

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	231
Land:	Armenien
Kilde:	Europarådet
Titel:	Europarådet - den armenske regerings svar til Europarådets menneskerettighedskommissær Nils Muižnieks' rapport
Udgivet:	10. marts 2015
Optaget på baggrundsmaterialet:	22. juni 2015

Comments of the Government of Armenia to the report of the Commissioner for Human Rights following his visit to Armenia on 5-9 October 2014

Introduction

The Government of Armenia highly appreciates the role of the Council of Europe, and particularly, the role of the Commissioner for Human Rights aimed at defending human rights in its Member States. As a strong supporter of the independent and impartial mandate of the Commissioner Armenia attaches great importance to an open and pragmatic dialogue with him. In this context the recent visit of the Commissioner to Armenia in October 2014 has been yet another opportunity for reinforcing and strengthening the co-operation with his Office.

The Government of Armenia has carefully examined the report of the Commissioner following his visit to Armenia and wishes to make the following observations.

Summary: Effective investigation into allegations of human rights abuse

In this part of the Report (page 3) Commissioner urges Armenian authorities to amend the definition of torture in the Criminal Code in compliance with international standards. In this regard we would like to underline that a new draft law on Making Changes and Amendments to the Criminal Code has been developed and submitted for the Government's final approval. The draft law provides a new definition of torture which is in full compliance with the provisions of the UN CAT and the case law of the European Court of Human Rights.

Judicial Reforms

The 2012 – 2016 Strategic Programme for Legal and Judicial Reforms, adopted in July 2012 included CoE recommendations, in particular, concerning the introduction of a new system for training and appointment of judges; shortening the length of trials and identifying the causes for lengthy trials; improving balance between prosecution and defence; introducing indicators such as public trust in the justice system for measuring the efficiency of the reforms. Judicial reforms are one of the priority areas of Armenia - Council of Europe cooperation, *inter alia* within the framework of the Council of Europe Actions Plan for Armenia.

In the framework of the project on **“Strengthening the Independence, Professionalism and Accountability of the Justice System in Armenia”** of the 2012-2014 Action Plan, a detailed needs assessment report was finalised, and, based on the findings and recommendations of the report, a work plan was elaborated. In collaboration with the Ministry of Justice, 26 local experts were selected for the revision of the Civil Code and drafting the Special Part of the Code of Administrative Offences. In addition, the draft General Part of the new Code of Administrative Offences was submitted for international expertise to ensure its compliance with CoE standards. A working group tasked with drafting a Code of Administrative Offences has been established within this project. In addition, a team of local and international experts is conducting a comprehensive assessment of laws

and practices in the field of alternative dispute resolution (ADR) to identify the main areas which require reforms.

As for the issues related to the independence and impartiality of judges and, in particular, with regard to paragraphs 17 and 31 of the Report we would like to inform that within the overall framework of the Concept of Constitutional Reforms issue of changes related to procedure of selection, appointment, promotion and dismissal of judges will also be addressed. The improvements will be conducive to ensuring independence of judiciary.

With regard to paragraph 29 of the Report under the heading of Issues related to the effectiveness of the justice system we would like to inform that the Ministry of Justice drafted a Law on Amendments to the Civil Procedure Code. In the proposed draft law the mediation will be established as a form of alternative dispute resolution. The draft law is still under consideration.

Protection and promotion of Human Rights

The Republic of Armenia carried out a number of activities related to guaranteeing, protection and promotion of Human Rights. By the Presidential Decree the National Strategy for Human Rights Protection was adopted in October 2012. The purpose of the Strategy is to develop and provide for an integrated and comprehensive policy for the protection of human rights.

In February 2014 the Government approved the Plan of Action for the implementation of the National Strategy for Human Rights Protection. In December 2014 the Ministry of Justice established a Working group for coordinating the implementation of the Human Rights Plan of Action. The main task of the group *inter alia* is to identify any possible contingent gaps and make relevant proposals throughout implementation of the Plan of Action.

The human rights related projects included in the 2012-2014 Council of Europe Action Plan for Armenia contributed to the effective implementation of European human rights standards in Armenia, with special focus on human rights education for legal professionals, promoting freedom, professionalism and pluralism of the media, supporting a policy of zero tolerance of ill-treatment.

