COUNCIL OF EUROPE CONSEIL DE L'EUROPE

CPT/Inf (2010) 7

Report

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

from 15 to 17 March 2008

The Armenian Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2010) 8.

Strasbourg, 19 March 2010

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Copy of the letter transmitting the CPT's report

Permanent Representation of Armenia
to the Council of Europe
40 allée de la Robertsau
67000 Strasbourg

Strasbourg, 22 July 2008

Dear Sirs

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Armenian Government drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) after its visit to Armenia from 15 to 17 March 2008. The report was adopted by the CPT at its 66th meeting, held from 7 to 11 July 2008.

The various recommendations, comments and requests for information formulated by the CPT are listed in Appendix I. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Armenian authorities to provide **within three months** a response giving a full account of action taken to implement them.

The CPT trusts that it will also be possible for the Armenian authorities to provide, in the requested response, reactions to the comments formulated in this report which are listed in Appendix I as well as replies to the requests for information made.

The CPT would ask, in the event of the response being forwarded in the Armenian language, that it be accompanied by an English or French translation. It would be most helpful if the Armenian authorities could provide a copy of the response in a computer-readable form.

I am at your entire disposal if you have any questions concerning either the CPT's visit report or the future procedure.

Yours faithfully

Mauro PALMA
President of the European Committee for
the prevention of torture and inhuman
or degrading treatment or punishment

Copy: Mr Nikolay ARUSTAMYAN, Deputy Minister of Justice

I. INTRODUCTION

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT visited Armenia from 15 to 17 March 2008. The visit was one which appeared to the Committee "to be required in the circumstances" (cf. Article 7, paragraph 1, of the Convention), and was the fourth visit to Armenia to be carried out by the CPT.[1]

2. The visit was carried out by the following members of the CPT:

- Marc NEVE (Head of delegation)
- Ivan JANKOVIC
- George TUGUSHI

who were supported by Petya NESTOROVA (Head of Division) of the CPT's Secretariat.

They were assisted by:

- Derrick POUNDER, Professor of forensic medicine, University of Dundee, United Kingdom (expert)
- Artashes DARBINYAN (interpreter)
- Anahit MESROPIAN (interpreter)
- Levon SHAHZADEYAN (interpreter).

3. The main purpose of the visit was to examine the treatment of persons detained in relation to events which followed the Presidential election of 19 February 2008. In the aftermath of the election, on 1 March 2008, a police operation took place aimed at dispersing opposition rallies in Yerevan. The CPT subsequently received numerous reports from various sources according to which dozens of persons had been arrested in the course of and following that operation, hundreds had been injured and a number had been killed as a result of the violent clashes between the police and demonstrators. According to those reports, law enforcement officials frequently used excessive force at the time of apprehension, and concern was expressed about the fate of those taken into detention. The declaration of a state of emergency by the President of Armenia in the late evening of 1 March 2008, for a period of 20 days, which introduced, inter alia, restrictions on the media and temporarily suspended certain activities of political parties and NGOs, also provoked fears of an information vacuum.

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[1] The reports on the three previous visits, in 2002, 2004 and 2006, have been made public at the request of the Armenian authorities, together with their responses (see CPT/Inf (2004) 25, CPT/Inf (2004) 26, CPT/Inf (2004) 27, CPT/Inf (2006) 38, CPT/Inf (2006) 39, CPT/Inf (2007) 47 and CPT/Inf (2007) 48).

By letter of 5 March 2008, the CPT invoked Rule 30 (1) of its Rules of Procedure[2] and requested the Armenian authorities to provide a full list of the persons detained in connection with the events of 1 March 2008, with an indication of the establishments in which they were being held, and information on the state of health of each of the persons concerned, including any injuries which they may have sustained. The CPT also asked for information on the persons who had died in the course of the above-mentioned events and on any inquiries initiated into these deaths.

4. By letter of 11 March 2008, the Armenian authorities provided the requested information. According to it, as of 10 March 2008, 53 persons detained in connection with the events of 1 March 2008 had been remanded in custody, and 16 were still being detained by the police. It was stated that all the detained persons were in good health and had not sustained any injuries. According to the Prosecutor General's office, the detention measure had been used exclusively in respect of organisers of rallies in violation of the prescribed order and persons who had taken actions aimed at seizing power and who had used violence against representatives of law-enforcement bodies. All the detained persons were being prosecuted for criminal offences under the Armenian Criminal Code. Further, it was indicated that eight persons (including one police officer) had died as a result of the events of 1 March 2008.[3] In addition, an official account of the events of 1 and 2 March 2008 was provided.

Further information was provided by letter of 13 March 2008, including a list of persons detained as a result of the events of 1 March 2008. According to that list, as of 9 March 2008, a total of 73 persons had been remanded in custody; of them, 50 were being held at Nubarashen, 14 at Yerevan-Kentron, 7 at Vardashen, and 2 at Vanadzor Prisons. An additional 8 persons had been detained before 1 March (two of them on 24 February 2008, for resistance against law-enforcement staff, and six on 26 February, for the illegal possession of arms). Further, it was stated that those persons who had participated in the mass disturbances and had suffered bodily injuries had been treated at health institutions; detailed information on these injuries was available at the prisons where they had undergone an obligatory medical examination upon admission. It was also stressed that no unacceptable methods had been used against persons detained during their interrogation; in particular, none of them had been tortured or treated in an inhuman or degrading manner.

