



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

Distr.: General
30 April 2012

English only

Committee against Torture

Forty-eighth session

7 May–1 June 2012

Item 7 of the provisional agenda

Consideration of reports submitted by States parties under article 19 of the Convention

**List of issues prepared by the Committee to be
considered during the examination of the third
periodic report of Armenia (CAT/C/ARM/3)**

Addendum

**Written replies from the Government of Armenia to the list of issues
(CAT/C/ARM/Q/3)***

[28 March 2012]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

Articles 1 and 4

Reply to the issues raised in paragraph 1 of the list of issues (CAT/C/ARM/Q/3)

1. The Criminal Code of the Republic of Armenia has been recently amended with the purpose of bringing it into line with the Convention; in particular all the definitions and phrases used in the Convention were included in the articles of torture. All the articles containing the torture elements were amended. The English version of the amendments will be presented as soon as possible.

Reply to the issues raised in paragraph 2 of the list of issues

2. There have been no convictions of officials for torture of criminals having committed crimes against the person.

3. Two cases were reviewed under article 119 ("Torture") of the Criminal Code of the Republic of Armenia in 2008. With respect to one of them – the case of G. Alaverdyan - the Court of First Instance delivered a criminal judgment on 2 December 2008 on finding the defendant guilty of committing a crime envisaged under article 119(2)(3) of the Criminal Code of the Republic of Armenia and imposed punishment in the form of imprisonment for the term of three years.

4. Second, with regard to the case M. Alaverdyan the Court of First Instance delivered a criminal judgment on 18 December 2008 on establishing that the defendant committed the act prohibited by criminal law in the state of insanity, thus he should be released from the criminal liability and medical coercive measures should be applied with respect to him under the general supervision of the psychiatric division of "Nubarashen" Republican psychiatric hospital.

5. Both judicial acts were not appealed against under the appeal procedure and entered into force.

6. Four cases were reviewed under article 119 ("Torture") of the Criminal Code of the Republic of Armenia in 2009. With regard to one of them – the case A. Mikayelyan, the Court of First Instance delivered a criminal judgment on 1 April 2009 dismissing the criminal case due to reconciliation of the defendant with the victim G. Manukyan.

7. The judicial act was not appealed against and entered into legal force.

8. Second, with regard to the case of A. Davtyan, the Court of First Instance delivered a criminal judgment on 23 July 2009 on finding the defendant guilty under article 119(1), article 136(1) and article 137(1) of the Criminal Code of the Republic of Armenia. Under article 119(1) of the Criminal Code of the Republic of Armenia A. Davtyan was sentenced to imprisonment for a term of one year and six months, under article 136(1) of the Criminal Code of the Republic of Armenia - to a fine in the amount of 200.000 (two hundred thousand) Armenian drams, under article 137(1) of the Criminal Code of the Republic of Armenia – and to imprisonment for a term of six months. In accordance with article 66 of the Criminal Code of the Republic of Armenia, through combination of the punishments imposed A. Davtyan was sentenced to imprisonment for a term of (two) years and to a fine in the amount of AMD 200.000 (two hundred thousand). The Court applied Point 1(1) of the Decision of the National Assembly of the Republic of Armenia "On declaring amnesty" adopted on 19 June 2009 and released A. Davtyan from serving the punishment.

9. The judicial act was not appealed against and entered into legal force.

10. Third, with respect to the case of E. Yeghinyan, the Court of First Instance delivered a criminal judgment on 16 September 2009 on finding the defendant guilty under article 119(2)(1) and (6) of the Criminal Code of the Republic of Armenia and sentenced him to

imprisonment for a term of four years. By investigating the criminal case based on the appeal filed by the defendant, the Court of Appeals, by the decision of 9 November 2009, dismissed the appeal leaving the judgment of the Court of First Instance unchanged. The cassation appeal brought against the decision of the Court of Appeals was returned by Decision of the Court of Cassation of 24 December 2009.

11. Forth, with respect to the case of S. Davtyan, the Court of First Instance delivered a criminal judgment on 17 December 2009 on finding the defendant innocent under article 138(2)(3) of the Criminal Code of the Republic of Armenia and acquitted him. By the judgment of the Court the defendant was found guilty under article 119(2)(1) and (3) of the Criminal Code of the Republic of Armenia and was sentenced to imprisonment for a term of four years. By investigating the criminal case based upon the appeal of the defendant, the Court of Appeals awarded the appeal of the defendant by the decision of 26 February 2010. S. Davtyan was found guilty under article 119(2)(1) and (3) of the Criminal Code of the Republic of Armenia and sentenced to imprisonment for a term of three years. The Court of Appeals applied Point 1(1) of the Decision of the National Assembly of the Republic of Armenia "On declaring amnesty" adopted on 19 June 2009 and released S. Davtyan from serving the punishment. The cassation appeal brought against the decision of the Court of Appeals was returned by Decision of the Court of Cassation of 22 April 2010.

12. Threecases were reviewed under article 119 ("Torture") of the Criminal Code of the Republic of Armenia in 2010. With respect to one of them – the case of H. Hakobyan, A. Harutyunyan, H. Avetisyan - the Court of First Instance delivered a judgment on 1 April 2010 on finding H. Hakobyan guilty under articles 322(2) and 119(1) of the Criminal Code of the Republic of Armenia. H. Hakobyan was sentenced to imprisonment for a term of one year under article 322(2) of the Criminal Code of the Republic of Armenia, and to imprisonment for a term of two years under article 119 of the Criminal Code of the Republic of Armenia. In accordance with article 66(3) of the Criminal Code of the Republic of Armenia, through combination of punishments, H. Hakobyan was convicted to imprisonment for a term of three years. Point 1(1) of the Decision of the National Assembly of the Republic of Armenia "On declaring amnesty" adopted on 19 June 2009 was applied with respect to the defendant and he was released from serving the punishment.

13. Accusations of the two other defendants are not connected with article 119 of the Criminal Code of the Republic of Armenia.

14. The judicial act was not appealed against and entered into legal force.

15. Second, with regard to the case A. Hakobyan, a criminal judgement was delivered on 7 July 2010 on finding the defendant guilty of committing the crimes laid down in article 34-104(1) and 119(2)(3) of the Criminal Code of the Republic of Armenia. The defendant was sentenced to imprisonment for a term of seven years under articles 34-104(1) of the Criminal Code, for a term of 3(three) years under article 119(2)(3) of the Criminal Code of the Republic of Armenia. Based on article 66(4) of the Criminal Code of the Republic of Armenia he was sentenced to imprisonment for a total term of nine years. By investigating the criminal case based on the appeals of the defendant and victim, the Court of Appeals by decision of 24 August 2010 rejected the appeals leaving the criminal judgment of the Court of First Instance in legal force. The cassation appeal filed by the defendant against the decision of the Court of Appeals was returned by Decision of the Court of Cassation of 14 October 2010.

16. Third, with regard to the case of R. Galstyan the defendant was found guilty on 12 October 2010 under article 112(1) and article 119(2)(1) and (3) of the Criminal Code of the Republic of Armenia. Under article 112(1) of the Criminal Code of the Republic of Armenia R. Galstyan was sentenced to imprisonment for a term of 4(four) years and under article 119(2)(1) and (3) of the Criminal Code of the Republic of Armenia - to

imprisonment for a term of three years. Based on article 66 of the Criminal Code of the Republic of Armenia the defendant was sentenced to imprisonment for a total term of five years.

17. The judicial act was not appealed against and entered into legal force.

18. Five cases were reviewed under article 119 ("Torture") of the Criminal Code of the Republic of Armenia in 2011.

19. With regard to one of them – case of L. Nalbandyan and Y. Hakobyan, the Court of First Instance delivered a judgment on finding Y. Hakobyan guilty under article 131(2)(1), (2) and (6) and article 119(2)(5) and (6) of the Criminal Code of the Republic of Armenia. Under article 131(2)(1), (2) and (6) of the Criminal Code of the Republic of Armenia Y. Hakobyan was sentenced to imprisonment for a term of four years and six months, and under article 119(2)(5) and (6) of the Criminal Code of the Republic of Armenia – for a term of two years. Based on article 66 of the Criminal Code of the Republic of Armenia Y. Hakobyan was sentenced to imprisonment for a total term of five years.

20. Accusations of L. Nalbandyan are not connected to article 119 of the Criminal Code of the Republic of Armenia.

21. The judicial act was not appealed against and entered into legal force.

22. Second, with regard to the case of A. Ghambaryan, on 10 February 2011 the Court of First Instance found the defendant innocent and acquitted him, and dismissed the proceedings due to S.Aghajanyan's reconciliation with defendant A. Ghambaryan. The Court of Appeals, by reviewing the criminal judgment of the Court of First Instance based on the appeal filed by the prosecutor, on 21 April 2011 partially awarded the appeal; i.e. quashed the judgment of the Court of First Instance and forwarded the case to the same court for new examination.

23. As a result of the new examination, on 27 June 2011 the Court of First Instance delivered a new judgment finding defendant A. Ghambaryan guilty under article 119(2)(3) of the Criminal Code of the Republic of Armenia and sentenced him to imprisonment for a term of three years. By the application of Point 1(1) of the decision of the National Assembly of the Republic of Armenia "On declaring amnesty on the occasion of 20th anniversary of Independence of the Republic of Armenia" adopted on 26 May 2011 A. Ghambaryan was released from the punishment.

24. The judicial act was not appealed against and entered into legal force.

25. Third, with regard to the case of H. Tutyan, on 18 February 2011 the Court of First Instance found H. Tutyan guilty under article 34-185(3)(1) and article 119(1) of the Criminal Code of the Republic of Armenia. Under article 34-185(3)(1) of the Criminal Code of the Republic of Armenia, the defendant was sentenced to imprisonment for a term of 4(four) years and 6(six) months, under article 119(1) of the Criminal Code of the Republic of Armenia – to imprisonment for a term of one year and six months. Based on article 66(1) and (4) of the Criminal Code of the Republic of Armenia the defendant was sentenced to imprisonment for a total term of five years.

26. The judicial act was not appealed against and entered into legal force.

27. Fourth, with regard to the case of A. Khachatryan, on 19 May 2011, the Court of First Instance of the Republic of Armenia found A. Khachatryan guilty under article 117s, e 118, 119(2)(6), 137(1) and 262(1) of the Criminal Code of the Republic of Armenia. Under Article 117 of the Criminal Code of the Republic of Armenia A. Khachatryan was sentenced to a fine in the amount of 100.000 (one hundred thousand) Armenian drams, under article 118 of the Criminal Code of the Republic of Armenia – to a fine in the amount of 50.000 (fifty thousand) Armenian drams, under article 119(2)(6) of the Criminal Code of

the Republic of Armenia A. Khachatryan was sentenced to imprisonment for a term of three years, under article 137(1) of the Criminal Code of the Republic of Armenia he was sentenced to a fine of 50.000 (fifty thousand) Armenian drams, under article 262(1) of the Criminal Code of the Republic of Armenia he was sentenced to imprisonment for a term of one year.

28. Based on article 66(4) of the Criminal Code of the Republic of Armenia A. Khachatryan was sentenced to imprisonment for a total term of three years and three months and to a fine of 150.000 (one hundred fifty thousand) Armenian drams.

29. By investigating the appeal filed by A. Khachatryan's legal counsel L Grigoryan, the Court of Appeals decided to reject the appeal of the counsel and release A. Khachatryan from the punishments imposed under articles 119(2)(6) and 262(1) of the Criminal Code of the Republic of Armenia based on Point 1(1) of the decision of the National Assembly of the Republic of Armenia of 26 May 2011 "On declaring amnesty on the occasion of 20th anniversary of Independence of the Republic of Armenia".

30. The judicial act was not appealed against and entered into legal force.

31. Fifth, with regard to the case of H. Mkhoyan, on 21 July 2011 the Court of First Instance found H. Mkhoyan guilty under articles 131(2)(1), (2) and (6) and 119(2)(5) and (6) of the Criminal Code of the Republic of Armenia. H. Mkhoyan was sentenced to imprisonment for a term of four years under article 131(2)(1), (2) and (6) of the Criminal Code of the Republic of Armenia. He was sentenced to imprisonment for a term of three years under articles 119(2)(5) and (6) of the Criminal Code of the Republic of Armenia. Based on article 66(4) of the Criminal Code of the Republic of Armenia H. Mkhoyan was sentenced to imprisonment for a total term of five years and six months. By investigating the case based on the appeal filed by defendant's counsel I. Petrosyan, the Court of Appeals left the criminal judgment of the Court of First Instance in legal force by its decision of 2 December 2011.

32. The judicial act was not appealed against and entered into legal force.

Reply to the issues raised in paragraph 3 of the list of issues

33. A number of articles of the Special Part of the Criminal Code of the Republic of Armenia art.s 104(2)(13), 112(2)(12), 113(2)(7), 119(2)(7), 185(2)(4), 265(2)(2), and 226 qualify the commitment of the same act with motives of national, racial or religious hatred or religious fanaticism as a circumstance aggravating the crime.

34. In addition, article 143(1) of the Criminal Code of the Republic of Armenia provides for liability for direct or indirect violation of human and citizen's rights and freedoms on ground of national origin, race, sex, language, belief, political or other opinion, social origin, property or other status, which has caused harm to a person's lawful interests.

35. Article 143(2) of the Criminal Code of the Republic of Armenia provides for liability for the above mentioned acts that have been committed by use of official position.

36. There are no aggravating circumstances in the Criminal Code linked with gender or sexual orientation. But there are many articles where the crime committed against pregnant woman is an aggravating circumstance. Besides, we have an article in the Criminal Code of Armenia which stipulates criminal punishment for unjustified refusal to hire or dismissal of a pregnant woman for the reason of pregnancy or a person having a child under the age of three for that reason, which is punished by a fine in the amount of two-hundred-fold to five-hundred-fold of the minimum salary, or by detention for a maximum term of one month. A draft law has been drawn up "On equal rights and equal possibilities for men and women", the draft deeply regulates all the issues concerning the gender equality, according to the international conventions ratified by the Republic of Armenia.

Reply to the issues raised in paragraph 4 of the list of issues

37. In the Republic of Armenia the law enforcement procedure qualifies violence and grave consequences in each specific case as crime of torture if the mentioned acts of violence were acts constituting elements of torture. Where violence does not constitute torture, then this act is qualified based on its consequences.

38. The decision of the Court of Cassation of the Republic of Armenia (hereinafter referred to as “Court of Cassation”), made on 12 February 2010 on the case of A. Gzoyan, contains certain clarifications with respect to the application of the concepts mentioned in this point. The interpretations of the Court of Cassation concerning the absolute nature of prohibition of torture and the positive obligations of the State in this regard have, in our opinion, key significance for the interpretation of such concepts as “violence”, “torture”, “material damage”.

39. Thus, according to the decision on A. Gzoyan “(...) prohibition of torture, inhuman or degrading treatment bears an absolute nature”.

40. This circumstance been repeatedly emphasized in the case decisions made by the European Court of Human Rights on the basis of article 3 of the European Convention on Protection of Human Rights and Fundamental Freedoms. In particular, in the decision on the case of *Zelilof v. Greece* the Court has stated: “(...) Article 3 enshrines one of the most fundamental values of democratic societies. Even in the most difficult circumstances, such as the fight against terrorism and organized crime, the Convention prohibits in absolute terms torture and inhuman or degrading treatment or punishment. Unlike most of the substantive clauses of the Convention and of Protocols Nos. 1 and 4, article 3 makes no provision for exceptions and no derogation from it is permissible under article 15, paragraph 2 even in the event of a public emergency threatening the life of the nation (...)” (See, *Zelilof v. Greece*, point 42 of the judgment of 24 May 2004, application No 17060/03).

(...) The absolute nature of prohibition of torture does not imply only refraining from torture, inhuman or degrading treatment or punishment but denotes the obligation of the State to execute certain positive actions.

41. The requirement of positive actions follows from the requirements established in article 1 of the European Convention on Protection of Human Rights and Fundamental Freedoms, which states that: “The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of this Convention”.

42. The Court of Cassation builds upon the standpoint of the European Court of Human Rights that the word “secure” used in the above-mentioned article implies the positive obligation of undertaking such measures that will result in properly ensuring both the legal and practical protection of rights.

43. The mentioned positive obligation has been reasoned also in a number of other decisions of the European Court of Human Rights. Thus, in the judgment on the case *Bekos and Koutropoulos v. Greece*, the Court has stated that “(...) where an individual makes a credible assertion that he has suffered treatment infringing article 3 at the hands of the police or other similar agents of the State, that provision, read in conjunction with the State’s general duty under article 1 of the Convention to “secure to everyone within their jurisdiction the rights and freedoms defined in the Convention”, requires by implication that there should be an effective official investigation. (...) Otherwise, the general legal prohibition of torture and inhuman and degrading treatment or punishment would, despite its fundamental importance, be ineffective in practice and it would be possible in some cases for agents of the State to abuse the rights of those within their control with virtual impunity (see, among other authorities, *Labita v. Italy*, application No 26772/95, § 131”

(*Bekos and Koutropoulos v. Greece*, point 53 of the judgment of 13 December 2005, application No 15250/02).

(*Points 22-33 of the Decision No EAKD/0049/01/09 of 12 February 2010 on the case of Arayik Eduard Gzoyan*)

44. According to the Constitution of the Republic of Armenia, the highest judicial instance of the Republic of Armenia — except for matters of constitutional justice — shall be the Court of Cassation which is called to ensure the uniform application of law, and thus the legal standpoints formulated in the decisions of the Court of Cassation of the Republic of Armenia have guiding significance for the domestic judicial practice in the Republic of Armenia. Moreover, the decisions of the Court of Cassation are binding for the court of first instance and the court of appeal as, in accordance with article 15(4) of the Judicial Code of the Republic of Armenia, the reasoning of a judicial act of the Court of Cassation or the European Court of Human Rights in relation to a case with certain factual circumstances (including the interpretations of the law) is binding on a court in the course of examination of a case with similar factual circumstances, unless the latter court, by indicating solid arguments, justifies that such reasoning is not applicable to the factual circumstances at hand.

45. We would like to inform that by the recent amendments in Criminal Code all the terms mentioned (“violence”, “torture”, “severe damage”) are either clarified or excluded.

Article 2

Reply to the issues raised in paragraph 5 of the list of issues

46. Please see above the replies to the issues raised in paragraphs 1-4 of the list of issues.

Reply to the issues raised in paragraph 6 (a) to (c) of the list of issues

47. The Criminal Procedure Code of the Republic of Armenia was supplemented by article 131.1 upon the law-making initiative of the Police still in 2006, which guarantees the possibility to institute a criminal case against de facto arrested persons within a period of three hours and to carry out a procedural arrest. The lawfulness of the act of apprehension of a person by the police is expressly related to the matter, and in practice is not considered as an arrest with the negative consequences deriving therefrom. Taking into account that a new draft Criminal Procedure Code of the Republic of Armenia is currently being elaborated, the procedure for drawing up a protocol of arrest as from the moment of apprehension of a person will be regulated within the framework of the new legislation.

48. The reforms carried out in the Police of the Republic of Armenia currently envisage drawing up an electronic protocol immediately upon apprehension of the arrested persons to the police units of the Republic of Armenia, using computers with mirror displays connected to the Police network. In addition, it is envisaged to prepare booklets in Armenian, Russian and English on the rights of persons brought to the police units.

49. Above all, the “Guideline on the rights and obligations of police officers in apprehending persons” has already been drafted and put into practice, which contains detailed information on the actions of police officers in the course of apprehending persons to the police units in accordance with the administrative and procedural order.

50. The cell for holding the persons up to three hours in the police territorial units are not envisaged for spending the night; however in case it is impossible to find out the identity of the delinquent within the stated period of time, the given period may be

extended. This issue will find its solution within the framework of the new Criminal Procedure Code of the Republic of Armenia.

51. As regards to the issue of exercising the right of the person to be notified and to have an advocate when apprehended and arrested, according to the instruction N12-8 of 3 April 2010 issued by the Chief of the Police of the Republic of Armenia, the heads of the police units of the Republic of Armenia carrying out investigation were assigned to:

(1) Take all necessary measures to bring an advocate upon the request of persons being apprehended on the grounds of article 128 of the Criminal Procedure Code of the Republic of Armenia;

(2) Provide the apprehended person with an opportunity to give explanations at the presence of the advocate, if the need for the person's explanations or for conducting operative inquiries arises prior to preparing protocol of arrest or choosing the preventive measure.

(3) Strictly follow other requirements of the Decision of the Government of the Republic of Armenia No 818-N of 14 June 2007 "On approving the list of rights subject to notification arising from the restriction of human rights and freedoms and the notification procedure".

52. Currently, measures are taken to ensure the strict enforcement of the listed legal acts.

53. According to article 137(2) of the Criminal Procedure Code of the Republic of Armenia, a detainee may not be held in arrest facilities for more than three days, except for the cases, when the transfer of the latter is impossible due to lack of transportation. In addition, according to article 6 of the Law of the Republic of Armenia "On treatment of arrested and detained persons", in case it is impossible to transfer the detainee from the detention facility every day for conducting investigative actions, the detainee may be transferred to the arrest facility for a period of up to three days upon the decision of the investigator, prosecutor or court.

54. In addition to the exceptional cases mentioned, in order to prevent cases of holding detained persons in arrest facilities for a longer period than envisaged by the law, instruction No C-2 dated 29 January 2009 and order No 2625-A dated 14 October 2009 have been issued by the Chief of Police of the Republic of Armenia. In particular, by the above-mentioned order it has been assigned for the territorial units of the Police of the Republic of Armenia to take all the necessary measures to exclude:

(1) The cases of holding arrested persons outside arrest facilities in the night time, except for the urgent cases;

(2) Conducting operative inquiries of persons suspected in committing a crime or performing investigative actions with the participation of the suspect/accused/ in the night time, except for the urgent cases.

(3) Detaining a person, suspected of having committed a crime and apprehended, for more than three hours without formally involving him or her as a suspect.

(4) Holding detainees in arrest facilities for more than three days, if it is not called forth by impossibility of the transfer from arrest facility to the investigative isolator or to respective detention facilities in accordance with the appropriate requirements of the law.

55. The rights of arrested persons to inform an immediate relative or others of their situation, to have an advocate and a doctor together with other rights are specified in article 13 of the Law of the Republic of Armenia "On treatment of arrested and detained persons".

56. According to Decision of the Government No 574-N of 5 June 2008 “On approval of internal regulations of the arrest facilities functioning in the system of the Police of the Republic of Armenia”, an officer on duty shall make a record on every arrested person admitted to an arrest facility in the “Record book for registration of persons kept in the arrest facilities”, where the following must be mentioned: name, surname, patronymic name, date of birth, place of residence of the arrestee, arresting authority, grounds for admission to the arrest facility, date and time of arrest, previous convictions, notes on transfer of the arrestee, grounds for release from the arrest facility, date and time of the release. In addition, a personal file shall be compiled for every arrested person in the arrest facility, including dates of arrest and release, the individual card, protocol of apprehension, the of list of clothes and personal items, information about previous convictions, protocol of search, fingerprint data, written requests for parcels and visits, running of personal account and other documents related to the arrested person.

57. According to the regulation approved by the Decision of the Government No 574-N of 5 June 2008, completions with deficiencies in registration books and forms of arrest facilities entails liability foreseen by the law.

58. The arrest facilities are the most transparent places of the Police, where, within the framework of their competence assigned by the acting legislation, supervisory bodies and organizations pay special attention to proper completion of registration books. The improvement of the mentioned function is under the control of the Police administration.

59. The departmental network is being introduced, for automating the mentioned process and enabling real control over the terms of keeping and transfer of arrested persons.

60. Article 13(4) of the Law of the Republic of Armenia “On treatment of arrested and detained persons” states that “the arrested person has the right to protection of his/her health, including to receiving sufficient food and urgent medical aid, as well as to be examined by the doctor of his/her choice at his/her own financial expenses”. As to medical examination of an arrested person by a forensic medic, then, according to article 15 of the same Law, “an arrested or detained person and, upon the consent of an arrested or detained person, also his/her advocate has the right to demand forensic medical examination”.

61. In conformity with point 13 of Decision of the Government No 574-N of 5 June 2008, “In case of discovering a bodily injury or obvious signs of disease in relation to the arrested person or any complaints about state of health, the Police officer on duty invites a doctor. The invited doctor immediately carries out medical screening, wherein may also participate the doctor chosen by the arrested person. The medical screening of an arrested person shall be conducted beyond the hearing and, unless the doctor requests otherwise, beyond the sight of an administrative serviceman of an arrest facility. The results of the medical screening are recorded in a record book, in the personal file and communicated to the patient, as well as the body of criminal proceedings. By the way, in compliance with article 13(3) of the Law of the Republic of Armenia “On treatment of arrested and detained persons”, an arrested person has the right to complain about violations of his/her rights and freedoms, both personally and through the advocate or legal representative to administration of the arrest facility or detention facility, to higher authorities, court, prosecutor's office, Ombudsman, central and local government bodies, public associations and parties, mass media, as well as international bodies or organizations dealing with the protection of human rights and freedoms.”

62. As to the wide-ranging operative preventive measure of apprehending 53 persons having participated in criminal “clarification” in Nor Nork administrative district of Yerevan, there were appropriate insignias on uniforms of servicemen of the Police units having participated in the above- mentioned operation (see photos of 17 April 2010

uploaded on www.a1plus.am). By the way, 13 firearms, eight cold steels and notable amount of ammunition were seized from the apprehended persons.

63. In order to ensure the application of personal identification numbers on uniforms of the Police servicemen protecting the public order, an appropriate supplement was made in 22 December 2010 to article 12 of the Law of the Republic of Armenia “On Police”, and Order No 34-AG has been signed by the Chief of Police of the Republic of Armenia on 23 March 2011, by which the application procedure of identification numbers for Police servicemen has been established.

64. No cases were reported when a corresponding protocol has been drawn up within three hours as from the moment of arrest of a suspect. The arrested persons were admitted to arrest facilities only upon a protocol of arrest.

65. Upon the assignment of the Deputy Prosecutor General of the Republic of Armenia No 2/16-05 of 23 February 2009, the prosecutors of marzes of the Republic of Armenia, prosecutors of Yerevan and of communities were instructed to inspect the details of confinement of detainees in the police arrest facilities, under article 137 of the Criminal Procedure Code of the Republic of Armenia, on the basis of orders of judges, prosecutors and investigators during the years of 2008 and 2009 and to make a report on the basis of the inspection.

66. The respective information submitted by the prosecutor’s offices of marzes of the Republic of Armenia, of Yerevan and of communities has been summarized by the General Prosecutor's Office Department exercising control over the lawfulness of punishments and other coercive measures.

67. The study showed that during 2008 in the arrest facilities of the Republic 272 detainees were kept in confinement beyond the prescribed time limit, where 151 cases of the breach of the time limit was conditioned by the delay of their transfer, in 61 cases the detainees were kept on the basis of orders of judges, in 14 cases – on the basis of orders of prosecutors, and in 42 cases – on the basis of orders of investigators, in four cases the breach of the time limit was conditioned by the fact that the person was searched by other states.

68. In the first quarter of 2009 in the arrest facilities 41 persons were kept in confinement beyond the prescribed time limit, 10 of which were kept on the basis of orders of judges, two persons – on the basis of orders of prosecutors and one person – on the basis of order of an investigator, while in 28 cases the breach of the time limit was conditioned by the delay of organizing the transfer under the escort guard.

69. Meanwhile, for the purpose of eliminating the reasons of the detected violations and excluding such violations in the future, the prosecutors of marzes of the Republic of Armenia, of Yerevan and of communities were instructed to intensify the control over the lawfulness of keeping persons in confinement in the arrest facilities.

70. In the Decision of 18 December 2009 on *G. Mikaelyan*, adopted a position that “(...) the arrest procedure consists of four successive actions: (1) de facto depriving a person of liberty, (2) bringing him before the competent authority, (3) drawing up a protocol of arrest and (4) notifying him of arrest”. Thus, a person may obtain a status of arrestee from the moment the last fourth action is effected, i.e. from the moment of notifying a person of a protocol of arrest in the criminal prosecution body.

71. Before that, a person, having been de facto taken into custody and apprehended to a criminal prosecution body, may not yet obtain a status of arrestee, because the ground to take him into custody and apprehend him to the body conducting criminal proceedings is the reasonable suspicion of committal of a crime and the likelihood of escape. Moreover, at this stage, suspicion is less reasonable than at the stage of arrest.

72. Where the body conducting criminal proceedings continues and completes the arrest procedure against the apprehended person, the period of arrest — in virtue of sentence 4 of article 173(3) of the Criminal Procedure Code of the Republic of Armenia — starts from the moment of taking a person into custody, but the calculation is made retroactively. Thus, a person, having been taken into custody and apprehended to the body conducting criminal proceedings, may not realize his or her status with sufficient degree of certainty until he or she is notified of the protocol of arrest. Moreover, before the protocol is drawn up, he or she may be released without ever obtaining a status of arrestee.

73. The Court of Cassation states that the Criminal Procedure mechanisms for depriving a person of liberty — on the ground of reasonable suspicion of having committed a crime — are not limited to the institutes of “arrest” and “detention”, but also include the mechanism for taking into custody and apprehending to the body conducting criminal proceedings. Therefore, during pre-trial proceeding a person, who was deprived of liberty and obtained the status of “arrestee” and “detainee”, may also have preliminary legal status, which may be conditionally called the status of “apprehended person”.

74. Article 180(2) of the Criminal Procedure Code of the Republic of Armenia evidences about the approach of the legislative power to incorporate the term “apprehension” as a relatively separate category into the legislation, which, before instituting a criminal case, also stipulates the following action, among other permissible actions, “in case of existence of sufficient grounds for suspicion of committal of a crime may be apprehended”.