Equality of Arms and Right to Defense

With regard to paragraphs 39 and 43 we would like to make the following observation. Romano-Germanic legal system (Republic of Armenia is the part of this legal system) essentially differs from the Common Law system. This model does not accept systematically the mechanism according to which the defence party has the right to become acquainted with the materials of the case at the pre-trial stage. Otherwise, the balance between the public and private interests will be challenged.

Besides, by the regulations of current Criminal Procedure Code as well as Draft Criminal Procedure Code the defence party has an extensive number of rights for the gainful protection of his defendant. In particular, article 49 of the Draft Criminal

Procedure Code provides the following rights which ensures the equality of arms; 1) to participate in any investigative activity or other action of proceedings performed with the participation of the person defended by him, to participate in any investigative activity or other action of proceedings performed upon his petition or petition by the person defended by him, and to participate in investigative activity or other actions of proceedings upon the proposal by the investigator in other cases; 2) to obtain and present evidence for annexing to the materials of the proceedings and for examination; 3) to become familiar with the protocols of investigative activities or other actions of proceedings, in which he or the person defended by him participated, to present comments on the accuracy and completeness of what is recorded in such protocols, to become familiar with the court session protocol and to present his comments thereon, and in case of participation in a investigative activity or other actions of proceedings or being present in a Court session, to demand incorporation in the respective protocol of the circumstances pointed out by him; 4) upon his request, to receive copies of the protocols of investigative activities or other actions of proceedings, in which he or the person defended by him participated, as well as copies of the proceedings documents which the person defended has the right to receive under this Code.

Moreover, the current Criminal Procedure Code provides court participation in the pre-trial stage in the form of judicial control. The Draft Criminal Procedure Code enlarges the scope of this institute and ensures its procedural guarantees.

As for the last sentence of the paragraph 43 we would like to inform that according to the data of the Council of Justice in 2013 out of 20 candidates for the judicial vacancies 85% worked in the judicial system, 5% were former prosecutors and 5% were former advocates. In 2014 out of 10 candidates for judicial vacancies 30% worked in the judicial system, 30% were former prosecutors and 30% were former advocates. Statistically, out of 30 candidates 66.6% have worked in judicial system, 13.3% were former advocates and only 13.3% were former prosecutors.

With regards to paragraph 45, which is about the increase in the number of acquittals in 2009-2014 period, we would like to inform that:

- In 2014 there have been 100 court decisions on full or partial acquittals in respect of 125 individuals (3.6%), including full acquittals in 59 cases in respect of 71 individuals and partial acquittals in 41 cases in respect of 54 individuals.
- In 2013 there have been 86 court decisions on full or partial acquittals in respect of 96 individuals (2.2%), including full acquittals in 57 cases in respect of 65 individuals and partial acquittals in 29 cases in respect of 31 individuals.
- In 2012 there have been 71 court decisions on full or partial acquittals in respect of 84 individuals (2%), including full acquittals in 46 cases in respect of 57 individuals and partial acquittals in 25 cases in respect of 27 individuals.
- In 2011 there have been 50 court decisions on full or partial acquittals in respect of 77 individuals (1.6%), including full acquittals in 55 cases and partial acquittals in 22 cases.

- In 2010 there have been court decisions on full or partial acquittals in respect of 56 individuals (1.3%), including full acquittals in respect of 35 individuals and partial acquittals in respect of 21 individuals.
- In 2009 there have been court decisions on full or partial acquittals in respect of 25 individuals (0.7%), including full acquittals in respect of 12 individuals and partial acquittals in respect of 13 individuals.

Pretrial detention

With regard to the paragraph 49 of the “Pretrial detention”, section (1.1.4) of the Report we would like to underline that the issue of effective preventive measures alternative to detention has been addressed in the draft Criminal Procedure Code which provides wide range of measures alternative to detention.

Article 118 of the draft determines detention as an exceptional measure of restraint, according to which: “Detention may be applied only in case when the application of alternative restraint measures is impossible or insufficient for preventing the illegal conduct of the accused”. Moreover, the paragraph 4 of the above mentioned article underlines that the due diligence exerted by the body conducting the criminal proceedings as well as the necessity of continuing the criminal prosecution must be justified in front of the Court when prolonging the detention. Concerning the terms of detention, Article 119 of the Draft provides that the initial detention term may not exceed one month. In pretrial proceedings, the term of detention may be prolonged for a term not longer than two months each time, provided that the maximum periods prescribed by the Draft are respected.

