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ARMENIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2010

Political context

In 2009, the human rights situation in Armenia improved compared with 2008, when clashes between the police force and demonstrators during protests in March 2008 and the establishment of a state of emergency had followed the announcement of the presidential election results. The amnesty of June 19, 2009 permitted the release of many of the opponents arrested during the demonstrations. However, at the end of 2009, 17 of them were still held in detention and were serving nine-year prison sentences¹. Although the Parliamentary Assembly of the Council of Europe (PACE) welcomed the amnesty decision, it nevertheless expressed concern regarding several points². The Assembly regretted the breakdown of the work of the independent expert group responsible for establishing the facts regarding the events of March 1 and 2, 2008 and the circumstances that led up to them. It also expressed concern regarding the fate of persons convicted solely on the basis of police evidence and noted that it would monitor the situation of those persons still held in detention. In addition, despite positive changes in legislation on conducting meetings, peaceful assemblies and demonstrations, the Assembly noted that requests to organise rallies were still frequently rejected by the authorities on technical grounds, or that unwarranted restrictions were placed on them³.

Furthermore, although the release on health grounds of the journalist Arman Babajanyan on August 4, 2009 appeared to be a sign of the Armenian authorities' goodwill⁴, in parallel, the beating of Mr. Argishti

1/ See Statement issued by the Vanadzor Office of the Helsinki Citizens' Assembly, November 4, 2009.

2/ See PACE Resolution 1677 (2009), June 24, 2009.

3/ See Helsinki Committee of Armenia Report, *Monitoring of the freedom of peaceful assembly in Armenia*, Yerevan, 2009.

4/ Editor-in-chief and founder of the daily newspaper *Zhamanak Yerevan*, Mr. Babajanyan had been in prison since 2006 for evading military service. The "Independent Commission on Release on Parole and Reduced Sentences" decided on his release on health grounds forty days before the end of his sentence, although he had previously made several applications to the same committee for this reason. See Civil Society Institute (CSI).

Kiviryan, Editor-in-chief of the on-line news portal *Armenia Today*⁵, on April 30, 2009, underlined how fragile press freedom remains⁶.

Nor did democratic progress seem to apply to the electoral process, as typified by the way the local elections were conducted in Yerevan on May 31, 2009, during which local actors, particularly the Helsinki Committee of Armenia, reported numerous frauds⁷, including the arrest and three months' imprisonment of the young political opponent Tigran Arakelyan⁸.

Obstacles to holding meetings and peaceful assemblies by human rights organisations

The Law on Conducting Meetings, Assemblies, Rallies and Demonstrations, modified on March 17, 2008 during the state of emergency⁹, then amended on July 11, 2008 under pressure from the OSCE Office for Democratic Institutions and Human Rights (ODIHR)¹⁰, includes several restrictive provisions, in particular Article 9.4.3, which grants considerable powers to the police services in banning demonstrations¹¹. Several demonstrations

5/ See CSI.

6/ It must, however, be acknowledged that the investigation following the November 17, 2008 attack on Mr. Edik Baghdasaryan, President of the NGO "Investigative Journalists" and Editor of the on-line newspaper *HetaqOnline*, which works to defend the independence of the investigative press and condemns corruption in Government circles, permitted the arrest of Mr. Karen Harutiunyan, one of the three suspects in the attack, and his sentencing by the Nork Marsh District Court on November 17, 2009 to five years in prison for "hooliganism" and "premeditated blows that caused bodily harm of medium gravity". See Annual Report 2009 and CSI.

7/ See Joint Report of the Helsinki Committee of Armenia and the Urban Foundation for Sustainable Development on the municipal elections of May 31, 2009 in Yerevan, June 2009.

8/ Mr. Tigran Arakelyan was arrested on July 5, 2009 after a dispute with the police while he distributed leaflets announcing an opposition rally on July 1, 2009. Accused of "hooliganism" and "violence against a representative of the authorities", he risks a five to ten years' prison sentence. Initially held in temporary detention for three months, he was placed under house arrest on October 9, 2009 due to health problems. As of the end of 2009, the case was still being investigated. See CSI Press Release, October 9, 2009.

9/ As a reaction to the wave of protests that followed the re-election of Mr. Serzh Sarkisian as President of the Republic on February 19, 2008, the state of emergency was decreed from March 1 to 20, 2008, including a temporary ban on the independent media, the suspension of the activities of NGOs and the political parties and the adoption of a new law that in particular restricted the freedom of peaceful assembly.

10/ See Joint Opinion No. 474/2008 on the Draft Law on Amending and Supplementing the Law on Conducting Meetings, Assemblies, Rallies and Demonstrations of the Republic of Armenia prepared by the Venice Commission and ODIHR, endorsed by the Venice Commission at its 75th Plenary Session, Venice, June 13-14, 2008.

11/ Article 9.4.3 of the Law provides that an assembly may be banned by the authorities if credible data exists according to which the conduct of the event "creates imminent danger of violence or real threat to the national security, the public order, the health and morality of society, the constitutional rights and freedoms of others". Such "data" may be considered "credible" if the police of the Armenian Republic or the National Security Service has issued an justified official opinion on a real threat to the constitutional order, a risk of violence, a threat to the health and morality or encroachments on the constitutional rights and freedoms of others.

were banned or blocked in 2009 in Yerevan on this basis. Indeed, when a demonstration is due to take place in Yerevan, the police generally restricts freedom of movement by suspending public transport between Yerevan and the regions and the excessive deployment of police in different parts of the city was often observed¹². This is what took place, for example, during the demonstration on March 1, 2009 organised in memory of the March 1, 2008 victims and which the authorities initially banned¹³.

