



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

Distr.: General
4 January 2012

Original: English

Committee against Torture

Forty-seventh session

31 October–25 November 2011

List of issues to be considered in connection with the consideration of the third periodic report of Armenia (CAT/C/ARM/3)

Articles 1 and 4

1. Further to previous recommendations of the Committee¹, (and according to the State party's report (paras. 13 and 14), the new Criminal Code of the Republic of Armenia adopted in April 2003 defines and prohibits torture, or cruel, inhuman or degrading treatment or punishment using the wording of article 1 of the Convention.² However, the definition of article 119 of the Criminal Code omits references to the purposes of torture in article 1, such as "obtaining information or a confession", "punishing or intimidating" and "for any reason based on discrimination of any kind". Please provide information on whether the definition will be amended to bring it in line with the Convention.

2. Please provide information on the number and nature of cases in which legal provisions on torture were applied and the penalties imposed upon conviction or the reasons for acquittal.

3. While noting that aggravating circumstances for crimes committed on the ground of national, racial or religious hatred or fanaticism are specified in the Criminal Code,³ please specify how other discriminatory behaviour, for example on the basis of gender or sexual orientation, is covered.

4. Please provide information on measures taken by the State party to avoid confusion in the application of categories of "violence", "torture" and "severe damage" in the Criminal Code, and to ensure that sanctions are appropriate and take into account the gravity of the crime of torture.

Article 2

5. According to information before the Committee, members of the authorities who have been prosecuted for engaging in conduct constituting torture or ill-treatment under the Convention have been charged with a variety of offences other than torture under the Criminal Code. For example, a public official who inflicts severe pain or suffering with a

¹ A/56/44, paras. 37(a) and 39 (a).

² CAT/C/ARM/3, paras. 13-14.

³ Ibid., para. 33.

purpose to extort explanation, communication, confession from the victim or a third person may be subject to criminal liability for abuse of power accompanied by violence and/or severe damage to health. Please explain the steps that the State party is taking to ensure that all individuals who engage in conduct that constitutes torture are charged with offences commensurate with the gravity of the offence.

6. With reference to previous recommendations of the Committee (paragraph 37 (b) and 39 (b)), please provide information on measures taken by the State party to ensure that legal safeguards contained in the Criminal Code and other laws listed in paragraphs 12 to 26 of the periodic report⁴ are provided in practice to all persons deprived of their liberty from the very outset of detention.⁵

(a) Article 131.1 of the Criminal Code of the State party prescribes that a protocol shall be drawn up on the arrest of the suspect within three hours.⁶ However, according to information before the Committee, there are cases where the period of deprivation of liberty preceding the drawing-up of the protocol of detention considerably exceeded three hours; that this period may have been used to elicit confessions and collect evidence before the apprehended person was formally declared a criminal suspect and informed of his or her rights. Also, although most persons remanded in custody were transferred to a prison establishment within three days, there were a few persons who had been detained on police premises for up to two weeks. Please indicate whether the State party has ensured that protocols of detention refer to the time of apprehension and of admission to a police establishment, in addition to the time of the commencement of drawing up the protocol of detention, and whether the State party has taken steps to ensure that persons remanded in custody are promptly transferred to a prison establishment, as recommended by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment in its report on Armenia of August 2011. Please indicate how these records of detention are monitored to ensure that the three-hour limit is observed in practice;⁷

(b) What measures are taken to ensure that detained persons are routinely informed of their rights from the very outset of the de facto deprivation of their liberty including rules governing the rights of arrested persons to a lawyer, a medical examination by an independent physician and to notify a relative of their situation? Is the form on these rights routinely provided to detained persons as they are brought into a police station? Is the form translated into different languages? Please indicate the steps taken by the State party to monitor the conduct of relevant officials and to ensure that detained persons are able to enjoy these rights in practice;⁸

(c) Please indicate if the State party intends to eliminate the discrepancy on the notification of custody between Section 5 of the Police Act which places an obligation on police officers to inform the detained person's relatives of his or her situation within three hours of arrival on police premises and Section 63-2 (9) of the Code of Criminal Procedure which refers to a maximum period of 12 hours during which close relatives should be notified;⁹

⁴ See also CAT/C/ARM/3, paras. 54, 57-58, 93-94 and 108-129.