As for the recommendations contained in the paragraphs 54-56 of the report we would like to refer to the decision of the Court of Cassation of Armenia on the case of Gagik Mikaelyan which addressed the issue of status of apprehended person. In particular, the Court decided that from the moment of limitation of his/her freedom, the apprehended person shall be granted at least the following rights: a) to know the reason of the limitation of his/her freedom; b) to inform of the limitation of his/her freedom; c) to invite his/her lawyer; d) to remain silent.

Furthermore, these fundamental rights are provided for in the draft Criminal Procedure Code. In particular, the 110th article states the minimum rights of the arrested person; 1) to be informed about the minimum rights and obligations stipulated by this Article orally from the moment of becoming de facto deprived of liberty and in writing at the time of entry into the administrative building of the Inquiry Body or of a body that has the power to conduct the proceedings; 2) to know the reason for depriving him of liberty; 3) to remain silent; 4) to inform a person of his choosing about his whereabouts; 5) to invite an attorney; 6) to undergo a medical examination if he so demands.

The above-mentioned can be considered as fundamental safeguards for the arrested person from the very outset of deprivation of liberty.

Considering the fundamental importance of the presumption of innocence and the right to liberty of the person, as well as the issue of reducing overcrowding in places of detention, Armenian authorities aim to set strict limits on the use of remand in custody. In this context the draft Criminal Procedure Code provides for the widest possible range of alternative restraint measures.¹ These alternative measures can also be applied combined.

The amendments are, *inter alia*, in line with the Recommendation Rec(2006)13 of the Committee of Ministers to member states on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse.

The Council of Europe provided recommendations on the use of non-custodial sanctions and on the improvement of the early release system. The objectives of the project **“Reducing use of custodial sentences in line with European standards” of the CoE Action Plan for Armenia 2012-2014**, were fully in line with the *2012 – 2016 Action Plan for Legal and Judicial Reforms of the Republic of Armenia*. Through the course of implementation, the project focused on raising the awareness of decision-makers and professionals on alternative sanctions and measures, on the need to extend the use of such sentences and on the importance of establishing a mechanism for supervision of the implementation of non-custodial sentences. A study on cost efficiency and the social impact of custodial sentences and probation was also carried out and used for the evidence-based advocacy on probation.

The draft Criminal Procedure Code has been submitted to the National Assembly for consideration.

The probation service is in the process of formation and will be in charge of alternative punishment, conditional release and rehabilitation. A draft concept paper on the implementation of the probation service has been circulated aimed at comprehensive discussion process, which involves both governmental bodies and NGOs. According to the draft concept paper, the purpose of probation service, among others, is to reduce the reoffending by establishing positive relationship with offenders in order to supervise, guide and assist them and to promote their successful social inclusion, as well as to contribute to community safety and the fair administration of justice.

The setting up of a **probation service** along the lines of Council of Europe recommendations will be an important step towards the implementation of non-custodial sentences and measures in the country. In the framework of the project on **“Support to the Establishment of Probation Service in Armenia” of the Action Plan**, technical support will be provided to the establishment of probation service, including introduction of a pilot electronic monitoring system; training of probation service staff and other related professionals in two pilot regions of Armenia; revision and provision of expertise on draft probation legislation.

¹ According to the article 122 of the Draft Criminal Procedure Code the following are alternative restraint measures: house arrest; administrative supervision; bail; prohibition of absence; suspension of office; guarantee; educational supervision; and military supervision.

Law enforcement Bodies

Alleged human rights violations during criminal proceedings Effective investigation into allegations of ill-treatment

The policy of Armenia in respect of the crime of torture has been totally changed. With regard to paragraph 59 of the Report we would like to inform that in order to strengthen procedural safeguards, the Draft Criminal Procedure Code (Article 110) defines the basis for comprehensive and effective investigation into acts of torture. It is worth mentioning that minimum rights of arrested persons as stipulated in Article 110, *inter alia*, can be considered as a fundamental safeguard against any form of ill-treatment. Moreover, minimum rights defined in this article are in total conformity with CPT standards. The aim of this article, among others, is to create a clear system of mechanisms and procedures through which allegations, indications and evidence of ill-treatment can be communicated. In particular, the right to have the fact of one's detention notified to a third party, to have an access to a lawyer, and a doctor (as well as to invite a doctor of his/her choice) are crucial for the gathering of evidence and communication of information relating to torture. These rights are applied from the very outset of factual deprivation of liberty and can secure the evidence concerning the incident. Any evidential deficiency in that respect can undermine the ability of conducting thorough, comprehensive and objective investigation.