In addition to the difficulties that defenders continued to encounter in organising peaceful assemblies, they came up against obstacles during the organisation of events or meetings related to human rights issues, as they had in 2008. Hotels continued their practice of refusing to let NGOs organise events on their premises in 2009. For instance, on November 12, 2009, the day before the Helsinki Committee of Armenia was due to present its report on freedom of assembly in Armenia, the hotel where the meeting was due to be held refused to host the conference, on the pretext that it was due to host another event on the same day. It was only after long and difficult negotiations that the presentation finally took place on the day that had been planned¹⁴.

Misuse of criminal justice against defenders

The year 2009 was marked by the first arrest in Armenia of a defender, **Mr. Arshalyis Hakobian**, a member of the Armenian Helsinki Association, following his activities as an observer of the Yerevan municipal elections. On May 31, 2009, the Election Committee leader and members used violence to chase Mr. Hakobian and his colleagues from a polling station in Yerevan. Mr. Hakobian filed a complaint with the Special Investigation Department, which called him as a witness on June 5, 2009. Since he had received no official summons, Mr. Hakobian refused to attend. Two police officers then visited his home with a “summons” whose validity Mr. Hakobian at first contested and refused to sign and then, when the police officer put pressure on him, he wrote his signature in the wrong place. Irritated by Mr. Hakobian’s attitude, the police officer arrested him and took him to the Kentron district police station, where Mr. Hakobian was beaten. He was handcuffed and transferred to the Kentron District Department of Investigation and charged with “using violence against a Government representative”, under Article 316.1 of the Criminal Code, then held at Nubarashen prison. On October 16, 2009, the Court of First

12 / See Helsinki Committee of Armenia Report, *Monitoring of the freedom of peaceful assembly in Armenia*, 2009.

13 / *Idem*.

14 / See CSI.

Instance of the Keltron and Nork-Marash Districts of Yerevan decided to release Mr. Hakobian on bail. He was banned from leaving the country and the investigation was still under way as of the end of 2009¹⁵.

Two other defenders also found themselves charged in a case, despite initially being the plaintiffs. Ms. **Mariam Sukhudyán**, a young ecological activist from the organisation “SOS Teghut”, engaged not only in environmental protection but also in protecting the rights of the needy, was accused of “defamation” under Article 135.1 of the Criminal Code. In the spring of 2008, Ms. Sukhudyán and other volunteers who worked at the United Nations-supported boarding school No. 11 in the town of Nubarashen (a suburb of Yerevan), had revealed in several media that pupils of the school had been ill-treated and she had publicly accused the boarding school administration of not ensuring minimum standards of education and hygiene. On November 13, 2008, the Armenian public channel had broadcast the account of one of the boarding school pupils, who had revealed that she had been raped by one of the teachers. On the basis of this story the Erebundi Criminal Investigation Department had opened an enquiry whose findings cleared the teachers and the school administration. On February 11, 2009, the Erebundi police department investigation unit opened an investigation against Ms. Mariam Sukhudyán on the basis of accusations by the teacher who claimed that Ms. Sukhudyán had forced the young woman to testify against him. In the end, Ms. Sukhudyán was charged with “defamation” on October 20, 2009¹⁶. According to her lawyer, procedure was not respected during the criminal investigation: the student who had stated that she had been raped was seemingly forced to change her statement and the investigation apparently took no account of the evidence of four children who testified to similar cases of sexual abuse¹⁷. On October 21, the chief of Erebundi district police proposed an amnesty for Ms. Mariam Sukhudyán, but the latter refused, saying that she was not guilty and that she wanted the criminals to be punished. In November 2009, Ms. Sukhudyán agreed not to leave Yerevan before the start of the trial. The investigation was closed at the beginning of December 2009 and the trial date had still not been fixed as of the end of 2009. In addition, as of the end of 2009, the investigation ongoing since August 28, 2008 against Mr. **Mushegh Shushanyán**, the lawyer of five people arrested during the events of March 2008 for “disrespect towards the court” under Article 343.1 of the Criminal Code, after Mr. Shushanyán had left the

15 / *Idem*.

16 / Initially accused of “defamation” on August 11, 2009, the charges against her were changed to “false testimony” on August 15, 2009 in application of Article 333.1 of the Criminal Code.

17 / See CSI and *HetqOnline*, November 16, 2009.

courtroom, remained suspended until the Constitutional Court reached a decision regarding the constitutionality of Article 343.1¹⁸.

Urgent Interventions issued by The Observatory in 2009

Name	Violations / Follow up	Reference	Date of Issuance
Mr. Arshaluys Hakobyan	Arbitrary detention / Ill-treatments	Press Release	June 12, 2009
	Release	Press Release	October 20, 2009

18 / See Annual Report 2009 and CSI. In a ruling on January 14, 2010, the Constitutional Court considered Article 343.1 to be unconstitutional. The proceedings against Mr. Mushegh Shushanyan were therefore annulled.