



**Civil Society Institute (CSI), Norwegian Helsinki Committee (NHC) and the  
International Federation for Human Rights (FIDH)**

**MID-TERM ASSESSMENT ON THE  
UNIVERSAL PERIODIC REVIEW: ARMENIA**

**Reporting Period: May 2010 – December 2012**

**I. Executive Summary**

This submission highlights concerns regarding Armenia's compliance with its international human rights obligations, as well as its progress in implementing recommendations and voluntary pledges undertaken during its Universal Periodic Review by the United Nations Human Rights Council in May 2010. The submission provides information on both the legal system and state practice in Armenia, as discerned through recent research and monitoring activities undertaken by CSI and FIDH in cooperation with NHC on issues like the right to an effective remedy, judicial independence, the right to a fair trial, the prohibition of torture and ill-treatment, the penitentiary system and juvenile justice.

The Armenian authorities have taken some steps to amend national legislation, such as drafting a new Criminal Procedure Code, introducing some amendments to the Criminal Code, and developing programmes and policies for judicial reform; however, in practice Armenia has not made real progress in fulfilling its human rights obligations.

The routine practice of torture and ill-treatment, especially in police custody, continues unabated. Victims of torture do not file official complaints fearing retaliation, and perpetrators are not held accountable for such acts. The definition of torture in the Criminal Code falls short of the requirements of the United Nations Convention against Torture (UN CAT). In cases that actually have been reported, no thorough, independent or effective investigations have been conducted. The courts continue to accept evidence obtained through alleged torture and ill-treatment. Victims of torture and other violations of human rights lack access to effective remedies.

Lack of judicial independence remains one of the most serious concerns in Armenia. In many cases the judiciary fails to comply with the guarantees of fair trial standards, envisaged both in international and national legislation. Courts continue to show prosecutorial bias, violating the

principles of presumption of innocence, equality of arms and the adversarial nature of proceedings.

To date, neither a system of juvenile justice nor appropriate specialization among prosecutors, lawyers and investigators in working with juveniles have been introduced in Armenia. Custodial measures are widely applied to juveniles.

No progress has been made on penitentiary reform. Penitentiary institutions in Armenia remain overcrowded and living conditions have not been improved. No inmate rehabilitation programmes have been implemented whatsoever.

### **Information about organisations responsible for this submission**

**Civil Society Institute (CSI)** is a human rights non-governmental organization, founded in 1998 and located in Yerevan, Armenia. CSI seeks to assist and promote the establishment of a free and democratic society in Armenia. Since 2001 CSI has been combating torture by monitoring places of detention, reporting on torture cases and raising public awareness.

Since its establishment, CSI has been working on civil society development, penal system reform, human rights advocacy and awareness, peace-building and conflict resolution, freedom of information and anti-corruption, and political advocacy and lobbying.

CSI is a member organization of the International Federation for Human Rights (FIDH).

The **International Federation for Human Rights (FIDH)** is a federation of 164 human rights NGOs in over 100 countries. It was founded in 1922 and has consultative status within the United Nation's Economic and Social Council (ECOSOC).

#### *Fact finding – Investigative and trial observation missions*

Engaging in activities ranging from dispatching trial observers to organising international investigative missions, FIDH has developed rigorous, impartial procedures for establishing facts and lines of responsibility. Experts dispatched to the field give their time to FIDH on a voluntary basis.

FIDH has conducted over 1,500 missions in over 100 countries in the last 25 years. These activities reinforce FIDH's alert and advocacy campaigns.

#### *Supporting civil society – Training and exchange*

FIDH organises numerous activities in partnership with its member organisations in the countries in which they are based. The core aim is to strengthen the influence and capacity of human rights activists to advance change at the local level.

#### *Mobilising the international community – Permanent lobbying before intergovernmental bodies*

FIDH supports its member organisations and local partners in their efforts before intergovernmental organisations. FIDH alerts international bodies to human rights violations and refers individual cases to these bodies. It also takes part in the development of international legal instruments.