5. The information provided by the Armenian authorities failed to remove the Committee's concerns. Indeed, in the meantime, the CPT continued to receive disturbing reports from different sources regarding the treatment of persons remanded in custody on charges related to the post-election events.

In the light of the above, the Committee decided that a delegation should visit Armenia in order to obtain information on the spot as regards the situation of persons detained in connection with the post-election events and the use of force during the police operation on 1 March 2008.

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2 Rule 30 (1) reads as follows: "Before deciding on a particular visit, the Committee or, if appropriate, the Bureau may request information or explanations as regards the general situation in the State concerned, as regards a given place, or as regards an isolated case concerning which it has received reports."

3 At the time of drafting this report, the number of persons who died as a result of injuries received in the course of the disturbances on 1 March 2008 has reached 10 (including 2 police officers).

6. In the course of the visit, the CPT's delegation visited the following places of detention with a view to interviewing persons detained on charges related to the post-election events:

Prisons

- Nubarashen Prison
- Vardashen Prison
- Yerevan-Kentron Prison

Police establishments

- Holding Centre of Yerevan City Police Department
- Main Department for Combating Organised Crime, Yerevan
- Kentron District Police Division, Yerevan

National Security Service establishments

- Temporary holding facility of the National Security Service, Yerevan.

7. During the visit, the CPT's delegation held consultations with Gevork DANIELYAN, Minister of Justice, Ararat MAHTESYAN, First Deputy Head of Police, Aram TAMAZYAN, Deputy Prosecutor General, Shota VARDANYAN, Director of the Republican Centre of Forensic Medicine, and Armen HARUTYUNYAN, Human Rights Defender. The delegation also met with representatives of non-governmental organisations active in the CPT's areas of interest and with defence lawyers representing some of the persons detained in relation to the post-election events.

A list of the national authorities and organisations consulted during the visit is set out in Appendix II to this report.

8. The co-operation extended by the Armenian authorities during the visit was of a very high standard. Further, the Committee's delegation received a very satisfactory reception from the management and staff of the establishments visited. There were no problems in gaining access to any of these establishments, and the delegation was able to speak in private with persons deprived of their liberty and could consult the necessary documentation, in compliance with the provisions of the Convention.

The CPT wishes to express its appreciation for the assistance provided to its delegation by the liaison officer designated by the national authorities, Mr Nikolay ARUSTAMYAN, Deputy Minister of Justice, and to all the other officials who took steps to facilitate the visit. The manner in which this was done is particularly commendable in view of the short notice at which the visit took place.

9. Shortly before the CPT's visit, the Commissioner for Human Rights of the Council of Europe, Thomas HAMMARBERG, carried out a special mission to Armenia; the report on his mission, containing a series of recommendations, was published on 20 March 2008.[4] The Council of Europe AGO Monitoring Group also visited Armenia, from 29 March to 2 April 2008, and subsequently made a number of proposals to the Armenian authorities. Further, on 17 April 2008, the Parliamentary Assembly of the Council of Europe adopted Resolution 1609 (2008) on the functioning of democratic institutions of Armenia. While drawing up this report, the CPT has taken note of all of the previously-mentioned documents, as well as the Armenian authorities' reactions of to them and the updated information provided.

[4] See document CommDH(2008)11.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

1. Preliminary remarks

10. On the basis of the list provided by the Armenian authorities (see paragraph 4), the delegation carried out individual interviews with most of the persons remanded in custody on charges related to the post-election events, who were being held at Nubarashen, Vardashen and Yerevan-Kentron Prisons (some 70 people). It also interviewed several persons detained at the Temporary holding facility of the National Security Service and the Holding Centre of Yerevan City Police Department.

The group that was interviewed included both persons detained in the course of the disturbances on 1 March 2008 (approximately half of those interviewed) and persons arrested later, between 2 and 15 March, as well as a few persons detained after the elections but prior to 1 March.

Practically all the persons who had been remanded in custody (for an initial period of two months) were charged with offences under Sections 225 (organisation and participation in mass disorders), 300 (usurping state power), 301 (public calls for changing the constitutional order by force) or 316 (violence against a public official) of the Criminal Code. However, the delegation also met certain persons charged with other offences, namely under Section 176 (robbery), Section 235 (illegal procurement, transportation or carrying of weapons, ammunition or explosive devices), Section 308 (abuse of official authority) and Section 334 (concealment of crime).

In the course of the CPT's visit, the number of persons detained and charged with involvement in the post-election events continued to grow; according to information provided by the Prosecutor General's Office, on 17 March 2008 there were 105 persons remanded in custody.

11. It should be recalled that a criminal suspect may be detained by the police on their own authority for a maximum of 72 hours. Recent amendments to the Code of Criminal Procedure (CCP) have made it clear that the time-limit of 72 hours starts to run as from the moment of *de facto* apprehension and that the protocol of detention should be drawn up within 3 hours of apprehension. Within the 72-hour time limit, the "body of inquiry" (i.e. an operational police officer) and/or an investigator must interrogate the suspect, perform any other necessary investigative acts and decide whether or not to bring criminal charges. If charges are brought, it is up to a judge to decide whether the person concerned is to be subjected to a procedural preventive measure (e.g. remand in custody, bail, etc.) or released. In principle, persons remanded in custody are transferred to pre-trial establishments under the Ministry of Justice within a maximum of 72 hours of apprehension.