Unlike the current legislation, which stipulates that the sole ground for initiating criminal proceedings for cases of torture is the victim's complaint, the Draft Criminal Procedure Code considers it as a subject of public criminal prosecution, which is initiated by a decision of the supervising Prosecutor. This can be considered as an additional guarantee for ensuring the initiation of criminal proceedings in each such case.

All public officials who engage in a conduct that constitutes torture will be charged accordingly. The penalty for this crime reflects the gravity of the act of torture. The amended article imposes suitable penalty for such acts (from four to eight years of imprisonment, as well as deprivation of the right to hold certain posts or practice certain activities for up to three years), which is in conformity with the international best practice.

The Draft Criminal Procedure Code and in particular its Article 110 is a step forward in ensuring minimum procedural rights to persons deprived of liberty.

According to the Law on "Special Investigation Service", Special Investigation Service (SIS) has been established in line with Council of Europe recommendations as of November 28, 2007. It is an independent state body and exercises its powers independently. In particular, it conducts preliminary investigation of the cases related to the crimes committed by the officials of legislative, executive and judicial bodies, employees implementing state special services. Moreover, the Investigation Department of Torture is a specialized unit of the SIS, which conducts preliminary investigation of the cases of ill-treatment.

According to the Order No.20 of the Head of the Police, dated November 2013, “*On Ensuring the Application of Legal Standards of the European Committee for the Prevention of Torture*”, investigative bodies should ensure that: (i) police officers’ conduct is in accordance with CPT standards when apprehending, arresting persons or performing any other action with respect to them within the limits of their competence; (ii) proper record of cases of ill-treatment and complaints against such treatment are in accordance with CPT standards; (iii) the administration of the Police reports on any case of detecting violation of CPT standards, as well as on any *prima facie* similar complaint and sends the relevant materials together with the complaint to the SIS, immediately, as prescribed by law; (iv) all police officers are regularly informed of unacceptability of ill-treatment in the course of their activities and of inevitable liability for any such act.

As to the issue raised in paragraph 61 of the Report it should be mentioned that the institute of non-pecuniary damage has already been stipulated in the Civil Code of RA (since November of 2014). Moreover the Ministry of Justice developed a new draft law on Making Changes and Amendments to the Civil Code of RA and submitted this draft to the Government for approval. The draft law stipulates, *inter alia*, to increase the amount of compensation for non-pecuniary damage in accordance with the minimum standards of the ECtHR case-law and to expand the scope of fundamental rights (including torture-cases) in violation of which a person may claim a compensation for non-pecuniary damage.

With regard to paragraph 63 of the report we would like to inform that on 10 February 2015 the draft law on Making Changes and Amendments to the Criminal Code of Armenia has been discussed in the Public Council adjunct to the Minister of Justice. New proposals and/or comments have been made by representatives of civil society, and the Ministry of Justice will now consider them in order to decide on their incorporation into the draft law.

With regard to **paragraph 71** of the report it should be mentioned that The Council of Europe has organised several rounds of consultations on the status, organisation and functioning of the Disciplinary Committee of Police of Armenia, with a view to ensuring its independence and transparency. The newly established Disciplinary Committee of the Police benefited from the Council of Europe expertise for developing the relevant regulatory framework, organisation of consultations with civil society and training organised for judges, prosecutors, police officers and lawyers.

As for the concerns reflected in this paragraph we would like to inform that Police of the Republic of Armenia has not received any official proposal from the representatives of NGOs or public associations, who are involved in the Disciplinary Committee, despite the fact that this issue has been addressed to them by the representatives of police during two meetings held in 2014. At the same time, it is necessary to note, that the present model of the Disciplinary Committee of the Police has been developed based on comprehensive studies of the international experience and with the assistance of experts from Human Rights and Legal Affairs Department of the Council of Europe. The fact of involvement of public in the Disciplinary Committee is already a guarantee of its independence and transparency. At the

same time meetings of the Committee in 2013-2014 revealed certain procedural deficiencies. In order to correct them as well as to enlarge the scope of disciplinary violations to be examined by the Committee the Police of Armenia prepared a number of proposals for amending the 2012 decision of the Government on the terms of reference of the Committee. The proposals will be shortly send to relevant authorities for approval.