#### *Informing and reporting – Mobilising public opinion*

FIDH informs and mobilises public opinion. FIDH makes full use of all means of communication to raise awareness of human rights violations, including through press releases, press conferences, open letters to authorities, mission reports, urgent appeals, petitions, campaigns, and websites, amongst others.

The **Norwegian Helsinki Committee** is a non-governmental organisation working to ensure that human rights are respected in practice. We do this through monitoring, reporting, teaching and democracy support.

The Norwegian Helsinki Committee works in the belief that documentation and organisations such as ours are vital to enable states to protect human rights in their own countries, as well as in others. The Norwegian Helsinki Committee particularly works on countries in the OSCE participating States, in particular the former Soviet Union.

The Norwegian Helsinki Committee was established in 1977 and today has 15 employees, with a head office in Oslo. We are also represented in Central Asia.

The work of the NHC is based on the Helsinki Final Act, which was signed by 35 European and North American states at the Conference on Security and Cooperation in Europe (CSCE) in 1975. This declaration establishes that human rights are vital to ensure peace and cooperation between states.

## **II. Right to an effective remedy**

### **Effective investigation into March 2008 events**

*A-93.27. Implement the recommendations of the OSCE/ODIHR trial monitoring report, and provide for an independent and credible investigation into the 10 deaths following the events of 1 March 2008 (United Kingdom of Great Britain and Northern Ireland, the Netherlands); intensify efforts to present the cases in court in order to clarify, provide for reparations and punish those responsible (Spain);*

*A-93.28. Implement the recommendations of the ad hoc committee mandated by the National Assembly, and conduct an independent and transparent investigation into the excessive use of force leading to the punishment of those responsible (Switzerland).*

During its 2010 UPR session Armenia agreed to undertake recommendations regarding its handling of events surrounding the March 2008 demonstrations. On that occasion, the use of excessive force by law-enforcement bodies against opposition activists had led to the death of 10 people and the injury of over 130 others.<sup>1</sup> Despite an order issued by the President of the Republic of Armenia on 26 April 2011 to give renewed impetus to the investigation intended to clarify the events surrounding these deaths, their circumstances remain unexplained and the perpetrators unidentified. The command responsibility of senior police and security officials for the ten fatalities has not been seriously examined – a fact also reflected in the 27 December 2011 report of the Republic of Armenia’s Special Investigation Service. This report stated that the murders were classified as having been committed during mass disorder by the demonstrations participants under part 2(10.1) of Article 104 of the RA Criminal Code. This classification alone excludes the possibility of considering the application of *command responsibility*.<sup>2</sup> Moreover, no adequate reparation has thus far been provided to relatives of the deceased persons.

## **III. Administration of Justice**

### **Independence and impartiality of the judiciary**

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<sup>1</sup> Commissioner for Human Rights, *Report by Thomas Hammarberg Commissioner for Human Rights of the Council of Europe following his visit to Armenia from 18 to 21 January 2011*, (Strasbourg, 2011), <<https://wcd.coe.int/ViewDoc.jsp?id=1784273>>, accessed 20 December 2012.

<sup>2</sup> RA Special Investigation Service, *Informative report on investigation results of criminal cases in the proceeding of RA Special Investigation Service, concerning mass disorders on 1-2 March, 2008 in the capital*, pages 56-57, [http://www.investigatory.am/upload/file/Information\\_for\\_MassMedia.pdf](http://www.investigatory.am/upload/file/Information_for_MassMedia.pdf), accessed 8 January 2012.

*A-94.17. Push forward further reforms that will guarantee in practice the separation of powers and, in particular, the independence of the judiciary, including through the training of judges (Greece, Italy, Azerbaijan, Uruguay, Bosnia and Herzegovina);*

*A-94.18. Make efforts to ensure the implementation of legislative provisions on the impartiality and transparency of the judicial system, including by allocating sufficient funding (Sweden).*

The independence and impartiality of the judiciary continue to be a serious problem in Armenia. Obstacles to achieving them are ingrained not only in legislation but also in practice. FIDH, NHC and CSI welcome the Armenian Government's 2012 adoption of a comprehensive policy programme on judicial reform for 2012-2016. However, concerns remain about shortcomings in the system.