It transpired during the visit that the previously-mentioned legal provisions had not always been observed in respect of persons detained in relation to the post-election events. A number of persons who had been apprehended on the morning of 1 March 2008 alleged that a protocol of detention had been drawn up in respect of them only late in the evening of that day or even the following day. Further, several persons interviewed by the delegation indicated that they had spent up to six days at different police establishments before being brought before a judge, which considerably exceeds the legally authorised duration of police custody (i.e. 72 hours). Many persons met by the delegation had apparently been transferred to a prison later than the prescribed maximum of 72 hours following apprehension (in one case, seven days after apprehension).

The above-mentioned allegations were confirmed, in some cases at least, by the documentation consulted at the establishments visited.[5] By way of example, reference might be made to the following cases:

- the entry in respect of a person who claimed to have been apprehended on 1 March 2008 at around 7 a.m. while trying to leave the Opera Square indicated that he had been detained by the police on 2 March 2008 at 3.50 p.m. and admitted to the Holding Centre of Yerevan City Police Department on 2 March 2008 at 8.10 p.m. The person in question was brought before a judge (who took a decision to remand him in custody) on 6 March and was transported to Nubarashen Prison on 7 March 2008;
- the entry in respect of another person who claimed to have been apprehended on 1 March 2008 at around 10 a.m. indicated that he had been detained by the police on 1 March 2008 at 11.55 p.m. and admitted to the Holding Centre of Yerevan City Police Department on 2 March 2008 at 3.35 a.m. The person in question was remanded in custody on 5 March and subsequently transferred to Nubarashen Prison.

The CPT reiterates the recommendation made in the 2006 visit report and calls upon the Armenian authorities to take effective measures to ensure that the legal provisions governing detention – and in particular the time-limits of police custody – are fully respected in practice. This should include measures to ensure that protocols of detention by the police refer to the exact time of apprehension.

2. Torture and other forms of physical ill-treatment

12. Practically all the persons who had been detained by law enforcement officers on 1 March 2008 alleged that they had been physically ill-treated at the time of their apprehension, even though they apparently had not offered resistance. The ill-treatment alleged consisted, in the main, of truncheon blows, kicks and punches to the body and head, and being pushed to the ground and dragged into a police vehicle. In some cases, the beating had apparently continued during transportation to police establishments and upon arrival there. According to several of the persons alleging ill-treatment, some of the law enforcement officials involved were wearing masks and did not have any form of identification on their clothing.

Further, the delegation received a few allegations of physical ill-treatment at the time of questioning by the police. The ill-treatment was described to have consisted essentially of slaps, punches, kicks and truncheon blows, and was apparently inflicted with the purpose of obtaining confessions (in particular, from persons suspected of having committed violence against law enforcement officials during the clashes on 1 March 2008) or information implicating other persons.

No allegations of physical ill-treatment were made by persons who had been apprehended at home or at work. This category concerned primarily "high-profile" detainees (e.g. members of the opposition, former State officials, etc.), all of whom indicated that they had been correctly treated by the police and National Security Service staff.

As regards the period spent in prison establishments after being remanded into custody, no complaints of physical ill-treatment were made by any of the persons interviewed.

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[5] Custody registers kept at the Holding Centre of Yerevan City Police Department, Kentron District Police Division and the Temporary holding facility of the National Security Service in Yerevan; documentation kept at Nubarashen and Yerevan-Kentron Prisons.

13. Certain of the persons who made allegations of ill-treatment were found on examination by a medical member of the delegation to display physical marks or conditions consistent with their allegations. The medical documentation consulted at the penitentiary establishments visited also contained descriptions of various injuries observed by prison doctors during the initial examination of a number of persons admitted in the two weeks preceding the delegation's visit. By way of illustration, reference might be made to the following cases:

- a person met at Nubarashen Prison indicated that he had been arrested at around 7.30 a.m. on 1 March 2008, about 200 metres from Opera Square. Following the police operation, he had left the square and was walking towards a friend's car, together with three other persons, when three police vans approached them. He alleged that the police officers surrounded them, hit them with rubber truncheons and pushed them into the vehicles whilst verbally insulting them. The beating had apparently continued once he was in the vehicle. The back of the vehicle had a bench along either side on which the police officers were sitting with the detainees on the floor between them piled on top of each other. The person in question reportedly complained about police ill-treatment to the judge before whom he was brought on 5 March, but his complaint was apparently ignored by the judge. Further, his lawyer apparently asked for a forensic medical examination which had still not been conducted. On examination by a medical member of the delegation, the person concerned displayed: swelling of the scalp in two places and in the area of the receding hairline on the left side of the head; on the left mid-shin, a healing abrasion measuring 1½ x ½ cm; on the left inner ankle, a healing bruise and abrasion measuring 2 x 1 cm; on the right inner shin, between its mid and lower third, scattered abrasions in a 5 cm line over a width of 2-3 mm;

- another person interviewed at Nubarashen Prison stated that he had been detained on 1 March 2008 at around 8 a.m. He was running away from Opera Square where he had spent the previous night when he was allegedly hit on the head from behind with a truncheon, as a result of which he fell down and received a number of truncheon blows on the head and was kicked on the legs. He apparently lost consciousness, which he regained when he was in the process of being taken into a police vehicle. The person concerned was reportedly transported to Kentron Police Station, where he spent three days, being taken during that time to a hospital for treatment. Upon his arrival at Nubarashen Prison on 7 March, he complained to the prison doctor that he had been beaten by the police, and a forensic doctor came to examine him on 9 March. On examination by a medical member of the CPT's delegation, the person in question displayed a 2 x 2 cm scabbed abrasion in the mid part of the left shin. He also had a bandage over his scalp (which the delegation member elected not to remove) and stated that he still felt pain on movement or when his scalp was touched;

