



# **Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

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**Subcommittee on Prevention of Torture and Other Cruel,  
Inhuman or Degrading Treatment or Punishment**

**Report on the visit made by the Subcommittee on Prevention  
of Torture and Other Cruel, Inhuman or Degrading  
Treatment or Punishment for the purpose of providing  
advisory assistance to the national preventive mechanism of  
the Republic of Armenia**

**Addendum**

**Replies of the Republic of Armenia to the recommendations  
and requests for information made by the Subcommittee on  
Prevention of Torture and Other Cruel, Inhuman or  
Degrading Treatment or Punishment in its report on its visit  
to Armenia\* \*\* \*\*\***

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\* The annexe to the present document may be consulted in the secretariat of the Subcommittee.

\*\* The present document is being issued without formal editing.

\*\*\* In accordance with article 16, paragraph 1, of the Optional Protocol, this report was sent confidentially to the State party on 16 June 2014. The State party gave notification of its decision to publish the report on 3 October 2014, in accordance with article 16, paragraph 2, of the Optional Protocol.

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## Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction .....	1-2	3
II. General Prosecutors Office .....	3-10	3
III. Ministry of Education and Science .....	11-12	5
IV. Police of the Republic of Armenia .....	13-20	5
V. Special Investigation Service of the Republic of Armenia.....	21-34	6
VI. Human Rights Defender's Office.....	35-39	8

## I. Introduction

1. In order to receive the comments and information of the authorities with the officials of which the SPT met during its visit to Armenia on 3-6 September 2013, the Ministry of Justice of the Republic of Armenia (RA) translated the Subcommittee on Prevention of Torture (SPT) Report into Armenian and sent it to the Human Rights Defender's Office, Police, General Prosecutors' Office, Ministry of Education and Science, Ministry of Healthcare, Ministry of Foreign Affairs, Ministry of Defense, Special Investigation Service, Migration Service of Armenia, National Assembly of Armenia.
2. The Ministry of Healthcare, Ministry of Foreign Affairs, Ministry of Defense and Migration Service of Armenia informed that they have no comments according the Report. The comments and information provided by the other authorities are presented below.

## II. General Prosecutors Office

3. The Head of Department Supervising Enforcement of Sentences and Other Compulsory Measures of the *RA General Prosecutor's Office* Mr. Ayvazyan informs that RA Prosecutor General has instructed prosecutors supervising penitentiary institutions and places of arrest of RA Police, to play more proactive role in **identifying the cases of police ill-treatment and draw up written reports on them while communicating with the persons deprived of freedom.**
4. Information exchange between different (regional and supervising) prosecutors is being developed, effective supervision on them is being carried out, and effective investigation of police ill-treatment cases is guaranteed by RA Prosecutor General.
5. In order to provide adequate guarantees of relevant human rights and freedoms envisaged by Article 3 of European Convention on Human Rights and Fundamental Freedoms, Article 4 of United Nations Convention Against torture and other cruel, inhuman or degrading treatment or punishment" and Articles 16 and 17 of RA Constitution, protection of individual, society and state from criminal encroachments, and to identify the offender, as well as to initiate a due process of information on beating, torture and other violent act against physical persons, according to N 4 protocol of 17.07.2013 session of RA General Prosecutor's Office's board, heads of departments and divisions of RA General Prosecutor's Office, senior prosecutors of RA General and Military Central Prosecutor's Office, prosecutors of regions, Yerevan city, administrative districts of Yerevan city and military prosecutors of garrisons have been instructed to:
  - Discuss and resolve proceedings of reports on body injuries detected during medical examination while admitting arrestees and detainees to the places of arrest and detention, except cases of receiving body injuries related to the circumstances of criminal case and the coincidence of mentioned injuries, in the scope of functions envisaged in 25<sup>th</sup> Chapter of RA Criminal Procedure Code, considering reporting as the reason for initiation of criminal prosecution and discovery of material traces of crime and consequences of crime by investigation body, investigator, prosecutor, court and judge in their line of duty (reasons for initiation of criminal prosecution are envisaged by Part 3 of Article 176 of RA Criminal Procedure Code).
  - Resolve proceedings of reports in the scope of preparing materials separated from the main proceedings, making one of decisions envisaged by Article 181 of RA Criminal Procedure Code in each occasion, or be guided by requirements of:

(a) **subparagraph 3 of paragraph 1 of 08 February 2008 (Protocol № 2) decision of RA General Prosecutor's Office's board (materials and criminal cases within the competence of RA Special Investigation Service should be sent to RA Prosecutor General by covering letter of prosecutor after finding the subordination basis according to Article 190 of RA Criminal Procedure Code, while other writings concerning the sent materials and criminal case should be directly send to RA Special Investigation Service).**