Under the Armenian Judicial Code, the President approves the list of candidates provided by the Council of Justice (CoJ), selecting those candidates "who are acceptable to him" for appointment to office.<sup>3</sup> Judges are appointed and removed by the Armenian President on the basis of recommendations from the CoJ.<sup>4</sup> Criteria for appointment and removal remain unclear as the President is not required to explain his decisions. Thus, the CoJ has only recommendatory and no actual decision-making powers. This is not in compliance with European or international standards on judicial appointments.

Under the Judicial Code, the CoJ elects a disciplinary committee from the members of the Council. This committee has the right to initiate disciplinary proceedings against judges by its own motion.<sup>5</sup> The same power, however, is also vested in the Republic's Minister of Justice.<sup>6</sup> Disciplinary proceedings against judges are usually considered to be a matter of self-governance and the involvement of the executive branch in this task is unacceptable.

Under Article 156 of the Judicial Code, the Armenian Minister of Justice can also familiarize himself with the materials of any case in court on which there is no final judgment. This provision facilitates the exertion of improper influence upon judges in proceedings and causes serious concerns about judicial independence. This issue has been discussed in considerable detail in a report by the Council of Europe Directorate General of Human Rights and Rule of Law.<sup>7</sup>

Judicial independence is further jeopardized by the Court of Cassation's constant and direct involvement in influencing the decision making of lower court judges. A vivid example lies in the removal of Samvel Mnatsakanyan, a Judge of the Court of General Jurisdiction, on 11 July 2011. This removal was occasioned by Judge Mnatsakanyan's grant of a defendant's motion for release on bail without receiving prior consent from the Court of Cassation; two days after approving the motion to apply bail as a preventive measure, the Chairman of Court of Cassation, Arman Mkrtumyan, applied to the CoJ to initiate disciplinary proceedings against Judge Mnatsakanyan. The CoJ, in turn, requested the Armenian President to dismiss Judge Mnatsakanyan from office, a request that was subsequently approved despite the fact that the prosecutor had not objected to bail and the defendant was ultimately acquitted. The vulnerability of judges to dismissal and the lack of effective remedies against such decisions (decisions of the CoJ are not subject to further review) have a strong chilling effect on the judiciary. Strongly

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<sup>3</sup> Judicial Code of the Republic of Armenia (Յ Օ-135-Ն), 2007, Article 117, paragraph 2.

<sup>4</sup> Constitution of the Republic of Armenia, 2005, Article 55, paragraph 11.

<sup>5</sup> Judicial Code of the Republic of Armenia (Յ Օ-135-Ն), 2007, Article 106.

<sup>6</sup> Ibid., Article 155.

<sup>7</sup> 'Project Report on Judicial Self Governing Bodies and Judge's Career', Working Group on Independent Judicial Systems, Council of Europe Directorate General of Human Rights and Rule of Law, September 2011 <[http://www.coe.int/t/dghl/cooperation/capacitybuilding/source/judic\\_reform/Project\\_report\\_final.pdf](http://www.coe.int/t/dghl/cooperation/capacitybuilding/source/judic_reform/Project_report_final.pdf)> accessed 11 December 2012.

condemning these events, the Armenian Chamber of Advocates promulgated a statement saying that such actions are obliterating any hope of developing an independent judicial system in Armenia. Instead of fulfilling its constitutional function of securing the uniform application of law, the Cassation Court is promoting the adoption of decisions that contradict its own case law – a fact that in itself threatens judicial independence and promotes the consolidation of adverse practice concerning the application of detention as a preventive measure.<sup>8</sup>