75. The limitation of the right of a person to freedom assumes direct requirements of depriving a person of liberty within a set time limit and of drawing up a protocol, which — among other things – implies drawing up a protocol of arrest within a maximum period of three hours after apprehending a person deprived of liberty before the criminal prosecution body.

76. Article 128 of the Criminal Procedure Code of the Republic of Armenia states that the arrest procedure is considered completed after having taken a person into custody, apprehending him or her to the body conducting criminal proceedings and notifying a person deprived of liberty on a protocol of arrest drawn up (...). Thus, within the meaning of this article, a person may be considered arrested in the manner prescribed by law only when his or her deprivation of liberty has been properly reported and he or she has been familiarized with the protocol drawn up.

77. As a result of literal interpretation of article 131¹(1) of the Criminal Procedure Code of the Republic of Armenia, it is found out that the legislative body has set time limit (maximum three hours) only for drawing up a protocol of arrest, but has envisaged no time limit for notifying him or her thereon. Thus, it follows from the literal interpretation of the mentioned articles that a person suspected of having committed a crime may not obtain a status of arrestee even after having been apprehended to a body conducting pretrial proceedings and, thus, be deprived of legal guarantees stemming from his or her status, if the body conducting criminal proceedings fails to notify him or her on the protocol of arrest.

78. Based on the aforementioned, the Court of Cassation finds that article 128 of the Criminal Procedure Code of the Republic of Armenia should be interpreted in the light of article 131¹ and fixed that when the body conducting criminal proceedings would draw up a protocol of arrest during three hours from the moment of apprehending a person before the criminal prosecution body, the latter is obliged to immediately — and when impossible, within a maximum period of one hour — notify thereon to the person deprived of liberty. Such a time limit is reasonable and stems from the need to ensure the constitutional rights of a person deprived of liberty. The sole valid derogation from the mentioned time limit

may refer to cases when the criminal prosecution body is objectively deprived of the possibility to notify the apprehended person on the protocol of arrest due to his or her physiological state, i.e. being under the influence of alcohol, narcotic drugs or other soporific substances or other equivalent state.

79. Thus, if a person deprived of liberty is not notified of the protocol of arrest within four hours after having been apprehended to the criminal prosecution body, a person — by virtue of the law — should be considered arrested and be entitled to guarantees prescribed by law for the arrestee, including "the right to a prompt release in case of failure to detain a person upon a court decision within seventy-two hours" stipulated by article 16 of the Constitution of the Republic of Armenia.

(Decision No EADD/0085/06/09 of 18 December 2009 on Gagik Garnik Mikaelyan, points 18-20, 26-28)

80. The Court of Cassation, in the Decision on *G. Mikaelyan*, has adopted a position that "(...) the apprehended person should be endowed with relevant constitutional and conventional guarantees.

81. In particular, as per article 6(1) of the European Convention on Human Rights, "In the determination (...) of any criminal charge against him, everyone is entitled (...) to fair (...) trial (...)". Article 6 (3) stipulates minimum rights of everyone charged with a criminal offence.

82. Based on the Case-law of the European Court of Human Rights, the conception of the "criminal charge" should be construed in terms of "*substantive*" sense rather than in terms of "*formal*" sense (*Deweert v. Belgium*, Application No 6903/75, Judgement of 27 February 1980, point 44). That is to say, the taking measures that assume the existence of the suspicion of committal of a crime, as well as the essential impact on the situation of the suspect (*Eckle v. Germany*, Application No 8130/78, Judgement of 15 July 1982, point 73; *Šubinski v. Slovenia*, Application No 19611/04, Judgement of 18 January 2007, point 62; *G.K. v. Poland*, Application No 38816/97, Judgement of 20 January 2004, point 98) may prove the existence of "criminal charge" brought against a person. Moreover, the manner in which article 6 (1) and (3) of the Convention is to be applied to pretrial proceedings depends on the special features of the proceedings (*Shabelnik v. Ukraine*, Application No 16404/03, Judgement of 19 February 2009, point 52)".

83. Based on the legal positions of the European Court of Human Rights, the Court of Cassation finds that the legal status of the apprehended person complies with the requirement of the Convention *on bringing "a criminal charge"* upon the substantive interpretation of the European Court. Thus, taking into account the characteristics of the apprehended person's status (preliminary and short-term nature), the latter should be entitled to at least the following rights:

(a) Be informed of the reason for being taken into custody (derives from the first sentence of article 16 (2) of the Constitution of the Republic of Armenia, article 6, paragraph 3 (a) of the Convention);

(b) Keep informed on his or her being apprehended (derives from the second sentence of article 16(2) of the Constitution of the Republic of Armenia);

(c) Invite his or her advocate (derives from article 20(1) of the Constitution of the Republic of Armenia);

(d) Remain silent (derives from article 22(1) of the Constitution of the Republic of Armenia).

84. Accordingly, the criminal prosecution body is obliged to ensure the exercise of the apprehended person's rights through providing him or her with written clarification of his

or her rights, giving him one phone-call opportunity, not obstructing his or her advocate's access.

85. Persons, apprehended to the Police or other criminal prosecution bodies, not having the status of a suspect or accused, *mutatis mutandis*, enjoy minimum rights and guarantees (...), where they may reasonably assume that (1) their liberty is restricted or they are deprived of liberty and, at the same time, (2) they are suspected of committal of a crime.

(Decision No EADD/0085/06/09 of 18 December 2009 on Gagik Garnik Mikaelyan, points 21-22)

86. The Court of Cassation with regard to the arrestee's rights has also stated that (...) the lawfulness of the arrest may not be left outside the scope of the judicial review and the offences committed in the course of application of the mentioned coercive measures should be legally evaluated and result in equivalent legal effects. Otherwise, the right of the arrestee to effective legal remedy will be violated.

87. Thus, when examining the petition for detention, the court is obliged to undertake relevant measures prescribed by the legislation of the Republic of Armenia whenever it detects breaches of the arrest procedure. In case of infringement of the maximum period of arrest, the following measures are to be undertaken:

(a) Reporting of the fact of violation of the 72-hour period;

(b) Adoption of an additional decision based on article 360.1 of the Criminal Procedure Code of the Republic of Armenia or, when the offence is obvious and gross, application to the Prosecutor with the motion of instituting a criminal case under article 184(1) of the Criminal Procedure Code of the Republic of Armenia;

(c) Clarification of the procedure to apply to the Court of the First Instance of General Jurisdiction with the request for compensation for unlawful arrest.

88. According to article 1064 of the Civil Code of the Republic of Armenia,

“1. The damage caused as a result of illegal conviction, holding criminally liable, applying detention or a written recognisance not to leave as a measure of restraint, imposition of an administrative penalty shall, in a manner prescribed by law, be compensated in full by the Republic of Armenia regardless of the fault of the officials of inquiry and preliminary investigation bodies, of Prosecutor's Office and the court.

2. Damage caused to a citizen (...) by illegal actions of inquiry, preliminary investigation bodies, Prosecutor's Office, which has not entailed the consequences provided for in point 1 of this Article shall be compensated on the grounds and in the manner provided for by Article 1063 of this Code.

(...)”.

89. According to article 1063 of the Civil Code of the Republic of Armenia,

“The damage caused to a citizen (...) as a result of unlawful actions (inaction) of state bodies (...) or their officials, shall be compensated by the Republic of Armenia (...)”.

90. (...) The Court of Cassation finds that the action filed on the ground of breaching the arrest procedure should be examined not under article 1063, but under article 1064 of the Civil Code of the Republic of Armenia. Thus, anyone who has been a victim of unlawful arrest should have a right to compensation regardless of the fault of the officials of inquiry, preliminary investigation bodies, Prosecutor's Office and court. Otherwise, the right to compensation may become illusion and abstract, since the additional burden of proof may lie with the victim of unlawful arrest.

91. Meanwhile, the examination of and decision on that action should comply with both the national legislation of the Republic of Armenia and its international treaties and the legal positions of the European Court of Human rights.

92. (...) The expounded substantiations are preconditioned by the position adopted in the Case-law of the European Court of Human Rights that the right of a person to compensation illegally deprived of freedom should be ensured with sufficient degree of certainty (*Sakik and Others v. Turkey*, Applications No 23878/94, etc, Judgement of 27 November 1997, point 60; *N.C. v. Italy*, Application No 24952/94, Judgement of 18 of December 2002, point 52; *Rehbock v. Slovenia*, Application No 29462/95, Judgement of 11 November 2000, point 92)”.
(*Decision No EADD/0085/06/09 of 18 December 2009 on Gagik Garnik Mikaelyan, points 34-37*)

93. According to article 65 of the Penitentiary Code of the Republic of Armenia a convict after being transferred to a correctional institution is placed in the quarantine unit for a period of up to seven days, for undergoing health screening and adapting to the conditions of the institution, where he or she is promptly informed of his or her basic rights and obligations, internal regulations of the correctional institution, the statement of information whereon is enclosed in the personal case file of the convict.

94. In accordance with the current legislation of the Republic of Armenia the administration of the correctional institution bears the responsibility for promptly informing a close relative or another third party upon the choice of a convict about the latter’s admission into or transfer from one institution to another.

95. At the same time the administration of the correctional institution is prohibited to inform the mentioned persons about the place of location of the convict if the convict has filed a written request thereon.

96. The “Internal regulations of detention facilities and correctional institutions of the Penitentiary Service of the Ministry of Justice of the Republic of Armenia”, approved by Decision of the Government of the Republic of Armenia No 1543-N of 3 August 2006, has established an obligation for the administration of a correctional institution to ensure both health screening and medical examination of detainees and convicts.

97. Thus, the legislation of the Republic of Armenia has not only enshrined the right of these vulnerable groups, but also established the responsibility of administrations of penitentiary institutions to ensure and guarantee the exercise of those rights. Meanwhile, for the purpose of ensuring the rights of detainees and convicts and observing the conduct of respective officials in this field, the legislation of the Republic of Armenia has provided for the arrangement of supervision over the execution of punishments, which – in accordance with the penitentiary legislation of the Republic of Armenia – is exercised in three forms: judicial, departmental and societal. The latter is effected through a group of public observers formed by the authorized body of public administration of the Republic of Armenia, i.e. Ministry of Justice of the Republic of Armenia.

98. The current legislation has also provided for prosecutorial control over the lawfulness of imposition of punishments and other coercive measures.

99. Article 22 of the Penitentiary Code of the Republic of Armenia lays down the list of those authorities and officials that have unimpeded access to the places of serving sentences without any special permission.

Reply to the issues raised in paragraph 6(d) of the list of issues

100. In the criminal case instituted in the General Investigation Department of the Police of the Republic of Armenia, under the features of articles 258(3)(1) and 235(1) of the

Criminal Code of the Republic of Armenia, on the case of hooliganism committed by a group of persons in the vicinity of "Crazy Horse" café (186/2, David Beck str., Yerevan) on 17 April 2010, 38 persons were arrested, and subsequently charges were brought against them under the mentioned articles.

101. During the preliminary investigation the instituted criminal case was split into parts and 16 criminal cases with respect to 38 persons were sent to the courts.

102. During the court examination the proceedings of one criminal case were terminated on the ground of the death of the accused. For the rest of all criminal cases judgments of conviction were made.

103. There were no reports on the use of violence against the arrestees during both the preliminary investigation and court examinations.

On the process of preliminary investigation on Levon Gulyan's death

104. On 12 May 2007, the Prosecutor's Office of Yerevan received an alarm that Levon Ashot (father's name) Gulyan (born in 1976, place of residence Yerevan, 14 Eghbayrutyun, apt. 23) who was called for interrogation with regard to Stepan Vardanyan's murder committed in Shengavit administrative territory of Yerevan on 9 May 2007, tried to escape through the window of the office of the head of the 1st division of the 2nd unit of the General Criminal Investigation Department of the Police of the Republic of Armenia at around 15.20, but fell down and died of injuries on the spot.

105. The same day, the Prosecutor's Office of Yerevan instituted a criminal case under the elements of article 110(1) of the Criminal Code of the Republic of Armenia, the preliminary investigation of which continued in the Special Investigation Service of the Republic of Armenia. The preliminary investigation found out the following:

106. On 9 May 2007, at around 22.30, residents of Yerevan city Armen Hakobyan (nickname "Boyov") with his brother Vahan Hakobyan (nickname "Gastik"), and friends Arthur Hovhannisyian (nickname "Klung"), Albert Muradyan (nickname "Albertik"), Sargis Asryan (nickname "Gizh") and Stepan Vardanyan ("Styopik"), while on the way to "Bolero" hotel complex owned by the S. Vardanyan Family, located at 17 Bagratunyats 17, Yerevan by Vardanyan's car, noticed director of the restaurant Levon Gulyan and resident of the same district - Armen Tarkhanyan (nickname "Yemo") next to "Pandok" restaurant located at Manandyan street. S. Vardanyan, told his friends that he wanted to speak to L. Gulyan and told them to wait for him in the car. Then he approached and started to talk to L. Gulyan and A. Tarkhanyan. A bit later, their conversation turned into an argument, then into fight. A. Hakobyan, with his friends approached the disputers and getting involved in the fight and using abusive language, argued and fought with L. Gulyan and A. Tarkhanyan in the presence of the crowd of people who gathered there after hearing the noise of the disputers. Their argument and fight, which lasted around 10 minutes, was stopped by the shot made by a third person who approached to the disputers killing S. Vardanyan.

107. The same day, with regard to S. Vardanyan's murder, the Prosecutor's office of Shengavit community of Yerevan instituted a criminal case under the elements of articles 104(1) and 235(1) of the Criminal Code of the Republic of Armenia and undertook preliminary investigation, took operational-investigative measures with the involvement of the officers of the Criminal intelligence division of Shengavit unit of Yerevan city police department of the Republic of Armenia, Criminal Intelligence division of Yerevan city police department of the Republic of Armenia and General Department of the Criminal Intelligence of the Police of the Republic of Armenia.

108. For disclosure of the crime, on the night of 9-10 May 2007, within the scope of undertaken operational measures, E. Varderesyan, head of the Criminal intelligence

division of Shengavit unit of the Police of the Republic of Armenia, at around 03.30 -04 instructed A. Mantashyan, operations officer of the same division and A. Karapetyan, territorial inspector, to call as many employees of "Pandok" restaurant and "Bolero" hotel complex as possible, including L. Gulyan to witness. The letter showed up in the police unit at around 07.30 - 08. During the interrogation L. Gulyan reported that after hearing the noise caused by disputers, went out the street and after rebuking came back to the restaurant and when he again went out, he saw S. Vardanyan killed. Meanwhile, M. Grigoryan, waitress in "Pandok", called to the division reported that at the time of argument, fight and gun shots L. Gulyan was near the disputers at the distance of 2-3 meters and returned to the restaurant only after the incident was over. It means that L. Gulyan was present not only during the fight but also witnessed the murder.

109. After the interrogation L. Gulyan and M. Grigoryan gave the testimonies with the same content to the investigator of the Shengavit Prosecutor's office.

110. For the purpose of clarification of the mentioned incompliance, on 11 May 2007 L. Gulyan was again called to Shengavit division of the Police of the Republic of Armenia, but the operational activities undertaken for the disclosure of the murder did not yield positive results.

111. The officers of the General Department of the Criminal Intelligence of the Police of the Republic of Armenia reported on the operational activities undertaken for the disclosure of the crime, as well as the significant incompliance between L. Gulyan's and M. Grigoryan's testimonies to head of the General Department H. Militonyan, who issued an instruction to call L. Gulyan and M. Grigoryan separately to the Police of the Republic of Armenia for interrogation.

112. On the mentioned day L. Gulyan, at around 14:00 p.m, showed up in Shengavit division of the Police of the Republic of Armenia, from where V. Giloyan and S. Mkrtychyan, senior authorized operations officers of the 1st division of the 2nd unit of the General Department of Criminal Intelligence of the Police of the Republic of Armenia, as instructed by G. Tadevosyan, head of the first division of the same department, escorted him to the General Department of Criminal Intelligence by "VAZ 2106" service car.

113. According to the established procedure in the General Department of Criminal Intelligence a declaration for the entry into the administrative building of the Police of the Republic of Armenia was filled out and a pass was issued in L. Gulyan's name, after which he was called to the office of head of the first division of the 2nd unit of the General Department of Criminal Intelligence G. Tadevosyan, located on the 2nd floor of the administrative building of the General Department of Criminal Intelligence. The letter had around a 30-minute conversation with L. Gulyan, where he confessed that one of the persons arguing with S. Vardanyan was the person with "Yemo" nickname, while the others were unknown to him. Learning the information on the given person, G. Tadevosyan went out of the office to report on that, but before going out, at the presence of L. Gulyan, he had had a phone conversation with deputy head of Shengavit division of the Police of the Republic of Armenia H. Soghomonyan to clarify the reason of M. Grigoryan's being late, since the letter had also been called to the General Department of Criminal Intelligence. Then, G. Tadevosyan instructed A. Mgoyan, deputy head of the 1st division of the 2nd unit of the General Department of Criminal Intelligence to stay with L. Gulyan in the office.

114. L. Gulyan, after learning from the phone conversation with G. Tadevosyan, that the General Department of Criminal Intelligence also called waitress M. Grigoryan, and realizing that he cannot avoid face-to-face examination, during which he cannot conceal the identities of those involved in the argument and fight, also the person committed the murder, decided to escape.

115. To this end, L. Gulyan, after talking to A. Mgoyan around 20 minutes, who was in the office with him, asked him to bring him a glass of water, and when the latter went to fetch water, at around 15.20 L. Gulyan tried to run away through the window of the office, but leaping out the window and landed with the posterior layer of his chest on the yellow gas pump of 4 dm 2 meters high from the window and 3,5 meters high from the ground, then falling down, kicked his head and left shoulder girdle to the asphalt and died of bodily injuries on the spot.

116. Thus, the preliminary investigation did not reveal any element of crime in the behaviour of any of the police officers. Thus the proceeding of the criminal case was dismissed on 12 March 2008 based on the lack of elements of crime.

117. Based on the complaints of the representatives of the victim's legal successor, the decision of the Court of General Jurisdiction of Kentron and Nork-Marash districts of Yerevan on the dismissal of the criminal case was cancelled on 6 June 2008.

118. During the resumed proceedings, a number of other additional investigatory and judicial actions were carried out, where also the victim's legal successor and the latter's representatives were involved.

119. The conducted preliminary investigation again established that nobody exerted violence towards L. Gulyan, demonstrated brutal/cruel behaviour, humiliated his personal dignity during his stay in the General Department of Criminal Intelligence. For the purpose of disclosing the crime, the actions of the police officers were lawful, and L. Gulyan, by escaping, tried to avoid of disclosing the identity of the criminals but while escaping he fell down and died of bodily injuries.

120. Acting on the basis of the evidence obtained, a decision was again taken on 16 April 2009 to dismiss the criminal case due to the lack of elements of crime.

121. With a number of substantiations the representatives of the victim's legal successor appealed against the mentioned decision first to the Court of General Jurisdiction of Kentron and Nork-Marash districts, then to the Criminal Court of Appeals of the Republic of Armenia. The mentioned judicial authorities delivered judgments respectively on 2 December 2009 and 5 February 2010 confirming that the decision of 16 April 2009 on dismissing the criminal case is lawful, grounded and reasoned; whereas the reasoning of the representatives of the victim's legal successors are groundless.

122. On 27 August 2010 the Court of Cassation of the Republic of Armenia, by investigating the cassation appeal of the representatives of the victim's legal successor found that while examining case of L. Gulyan's death, the mechanism of falling down of L. Gulyan from the window of the office of the head of the 1st division of the 2nd unit of the General Department of Criminal Intelligence of the Police of the Republic of Armenia was not clarified, no investigatory experiments were conducted to this end, while the relevant law enforcement authorities of Armenia within reasonable times could have undertaken measures to obtain the mannequin required for the investigatory experiment.

123. Particularly, in response to the request of the Head of the Division for International Relations of the General Prosecutor's Office of the Republic of Armenia to provide a mannequin with regard to the mentioned criminal case, a letter dated 1 December 2008 with the following content was received from the General Prosecutor's Office of the Russian Federation, "The Investigation Committee under the General Prosecutor's Office of the Russian Federation does not possess the requested mannequin. Meanwhile, the Investigation Committee under the General Prosecutor's Office of the Russian Federation has acquired jointed mannequins (length - 170 cm and weight - 40 kg), one of which can be provided to the representatives of law enforcement authorities of the Republic of Armenia".

124. Based on the above-mentioned letter, the Court of Cassation of the Republic of Armenia found that the mannequins with the required parameters for the investigation of L. Gulyan's death case (length - 178 cm and weight – 95 kg) may be reasonably ordered from the same company, from which Investigation Committee under the General Prosecutor's Office of the Russian Federation made its procurements.

125. The Court of Cassation of the Republic of Armenia found it necessary to clarify within the scope of investigation what specific company supplied the mannequins mentioned in the letter dated 1 December 2008 to the General Prosecutor's Office of the Russian Federation, conduct negotiations with the company for purchasing the relevant mannequin, undertake investigatory experiment to reveal the mechanism of Gulyan's fall, compare the results with the other data acquired under this case and if necessary undertake new investigatory, other judicial or operational-intelligence actions.

126. That is, the Court of Cassation of the Republic of Armenia, examining the claims of the legal representatives of the victim, found that only investigatory experiment is necessary given the reasoning that its importance was stressed by the preliminary investigation body itself.

127. Based on the above-mentioned decision of the Court of Cassation of the Republic of Armenia the dismissed criminal case was resumed on 18 January 2011. However it was revealed that it is impossible to simulate by the investigative experiment the incident with the same exactness and obtain any factual information of probative value through the similar investigative operation.

128. Particularly, the records of the criminal case justified that from the moment of escape, i.e. the moment climbing on the sill of the window until the death ensued, i.e. stuck against the asphalt ground, L. Gulyan conducted conscious, controlled actions relevant to his physical fitness and mentality, after which also non controlled actions, which are impossible to reproduce through mannequin or other any experiment or research.

129. Thus the forensic medical expertise assigned for the case approved that L. Gulyan's death was conditioned with the bodily injuries incompatible with the life, which were caused while he was alive, as a result of falling down from height, being stuck against obstacles and asphalt ground.

130. Forensic fingerprint examination assigned for the case confirmed that L. Gulyan's fingerprints are found on the inner surface of the division wall of the window and left outer glass of the division wall of the window of the office of the head of the 1st division of the 2nd unit of the General Department of Criminal Intelligence of the Police of the Republic of Armenia, and forensic fibre examination and forensic chemical analysis revealed that there are prints of toe and heel parts [of the outer sole] of L. Gulyan's shoes on the sill of the window.

131. The above-mentioned proves that L. Gulyan climbed on the sill of the window independently and consciously made an attempt to escape through the mentioned window of the office of the head of the 1st division of the 2nd unit of the General Department of Criminal Intelligence of the Police of the Republic of Armenia.

132. The fact that there was no intervention during that process and L. Gulyan performed intentional controlled actions, was confirmed by the protocol of the examination of the scene of incident, according to which the mentioned window has only one fold, the width of which is only 40 cm, and it was impossible to throw L. Gulyan from the window, who had a height of 178 cm and body mass of 95 kg.

133. Thus, from the moment of escape, i.e. the moment of climbing on the sill of the window until the death ensued, i.e. hitting the asphalt ground, L. Gulyan conducted conscious, controlled actions relevant to his physical fitness and mentality, after which also

non controlled actions, which are impossible to reproduce through mannequin or other any experiment or research.

134. Moreover, according to the conclusion of forensic medical expert examination and the testimonies of forensic medical experts, as a result of cerebral automatism (reflex action of the brain) L. Gulyan, for a short period of time after having received injuries, could even perform unconscious actions, such as falling down from the height. In this case, the body from the initial point of falling keeps moving until hitting the ground, and until the end of the power of impact. These are actions which are impossible to reproduce or even calculate through any experiment or other research activities.

135. No investigative experiment was conducted during the restored proceedings based on the above-mentioned, the evidence obtained in relation to the case were again comprehensively and objectively verified –through analysis of each evidence, their cross-comparison with other evidence and verification of the sources of obtaining evidence. As a result it was once again established that there are no elements of crime in the actions of the persons and the criminal case was dismissed by decision of 21 March 2011.

136. On 25 May 2011 the Court of First Instance of General Jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan, investigating the appeal by the representatives of the legal successor of the victim, awarded it, and recorded that Ashot Gulyan's rights and freedoms were violated as a result of failure to conduct investigative experiment by the investigator.

137. The prosecutor filed an appeal with the Criminal Court of Appeals of the Republic of Armenia against the mentioned decision of the Court of General Jurisdiction, which was dismissed by Decision of 30 June 2011.

138. It was again appealed against in the Court of Cassation of the Republic of Armenia. On 26 August 2011, the Court of Cassation adopted a decision on rejecting the cassation appeal, based on which the proceeding of the criminal case was resumed.

139. Currently the preliminary investigation is going on.

On the process of the preliminary investigation into Vahan Khalafyan's death

140. On 13 April 2010, a criminal case No 66101210 on Vahan Khalafyan's death, who was apprehended to Charentsavan Division of the Police of the Republic of Armenia, was instituted in the Investigation Division of Kotayk Marz under the Criminal Cases Department of the Police of the Republic of Armenia under article 110(1) of the Criminal Code of the Republic of Armenia, the preliminary investigation of which has been continued in the Special Investigation Service of the Republic of Armenia.

141. The following has been justified by the preliminary investigation

142. On 6 April 2010, different kinds of clothes in the amount of AMD1,5 million were stolen from the wooden premises located in the vicinity of block 3, building 29, Charentsavan, with regard to which a criminal case was instituted in Charentsavan Investigation Unit under the Police of the Republic of Armenia, where investigation and operational-search activities were undertaken.

143. On 13 April 2010, at around 10:00, Vahan Khalafyan, a resident of Charentsavan, on the suspicion of having committed the mentioned crime, was apprehended to the Police Division upon the instruction of Ashot Harutyunyan, the Head of the Criminal Prosecution Unit of Charentsavan Division under the Police of the Republic of Armenia, after which Ashot Harutyunyan — as an official carrying out the functions of the representative of the authorities and obviously acting in excess of his official powers — compelled Vahan

Khalafyan, in his office, to accept his participation in the theft with the threat to use violence.

144. Vahan Khalafyan did not admit that he had committed a crime, as a result of which, Ashot Harutyunyan used violence against him, i.e. hit different parts of Vahan Khalafyan's body with his hands and feet under the conditions of the absence of grounds to use physical force prescribed by articles 29-30 of the Law of the Republic of Armenia "On the Police".

145. Afterwards, on the same day, at around 17:00, by continuing his criminal actions, Ashot Harutyunyan, in the office of the Head of the Prophylactic Unit of the Police Division of the Republic of Armenia, continued — with the same goal and in the presence of Gagik Khazaryan, Garik Davtyan, senior operations officers, Mores Hayrapetyan, operations officer of the Criminal Investigation Unit — using violence against Vahan Khalafyan, i.e. beat him again, and threatened him to disseminate dishonourable rumours about him in the place of imprisonment, if he failed to admit his involvement in the theft.

146. While using the aforementioned violent actions, Ashot Harutyunyan has caused severe bodily injuries to Vahan Khalafyan, i.e. scratches in the region of the nasal base, the anterior surface of the middle third right shinbone, in the region of right popliteal fossa, the interior surface of the right ankle-joint, front anterior surface of the upper third of the left shinbone, the anterior surface of the middle third of the left shinbone with haematoma around, haematomas in the upper region under the skin of the head, in the region of the left corner of the mouth under the mucous membrane of the upper lip, in the region of lower mentum from the left.

147. As a result of injuries caused, Vahan Khalafyan — having appeared in a mental stress situation took a kitchen knife from the wardrobe of the same office and committed suicide by stabbing himself in the region of abdomen.

148. Based on the pieces of evidence obtained into the criminal case, a criminal charge has been brought against Ashot Harutyunyan under article 309(3) of the Criminal Code of the Republic of Armenia, and against Mores Hayrapetyan, Garik Davtyan and Gagik Ghazaryan under article 308(1) of the same Code.

149. The criminal case, together with the indictment, has been forwarded to the Court of First Instance of Kotayk Marz, which delivered a criminal judgement on 29 November 2010, according to which Ashot Hayrapetyan and Mores Hayrapetyan were found guilty and convicted, whilst Garik Davtyan and Gagik Ghazaryan were found innocent and were acquitted.

150. The accusers have brought an appeal and a cassation appeal against their acquittal, but they were rejected, and the criminal judgement entered into force.

151. In the result of the official investigation carried out by the Police of the Republic of Armenia over the death of Vahan Khalafyan in the Charentsavan division of the Police of the Republic of Armenia six officers (including the head of the Police) were subjected to strict disciplinary liability four of which were subjected also to criminal liability.