⁵ European Committee for the prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) report on its visit to Armenia in May 2010, CPT/Inf (2011) 24, Strasbourg, 17 August 2011, paras. 9-10, 12, 29; Response of the Armenian Government thereto.

⁶ CAT/C/ARM/3, para. 52.

⁷ CPT report on its visit to Armenia in May 2010, paras. 9-10.

⁸ CAT/C/ARM/3, paras. 50, 54, 58, 94 and 96 (a); CPT report on its visit to Armenia in May 2010, paras. 28-38.

⁹ CPT report on its visit to Armenia in May 2010, para. 29; Response of the Armenian Government thereto.

(d) The Committee has received credible and consistent allegations that police operational staff have engaged in physical ill-treatment of detained persons during initial interviews and employed excessive force in apprehending individuals in the course of a large-scale police operation on 17 April 2010 in the Nor Nork district of Yerevan. Please provide further details on these issues.¹⁰ What measures have been taken to prevent such acts? Please comment on cases of deaths in custody of Levon Ghulyan and Vahan Khalafyan and provide updated information on the status of the investigations into their deaths and any resulting prosecutions;

(e) Please comment on allegations that the police, the National Security Services and border guards have arrested and detained individuals without an arrest warrant issued by a judicial authority and indicate measures undertaken by the State party to avoid similar cases.¹¹

7. Please provide information on the number of legal aid attorneys working in the country, disaggregated by geographic location. Please provide updated information on the main conclusions and recommendations of the working group established by the Ministry of Justice and the Bar Association to improve the implementation of the Law on Advocacy, including those relating to improving the effectiveness of legal aid and ensuring the independence of ex officio lawyers from the police and prosecution service.¹² Please indicate whether these conclusions and recommendations have been implemented by the State party and if any other steps have been taken to achieve these objectives.

8. With reference to the mission to Armenia of the Working Group on Arbitrary Detention in September 2010, many detainees and prisoners reported having been subjected to ill-treatment and beatings at police stations and that police and National Security investigators use pressure, including torture and ill-treatment, to obtain confessions, as a central part of their investigations. Please comment on these allegations and indicate the measures the State party has taken to ensure that cases of torture and ill-treatment are prevented, reported and prosecuted. Please indicate whether the State party has put in place or intends to provide for monitoring and recording of police interviews of individuals deprived of their liberty in all places of detention, including by closed-circuit television.¹³

9. Article 206 (6) of the Criminal Procedure Code of the State party provides that witnesses are to be interrogated in presence of counsel who is invited by the witness specifically to provide them legal assistance.¹⁴ Please comment on allegations that police on many occasions have arrested individuals and held them for 72 hours or longer as material witnesses, failed to inform them of or otherwise denied them their right to legal counsel, and interrogated them without the assistance of counsel, and thereafter designated them criminal suspects.¹⁵ Please indicate what steps the State party is taking to eliminate this practice, ensure that all persons detained are brought promptly before a judge, and that both witnesses and suspects are informed of their right to the assistance of counsel invited by them in any interview by police.

¹⁰ CPT report on its visit to Armenia in May 2010, para. 12; Response of the Armenian Government thereto.

¹¹ Report of the Working Group on Arbitrary Detention: Mission to Armenia (A/HRC/16/47/Add.3), para. 60.

¹² CPT report on its visit to Armenia in May 2010, para. 31; Response of the Armenian Government thereto.

¹³ A/HRC/16/47/Add.3, para. 61.

¹⁴ A/CAT/C/ARM/3, para. 93.

¹⁵ A/HRC/16/47/Add.3, para. 59.

10. Please provide further information¹⁶ on the activities of the Human Rights Defender of the Republic of Armenia as the National Preventive Mechanism (NPM):

(a) Please indicate what steps have been taken by the State party to provide sufficient financial and logistical resources to the Human Rights Defender's Office to perform its NPM mandate.

(b) Please provide data on the number of complaints made to the Human Rights Defender during the reporting period and the action that has been taken on each complaint.

(c) Please provide data on the number of visits to police stations and prisons carried out by the Human Rights Defender, the locations visited and the outcome of these visits. Please indicate whether the recommendations made by the Human Rights Defender were subsequently carried out. Please also provide further information on the establishment of the Council on Torture Prevention.