We welcome the efforts of the Armenian authorities to draft a new Criminal Procedure Code addressing many of the issues raised in this submission. Nevertheless, preservation of fair trial guarantees, especially during criminal proceedings, remains a serious concern. Courts continue to show prosecutorial bias, violating the presumption of innocence and the equality of arms between prosecution and defence, and interfering with the adversarial nature of proceedings. The questioning of defendants by judges often has accusatory connotations. Defence lawyers are usually placed at a disadvantage regarding the introduction of evidence and having their arguments heard. As police officers are prohibited from testifying in their official capacity unless they are a witness or victim in a case, defence lawyers are deprived of any opportunity to challenge the veracity of police reports concerning evidence found at the crime scene or a defendant confession – the latter often being accepted in evidence without further in-court testimony. Moreover, in addition to dismissing defence motions without justification, judges are reluctant to force prosecutors to meet the necessary high standard of proof (beyond reasonable doubt) in criminal matters. This also jeopardises the ability of defence lawyers to mount a credible defence.<sup>9</sup>

### **Politically motivated persecution**

*A-95.3. End politically motivated prosecutions of individuals it deems opposition, and take steps to strengthen the rule of law, including respecting minimum guarantees as laid out in the International Covenant on Civil and Political Rights, equal protection of the law, and judicial independence (United States of America).*

Although those deprived of their liberty on the basis of their political beliefs following the March 2008 events were released from 26 May 2011, instances of politically motivated persecution are still observable. The **Tigran Arakelyan and others** case is illustrative of this concern.

*On 20 July 2012, members of the Armenian National Congress, Tigran Arakelyan, Artak Karapetyan, Sargis Gevorgyan, and Davit Kiramijyan were sentenced to imprisonment by the Court of General Jurisdiction of Kentron and Nork Marash administrative districts. Tigran Arakelyan was sentenced to six years in prison for breaking the nose of a police officer whilst being transported to the police station in a police car. He was charged under Article 258, parts 3(1) and (2) (Hooliganism) and Article 316 parts 1 and 2 (Use of violence against a*

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<sup>8</sup> Mery Aleksanyan, ‘Lawyers Demand Justice Without Approval’ (*Human Rights in Armenia*, 7 July 2011), <<http://hra.am/en/point-of-view/2011/07/07/fairtrial>>, accessed 24 December 2012, or ‘Strongly Condemn the Tactics of the Council of Justice’ (*Human Rights in Armenia*, 5 July 2011), <<http://www.hra.am/hy/events/2011/07/05/samvelmnacakanyan>>, accessed 24 December 2012, or ‘The Announcement of advocates of RA Chamber of Advocates’ (*RA Chamber of Advocates*, 7 July 2011) <[http://www.advocates.am/index.php?option=com\\_content&view=article&id=314:2011-07-07-05-31-09&catid=39:2010-09-13-15-11-58&Itemid=144](http://www.advocates.am/index.php?option=com_content&view=article&id=314:2011-07-07-05-31-09&catid=39:2010-09-13-15-11-58&Itemid=144)>, accessed 24 December 2012.

<sup>9</sup> United States State Department, [2011 Human Rights Report on Armenia](#), pages 11-13

<<http://photos.state.gov/libraries/armenia/231771/PDFs/hr2011.pdf>> accessed 9 January 2013.

representative of the authorities). The other members were sentenced to between 2 and 3 years in prison.<sup>10</sup>

*This case was instituted following an incident on 9 August 2011 in Yerevan. Here, a confrontation occurred between these young activists and police, involving insults from both sides. The activists were brought to the police station, where upon arrival they were allegedly denied access to a lawyer and subjected to severe beatings. No thorough investigation has been conducted into the allegations of torture made by the four activists and no police official has been held liable. The Court found that the injuries sustained by the defendants could have occurred through the exertion of lawful physical force within permissible limits in the course of bringing them into police custody. This finding was made despite supporting testimony that loud voices and shouting could be heard in the rooms of the police station indicating that the activists were being beaten there.*

The group monitoring the trial observed that the Court exhibited an accusatory bias throughout the proceedings; for example, readily accepting the testimonies of police witnesses without asking for corroborating evidence, thus, violating the principle of equality of arms.<sup>11</sup> This judicial bias, combined with allegations of torture and ill-treatment, create the impression of discriminatory treatment linked to the defendants' political orientation as Armenian National Congress activists.