(b) **10 April 2008 № 20/4-116-08 instruction (materials and criminal cases within the competence of RA Special Investigation Service should be sent to RA Prosecutor General by covering letter of prosecutor after finding the subordination basis according to Article 190 of RA Criminal Procedure Code, while other writings concerning the sent materials and criminal case should be directly send to RA Special Investigation Service).**

6. In case of those reports which have been submitted during court proceedings according to requirement stipulated in Part 5 of Article 21 of the RA Law on "The treatment of arrestees and detainees", proceeding of resolving mentioned reports envisaged by 12.02.2010 N ԵԱԲԴ/0049/01/09 precedential decision of RA Court of Cassation, should be overseen by prosecutors who work on case excluding superficial approach by courts to resolve the issue.

7. According to 19.04.2011 N 20/2(3)-120-11 instruction of RA Prosecutor General, heads of General Prosecutor's Office's territorial subdivisions have been instructed to:

(a) **Verify in time and proper manner legality of arrest and detention and verify legality of treatment of arrestees at least once in a week while supervising, as well as do unexpected check-ups also during non-working hours and immediately release those persons who are arrested or detained without legal grounds or without any necessity.**

(b) **While exercising prosecutorial powers immediately prepare and present to Prosecutor General a relevant report on disclosed information about use of beating, torture or other violent act in places of arrest by inquiry and preliminary investigation, as well as other law enforcement bodies. Relevant necessary materials should be attached to the report.**

8. In order to advance productiveness of registering reports and resolving their proceeding, Head of Department Supervising Enforcement of Sentences and Other Compulsory Measures of RA General Prosecutor's Office has presented N 17/8-36-11 petition. According to mentioned document, by his 23.03.2011 N 40/7-790 letter Head of the Penitentiary Department of RA Ministry of Justice has instructed heads of penitentiary institutions of RA Ministry of Justice, demanding that prosecutor exercising procedural supervision and oversee on preliminary investigation of criminal case should also be informed about the body injuries that detainees have received before being taken under detention, with aim of identifying reasons why these injuries occur. Meanwhile it has been decided to solve the issue by amending Part 5 of Article 21 of RA Law on "The treatment of arrestees and detainees". In this regard a relevant draft law has been prepared provided that the mentioned Article must be supplemented with "also to prosecutor exercising judicial supervision over the case" words.

9. Furthermore it is expected that responsibility of administrations of places of arrest and detention to organize and provide medical examination shall be enshrined in the law.

10. At the same time such law requirement can serve as an additional guarantee in the issue of the protection of rights of mentioned persons. With this aim the amendment of Part

4 of Article 21 of RA Law on “The treatment of arrestees and detainees” has been prepared, provided that mentioned Article must be supplemented with the new part, the content of which is the following “Administrations of places of arrest and detention organize mandatory medical examination of arrestees and detainees after taking them under arrest and detention”.

### **III. Ministry of Education and Science**

11. *According to the Ministry of Education and Science* the expression “Special boarding schools” is used in the report. In the Republic of Armenia there are Special secondary educational institutions, which in accordance with the legislation of RA are of the type of educational institutions where children are accepted by parent application. The teaching process in those institutions is organized on the basic of extended and boarding timeline according to the agreement signed with the parents. Totally 70% of pupils are enrolled in the extended and only 30% in the boarding timeline. All pupils live with their families; they just have special educational needs. Parents as well as civil society representatives are allowed to attend school without additional permits. Pupils studying in special secondary educational institutions cannot be considered as “individuals detained or restricted from freedom”.

12. So, special secondary educational institutions cannot be considered as “institutional” organization, type of “detention center” or “closed or semi-closed institution”.

### **IV. Police of the Republic of Armenia**

13. Police of the Republic of Armenia informed that it is consistent with the international obligations in the field of torture prevention. Police of the Republic of Armenia carried out a complex of measures for this purpose both in legislative and practical levels. In each case of torture, inhuman or degrading treatment or punishment and prevention, the reports of the European Committee for the Prevention of Torture and the United Nations, as well as other related international standards are taken into account.

14. In regard with the above mentioned, the unique significance has the draft of the new Criminal Procedure Code of the Republic of Armenia, which is presently in the Parliament of the Republic of Armenia where the standards of the European Court for Human Rights and of the European Committee for the Prevention of Torture are taken into account. The special place and effective guarantees are established in the draft for the arrested persons from the date of their arrest for the effective implementation of their rights.