11. While noting the information provided by the State party in its report regarding crimes committed by members of the Armed Forces of the State party,¹⁷ please provide updated information since 2008 on progress achieved in reducing cases of violence in the Army. Please comment on allegations that suspicious deaths have continued to occur in the military under noncombat conditions, that the practice of hazing and other mistreatment of conscripts by officers and fellow soldiers continues, and that the State party has failed to ensure accountability for such actions including by carrying out thorough, independent investigations. Please provide the Committee with data, disaggregated by year, on the number of allegations of brutality by military officers towards their fellow soldiers during the reporting period, the number of investigations undertaken into such allegations, the number of cases in which charges have been filed in response to such allegations, and any verdicts rendered in these cases. Please comment in particular on the following cases:

(a) Vardan Sevian, who died under suspicious circumstances while stationed in the town of Goris in August 2011 and whose family reports that he had complained of ill-treatment by an officer prior to his death;

(b) Gevorg Kotinian, who military investigators found was beaten to death by fellow soldiers in February 2011 in Nagorno-Karabakh;

(c) Artak Nazarian, a junior officer who died under suspicious circumstances in the Tavush region in July 2010, and in connection with which Captain Hakob Manukian, Mkhitar Mkhitarian, Adibek Hovhannisian, and Harutik Kirakosian were arrested in 2010;

(d) Artur Hakobian, who allegedly committed suicide in September 2010 and whose case was reportedly made the subject of a criminal investigation into "induced" suicide;

(e) Tigran Ohanjanian, who died by electrocution in 2007 and whose case is the subject of ongoing investigation by the military prosecutor's office;

(f) Vardan Martirosian, who was accused of brutally beating soldiers under his command, and his subordinates Artur Karapetian, and Arsen Nersisian, who were accused of extorting money from soldiers, all of whom were made the subject of a criminal case in 2010. The Committee understands that charges against Martirosian and Karapetian were subsequently dropped on grounds of "actual repentance." Please comment.

12. Please provide updated information regarding the arrest and imprisonment of conscientious objectors of the Jehovah Witness faith following their refusal to enlist in the military or to participate in the civil service offered as an alternative to enlistment. Please

¹⁶ CAT/C/ARM/3, paras. 175-176.

¹⁷ Ibid., paras. 228-236.

indicate, whether the State party intends to review the alternative civil service programme, established in 2003, and has taken steps to reduce the length of the required term of alternative service.¹⁸ Please provide data on the number of conscientious objectors conscripted by force during the reporting period and any measures to revise the State party's policy on this issue in the wake of the July 2011 ruling by the European Court of Human Rights recognizing the right to conscientious objection.¹⁹

13. Please indicate steps the State party has taken to promote the adoption of specific legislation addressing violence against women and to include domestic violence as a separate crime in the Criminal Code. Please provide data on the incidence of violence against women, including rape, sexual violence and domestic violence, during the reporting period. Please also provide information on existing support services for victims of domestic violence, including the number of State-run facilities available to women needing temporary accommodation and/or the amount of funding provided by the State to organizations operating such facilities.

14. Please comment on information received by the Committee that magistrates and judges disproportionately grant requests made by prosecutors and deny those made by defence lawyers, undermining the ability of defence lawyers to defend their clients in court.²⁰ Please comment.

15. According to information before the Committee, the relatives of individuals linked to the events of 1 March 2008 have been detained for the purpose of applying pressure on members of the political opposition. These individuals are alleged to have been subjected to serious due process violations, including incommunicado detention and lack of access to a lawyer of their choice. Please respond to these allegations and provide the names of any persons still detained in connection with the events of 1 March 2008, their place of detention, the charges against them, any sentences rendered against them.²¹ Please also provide information on the investigation into the ten deaths that occurred and on measures taken to bring those responsible to justice.

