criminal case on "*B"* the witness "*C"* in his climes dated on 12 July 2008 to high-ranking authorities such as the President of the Republic of Armenia, the Attorney General of the Republic of Armenia and others, informed that during his apprehension on 2 March 2008 and after it, as well as in time of supplying an explanation and testifying he had been ill-treated, under influence of which officers had got a testimony. But, during his interrogation in regard with these climes *"C"* had given the self-disclaim testimonies, alleging that not during the taking of explanations, nor testifying he had never been violated or ill-treated. He had just wrote these from dictation of police officers, because they had beaten him in time of his apprehension.

With the purpose of checking up these facts had been testified the officers of the Head Department of Combating Organized Crime of Police of the Republic of Armenia "*D"* and *"E"* conducted the deprivation of "*C"*, as well as investigator of the crime investigation group, "*F",* who had conducted the questioning. They all had refuted the fact of any type of violence in respect of him, as well as the circumstances of illegal method of taking the explanation or questioning. The same they had reiterated during the one-to-one questioning.

The witness by the same case, "*G",* during the judicial inquiry renouncing of his testimonies of initial investigation, had alleged that he had never been questioned and had never gave any testimony and existing writing testimonies by his name is not his hand. Based on application of the prosecutor by the court the forensic examination had appointed. Based on the conclusion of which there were found out that in given protocols for examination on 20 May 2008 and 10 June 2008 the notes in writing and the signatures were done by him.

There were many incidents of influence on witnesses by interested persons. During the initial investigation by illegal influence on witness "*H"* were made many attempts force to renounce from his testimony of initial investigation, because of which the court had used means of protection in regard with him.

Concerning 3rd part of the paragraph 15 and the last part of the paragraph 21 of the Report

By the examination of the Report had been found out that no clime was received on any violation or ill-treatment by police officers in the Prosecutor General's Office, by the persons in criminal executing facilities of the Ministry of Justice "Nubarashen", "Vardashen" and "Yerevan-Kentron" detained in regard with disorders of 1 March. Besides, the initial investigation concerning events of 1 March 2008 is in progress, in the process of which the subject of investigation are the activities of police officers and their lawfulness, too.

Based on complete and versatile results of the investigation the legal estimation will be given to their activities without fail, for which the recommendations and comments indicated in this Report will be taken into consideration as well.

Concerning the paragraph 23 of the Report

During the initial investigation all detained persons had informed on reasons of their deprivation of liberty, as well as on their rights at the very outset of police custody, on which there were mentioned in protocols. The questioning as a suspect had started after completion of all these procedures. Moreover, by the examination of personal cases of detained persons had found out that staff of the Criminal Executing Facilities had informed in written parents or relatives of the detained persons about the center of their location.

Concerning the paragraph 24 of the Report

Concerning the effective apply of the access to a lawyer for persons deprived of their liberty we want to inform, that no one had violated of the right to have a lawyer and there were no problems with involving the lawyers in the case.

Concerning the part 2 of the paragraph 25 of the Report

The body of investigation precludes the possibility of not providing of forensic medical examination results to detained persons.

In order prescribed by the Criminal Procedure Code of the Republic of Armenia the occused and aggrieved persons as well as their lawyers and representatives were leaned the results of the examinations. Even, if the results of forensic medical examinations had not been provided to the examined person, after the completion of the initial investigation of criminal case, all the data concerning the criminal case had provided them and their lawyers, in numbr of which there were forensic medical examination results. So, in any way, the persons deprived of their liberty had been received and learnt the results of forensic medical examination.

What is about the request for a new forensic medical examination: persons deprived of their liberty still in phase of initial investigation had been duly informed about their rights, as well as on right to apply for appointment of forensic examinations.

Both persons deprived of their liberty and any other national of the country in order prescribed by the Armenian legislation in case of providing sufficient grounds can request for examination, as well as duly investigation in this occasion.

Concerning the paragraph 27 of the Report

By the examination concerning the above-mentioned point of the Report were found out that staff of the Office of the Human Rights Defender and representatives of monitoring group had not allowed to interview deprived persons, because the grant of visits had been prohibited by decision of the body of criminal case investigation and they had not received the consent of the initial investigation body beforehand. In the sequel the ban had removed and the above-mentioned persons had allowed interviewing the persons deprived of their liberty.