- a person interviewed at Vardashen Prison indicated that on 4 March 2008, he had gone to a police station because he had been summoned there. About an hour later, he had been taken to a second police station and from there to the prosecutor's office, where he alleged that he was ill-treated by several investigators, who pushed him onto the floor into a kneeling position facing a corner of the room, ordered him to put his hands behind his back, and kicked and punched him, targeting the kidney area and the back of his head. He was apparently shown a photograph by the investigators and told that they were beating him because he had hit a police officer on 1 March. The ill-treatment had allegedly continued the following day, when a police officer had apparently hit him in the eye saying that he was the man who had beaten him. The person concerned stated that, following the beating, he had suffered a bad headache and vomited for two days. On examination, he displayed a fresh scar measuring 1 cm, surrounded by a 1½ cm swelling to the right eyebrow.

14. In the light of the information gathered during the visit, **the CPT calls upon the Armenian authorities to make it clear to all law enforcement staff that the ill-treatment of persons in their custody is illegal and will be dealt with severely in the form of criminal prosecution. Law enforcement officials should be continuously reminded, through appropriate means and at regular intervals, that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can never be any justification for striking them.**

As regards the third person referred to in paragraph 13,[6] the CPT recommends that the Armenian authorities carry out an effective investigation into his alleged ill-treatment by police officers. The Committee would like to be informed of the results of that investigation.

15. In previous visit reports**,** the CPT has stressed that judges must take appropriate action when there are indications that ill-treatment by the police may have occurred, and that all complaints of ill-treatment by police officers should be diligently examined by the competent authorities and, where appropriate, suitable penalties imposed.[7]

In their response to the 2006 visit report, the Armenian authorities confirmed that judges are under a legal obligation to institute a criminal investigation whenever a person brought before them gives evidence that he has been subjected to violence by the police. **The Committee recommends that the role of judges in such cases be the subject of discussion by the judiciary with a view to ensuring that judges are reminded of this obligation**. **Even in the absence of an express allegation of ill-treatment, the judge should request a forensic medical examination whenever there are other grounds (e.g. visible injuries, a person's general appearance or demeanour) to believe that ill-treatment may have occurred.**

The Committee also wishes to receive information on the number of complaints of ill-treatment by police officers made by persons detained in relation to the post-election events, the number of disciplinary and/or criminal proceedings instituted as a result, and any sanctions imposed.

16. In their response to the 2006 visit report, the authorities indicated that they were in the process of setting up a centralised system for the registration of complaints of ill-treatment by the police. **The CPT would like to be informed whether this system has become operational. The Committee also reiterates its request to be provided with a copy of the new Disciplinary Code of the Police.**

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6 In accordance with Article 11, paragraph 3, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the name of the person concerned has been deleted. He has been referred to as *"A"* in the response of the Armenian Government.

7 See paragraphs 17 and 18 of CPT/Inf (2007) 47.

17. In the course of the visit, the CPT's delegation had fruitful consultations with Shota VARDANYAN, Director of the Republican Centre of Forensic Medicine. On this occasion, the delegation was provided with detailed information concerning the forensic medical examinations performed on persons injured in the course of the events of 1 March 2008. According to this information, clinical examinations had been conducted on 38 civilians[8] (of whom 14 were in detention), 128 police officers[9] and 15 servicemen of the Police Troops (*Ոստիկանության զորքեր*)[10]. Forty-four requested medical examinations had still not been performed (these included 17 civilians as well as police staff). Civilians were allowed to attend the centre for forensic expertise directly, but their identity and the results of the examination had subsequently to be forwarded to the law enforcement authorities; no civilians had availed themselves of this possibility.

The delegation also had access to material (including photographs) relating to the autopsies performed on 8 persons who had died as a result of injuries received during the events of 1 March 2008.[11] They comprised:

- one police officer who had died as a result of haemorrhage from multiple shrapnel injuries caused by an explosive device such as a grenade;
- two civilians, each of whom had been killed by a single gunshot wound. In each case, a jacketed intact 9 mm bullet had been recovered from the body. The forensic experts suggested that the likely weapon was a Makarov pistol of 9 mm calibre;
- two civilians, each of whom had suffered a single gunshot wound caused by a high-velocity rifle. In one case, a jacketed 5.45 mm Spitzer intact bullet from a rifle had been recovered. In the other case, the bullet had exited the body and therefore no bullet fragments had been recovered;
- two civilians, each of whom had suffered a single wound to the back of the head, with a rounded depressed skull fracture measuring 2.8 x 2.5 cm in one case, and 2.7 x 2.5 cm in the other case. The type of injury suggests impact from a weapon such as a so-called "rubber bullet" fired at close range directly at the head, or possibly a weapon such as a tear-gas canister;
- one civilian who had suffered a low-velocity gunshot wound or a shrapnel injury from a grenade or similar weapon.