152. The Court of Cassation rendered a decision on *L. Gulyan* on 27 August 2010. The Court of Cassation stated in its Decision that the examination carried out in relation to L. Gulyan's death did not find out the mechanism of his falling down out of the window in the office of the Head of the First Division of the Second Department of the General Investigation Department of the RA Police, and no investigative experiment was carried out to that end. Moreover, the importance of the aforementioned investigative experiment — in terms of the effectiveness of the examination of this case — has been approved both by the First Instance Court of General Jurisdiction of Kentron and Nork-Marash Communities of Yerevan and the preliminary investigation body and the Prosecutor carrying out oversight over the process of the preliminary investigation. With this regard, the Court of Cassation,

based on the position of the European Court of Human Rights, according to which the obligation to carry out effective investigation into the circumstances of the suspicious death continues to persist so far that is necessary for the authorities to reasonably undertake measures to detect circumstances of the death and to impose liability for that (see *mutatis mutandis*, *Brecknell v. the United Kingdom*, Application No 32457/04, points 66-72, Judgement of 27 of November 2007 and *Hackett v. the United Kingdom*, Application No 34698/04, Decision of 10 May 2005), agreed to the position of the First Instance Court of General Jurisdiction of Kentron and Nork-Marash Communities of Yerevan, the preliminary investigation body and the Prosecutor carrying out oversight over the process of the preliminary investigation on the importance of carrying out investigative experiment with a view to finding out the mechanisms of L. Gulyan's falling down out of the window.

153. Thus, the Court of Cassation, by the aforementioned Decision of 27 August 2010, quashed the Decision of the Court of the First Instance of General Jurisdiction of Kentron and Nork-Marash Communities of Yerevan of 2 December 2009 and the Decision of the Criminal Court of Appeal of the Republic of Armenia of 5 February 2010 on retaining the effect of that Decision and obliged the body conducting the criminal proceedings to eliminate violations of human rights and freedoms committed in the course of the preliminary investigation into the criminal case instituted in relation to Levon Gulyan's death.

(Points 35-37 and 42 of the Decision of the Court of Cassation No EKD//0051/11/09 of 27 August 2010 made with regard to the cassation appeal filed by A. Karakhanyan and H. Ghukasyan, the representatives of the legal successor of the victim L. Gulyan against the Decision of the Criminal Court of Appeal of the Republic of Armenia of 5 February 2010)

154. Based on article 92 of the Constitution of the Republic of Armenia and article 15(4) of the Judicial Code of the Republic of Armenia, legal positions adopted in the Decisions on *G. Mikaelyan* and *L. Gulyan* are mandatory for other judicial instances of the Republic of Armenia.

Reply to the issues raised in paragraph 6(e) of the list of issues

155. No cases of detention, without a decision of the court to apply detention as a measure of restraint, have been reported.

Reply to the issues raised in paragraph 7 of the list of issues

156. The cooperation between the Ministry of Justice and Chamber of Advocates is very fruitful and effective. The amendments in the law "On Advocacy" are adopted already. The amendments foresee new guarantees for the advocates' independence and enlarges the cases of free legal aid. The public defender's office which is in charge of free legal aid (ex officio) lawyers is within the Advocates' Chamber system and is not linked with State bodies. The office is just financed by the State which is stipulated by law. The number of advocates by 31 January of 2012 is 1133 is set out below.

- 850 out of them are registered in Yerevan
- 5 of them live in the USA
- 2- in Germany
- 5- in Russian Federation
- 3- in France
- 1- in Georgia
- 1 –in the Republic of Nagorno Karabakh

In Yerevan - approximately 833 advocates, plus 46 advocates from Regions(Marzes)

<i>Regions (Marzes)</i>	<i>Total registered</i>	<i>The number of Advocates only in Yerevan</i>
Ararat Marz	29	19
Aragatsotn Marz	18	14
Armavir Marz	36	29
Gegharkunik Marz	13	11
Kotayk Marz	49	28
Tavush Marz	11	8
Lori Marz	59	53
Shirak Marz	39	37
Syunik Marz	24	21
Vayotz Dzor Marz	5	4
Total	284	225

Public Defender Office of The Chamber Of Advocates

- Public defenders in Yerevan -17
- Public defenders in Regions (Marzes) in full-time-12
- Public defenders in Regions (Marzes) in part-time- 6
- Public defenders in Karabakh in per-hour- 1

Comparative of the number of cases in 2007-2011

<i>Year</i>		<i>Total number of cases in proceedings</i>	<i>Staff of the Public defender Office</i>	<i>Average number of cases by a public defender's staff</i>
2007	Yerevan	456	14	33
	Regions (Marzes)	952	13	73
	Total	1408	27	52
2008	Yerevan	751	16	47
	Regions (Marzes)	1391	15.5	90
	Total	2142	31.5	68
2009	Yerevan	877	16.5	53
	Regions (Marzes)	1469	15.5	95
	Total	2346	32	73
2010	Yerevan	1074	16.5	65
	Regions (Marzes)	1515	15.5	98
	Total	2589	32	81

<i>Year</i>		<i>Total number of cases in proceedings</i>	<i>Staff of the Public defender Office</i>	<i>Average number of cases by a public defender's staff</i>
2011	Yerevan	1310	17	77
	Regions (Marzes)	1664	15	111
	Total	2974	32	93

Reply to the issues raised in paragraph 8 of the list of issues

157. To dispose of the reports received from the penitentiary establishments or places for holding arrestees on bodily injuries caused to persons, the Prosecutor General instructed to consider and dispose of the received reports exclusively within the framework of the functions prescribed by Chapter 25 of the Criminal Procedure Code of the Republic of Armenia, with regard to which the reports should be observed as a detection of physical traces and consequences of crime, and as a ground to institute a criminal case by the preliminary investigation and inquest body defined by article 176(3) of the Criminal Procedure Code of the Republic of Armenia within the framework of their powers, thus, to dispose of the reports within the framework of preparing statements of case split from the main proceedings by making on each of them one of the decisions provided for by article 181 of the Criminal Procedure Code of the Republic of Armenia, or be guided — in case of existence of relevant grounds — by the requirements of subpoint 3 of point 1 of the Decision of the Collegium of the Prosecutor's Office of 8 February 2008 (Protocol N 2) (immediately after deciding on the issue of subordination as prescribed by article 190 of the Criminal Procedure Code of the Republic of Armenia the statements of case and the criminal cases under the jurisdiction of the Special Investigation Service of the Republic of Armenia, together with the accompanying letter of the Prosecutor, should be forwarded to the Prosecutor General of the Republic of Armenia, whereas other correspondences with regard to the statements of case and the criminal cases forwarded should be immediately sent to the Special Investigation Service of the Republic Armenia.) and of the instruction of the Prosecutor General of the Republic of Armenia N 20/4-116-08 of 10 April 2008 (immediately after deciding on the issue of subordination as prescribed by article 190 of the Criminal Procedure Code of the Republic of Armenia the statements of case and the criminal cases under the jurisdiction of the Special Investigation Service of the Republic of Armenia, together with the accompanying letter of the Prosecutor, should be forwarded to the Prosecutor General of the Republic of Armenia, whereas other correspondences with regard to the statements of case and the criminal cases forwarded should be immediately sent to the Special Investigation Service of the Republic Armenia.), whereas in case of reports, which have been submitted to the Court conducting the criminal proceedings in accordance with the requirement of article 21 of the Law of the Republic of Armenia "On the treatment of arrestees and detainees", the prosecutors pursuing the charge should follow the process of deciding on the reports forwarded to the courts defined by the Case-Law of the Court of Cassation of the Republic of Armenia N EAQD/0049/01/09 of 12 February 2010, meanwhile excluding the superficial approach to the solution of the issue by courts.

158. The process of information (applications, communications, declarations, statements, reports, etc.) gathered on battery, torture or other violent actions against persons held in places for holding arrestees and other establishments while exercising prosecutorial powers should be disposed of, guided by the requirement of the instruction of the Prosecutor General of the Republic of Armenia N 20/2(3)-120-11 of 19 April 2011. At the same time, reporting notices specified in point 2 of the same instruction should be forwarded to the Prosecutor General of the Republic of Armenia through the structural subdivision of the General Prosecutor's Office of the Republic of Armenia, which — under the Order of the

Prosecutor General of the Republic of Armenia N 27 of 23 May 2009 “On clarifying powers delegated to the Military Prosecutor’s Office of the Republic of Armenia and the Departments of the General Prosecutor’s Office of the Republic of Armenia” — is authorized to perform prosecutorial powers in terms of the crimes prescribed by articles of the Special Part of the Criminal Code of the Republic of Armenia in the committal of which the given person is suspected or is charged; moreover, the matter should be reported by the relevant structural subdivision to the Prosecutor General of the Republic of Armenia in the prescribed manner.

159. With a view to raise essentially the effectiveness of the process of registration of reports and of the disposition thereof, based on the motion of the Head of the Department of Oversight over the lawfulness of applying punishments and other coercive measures under the General Prosecutor’s Office of the Republic of Armenia N 17/8-36-11 of 16 March 2011, the Head of the Penitentiary Department of the Ministry of Justice of the Republic of Armenia, in his letter N E-40/7-790 of 23 March 2011, instructed the heads of the Penitentiary Establishments of the Ministry of Justice of the Republic of Armenia to inform also the prosecutor, carrying out procedural control and prosecutorial oversight over the preliminary investigation into the relevant criminal cases, for clarification of reasons and disposal of the issue of bodily injuries of detainees when they are admitted to remand facilities; at the same time, it was also determined to settle the matter through making an amendment to article 21(5) of the Law of the Republic of Armenia “On the treatment of arrestees and detainees”, with regard to which a relevant draft law has been elaborated. According to the latter, the words “and to the prosecutor carrying out procedural control” should be added to the mentioned article.

160. In addition, it is envisaged to stipulate in the same law the obligation of the administration of remand facilities to arrange and conduct, on a mandatory basis, medical examination of arrestees and detainees on their admission to remand facilities. The mandatory requirement will rule out the cases, stated by this Study, of forwarding reports on injuries by the places for holding arrestees, i.e. the remand facilities on the one hand, and the cases of failure to forward them by the penitentiary establishment on the other hand.

161. At the same time, such a requirement of the law may be an additional guarantee for the protection of the rights of the persons mentioned above. To this end, an amendment to article 21(4) of the Law of the Republic of Armenia “On the treatment of arrestees and detainees” has been drafted, which has been envisaged to supplement the article with a new part, reading as follows: “administrations of penitentiary establishments — on admission of arrestees and detainees to remand facilities — shall arrange their mandatory medical examination”.

Reply to the issues raised in paragraph 9 of the list of issues

162. Article 86(5)(9) of the Criminal Procedure Code of the Republic of Armenia provides for the rights of the witness to appear before the body conducting criminal proceedings with his or her advocate.

163. No cases of obstructing or restricting the exercise of the witness’s abovementioned rights on the part of the body conducting criminal proceedings have been recorded.

164. The Court of Cassation addressed the matter of interrogation of a person invited as a witness, but having a status of an actual suspect in its Decision on *N. Poghosyan*, where it was stated that the defendant was involved in the proceedings of the criminal case and was interrogated as a witness from the beginning, was warned about the criminal liability prescribed for giving obviously false testimony or refusal to give testimony, and in the course of interrogation he was asked questions that unmasked him in the committal of crime.

165. Analysing the aforementioned circumstances in the light of the legal position adopted in the Decision of *G. Mikaelyan* on the concept of the “criminal charge”, the Court of Cassation found out that N. Poghosyan's right to defence was violated in the course of the preliminary investigation into this case, since he, being the actual suspect, was interrogated as a witness. Moreover, the body conducting the criminal proceedings failed to provide him with the defence counsel whose participation was obligatory, according to the Criminal Procedure Code of the Republic of Armenia. The body conducting pretrial proceedings into this case — depriving N. Poghosyan, from the very moment of the interrogation, of the actual possibility to have a defence counsel and to defend himself against the charge with all means not prohibited by law, and not providing him in the prescribed manner with the defence counsel, whose participation is obligatory — has violated the requirements of articles 19(2), 69(1)(4), 70(1)(3) and 71 of the Criminal Procedure Code of the Republic of Armenia.

(Points 21, 22 and 29 of the Decision of the Court of Cassation HYQRD2/0153/01/08 of 26 March 2010 on Norik Sedrak Poghosyan)

166. Based on article 92 of the Constitution of the Republic of Armenia and article 15(4) of Judicial Code of the Republic of Armenia, the legal positions adopted in the decision on *N. Poghosyan* are mandatory for other judicial instances of the Republic of Armenia.

Reply to the issues raised in paragraph 10 of the list of issues

167. The Human Rights Defender is recognized as an Independent National Preventive Mechanism, according to the Law of the Republic of Armenia “On the Human Rights Defender”. According to article 6.1 of the Law, the Defender is an independent national preventive mechanism provided by the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. The Law was amended with article 6.1 on 8 April 2008.

168. The activity of the Human Rights Defender is regulated by the Law which guarantees his or her independence. The procedure for the appointment of the Human Rights Defender is determined by the Constitution of the Republic of Armenia. According to article 83.1, “the National Assembly shall elect the Human Rights Defender for a term of six years by at least three-fifth of votes of the total number of deputies. A person enjoying high reputation among the public, who satisfies the requirements laid down for deputies, may be elected as Human Rights Defender. The Human Rights Defender shall be irremovable. The Human Rights Defender shall be an independent official, who defends the human rights and freedoms violated by State and local self-government bodies and officials. State and local self-government bodies and officials shall cooperate with the Human Rights Defender. The Human Rights Defender shall enjoy the immunity set for deputies. Other guarantees for the activities of the Human Rights Defender shall be defined by law”.

169. According to the Order of the Human Rights Defender of 11 July 2011, an Expert Council on Prevention of Torture is established as a subsidiary body to the Office of the Human Rights Defender as a National Preventive Mechanism in the field of prevention of torture and other inhuman or degrading treatment. The Council is comprised both of the staff of the Human Rights Defender Office and representatives of various NGOs.

170. According to the Law on the Human Rights Defender, “The Defender and his or her staff shall be financed from the State budget” that will provide necessary means for activity of National Preventive Mechanism. The budget is a part of the State budget, through a separate budget line. All reports of the Human Rights defender are published on his or her Internet web-site and all yearly reports are submitted to the concerned State bodies for recommendations, as appropriate.

171. According to information received from the Human Rights Defender office, all factual information regarding the activity of the Office as Human Rights Defender mechanism will be provided to the Committee directly.

Reply to the issues raised in paragraph 11 of the list of issues

172. As a result of recent judicial reforms, with the view of separating the functions of investigators and prosecutors, the investigatory board was separated from the Prosecutor's Office, which broadly contributed to the improvement of the level and quality of prosecutorial oversight over the lawfulness of preliminary investigation.

173. In relation to this, based on the amendments and supplements made to the Criminal Procedure Code of the Republic of Armenia and the Law of the Republic of Armenia "On conscription", Investigation Department was established under the Ministry of Defence of the Republic of Armenia on 1 December 2007, which, due to the changes made within the framework of the defence reform programme, was renamed Investigation Service by the Decision of the Government of the Republic of Armenia No 1554-N of 25 December 2008. It consists of the Central Subdivision, Division for Investigation of Particularly Important Cases, and Garrison Investigation Division.

174. The Investigation Service under the Ministry of Defence of the Republic of Armenia conducts, in the prescribed manner, preliminary investigation into the criminal cases instituted in relation to crimes against military service regulation, as well as to crimes committed within the territory of a military unit or those attributed to military servants of fixed-term military service or persons serving in the State body and organizations (whose stock management authority is transferred to the State body authorized in the field of defence) authorized in the field of defence.

175. While preparing statements of case on crimes and examining criminal cases, the investigators of the Investigation Service under the Ministry of Defence of the Republic of Armenia are guided by the requirements of the Constitution of the Republic of Armenia, the Criminal Code and the Criminal Procedure Code of the Republic of Armenia and of other laws adopted in accordance with them.

176. Works are carried out in all levels of management of the Ministry of Defence of the Republic of Armenia with a view to strengthening the idea that human beings are the highest values, as well as to formulating such a best practice, due to which any unlawful case should be punished by law, by ruling out any act of violence exerted by the official or other person acting in an official capacity or by their provocation or by their knowledge or tacit consent.

177. The Minister of Defence of the Republic of Armenia truthfully mentioned in his special message of 2010 called "Commander - senior friend of the soldier" that "First of all, I would like to mention again and again that physical or psychological violence over the subordinate is not only blameworthy, but is also destructive for any personnel... Yes, it's already high time to firmly reject the image of a shouting and beating commander".

178. According to article 103 of the Constitution of the Republic of Armenia, the Prosecutor's Office of the Republic of Armenia, among other powers, instigates criminal prosecution and oversees the lawfulness of inquest and preliminary investigation. By the way, the instigation of the criminal prosecution is the prerogative of the prosecutor, and its exercise ensures the inevitability of criminal liability. The prosecutor carrying out oversight is responsible for the completeness, objectivity, comprehensiveness and effectiveness of inquest and preliminary investigation.

179. Procedural control and prosecutorial oversight over the lawfulness of the preliminary investigation into the criminal cases examined in the Division for Investigation of Particularly Important Cases and Garrison Investigation Division of the Investigation

Service under the Ministry of Defence of the Republic of Armenia are carried out by the prosecutors of the Military Prosecutor's office of the Republic of Armenia.

180. It is also worth mentioning that the Investigation Service under the Ministry of Defence of the Republic of Armenia — in the field of fight against crime — has established good working relationships and co-operation with the Military Prosecutor's Office of the Republic of Armenia, the Military Police under the Ministry of Defence of the Republic of Armenia, other bodies carrying out operational-intelligence activity.

181. In recent years, military law enforcement authorities have been undertaking active measures to improve the process of detection and reporting of cases of crimes and violence, i.e. to decrease, to the extent possible, the level of their concealment.

Reply to the issues raised in paragraph 11(a) of the list of issues

182. The preliminary investigation into the criminal case instituted in relation to the death of the military servant of fixed-term compulsory military service, private Vardan Albert Sevyan from Military Unit under the Ministry of Defence of the Republic of Armenia N ... found out that on 19 August 2011 V. Sevyan wilfully left the place of shooting training located in the shooting ground of the Military Unit and fired in the region of the chin with his light gun and died on the spot.

183. It was found out that no cases of violence, degrading treatment against V. Sevyan by his service mates or other persons, as well as of inducing and causing him to commit suicide were recorded. According to the report of the corpse examination and the conclusion of the forensic medical expert examination, no other bodily injuries have been detected, except for gunshot wound on V. Sevyan's body. He committed suicide because his beloved girl, Mariam Karen Galstyan, broke off their relationship, and evidence of that was the notice that V. Sevyan had left on the backside of M. Galstyan's photograph before his death, as well as several other pieces of evidence.

184. The criminal case was dismissed due to the absence of *corpus delicti*.

185. The oversight over the lawfulness of the decision on dismissal was carried out by the Central Military Prosecutor's Office of the Republic of Armenia.

Reply to the issues raised in paragraph 11(b) of the list of issues

186. According to information received from the authorities of NKR, the preliminary investigation into the criminal case instituted in relation to the death of military servant of mandatory fixed-term service, private Gevorg Andranik Kotsinyan from Military Unit N ... found out that the military servants, privates Taron Suvaryan, Vahe Aghajanyan, junior sergeant Margar Davtyan, by violating the Code of Conduct of Military Servants, beat G. Kotsinyan, as a result of which he died of reflex cardiac arrest.

187. Criminal charge was brought against M. Davtyan under articles 375(1), 38-359(2)(2) and 112(2)(6), (9), (14) of the Criminal Code of the Republic of Armenia (hereinafter referred to as "the Criminal Code").

188. Criminal charge was brought against T. Suvaryan under articles 359(2)(2) and 112(2)(6), (9), (14) of the Criminal Code.

189. Criminal charge was brought against V. Aghajanyan under articles 359 (2)(2) and 112(2)(6), (9), (14) of the Criminal Code.

190. Criminal charge was brought against Arman Rafaelyan, the Officer, First Lieutenant of the same Military Unit under article 375(1) of the Criminal Code for inaction of power. Detention was applied to them as a measure of restraint and the criminal case, together with the indictment, was forwarded to the court.

191. Based on the criminal judgement of the court, M. Davtyan was sentenced to 11 years and 6 months' imprisonment, T. Suvaryan - to 11 years', V. Aghajanyan - to 11 years', and A. Rafaelyan - to 3 years' imprisonment, who was released from punishment by virtue of the amnesty act.

Reply to the issues raised in paragraph 11(c) of the list of issues

192. The preliminary investigation into the criminal case instituted in relation to the death of Artak Nazaryan, Officer, Lieutenant from Military Unit N under the Ministry of Defence of the Republic of Armenia found out that A. Nazaryan, being on 17 July 2010 in the strongpoint, was periodically subjected to violence, degrading treatment and ridicule by H. Manukyan, Captain, Deputy of the Commander of the battalion for personnel work, V. Hayrapetyan, person in charge of another strongpoint, Lieutenant, and A. Hovhannisyan, M. Mkhitaryan and H. Kirakosyan, fixed-term military servants, privates.

193. Being unable to tolerate all that, on 27 July 2010 A. Nazaryan fired a shot into his mouth with his submachine gun and died on the spot.

194. Criminal charge was brought against H. Manukyan for power abuse, which brought about heavy consequences, V. Hayrapetyan — for supporting him — which brought about heavy consequences, A. Hovhannisyan and M. Mkhitaryan — for violent actions against the head, which brought about heavy consequences, and H. Kirakosyan — for violent actions against the head. Detention was applied to H. Manukyan, V. Hayrapetyan, A. Hovhannisyan and M. Mkhitaryan as a measure of restraint, and transfer to the supervision of commanders of the military unit was applied to H. Kirakosyan.

195. During the preliminary investigation, a paper from the notebook taken out of the pocket of N. Nazaryan's clothes was found out, where the notices evidenced of his intention to commit suicide. The set forensic handwriting examination approved that the notices were made by A. Nazaryan in his own handwriting.

196. The criminal charges brought were substantiated by the witnesses' pieces of evidence, confrontations, conclusions of a number of set examinations, pieces of material evidence, as well as documents and items recognized as other evidence and discovered, received by the statements of case and attached to the criminal case.

197. The criminal case, together with the indictment approved by the Central Military Prosecutor's Office of the Republic of Armenia, was sent to court. Currently, the trial of the criminal case continues.

Reply to the issues raised in paragraph 11(d) of the list of issues

198. The preliminary investigation into the criminal case instituted under article 110(1) of the Criminal Code in relation to shooting "AKM MI 3696" submachine gun by Arthur Ruben Hakobyan, contractual military servant, sergeant from the Military Unit N... of the Ministry of Defence of the Republic of Armenia, and of causing himself lethal gunshot wounds on 8 September 2010 at around 09:25 in the baggage warehouse of the same unit found out as follows:

199. Upon the order of the commander of the unit, Vardges Armen Voskanyan, military servant of fixed-term compulsory service, private, was, from 7 to 8 September 2010, in the sentry post as a sentry of warehouses of stores service. On 8 September 2010, at around 09:05, without acceptance and transfer of the baggage warehouses, he allowed Arthur Ruben Hakobyan, warehouse-keeper of the baggage warehouse to enter the territory of the sentry post. The latter, abusing V. Voskanyan's authorization, approached, greeted and asked him to provide him with the submachine gun attached to V. Voskanyan for a few minutes with a view to measure it to make a stack. At first, V. Voskanyan refuted and told him that it was prohibited to hand over the submachine gun to another person, but A.

Hakobyan deceitfully assured V. Voskanyan that the submachine gun was necessary just for measuring it to make a stack. V. Voskanyan, relying on A. Hakobyan's words, handed over to him the submachine gun and walked with him to the baggage warehouse, where A. Hakobyan, with the presence of V. Voskanyan, first, measured the length of the submachine gun with the tread, took out the cartridge case of the submachine gun, knife bayonet, put on the desk and told V. Voskanyan that it was impossible to measure the real sizes of the submachine gun with tread, asked him to go and bring the ruler from the warehouse keeper of the fuel warehouse. The sentry V. Voskanyan, trusting A. Hakobyan, came out of the baggage warehouse and went to the fuel warehouse, leaving his submachine gun and cartridge case with A. Hakobyan. On his way to the fuel warehouse, he heard a shot from the baggage warehouse, turned immediately back, ran and entered the baggage warehouse and saw that A. Hakobyan had committed suicide by shooting himself in the region of the lower mentum.

200. It was found out that no cases of violence, degrading treatment against A. Hakobyan by his service mates or other persons, as well as of inducing and causing him to commit suicide were recorded. According to the reports of the corpse examination and the conclusion of the forensic medical expert examinations, no other bodily injuries have been detected, except for gunshot wound on A. Hakobyan's body.

201. On 18 March 2011 a decision was made to dismiss the part of the criminal case instituted under article 110(1) of the Criminal Code due to the absence of *corpus delicti*.

202. The oversight over the lawfulness of the decision was carried out by the Central Military Prosecutor's Office of the Republic of Armenia.

203. Criminal charge was brought against Vardges Voskanyan on 10 March 2011 under article 374 of the Criminal Code for handing over the weapon entrusted to the military servant to another person. On the same day, the transfer to the supervision of commanders was applied to him as a measure of restraint.

204. On 31 May 2011, the Court of General Jurisdiction of Ararat and Vayots Dzor Marzes made a decision on dismissing the criminal case instituted in relation to the defendant Vardges Armen Voskanyan under article 374 of the Criminal Code and on terminating the criminal prosecution on the ground of article 35(1)(13) of the Criminal Procedure Code of the Republic of Armenia (hereinafter referred to as "the Criminal Procedure Code"), i.e. adoption of amnesty act on 26 May 2011.

Reply to the issues raised in paragraph 11(e) of the list of issues

205. On 30 August 2007, at 23:25, the corpse of the military servant of fixed-term compulsory service, junior sergeant Tigran Suren Ohanjanyan from Military Unit N under the Ministry of Defence of the Republic of Armenia was transferred to the military hospital of the garrison in Vardenis.

206. In relation to that, the Military Prosecutor of the Garrison in Sevan instituted criminal case No 90603807 under the elements of article 376(2) of the Criminal Code on 31 August 2007, and conducted the preliminary investigation.

207. The preliminary investigation found out that T. Ohanjanyan, on 30 August 2007, at around 22:45 was found in a state of unconsciousness near the radio antenna adjacent to the communication hub of the Military Unit. First aid was attempted at the mentioned site, but was useless, after which he was transferred to the military hospital of the garrison in Vardenis.

208. There, registering a biological death, T. Ohanjanyan's corpse was transferred to the Scientific-Practical Centre of Forensic Medicine of the Ministry of Justice of the Republic

of Armenia, where on 1 September 2007, a forensic medical expert examination was conducted on T. Ohanjanyan's corpse.

209. According to the conclusion No 694/33 of forensic medical expert examination, the death of T. Ohanjanyan was the result of the influence of technical electricity (electro-trauma).

210. On 26 October 2007, with a view to continuing the preliminary investigation, the criminal case was admitted into the proceedings of the Investigation Department of the Central Military Prosecutor's Office of the Republic of Armenia, and the preliminary investigation that started on 1 December 2007 continued at the Investigation Division for Particularly Important Cases of the Investigation Department under the Ministry of Defence of the Republic of Armenia.

211. During the preliminary investigation of the criminal case, criminal charges were brought against the Head of the communication hub of Military Unit N under the Ministry of Defence of the Republic of Armenia, Captain Rustam Romer Asatryan and Head of the Radio Bureau of the Communication Hub of the same Military Unit, contractual military servant, junior sergeant Karen Aristakes Tovmasyan under article 376(2) of the Criminal Code (inadvertent attitude towards service, which negligently caused grave consequences), after which on 27 May 2008 an indictment was formed, and the criminal case was referred to the Central Military Prosecutor's Office of the Republic of Armenia through a petition to refer it to the court.

212. On 5 June 2008, the criminal case was admitted into the proceedings of the Court of General Jurisdiction of Gegharkunik Marz.

213. Based on the criminal judgement of the Court of General Jurisdiction of Gegharkunik Marz made on 13 January 2009, criminal judgement of acquittal was made in relation to defendants Rustam Romer Asatryan and Karen Aristakes Tovmasyan, which also remained unchanged by the decision of the Criminal Court of Appeal of the Republic of Armenia. The appeal was returned.

214. The criminal case was referred to the Central Military Prosecutor's Office of the Republic of Armenia, and afterwards, on 20 July 2010 to the Investigation Service of the Ministry of Defence of the Republic of Armenia.

215. Taking into account that the corroboration of Conclusion N 694/33 of the forensic medical expert examination of T. Ohanjanyan's corpse had been called into question in the stage of trial of the criminal case, and that Conclusion N 09-1650 of the forensic-electric-technical-medical expert examination set by the court had been suspicious, as well as it had been also necessary to clarify the issue of scientific corroboration of the methods that had been applied during the previous examinations, a forensic medical expert examination of a double commission was set on 25 August 2010 during the additional preliminary investigation into the criminal case.

216. The victim's legal successor and the latter's representative were allowed to participate in the expert examination, during which they asked the expert examination commission additional questions.

217. The expert examination commission required to submit the micro-substances taken from T. Ohanjanyan's corpse, which were confiscated from the Scientific-Practical Centre of Forensic Medicine of the Ministry of Justice of the Republic of Armenia and were submitted to the commission for investigation.

218. On 12 January 2011, the forensic medicine commission gave a conclusion, according to which "T. Ohanjanyan died as a result of electrocution through technical electricity." The given conclusion was substantiated by the existence of the following

descriptive changes that took place after electrocution through technical electricity identified after a forensic medicine examination of the body: signs of electrocution on the neck, on the dorsal surface of the back phalanx of the second finger of the left palm, on the dorsal surface of the palm and the palm surface of the nail phalanx of the first finger, thermal changes characteristic of the exit area of the electric flow in the first (thumb) area of the right foot, anatomical and morphological changes of the organs of the body characteristic of a rapid death, based on the results of research on additional studies on the tissues of specimen of the organs and tissues of the body that underwent an expert examination, as well as the lack of changes describing the reason for any other death based on the results of the research on the tissues of the organs of the body.