#### **IV. Torture and Ill-treatment**

##### **Definition of torture in the Criminal Code of the Republic of Armenia**

*A - 93.5. Review the definition of torture in its national legislation so that it fully complies with that set out in article 1 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Czech Republic, Ireland, Uruguay).*

Despite Armenia's pledges before the Human Rights Council during its UPR review in May 2010, the definition of torture in the Armenian Criminal Code (ACC)<sup>12</sup> has still not been brought into compliance with the United Nations Convention against Torture (UN CAT). It does not include the elements of specific objective and specific actors as stipulated in the UN CAT. Whilst the Draft Law on Amendments to the ACC attempts to bring the definition of torture in compliance with the UN CAT,<sup>13</sup> the proposed definition still falls short of the convention's requirements.

The shortcomings of the torture definition in the ACC mean that perpetrators of torture are not charged with torture (Article 119, ACC), but with abuse of official powers (Art. 308, ACC), which does not allow the problem to be effectively tackled. At times, perpetrators of torture avoid criminal prosecution or punishment through amnesty or pardon, contributing to impunity amongst law-enforcement agents for torture.

*On 13 April 2010, 24-year old Vahan Khalafyan died in Charentsavan town police station as a result of abdominal stab wounds. The Court of First Instance of General Jurisdiction of Kotayk*

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<sup>10</sup> See the decision of the Court of General Jurisdiction of Kentron and Nork Marash administrative districts of 20 July 2012, case N: Ե Կ Դ/0225/01/11.

<sup>11</sup> See the decision of the Court of General Jurisdiction of Kentron and Nork Marash administrative districts (Ե Կ Դ/0225/01/11), 20 July 2012.

<sup>12</sup> See Criminal Code of the Republic of Armenia, Article 119.

<sup>13</sup> See Draft law on the amendments to the Criminal Code Կ-1182-30.05.2011-ՊԻ-010/0, available at [www.arlis.am](http://www.arlis.am) (last accessed on 14 December 2012).

region found that Vahan Khalafyan had committed suicide by stabbing himself. It also established that Mr. Khalafyan had been subjected to beatings by Ashot Harutyunyan, the Head of the Criminal Investigations Division of Charentsavan police. The latter was found guilty of exerting violence to obtain a confession and, thereby exceeding his powers, negligently causing grave consequences. He was sentenced to eight years of imprisonment under Article 309(3) of the ACC. According to the court decision, Harutyunyan's actions induced such a psychologically tense state in Vahan Khalafyan that it led him to commit suicide by stabbing himself in the stomach twice with a knife. Another police officer from the Criminal Investigations Division, Mores Hayrapetyan, who was present during Khalafyan's beatings and ill-treatment by omission, was sentenced to two years of conditional imprisonment under Article 308 (1) of the ACC (Abuse of official authorities).

Following an amnesty decision adopted on 26 May 2011, Ashot Harutyunyan's sentence was reduced by one third of his unserved sentence, whilst Mores Hayrapetyan's conditional imprisonment was waived.

### **Failure to conduct effective investigations**

*A - 93.20. Ensure the proper and thorough investigation of torture cases in prison facilities and at police stations (Slovenia); ensure that all allegations of torture and inhuman or degrading treatment are investigated promptly and that perpetrators are brought to justice (Greece);*

*A - 93.26. Ensure that allegations of the ill treatment of persons detained by the security/police forces are investigated and that perpetrators are held accountable (Canada); investigate cases of police abuse to prevent impunity and put an end to ill treatment by police (Azerbaijan); ensure a system for registering the complaints of victims of torture or ill treatment, in particular persons in detention or military conscripts (Czech Republic).*