18. When met by the CPT's delegation, the First Deputy Head of Police gave an account of the police operation of 1 March 2008. According to him, the police had received intelligence information of weapons being brought to Opera Square. The police management had decided to enter the square early in the morning of 1 March and seize the weapons; 25 unarmed police officers had been sent to carry out the task. However, the people gathered in the square had reportedly reacted aggressively, using metal rods, sticks and other devices against the police. A decision had then been taken to send in a special detachment equipped with truncheons and shields (some 800-900 persons) to overcome the resistance. They had managed to clear the square of people, and had reportedly found a number of hidden weapons (including 3 handguns, 15 grenades and ammunition).

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8 Six civilians were injured by firearms, 3 by explosives, 28 by blunt force and 1 had no injuries.

9 One police officer was injured by firearms, 28 by explosives, 84 by blunt force trauma, 6 by gas, 4 had no visible injuries, and 5 had very slight blunt force injury.

10 Five were injured by explosions, 6 by blunt force and 4 from the effects of a gas called "cheryomukha" on the eyes and throat.

11 The total figure of fatalities subsequently increased to 10 (two police officers and eight civilians).

Later that day, demonstrators had started gathering around the French Embassy, building barricades, blocking streets and destroying vehicles. The police had taken a decision to block access to Republic Square, and police detachments had been sent in. The delegation was informed that an order had been issued prohibiting police officers from carrying firearms,[12] and that only one detachment had been equipped with "special means". As for the demonstrators, they had reportedly used firearms, grenades and home-made weapons to break the police ranks. Later in the evening, a special detachment of the Police Troops had been sent in to help control the situation.

The First Deputy Head of Police stressed that the operation had been handled entirely by the police and that only police detachments had taken part in it (including the Police Troops and a special purpose detachment belonging to the Main Department for Combating Organised Crime).

The CPT would like to be informed of the precise types of "special means" used by law enforcement officials during the operation on 1 March 2008. The Committee wishes to know in particular whether rubber bullets were deployed and, if so, how many rubber bullets were fired in the course of the operation. The CPT also wishes to receive information on the legislation governing the use of rubber bullets by law enforcement officials in Armenia, and the instructions and training they had received as regards the use of this ammunition.

19. In the report on its visit to Armenia in April 2004 (which examined the treatment of persons detained in the course of a police intervention for the breaking up of a demonstration during the night of 12 to 13 April 2004), the CPT recommended that the Armenian authorities develop specific training for the police, and ensure appropriate preparative arrangements, in the context of carrying out crowd control operations. In the course of such training, it should be made clear that no more force than is strictly necessary must be used. Furthermore, once apprehended persons have been brought under control, there can never be any justification for their being struck. The Committee stressed that the training should be supplemented by correct planning, strict control of the operations and proper organisation of the actions, with subsequent debriefing.

In the light of the findings from the visit in March 2008, **the CPT reiterates the above-mentioned recommendation.**

20. At the meeting with the Deputy Prosecutor General, the delegation was informed that, apart from the examinations performed by the Republican Centre of Forensic Medicine, all prison directors had been instructed to take particular care to register all injuries on new arrivals remanded in custody in relation to the disturbances of 1 March 2008. It was indicated that all injuries observed on detained persons were the result of their participation in the mass disturbances, and, in a few cases, of resisting arrest.

Further, the delegation was informed that the Prosecutor General's Office had set up a Special Task Force (composed of some 50 investigators) entrusted with the carrying-out of an investigation into the events of 1 March 2008. The investigation, supervised by the Prosecutor General's Office, would cover all aspects of the violations committed by the police and civilians. In-service inquiries were being carried out (e.g. by the police internal security service) to establish the personal responsibility of individual officers, and the results of these inquiries would be integrated in the overall investigation to establish whether the use of force was justified. At that point in time, many questions remained to be answered.

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[12] One chief of detachment apparently forgot to leave his gun and the gun was taken by demonstrators who attacked him.

21. As was stressed by the CPT's delegation at the end-of-visit meeting with the senior Armenian officials, it is essential for the investigation into the events of 1 March 2008 to meet the criteria of an effective investigation.

First, the persons responsible for carrying it out must be independent from those implicated in the events.

Second, the investigation must comply with the criterion of thoroughness. It must be capable of leading to a determination of whether the use of force by the police was legitimate, unavoidable and proportionate to the degree of danger posed by the demonstrators, how and why the persons who died were killed and others seriously wounded, and whether the evidence supports criminal charges against any individual. This requires that all reasonable steps be taken to secure evidence concerning the casualties, including, inter alia, interviewing victims, suspects and eyewitnesses, gathering forensic evidence and objectively analysing the clinical findings, and identifying the weapons used. In this context, **the CPT has strong misgivings regarding law enforcement officials wearing masks when dealing with disturbances or performing arrests; this clearly hampers the identification of potential suspects. The Committee considers that only exceptional circumstances can justify measures to conceal the identity of law enforcement officials while carrying out their duties. Where such measures are applied, appropriate safeguards must be in place in order to ensure that the officials concerned can subsequently be held accountable for their actions (e.g. by means of a clearly visible number on the uniform).**

It is axiomatic that the investigation must also be conducted in a prompt and reasonably expeditious manner.

In addition to the above-mentioned criteria for an effective investigation, there should be a sufficient element of public scrutiny of the investigation or its results, including the provision of information to the public on the state of ongoing investigations, to secure accountability in practice as well as in theory. Given the seriousness of the events of 1 March 2008, a public inquiry would be appropriate.

