

Armenia

Follow Up Report

Helsinki Citizens' Assembly - Vanadzor

(as of January 2014)

CCPR/C/ARM/CO/2

July 2012 (adoption of the Concluding Observations)

July 2013 (Deadlines for the follow-up report)

Current Status: State Follow-up Replies under review.

OVERVIEW

Recommendation 12	Grade	Overview
The State party should establish effective investigative procedures to ensure that law enforcement officers found responsible for excessive use of force during the 1 March 2008 events, including those with command responsibility, are held accountable and appropriately sanctioned.	C	No progress made by the Government. The Special Investigation Service (SIS), which investigates the excessive use of force and the murder of at least ten people on March 1, 2008, released a report for media in December 2011 (Information on March 1-2 events). Since then no further action was taken, despite requests made by the Civil Society Organisations (CSO).
The State party should also guarantee that victims of these acts receive adequate compensation, and that they have access to adequate medical and psychological rehabilitation.	C	No progress made by the Government.
Recommendation 14	Grade	Overview
The State party should establish an independent system for receiving and processing complaints regarding torture or ill-treatment in all places of deprivation of liberty.	C	No progress made by the Government. The Ombudsman's office, which serves as a National Preventive Mechanism receives and studies complaints but does not conduct an investigation. Furthermore the Ombudsman's office was obliged to reduce its activities due to the lack of funds.
The State party should ensure that any act of torture or cruel, inhuman or degrading treatment is prosecuted and punished in a manner commensurate with its gravity.	C	No prosecution in the recent cases of torture or ill treatment.
Recommendation 21	Grade	Overview
The State party should amend its domestic legal provisions in order to ensure the independence of the judiciary from the executive and legislative branch and consider establishing, in addition to the collegiate corpus of judges, an independent body responsible for the appointment and promotion of judges, as well as for the application of disciplinary regulations.	C	No progress related to the amendment of the legal provision aiming at ensuring the independence of the judiciary despite the adoption of the 2012-2016 Strategic Programme for Legal and Judicial Reforms in the Republic of Armenia.

Grade A: Response of the State Party / Action Satisfactory:

State Party Response / Action largely satisfactory

Grade B: Response of the State Party / Action partially satisfactory:

B1: Substantive action taken, but additional information required

B2: Initial action taken, but additional action / information required

Grade C: Response of the State Party / Action not satisfactory

C: No action taken by the State Party to implement the recommendation

Paragraph 12

The Committee is concerned about the ongoing impunity for excessive use of force by the police during the events of 1 March 2008, despite efforts to investigate the fatalities (arts. 6, 7 and 14).

Committee Recommendation	Grade	Action taken by the State	Further Actions needed	Other comments from the NGOs
The State party should establish effective investigative procedures to ensure that law enforcement officers found responsible for excessive use of force during the 1 March 2008 events, including those with command responsibility, are held accountable and appropriately sanctioned.	C	No progress		The Republic of Armenia (RA) Special Investigation Service (SIS), which investigates the excessive use of force and the murder of at least ten people on March 1, 2008, released a report for media in December 2011 (Information on March 1-2 events) ¹ . There have not been any further reports by the SIS on the investigation of March 1st events. Helsinki Citizens' Assembly - Vanadzor submitted an inquiry to the RA Special Investigation Service and the RA Prosecutor General, requesting information on whether the former president of the RA, Robert Kocharyan, was interrogated in relation to the March 1st events. The SIS responded ² that Helsinki Citizens' Assembly – Vanadzor did not have the authority to instruct the investigative body or to interfere with the investigation. We can state that so far there have not been real actions taken to reveal and hold accountable those officials who ordered the police and military detachments to use excessive force and arbitrary detention against peaceful protesters, and who failed to instigate criminal cases against perpetrators of the violence on March 1, 2008 in Yerevan.
The State party should also guarantee that victims of these acts receive adequate compensation, and that they have access to adequate medical and psychological rehabilitation.	C			A representative of HCA Vanadzor was the legal representative of the mother of one of the 10 victims, Davit Petrosyan. Jemma Petrosyan, the Mother, was never provided any psychological or medical assistance by the government and did not receive adequate compensation.