A country-specific project, **“Supporting the criminal justice reform and combating ill-treatment and impunity in Armenia”**, is planned within the CoE/EU Programmatic Co-operation Framework for 2015–2017. It is expected that the legislation on criminal matters and institutional mechanisms for combating ill-treatment will be improved in line with European human rights standards, the capacity of the Justice Academy to train investigators, judges and prosecutors on criminal justice and human rights will be strengthened, the knowledge and skills of investigators on criminal justice and human rights, including effective investigations of ill-treatment cases, will be improved.

The **Prison health** and the **revision of penitentiary legislation** will be priority areas of future co-operation of Armenia with the Council of Europe in the field of the **penitentiary reform**.

Measures have been taken to increase co-operation with national human rights institutions to monitor the effectiveness of fulfillment of the State obligations in the field in question. In that respect it is worth mentioning that, during last few years, steps have been taken to set up a National Preventive Mechanism (NPM). In 2008, this task was assigned to the Office of the Human Rights Defender. Starting from 2012, civil society representatives have been involved in the work of the NPM, in particular through the establishment of a Council for the Prevention of Torture. In its 2014 Interim Report it has been highlighted by the NPM that as a result of constructive collaboration and cooperation with the Police specific issues which needed concrete solutions have been solved.²

The issues of improving conditions of places of detention and bringing them in line with international standards, addressing the problem of overcrowding at the penitentiary institutions are among priorities of the Government. "Armavir" penitentiary institution, intended for about 1200 convicts, has been constructed in compliance with international standards. In November 2014 the administrative, quarantine, clinical units and the residential unit intended for about 400 convicts have been put into operation, while the residential unit intended for 800 convicts will be put into operation by the end of 2015. This will solve the problem of overcrowding at the penitentiary institutions.

The Government of Armenia is actively pursuing efforts aimed at ensuring proper organization of medical sanitary and medical preventive assistance for detained persons and convicts. In August 2011, the Government adopted Decision No 33 "On approving the timetable for implementation of measures aimed at increasing the quality of medical aid and services ensuring the exercise of the constitutional right of a person to preservation of health in penitentiary institutions", which has defined, in

²http://ombuds.am/storage/files/library/pdf_1146031080_arm_report.pdf , p. 30

particular, the following measures and approved the timetable for their implementation:

- improving continuously legal acts regulating the field of medical services for detained persons and convicts held in penitentiary institutions, making structural changes in the “Hospital of Convicts” penitentiary institution, finalizing the elaboration of standards for assessing and checking the quality of medical services and introducing them in the penitentiary system;
- HIV/AIDS, as well as tuberculosis prevention programmes among detained persons and convicts held in penitentiary institutions carried out by the Global Fund;
- In 2015 consultations to be conducted by the Ministry of Justice with the Council of Europe Office in Yerevan aimed at improving the logistics of and legal framework for medical subdivisions of the Penitentiary Service, as well as for modifying the existing models and re-equipment thereof;
- Since September 2014, trainings for employees of medical subdivisions of the Penitentiary Service have been conducted under state funding.

Allegations of selective justice

With regard to **paragraph 73** we would like to inform that in order to ensure comprehensive, full and objective investigation into the cases related to 1 March 2008 events, on 21 October 2014 the Prosecutor General instructed to split the cases of each death occurred during those events into separate cases within the ongoing criminal investigation. This was done to make it possible for the investigative body to concentrate on each of death cases separately. Thus, separate cases were instituted on the facts of 10 dead and 3 injured in the Special Investigation Service and preliminary investigation is underway. Victims’ successors will be involved, to the extent allowed by law in the investigation procedure and will have the opportunity to enjoy all their procedural rights. In accordance with para 2 of the Article 309 of the Criminal Code of Armenia, four police officers were charged for the use of disproportionate force. Relevant criminal cases were forwarded to the first instance Court of Kentron and Nork Marash administrative districts.