219. A second forensic electric-technical examination by a commission was set for 4 April 2011.

220. The existence of the flow of electricity at the scene of the incident hasn't been denied by the conclusion of the forensic electric-technical expert examination, and only the transmission of the flow of electricity to the satellite and the wires of the station, which were the result of a disorder of the "R-419" radio-relay station, were ruled out by the expert commission.

221. In relation to that, the following is mentioned in the conclusion: "The network voltage transfer to an antenna is impossible in the case of disorder or damage of any one of the high frequency blocks of the station", but the thought continues, that is, "if the phasic communication wire of the network voltage touches the metal side of the station, the "R-419" radio-relay station, the antenna and the wires may be found in the network voltage. That regime will be stable, if the resistance of the station's earthing is notably larger than the fixed norms and is around 50-300 Ohm (see certificate No 4/476 of completion of measures dated 19 May 2011), and if the resistance of earthing has been notably larger than the fixed norms (50-300 Ohm), in accordance with the mentioned certificate.

222. The expert commission also mentioned that, in accordance with the law of Ohm, if the phase communication wire of the network touched the metal corpus of the radio-relay station, the maximum magnitude of the current that flows from the corpus of the radio-relay station to the earth would make up 3.6 amperes.

223. Since the maximum value of the flow of 3.6 amperes is not enough for the functioning of the defensive insulator device (automatic insulator or fuse), thus, the station could be under the phasic tension of the network. That regime would be stable, i.e. the insulating device would not separate the network from the station.

224. In the conclusion it is also mentioned that regardless of the value of resistance of earthing, if the network's phasal communication wire touches the corpus of the station, there will be phasic tension of the electricity supply network on the station's corpus. The maintenance of the norm for resistance of the station's earthing had to ensure a value of the flow that would satisfy the separation of the station's corpus from the network as soon as possible.

225. Thus, if there is 180 Volt voltage on the mast, meaning that the defensive insulator (fuse) hasn't functioned, then the existence of the ping jacks in the humid earth could not ensure the insulator's security, if the person touched the wires.

226. The forces and measures of different services were involved in the implementation of large-scale operational-intelligence activities with a view to getting additional information on the circumstances of T. Ohanjanyan's death.

227. Investigative actions were also carried out parallel to operational-intelligence measures. In particular, witnesses were called to additional interrogations, the data of

certain persons who haven't been previously interrogated have been specified, some of them have been interrogated, and the interrogations of some persons are foreseen to take place soon.

228. An investigative experiment was conducted at the scene of the incident with the direct participation of the Military Prosecutor of the Republic of Armenia, the Head of the Investigation Service of the Ministry of Defence of the Republic of Armenia, the victim's legal successor S. Ohanjanyan, his wife G. Sargsyan and their representative A. Sahakyan.

229. Procedural control and prosecutorial oversight over the lawfulness of the preliminary investigation into the criminal case are carried out by the Prosecutor of the Division of criminal cases examined in the Division for Investigation of Particularly Important Cases under the Investigation Service of the Ministry of Defence of the Republic of Armenia of the Central Military Prosecutor's Office of the Republic of Armenia.

230. The preliminary investigation into the criminal case continues.

Reply to the issues raised in paragraph 11(f) of the list of issues

231. Arsen Nersisyan, head of a battalion headquarters of Unit N of the Military Unit of the Ministry of Defence of the Republic of Armenia, upon the instruction of Major Vardan Martirosyan, commander of the same battalion, collected in total AMD 610.000 from contractual military servants starting from June 2009 to August 2010. Moreover, Major A. Nersisyan collected AMD 170.000 from the staff of the battalion in summer 2010 and, with the amount collected, bought a notebook from Lieutenant Colonel Arthur Karapetyan, Deputy Commander of the Military Unit and presented it to V. Martirosyan.

232. In relation to the committed acts, criminal charges were brought against A. Nersisyan, V. Martirosyan, A. Karapetyan under article 375(1) of the Criminal Code, and transfer of A. Nersisyan to the supervision of commanders of the military unit was applied to him as a measure of restraint, whereas the detention applied to V. Martirosyan and A. Karapetyan as a measure of restraint was replaced by a pledge.

233. The preliminary investigation of the criminal case found out that A. Nersisyan collected AMD 610.000 upon the request of V. Martirosyan, the commander of the battalion, and AMD 170.000 — upon the recommendation of the staff to buy a notebook for the commander of the battalion as a gift.

234. Taking into account the fact that A. Nersisyan's actions did not cause any considerable damages, it was decided to dismiss the criminal prosecution on the ground of absence of *corpus delicti*.

235. The preliminary investigation into the case did not substantiate the fact of violence against military servants by V. Martirosyan or A. Karapetyan.

236. The accused V. Martirosyan and A. Karapetyan filed an application on 29 December 2010 and reported that they were not against the dismissal of the criminal prosecution on the ground of repentance.

237. The act provided for by article 375(1) of the Criminal Code is classified as crimes of medium gravity.

238. According to article 72 of the Criminal Code, a person having committed a criminal offence of medium gravity for the first time may be released from criminal liability where, following the committal of an offence, he or she has voluntarily surrendered by acknowledging guilt, has assisted in disclosing the crime, has compensated or otherwise settled the damage caused as a result of the crime.

239. Taking into account that V. Martirosyan and A. Karapetyan have committed a criminal offence of medium gravity for the first time, repented for the offence committed,

are described as positive individuals, thus guided by the mentioned article, as well as article 37(1) of the Criminal Procedure Code, the criminal prosecution against them on the ground of repentance was dismissed upon the decision of the investigator of 29 December 2010, i.e. upon the prosecutor's consent.

240. The oversight over the lawfulness of the decision of 29 December 2010 on dismissing the criminal prosecution and not conducting criminal prosecution was carried out by the Central Military Prosecutor's Office of the Republic of Armenia.

Reply to the issues raised in paragraph 12 of the list of issues

241. During the autumn 2010 and spring 2011 drafts, the followers of "Jehovah's Witnesses" faith refused to get drafted both in fixed-term military service and alternative service. In this connection, correspondingly 18 and 14 citizens were sentenced to imprisonment during the autumn 2010 and spring 2011 drafts. None of them was detained during the preliminary investigation.

242. The RA Public Prosecutor's Office has not lodged any proposal to amend or supplement the RA Laws "On alternative service" and "On compulsory military service". After the entry into force of the RA Law "On alternative service", 26 people were drafted to alternative service, from which:

- Two people later refused the alternative service and enrolled in compulsory military service;
- One person opted for the alternative military service and served its full term;
- 23 people refused after 6 month from enrolling in alternative service and were prosecuted.
- No person wished to enrol in alternative service from the 2005 spring draft until now.
- Those who refused military service during the reporting period on the basis of religion, conscience beliefs were not forcibly enrolled in the military service.
- As to the number of persons detained or imprisoned in connection with refusing to enrol in military service or a civil service offered as an alternative, this information may be provided by the Ministry of Justice, since only the general number of those who evade military draft is registered in the military registration and enlistment office.

243. The new draft law "On alternative" service is now in Venice Commission for the opinion. The drafts stipulates much softer attitude to conscientious objectors. The details shall be presented after the opinion is discussed by the Armenian authorities.

Reply to the issues raised in paragraph 13 of the list of issues

244. Violence itself is a crime when it has sufficient public danger, and domestic violence is the type of violence. The possibility to include the domestic violence in the Criminal Code as the separate crime shall be discussed within the scope Criminal Legislation reforms. The draft law "On domestic violence" is now in discussion period and hopefully will be adopted in the nearest future. On criminal cases of violence against women, among which rape, sexual and domestic violence, we would like to inform that 31 criminal cases related to the mentioned crimes have been examined by the RA Police, from which 11 cases related to 11 persons have been sent to court, from which 8 persons were under detention, 10 cases were struck out on the basis of acquittal, and 10 cases are in progress. 3 criminal cases related to 3 persons have been resolved in court, they were sentenced to imprisonment, and 1 person from them received an amnesty and was freed from serving the punishment.

245. In the situation of general growth of criminality in 2010, the decrease of juvenile crime implies to the effective preventive works carried out by the police forces with minors. The cooperation between the General Department of Criminal Intelligence (GD CI) and international organizations and NGO's dealing with the issues of the minors was particularly active. A number of programmes have been jointly implemented, aimed at social assistance to begging, wandering minors, and minors without custody, preclusion of offences by juveniles with erratic behaviour, as well as at social adaptation. Within the framework of preventive actions, 412 juvenile offenders have been admitted to the Community Rehabilitation Centres established by the initiative of the RA Police, in 343 cases from which the preventive works brought good results. Alongside, from September 2010 in 11 schools of Yerevan the office of school inspectors have been introduced, the effectiveness of which is already obvious.

246. Significant works have been carried out towards preventing violence not only against children, but also against women. Trainings have been organized with the assistance of the European Commission for the servicemen of the juvenile divisions of the RA Police regional bodies, concerning violence against children and women, domestic violence.

247 Besides, the expert nominated by the RA Police has actively participated in the drafting works of the Council of Europe Convention on preventing and combating violence against women and domestic violence - CAHVIO, as well as "Against Gender Violence" National Programme.

Reply to the issues raised in paragraph 14 of the list of issues

248. In compliance with the RA Criminal Procedure Code, the prosecution and defence sides are vested with equal rights to file petitions with the court, and the court is obliged to discuss the mentioned petitions and to make substantiated decisions. Particularly, in compliance with article 331 of the RA Criminal Procedure Code, the chairman asks the prosecution and defence sides whether they have petitions of requesting new evidence and attaching it to the case. The person who files a petition is obliged to indicate what particular circumstances the additional evidence is needed to clarify.

249. The court is obliged to discuss each filed petition, to hear the opinion of the sides. In cases when the circumstances, for the detection of which the petition is filed, may be of importance for the case, or when the material, the evidential importance of which is disputed, have been acquired with significant breach of law, the court grants the petition.

250. The court makes a substantiated decision on the denial of the petition. The denial of the petition by the court does not limit the right of the person filing the petition to file the same petition in future.

251. Besides, according to article 353 of the RA Criminal Procedure Code, at the end of the proceedings, the chairman asks the defence and prosecution sides whether they file a petition to supplement the proceedings, by examining which evidence and for detecting which particular circumstances of the case. If a petition is filed to supplement the proceedings, the court resolves it, guided by the requirement to provide multi-sided, complete and objective investigation of the circumstances of the case. In case of granting the petition, the proceedings continue. Where no petition is filed to continue the proceedings or the court gives a substantiated denial of the petition, the chairman declares the end of the proceedings.

252. From 2490 general complaints filed to the RA Criminal Appellate Court during 2010, only 349 were filed by the prosecution, 75 from which were granted, 174 were rejected, appellate proceedings was struck out for 14, and examination of 86 complaints was not finished as of 30 December 2010.

253. From 3099 complaints brought to the RA Criminal Appellate Court during 2011, 277 were filed by the prosecution, from which 35 were granted, and 132 were rejected, appellate proceedings was struck out for 13, and examination of 47 complaints was not finished as of 30 December 2011.

254. From 1043 general complaints brought to the Criminal Chamber of the RA Court of Cassation during 2010, 106 were filed by the RA General Prosecutor's Office, from which 71 were returned, proceedings was instituted on 22, 5 were left without examination, and the process of 8 complaints was not finished as of 30 December 2010.

255. Nine hundred and thirty-seven complaints were filed by the other participants of the trial, from which proceedings was instituted on 54, 758 were returned, 83 were left without examination, review proceedings was rejected for 6 complaints, and the process of 36 complaints was not finished as of 30 December 2010.

256. From 1203 general complaints brought to the Criminal Chamber of the RA Court of Cassation during 2011, 162 were filed by the RA General Prosecutor's Office, from which 128 were returned, proceedings was instituted on 18, 3 were left without examination, and the process of 13 complaints was not finished as of 30 December 2011.

257. 1041 complaints were filed by other participants of the trial, from which 848 were returned, proceedings was instituted on 27, 73 were left without examination, and the process of 93 complaints was not finished as of 30 December 2011.

Reply to the issues raised in paragraph 15 of the list of issues

258. There were no cases of detention of relatives linked to the events of 1 March 2008.

259. On 2 March 2008 a criminal case was instituted in the RA Special Investigative Service under the elements of part 2 of article 235 and part 3 of article 225 of the RA Criminal Code, upon the fact of organization and instigation of mass disorder accompanied with violence, pogroms, arson, destruction or damage to State, public and private property, clear illegal taking, armed resistance to the representative of the authorities, using fire-arms, explosives or explosive devices, different objects fitted to be used as a weapon, murder, which happened in Yerevan from the period of 1 March to 2 March 2008.

260. That is, the criminal case was instituted also under the case of mass disorder accompanied by murders. From the first day of the institution of the same criminal case full and multi-sided examination has been conducted upon the fact of death of 10 persons during the mass disorder.

261. Later, on 18 March 2009, the RA Law "On making amendments and supplements to the RA Criminal Code" was adopted by the RA National Assembly and on 23 March, 2009 was put into effect, according to article 3 of which part 3 of article 225 of the RA Criminal Code — the organization of mass disorders accompanied by murders or the direct execution of such actions — was repealed. According to article 1 of the same Law, part 2 of article 104 of the RA Criminal Code was supplemented with a new point 10.1 which establishes criminality for the murder committed during mass disorder by its participants.

262. Based on the aforementioned, upon the materials of the criminal case, a new criminal case was instituted under the elements of article 104 of the RA Criminal Code, taking into consideration at the same time that the cases of inflicting death during mass disorders on 1 March and 2 March 2008 were joined to a single proceedings.

263. The ten persons who died during the mass disorders were:

Armen Vachagan Farmanyan (born on 25 November 1974 in Yerevan), previously convicted for assault related to robbery, unemployed, non-partisan)

264. At about 22:00 on 1 March, the corpse of Armen Farmanyan was transferred to the morgue of the RA Republican Scientific and Practical Centre of Forensic Medicine, with gunshot wound on the head.

265. An examination of the corpse of Armen Farmanyan was carried out at the morgue of the RA Republican Scientific and Practical Centre of Forensic Medicine, with the participation of a forensic doctor, after which the clothes which were on A. Farmanyan at the time of the event were seized.

266. According to the conclusion of the forensic examination of the corpse, a contused wound with a bone tissue defect was found on A. Farmanyan's corpse, in the parietotemporal area of the left side of the head, head's hair covered internal surface, temporal muscles, brain soft and hard membranes, brain, brain lateral ventricula and bleedings of internal side of upper and lower eyelids, compound fractures of meninx and basal bones, crush injury of and efflux from brain, which were in an immediate causal relationship with his death.

267. During autopsy, foreign objects were removed from the cranium, which were seized. According to the conclusion of the forensic ballistic examination, the plastic and metal items retrieved from A. Farmanyan's body are from a gas grenade of a fired "Cheremukha-7" type factory-made cartridge, separated by a single plug. The shot traces on the plug are typical of the special means "KS-23" carbine. The distortion and avulsions of the upper part of the plug might be caused by a collision with any solid item or passing through any obstacle.

268. Decipherments of incoming and outgoing calls of Armen Farmanyan's cellular phone number has been received and examined based on the relevant decision of the court.

269. By the preliminary investigation it was found out that Armen Farmanyan, with the involvement and financing of the RA National Assembly Deputy Hakob Hakobyan, had recruited groups of persons for certain monetary reward, ensured their participation to the public events which were happening with the breach of order established by law, as well as to mass disorder during which he brought metal bars and bottles filled with inflammable substances and distributed to the participants of mass disorder, thus directing their actions. At around 21:00, Armen Farmanyan was wounded and died on Paronyan street, in front of school No 24. Armen Farmanyan's fellow Ashot Vardanyan and a group of people unidentified by the case placed the corpse of Armen Farmanyan on the roof of the car of UAZ 2109 model with 09 OL 237 state registration number, belonging to Bagrat Uzunyan and demanded from the latter to transfer the corpse to a hospital. Bagrat Uzunyan, accompanied by Ashot Vardanyan and others, transferred the corpse to the front of 7 Leo building, the mentioned persons placed the corpse of Armen Farmanyan into the "Shtap Ognutyun"[Emergency Medical Service] CJSC number 003 brigade ambulance van which transferred the corpse to the morgue.

270. The mentioned circumstance was revealed by the testimonies of around 15 interrogated persons, including Ashot Vardanyan, Bagrat Uzunyan, the driver of the ambulance of No 003 brigade Lyova Khojoyan, doctor Marianna Alikhanova, nurse Anna Mkhitaryan, through the protocol of presenting for photo identification of Anna Mkhitaryan, by the examination protocol of the location where the corpse of Armen Farmanyan was placed into the ambulance car.

271. Armen Farmanyan's father Vachagan Farmanyan was recognized as the victim's legal successor and testified that after the death of his son he learned from Anna Eloyan

who was in factual marital relations with Armen Farmanyanyan, that the latter had periodically participated in the public events which took place with the breach of the order established by law, but Anna Eloyan did not state anything about the circumstances of appearance of Armen Farmanyanyan at the location of mass disorders, getting injuries there and his death.

272. Vachagan Farmanyanyan was introduced the conclusions of the appointed expert examination with respect to which he did not file any petitions.

273. Instructions were given to the RA Police and the National Security Service to detect the witnesses to the wounding of Armen Farmanyanyan, find out the identity of the guilty person and to take operational measures to detect him.

Hovhannes Gharib Hovhannisyan – (born on 13 March 1964 in Yerevan, had no previous conviction, non-partisan, had no permanent employment, was engaged in the repair of sanitary equipment)

274. At around 21:40 pm. on 1 March 2008, the corpse of Hovhannes Hovhannisyan was transferred by unidentified persons to Yerevan No 2 medical centre, with the gunshot wound, from where he was transferred with the "Shtap Ognutyun" [Emergency Medical Service] CJSC number 011 brigade ambulance car to the morgue of the RA Republican Scientific and Practical Centre of Forensic Medicine.

275. An examination of the corpse of Hovhannes Hovhannisyan was carried out at the morgue of the RA Republican Scientific and Practical Centre of Forensic Medicine, with the participation of a forensic doctor, after which the clothes which were on H.Hovhannisyan at the time of the event were seized.

276. According to the conclusion of the forensic medical examination of the corpse, a blunt gunshot bullet wound in the front surface of the left part of the chest was detected on H. Hovhannisyan's body. The death happened due to internal haemorrhage caused by the blunt gunshot wound of the chest.

277. During the autopsy, one bullet of 5.45 mm calibre was removed from H. Hovhannisyan's body.

278. According to the conclusion of the forensic ballistic examination, the bullet removed from H. Hovhannisyan's body is a fired bullet belonging to a factory made 5.45 mm service cartridge. The bullet of this kind is typical of bullets fired from "AK-74" submachine guns and their modifications.

279. According to the complex forensic ballistic and forensic chemical medical expert examination, the wounds discovered on the clothes of Hovhannes Hovhannisyan are blunt gunshot bullet entrance wounds which form the continuation of each other, and were inflicted by one gunshot of 5.45 mm bullet containing copper.

280. Decipherments of incoming and outgoing calls of Hovhannes Hovhannisyan's cellular phone number have been received and examined based on the relevant decision of the court.

281. Conducted preliminary investigation revealed that Hovhannes Hovhannisyan was near the monument to Myasnikyan at around 20:00, after consuming alcohol, with the beer bottle in his hand. At around 21:00, with the participants of the mass disorders and brandishing wooden stick in this hand, he went to the intersection of Mashtots avenue and Gr. Lusavoritch street where he received gunshot wound and died. The resident of Echmiatsin Hrant Hakobyan, with an unidentified woman, transferred the corpse of Hovhannes Hovhannisyan to Yerevan No 2 medical centre in his VAZ-2103 model car with 12 TT 664 state registration numbers.

282. The mentioned circumstances were revealed by the testimonies of around 20 interrogated persons, including Hrant Hakobyan, witnesses to the wounding of Hovhannes Hovhannisyman — Gegham Petrosyan and Karapet Hovhannisyman, through the protocols of examination of the location where Hovhannes Hovhannosyan received bodily injury.

283. Hovhannes Hovhannisyman's wife Lilia Minasyan was recognized as the victim's legal successor and testified that Hovhannes Hovhannisyman had left home at 19:00 on 1 March 2008, after which he did not phone and did not return home. In the morning she was informed that her husband had died.

284. Lilia Minasyan was introduced the conclusions of the appointed expert examination, after which she did not file any petitions.

285. Instructions were given to the RA Police and the National Security Service to detect the witnesses to the wounding of Hovhannes Hovhannisyman, find out the identity of the guilty person and to take operational measures to detect him.

Tigran Hovsep Khachatryan - (born on 30 January 1985 in Yerevan), had no previous conviction, non-partisan and unemployed

286. At around 22:00 on 1 March 2008, the corpse of Tigran Khachatryan was transferred to the RA Republican Scientific and Practical Centre of Forensic Medicine with the "Shtap Ognutyun" [Emergency Medical Service] CJSC number 43 brigade ambulance car.

287. An examination of the corpse of Tigran Khachatryan was carried out at the morgue of the RA Republican Scientific and Practical Centre of Forensic Medicine, with the participation of a forensic doctor, after which the mobile phone and clothes which were on Tigran Khachatryan at the time of the event were seized.

288. According to the conclusion of the forensic medical expert examination of the corpse, a contused wound with a bone tissue defect was found on Tigran Khachatryan's corpse in the left occipital area of the head, bleedings of right upper eyelid, sclerotica of the right eyeball, internal surface of the pia matter, left temporal muscle, hard and soft brain membranes, grey matter, brain lateral ventricula, compound fractures of meninx and basal bones, crash injury of the brain, which were in an immediate causal relationship with his death. The death happened from serious disorder of vitally important functions of the brain, resulting from the brain injury.

289. During the autopsy, a piece of metal was retrieved from T. Khachatryan's skull.

290. According to the conclusion of the forensic ballistic examination, the piece of metal removed from T. Khachatryan's body was a gas grenade of a factory-made "Cheremukha-7" type fired cartridge. The plastic plugs of the gas grenade were probably separated due to collision with a solid body or passing through an obstacle.

291. Decipherments of incoming and outgoing calls of Tigran Khachatryan's cellular phone number have been received and examined based on the relevant decision of the court.

292. Conducted preliminary investigation revealed that Tigran Khachatryan had gone to the location of mass disorders at around 19:00 with his friend Artyom Abovyan. At around 20:00 p.m., they were separated due to the confusion, after which Tigran Khachatryan, with a group of participants of the mass disorder, went to the intersection of Paronyan and Leo streets where he was wounded and died near the arch adjacent to the intersection.

293. The mentioned circumstances were revealed by the testimonies of around 20 interrogated persons, including Artyom Abovyan, Stella Karapetyan, the driver of No 43 brigade ambulance car Nver Sahakyan, doctor Lilit Nazaryan, nurse Anna Movsisyan, through the protocol of presenting for photo identification, by the examination protocol of

the location where the corpse of Tigran Khachatryan was placed to the ambulance car with participation of Lilit Nazaryan, and other materials of the criminal case. Tigran Khachatryan's mother Alla Hovhannisyanyan was recognized as the victim's legal successor and testified that he had gone to Artyom Abovyan's house at around 17:30 p.m. on 1 March 2008 and did not return. At around 21:00 p.m., she called to her son, but the latter did not respond to the calls. They began to look for him and at around 04:00 they found the corpse in the morgue. She has no information on the circumstances of Tigran Khachatryan's death.

294. Alla Hovhannisyanyan was introduced the conclusions of the appointed expert examination, after which she did not file any petitions.

295. Instructions were given to the RA Police and the National Security Service to detect the witnesses to the wounding of Tigran Khachatryan, find out the identity of the guilty person and to take operational measures to detect him.

Zakar Saribek Hovhannisyanyan, born on 30 August 1977 in Yerevan, previously not convicted non-partisan, unemployed.

296. At 2:00, on 2 March 2008 Zakar Hovhannisyanyan was brought — by unknown persons — to Yerevan Clinical Hospital No3 in an unconscious state with a gunshot wound in the abdomen. Zakar Hovhannisyanyan died during the surgery at 02:55 and was brought to the morgue of Scientific and Practical Centre of Forensic Medicine of the Ministry of Health of the Republic of Armenia by the ambulance of the emergency team No 16 of "Shtap Ognutyun" [Emergency Medical Service] CJSC.

297. With the participation of a forensic doctor, a post-mortem examination on Zakar Hovhannisyanyan's body was carried out at the morgue of Scientific and Practical Centre of Forensic Medical Examinations of the Ministry of Health of the Republic of Armenia, following which the clothing worn by the latter at the time of the accident was seized from morgue.

298. According to conclusion of the forensic medical expert examination of the corpse, a gunshot entrance wound on the front surface of the abdomen in the epigastric region was detected on Zakar Hovhannisyanyan's dead body, perforating wounds of the liver, diaphragm and the left lung lower lobe, psoas, the haemorrhage of the posterior surface of the left half of the lumbar region, which resulted from a gunshot fired from a firearm charged with a bullet. The death of Zakar Hovhannisyanyan was caused by acute blood loss.

299. During the autopsy, one 9 mm calibre bullet was removed from Zakar Hovhannisyanyan's body.

300. According to the conclusion of the forensic ballistic expert examination the bullet removed from Zakar Hovhannisyanyan's body was a fired bullet belonging to a factory made 9 mm calibre cartridge. These types of cartridges are intended for "PM" and "APS" pistols. The traces of shooting present on the bullet are typical of traces of a shot fired from a "PM" pistol.

301. According to the conclusion of complex forensic ballistic and forensic chemical expert examination the damages to the clothing of Zakar Hovhannisyanyan represent a blunt gunshot bullet entrance wounds being continuation of each other caused by a bullet of 9 mm calibre containing copper fired from a weapon by one gunshot.

302. Detailed bills of incoming and outgoing calls of Zakar Hovhannisyanyan's cellular phone number were received and scrutinized based on the relevant decision of the court.

303. The conducted preliminary investigation revealed that at around 23:00, on 1 March 2008, Zakar Hovhannisyanyan and a his friend Armen Avetisyan with nickname "guyni" in a state of drunkenness went to the site where mass disorders occurred. At around 00:00-01:00, Zakar Hovhannisyanyan, together with participants of the mass disorder was not far

from Mashtots Avenue, where he received the gunshot wound, and Armen Avetisyan, leaving him in a helpless state, ran away from the scene of the accident. Zakar Hovhannisyan was brought to hospital by persons not identified by investigation.

304. Although Armen Avetisyan, who was avoiding to present himself to the preliminary investigation body for one and a half year, denied the fact of going with Zakar Hovhannisyan to the site where mass disorders occurred, as well as witnessing the latter's receiving the injuries, the aforesaid was substantiated by testimonies of about 15 persons interrogated, including those of the husband of Zakar Hovhannisyan's sister Vardan Sosyan, his friends Norayr Melkonyan, Vachagan Eghiazaryan, the father of the latter Azat Eghiazaryan and Armen Avetisyan's friend Grigor Movsisyan, as well as by other materials of the criminal case.

305. Zakar Hovhannisyan's sister, Mariam Hovhannisyan was recognized as the legal successor of the victim and gave a testimony saying that she had no information about the circumstances of his brother's death.

306. Mariam Hovhannisyan became familiar with the conclusions of expert examinations ordered with regard to the criminal case, after which she filed no motion.

307. The Police and the National Security Service of the Republic of Armenia were given instructions on taking operational measures aimed at detecting persons witnessed the incident of Zakar Hovhannisyan being wounded, revealing the identity of the perpetrator and detecting thereof.

308. According to operational intelligence data Zakar Hovhannisyan was involved in the commitment of mass disorders by Armen Farmanyan.

Gor Sargis Kloyan, born on 15 December 1979 in Yerevan, previously not convicted, non-partisan and unemployed

309. At about 21:30, on 1 March 2008 Gor Kloyan was brought by unknown persons to "Cinical Hospital No3" CJSC in Yerevan with a gunshot wound in the inguinal region. A piece of metal was removed from Gor Kloyan's body during the surgery. At about 04:30 Gor Kloyan died.

310. The foreign body removed from Gor Kloyan's body and the clothing worn by the latter at the time of the accident were seized from Yerevan "Cinical Hospital No 3" CJSC.

311. With the participation of a forensic doctor, a post mortem examination of Gor Kloyan's body was carried out at the morgue of Scientific and Practical Centre of Forensic Medical Examinations of the Ministry of Health of the Republic of Armenia.

312. According to the conclusion of the forensic medical expert examination of the corpse, a crushed fragment wound in the left iliac region was detected on Gor Kloyan's corpse. He died of acute blood loss caused by a crushed fragmentation wound in the left iliac region.

313. According to the conclusion of the forensic ballistic expert examination the object removed from Gor Kloyan's body was a factory made "Cheremukha-7" type fired cartridge case, i.e., a gas grenade with its plastic plugs.

314. The traces of shooting on the plugs were typical of "KS-23" carbines considered as a special mean. Distortion and avulsions were found on the plug, which could be caused by collision with any solid body or passing through any obstacle.

315. According to the conclusion of complex forensic ballistic and forensic chemical expert examination the damages to the clothing of Gor Kloyan represent a blunt gunshot bullet entrance wounds being continuation of each other, which could be caused by a gas grenade of "Cheremukha-7" type fired cartridge fired from a weapon by one gunshot.

316. The conducted preliminary investigation revealed that Gor Kloyan went to the site where mass disorders occurred at around 20:00 p.m. Together with a group of participants of mass disorder he went to the crossroads of Gr. Lusavorich Street and Mashtots Avenue at about 21:30, where he received a bodily injury, following which persons not yet disclosed by the investigation transported him from the scene of the accident by a gray taxi car of GAZ-31 model.