16. Please indicate measures taken by the State party to fight trafficking, particularly trafficking of women and girls for sexual exploitation.²²

Article 3

17. Please indicate the procedure followed when a person invokes the right to appeal the issuance of an extradition warrant or decision on refusing an extradition request, as provided for in article 479 (2) of the Criminal Procedure Code.²³ Do such appeals have suspensive effect? Please provide statistical data on all requests for extradition of persons accused of torture or ill-treatment, the decisions in each case, whether there was an appeal, and the outcome of that appeals. Please indicate which department of the Government is responsible for making decisions on matters of extradition, expulsion and return.

18. Please comment on allegations according to which in some cases the State party sent certain individuals to other countries without observing normal extradition procedures and

¹⁸ A/HRC/16/47/Add.3, para. 68. Report of the Commissioner for Human Rights of the Council of Europe, Visit to Armenia 18-21 January 2011, CommDH(2011)12, Strasbourg, 9 May 2011, paras. 153-158.

¹⁹ CCPR/C/79/Add.10, para. 18; Report of the Commissioner for Human Rights of the Council of Europe, paras. 153-158.

²⁰ A/HRC/16/47/Add.3, paras. 49 and 51.

²¹ A/HRC/16/47/Add.3, para. 57; Report of the Commissioner for Human Rights of the Council of Europe, para. 31.

²² CEDAW/C/ARM/CO/4/Rev.1, para. 22.

²³ CAT/C/ARM/3, para. 28.

that an existing agreement between the National Police of Armenia and the Police of the Russian Federation in the context of a regional agreement involving the Community of Independent States allowed for this practice. Please indicate how the State party ensures that legal safeguards are applied in such cases? Have some decisions on sanctions and/or refusal to extradite been made by the Prosecutor General where the case was in the pretrial proceedings?²⁴

19. Please indicate in which cases the State party has sought or would seek diplomatic assurances from another country to which an individual is to be extradited, returned or expelled. Please provide information on the procedure in place for obtaining diplomatic assurances, including at what level diplomatic assurances are sought, the legal enforceability of the guarantees sought, and whether there are monitoring mechanisms in place to assess if the assurances have been honoured.

20. The Committee notes that the Law on Refugees and Asylum of 27 November 2008 refers to the principle of non-refoulement.²⁵ Please provide statistical data, disaggregated by age, sex and nationality on (a) the number of asylum requests registered and granted; (b) the number of deportations and expulsions; (c) the number of rejected asylum-seekers and undocumented migrants who are held in administrative detention; and (d) the countries to which these persons were expelled.

Articles 5, 6, 7, 8 and 9

21. Please provide data on all cases during the reporting period in which the State party rejected, for any reason, any request for extradition by another State of an individual suspected of having committed an offence of torture and has started prosecution proceedings as a result. Please provide information on the status and outcome of such proceedings

22. Please provide concrete cases or examples of cooperation between the State party and other States resulting from the State party's accession to international treaties on extradition and mutual assistance in criminal matters, including the transfer of any evidence in connection with prosecutions concerning ill-treatment or torture.²⁶

Article 10

23. Please provide updated information on finalization of the training module on the Convention by the Judicial School of the State party and the United Nations Development Programme Country Office.²⁷

24. Please indicate steps the State party has taken to review trainings on interviewing techniques provided to police officers and to ensure that this training is updated to cover advanced, recognized, and acceptable interviewing techniques as recommended by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.²⁸

25. Please provide information on any training promoting appropriate and respectful treatment of women, juveniles, and ethnic, religious or other groups, particularly regarding forms of torture that may disproportionately affect them.

²⁴ A/HRC/16/47/Add.3, para. 53.

²⁵ CAT/C/ARM/3, para. 29.

²⁶ Ibid., paras. 73 and 79.

²⁷ CAT/C/ARM/3, para. 82.

²⁸ CPT report on its visit to Armenia in May 2010, para. 18.

26. Please provide updated information on the amendment of the Military Discipline Code to bring it in line with international norms. Please indicate whether it has been approved by the National Assembly.²⁹

27. The State party's report includes information regarding a number of training sessions organized for police officers, staff of the Armed Forces and doctors.³⁰ Are these training sessions provided on a systematic basis? How and by whom these programmes are monitored and evaluated?