Military Structures

In 2013, 29 cases were registered involving death in the armed forces, in which 30 soldiers died. The causes of death were the following: 6 cases of cease-fire violation, 3 murders, 1 mine explosion, 1 violation of rules for arms handling, 8 suicides and incitement to suicide, 4 disease related, 4 car accidents, 3 accidents.

In 2014, 40 cases were registered involving death in the armed forces, in which 44 soldiers died. The causes of death were the following: **26** cases of cease-fire violation, 2 murders, 2 mine explosions, 3 violations of rules for arms handling, 3 suicides and incitement to suicide, 4 disease related, 1 car accidents, 3 accidents.

As figures show the overall increase of death cases is due to the dramatic increase of cease-fire violation incidents (*6 in 2013 compared to 26 in 2014*).

At the same time number of death cases not related to border incidents decrease (*suicide and incitement to suicide 8 in 2013 and 3 in 2014*) and (*murder 3 in 2013 and 2 in 2014*).

Investigations of deaths in armed forces are traditionally under close scrutiny in Armenian by media, NGOs and society in general. Moreover, the relatives of victims are also very active and demanding. The Prosecutor General's office of Armenia periodically informs the public about any new developments in each case of death in the army. In some particularly complex cases the Prosecutor General invites relatives, media representatives, investigators and prosecutors and organizes open discussions concerning problematic aspects of pending cases, as much as it is possible under the criminal procedure legislation.

The Plan of Action for implementation of the National Strategy on Human Rights Protection envisages establishment of the institute of Military Ombudsmen. At the moment issues related to protection of human rights in the armed forces are covered by the Office of the Human Rights Defender of Armenia.

The protection of human rights in the armed forces will be included in the new 2015-2017 Council of Europe Action plan for Armenia.

Women's Rights and Gender Equality

The Government of Armenia condemns discrimination in any of its forms and manifestations. Armenia pursues a policy, which prohibits any manifestation of discrimination or its trends against individuals, groups or institutes. The issue of discrimination is covered comprehensively in the Armenian legislation. In 2005, the amended Constitution introduced Article 14.1 on comprehensive non-discrimination. All forms of discrimination based on any ground such as sex, race, color, ethnic or social origin, language, religion or belief, political or any other opinion, birth, disability, age or other personal or social circumstances are prohibited by the Constitution of Armenia, are criminalized by the Criminal Code and forbidden under the Civil and Labor Codes.

Armenia has joined most of the UN, OSCE and Council of Europe basic instruments which stipulate the principles of equality and has ratified Protocol No.12 to the European Convention on Human Rights. It has thus already given all persons under its jurisdiction the possibility of taking complaints regarding alleged discrimination to an international judicial forum.

Armenia has elaborated and implemented national programmes in different fields of human rights, aimed at ensuring protection and promotion of rights of the most vulnerable groups of population. All these programmes are the basic components of the national anti-discrimination policy the main goal of which is to ensure monitoring effective implementation of national legislation as well as incorporation of international obligations assumed by the State in this field into national policies and agendas. The adoption and further implementation of these national policies/strategies is a targeted work, whereby one Programme of Actions is followed by the next one, containing detailed plans for each year.

For example, the activities included in the Gender Policy Strategic Action Plan for 2011-2015 are implemented in a number of directions - strategy for gender policy implementation in the management sector and at decision-making level, in the social and economic area, in the area of healthcare, education, culture and public information, in the area of prevention of violence and human trafficking. Activities covering development and introduction of evaluation and monitoring indicators for dynamics of the gender situation were initiated within the framework of the approved actions. Activities are carried out aimed at reinforcing the uniform system including national and institutional mechanisms for development and implementation of the policy on gender equality, introducing a gender component in budgeting and planning processes (applying gender budgeting (gradual) in different phases of the budget cycle).

The Gender Policy Concept Paper was adopted by the Decision of the Armenian Government on 11 February, 2010. This Programme Document is a major contribution aimed at ensuring gender equality in the country, since it defines the primary directions of the state policy in relation to women and men and serves as a basis for the bodies of state authority and local self-government, as well as civil society institutions in developing clear-cut activities aimed at ensuring gender equality.

The Office of the Ombudsman has an explicit mandate to investigate complaints on discrimination.