¹ See: http://www.investigatory.am/upload/file/Information_for_MassMedia.pdf

² See <http://goo.gl/cJbbDY>

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Paragraph 14

The Committee is concerned about the absence of a genuinely independent complaints mechanism to deal with cases of alleged torture or ill-treatment in places of deprivation of liberty, as well as the low number of prosecutions of such cases (arts. 7 and 14).

Committee Recommendation	Grade	Action taken by the State	Further Actions needed	Other comments from the NGOs
The State party should establish an independent system for receiving and processing complaints regarding torture or ill-treatment in all places of deprivation of liberty.	C	No progress		<p>Detention facilities in Armenia do not have an independent system of processing torture or ill-treatment complaints. The Ombudsman's office, which serves as a National Preventive Mechanism, receives and studies complaints but does not conduct investigations. The decisions on these complaints are made by the Penitentiary Department under the RA Ministry of Justice. The Ombudsman himself limited his mandate of the National Preventive Mechanism to a 14 member expert council. Due to lack of funding the Ombudsman's office was forced to close its regional offices and significantly cut down its activity, which proves that the Armenian Government is not particularly supportive of the National Preventive Mechanism. Therefore an independent agency for processing complaints as such does not exist. It should also be noted that although the Penitentiary Department is a division of the Ministry of Justice, the head of the department is appointed directly by the President of Armenia, which means that the Minister of justice does not have a direct and effective influence of the penitentiary system.</p> <p>There are public groups monitoring the situation and the treatment in police detention facilities and penitentiary institutions. The monitoring groups consist of representatives of NGOs and receive funding from international donors.³ The groups periodically submit inquiries to the RA Police and the RA Ministry of Justice. However, as a rule, service investigation conducted by the Ministry of Justice denies use of violence against inmates. They do so by convincing inmates to retract complaints. It should be noted that there have not been any applications submitted to the ECtHR by RA citizens on being subjected to torture or ill-treatment at penitentiary institutions since Armenia joined the Council of Europe in 2001. As a rule, inmates avoid complaining about ill-treatment out of fear of repercussions.</p>
The State party should ensure that any act of torture or cruel, inhuman or degrading treatment is prosecuted and punished in a manner commensurate	C	No progress		As a general rule criminal cases are not instigated on cases of violence against people in places of deprivation of liberty. Even when a criminal case is instigated, it is generally dismissed on the lack of <i>corpus delicti</i> . For

³ For more information on the groups see Public Monitoring Group at Detention Facilities of the RA Police Department and Group of Public Observers of Penitentiary Institutions - <http://www.osf.am/reports/police-monitoring-reports/>

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with its gravity.				<p>example, there has not been a single case of criminal prosecution of an official in relation to a death case at penitentiaries since 2008.</p> <p>It is also worrisome that those in charge of Police departments where there were reported cases of extorting testimony through abuse and ill-treatment, who may even be involved as suspects, are not prosecuted. They are simply removed temporarily and appointed to the same or higher position in a different police departments (e.g. New Yerevan police chief dogged by torture claims⁴; Statement on Appointing Samvel Tonoyan as Head of Charentsavan Police Department⁵, Man Accused of Murdering Ex-Gyumri Mayor's Son-in-Law on Being Tortured to Confess⁶). This serves as a clear message to the public that authorities support those committing violence or manifesting inaction when violence is committed. Hence the authorities prove that they do not have any political will to carry out their obligations in terms of prevention of torture.</p>
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⁴ See http://www.armenianow.com/society/human_rights/45441/armenia_new_yerevan_police_chief_torture_claim

⁵ See <http://hcav.am/en/events/statement-on-appointing-samvel-tonoyan-as-head-of-charentsavan-police-department/>

⁶ See <http://www.epress.am/en/2013/11/28/man-accused-of-murdering-ex-gyumri-mayors-son-in-law-on-being-tortured-to-confess.html>

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Paragraph 21

The Committee is concerned about the lack of independence of the judiciary. In particular the Committee is concerned about the appointment mechanism for judges that exposes them to political pressure and about the lack of an independent disciplinary mechanism (art 14).