The CPT recommends that the investigation into the events of 1 March 2008 be conducted in accordance with the above criteria. The Committee would like to be informed of the outcome of the investigation and of the concrete measures subsequently taken.

Finally, the results of the investigation should be used to provide guidance for future police operations in terms of planning, training and police tactics in crowd-control situations.

3. Safeguards against the ill-treatment of persons deprived of their liberty

22. In the report on the visit in 2006, the CPT examined in detail the formal safeguards against ill-treatment which are offered to persons deprived of their liberty by the police (i.e. the rights of notification of custody, access to a lawyer and access to a doctor) and made a series of recommendations designed to strengthen these safeguards. The Armenian authorities have subsequently taken certain legislative and organisational measures designed to ensure that the previously-mentioned rights apply as from the very outset of deprivation of liberty.[13] Nevertheless, it became clear during the March 2008 visit that, when it comes to the operation in practice of the above-mentioned rights, the situation still leaves a great deal to be desired.

23. As regards the right of detained persons to promptly inform a relative or a third party of their deprivation of liberty, only a few persons interviewed by the delegation indicated that they had been able to do so in practice at the very outset of police custody. These were mostly "high-profile" detainees who had either been arrested at home or summoned to appear at a police establishment. As for the others, in some cases police officers had apparently phoned the family later the same day (as was evident from the fact that family members had brought food to the police station). However, a number of persons indicated that they had been denied the possibility to inform a relative of their detention for several days, and that they had subsequently learned that their families had been searching for them. In this connection, it should be noted that in the days following 1 March 2008, there were rumours about people having "disappeared". The absence of systematic notification of custody is no doubt in part responsible for the development of such rumours.

The CPT recommends that steps be taken to ensure that all detained persons effectively benefit from the right of notification of custody as from the very outset of their deprivation of liberty. The exercise of this right should be recorded in writing in a register or a form.

24. Concerning the right of access to a lawyer, it transpired from interviews that only "high-profile" detainees had been allowed to contact a lawyer as from the outset of their deprivation of liberty. As for the others, access to a lawyer had apparently been considerably delayed (e.g. by one to three days). In this connection, defence lawyers met by the delegation reported problems in having access to their clients (inter alia, because of not having been informed of their whereabouts) and delays in obtaining permission from investigators to meet their clients.

Further, several persons stated that they had themselves chosen not to have a lawyer because they did not consider *ex officio* lawyers to be independent of the police and the prosecution.

The CPT calls upon the Armenian authorities to ensure that the right of access to a lawyer for persons deprived of their liberty applies effectively as from the very outset of their deprivation of liberty by the police. Investigators should receive appropriate instructions in this regard. Further, the Committee recommends that steps be taken, in co-operation with the Bar Association, to make the system of legal aid truly effective and to ensure the independence of *ex officio* lawyers from the police and the prosecution.

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[13] See the Response of the Armenian Government to the report on the CPT's visit in 2006 (CPT/Inf (2007) 48).

25. With regard to access to a doctor, a number of detained persons who had suffered injuries in the course of the disturbances on 1 March 2008 alleged that they had been denied medical assistance for several days and had been seen by a doctor for the first time after their admission to the Holding Centre of Yerevan City Police Department or to a prison. In several cases, however, it was clear that interviewed persons had seen a doctor while in police custody and had received treatment for their injuries (in particular, by being transferred to a hospital).

Several persons indicated that they had been examined by a forensic medical doctor; however, the results of the examination had not yet been provided to them. In this connection, the CPT notes that detained persons now have the right to request, through their lawyers, a forensic medical examination. **The Committee would like to know if such a request can be made directly by persons detained by the police.**

The CPT reiterates the recommendations made in paragraph 24 of the 2006 visit report, namely that steps be taken by the Armenian authorities to ensure effective implementation in practice of the provisions concerning the right of detained persons to access a doctor, and that the existing provisions be complemented so as to make it clear that:

- **the right of access to a doctor applies as from the moment of de facto deprivation of liberty (and not only when the person is admitted to a police holding facility);**

- **all medical examinations should be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of police officers;**

- **the results of every examination, as well as any relevant statements by the detained person and the doctor's conclusions, should be formally recorded by the doctor and made available to the detainee and his lawyer;**

- **whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a detained person, the record should be systematically brought to the attention of the relevant prosecutor.**

26. During the March 2008 visit, the delegation received a copy of a decree issued by the Head of Police on 17 September 2007 with the express purpose of better informing persons detained by the police of their rights. Pursuant to this decree, all detained persons should be given an information form on rights. The form refers, inter alia, to the following rights: to notify a designated person of the fact of detention within 3 hours of arrival at police premises; to have access to a lawyer and legal aid; to give explanations in the presence of a lawyer or refuse to give explanations; to demand the exercise of these rights; and to be examined by a doctor in case of need. The form has space for the signature of the detained person to confirm having received information on these rights.

The CPT welcomes the introduction of the above-mentioned form. However, none of the persons interviewed by the delegation indicated having received a copy of it. As regards oral information on rights, the majority of detained persons interviewed by the delegation stated that it had not been provided at the stage of police custody.

The CPT recommends that the Armenian authorities take further steps to ensure that verbal information on rights is given systematically to all persons apprehended by the police, at the very outset of their deprivation of liberty. As regards the information form on rights, it should be given systematically to all detained persons as soon as they are brought into a police station, and should be available in an appropriate range of languages.