15. The Police officers in all units by means of instructions and special courses are regularly informed that any display of ill-treatment cannot be used to obtain a confession of person’s participation in committing crime or other information. The rude, disrespectful behavior of police officers, especially torture and inhuman or degrading treatment in any case becomes the subject of wide discussion; the perpetrators shall be subjected to strict disciplinary action, including the criminal responsibility. In the view of the above mentioned, as well as in order to strengthen public confidence towards police the headquarters of police of the Republic of Armenia has developed the recommendation No: 20-C “Ensuring the enforcement of legal standards of the European Committee on torture, inhuman or degrading treatment or punishment prevention” and has presented it to the head of Police of the Republic of Armenia for signing.

16. In order to enhance the effectiveness of the places of keeping arrested persons and in order to increase the professional preparedness of the staff, during 2013, the seminar-consultations have been organized with the participation of the representatives of the

general department of investigations, Yerevan city police department, regional police departments, legal department and department of public order protection of police of the Republic of Armenia, during which many issues concerning the places of keeping arrested persons acting in the system of Police of the Republic of Armenia have been discussed. The headquarters of police of the Republic of Armenia has compiled and provided methodological guidelines, which includes the normative legal acts regulating this sphere, presented in brief, as well as the United Nations Optional Protocol to the Convention against torture and inhuman treatment articles, the staff of the public monitoring group controlling the places of keeping arrested persons in Police of the Republic of Armenia, staff employees structure approved by the Human Rights Defender, the Public monitoring group's activities and the video in the places of keeping arrested persons, approved by the head of police of the Republic of Armenia by the order 1-N, dated 14.01.2005.

17. The measures related to compliance with international standards within the torture, inhuman or degrading treatment or punishment in the places of keeping arrested persons in the police system have been implemented. Particularly, in accordance with the order of the head of police of the Republic of Armenia, the position of inspector-psychologist has been set in the places of keeping arrested persons of Yerevan city. Presently under discussion is the provision of police subdivisions with the position of inspector-psychologist.

18. In the places of keeping arrested persons in corridors and cells the rights and responsibilities of the arrested persons, the list of food, items permitted, daily routine, as well as hotline phone numbers of the staff of Human Rights Defender and the staff of the public monitoring group controlling the places of keeping arrested persons in Police of the Republic of Armenia are posted. Furthermore, according to the decision of the Government of the Republic of Armenia No: 574-N, dated 05.06.2008, in accordance with the internal regulations of the places of keeping arrested persons in Police of the Republic of Armenia, the procedure to raise awareness about these rights has been established under which an appropriate protocol is filled and signed by the arrested person, which is attached to a prisoner's personal file.

19. In accordance with the requirements of the Article 47 of the law of the Republic of Armenia "On keeping arrested and detained person" the activity of the places of keeping arrested persons is being controlled by the public monitoring group controlling the places of keeping arrested persons in police of the Republic of Armenia and in accordance with the Article 12 of the Law of the Republic of Armenia "On Human Rights Defender" by the staff of the Human Rights Defender, who frequently are visiting the place of keeping arrested persons and permanently are in close cooperation with the police of the Republic of Armenia. During 2013 the public monitoring group controlling the places of keeping arrested persons in police of the Republic of Armenia performed 95 inspections and the employees of the Human Rights Defender staff 35 inspections.

20. During 2013 there were no complaints received from arrested and detained persons in the places of keeping arrested persons concerning the activities of the administration of the places of keeping arrested persons, as well as concerning the living conditions.

## **V. Special Investigation Service of the Republic of Armenia**

21. The Special Investigation Service was founded in November 28, 2007 according to the Law of the Republic of Armenia "On the Special Investigation Service". Acting as an independent state body, the Service conducts preliminary investigation of criminal cases, related to the complicity of officials of Legislative, Executive and Judicial Power Bodies, persons carrying out state special service, connected with their official positions or with

crimes committed by them, as well as electoral processes envisaged by the Criminal Procedure Code of the Republic of Armenia.

22. In other words, the Special Investigation Service is a specialized body that implements preliminary investigation of the criminal cases, incriminated to the officials, including the preliminary investigation of cases over torture and other cruel, inhuman and degrading treatment.

23. Within the previous year the Special Investigation Service of RA has completed considerable work on investigation of the criminal cases over torture as well as on subjecting to responsibility the perpetrators of crime. The Service has also undertaken several types of measures for improvement of the efficiency of the struggle against torture and for legislative and systematic solutions of the raised problems.

24. Particularly, the Special Investigation Service of RA has proceeded and put into circulation a package of legislative amendments about forming structural sections-departments in the Service. It is planned to involve the conduction of the preliminary investigation of criminal cases over torture in functional jurisdiction of one of the departments of the Service.