Impunity for torture has been of concern for many years and remains a serious issue in Armenia. In May 2012 the UN Committee against Torture considered Armenia's third periodic report. The Committee expressed serious concerns raised "by numerous and consistent allegations [...] of routine use of torture and ill-treatment of suspects in police custody" in order to extract confessions for use in criminal proceedings, as well as by military personnel. The Committee concluded that prompt, impartial and effective investigations and prosecutions are not being conducted, and that consequently the punishment of perpetrators is not ensured and compensation for victims' families not provided.<sup>14</sup>

CSI monitoring shows that police continue to summon individuals to police stations without proper summonses and fail to register these persons in the required time, unlawfully detaining them for long hours and failing to establish such persons' *de jure* status in a timely manner. They thereby obstruct access to legal safeguards in practice *from the very outset of de facto deprivation of liberty*, including the right to be informed of one's rights, to access a lawyer, and to notify a relative. *This practice increases the risk of detainees being subjected to torture and ill-treatment whilst in police custody.*

Police mistreatment remains overwhelmingly unreported due to fear of retaliation. This is because the existing mechanism of lodging complaints is not effective, failing to ensure in practice that complainants are protected against intimidation or reprisals as a consequence of their complaint. In practice, Armenian courts generally do not act upon allegations of torture that are made before the court and fail to refer them to the relevant authorities. The factual

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<sup>14</sup> See Concluding Observations/Comments of the UN Committee against Torture, Forty-eighth session, CAT/C/SR.1085 and 1086, CAT/C/ARM/CO/3, paras. 8, 12, 15, available at <http://www.un.am/en/CAT> (last accessed on 20 December 2012).

circumstances surrounding cases of torture and ill-treatment are usually only subject to a higher degree of scrutiny from the general public in cases where they have occasioned a victim's death. In all reported cases, the Armenian authorities have failed to conduct effective investigations into allegations of torture.

*12 May 2012 marked the fifth anniversary of the death of Levon Gulyan, a witness in a murder case who died in police custody. Although the investigation into Mr Gulyan's case was instituted in 2007 on grounds of 'causing somebody to commit a suicide' (Art. 110, ACC), it has since been terminated several times by the investigative body only to be reopened on the basis of subsequent court decisions. On 8 February 2012, the Special Investigation Service closed the criminal case on Mr Gulyan's death for the fourth time, still failing to conduct an effective and thorough investigation and in contravention of a ruling by the Court of Cassation. To date, no state official has been held responsible for Mr Gulyan's death and no compensation has been paid to his relatives.*

In addition to the difficulties outlined above, effective investigations into allegations of torture and ill-treatment are also hindered because safeguards envisaged in Armenian legislation have proved to be ineffective. For example, the prosecutor's office is tasked with three conflicting functions in the same case: oversight of the lawfulness of investigations, the approval of indictments and pursuing charges in court. This leads to a situation in which prosecutors lack sufficient impetus to prevent abuses during investigations or to exclude unlawfully obtained evidence. This is because it is not in the prosecution's interests to acknowledge a failure in their supervisory functions during the investigation stage, nor to weaken the position of their own prosecutor when presenting a case before the court. The independence of investigations is compromised further because police themselves are at times charged with conducting enquiries into allegations of torture. This is because not all allegations of torture are communicated to the specialized agency tasked with investigating possible abuses by public officials, the Special Investigation Service (SIS). Consequently, communications about torture continue to be investigated within the framework of the very entity to which the perpetrators of torture themselves belong.