27. The inspection of places of deprivation of liberty by an independent authority can make an important contribution towards the prevention of ill-treatment of detained persons. In this connection, the delegation was informed that police establishments and prisons where persons detained in relation to the post-election events were being held had been visited, as of 3 March 2008, by staff of the Office of the Human Rights Defender and by a monitoring group comprising representatives of civil society. However, it appeared that staff of the Human Right Defender's Office had initially not been allowed to interview persons subjected to restrictions on their contacts with the outside world. **The CPT would like to receive the comments of the Armenian authorities on this matter.**

4. Conditions of detention

28. During the March 2008 visit, the CPT's delegation visited, for the first time, the Temporary holding facility of the National Security Service in Yerevan. It was a newly constructed facility, located within the compound of the National Security Service in the centre of the city and in operation since July 2007. The facility was intended for detention periods of up to 72 hours and comprised two cells: a two-person cell measuring some 7 m² and a four-person cell measuring some 17 m². The cells had good access to natural light, adequate artificial lighting and ventilation, and were clean. The equipment consisted of beds, a table, stools, sink and a semi-partitioned toilet. Further, there was a small outdoor exercise yard, a room for meeting with lawyers, a kitchen for heating and distributing food, and a shower room.

To sum up, conditions in the Temporary holding facility of the National Security Service in Yerevan were satisfactory for periods of detention of up to 72 hours; however, **given its size, the 7 m² cell should preferably be used for single occupancy.**

29. As regards police establishments, conditions of detention at the Holding Centre of Yerevan City Police Department had not changed since the previous CPT visit in 2006 and were, on the whole, adequate.

The Main Department for Combating Organised Crime in Yerevan did not have any detention facilities, following the withdrawal from service of its formed small cells, in accordance with Order No. 5-Ag of the Head of the Police. As regards Kentron District Police Division in Yerevan, it had three small holding cells intended for detention periods of up to 3 hours.

It should be noted that many persons interviewed by the delegation alleged that they had spent several nights in various police stations without being provided with mattresses and blankets. As regards food, it had apparently been provided by the detained persons' families.

The CPT recommends that the Armenian authorities make continuous efforts to bring conditions of detention in police establishments into line with the basic requirements set out in the reports on the CPT's previous visits. In particular, steps should be taken to ensure that:

- **all cells intended for stays of longer than 3 hours are equipped with a means of rest suitable for overnight stays;**

- **all persons detained overnight are provided with clean mattresses and blankets;**

- **police establishments are allocated a specific budget to cover the cost of providing food to detained persons.**

30. Given the nature of the visit, the CPT's delegation did not examine in detail the conditions of detention in the three prisons visited. However, it should be noted that a number of prisoners interviewed at Nubarashen Prison complained that they had not been provided with outdoor exercise (for periods of up to 10 days). **The CPT recommends that the Armenian authorities take steps to ensure that all prisoners held at Nubarashen Prison benefit from at least one hour of outdoor exercise per day.**

As regards Yerevan-Kentron Prison, the recommendations made in the report on the visit in March 2004 remain valid (see Appendix I for the text of these recommendations).

APPENDIX I

LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION

1. Preliminary remarks

recommendations

- the Armenian authorities to take effective measures to ensure that the legal provisions governing detention – and in particular the time-limits of police custody – are fully respected in practice. This should include measures to ensure that protocols of detention by the police refer to the exact time of apprehension (paragraph 11).

2. Torture and other forms of ill-treatment

recommendations

- the Armenian authorities to make it clear to all law enforcement staff that the ill-treatment of persons in their custody is illegal and will be dealt with severely in the form of criminal prosecution. Law enforcement officials should be continuously reminded, through appropriate means and at regular intervals, that no more force than is strictly necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can never be any justification for striking them (paragraph 14);

- the Armenian authorities to carry out an effective investigation into the case of alleged ill-treatment, by the police, of the third person referred to in paragraph 13 (paragraph 14);

- the role of judges when persons brought before them allege ill-treatment by the police to be the subject of discussion by the judiciary, with a view to ensuring that judges are reminded of their obligations to institute a criminal investigation. Even in the absence of an express allegation of ill-treatment, the judge should request a forensic medical examination whenever there are other grounds (e.g. visible injuries, a person's general appearance or demeanour) to believe that ill-treatment may have occurred (paragraph 15);

- the Armenian authorities to develop specific training for the police, and to ensure appropriate preparative arrangements, in the context of carrying out crowd control operations (paragraph 19);

- the investigation into the events of 1 March 2008 to be conducted in accordance with the criteria of an effective investigation set out in paragraph 21 (paragraph 21).

comments

- the CPT has strong misgivings regarding law enforcement officials wearing masks when dealing with disturbances or performing arrests; this clearly hampers the identification of potential suspects. The Committee considers that only exceptional circumstances can justify measures to conceal the identity of law enforcement officials while carrying out their duties. Where such measures are applied, appropriate safeguards must be in place in order to ensure that the officials concerned can subsequently be held accountable for their actions (e.g. by means of a clearly visible number on the uniform) (paragraph 21);

- the results of the investigation into the events of 1 March 2008 should be used to provide guidance for future police operations in terms of planning, training and police tactics in crowd control situations (paragraph 21).

requests for information

- the results of the investigation referred to in paragraph 14 (paragraph 14);