317. The aforesaid fact was substantiated by testimonies of about 15 persons interrogated, including those of Vardan Andriasyan and Karlen Arakelyan, by the protocol of presenting for identification by a photograph with the participation thereof, as well as by other materials of the criminal case.

318. Gor Kloyan's father Sargis Kloyan was recognized as the legal successor of the victim and gave a testimony that Gor Kloyan left home at around 20:00 p.m., on 1 March. At around 20:30, he had called home and informed that he was on Gr. Lusavorich Street, after which he no longer answered to phone calls. : At around 22:00 p.m. a woman answered his phone call and informed that the owner of the phone, i.e. his son, was on the surgical table.

319. Detailed bills of incoming and outgoing calls of Gor Kloyan's cellular phone number were received and scrutinized based on the relevant decision of the court.

320. Sargis Kloyan, as the legal successor of the victim, became familiar with the conclusions of expert examinations ordered, filed no motions.

321. The Police and the National Security Service of the Republic of Armenia were given instructions on taking operational measures aimed at detecting persons who witnessed the incident of Gor Kloyan being wounded, revealing the identity of the perpetrator and detecting thereof.

322. According to operational intelligence data Gor Kloyan was involved in mass disorders by Armen Farmanyanyan.

Grigor Hovhannes Gevorgyan, born on 30 May 1980, Yerevan, previously not convicted, non-partisan, worked at "SPS" petrol station as a shift supervisor

323. At around 21:00 on 1 March 2008 Grigor Gevorgyan's corpse was brought to the morgue of Scientific and Practical Centre of Forensic Medicine of the Ministry of Health of the Republic of Armenia with a gunshot wounds in the region of head.

324. With the participation of a forensic doctor, a post – mortem examination on Grigor Gevorgyan's body was carried out at the morgue of Scientific and Practical Centre of Forensic Medical Examinations of the Ministry of Health of the Republic of Armenia, following which the cellular phone and the clothing worn by the latter at the time of the accident were seized from the morgue.

325. According to the conclusion of the forensic medical expert examination of the corpse, a gunshot entrance wound of 0,5x0,4cm in size in the back area of the nose, an exit hole in the left front-parietal area, as well as multi-fragment fractures of the bones of the nose, skull base and calvarium, smash of medullary substance with cephalocele, injury of dura matter was detected on Grigor Gevorgyan's corpse, which resulted from a gunshot fired from a firearm charged with a bullet. Death was caused by acute disorder of vitally important functions of the brain.

326. Detailed bills of incoming and outgoing calls of Grigor Gevorgyan's cellular phone number were received and scrutinized based on the relevant decision of the court.

327. The conducted preliminary investigation revealed that Grigor Gevorgyan received a gunshot wound at around 21:00, on 1 March 2008 in front of a shoe repair shop located

near the crossroads of Leo and Paronyan Streets, following which persons not yet disclosed by the investigation transported him to Zakyan Street, where the corpse was carried in a stretcher to the parked ambulance of the emergency team No 64 of “Shtap Ognutyun” [Emergency Medical Service] CJSC whereby it was taken to the morgue.

328. The aforesaid fact was substantiated by testimonies of about 20 persons interrogated, including those of the driver of the ambulance Martin Martirosyan, the nurse Donara Zakaryan, as well as Grigor Gevorgyan’s acquaintance — a resident of the same district — Robert Simonyan, by the protocol of presenting for identification by a photograph, by the protocol of inspection of the scene, with the participation of Martin Martirosyan, where Grigor Gevorgyan’s corpse was placed into the ambulance.

329. At the same time, by the testimonies of Grigor Gevorgyan’s wife, the legal successor of the victim, Varduhi Baghdasaryan and her brother Romik Baghdasaryan revealed that at around 20:00 Grigor Gevorgyan together with Romik Baghdasaryan went to the site where mass disorders occurred, however, at around 21:00 lost each other and the corpse was later found in the morgue.

330. The legal successor of the victim Varduhi Baghdasaryan became familiar with the conclusions of expert examinations ordered.

331. The Police and the National Security Service of the Republic of Armenia were given instructions on taking operational measures aimed at detecting persons witnessed the incident of Grigor Gevorgyan being wounded, revealing the identity of the perpetrator and detecting thereof.

David Afrent Petrosyan, born on 16 April 1975, Yerevan, previously not convicted, non-partisan and was engaged in jeweller's art.

332. At around 22:30, on 1 March 2008, David Petrosyan, was brought to Yerevan No2 Hospital, then taken to the Hospital named after Margaryan by unknown persons with a gunshot wound in the back, where he died and at around 24:00 was brought to the morgue of Scientific and Practical Centre of Forensic Medicine of the Ministry of Health of the Republic of Armenia by the ambulance of the emergency team No 016 of “Shtap Ognutyun” [Emergency Medical Service] CJSC.

333. With the participation of a forensic doctor, an inquest on David Petrosyan’s body was carried out at the morgue of Scientific and Practical Centre of Forensic Medical Examinations of the Ministry of Health of the Republic of Armenia, following which the clothing worn by the latter at the time of the accident was seized from the morgue.

334. According to the conclusion of the forensic medical expert examination a gunshot bullet entrance wound on the back surface of the right half of the chest, perforating wounds of the right kidney, liver, diaphragm and of lower and middle lobe of the right lung, intercostal muscles 5th from the right, injuries of pectoralis major and minor, haemorrhage of the anterior surface of the right half of the chest were detected on David Petrosyan’s corpse, which were caused during the life time, resulted from a gunshot fired from a firearm charged with a bullet. The death was caused by acute blood loss as a result of the injury.

335. One bullet of 0,9 mm calibre was removed from David Petrosyan’s body during the surgery.

336. According to the conclusion of the forensic ballistic expert examination the bullet removed from David Petrosyan’s corpse was a fired bullet belonging to a factory made 9 mm calibre cartridge. These types of cartridges are intended for “PM” and “APS” pistols. The traces of shooting on the bullet were typical of traces of shots fired from a “PM” pistol. The scratch deformation on the bullet was a result of collision with a solid body; it might possibly be a result of a ricochet or passing through an obstacle.

337. According to the conclusion of complex forensic ballistic and forensic chemical expert examination the damage found in the clothing of David Petrosyan's coat represented a blunt gunshot bullet entrance wound caused by a bullet of 9 mm calibre containing copper fired from a weapon by one gunshot.

338. Detailed bills of incoming and outgoing calls of David Petrosyan's cellular phone number were received and scrutinized based on the relevant decision of the court.

339. The conducted preliminary investigation revealed that David Petrosyan went to Gr. Lusavorich street, the site of mass disorders at around 20:00 together with his brothers-in-law Vahe and Karen Dalaloyans and his maternal cousin Narek Vardumyan.

340. At around 21:00, David Petrosyan took photos with his cellular phone next to the building No 2 on Paronyan street. Meantime, for a short period of time he parted from Narek Vardumyan and Vahe and Karen Dalaloyans. After a while, the latter found David Petrosyan with a bodily injury, and brought him to the hospital by a car not yet revealed by the investigation, where he died.

341. The aforesaid facts were substantiated by testimonies of about 15 persons interrogated, including those of David Petrosyan's mother, the legal successor of the victim, Jemma Vardumyan, his wife Lilit Dalaloyan, Narek Vardumyan, Vahe and Karen Dalaloyans, by the conclusion of the computer forensic expert examination, by the protocol of inspection of the scene, with the participation of Narek Vardumyan, where David Petrosyan received the bodily injury, as well as by other materials of the criminal case.

342. Jemma Vardumyan became familiar with the conclusions of expert examinations ordered, filed no motions with regard thereto.

343. The Police and the National Security Service of the Republic of Armenia were given instructions on taking operational measures aimed at detecting persons witnessed the incident of David Petrosyan being wounded, revealing the identity of the perpetrator and detecting thereof.

Samvel Edik Harutyunyan, born on 5 December 1979, village Lusarat of Ararat marz, previously not convicted, non-partisan, unemployed, was engaged in farming

344. At around 22:00 p.m., on 1 March 2008, Samvel Harutyunyan was brought – by unknown persons – to Yerevan Clinical Hospital No3, and later to "Armenia" Republican Medical Centre, in an unconscious state with an open craniocerebral injury, where, he died on 11 April without regaining his consciousness.

345. According to the conclusion of the forensic medical expert examination an open, blunt, penetrating craniocerebral injury, a contused wound in the left parietotemporal area with avulsed defect of dura mater, a crush injury of and efflux from brain, multi-fragment fractures of the left parietal and temporal bones were detected on Samvel Harutyunyan's corpse. He died of general intoxication of the organism caused by open, blunt, penetrating craniocerebral injury, by purulent meningitis, double purulent pneumonia developed as a result of the latter.

346. Detailed bills of incoming and outgoing calls of Samvel Harutyunyan's cellular phone number were received and scrutinized, inspection of casebooks of "Armenia" Republican Medical Centre, forensic computer expert examination was ordered based on the relevant decision of the court.

347. The conducted preliminary investigation revealed that Samvel Harutyunyan went to the site of mass disorders at around 18:30 together with his friend Aram Barseghyan and maternal cousin Gegham Gevorgyan. At around 21:30 Samvel Harutyunyan, parting from Aram Barseghyan and Gegham Gevorgyan, went to the crossroads of Mashtots Avenue and Gr. Lusavorich Street of Yerevan city together with a group of participants of mass

disorders and moved forward throwing stones, during which he received a bodily injury and was brought to the hospital by persons not identified by investigation.

348. The aforesaid fact was revealed by testimonies of about 20 persons interrogated, including those of Aram Barseghyan and Gegham Gevorgyan, Karlen Arakelyan and Vardan Andreasyan witnessing Samvel Harutyunyan's receiving the bodily injury, Samvel Harutyunyan's father, the legal successor of the victim, Edik Harutyunyan, by the protocols of presenting for identification by a photograph with the participation of Karlen Arakelyan and Vardan Andreasyan and of investigative experiment carried out with the participation of the latter, as well as by other materials of the criminal case. It is worth mentioning that Samvel Harutyunyan's father Edik Harutyunyan concealed the reality, didn't provide any information concerning persons with whom Samvel Harutyunyan went to the site where mass disorders occurred. The aforesaid fact was revealed only through the scrutiny of the detailed bills of incoming and outgoing calls of Samvel Harutyunyan's cellular phone number and as a result of carrying out additional investigative actions.

349. The legal successor of the victim Edik Harutyunyan became familiar with the conclusions of expert examinations ordered with regard to the criminal case, filed no motions.

350. The Police and the National Security Service of the Republic of Armenia were given instructions on taking operational measures aimed at detecting other persons who witnessed the incident of Samvel Harutyunyan being wounded, revealing the identity of the perpetrator and detecting thereof.

Hamlet Aghas Tadevosyan, born on 15 May 1976, Yeghvard town of Kotayk marz, not convicted, non-partisan, served in Unit No 1032 of the Police Troops of the Republic of Armenia as a commander of the 1st company of the motor rifle battalion.

351. At around 19:00 Hamlet Tadevosyan was in service within Unit No 1032 of the Police Troops of the Republic of Armenia on Gr. Lusavorich Street in Yerevan with the aim to maintain public order and prevent mass disorders. While preventing another armed attack of the participants of the mass disorders, at around 21:15, owing to the explosion of an explosive device thrown by a participant — not yet identified by the investigation — of mass disorder occurring in front of the building No 17 on Gr. Lusavorich Street, he received many fragmentation injuries in the regions of the lower and upper pairs of extremities, hips, abdomen, and genitals and was brought to the Yerevan Clinical Hospital No 3, where he died at 03:00.

352. With the participation of a forensic doctor, a post-mortem examination on Hamlet Tadevosyan's body was carried out at the morgue of Scientific and Practical Centre of Forensic Medical Examinations of the Ministry of Health of the Republic of Armenia, during which three metal fragments were removed and seized from the corpse.

353. Hamlet Tadevosyan's clothing, protective devices and bulletproof jacket were seized from Yerevan "Clinical Hospital No 3" CJSC. The conducted inspection revealed that there were many holes thereon. Moreover, the inspection revealed a metal fragment on one of Hamlet Tadevosyan's military boots.

354. According to conclusion of the forensic medical expert examination of the corpse, Hamlet Tadevosyan's death was a result of hemorrhagic-traumatic shock, which was caused by several explosion fragmentation wounds to the upper and lower parts of the left eyelid, abdomen, perineum, scrotum, testicles, penis, both arms, left forearm, both thighs, calves, and nail phalanx of the first toe of the right foot.

355. According to the conclusion of an ordered forensic ballistic expert examination the 3 metal fragments detected from Hamlet Tadevosyan's both calves were fragmented as a result of an explosion; one of them was a fragment of the upper part of the connecting

bushing of a factory made “UZRGM” type fuse intended for firing factory made “F-1”, “RGD-5”, and “RG-42” type grenades, whereas the other two fragments were not determined owing to the absence of identification features thereon.

356. According to the conclusion of complex forensic ballistic and forensic chemical expert examination the damages to Hamlet Tadevosyan’s clothing were of fragmentation nature, caused by the explosion of an explosive device with rigid casing - subject to fragmentation - which exploded near Hamlet Tadevosyan’s feet, probably by a factory made “UZRGM” type fuse, and the metal fragment found on one of the short boots was fragmented as a result of an explosion; it was a fragment of the upper part of the connecting bushing of a factory made “UZRGM” type fuse intended for firing factory made “F-1”, “RGD-5”, and “RG-42” type grenades.

357. According to the conclusion of forensic biological expert examination of Hamlet Tadevosyan’s clothing and bulletproof jacket, the presence of blood was confirmed thereon which could belong to Hamlet Tadevosyan.

358. According to the conclusion of complex explosion and technical, forensic chemical expert examination the superficial and penetrating damages found from the bottom upwards direction present on Hamlet Tadevosyan’s bulletproof jacket were caused by the explosion of an explosive device with a rigid metal casing — subject to fragmentation — whereas metal fragments removed from the bulletproof jacket were fragments of an exploded explosive device filled with disruptive explosive of “trotyl” type. The specific type of the explosive device was not revealed by expert examination owing to the absence of sufficient identification features on damages present on the bulletproof jacket, as well as on fragments removed therefrom.

359. On the written proposal of members of the Fact-Finding Group of experts established by the Executive Order of the President of the Republic of Armenia of 23 October 2008, aimed at confirming the fact that the clothing and bulletproof jacket subjected to complex forensic ballistic, forensic biological, explosion and technical and forensic chemical, expert examination belonged to Hamlet Tadevosyan, a genetic expert examination was ordered according to the conclusion thereof DNA was released from traces of blood present on Hamlet Tadevosyan’s clothing and bulletproof jacket the genetic traits thereof correspond with 9 loci to the genetic trait of the DNA released from dry blood sample of his corpse. About 25 persons were interrogated, including Hamlet Tadevosyan’s fellow officers, the testimonies thereof revealed that they were located in front of the building No 17 on Gr. Lusavorich Street at around 21:15 p.m. in order to prevent mass disorders and maintain public order, when someone from the number of participants of mass disorders threw an explosive device to their direction, as a result of the explosion of which Hamlet Tadevosyan died and many of them received fragmentation wounds. Hamlet Tadevosyan’s father Aghasi Tadevosyan was recognized as the legal successor of the victim and gave a testimony as a witness, that at around 10:00, 2 March 2008, while in Moscow, he was informed that his son was wounded in his feet and was hospitalized. Upon his return to Yerevan he learnt that on the night of 1 to 2 of March Hamlet Tadevosyan died owing to the explosion of a grenade thrown by the participants of the mass disorders occurred in the capital.

360. Aghasi Tadevosyan became familiar with the conclusions of expert examinations ordered with regard to the case, filed no motions.

361. The Police and the National Security Service of the Republic of Armenia were given instructions on taking operational measures aimed at detecting persons who had witnessed the incident of Hamlet Tadevosyan being wounded, revealing the identity of the perpetrator and detecting thereof.

Tigran Edik Abgaryan, born on 17 March 1983, in village Taperakan of Ararat marz, previously not convicted, non-partisan, served in the Unit No 1033 of the Police Troops of the Republic of Armenia as a fixed term military servant

362. At around 19:00 Tigran Abgaryan was in the service within Unit No 1033 of the Police Troops of the Republic of Armenia on Gr. Lusavorich Street in Yerevan with the aim of maintaining public order and preventing mass disorders. At around 23:00, near the shop “Svin” on Leo Street, he received a perforating gunshot bullet wound to the neck from a gunshot fired by a participant of mass disorder — not yet identified by the investigation — and was brought to the hospital, where he died on 11 April 2008 without regaining his consciousness.

363. According to the conclusion of the forensic medical expert examination Tigran Abgaryan’s death was a result of disorder of vitally important functions of the spinal cord caused by a perforating gunshot wound to the neck, which had a front-to-back direction.

364. The military winter jacket worn by Tigran Abgaryan at the time of the accident was seized from Unit No 1033 of the Police Troops of the Republic of Armenia. Tigran Abgaryan’s medical records were seized from the hospitals.

365. According to the conclusion of complex forensic trace evidence, forensic ballistic and explosion and technical expert examination, the 19x9 mm damage present on the back of the collar of Tigran Abgaryan’s military winter jacket was that of a firearm, had a bullet nature, was caused by a bullet containing copper and as a result of at least one shot done in front-to-back direction; it was an exit damage.

366. About 30 persons had been interrogated, including Tigran Abgaryan’s fellow officers, the testimonies thereof revealed that on 1 March 2008, at around 23:00 they were located on Leo Street within their subdivisions, when Tigran Abgaryan received a wound in the region of neck from a shot, fired towards their direction from the corner of Gr. Lusavorich street, near shop “Svin” by one of the participants of mass disorder, he was brought to the hospital and on 11 April died without regaining his consciousness.

367. Tigran Abgaryan’s mother Ruzanna Harutyunyan was recognized as the legal successor of the victim and gave a testimony as a witness, that after learning that a great number of servicemen received wounds as a result of unrestrained atrocities of participants of the mass disorder, she went to the military unit at around 09:00, on 2 March 2008 to obtain some information about her son’s state and was informed that her son was wounded and was in “Erebuni” Medical Centre. In the hospital she was informed that her son had received a wound in the region of neck from a shot fired from the crowd on Leo Street. The medical measures taken to save her son’s life didn’t have any positive effect and on 11 April 2008 he died without regaining his consciousness. Ruzanna Harutyunyan became familiar with the conclusions of expert examinations ordered, filed no motions.

368. The Police and the National Security Service of the Republic of Armenia were given instructions on taking operational measures aimed at detecting persons who had witnessed the incident of Tigran Abgaryan being wounded, revealing the identity of the perpetrator and detecting thereof.

369. To clarify the circumstances of the death of the aforesaid 10 persons several dozens of persons were interrogated, forensic medical, forensic ballistic, complex forensic ballistic and forensic trace evidence, forensic biological and computer forensic expert examinations were ordered, inspections of the scene of the accident were carried out, a lot of instructions were given and a number of operational intelligence measures were taken aimed at revealing the identity of the perpetrator and detecting thereof.

370. The police officers and military servants of units of the Police Troops of the Republic of Armenia involved in the measure aimed at preventing the mass disorders on 1

March 2008 were also interrogated. All the log books of acceptance of weapons were seized from the relevant units of the Police Troops, all the records made therein were scrutinized and all the weapons taken out of the arsenals were cleared up.

371. The firearms and special devices attached to police officers and military servants in the service at the site of the mass disorders, as well as weapons taken out of the arsenal for the internal service of the relevant units of the Police Troops were seized and were undergone forensic ballistic expert examination. All the copies of all the aforesaid documents were attached to the materials of the criminal case.

372. The bullets removed from Davit Petrosyan's, Hovhanes Hovhannisyan's and Zakar Hovhannisyan's bodies were compared with the bullet cases found at the scene of the accident, as well as with the bullets registered in the republican bullet and cartridge inventory and the bullets fired from firearms attached to police officers and military servants of units of the Police Troops of the Republic of Armenia involved in the measure aimed at preventing the mass disorders. No matches were confirmed and the firearms from which the shots were fired are not yet identified.

373. Taking into account the fact that, according to the conclusion of forensic ballistic expert examination, the traces of shooting present on fragments of a gas grenade "Cheremukha-7" removed from Gor Kloyan's, Tigran Khachatryan's and Armen Farmanyan's bodies were unsuitable for identification of a specific weapon, therefore, it was not yet revealed the specific type of the weapon from which the shot fired caused the wounds and deaths of the aforesaid persons. Expert examinations were ordered also at "Special Equipment and Communication" Research and Production Association State Institution and "Criminal Expertise Centre" of the Ministry of the Interior of the Russian Federation in order to get clarifications with regard to those and other questions essential to the criminal case. The conclusions of the aforesaid expert examinations also recorded that the gas grenades "Cheremukha-7" removed from the bodies of dead and wounded citizens were not possible to identify with the weapons which fired them.

374. The movement of persons who used special devices, the number of shots fired thereby, the sections of the scene of the accident, wherefrom shots were fired, as well as the directions thereof were revealed, to the extent possible, through interrogations. The mentioned circumstances are collated with the sites where the dead persons were wounded, as well as the circumstances of the death thereof.

375. Also, a new criminal case was instituted in connection to breaching the rules of handling weapons - special means of "KS-23" type while preventing mass disorders, as a result thereof negligently causing death of 3 persons and also causing bodily injuries of different severities to another 3 persons, by the instruction of the prosecutor conducting procedural guidance over the criminal case being investigated in connection with mass disorders occurred in Yerevan city on 1 and 2 March 2008, the cases were combined into one unified proceeding.

376. The conducted preliminary investigation with regard to the criminal cases revealed that weapons of different types and calibre and "KS-23" type carbines considered as firearms for special purposes were used during mass disorders and at the time of the prevention thereof by the participants of disorders, as well as by the military servants of the Police Troops of the Republic of Armenia; explosive devices of different types, including also ball grenades were used against police officers and military servants of the Police Troops.

377. The bullets and different types of foreign bodies removed from the bodies of citizens who died or received different bodily injuries during mass disorders underwent forensic ballistic examination. The conclusions received recorded that gas grenades fired from

cartridges of “Cheremukha-7” type and the plastic plugs thereof were removed from bodies of three dead citizens and three citizens who received bodily injuries.

378. In particular, gas grenades of “Cheremukha-7” type cartridge with their plastic guiding caps were removed from Gor Kloyan’s, Armen Farmanayan’s corpses and a gas grenade of “Cheremukha-7” type cartridge- from Tigran Khachatryan’s corpse.

379. Meanwhile, it was already revealed that on 1 March 2008 4 non-commissioned officers of the Police Troops of the Republic of Armenia used “KS-23” type carbines— considered as firearms for special purposes — in Mashtots, Gr. Lusavorich, Leo and Paronyan Streets of Yerevan city.

380. The expert examination carried out at “Special Equipment and Communication” Research and Production Association State Institution of the Ministry of Interior of the Russian Federation revealed that the use of “Cheremukha-7” type cartridges in an open space is not prohibited but firing it directly at a human being is prohibited. Fire may be opened against sites or objects around the offenders taking into account the direction of the wind that provides the spread of the fume cloud over the offenders.

381. Through the expert examination carried out at the Department of Criminal Expertise of the Police of the Republic of Armenia it was substantiated that there were extraneous traces-distortions, avulsions, traces of contact and touch on the plastic plugs of gas grenades of “Cheremukha-7” type cartridges, removed from the corpses and bodies of wounded citizens, which were caused by a collision with solid bodies or passing through any obstacle.

382. The same conclusion was also recorded that in case of ricochet after having collided with a wall or any other obstacle, as well as after passing through any obstacle, gas grenades of “Cheremukha-7” type cartridges might, depending on the collision angle and characteristics of the material of the obstacle, cause injuries- including lethal - to a human being.

383. Four non-commissioned officers of the Police Troops of the Republic of Armenia were charged with breaching the rules of handling weapons- special devices of “KS-23” type - while preventing mass disorders occurred in Yerevan city on 1 and 2 March 2008, as a result thereof negligently causing death of three persons and also causing bodily injuries of different severities to another three persons.

384. Moreover, Thomas Hammarberg, Council of Europe Human Rights Commissioner, during his visit made to Yerevan on 19-24 November 2008 — at the meeting with the Prosecutor General of the Republic of Armenia — recommended an Irish expert Colin Burrows as a person possessing respective knowledge and experience in the application of special devices and technical equipment. The latter was invited to Yerevan at the expense of Armenian part to assist the relevant expert examination for the purpose of identification of gas grenades removed from the corpses with the specific firearms, which applied a special device of “Cheremukha-7” type, by the military servants of the Police sending through an electronic mail all the necessary information and photocopies of documents. Studying the presented materials and issues that needed clarification Colin Burrows stated that he considers making such identification impossible. .

385. Taking into account the interest of the Armenian and international community in the preliminary investigation being conducted with regard to the criminal case instituted in connection with mass disorders occurred in Yerevan city on 1 and 2 March 2008, and, particularly, in revealing the circumstances of the death of 10 persons, as well as emphasizing the transparency of the preliminary investigation and the rights of the public to receive verified, unbiased and objective information, since 2 March 2008 — from the very first day of the preliminary investigation — the investigation findings have always been

made available to the public through mass media and the materials have regularly been submitted to Thomas Hammarberg, Council of Europe Human Rights Commissioner, the Human Rights Defender of the Republic of Armenia, NGOs and international organizations. Regularly updated information was placed on the websites of the General Prosecutor's Office of the Republic of Armenia and the Special Investigation Service of the Republic of Armenia ensuring the availability thereof to all the persons interested in the issue.

386. The preliminary investigation of the criminal cases instituted in connection to the mass disorders occurred in Yerevan city in the period of 1- 2 March 2008 and of cases of death of 10 persons is pending with regard to which the President of the Republic of Armenia has given instruction to the law-enforcement agencies to make the investigation more active, particularly, the actions aimed at revealing the circumstances of the death of 10 persons, review the evidence obtained, consider all the possible versions for revealing the cases.

387. A conference was convened at the Special Investigation Service of the Republic of Armenia with the participation of the investigation group on fulfillment of requirements of the instruction made by the President of the Republic of Armenia; new actions and extra work to be carried out were planned; the investigation group was instructed to review the evidence obtained with regard to the criminal case, verify— one more time— the sources thereof, review the testimonies of the legal successors of victims, those of the victims, witnesses, examine thoroughly the conclusions of all expert examinations, order additional or new expert examinations as necessary, give new instructions to operational services aimed at revelation of cases.

388. The investigation group under the instruction was recruited again with new investigators possessing high professional knowledge, with proven experience in investigation of serious and complex cases.

389. Materials of the criminal case of several hundreds of volumes and exceeding 100,000 sheets of papers, hundreds of conclusions of expert examinations, video materials lasting several dozens of hours, as well as other evidence of the case were examined and reviewed thereby.

490. The examination results have been discussed regularly, the investigation plan is supplemented. More than 500 new witnesses were interrogated, about 150 additional interrogations conducted, 4 video recordings, complex video recording and forensic ballistic expert examinations ordered. More than dozens of instructions were given on carrying out various operational-investigative activities, particularly, aimed at revealing specific circumstances of the 10 cases of death recorded. As a result of examination of video records and photographs it was instructed to establish the identity of a number of persons — who possibly witnessed the causing of bodily injuries dangerous to life, were at the scene of the accident — and present them to the investigation. Motions were filed to the court with a request for receiving the detailed bills of phone calls made from around 20 phone numbers and — upon a court permission — the detailed bills of the mentioned phone numbers were obtained, scrutinized and worked out. As a result of activities carried out it was intended to additionally interrogate more than 500 persons.

391. During the preliminary investigation the Special Investigation Service of the Republic of Armenia has repeatedly issued statements through mass media requesting those persons possessing any information concerning crimes committed at the time of mass disorders occurred in Yerevan city on 1-2 March 2008 — and mostly concerning the circumstances of the death of 10 persons— to present themselves to the Special Investigation Service of the Republic of Armenia. However, the preliminary investigation

body has not received any responses, not even any motions from the representatives of legal successors of victims to supplement the preliminary investigation so far.

392. Taking into account that experts were unable to provide exhaustive answers — by expert examinations carried out — to a number of questions essential for the case, in order to get those answers the Prosecutor General of the Republic of Armenia —through the Ministry of Foreign Affairs — has addressed his request on involvement of relevant experts to the Ambassador Sergey Kapinos, Head of the OSCE Office in Yerevan, Silvia Zehe, Special Representative of the Secretary General of the Council of Europe to Armenia, John Prescott and Axel Fischer, Co-rapporteurs of the Monitoring Committee of the Parliamentary Assembly of the Council of Europe (PACE), Dafina Gercheva, United Nations Resident Coordinator, UNDP Resident Representative in Armenia, Thomas Hammarberg, Council of Europe Human Rights Commissioner assuring that all the conditions necessary for the implementation of activities of experts will be ensured to carry out expert examinations in the Republic of Armenia, as well as abroad. Specialists were not provided by certain international organizations on the grounds of lack of experts with such experience, as well as lack of experts who possess similar cooperation practice.

393. Clarifications are provided to the Human Rights Commissioner with regard to the issue. At the request of the latter additional data are sent concerning the issues subject to clarification.

394. For the purpose of raising the effectiveness of public awareness with regard to the criminal case instituted in connection with the mass disorders and cases of murders in the central streets of Yerevan city on 1 and 2 March 2008 the Special Investigation Service was seized of, the head of the investigation group and the prosecutors conducting procedural guidance over the criminal case investigated by the instruction of the Prosecutor General of the Republic of Armenia met the representatives of mass media twice a month. Separate interviews are also conducted, written answers, comments are provided to the written enquiries.