### **Inadmissibility of evidence obtained through torture**

*A - 93.32. Strengthen fair-trial safeguards, including the non-admissibility before the court of any evidence obtained through torture or ill treatment (Czech Republic).*

Despite the explicit international law requirement that confessions obtained through torture never be used in evidence in judicial proceedings, Armenian legislation lacks sufficient effective safeguards to secure the non-admissibility of such evidence.<sup>15</sup> Armenia's Code of Criminal Procedure prohibits the use of torture and evidence obtained through coercion, threats, fraud or other illegal means, or as a result of a violation of a suspect's or accused's rights, or a significant procedural violation; however, the strength of these rules of exclusion are unclear. During the reporting period no appropriate action has been taken to ensure that legislation concerning evidence to be adduced in judicial proceedings is brought into conformity with Article 15 of CAT, or that statements obtained by torture are prevented from being invoked as evidence in proceedings.<sup>16</sup>

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<sup>15</sup> See The Code of Criminal Procedure of the Republic of Armenia, Article 11(7), Article 105.

<sup>16</sup> See 'Joint Open Letter to the President of Armenia - From words to acts: putting an end to torture and ill-treatments in Armenia', FIDH and CSI, 26 October 2012, < <http://fidh.org/Joint-Open-Letter-to-the-President-12341>> last accessed on 8 January 2013.



As a result, Armenian courts are reluctant to exclude evidence obtained through alleged torture and ill-treatment in practice.

*On 6 February 2010, Stepan Hovakimyan was allegedly subjected to ill-treatment to extract his confession to a theft. Although he raised allegations of the ill-treatment to which he was subjected to extract his confession in open court, this confession evidence remained the principal evidence in the case against himself and his friend. The judge failed to pronounce on the admissibility of this evidence throughout the court hearings held between 2010 and 2012. A complaint concerning Hovakimyan's torture was lodged with the SIS, but proved unsuccessful. No thorough investigation of this case has been conducted to date.*

## **V. Access of Public Monitoring Groups to all places of detention**

*A - 93.33. Ensure in practice regular access to all places of detention, including police stations (Czech Republic).*

Our organizations remain concerned about the limited mandate of the Police Monitoring Group, which has access only to the detention facilities for arrestees under police authority. More importantly, the Group is not authorized to monitor the rights of the individuals in custody on the premises of police stations, where most instances of ill-treatment and torture occur.

## **VI. Juvenile Justice**

*A - 94.19. Strengthen efforts to establish a system of juvenile justice in compliance with international standards, and take specific measures to protect the rights of children and persons in detention or in prison (Czech Republic).*

The absence of a juvenile justice system in Armenia remains of particular concern. There are no specialized prosecutors, investigators, or lawyers to work on juvenile cases. Certain judges are appointed to hear such cases but the assignment of juvenile cases to these judges does not appear to be coherently applied in practice.

Monitoring of juvenile trials conducted by CSI has highlighted that prosecutors are inclined to impose custodial measures on juvenile defendants and pre-trial detention is not used as a measure of last resort for the shortest period. The vulnerability of the child or the need to use alternative non-custodial measures where possible is not taken into account when such requests are granted by judges.<sup>17</sup>

No reported cases of police ill treatment of juveniles at the initial stages of arrest and detention have been investigated.<sup>18</sup> There are also instances in which children below the age of criminal responsibility (14 years) have not been registered upon being brought to police stations “to talk”. Monitoring conducted by CSI shows that applicable safeguards, like access to a lawyer, involvement of a pedagogue or legal representative, notification of a relative, and being informed of one’s rights and responsibilities, are not respected in these cases in practice.

## **VII. Penitentiary System**

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<sup>17</sup> For further see ‘Trial Monitoring Report’, CSI, 2011, < [http://hra.am/upload/JJ\\_FINAL\\_Eng.pdf](http://hra.am/upload/JJ_FINAL_Eng.pdf) > last accessed on 8 January 2013.

<sup>18</sup> See Briefing paper prepared by CSI in cooperation with FIDH ‘Administration of Justice in Armenia’ issued on 5 December 2012, <<http://www.fidh.org/Administration-of-Justice-in-12536>> last accessed on 19 December 2012.