- the number of complaints of ill-treatment by police officers made by persons detained in relation to the post-election events, the number of disciplinary and/or criminal proceedings instituted as a result, and any sanctions imposed (paragraph 15);

- whether the centralised system for the registration of complaints of ill-treatment by the police has become operational (paragraph 16);

- a copy of the new Disciplinary Code of the Police (paragraph 16);

- the precise types of "special means" used by law enforcement officials during the operation on 1 March 2008. The Committee wishes to know in particular whether rubber bullets were deployed and, in the affirmative, how many rubber bullets were fired in the course of the operation (paragraph 18);

- information on the legislation governing the use of rubber bullets by law enforcement officials in Armenia, and the instructions and training they had received as regards the use of this ammunition (paragraph 18);

- the outcome of the investigation into the events of 1 March 2008 and the concrete measures subsequently taken (paragraph 21).

3. Safeguards against the ill-treatment of persons deprived of their liberty

recommendations

- steps be taken to ensure that all detained persons effectively benefit from the right of notification of custody from the very outset of their deprivation of liberty. The exercise of this right should be recorded in writing in a register or form (paragraph 23);

- the Armenian authorities to ensure that the right of access to a lawyer for persons deprived of their liberty applies effectively as from the very outset of their deprivation of liberty by the police. Investigators should receive appropriate instructions in this regard (paragraph 24);

- steps to be taken, in co-operation with the Bar Association, to make the system of legal aid truly effective and to ensure the independence of *ex officio* lawyers from the police and the prosecution (paragraph 24);

- steps to be taken by the Armenian authorities to ensure effective implementation in practice of the provisions concerning the right of detained persons to access to a doctor. The existing provisions to be complemented so as to make it clear that:
  - the right of access to a doctor applies as from the moment of de facto deprivation of liberty (and not only when the person is admitted to a police holding facility);
  - all medical examinations should be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of police officers;
  - the results of every examination, as well as any relevant statements by the detained person and the doctor's conclusions, should be formally recorded by the doctor and made available to the detainee and his lawyer;
  - whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a detained person, the record should be systematically brought to the attention of the relevant prosecutor

  (paragraph 25);

- the Armenian authorities to take further steps to ensure that verbal information on rights is given systematically to all persons apprehended by the police, at the very outset of their deprivation of liberty. As regards the information form on rights, it should be given systematically to all detained persons as soon as they are brought into a police station, and should be available in an appropriate range of languages (paragraph 26).

requests for information

- whether a request for a forensic medical examination can be made directly by persons detained by the police (paragraph 25);

- the comments of the Armenian authorities on the matter raised in paragraph 27 (paragraph 27).

4. Conditions of detention

recommendations

- the Armenian authorities to make continuous efforts to bring conditions of detention in police establishments into line with the basic requirements set out in the reports on the CPT's previous visits. In particular, steps should be taken to ensure that:
  - all cells intended for stays of longer than 3 hours are equipped with a means of rest suitable for overnight stays;
  - all persons detained overnight are provided with clean mattresses and blankets;
  - police establishments are allocated a specific budget to cover the cost of providing food to detained persons.

  (paragraph 29);

- the Armenian authorities to take steps to ensure that all prisoners held at Nubarashen Prison benefit from at least one hour of outdoor exercise per day (paragraph 30);

- as regards Yerevan-Kentron Prison, the recommendations made in the report on the visit in March 2004 remain valid, namely the Armenian authorities to take measures to:
  - ensure that all the cells, as well as the shower facility, are maintained in a satisfactory state of repair and cleanliness;
  - improve the establishment's exercise yards;
  - continue to improve activities for inmates.

  (paragraph 30).

comments

- given its size, the 7 m² cell at the Temporary holding facility of the National Security Service in Yerevan should preferably be used for single occupancy (paragraph 28).

APPENDIX II

LIST OF THE NATIONAL AUTHORITIES AND NON-GOVERNMENTAL ORGANISATIONS WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS

A. National authorities

Ministry of Justice

Mr Gevork DANIELYAN	Minister of Justice
Mr Nikolay ARUSTAMYAN	Deputy Minister of Justice

Police

Mr Ararat MAHTESYAN	First Deputy Head of Police
Mr Sasha AFYAN	Deputy Head of Police
Mr Eduard GHAZARYAN	Chief of Police Staff
Mr Valery KHUBLARYAN	Chief of Department for Maintenance of Public Order
Mr Vardan MOVSISYAN	Chief of Medical Department
Mr Sayat SHIRINYAN	Chief of Department for Public Relations

Prosecutor General's Office

Mr Aram TAMAZYAN	Deputy Prosecutor General
Mr Shahum TIGRANYAN	Head of Department for overseeing legality in penitentiary institutions
Mr Hakob GHARAKHANYAN	Head of the group created by order of the Prosecutor General for the supervision of the preliminary investigation into the events related to 1 March 2008
Ms Nelly HARUTYUNYAN	International and Legal Department
Ms Sona TRUZYAN	Press Secretary

Office of the Human Rights Defender

Mr Armen HARUTYUNYAN	Human Rights Defender

Republican Centre of Forensic Medicine

Mr Shota VARDANYAN	Director

B. Non-governmental organisations and other persons

Helsinki Association

Human Rights Watch

Public Monitoring Group on the observance of prisoners' rights

Defence lawyers of persons detained on charges related to the post-election events