395. The preliminary investigation is pending, all the necessary investigative actions, operational-investigative activities aimed at detecting the perpetrators of crime are undertaken.

Reply to the issues raised in paragraph 16 of the list of issues

396. In the Republic of Armenia, the struggle against trafficking in human beings has been envisaged since 2002. In order to ensure the effectiveness of the efforts geared towards combating this phenomenon the following programmes were approved by the RA government and subsequently implemented: Concept Paper on preventing illegal transportation, transfer and trafficking in human beings from the Republic of Armenia and the 2004-2006 National Action Plan for prevention of illegal transportation, transfer and trafficking in human beings from the Republic of Armenia as well as the 2007-2009 National Action Plan for Combating Trafficking in Human Beings in the Republic of Armenia with its Implementation Timetable.

397. In order to ensure the effectiveness of the anti-trafficking response, the RA Government through its Resolution N 1385-A of 20 November 2008 approved the *National Referral Mechanism for Trafficked Persons*. The latter defines the cooperation framework through which the State governance bodies will carry out their responsibilities related to protection and enhancement of the trafficked persons' rights, ensuring strategic collaboration with the civil society in the course of their activities. The NRM focuses on identifying an effective way for providing services to the victims of trafficking, including

those related to provision of shelter, access to professional medical and psychological assistance, consultancy, educational or training programs.

Structural framework

398. From the very beginning of the efforts targeted at combating trafficking in human beings, the structural approach has been based on establishing collaboration among all the agencies and stakeholders dealing with the phenomenon and its consequences, viewing such collaboration as the best tool for enhanced effectiveness, as well as for combining and targeted management of the existing resources and capacities.

399. Back in October 2002, an Inter-agency Committee was formed by a Resolution of the RA Prime Minister for studying the issues related to the illegal transportation, transfer and trafficking in human beings from the Republic of Armenia and developing recommendations thereof. It functioned under guidance of the RA Ministry of Foreign Affairs and consisted of the representatives of all line ministries and agencies, experts of the RA National Assembly and those from the RA Government offices, as well as representatives of non-governmental and international organizations.

400. To increase the efficiency of the activities implemented, a *Council to combat THB in Armenia* was formed by the RA Prime Minister's Resolution No. 861-A dated December 6, 2007, chaired by the RA Deputy Prime Minister, Minister of Territorial Administration of the RA, and the RA Prime Minister's resolution No. 591-A dated 14 October 2002 on forming the inter-agency committee was annulled. Heads of all the line ministries and stakeholder agencies are involved as members of this Council. For the purpose of organizing the current activities of the Council, a working group was also formed under the RA Ministry of Foreign Affairs. Representatives from non-governmental and international organizations involved in the field are also actively participating in the activities of the Council and Working Group.

International legal framework

401. The Republic of Armenia has adopted all the international and regional legal documents related to combating trafficking in human beings.

402. Armenia ratified the 2000 United Nations Convention Against Transnational Organized Crime and its Optional Protocols,¹ the Protocol against the Smuggling of Migrants by Land, Sea and Air, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; the Optional Protocol to the Convention On the Rights of the Child on the sale of children, child prostitution and child pornography², the Council of Europe Convention of 16 May 2005 On Action against Trafficking in Human Beings³.

403. The Republic of Armenia also adopted the following International Labour Organization Conventions Nos. 29 (1930) concerning Forced or Compulsory Labour 105 (1957) concerning the Abolition of Forced Labour (⁴) and 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (⁵).

¹ Came into force for Armenia on 19 April 2003.

² Came into force for Armenia on 30 July 2005.

³ Came into force for Armenia on 19 April 2008.

⁴ Came into force for Armenia on 17 December 2005.

⁵ Came into force for Armenia on 2 January 2006.

404. Armenia has also entered into active collaboration in the sphere of combating THB within the framework of the Commonwealth of Independent States (CIS), with Collective Security Treaty Organization (CSTO) and the Organization of the Black Sea Economic Cooperation (BSEC), participating in the development of the relevant legal acts and measures as well.

Reforms

405. After 2007, the strengthening of anti-trafficking measures in the Republic of Armenia can be considered dramatic, because since that time the legislative reforms, as well as structural and professional reforms in criminal prosecution authorities, the provision of services to victims of trafficking, as well as activities aimed at public awareness raising for preventive purposes, yielded serious results. For more detailed information please see the reply of Armenia to the Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, which is available at the Council of Europe website: http://www.coe.int/t/dghl/monitoring/trafficking/Docs/News/ARM_web_art_en.asp.

406. The progress of the Republic of Armenia was underlined in the 2009 annual report published by the US Department of State – the Republic of Armenia has moved from Tier 3 Watch List to Tier 2 List. In the 2010 annual report of the US Department of State, Armenia was again in Tier 2.

407. The legislative amendments initiated in the last years aimed at improving criminal law mechanisms of trafficking have been numerous, and each time they have been used to solve issues in the law enforcement practice and to ensure the realization of international-legal obligations assumed by Armenia.

408. In this regard, the systematic and full settlement of the matter was achieved on 30 March 2011, within the amendment package of the Criminal Code of the Republic of Armenia. In particular, through the above-mentioned amendments, Armenia strengthened its anti-trafficking statutes; the amendments increased the amount of time a trafficking offender must serve before being eligible for an early release, introduced a separate article specifically prohibiting trafficking of children and persons with mental disabilities, and introduced new punitive sanctions against traffickers that deprive them of the right of employment in certain occupations or practice certain activities for up to three years. The new article 132.3 was added, which prescribes criminal liability for using the services of a person being in a state of exploitation. Besides, the possibility of not imposing a penalty in case of unlawful actions conducted by a victim of trafficking is prescribed by part 5 of article 132.

409. In 2010 the third National Action Plan for 2010-2012 (NAP) for Combating Trafficking in Human Beings in the Republic of Armenia for 2010-2012 has been approved by the Government of Armenia.

410. The strategies and actions presented in the NAP are aimed at efficient organization of fight against THB and are included in six main sections:

- (1) Legislation on fight against trafficking in human beings and application of laws,
- (2) Prevention of trafficking in human beings,
- (3) Protection and support to victims of trafficking in human beings,
- (4) Cooperation,
- (5) Carrying out examinations, monitoring and assessment,

(6) Coordination.

411. All the relevant State bodies involved in the Council to Combat Trafficking in Human Beings are responsible for the implementation of the NAP.

Assistance to the victims of trafficking

412. Assistance to the victims of trafficking is being provided both by the specialized NGOs and the State administration body authorized to provide assistance, namely - the Ministry of Labor and Social Issues of the Republic of Armenia. Assistance package differs in different stages of identification of the victim. In general it includes in-kind aid, medical aid, psychological and legal consultation, inclusion in different social programmes, and provision of the shelter. Besides, the NGOs provides the beneficiaries with the temporary shelter, legal assistance, psychological assistance, medical services, rehabilitation support; vocational trainings and labor tools, written and oral translation services when there is a need, consultation for the victims in comprehensible language and information, in particular about their rights and the services available for them, support in presenting their rights and their interests in different phases of the trial proceedings against the criminal offenders, education available for the children.

Investigation/Prosecution

413. The main State bodies responsible for the investigation and prosecution are:

- The Police adjunct to the Government of the Republic of Armenia (the Division for Fight Against Trafficking of the General Department for Fight Against Organized Crime) carries out activities of prevention, preclusion and disclosure of trafficking and crimes with elements of related types of offences, as well as carries out operational intelligence activities, inquest and preliminary investigation in respect of cases on trafficking.

- The General Prosecutor's Office of the Republic of Armenia (the Department for Crimes against Human Being) exercises oversight over the lawfulness of inquest and preliminary investigation of criminal cases examined with regard to cases of trafficking in the Republic of Armenia and pursues charges in a court in respect of those cases.

Statistics

414. When referring to the statistics of this type of crime, it is worth mentioning that according to the data received from the Information Centre of the Police of the Republic of Armenia, 13 cases of trafficking were reported in Armenia in 2010 (11 cases in 2009), and again 13 cases were reported during nine months in 2011 (11 cases during nine months in 2010). The statistics evidences about an increase in 2 cases, as opposed to the same period of the previous year.

415. In fact, the increase in cases of the aforementioned nature evidences not merely about the increase in reporting of such cases, but also in the indicator of detecting such cases due to the positive work of criminal prosecution bodies.

416. The studies of interested non-governmental and international organizations engaged in the aforementioned matter in our country also prove that, in recent years, the risk of trafficking has significantly decreased in Armenia. It is preconditioned by the raising of awareness of the population, particularly vulnerable groups on the phenomenon, as well as by the formation of an overall preventive environment, due to imposing strict punishments for traffickers. This is more grounded by the fact that the criminal cases instituted in relation to trafficking revealed in recent years are cases reported many more years ago.

417. Thus, according to cases revealed in 2010-2011, out of 39 exploited victims 17 persons were involved in trafficking in 2005-2009, and 18 persons - in 2010, and only 4 persons in 2011.

418. All in all, in 2010, prosecutorial oversight was carried out over the preliminary investigation into 15 criminal cases examined in relation to trafficking. 10 cases out of these 15 cases were reported in 2010, 2 were resumed in 2010 based on the detection of the wanted person, one part was split from one criminal case, and one criminal case was transferred from 2009. At the same period, one criminal case was instituted under article 261 (1) of the Criminal Code of the Republic of Armenia, however, criminal charges were also brought against the accused under article 132.1 of the Criminal Code of the Republic of Armenia. Three of the cases instituted and examined in relation to trafficking were joined into one proceeding. Criminal charge was brought against 15 persons in relation to the aforementioned criminal cases. Detention, as a measure of restraint, was applied against 14 persons out of the mentioned 15 persons, and a written recognizance not to leave was applied against one person. In 2010, 5 criminal cases instituted in relation to 6 persons were sent to court, the proceeding of one criminal case was suspended on the ground of search for the accused, and 6 criminal cases were transferred to 2011. In 2010, 5 persons were convicted under four criminal cases and sentenced to imprisonment.

419. In 2011, prosecutorial oversight was carried out over the preliminary investigation into 14 criminal cases instituted in relation to trafficking, six cases out of which were transferred from 2010, four were instituted in 2011, two were resumed on the ground of detection of the wanted persons, and two parts were split from criminal cases. In the reporting period, six criminal cases on 13 persons were sent to court, the proceedings of three criminal cases were suspended on the ground of search for the accused, one criminal case was dismissed, and the preliminary investigation into 4 criminal cases continues.

420. In 2011, under seven criminal cases 11 persons were convicted and sentenced to imprisonment. Moreover, 8 of them were sentenced to 7-9 years' imprisonment, and 3 were sentenced to 4-7 years' imprisonment. The accusers have brought an appeal against two judicial acts out of the aforementioned judicial acts, which are under processing. As for the accused, they brought appeals against all cases, which were rejected.

421. Briefly referring to the criminal characteristics of the victim and the accused under the cases of trafficking recorded in the reporting period, it is worth mentioning the following:

422. During 9 months in 2010 and 2011, 39 victims, all women, were detected with regard to 21 criminal cases under prosecutorial oversight.

423. Referring to the age group of the victims of trafficking, it should be mentioned that mainly young persons (58,9 per cent) become victims of this type of crime.

- 16-18 years old 5 persons (12,8 per cent)
- 18-24 years old 11 persons (28.2 per cent)
- 25-29 years old 7 persons (17.9 per cent)
- 30-49 years old 16 persons (41.1 per cent)

424. Meanwhile, the analysis shows that the overwhelming majority (97,4 per cent) of victims of trafficking did not work.

employed 1 person (2,6 per cent)

unemployed 38 persons (97.4 per cent)

425. As regards the educational level of the victims, our studies show that the overwhelming majority (94,9 per cent) of victims of trafficking have eight-year or secondary education.

- Elementary and eight-year education: 10 persons (25,7 per cent)
- Secondary education: 27 persons (69,2 per cent)
- Higher education : 2 persons (5,1 per cent)

426. Thirty-eight victims of trafficking (97,4 per cent) are citizens of the Republic of Armenia, one (2,6 per cent) is a citizen of Ukraine.

427. As regards the marital status of the aforementioned persons, the study shows that the overwhelming majority of them (89,7 per cent) are single or divorced.

- Single 19 persons (48,7 per cent)
- Divorced 16 persons (41 per cent)
- Widow 1 person (2,6 per cent)
- Married 3 persons (7.7 per cent)

428. Thirty-eight (97,4 per cent) of the aforementioned persons were victims of sexual exploitation, one (2,6 per cent) was a victim of labour trafficking. 22 (56,4 per cent) persons out of 38 victims of sexual exploitation were not previously engaged in prostitution, and 16 (43,6 per cent) were prostitutes.

429. Twenty-three persons out of 38 victims were subjected to sexual exploitation abroad and 16 – in Armenia.

Article 3

Reply to the issues raised in paragraph 17 of the list of issues

430. Article 479 of the Criminal Procedure Code of the Republic of Armenia provides that, if the international treaty prescribes the extradition of the person committed a crime to foreign State that is party to the treaty and if the treaty does not provide otherwise then in the territory of the Republic of Armenia permission or refusal of the extradition issued by decision of the Prosecutor General of the Republic of Armenia if the case is in pretrial proceedings or according to decision of the Minister of Justice on permission or refusal of the extradition if the case is under judicial proceedings, as well as in case when the person is convicted by the verdict in force.

431. The competent authority in accordance with whom decision is permitted or refused the extradition must notify the person concerning whom the decision was made and explain his/her right to appeal.

432. In the Republic of Armenia, based on international treaties on legal assistance in criminal matters, communication is carried out:

- By the Prosecutor General of the Republic of Armenia in relation to requests on implementation of judicial activities in pretrial proceedings.
- By the Ministry of Justice of The Republic of Armenia in relation to requests on court cases pending legal proceedings and implementation of court decisions/verdicts.

433. With the purpose of duly implementation of above mentioned obligations within the frame of Department of international legal relations in the Ministry of Justice established

the new section of Judicial Commission aims to implement the extradition procedures which are under the judicial proceedings, as well as transfer of sentenced persons.

434. Thus, the multilateral international treaties in accordance with which the Ministry of Justice is acting are: European Convention on Extradition (13 Dec. 1957) with amending protocols, European convention on mutual assistance in criminal matters (20 April 1959) with amending protocols, Convention on transfer of sentenced person (21.03.1983), Convention on legal assistance and legal relations in civil, family and criminal matters (22 Jan. 1993), Convention on legal assistance and legal relations in civil, family and criminal matters (7 Oct. 2002).

435. In the records of the Ministry of Justice nobody was extradited who accused of torture or ill-treatment.

436. The above-mentioned newly established section has not any statistical data yet, but from their right to appeal the decision of the court on extradition at this moment is only 1 person, but she is not accused of torture.

437. If the international treaty of the Republic of Armenia provides for extradition to a foreign State of the person committed a crime, and if the treaty not provides otherwise, then in the territory of the Republic of Armenia in regard with the person to be extradited:

(1) The decision on permission or refusal of extradition must be issued by the Prosecutor General of the Republic of Armenia if the case is in pretrial proceedings.

(2) The decision on permission or refusal of extradition must be adopted by the Minister of Justice, if the case is under judicial proceedings, as well as in case of convicted person by the verdict in force.

438. Final decision on permission or refusal of the extradition must be issued by the court examined the case or adopted the verdict in regard with convicted person based on motion made by the Minister of Justice if the case is under judicial proceedings, as well as in case when the person is convicted by the verdict in force.

439. In respect of article 1 of the Convention on Extradition, the Republic of Armenia reserves the right to refuse granting of extradition:

(a.) If the person to be extradited will be brought before an extraordinary court or in respect of the person who is to serve a sentence passed by such a court;

(b) If there are sufficient grounds to suppose that in result of the person's state of health and age her/his extradition will be injurious to her/his health or threaten her/his life;

(c) If political asylum is granted in the Republic of Armenia to the person, whose extradition is requested.

440. According to article 479 (1) of the Criminal Procedure Code of the Republic of Armenia (hereinafter referred to as "the Code"):

“Where international treaties of the Republic of Armenia envisage extradition of a person having committed a crime to a foreign State that is party to that treaty and unless otherwise stipulated by the treaty, officials and authorities that make a decision with regard to that person in the Republic of Armenia shall be the following:

(1) Decisions on granting or refusing extradition shall be made by the Prosecutor General of the Republic of Armenia, where the case is in pretrial proceedings;

(2) Decisions on refusing extradition shall be made by the Minister of Justice of the Republic of Armenia, where the case is in court proceedings, as well as when there is criminal judgement entered into force with regard to that person;

(3) Decision on granting extradition shall be made by the court examining the case or by the court that has delivered criminal judgement respectively, upon the motion of the Minister of Justice of the Republic of Armenia, where the case is in court proceedings, or when there is criminal judgement entered into force with regard to that person."

441. Thus, the Prosecutor General of the Republic of Armenia is authorized to make a decision on granting or refusing extradition only when the case with regard to the person detected in the territory of the Republic of Armenia and wanted by the competent authorities of a foreign State is in the stage of preliminary investigation in the territory of that country.

442. According to article 479 (2) of the Code, the competent authority that has made a decision on granting or refusing extradition shall inform about the decision on the person with regard to whom the decision has been made and shall explain his or her right to appeal against it.

443. In practice, the decision of the Prosecutor General of the Republic of Armenia on granting or refusing the extradition is handed over to the person with regard to whom that decision has been made (the decision is translated into the language that the person is fluent in), and the procedure for appealing against it is explained in writing.

444. According to article 479 (3) of the Code, "Decisions of the Prosecutor General of the Republic of Armenia on granting or refusing extradition, or decisions of the Minister of Justice of the Republic of Armenia on refusing extradition may be appealed to the Court of Appeals within a ten-day period upon the receipt of the decisions, and the decisions of the Court of Appeals may be appealed to the Court of Cassation within a five- day period upon the receipt thereof. The Court of Appeals and the Court of Cassation shall examine the case and make a decision with regard to it within a five-day period upon the receipt of the appeal, respectively."

445. In 2010-2011, the Prosecutor General of the Republic of Armenia made nine decisions on granting extradition, four decisions out of which were appealed, and in all four cases the Court rejected the appeal and left the decision of the Prosecutor General of the Republic of Armenia in force.

446. The actual extradition of persons (whose extradition has been granted) to law enforcement authorities of foreign States, as well as the transportation of persons transferred by them to the Republic of Armenia, are carried out by the Police of the Republic of Armen

Reply to the issues raised in paragraph 18 of the list of issues

447. There are no cases according to which the State sent individuals to other countries without observing extradition procedures, because as it mentioned above the Ministry of Justice executes the extradition procedures regulating solely by the international treaties of the Republic of Armenia or in case of absence of treaty – in accordance with the national legislation. Without observing the extradition procedures, the General Prosecutor's Office of the Republic of Armenia does not possess information particularly regarding cases of extradition based on the agreement between the Police of the Republic of Armenia and the Russian Federation. Decisions on extradition or refusing extradition on cases within the competencies of the Prosecutor's Office of the Republic of Armenia are made exceptionally by the Prosecutor General of the Republic of Armenia (see paragraph 445 above).

Reply to the issues raised in paragraph 19 of the list of issues

448. If the extradition according to the treaty of the Republic of Armenia is conditioned by the seeking of assurances from the Republic of Armenia then in accordance with article 480 of the Criminal Procedure Code of Armenia, then these kind of assurances must be

granted by the Prosecutor General in case of pretrial proceedings or Court of Cassation by the representation of the Minister of Justice if the case is under judicial proceedings, as well as in case of execution of the verdict in force.

449. Proceeding from the above- mentioned the Republic of Armenia shall seek the equal assurances from other States which are parties of international treaties of the Republic of Armenia.

450. In cases when the person announces that he or she is likely to be subjected to torture in foreign countries if surrendered, the General Prosecutor's Office of the Republic of Armenia requires additional guarantees from the requesting State, which must bear the signature of the Prosecutor General of the requesting State or his or her deputy. Such guarantees are also provided to competent authorities of foreign States, in accordance with article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, as well as in accordance with the provisions envisaged by relevant United Nations Conventions and their additional protocols.

451. If so required, a permission for consular monitoring is also provided. In these cases, the employee of consular office of the requested State is allowed to freely visit the extradited person.

Reply to the issues raised in paragraph 20 of the list of issues

452. The number of persons seeking asylum from the Government of the Republic of Armenia (and their country of origin) during 2011 and the number of persons granted temporary asylum or a refugee status during 2011 is set out in the table below.

Persons seeking asylum in the Republic of Armenia during 2011

	<i>Countries</i>	<i>Total number of applicants</i>	<i>Recognized as refugees and having received asylum</i>
1	2	3	4
1	Iran	16	
2	Côte d'Ivoire	7	6
3	Turkey	1	
4	Iraq	38	36
5	Mali	1	
6	Syria	6	6
7	Lebanon	1	
8	Tajikistan	1	
9	Guinea	1	
10	Azerbaijan	1	
		73	48

Articles 5, 6, 7, 8 and 9

Reply to the issues raised in paragraph 21 of the list of issues

453. In case the extradition is rejected, the competent authorities of foreign States are required to hand over the criminal cases instituted with regard to those persons, with a motion to hold him or her criminally liable in the territory of the Republic of Armenia. In

2010-2011, 36 such criminal cases and statements of case were received from foreign States, and 47 criminal cases and statements of case were sent abroad.

Reply to the issues raised in paragraph 22 of the list of issues

454. The Republic of Armenia acceded to numerous multilateral and bilateral international treaties regulating issues on mutual legal assistance, transfers of proceedings in criminal matters, and on extradition of criminals. In particular, within the framework of the Council of Europe, the Republic of Armenia joined the European Convention on Extradition of 13 December 1956 and its additional protocol of 15 October 1974 (for the Republic of Armenia it entered into force on 25 April 2002 and the additional protocol – on 17 March 2004). Armenia also joined the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 and its Additional Protocol (for the Republic of Armenia it entered into force on 25 April 2002 and the Additional Protocol – on 21 June 2004). Moreover, Armenia also joined the European Convention on the Transfer of Proceedings in Criminal Matters of 15 May 1972 (for the Republic of Armenia it entered into force on 18 March 2005).

455. Within the framework of CIS, the Republic of Armenia joined the Convention on the Legal Assistance and Legal Relations in Civil, Family and Criminal Cases of 22 January 1993 and its Additional Protocol of 28 March 1997 (for the Republic of Armenia it entered into force on 21 December 1997 and the Additional Protocol – on 9 June 2000). In addition, Armenia also joined the Convention on the Legal Assistance and Legal Relations in Civil, Family and Criminal Cases of 17 October 2002 (for the Republic of Armenia it entered into force on 19 February 2005).

456. Within the framework of the United Nations Organization the Republic of Armenia joined the United Nations Convention on Transnational Organized Crime of 15 November 2010 (for the Republic of Armenia it entered into force on 29 September 2003) and other international treaties.

457. So far, the Republic of Armenia has signed numerous bilateral agreements on mutual legal assistance or extradition, in particular, with the Republics of Bulgaria, Romania, Georgia, Lithuania, the Islamic Republic of Iran, the Arab Republic of Egypt, the Syrian Arab Republic, United Arab Emirates and other States.

458. It is planned to sign such an agreement with the Republic of Lebanon, and the Ministry of Justice of the Republic of Armenia is working on this matter.

459. The Prosecutor's Office of the Republic of Armenia signed the following memorandums of cooperation and legal assistance with prosecutor's offices of the following States:

(1) Memorandum on legal assistance and co-operation between the General Prosecutor's Office of the Republic of Armenia and the Prosecutor's Office of the Republic of Lithuania (8 October 1992, Alma-Ata)

(2) Agreement on mutual legal assistance and co-operation between the General Prosecutor's Office of the Republic of Armenia and the Prosecutor's Office of Slovak Republic (10.1999, Yerevan)

(3) Agreement on legal assistance and co-operation between the General Prosecutor's Office of the Republic of Armenia and the General Prosecutor's Office of the Republic of Latvia (8 August 2005, Yerevan)

(4) Memorandum on Co-operation between the General Prosecutor's Office of the Republic of Armenia and the General Prosecutor's Office of the Republic of Hungary (6 July 2007, Yerevan)

(5) Memorandum on Co-operation between the General Prosecutor's Office of the Republic of Armenia and the General Prosecutor's Office of Czech Republic (18 May 2009, Yerevan)

(6) Memorandum on Co-operation between the General Prosecutor's Office of the Republic of Armenia and the Prosecutor's Office adjunct to the Court of Cassation and Court of Justice of Romania (13 September 2010, Bucharest)

(7.)Memorandum on Co-operation between the General Prosecutor's Office of the Republic of Armenia and the General Prosecutor's Office of the Republic of Moldova (29 January 2012, Chisinau).

Reply to the issues raised in paragraph 23 of the list of issues

460. The training course, jointly developed by the Judicial School of the Republic of Armenia and the United Nations Development Programme, started in 2008 and ended in 2011. The training courses were held one to two times per semester for eight hours each and all judges examining criminal cases took part in those courses.

Reply to the issues raised in paragraph 24 of the list of issues

461. As regards the improvement of the interviewing technique, it is planned to establish rooms with one-way mirrors pursuant to point 27 of the Police Reform Programme, and the interrogation process may be recorded upon a request made by an interrogated person which is foreseen by the article 209 of the Criminal Procedure Code of the Republic of Armenia.

Reply to the issues raised in paragraph 25 of the list of issues

462. Within the framework of annual and additional trainings of prosecutors and professional preparedness of people included in the list of prosecutor candidates, teaching of article 3 of the European Convention on Human Rights was planned and conducted in accordance with the curricula during 2009-2011.

463. Issues regarding the concepts of torture, inhuman or degrading treatment and their manifestations, issues regarding extradition/exile, death rows and discrimination in the light of article 3 of the European Convention on Human Rights, positive and negative obligations of the State, compliance with the requirements of article 3 of the European Convention on Human Rights in the most vulnerable social spheres, general and special conditions presented to places of imprisonment in accordance with article 3 of the European Convention on Human Rights, and the criteria for proof were discussed within the framework of the training courses.

464. On 12-13 March 2010, a seminar dedicated to the clarification of article 3 of the European Convention on Human Rights (prohibition of tortures) was held on the subject of "Discussion of torture reports, European standards, guarantees and norms". During the seminar, national and international experts delivered speeches on different subjects. Also, a handbook titled "Discussion of torture reports, European standards, guarantees and norms" was published, and its electronic version was also created. The stakeholders of the event were prosecutors and the investigators of Special Investigation Service.

465. Within the framework of e-learning plan, the school created scientific and educational materials on articles 2, 3 and 5 of the European Convention for the Protection of Human Rights and Fundamental Freedoms in 2011. The film "Torture" discusses the implementation standards of article 3, the right to life and absolute positive obligations for prohibition of torture, which must be carried out by competent State authorities, i.e. by law enforcement system and courts of the Republic of Armenia.

Reply to the issues raised in paragraph 26 of the list of issues

466. The draft law of the Republic of Armenia “On the code of conduct of the armed forces of the Republic of Armenia” was amended and the amended version was presented to the National Assembly of the Republic of Armenia, in order to be discussed and passed during the spring session.

Reply to the issues raised in paragraph 27 of the list of issues

467. Periodically, programmes for raising the awareness of the personnel of the Armed Forces of the Republic of Armenia on human rights issues are carried out. In particular, during the months of November-December of the previous year, short-term lectures about awareness-raising on human rights were delivered in military units, military-educational establishments, and in military-educational detachments. These lectures were mainly intended for the deputies of personnel work of the aforementioned military units, for lawyers and for psychologists. Although these programmes and trainings were not of a periodic nature, it is planned to fill that gap during this year by introducing “Human Rights in the Armed Forces” course in the syllabus of the Armed Forces of the Republic of Armenia. The teaching and methodical base of that course will be the handbook on “Human Rights and Fundamental Freedoms of Armed Forces’ Personnel”, translated into Armenian with the support of the OSCE Office in Yerevan.

468. A number of initiatives envisaged by the 2012 Co-operation programme between the Ministry of Defence of the Republic of Armenia and the OSCE Office in Yerevan are also aimed at the development of this sphere. In particular, within that framework, it is envisaged to provide assistance to the personnel of the Investigation Services and the Military Police of the Ministry of Defence of the Republic of Armenia in matters like improving operational-intelligence, investigation and other professional capabilities. Experts have prepared and will soon bring up for discussion the draft of an educational handbook on leadership and effective management of military staffs in the armed forces, based on which “Leadership in the Armed Forces” course will be introduced in military-educational establishments. Programs for detecting issues among personnel of military subunits of the Armed Forces were developed through sociometric studies conducted by sociologists.

469. Besides the aforementioned, at present, opportunities for conducting relevant studies and organizing cognitive-educational programmes with the assistance of international organizations in a number of related spheres (forced labour, trafficking, etc) are being considered.

470. For the purpose of training, increasing and improving professional qualities of police officers with duties to gather initial data for expertises in the Police system of the Republic of Armenia, and with the power to set expertises, officers of the Police of the Republic of Armenia with investigation and inquest powers must — upon instructions of the Head of the Police of the Republic of Armenia No Ts-5 of 1 February 2011 — take part in on-spot courses organized by the “National Bureau of Expertises” SNCO in accordance with a defined timetable. Besides, in order to improve the theoretical and practical knowledge of the aforementioned officers, annual trainings are organized in the Educational Institution of the Police of the Republic of Armenia.