Committee Recommendation	Grade	Action taken by the State	Further needed Actions	Other comments from the NGOs
<p>The State party should amend its domestic legal provisions in order to ensure the independence of the judiciary from the executive and legislative branch and consider establishing, in addition to the collegiate corpus of judges, an independent body responsible for the appointment and promotion of judges, as well as for the application of disciplinary regulations.</p>	C	No progress		<p>The Armenian Government argues that the 2012-2016 Strategic Programme for Legal and Judicial Reforms in the Republic of Armenia and the List of Measures deriving from the Programme stipulate a number of legislative amendments aimed at promoting judicial independence; however there is no reason to believe that the proposed amendments will result in increased independence of the Judiciary, because of the decisive and exclusive role given to the President of Armenia in appointing and dismissing judges (without an obligation to justify the decision) as well as the ill practice of other informal internal leverages used by higher instances, particularly by the Cassation Court.</p> <p>According to the Caucasus Research Resource Center, public trust toward Armenian Courts decreased in 2012 as compared to 2011. In 2011, 6% of the population fully trusted the RA courts and 16% somewhat trusted them, while in 2012, the numbers were respectively 4% and 13%. According transparency International, 67% of the Armenian population believes the Judiciary to be corrupt.</p> <p>In December 2013 the Human Rights Defender of Armenia published an outstanding report on the “Right to Fair Trial”⁷. It exposed the hierarchical abuse, total top-down control, double standards within the system and corrupt practices particularly by the Court of Cassation and its president. The Ombudsman’s report presents information about the range of bribes accepted by different courts, as well as arbitrary use of disciplinary regulations to curb judges of lower instances who dare to make a decision on a case without seeking the consent of the Court of Cassation. As expected the report was discussed widely, however the Judicial Department under the Court of Cassation simply criticized the report, without considering any of the facts presented in the report (the report includes reference to specific questionable cases). The RA Prosecutor General, Gevorg Kostanyan, who is also representing the Armenian Government in the European Court of Human</p>

⁷ See: <http://ombuds.am/library/library/page/101/type/3>

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			<p>Rights, argued that the report was absolutely groundless. It is also interesting that the report was immediately sent back by every judge in Armenia. This identical behavior is another evidence of the dictatorial and centralized control of the RA Court of Cassation and its president. The decision on disciplinary punishment is final and cannot be appealed, moreover in October 2013 the RA Government approved a number of legislative amendments eliminating the possibility of subjecting judges of the Court of Cassation to disciplinary punishment for violation of material or judicial norms, while the provision remained applicable to the judges serving in the Courts of Common Jurisdiction and Court of Appeals.</p> <p>The Strategic Programme also stipulates the creation of performance measurement and evaluation mechanisms; however there are objective concerns about the purpose and implementation of the measure. In particular, the evaluation can automatically result in imposing disciplinary penalties on judges without any disciplinary proceeding or as an inevitable consequence of the conducted proceeding.</p> <p>Considering the current practice of disciplinary punishments aside from the Council of Justice, the self-governance of the Judiciary is to be ensured by the Board of Judges to be created in accordance with the 2012-2016 Strategic Programme. The Board consisting of Judges from all instances and courts (both civil and criminal) will have the authority to develop evaluate the activity of judges; however for some reason the individual evaluations of judges will be also sent to the Presidential Administration, which means the decisive role of the President of Armenia in appointment and dismissal of judges is not only going to be preserved but enhanced and further substantiated.</p> <p>Some other concerns include insufficient funding of the Judiciary and limited role in determining the annual budget for the Judiciary (the budget proposal is prepared by the Ministry of Justice with limited participation of the Judicial Department). (The issue is presented in detail in the report of the EaP Working Group on Efficient Judicial Systems⁸. The role of the Ministry of Justice is also promoted by the fact that the president of the new School of Judges is the Deputy Minister of Justice.</p>
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⁸ See: http://www.coe.int/t/dghl/cooperation/capacitybuilding/source/judic_reform/FINAL_efficient_judicial_systems_EN_March_2013.pdf

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