Being concerned by the fact that representatives of some women's NGOs are intimidated and harassed in social networks and offensive articles are published by some media outlets, Women's Council, chaired by the Prime Minister of the Republic of Armenia, called to stop such behavior. The Council also urged the law enforcement bodies to be more vigilant in order to prevent such cases and, if needed, to punish the perpetrators. Representatives of the UN, EU, OSCE and Council of Europe Office and the US Embassy in Yerevan welcomed the November 22 2014 statement of the Women's Council reaffirming the Government's commitment to gender equality.

As regards the necessity of a comprehensive anti-discrimination law we would like to inform that the adoption of comprehensive anti-discrimination legislation is a priority policy issue for the Republic of Armenia. This question is also included in the Plan of Action for implementation of National Strategy for Human Rights Protection. In order to reveal existing legislative gaps as well as for the purposes of further legislative developments, the Eurasia Partnership Foundation in cooperation with the Ministry of Justice of Armenia carried out a study on the issues of discrimination and intolerance in Armenia, both from legal and societal points of view. The study has already passed through the stage of public discussions and the outcomes of public scrutiny will be summarized shortly. The possibility of drafting new comprehensive legislation on anti-discrimination, which will address the notion and types of discrimination, as well as the proof mechanisms and other considerable issues, is in the discussion process.

Violence against women and domestic violence

The Government of Armenia has developed the Action plan of the National Strategy for the Protection of Human's Rights, according to which the discussions on ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence is foreseen on the first trimester of 2015.

The law on Social Assistance had been adopted in December 2014 which stipulates that the victims of domestic violence are persons in difficult life situation and entitled to social assistance. The Ministry of Labor and Social Affairs has developed relevant provisions for social assistance and protection of victims of domestic violence as well as for prevention of the violence. The initial identification mechanisms of the victims of domestic violence and relevant training modules for social workers (case managers) have been developed, and trainings for them have been conducted.

The National Action Plan To Combat Gender-Based Violence, for 2011-2015, sets priority directions and the overall strategy of the state policy to combat gender-based violence and aims to prevent the phenomenon of gender-based violence in all spheres of public life. Violation of the rights of women in situations of armed conflict (murder, systematic rape, sexual exploitation, forced pregnancy) is regarded as a form of gender-based violence. Forced sterilization, forced termination of pregnancy, forced use of contraceptives, female infanticide and sex-selective abortion also belong to this category.

The National Action Plan To Combat Gender-Based Violence envisages several activities aimed at preventing prenatal sex-selection. Within this framework the Ministry of Labor and Social Affairs of cooperates with UNFPA, ICHD and Save the Children.

Concerning **paragraph 137 in 2.2.1 “Extent and Forms of Domestic Violence” section of the Report**, the definition of rape crime in Article 138 of the Criminal Code of Armenia does not exclude rape by a husband or intimate partner and is not considered a factor for relieving of responsibility. Concerning the issue of forced abortion, Article 122 of Criminal Code of Armenia defines performing illegal abortion as a crime and this is a blanket norm. Rules and conditions of abortion are regulated by the Government decree 1116-N of 16 August 2004. According to this decree, abortion could be performed upon a request of or with consent of the woman in question. Therefore, forced abortion will be considered as illegal abortion and depending on its consequences, it will be covered by other articles of the Criminal Code as well.

In the Republic of Armenia any violence, regardless of sex of the victim is a criminal offence, including the resort to domestic violence. The draft law “On Domestic Violence” of the Republic of Armenia was not adopted due to current comprehensive reform process of the judicial and justice systems of the country. However, upon instructions of the Government the basic/fundamental provisions regarding the domestic violence stipulated in the draft will be included into the legislation.

At the same time the definition of domestic violence, a number of clauses for providing social support to the victims of domestic violence are already enshrined in the law of the Republic of Armenia “On Social Support”, adopted by the National Assembly on 17 December 2014.

In 2013 a special department dealing with the domestic violence issues was established in the Police of the Republic of Armenia.

In 2014 117 criminal cases of domestic violence were initiated. The investigation of most domestic violence-related cases is closed on the grounds prescribed by the Criminal Procedure Code, usually in the absence of a complaint of the injured party, in case of reconciliation of the injured party and the suspect or the accused person, in the absence of punishable criminal act, in the absence of *corpus delicti*.

As a follow-up to the October 2014 visit of the Commissioner for Human Rights to Armenia, **promoting gender equality and combating domestic violence** is to be included in the new 2015-2017 Council of Europe Action plan for Armenia.