Article 11**Reply to the issues raised in paragraph 28 of the list of issues**

471. According to article 51 (3) of the Law of the Republic of Armenia “On penitentiary service”, the penitentiary servant immediately reports to the superiors in case of using

physical force, special means and weapon, and reports to the prosecutor on all cases of using weapon.

472. Meanwhile, the head of the Penitentiary Department or his or her deputy immediately informs health-care and prosecution authorities about all cases of bodily injuries and death caused as a result of using physical force, special means and weapon.

473. In the period after June 2009, cases on the use of firearm by employees of the Penitentiary Establishment were not recorded. At the same period, the Prosecutor's Office did not receive any reports from the Head of the Penitentiary Department of the Ministry of Justice of the Republic of Armenia on cases of bodily injuries or death amongst detainees or the convicts as a result of using physical force, special means and weapon.

474. Amendments and supplements were made to the Law of the Republic of Armenia "On the police" on 22 December 2010 regarding the use of special means, including electric shock devices. In particular, it was prohibited to include in the Police armament such types of special means, which, by their tactical and technical nature, may cause grave harm to a person's health or cause death or irreparable changes in a person's organism, or are a source of unjustified risk. Besides, the obligation to define permissible standards for using special means on a person is delegated by law to the Ministry of Healthcare of the Republic of Armenia. Also, the bases for using electroconductive equipments and spark discharges are established by law (see article 31 (1) (1-4) of the Law of the Republic of Armenia "On the Police").

475. The types of special means were included in the police armament in accordance with paragraph 2 of the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, according to which law enforcement officials should include such types of police armament which are non-lethal, are exceptionally of danger neutralization and harmless rendering character and are used with a view to restraining the application of means capable of causing death or injury to persons. Police officers periodically pass special trainings regarding the use of physical force, special means and firearms.

476. The Police of the Republic of Armenia do not possess any information regarding the use by the Police of spark discharges and bodily injuries caused by the use thereof.

477. Since June 2009 141 cases of using physical force and special means were reported. No cases of firearms as well as electronic stun device using were reported. There were no cases of death and injuries as a result of application of force during the mentioned period.

Reply to the issues raised in paragraph 29 of the list of issues

478. The mechanism of complaints for inmates in prison is stipulated by law, there are several ways to submit the complaints (a) to the court; (b) to the prosecutors office; (c) to the criminal executive department; (d) to the Ministry of Justice and (e) to the civil society institutions including ombudsman and public monitoring board. All these ways of complaint are guaranteed by law and are used by the inmates without any obstacles. Since 2003 and independent public monitoring group was created, the group consists of civil society representatives and has the unlimited access to all penitentiary establishments and the right to meet confidentially with the inmates. The group presents its annual report which is published together with the Ministry of Justice comments.

479. From 2008 to 2011 no complaints from the inmates were made on the cases of torture or ill-treatment.

480. Based on three reports received during 2009-2011 on the use of violence, cruel treatment or tortures against detainees kept in penitentiary establishments, statements of case were prepared in the Special Investigation Service of the Republic of Armenia, and as

a result of their consideration, a decision was made on rejecting the institution of a criminal case.

481 With the statements of case prepared on the basis of the advocate S. Voskanyan's report on tortures against Grigor Voskerchyan, his defendant, the convict in "Nubarashen" Penitentiary Establishment and the accused under criminal case No 62215908, a decision was made on 24 January 2009 on rejecting the institution of a criminal case under article 35 (1) (2) of the Criminal Code of the Republic of Armenia.

482. With the statements of case prepared on the basis of the letter (report) of the Human Rights Defender of the Republic of Armenia on slapping the convict Vartkez Gaspari and humiliating his dignity and honour during the search conducted in his cell in "Nubarashen" Penitentiary Establishment, a decision was made on 6 February 2009 on rejecting the institution of a criminal case under article 35 (1) (1) of the Criminal Code of the Republic of Armenia.

483. With the statements of case prepared on the basis of the report of Arthur Sakunts, the President of Vanadzor Office of Helsinki Citizens' Assembly, on humiliating by the police employees Slavik Zhorik Voskanyan, the convict of "Vanadzor" Penitentiary Establishment, a decision was made on 6 November 2010 on rejecting the institution of a criminal case under article 35 (1) (1) of the Criminal Code of the Republic of Armenia.

Reply to the issues raised in paragraph 30 of the list of issues

484 The answer to this issue was partially given in the reply to the issues raised in paragraph 6 (a) to (c) of the list of issues. Meanwhile, in order to appropriately guarantee relevant rights and freedoms of a person and a citizen, to ensure the protection of a person, the society and the State from criminal harassments, and to detect criminals, as well as for prosecutors to appropriately proceed reports on battery, torture, or use of other violent actions against natural persons by investigation or preliminary investigation authorities, and to envisage a relevant procedure in relation to it, as stipulated by article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, article 4 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, articles 16 and 17 of the Constitution of the Republic of Armenia, the Military Prosecutor's Office of the Republic of Armenia, heads of departments and divisions of the General Prosecutor's Office of the Republic of Armenia, senior prosecutors of the General Prosecutor's Office of the Republic of Armenia and prosecutors of marzes, the city of Yerevan and the administrative districts of the city of Yerevan, upon the Instructions of the Prosecutor General of the Republic of Armenia No 20/2(3)-120-11 of 19 April 2011, were ordered to timely and appropriately oversight the lawfulness of arrest and detention of persons. While carrying out oversight over the lawfulness of arrest and detention, they must at least once a week, oversight the lawfulness of keeping persons in remand facilities, as well as make periodical exceptional checks, including checks at non-working hours, and immediately free people who are being kept unnecessarily or without legal justifications. While exercising prosecutorial powers, they must immediately report Prosecutor General of the Republic of Armenia with relevant reporting notice any information (applications, communications, declarations, statements, reports, etc) about battery, torture or other violent actions against persons in remand facilities and other establishments by investigation, preliminary investigation and other competent authorities.

485. The procedure for the activities of public observers in remand facilities of the Police system of the Republic of Armenia was approved by the Order of the Head of the Police of the Republic of Armenia No 1-N of 14 January 2005. Since 2006, a group of public observers has been formed and still functions, which monitors by visiting remand facilities, and by submitting reports to the Head or Deputy Head of the Police of the Republic of

Armenia. The reports or parts thereof are published and presented to the public, together with the comments of the Police. The Police of the Republic of Armenia ensure all conditions, so that the group should smoothly cooperate with the administration of remand facilities of the Police system of the Republic of Armenia.

486. See also the reply to the issues raised in paragraph 10 of the list of issues.

Reply to the issues raised in paragraph 31 of the list of issues

487. The total prison population now is 4812, from which 825 are in remand detention, 432 prisoners are waiting court sentencing, 393 are in pretrial investigation.

488. In 2010, 56 persons were fully or partially acquitted. 35 persons were fully, and 21 persons were partially acquitted.

489. In 2011, 77 persons were fully or partially acquitted, 23 persons out of which were partially, and 54 were fully acquitted.

490. In 2010, the Court of First Instance of the Republic of Armenia received 461 motions for applying the bail as an alternative measure of restraint to detention, 151 (32.8 per cent) motions out of which were satisfied, 272 (59 per cent) were rejected, 26 (5.6 per cent) were not examined, and 12 (2.6 per cent) were incomplete as of 30 December 2010.

491. In 2011, the Court of First Instance of the Republic of Armenia received 448 motions for applying the bail as an alternative measure of restraint to detention, 131 (29.2 per cent) motions out of which were satisfied, 291 (65 per cent) were rejected, 20 (4.5 per cent) were not examined, and 6 (1.3 per cent) were incomplete as of 30 December 2011.

492. As regards the practice of applying the bail as an alternative measure of restraint to detention, it is worth mentioning that the framework of applying the bail was broadened following the Decision of the Court of Cassation No VB-115/07 of 13 July 2007 made in relation to Taron Hakobyan's case, because upon the aforementioned decision it was allowed to apply the bail not only in relation to cases on crimes of minor or medium gravity, as is stipulated by article 143 (1) of the Criminal Procedure Code of the Republic of Armenia, but also in relation to cases on grave and particularly grave crimes. (Decision of the Court of Cassation No VB-115/07 of 13 July 2007 on Taron Razmik Hakobyan).

Reply to the issues raised in paragraph 32 of the list of issues

493. The new criminal legislation policy which is now in the stage of elaboration is aimed to encourage judges to apply remand detention as last resort and to avoid maximum terms of imprisonment.

494. A new separate Probation service will be created in the nearest future, which will be in charge of alternative punishments, conditionally release, rehabilitation issues. The main goal of this unit will be the proper application of alternative punishments and measures.

Reply to the issues raised in paragraph 33 of the list of issues

495. Foreign prisoners mainly are kept in separate establishment called "Vardashen" the conditions of that prison is sometimes better than in other ones and there is no any discrimination against them.

496. As regards "homosexual" prisoners, their segregation is conditioned by their own security and very often is provided upon their own request.

497. According to article 8 of the Penitentiary Code, the procedure for and conditions of execution of punishment apply to all sentenced prisoners irrespective of their gender, race, skin colour, language, political or other conviction, national and social origin, belonging to a national minority, birth, property or other status. The observance of the mentioned

requirements is ensured and the interpersonal relationships between the remand or sentenced prisoners in penitentiary establishments are supervised by respective services.

498. However, once again instructions will be given to penitentiary officers to take strong control measures to prevent any informal relations between prisoners.

Reply to the issues raised in paragraph 34 of the list of issues

499. In 2010, 176 minors in total were convicted, 46 persons out of which were 14-16 years old, and 140 were 16-18 years old. 161 minors were punished by imprisonment for the following terms:

- 1 year inclusive – 9 persons
- 1-2 years inclusive – 96 persons
- 2-3 years inclusive – 31 persons
- 3-5 years inclusive – 12 persons
- 5-8 years inclusive – 9 persons
- 8-10 years inclusive – 3 persons
- 10-12 years inclusive – 1 person

500. The punishment was conditionally not applied against 115 convicted minors, and 12 minors were granted amnesty.

501. Other types of punishments were imposed against 15 minors convicted in 2010. That is, in 2010, 34 minors actually served their punishment in the form of imprisonment

502. In 2011, 110 minors in total were convicted, 32 persons out of which were 14-16 years old, and 78 were 16-18 years old. 95 minors were punished by imprisonment for the following terms:

- 1 year inclusive – 10 persons
- 1-2 years inclusive – 45 persons
- 2-3 years inclusive – 22 persons
- 3-5 years inclusive – 11 persons
- 5-8 years inclusive – 4 persons
- 8-10 years inclusive – 3 persons
- 10-12 years inclusive – no one

503. The punishment was conditionally not applied against 60 convicted minors, and 22 minors were granted amnesty.

504. Other types of punishments were imposed against 15 minors convicted in 2011. That is, in 2011, 13 minors actually served their punishment in the form of imprisonment.

505. The amount of juvenile offenders is not so big to have separate court for juveniles' cases, nevertheless we have a judge in each court who is specialized on juvenile cases and conducts such cases. In pretrial stage there is special division in Police which is in charge of juvenile cases. There are certain guarantees in Criminal, Criminal Procedure and Criminal Executive Codes stipulating the peculiarities for juveniles. The rehabilitation issue is now regulated with the help of civil society and United Nations international organizations, World Vision, PRI, etc. They have created the Community Rehabilitation Centers and organize social reintegration and rehabilitation of juvenile offenders. Nevertheless, we accept the need of reforms in this area and plan to establish an effective mechanism for it.

Reply to the issues raised in paragraph 35 of the list of issues

506. No official allegations were made about requiring prisoners or their relatives to give the staff money or other benefits and denying them services to which they are entitled or transferring them to another penitentiary establishment with a stricter regime if fail to comply. As a result of measures taken from 2008-2011 regarding the struggle against corruption 11 penitentiary officers were subjected to criminal responsibility and were dismissed from the service.

Articles 12 and 13

Reply to the issues raised in paragraph 36 of the list of issues

507. In 2009-2011, no criminal cases under the elements (torture) of article 119 of the Criminal Code of the Republic of Armenia were examined in the Special Investigation Service of the Republic of Armenia.

508. Cases of cruel treatment (manifestations of violations) by officials, particularly by police employees, were qualified under article 308 of the Criminal Code of the Republic of Armenia (abuse of official powers), more serious cases are qualified under article 309 of the Criminal Code of the Republic of Armenia (excess of official powers), and cases of compelling to testify accompanied by violence as tortures by a judge, prosecutor, investigator or a person carrying out inquest to testify are qualified under article 341 of the Criminal Code of the Republic of Armenia.

509. In 2009-2011, 23 similar criminal cases were examined in the Special Investigation Service of the Republic of Armenia, where:

- Eight criminal cases instituted against 19 persons (during preliminary investigation, five persons out of 19 sued persons were detained, and measures of restraints not related to detention were imposed against 14 persons) were — together with an indictment — sent to court;
- Eight cases were dismissed (one due to the absence of precedent, five due to the absence of *corpus delicti*, one on the ground of the reconciliation of the parties, one on the ground of the situational changes and active repentance);
- Two criminal cases were suspended (because the person having committed a crime was not found out);
- Three criminal cases were merged into the criminal cases in the proceedings;
- -The preliminary investigation into two criminal cases continues.

510. The movement of the criminal cases in the proceedings by years was as follows:

Year	Court				Dismissed	Suspended	Merged	Remaining	Total
	Criminal Case	Persons	Detainee						
2009	4	7	-	7	5	-	2	-	11
2010	3	9	2	7	-	2	-	-	5
Elapsed period of 2011	1	3	3	-	3	-	1	2	7
Total	8	19	5	14	8	2	3	2	23

511. During the same period, the institution of a criminal case in relation to 39 statements of case prepared or received in the Special Investigation Service of the Republic of Armenia was rejected, out of which:

- 22 were rejected due to the absence of precedent;
- 14 were rejected due to the absence of *corpus delicti*;
- 3 were rejected due to the fact that decisions made thereon were not abolished.

512. The movement of the rejected statements of case by years and grounds was as follows:

<i>Ground for rejection</i> <i>Year</i>	<i>Article 35 (1) (1)</i>	<i>Article 35 (1) (2)</i>	<i>Article 35 (1) (8)</i>	<i>Total</i>
	Absence of precedent	Absence of <i>corpus delicti</i>	Availability of unabolished decision	
2009	5	5	-	10
2010	9	6	2	17
Elapsed period of 2011	8	3	1	12
Total	22	14	3	39

Reply to the issues raised in paragraph 36(a) of the list of issues

513. On 17 June 2010, at around 18:00, Lieutenant-colonel Armen Suren Bareghamyan, Deputy Commander of Military Unit No 54574 of the Ministry of Defence of the Republic of Armenia, abusing his official powers, for the sake of other personal interests, such as imposing his superpower, and not being reproached by higher commanders, beat up Bagrat Rubik Eghishyan, military servant of fixed-term service from the 2nd squad of the 1st platoon of the 5th company of the 2nd battalion of the same military unit because of his returning late from vacation. While beating, he hit him in the face with his hands, causing light injuries to his health, with short-term health deterioration.

514. In the 4th Garrison Investigation Division of the Investigation Service of the Ministry of Defence of the Republic of Armenia, on 19 August 2010, criminal case No 90262610 was instituted under article 375 (1) of the Criminal Code of the Republic of Armenia.

515. For the aforementioned act, a criminal charge was brought against A. Bareghamyan under article 375 (1) of the Criminal Code of the Republic of Armenia and a written recognizance not to leave as a measure of restraint was imposed against him. On 18 October 2010, the approved criminal case, together with an indictment, was sent to the First Instance Court of General Jurisdiction of Erebuni and Nubarashen administrative districts of the city of Yerevan.

516. By applying a speedy trial procedure, the criminal case was taken into examination and Armen Suren Bareghamyan was found guilty by the criminal judgement of 9 November 2010 under article 375 (1) of the Criminal Code of the Republic of Armenia, and he was sentenced to two years and six months' imprisonment. The measure of restraint, i.e. the written recognizance not to leave was changed to detention, and he was taken into custody in the courtroom. The defendant appealed against the criminal judgement, but the appeal was not satisfied.

517. As an official, Deputy Commander of Military Unit No 54574 of the Ministry of Defence of the Republic of Armenia, Lieutenant-colonel Armen Suren Bareghamyan, abusing his official powers, for the sake of other personal interests, such as imposing his superpower on military servants, on 28 October 2010, at around 6:30-7:00, beat up, in the barracks of the anti-aircraft squad, military servant of fixed-term military service, private Erik Gagik Grigoryan of the anti-aircraft squad of the same military unit, because the latter had not lined up for the morning exercise. While beating, he punched him in the face, hit him on the head with a military stool, after which, took him — against his will and using physical force — to the corridor of the building, near the desk of the orderly man, and gave a heavy blow on his face. As a result, private E. Grigoryan fell on the floor. A. Bareghamyan continued hitting fallen E. Grigoryan. Afterwards, when E. Grigoryan went to wash himself in the washroom of the military unit, A. Bareghamyan, again using violence, hit E. Grigoryan on the head with the metal tube of shaving foam.

518. As a consequence of the violence against and the beating of E. Grigoryan by A. Bareghamyan, he received a nasal bone fracture and other bodily injuries. With this regard, on the same day, E. Grigoryan was taken to the Central Clinical Military Hospital.

519. In relation to the aforementioned facts, on 1 November 2010, in the 4th Garrison Investigation Division of the Investigation Services of the Ministry of Defence of the Republic of Armenia criminal case No 90267510 was instituted under article 375 (1) of the Criminal Code of the Republic of Armenia.

520. On 5 November 2010, a decision was made on involving A. Bareghamyan as an accused under article 375 (1) of the Criminal Code of the Republic of Armenia. On the same day, a motion was filed to the court on applying detention as a measure of restraint against A. Bareghamyan. The motion of the investigator was satisfied by the Decision of the Court of 5 November 2010, and two-month detention was applied against A. Bareghamyan as a measure of restraint.

521. On 6 December 2010, a decision was made on adding the charge brought against A. Bareghamyan under article 375 (1) of the Criminal Code of the Republic of Armenia, and on 6 December 2010, a new charge was brought against him under article 375 (1) of the Criminal Code of the Republic of Armenia, in relation to which Bareghamyan did not plead him guilty. On 24 December 2010, a motion was submitted to the court for extending the term of detention of the accused A. Bareghamyan for another two months.

522. The investigator's motion was rejected upon the Court Decision of 29 December 2010, taking into consideration the fact that upon the criminal judgement of the General Jurisdiction Court of Erebuni and Nubarashen administrative districts of 9 November 2010, A. Bareghamyan was sentenced to two years and six months' imprisonment, detention was applied against him as a measure of restraint and he was taken into custody from the courtroom. The decision was not appealed.

523. On 21 February 2011, the criminal case instituted in relation to Armen Bareghamyan under article 375 (1) of the Criminal Code of the Republic of Armenia together with the approved indictment was sent to the General Jurisdiction Court of Erebuni and Nubarashen administrative districts of the city of Yerevan to examine the case on the merits.

524. No summary procedure was applied, and based on the trial results and in the phase of court disputes, on 25 May 2011, the accuser filed a motion to find Armen Suren Bareghamyan guilty under article 375 (1) of the Criminal Code of the Republic of Armenia and to sentence him to three years' imprisonment, as well as to partially add 1 year and six months' imprisonment from two years and six months' imprisonment imposed by the criminal judgement of the General Jurisdiction Court of Erebuni and Nubarashen administrative districts of 9 November 2010 to the punishment imposed in accordance with the rules of article 66 (3) (6) of the Criminal Code of the Republic of Armenia and to

impose a final punishment the imprisonment for a term of four years and six months. The term of the punishment starts running since 4 November 2010.

525. Upon the criminal judgement of the General Jurisdiction Court of Erebuni and Nubarashen administrative districts of 3 June 2011, A. Bareghamyan was found guilty under article 375 (1) of the Criminal Code of the Republic of Armenia and was sentenced to three years' imprisonment. A final punishment of imprisonment for a term of four years was imposed by partially adding the new punishments and the punishments imposed by the Criminal Judgement of the General Jurisdiction Court of Erebuni and Nubarashen administrative districts No YeED/0139/01/10 of 9 November 2010 in accordance with article 66 (3) of the Criminal Code of the Republic of Armenia. Subpoint 5 of the point 2 of the Decision of the National Assembly of the Republic of Armenia of 25 May 2011 "On announcing amnesty on the occasion of 20th anniversary of the declaration of independence of the Republic of Armenia", Bareghamyan was released from punishment imposed in the form of imprisonment for a term of 4 years and was set free from the courtroom.

Reply to the issues raised in paragraph 36(b) of the list of issues

526. As regards Gagik Ghazaryan involved in the list attached to Letter No 14/00010 of the Ministry of Foreign Affairs of the Republic of Armenia of 9 January 2012 addressed to the General Prosecutor's Office of the Republic of Armenia, I inform that the employees of the Criminal Intelligence of the Central Division of the Police of the Republic of Armenia, acquiring operational data, apprehended, on 13 May 2010, Gagik Movses Ghazaryan, on a suspicion of acquisition, sale and use of narcotic drugs, who had been previously twice convicted for the storage and use of narcotic drugs. During his body search, 0.18 grams of opium narcotic drug and 0.5 millilitre of anhydride of acetic acid, as a precursor was found from the inside pocket of his jacket.

527. On 14 May 2010, Gagik Ghazaryan was arrested and transferred to the remand facility of Yerevan.

528. On 16 May 2010, criminal charge was brought against him under article 268 (2) (1) and under article 266 (4) of the Criminal Code of the Republic of Armenia. In the charges brought against him, he fully pleaded guilty and gave pieces of confessional testimony.

529. On 17 May 2010, the preliminary investigation authority filed a motion to the General Jurisdiction of Court of Kentron and Nork-Marash administrative districts of the city of Yerevan to apply detention as a measure of restraint against Gagik Ghazaryan.

530. On the same day, Gagik Ghazaryan, escorted by police officers Manvel Basoyan and others, was transferred from the remand facility of Yerevan to the Court. At around 17:00, in courtroom No 4 located on the second floor of the Court, in camera court session for the consideration of the motion for detention started, during which G. Ghazaryan once again accepted the charge brought against him.

531. After the satisfaction of the motion for detention and one to two minutes after the court left the courtroom, Gagik Ghazaryan winced and pretended having strong aches in the region of abdomen, and when escort Grigori Khachikyan approached and offered his help, he made a fist with both hands and hit on his chest, knocked him down and, with the view to escape, he jumped out of the window of courtroom No 4 located on the second floor of the administrative premises of the Court. He was immediately taken to "St. Grigor the Illuminator" Medical Centre, where, on 18 May 2010, he died of the bodily injuries received.

532. According to the conclusion of the forensic medical expert examination, the death ensued due to a serious disorder of vitally important functions of the brain as a result of blunt craniocerebral injuries, which resulted in acute impediment of the vital functions of

the cerebrum, and that the cause of those injuries is typical to falling from a height. (There were no other traces, injuries on the body, which would be typical to beating and violence).

533. The proceedings of criminal case No 13124710 instituted on 17 May 2010 under articles 34-355 (1) of the Criminal Code of the Republic of Armenia for an attempt to escape was dismissed under article 35 (1) (10) of the Criminal Procedure Code of the Republic of Armenia, i.e. on the ground of his death.

534. Within the framework of the criminal case the circumstance of cruel treatment against G. Ghazaryan before his death was also under examination, but was not approved.

Reply to the issues raised in paragraph 36(c) of the list of issues

535. A criminal case was instituted on 8 October 2008 in relation to raping of Shushan Davtyan by some Tigran on 11 August 2008, within the framework of which measures prescribed by law were taken in order to find out the identity of that Tigran and to detect him. Taking into consideration the fact that it was impossible to identify and detect the person having committed a crime as a result of the activities undertaken within the framework of the criminal case, thus the proceedings of the criminal case was dismissed on 6 February 2009. At the same time, the General Prosecutor's Office of the Republic of Armenia instructed the authority conducting criminal proceedings to continue investigative and operational-intelligence activities within this criminal case to identify and detect the person having committed a crime.

536. On 7 May 2009, the injured party under the criminal case Shushan Davtyan appeared to the Central Division of the Police and gave testimony that before her being raped by some Tigran, on 11 August 2008, at around 23:30, her father, Sasha Hrant Davtyan - in the guestroom of their house located in Katnaghbyur village of Aragatsotn Marz, forcibly, against her will, had a sexual intercourse with her, and she escaped from home. Besides, Sh. Davtyan testified that after her mother Susanna Sargsyan's death, her father, since July 2007, beat up her and her sister Tehmine Davtyan with various objects, hands, and feet causing them psychological and physical sufferings.

537. Based on the fact that the preliminary investigation into criminal case No 69107008 found out that Sasha Hrant Davtyan had subjected Shushan Davtyan and Tehmine Davtyan to tortures, as well as the fact that he had raped Shushan Davtyan, thus, a criminal case was instituted in relation to aforementioned incidents on 8 May 2009, and it was split into separate proceedings, and the proceedings of the criminal case instituted in relation to raping of Shushan Davtyan by some Tigran, was dismissed, meanwhile investigative and operational-intelligence activities continue in order to detect the crime.

538. Within the framework of the criminal case instituted against Sasha Davtyan, taking into consideration the fact that both the defendant and the injured party announced during the trial about their being subjected to tortures by the investigator conducting the criminal proceedings, the investigator – in virtue of article 12 of the “United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment” and article 3 of the “European Convention on the Protection of Human Rights and Fundamental Freedoms” - was summoned to court and was interrogated. As a result of the examination, the facts on tortures against S. Davtyan and his daughters, as well as on violations of criminal procedure law were not substantiated.

Reply to the issues raised in paragraph 36(d) of the list of issues

539. As regards the results of the examination of the case of violence used by Shirak Shahnazaryan, the Head of Gyumri Division of the Police of the Republic of Armenia, informs that on 10 August 2009, criminal case No 62204909 was instituted under article 309 (2) of the Criminal Code of the Republic of Armenia based on the statements of case prepared in the Special Investigation Service of the Republic of Armenia on the basis of the

application of Grigor Varpetyan, the resident of Gyumri on violence used against him by Shirak Shahnazaryan, the Head of Gyumri Division of the Police of the Republic of Armenia.

540. The preliminary investigation into the criminal case found out the following: on 23 July 2009, the son of the applicant – Garik Varpetyan – entered with his “NIVA” car the Independence Square of Gyumri on from the opposite side of the road, and disobeying the demands of the State Patrol Service officers and creating an emergency situation, left the Square. In this regard, Shirak Shahnazaryan, the Head of Gyumri Division of the Police of the Republic of Armenia instructed the police officers of the Division to detect the aforementioned vehicle and take the driver to him, in order to have an explanatory preventive conversation with him and to punish him in the manner prescribed by law.

541. The next day, on his own initiative, Grigor Varpetyan appeared to the police station, in order to find out why the police were looking for his son, at the same time, and to ask them to solve the matter of imposing administrative sanctions on his son without apprehending him to the police station.

542. Shirak Shahnazaryan, receiving citizen Grigor Varpetyan in his office and hearing his complaints, came out of the range of his competences, used violence against him and caused bodily injuries. Afterwards, with the help of the subordinate police officers, he took the citizen downstairs to the duty room, subjected him to a body search, closed him in one of the detention cells, and only at around 18:00 p.m., set him free.

543. Hence, the preliminary investigation into the criminal case proved the fact that Shirak Shahnazaryan committed a crime under article 309 (2) of the Criminal Code of the Republic of Armenia. Meanwhile, it was found out, that Grigor Varpetyan also contributed to the incident by exhibiting improper and provocative behaviour being, in fact, in the role of a requester in relation to the administrative offence of his son.

544. During the preliminary investigation, Grigor Varpetyan informed in his applications and testimonies the Prosecutor General of the Republic of Armenia that he had come to terms with Shirak Shahnazaryan, were in good relations, and therefore, he requested not to hold him criminally liable.

545. Taking into consideration the aforementioned and the fact that Shirak Shahnazaryan committed a socially dangerous act for the first time and it did not result in serious consequences, he pleaded partially guilty, regretted for the thing happened, he had served in the Police for many years, and had been encouraged for a good work on numerous occasions, and was awarded with a medal, had aged parents and three children without a mother under his care, besides he was dismissed from his office by the Order of the Head of the Police of the Republic of Armenia, that is to say, as a result of situational changes, he and his act were no longer socially dangerous, criminal prosecution against him was dismissed by Decision of 7 December 2009, and the proceedings of the criminal case was discontinued based on article 37 (1) of the Criminal Procedure Code of the Republic of Armenia.

546. Every case of rude, disrespectful attitude, especially, of tortures and inhuman or degrading treatment against citizens by police officers of the Republic of Armenia become the subject of extensive discussions in the Police of the Republic of Armenia, and the guilty are subjected to strict disciplinary sanctions.

547. Thus, in 2010, 81 complaints were received on rude, disrespectful and degrading treatment against citizens by police officers of the Republic of Armenia (in 2009, 245 complaints were received). As a result of the examination, 19 complaints out of which 81 complaints were substantiated (in 2009, 37 complaints were substantiated). As a result of official investigations, 23 police officers (as against 51 in 2009) were subjected to

disciplinary sanctions, and 4 officers were held criminally liable (as against 2 in 2009). By the way, one official brought to criminal liability was sentenced to imprisonment, one was sentenced to detention, and the punishment was determined not apply against two officials conditionally, and a probation period was defined.