*A - 93.33. Continue its efforts to bring its penitentiaries and detention centres into compliance with international human rights standards (Canada);*

*A - 93.34. Carry out further activities aimed at supporting the rehabilitation and reintegration of remand prisoners and convicts by organizing professional training for them (Bosnia and Herzegovina).*

Poor conditions and overcrowding in penitentiaries remains an urgent problem. Overcrowding is the result of the continuous practice of applying pre-trial detention as a measure of restraint, as well as serious shortcomings in the system of early conditional release of prisoners.<sup>19</sup> The existing mechanism for early conditional release lacks independence, impartiality and predictability; there are no relevant criteria on which committees tasked with considering conditional release may ground their decisions. Most requests for early conditional release are rejected. No effective measures have been taken to improve material conditions in penitentiary institutions. Poor living conditions and lack of efficient complaints procedures create an increase in the use of extreme protest methods, such as self-harming incidents, hunger-strikes, etc.

Rehabilitation programs are not implemented to ensure the re-socialization of inmates.<sup>20</sup> Despite requirements in law, no individual plans are developed to work with prisoners and no activities carried out with inmates. The vast majority of prisoners are not provided with any paid work. Upon release, former inmates find it impossible to obtain employment.

**CSI, NHC and FIDH call upon the Armenian authorities to double their efforts to implement the recommendations and voluntarily pledges undertaken by Armenia during its Universal Periodic Review in 2010. In particular, Armenia should implement the following recommendations:**

#### **Right to an effective remedy**

- Ensure independent and thorough investigations into the events of 1 March 2008, especially into the ten deaths, and provide relatives of the deceased persons with adequate reparation.

#### **Administration of Justice**

- Ensure genuine safeguards for judicial independence and impartiality and prevent the exertion of any pressure or influence on judges in practice. Eliminate the discretionary power vested in the President with regard to appointment of judges.
- Take appropriate measures to remove from the Ministry of Justice any authority to impose disciplinary sanctions on judges, as this threatens the independence of the judicial branch.
- Ensure the full implementation of international and national standards for a fair trial in practice. This must include preventing prosecutorial dominance and guaranteeing that trials are adversarial in nature, that parties enjoy an equality of arms, and that the

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<sup>19</sup> For more details, see, ‘NGOs Statement Against Inhuman and Degrading Attitude Towards Detainees’, available at <http://www.hra.am/en/events/2011/05/20/statement> (last accessed on 20 December 2012); ‘Statement on the overcrowding of the penitentiary institutions’, < <http://www.hra.am/en/point-of-view/2010/07/26/statement>> last accessed on 20 December 2012.

<sup>20</sup> See Report to the Armenian Government on the visit to Armenia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 5 to 7 December 2011, <<http://www.cpt.coe.int/documents/arm/2012-23-inf-eng.htm>> last accessed on 19 December 2012.

presumption of innocence is respected, together with the right to a defence, without impeding the effective realization of this right by unlawful means in practice.

- Eliminate all forms of politically motivated persecution and review the case of “Tigran Arakelyan and others” in light of fair trial standards.

### **Torture and ill-treatment**

- Bring the definition of “Torture” under the Armenian Criminal Code in line with the UN Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment.
- Ensure prompt, thorough, impartial and independent investigations into all incidents of torture, ill-treatment and death in custody, and bring those responsible to justice.
- Provide victims of torture with just compensation.
- Amend legislation to allow the exclusion of tainted evidence if a judge has reasonable doubt as to the legality of the means through which such evidence was obtained.
- Ensure that the Police Monitoring Group has unhindered access to police departments.
- Take all necessary steps to improve detention conditions so that they reach conformity with national legislation and international standards.
- Develop and implement rehabilitation programs for convicts.

### **Juvenile Justice**

- Fully comply with paragraphs 42 to 44 of General Comment No. 32 of the UN Human Rights Committee, regarding the implementation of Article 14 of the International Covenant on Civil and Political Rights.
- Ensure the specialization of investigators, prosecutors, and lawyers who deal with the juveniles.
- Reduce the application of custodial and pre-trial measures against juveniles.
- Take prompt and effective measures to ensure that all juvenile detainees are afforded all legal safeguards from the very outset of their de-facto deprivation of liberty, in both law and practice.