25. The formation of separate structural sections is required for specialization of the investigators carrying out the preliminary investigation over the concrete types of crimes /including torture/.

26. Such specialized structural sections will promote the perfection of the skills and professionalism of the investigators, the resume of practice, more purposeful organization of struggle against torture and will provide objective, full and comprehensive fulfillment of preliminary investigation of the criminal cases.

27. The package of projects of laws on additions and amendments has already been confirmed on the first reading of the National Assembly of the Republic of Armenia and at present, is going to be submitted to discussion on the second reading.

28. It is also planned to apply to the General prosecutor of the Republic of Armenia to charge the specialized prosecutors with the supervision of preliminary investigation Service of RA, which will promote the efficiency of prosecutors' supervision of the preliminary investigation on such type of criminal cases.

29. Besides, taking into consideration the difference of legislative and conventional descriptions of the 119<sup>th</sup> article of the Criminal Code of the Republic of Armenia and for the purpose of elimination of defects and provision balance with the Convention, the Special Investigation Service of RA has already made a suggestion to the Ministry of Justice of the RA about corresponding changes to the Criminal Code of RA.

30. The next step was the recommendation of Head of the Special Investigation Service of RA "On effective organization of investigation of criminal cases, initiated on the fact of torture"/11.03.2014/ that foresees undertaking measures for improvement of the quality of preliminary investigation over such crimes. Particularly, it was recommended to initiate without delay criminal case in existence of proper report and bases about torture and venturing the necessity of undertaking urgent investigative measures by the criminal case.

31. The same legal act recommends not involving in the investigative groups the investigators of those Law-enforcement bodies of RA, where the perpetrator of torture had been served or serves, temporary suspend the authorities of the alleged suspected or accused, as well as the authorities of the participants of procedure, foreseen by law, and undertake proper protection measures related to the sufferer.

32. In addition, the Special Investigation Service has also recommended making periodical records on the cases over torture and on their proceedings. The results of

investigation over such type of crimes should be resumed each semester; suggestions should be made, aimed to improve the quality and efficiency of investigations and if it is required, petitions should be brought to the competent divisions of those Law-enforcement agencies of RA, that are frequently mentioned in the application over torture for revealing and removing the circumstances promoting perpetration of torture.

33. One of the most important steps, undertaken by the Special Investigation Service of RA, for organization and fulfillment of effective investigations of cases is the guidebook elaborated by the Service that is on way of publishing. The guidebook will serve as a theoretical, analytic and practical base for the investigators of the Service within investigations of such type of cases.

34. The institutes of higher education of RA and the institutions on trainings of investigators will also be provided with the above-mentioned guidebook with the aim of assisting in acquirement of skills and knowledge for investigation of such crimes.

## VI. Human Rights Defender's Office

35. Based on the RA Prime Minister's recommendation addressed to the RA Human Rights Defender, the following information for the UN Subcommittee on Prevention of Torture Report to the Republic of Armenia has been presented.

- During the fourth quarter of 2013 the Government discussed and with the suggestion of the National Assembly approved the RA Human Rights Defender's request for additional financial means necessary for the fulfillment of obligations undertaken by the Article 6.1 of the RA Human Rights Defender Law as the National Preventive Mechanism defined by the UN Optional Protocol the Convention on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. It is noteworthy, that the provided financial means do not cover expenses of the Expert Council adjunct to the RA Human Rights Defender.
- According to the National Human Rights Action Plan, amendments to the RA Human Rights Defender's Law, based on the UN Optional Protocol the Convention on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, are foreseen in the third quarter of 2014. Thus, the concerns raised in the UN Subcommittee on Prevention of Torture Report to the Republic of Armenia will be resolved through the draft.

36. There are no further comments in regards to the United Nations Subcommittee on Prevention of Torture Report to the Republic of Armenia.

37. **The Ministry of Justice of the Republic of Armenia** has the honor to inform that now the Republic of Armenia has an Action Plan deriving from "The National Strategic Program of Human Rights Protection in the Republic of Armenia". The Strategic Program has been approved by the Order of the Republic of Armenia President ՆԳ-159-Ն on 29.10.2012.

38. In order to implement National Strategic Program the Ministry of Justice in close cooperation with state bodies, Human Rights Defender's Office, international and non-governmental organizations, civil society representatives has elaborated and submitted to the Government of the Republic of Armenia the Draft Action Plan.

39. The Plan has been approved by the Decision 303-Ն of the Government of the Republic of Armenia on 27 February 2014. The Chapter VIII of the Action Plan prescribes measures for protection of right to freedom from torture or other cruel, inhuman or



degrading treatment or punishment, the English Reference of which is annexed to this information.

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