548. It should be mentioned that in 2010, 105 police officers were imposed to disciplinary sanctions for performing acts indecent to police officers. In total, 1014 police officers were imposed to disciplinary penalties (939 police officers in 2009), 74 persons out of which were dismissed from the Police (44 police officers in 2009), 13 persons got demotion of the office, five persons got demotion of the rank, 30 persons were warned about not fully fitting for the office, etc.

549. In 2010, 46 criminal cases were instituted against 74 police officers in relation to various violations of law committed by police officers of the Republic of Armenia, 15 persons out of which were convicted.

550. Twenty-three police officers were subjected to criminal liability for various corruption acts. It is worth mentioning that around half of the law violations were revealed on the initiative of the Police.

Reply to the issues raised in paragraph 37 of the list of issues

551 The Court of Cassation, in its Decision on A. Gzoyan, addressed the issue that the complaints filed against the preliminary investigation authority must be examined by an independent body, which must not be connected with the preliminary investigation authority and must be separated from the latter. This position of the Court of Cassation is based on the approaches of the concluding observations of the Human Rights Committee of 19 November 1998, which strongly recommends to set up an independent mechanism for investigating complaints regarding tortures and inhuman treatment by employees of law enforcement authorities (see the concluding observations of the Human Rights Committee, (CCPR/C/79/Add.100), reply to the recommendation contained in paragraph 12 of the concluding observations). Besides the concluding observations, the Court of Cassation also relied on the position expressed by the European Court of Human Rights in the decisions on the cases of *Ramsahai and others v. the Netherlands*, and *Bati and others v. Turkey*, according to which there must not be institutional or hierarchical connections between investigators and those police officers, against whom the application was filed (see *Bati and Others v. Turkey*, Judgement of 3 June 2004, Application Nos. 33097/96 and 57834/00, *Ramsahai v. The Netherlands*, Judgement of 15 May 2007, Application No 52391/99).

(Point 32 of Decision No EAQD/0049/01/09 of 12 February 2010 on Arayik Eduard Gzoyan).

552. Based on article 92 of the Constitution of the Republic of Armenia and article 15 (4) of the Judicial Code of the Republic of Armenia, the legal positions expressed in the Decision on A. Gzoyan are mandatory for other judicial instances of the Republic of Armenia.

553. The Special Investigation Service operates within the framework of functions delegated to it by the Law of the Republic of Armenia “On Special Investigation Service”.

554. According to article 2 of the Law, the Special Investigation Service, in accordance with the Criminal Procedure Code of the Republic of Armenia, carries out preliminary investigation into crimes committed in complicity with officials holding leading positions in the legislative, executive and judicial bodies of the Republic of Armenia, persons carrying out special State service in relation to their official position or committed by themselves, as well as into criminal cases related to the electoral processes.

555. The Special Investigation Service is an independent State body and performs its powers independently.

Reply to the issues raised in paragraph 38 of the list of issues

556. On 11 May 2011, the Court of Cassation of the Republic of Armenia adopted a case law decision on the case of Svetlana Grigoryan, where it expressed legal positions on the following two legal matters:

(1) Whether a person can file a cassation appeal about tortures against himself or herself, if he or she has not raised such a matter in the Court of Appeals,

(2) Whether it is permitted to apply an accelerated trial in relation to a person in the case when he or she announces about tortures against himself or herself.

557. Article 404 (2) of the Criminal Procedure Code of the Republic of Armenia stipulates that a person may not file a cassation appeal with the Court of Cassation against judicial acts, which are subject to appeal through appeal procedure, unless the person has appealed against that judicial act in the Court of Appeal on the same grounds. S. Grigoryan had not complied with the aforementioned legislative requirement. However, taking into consideration her trustworthy announcement about tortures, the Court of Cassation of the Republic of Armenia found the aforementioned legal provision inapplicable, on the ground that the prohibition of tortures and other forms of ill-treatment is of absolute nature, and that State bodies must examine every trustworthy announcements about ill-treatment. The trustworthiness of S. Grigoryan's announcement was particularly justified by the photos attached to the cassation appeal.

558. With regard to the second matter, the Court of Cassation stated that the trustworthy announcement about tortures made previously by the accused calls into question that the latter filed the motion on applying an accelerated trial by her will. Hence, in such cases, the court examining the case should withdraw the motion for an accelerated trial on the ground of the fact the motion was filed against her will and should proceed the examination through a general procedure. This position of the Court of Cassation of the Republic of Armenia is grounded on the well-established approach of the European Court of Human Rights that the legal prohibition of tortures and ill-treatment cannot be practically effective when there is no legal demand for an appropriate examination on the fact of an alleged torture (for example see the judgment of Grand Chamber on the case of Labita v. Italy, point 131, and the judgment on the case of Dikme v. Turkey, point 101).

559. According to article 92 of the Constitution of the Republic of Armenia and article 15(4) of the Judicial Code of the Republic of Armenia, the legal positions expressed in the Decision on S. Grigoryan are mandatory for other judicial instances of the Republic of Armenia.

Article 14

Reply to the issues raised in paragraph 39 of the list of issues

560. According to article 41 (2) (4) of the Criminal Procedure Code of the Republic of Armenia, "The powers of the court shall be, in particular:

(...)

(4) In cases provided for by this Code, to refer to the prosecutor with a motion on instituting a criminal case,

()".

561. According to article 53(1)(1) of the Criminal Procedure Code of the Republic of Armenia, “The prosecutor, during the pretrial proceedings, shall be empowered to: (...) institute a criminal case on the basis of the motion of the court, (...)”.

562. According to article 184 (1) of the Criminal Procedure Code of the Republic of Armenia, “Inquest body, investigator, prosecutor shall take a decision on instituting a new case with the statements of case under their proceedings and on separating it in a separate proceedings, and the court shall file a motion on making such a decision to prosecutor where besides the crimes incriminated to the accused another crime is detected not related to the first one, committed by another person without participation of the accused.”

563. Based on the listed criminal procedure provisions, the Court of Cassation, in point 29 of the Decision on A. Gzoyan, adopted a position that “(...) if courts discover obvious elements of a crime during the examination of a criminal case under their proceedings, (...) they must file a motion to the prosecutor for instituting a criminal case.”

564. As regards compensation, we think that the structure defined in points 34-37 of the Decision on G. Mikaelyan is applicable. In particular, a victim of torture should be granted with a right to compensation, regardless of the fault of corresponding officials of the inquest, preliminary investigation bodies, prosecutor’s office and court . Otherwise, the right to compensation may become an illusive and abstract right, since the additional burden of proof will be unfairly laid on a victim of an unlawful arrest.

(Points 34-37 of Decision No EADD/0085/06/09 of 18 December 2009 on Gagik Garnik Mikaelyan).

565. Based on article 92 of the Constitution of the Republic of Armenia and article 15 (4) of the Judicial Code of the Republic of Armenia, the legal positions expressed in the Decision on G. Mikaelyan are mandatory for other judicial instances of the Republic of Armenia.

Reply to the issues raised in paragraph 40 of the list of issues

566. There are no special rehabilitation services available to victims of torture but as have been mentioned in the reply to the issues raised in paragraph 16 of the list of issues, the Government provided assistance to victims of trafficking and domestic violence.

Article 15

Reply to the issues raised in paragraph 41 of the list of issues

567. On 10 April, 2009, RA Court of Cassation examined the case initiated on the newly emerged circumstances based on the appeal of Misha Harutyunyan and his defender against the decision of 8 May 2003 of the RA Court of Cassation, as a result the complaint submitted with the Court of Cassation was satisfied partially and based on article 419 of RA Criminal Procedure Code the judicial acts about Misha Harutyunyan were reversed, and the case was sent to the Court of First instance of Syunik marz for new examination. The reason for sending the case to new examination was that the Court of Cassation concluded as a result of the examination of the case materials and the judgment of the European Court of Human Rights, that there is other evidence proving the guilt of the applicant, which was addressed by the European Court in the 28th point of its decision. While the Court of Cassation as compared to the Court of First Instance does not conduct direct examination of the evidence, and the procedural opportunities of the Court of Cassation are not enough for determining the culpability or innocence of the convicted M. Harutyunyan based on the admissible evidence.

(Point 32 of the HQRD2/0028/01/08 decision of 10 April 2009 on the case of Misha Edik Harutyunyan).

568. As a result of the new examination based on 22 March, 2010 decision of the Court of First instance of general jurisdiction of Syunik marz, Misha Harutyunyan was found guilty on point 10 of part 2 of article 104 of RA Criminal Code and was sentenced to 10 years imprisonment. Considering that M. Harutyunyan has served the sentence imposed by the decision of 19 June 2002 of the Court of First Instance of Syunik marz and he does not have any non-served punishment, the sentence was considered to have been served.

569. Based on the appeal of the defence attorney the RA Criminal Court of Appeal affirmed 22 March, 2010 judgment of the Court of First Instance of General Jurisdiction of Syunik marz on 14 February 2011.

570. M. Harutyunyan's defender appealed the decision of the RA Criminal Court of Appeal in the Court of Cassation requesting to reverse judgment of the Court of First Instance of General Jurisdiction of Syunik marz of 22 March, 2010, and the decision of the RA Criminal Court of Appeal of 14 February 2011 affirming it, and to dismiss the criminal case against M. Harutyunyan or send the case to the relevant Court of First Instance for new examination.

571. The Court of Cassation returned the appeal of the defence attorney on 20 April 2011. By this decision the Court of Cassation noted that "it can be referred from the judgment of the European Court of Human Rights that there is evidence proving the applicant's guilt as mentioned in point 28 of the European Court judgment". These include the results of forensic histological and forensic medical examination, according to which the deceased was killed by a shot fired at close range, a forensic ballistic examination, to the effect that the shell found at the crime scene had been fired from AK-74 type machine gun No 916236, which had been issued to the applicant, the record of examination of the crime scene, drawn up on 17 April 1999, and a number of other materials.

572. The European Court did not find grounds to suspect the truthfulness of the above listed evidence and consequently did not exclude their usage as evidence.

573. The Court of First Instance of General Jurisdiction of Syunik marz in the judgment of the case of Misha Harutyunyan excluding the inadmissible evidence as defined by the judgment of the European Court of Human Rights of 28 June 2007 and excluding the confession testimony of M. Harutyunyan and the testimonies of witnesses G. Tavaratsyan and K. Antonyan obtained through duress as considered inadmissible according to article 105 of the RA Criminal Procedure Code, construed the charges based on the evidence listed in point 28 of the mentioned judgment of the European Court together with other factual data obtained in compliance with the requirements of the RA Criminal Procedure Code.

574. In these circumstances there can't be any discussion on prevention from enforcement of the judgment of the European Court of Human rights".

575. As concerns the ban of using the evidence obtained through torture by the RA courts, the Court of Cassation expressed its legal position in the decision on the case of A. Sargsyan "(...) as the existence or absence of the crime recognized by the Criminal Code, the committal or non committal of the crime by the suspect or defendant and the culpability or innocence of the defendant, and in order to reveal circumstances required for the fair discovery of the case, there can be used only evidence, which was obtained, included and attached to the case according to the permissible procedure defined by the Criminal Procedure Code. Based on the norms that regulate the collecting and recording the evidence it follows that facts obtained through essential investigative and procedural violations cannot be used as evidence, in particular, if they resulted in the essential violations of the

rights of the participants in the proceedings, influenced or could have influenced on the truth of the factual data.

576. So during the proceedings aimed at collection and checking of the evidence, protection of the rights and lawful interests of the people should be ensured. Otherwise, the fact obtained as a result of the procedural action, notwithstanding the importance of the case, shall lose its legal force, evidentiary significance and cannot be included in the cumulative evidence of a certain criminal case and be placed in the ground of accusation”

(Point 15 of EKR/0295/01/08 decision of 16 September 2009 about the case of Armen Seyran Sargsyan).

577. Based on article 92 of the Constitution of the Republic of Armenia and part 4 of article 15 of RA Judicial Code the legal positions expressed in the decision on *A. Sargsyan* are mandatory for RA other judicial instances.

578. This position was also reconfirmed in the decision on the case of *A. Gzoyan*.

579. What refers to the evidence of forensic medical examination, the Court of Cassation also outlined in the decision on the case of *A. Gzoyan* that forensic medical examination has a significant importance for effective investigation into the allegations of torture.

(Points 24, 34-35 of the EAQD/0049/01/09 decision of 12 February 2010 on the case of Arayik Eduard Gzoyan).

580. Based on article 92 of the Constitution of the Republic of Armenia and part 4 of article 15 of RA Judicial Code the legal positions expressed in the decision on the case of *A. Gzoyan* are mandatory for RA other judicial tribunals.

581. With reference to paragraphs 11, 36, 42 of the list of issues, we should mention that statistics are not carried out based on the data of victims, so in order to get the requested information there should be also included other information about the requested cases (for instance, name, surname of defendants, date of the judicial act, number of the case etc.).

Article 16

Reply to the issues raised in paragraph 42 of the list of issues

582. On Nver Mnatsakanyan - Through the investigation the following was found out about the attack on Nver Lyudvik Mnatsakanyan, the news presenter of “Shant” TV station:

583. On 7 May 2009, at about 00.15, two unknown people beat him with hands and feet at the entrance 1 of 20/3 Margaryan str., in Yerevan causing bodily injuries.

584. Criminal case was instituted based on point 3 of part 2 of article 113 of RA Criminal Code by the Mashtots investigative department of RA Police on May 7, 2009.

585. During the preliminary investigation the victim N. Mnatsakanyan gave evidence that he worked for “Shant” TV station, on 16 Kievyan str., as news presenter. He works every day except for week-ends. He usually returns home from work at midnight. On 6 May 2009 at 23.45 finishing work, he returned home on his own car. At approximately from 24.00 to 00.10 after parking his car he alone went to his apartment block, 20/3 Margaryan str., on foot. Approaching to the first entrance of the block, he noticed that at the entrance there were standing two unknown young people, who looked suspicious to him, so he decided to call his son on phone, but while he was trying to call him, the young people without telling anything attacked him and started to beat by hands and feet. He fell down from beats and called for help. Neighbours awoke from the noise and these young people took to flight.

586. On 7 May 2009 citizens of Yerevan, security officers of "Grant Candy" company were detained to police; Mihran Ashot Mkhitarian, Hovhannes Karlen Melkonyan, Marat Mkhitar Aslanyan and Grigor Gegham Melkonyan. During the examination the latter denied their any connection with the committed crime, but at the same time, pointed out that from 22.00 p.m. to 01.30 a.m. they moved on white "Niva" car to check the shops belonging to "Grant Candy" company in Ajapnyak and Arabkir districts, with the aim to provide security of the mentioned shops.

587. The required investigative actions were carried out to clarify their participation in the crime, but through the carried out operative-intelligence and investigative measures no data of significant importance or proofing participation of the mentioned people in the crime was obtained.

588. On May, 2009 forensic medical examinations were set. According to N. 903, 904, 905, 906 expert opinions, at the time of examination no injuries were found on H. Melkonyan, G. Melkonyan, M. Mkhitarian and M. Aslanyan corresponding the statute of limitation of the incident, and based on the opinion N898 forensic medical examination it was clarified that bodily injuries on N. Mnatsakanyan; contused wound on the left part of the brain, scratches on left wrist, right knee joint, left part of lower jaw, haemorrhage in the left arm-pits, contused on right knee joint, caused slight injury on health, with short-term deterioration of health.

589. On 29 July 2009, citizens of Ejmiatsin city, Davit Mkrtych Khachatryan and Vahe Ervand Tadevosyan came to Mashtots department of the Police with a confession of their guilt, and submitted a similar application stating that on 6 May 2009, at approximately 22.30 in the evening, on Margaryan street, they noticed a beautiful girl, whose appearance and behaviour seemed to them to be vulgar, and decided to get acquainted with her, and approached her for this purpose. The girl by all the means tried to avoid talking to them and entering one of the entrances of the apartment blocks in Margaryan street warned them that if they continue to follow her, she will call her father. They thought that the girl does not live in that block and entered it to escape from them, so they decided to wait. In some time an angry man approached the block with quick steps, who took his mobile phone when approached them and started to call somewhere. Thinking that the man is the girl's father who was called by the girl and that he calls the police, they had to come forward, pushed him on the ground and took to flight. The next day they were informed on TV, that the man whom they had beaten is presenter of "Horizon" program of "Shant" TV station, Nver Mnatsakanyan.

590. Signature not to leave the residence was selected as a measure of restraint towards D. Khachatryan and V. Tadevosyan and they were examined as suspects, but they refused to give evidence using their right to silence, and asked to take as a ground their application.

591. On August 5 2009 Davit Mkrtych Khachatryan and Vahe Yervand Tadevosyan were incriminated on article 117 of RA Criminal Code.

592. During the pretrial investigation defendants D. Khachatryan and V. Tadevosyan submitted an application and gave evidence with the same content that on 29 July 2009 when they came to the police station they were not sure that they were the ones who caused bodily injuries on N. Mnatsakanyan, but after they came and looked through the forensic medical examination of N. Mnatsakanyan and found out that the latter received many bodily injuries, however they could not have caused bodily injuries, as they only pushed him, and besides, they do not remember the features of the man, but after that many times they watched N. Mnatsakanyan on TV and concluded that the man could not have been N. Mnatsakanyan and in addition the event connected to N. Mnatsakanyan took place at approximately 00.15, while their incident took place at about 22.30, and analyzing all the

circumstances of the case, they concluded and assured that they do not have any connection related to N. Mnatsakanyan's case.

593. In addition D. Khachatryan and V. Tadevosyan gave evidence that at the time of incident they did not have hats. Through the future preliminary investigation no evidence was obtained that D. Khachatryan and V. Tadevosyan had caused bodily injuries, so a decision was made to stop criminal persecution against them.

594. Assignments were given to criminal persecution departments of Mashtots police station of Yerevan, Ejmiatsin and Arabkir departments to clarify circumstances that have importance to reveal the case, the witnesses and the men who committed the crime, but as a result of the taken operative-intelligence measures and investigative actions the crime was not revealed.

595. Based on the above-mentioned and point 1 of part 1 of article 31 of RA Criminal Procedure Code the actions carried out by unknown people, the crime under point 3 of part 2 of article 113 of RA Criminal Code was re-qualified to article 117 of RA Criminal Code on 7 September 2009 and it was decided to terminate the criminal proceedings reasoning that the men who could be involved as defendants are not identified. Investigative and operative-intelligence measures aimed at revealing the crime continue.

596. On 30 April 2009 based on article 117 of RA Criminal Code in the Central department of Yerevan police station a criminal case was instituted on the fact of battery and causing bodily injuries on Argishti Kiviryan at the entrance of 9 Nalbandyan, Yerevan at about 5 o'clock on the same day.

597. Based on the assignment of RA Prosecutor General the investigation of the criminal case was tasked to the investigative department of RA National Security Service adjust to the Government on 6 May, 2009.

598. Taking into consideration that unknown people have shot from an unidentified gun three times towards A. Kiviryan and Lusine Sahakyan, Aramazd and Armenika Kiviryans, because of the noise, came to help him, beating of Argishti Kiviryan, causing bodily injuries of medium gravity, as well as shots were qualified under point 7 of part 2 of 34-104, article of RA Criminal Code under 8 May 2009 decision.

599. Victim A. Kiviryan gave evidence that on 30 April 2009 at 5 a.m. at the entrance of 9 Nalbandyan, Yerevan when going to his apartment, a group of at least three people attacked him with the aim to kill, caused a number of strokes, and at the end one of them took his gun and fired three shots towards him, but because of circumstances independent of their will, the crime was not concluded, as he resisted, tried to call on phone his relatives for help living in the same entrance, and took hand of the man and parried the direction of shots.

600. His relatives, in particular his wife Lusine Sahakyan, brother Aramazd Kiviryan and two sisters hearing the noise came out to the corridor and came shouting downstairs from the third floor, as a result of which the criminal group escaped - threatening Argishti Kiviryan that they would kill him anyways.

601. The evidence given by A. Kiviryan was also confirmed by his above-mentioned relatives.

602. As at the moment of battery the entrance was dark Argishti Kiviryan could not describe and identify any aggressor, mentioning in his testimonies that a couple of days before the event on 20 April 2009 in the early morning at about 5-6 o'clock when coming out of his office three young men had tried to attack him, who had approached him from different directions of the yard, asking for a cigarette, but guessing that this was an attack, he immediately had gone into his office.

603. The facts of shots were confirmed both by the testimonies of Argishti's relatives, and by photos done by photo-journalist Gagik Shamshtyan, in some of which shells were seen, but in the photos made in several minutes these shells were not seen.
604. The expert examination of the photos could not clarify what calibre the shells fixed on the photo have, which sample they are and from what weapon they were shot.
605. The expert examination could not detect traces from shots on A. Kiviryan's clothing.
606. Several neighbours interrogated as witnesses had not heard anything at the moment of attack and three of them had heard noise similar to the sound of shot or falling of metal wardrobe.
607. After the case was entered for the procedure by RA GA NSS, double examination of the place of incident did not disclose the traces of the shots.
608. According to the operative information received from the Chief department on maintenance of Constitutional order and combating terrorism of RA GA NSS on 8 July 2009, the murder attempt of Argishti Kiviryan could possibly be organized by Samvel Petrosyan, Head of Police of Akhalkalak, Georgia, with his relative, citizen of Yerevan Vladik Edvard Serobyanyan and friend of the latter Gurgen Garegin Kilikyan, based on which preliminary investigative body arrested Vladik Serobyanyan and Gurgen Kilikyan on 8 July 2009, towards whom accusation was brought based on point 7 of part 2 of 34-104, article of RA Criminal Code; unlawfully and intentionally depriving another person of life by a group of persons and detention was imposed as a measure of restraint toward them, the duration of which was regularly extended up to 8 March 2010.
609. Vladik Serobyanyan did not plead guilty for the imposed accusation, gave evidence that did not know victim Kiviryan, did not hit him, was not hostile toward him, he was at his grandmother's funeral, at the moment of event, at 5 o'clock he was at home, asleep, and the day before the event on 29 April till late at night at 22.00-23.00 p.m. he was at his grandmother's home, and all day long was involved in the funeral procession.
610. Vladik Serobyanyan is the relative of head of police of Akhalkalak, Samvel Petrosyan, who according to the testimonies of Argishti Kiviryan, had in his public speech indirectly threatened him, was displeased with the critical articles published in the website coordinated by Argishti.
611. Gurgen Kilikyan did not plead guilty either, and gave testimonies that did not know victim Kiviryan, did not attack him, and was not hostile toward Kiviryan, on 20 and 30 of April he spent the night at home. Though he admitted the fact that he was in Georgia with Vladik Serobyanyan from 17-19 April, 2009, and was involved in the activities related to his detained father there, during that time he met Samvel Petrosyan for a couple of minutes, but also categorically denied his or Samvel Petrosyan's involvement in the murder attempt.
612. During the identification Argishti Kiviryan pointed to Gurgen Kilikyan, as one of the three persons who approached him to ask a cigarette a couple of days before the event in the morning of 20 April, guessing that it was an attack he went into his office which he confirmed also during the confrontation with G. Kilikyan.
613. Argishti Kiviryan and his wife, Lusine Sahakyan gave testimonies that a couple of days before the event, when coming out of the office at night, they noticed a suspicious car, black Jeep of Japanese production, that followed them, with the repeated numbers of "0" and "9".
614. During the identification and confrontation, witness Lusine Sahakyan stated that defendant Vladik Serobyanyan resembled one of the men who followed them in a car with darkened window, a couple of days before the event, which she also confirmed during the confrontation with V. Serobyanyan.

615. In addition, Argishti Kiviryan mentioned in his testimonies that when he resisted he had bitten him, and felt the smell of the blood, and presumed that at the place of the incident the traces of blood could have been left by one of the attackers and he was almost in a state of unconsciousness and did not get out from the entrance, so it is less possible that he left traces of blood there.

616. In order to identify the blood found in the scene of incident, forensic genetic expertise was done, which proved that the blood left in the scene belonged to Argishti Kiviryan and not to Vladik Serobyanyan or Gurgeny Kilikyan.

617. As a result of examination of the data received by pelengation satellite system neither on the day of incident nor on 20 April the presence of Gurgeny Kilikyan and Vladik Serobyanyan in the scene of incident was not confirmed.

618. The examination of the list of phone calls of Vladik Serobyanyan showed that on 30 April 2009 at 23.13 calls done from his phone and his phone number were served by the satellite located at Nor Nork 4, 12 Hovhannisyanyan str., Yerevan, and at 00:41 and 09:47 were served by the satellite located at 54a Baghramyanyan str., Yerevan (N8 policlinic).

619. At the same time the deciphering of the phone calls showed that from 20 April to 30 April 2009 the conversations at night were not fixed, which were served by the satellite located at 9 Nalbandyanyan str., Yerevan.

620. Taking into consideration the lack of the direct evidence on Vladik Serobyanyan's and Gurgeny Kilikyan's involvement in the murder attempt, as well as the absence of reasonable suspicion, the term of keeping them in custody was not extended and on 8 March 2010 a new measure of restraint; signature not to leave the residence was imposed.

621. During the preliminary investigation a number of investigative and procedural activities and operative-intelligence measures were taken; searches, examination of witnesses, confrontations, the operative divisions were assigned to more actively take measures aimed at revelation of witnesses, as well as finding direct and indirect evidence proving defendants' guilt.

622. The body conducting proceedings sent inquiries to different agencies, complex expert examinations; forensic biological, forensic genetic, photographic and computer-technical examinations were assigned, according to which evidence contributing to disclosure of the incident was not found.

623. Preliminary investigative body, thoroughly and objectively checking the evidence of the criminal case obtained during preliminary investigative proceedings, assessing them in terms of sufficiency for the disclosure of the case, and considering that during the preliminary investigation Vladik Serobyanyan's and Gurgeny Kilikyan's guilt on point 7 part 2 of article 34-104 of RA Criminal Code was not confirmed, their participation in the committed crime was not proved and all the opportunities to receive the evidence were exhausted, made a decision on termination of criminal persecution against Vladik Serobyanyan and Gurgeny Kilikyan on 28 December 2010, and the measure of restraint, signature not to leave the residence, imposed against them was eliminated.

624. According to another decision made by the preliminary investigation body on 28 December 2010, criminal case proceedings were suspended, as the person who had to be involved in the case as a defendant was not identified.

625. The legitimacy and reasoning of the decisions of 28 December 2010 on terminating criminal persecution against Vladik Serobyanyan and Gurgeny Kilikyan, as well as on suspension of the criminal proceedings were approved by the department of RA National Security bodies under the office of the RA Prosecutor General.

626. On 8 April 2009, at 20.55, Central Police Department received a call from "Armenia" medical centre that Davit Jalalyan applied to hospital with a diagnosis of "right contusion of hypochondrium".

627. It was found out through the examination of the registry on criminal incidents that in the column of the statement by the patient, it was recorded "was beaten by the policemen in the Northern Avenue".

628. According to the explanations given by doctor Areg Petrosyan of the above mentioned medical centre, Davit Jalalyan, who was taken to hospital, was subjected to X-ray sonographic examination, which did not reveal any pathology and the patient left the hospital.

629. According to Davit Jalalyan's explanation, he works for "A1+" news agency as a journalist. On 8 April 2009 being informed that people had gathered in the Northern Avenue, went to the mentioned place to make photos and write an article. As there were many people, the policemen warned them not to gather and leave the Northern Avenue. People pushing each other tried to leave the place, and he went back, he hit the sidewalk border and fell down. Then he stood up and went to editorial office, gave the photo camera. As he felt bad the employees of the editorial office called an emergency and took him to hospital. X-ray was done at the hospital but no injuries were found and he went home. Nobody hit him, pushed him, but he fell down through his own negligence. A lot of people saw him at the place of incident, but he knows only journalist Gagik Shamshyan who was beside him at the moment when he fell down. What concerns the statement recorded in the hospital, he did not say that the policemen pushed him, but he said that it was the policemen's fault that he went back and fell down.

630. Probably the doctors misunderstood him. According to the explanation given by journalist G. Shamshyan he was at the Northern Avenue on 8 April 2009 at 18.00 to cover the events. There were also other media representatives, and one of them was journalist of "A1+" Davit Jalalyan. At one moment the policemen announced that the people should not gather in the Northern Avenue, but the people answered that they had gathered based on the Constitution of the Republic of Armenia and as a result of a squash, Davit Jalalyan went back, hit by foot on the border of the sidewalk and fell down negligently. At his presence nobody hit Davit Jalalyan.

631. On 9 April 2009 the materials on bodily injuries of D. Jalalyan with the conclusion were attached to the case of the Secretariat of the Central Police Department.

Reply to the issues raised in paragraph 43 of the list of issues

632. Since the very first days of its independence becoming a member of the various international organizations and having signed the basic human rights protection documents, Armenia pays particular attention to the protection and promotion of the rights of human rights, step by step conducting legislative improvements and implementing its international commitments in practice.

633. As to the legislative guarantees of protection of children from all forms of violence, we would like to stress that in all legislative acts adopted by the Republic of Armenia, including legislation related to the protection of the rights of the child such as the Law on the Right of the Child and Family Code, there are relevant articles prohibiting all forms of violence.

634. With regard to explicit prohibition of corporal punishment and other degrading forms of punishment in the family home or in forms of alternative care for children we would like to inform that the Government of the Republic of Armenia taking into consideration of recommendations of various international organizations, including Council of Europe and the Committee on the Rights of the Child, elaborated draft Government

decision on “State Concept and Programme of Activity on Prevention of violence and neglect against children”. This document aims to analyze legislation related to the children’s rights and harmonize it with international standards.

635. As a member of Council of Europe Armenia recognizes the competence of the European Court of Human Rights and all citizens of the Republic have right to submit complaints to the European Court of Human Rights.