Article 11

28. Please provide updated data since June 2009 on the number of instances in which penitentiary officers reported using "special means," including stun batons, or firearms in prisons, and indicate the number of cases in which such application of force resulted in injuries to or the death of a detained person. Please indicate the number of investigations that have been opened into these cases and their outcomes. Please indicate if the State party has undertaken a review of the use of electric stun devices, as recommended by the European Committee for the Prevention of Torture or Degrading Treatment or Punishment.³¹

29. Please provide information on steps taken by the State party to ensure the efficiency of complaint mechanisms for inmates in prisons. Please provide statistical data on the number of complaints received, investigations initiated, and sanctions rendered in regards to complaints of torture or ill-treatment made by persons in detention.

30. Please provide information about the State party's efforts to establish an effective, systematic review of all places of detention, including regular detention centres and police stations, and a national system to reach to the findings of the systematic review. Please describe steps taken to ensure the independent monitoring of all detention facilities.

31. Please provide data on the number of individuals in remand detention and on the total prison population. Please indicate the number of individuals in detention awaiting court sentencing. Please provide information on steps the State party is taking to reduce the prison population, and comment on allegations that detention is habitually extended for the maximum possible period and alternatives to detention are rarely used.

32. Please indicate measures taken by the State party to limit overcrowding in prisons, in addition to its efforts to constructing new penitentiary establishments,³² including encouraging judges to consider applying bail, conditional release and other alternative ways to imprisonment.³³

33. Please indicate efforts made by the State party to ensure that the conditions of detention do not discriminate against prisoners who are not citizens of the State party or are believed to be homosexuals and that such prisoners are not subjected to discrimination by other detainees.

34. While noting measures taken by the State party for juvenile arrestees³⁴ please indicate additional efforts made in the area of prevention, alternative punishment and rehabilitation for minor offenders.³⁵ Please indicate whether the State party intends to

²⁹ CAT/C/ARM/3, para. 88.

³⁰ *Ibid.*, paras. 81-91.

³¹ CAT/C/ARM/3, para. 98; CPT report on its visit to Armenia in May 2010, para. 16 - Response of the Armenian Government thereto.

³² CAT/C/ARM/3, paras. 100-102.

³³ A/HRC/16/47/Add.3, paras. 72-73.

³⁴ CAT/C/ARM/3, paras. 200-213.

³⁵ A/HRC/16/47/Add.3, paras. 79-80.

establish a system of juvenile justice, in particular specific laws, procedures and juvenile courts. Please comment on allegations regarding the length of pretrial detention and the limited access to visitors during this period, the use of detention not as a measure of last resort, the often disproportionate length of sentences in relation to the seriousness of offences and the absence of facilities for the physical and psychological recovery and social reintegration of juvenile offenders.³⁶

35. The Committee has been made aware of allegations that prison staff frequently require prisoners or their relatives to give them money or other benefits, and deny them services to which they are entitled or threaten to transfer them to another penitentiary establishment with a stricter regime if they fail to comply. Please indicate measures taken by the State party to fight corruption in the penitentiary system and provide data on all instances in which prison staff were subjected to disciplinary measures for engaging in such conduct during the reporting period and the nature of the disciplinary measure taken, and whether the person involved has maintained his/her post in the prison services or has been transferred.

Articles 12 and 13

36. Please provide updated statistical data on complaints made relating to torture and ill-treatment committed by law enforcement officials and security personnel during the reporting period; whether an investigation resulted from the complaint, whether the investigation led to prosecution or disciplinary proceedings, and if not, the reason why not, and whether the accused was convicted and the penal and/or disciplinary sanctions applied. Please indicate in each case whether the alleged perpetrator was reassigned, suspended, or dismissed from public service pending the outcome of an investigation into the complaint.³⁷ Please provide updated information on the following cases in which torture and ill-treatment have been alleged:

(a) Eric Grigorian, who was reportedly brutally beaten by Lieutenant Colonel Armen Bareghamian in October 2010 after Bareghamian had already been accused of beating another soldier, Bagrat Yeghishian, in June 2010, and for which he was subsequently convicted;

(b) Gagik Ghazarian, who is alleged to have committed suicide as a response to police torture he experienced in May 2010;

(c) Sasha Davtyan and his daughters, who alleged that Sasha was severely beaten by approximately 10 officers over several days in May 2009 as part of an attempt to compel him to confess to assaulting and raping his daughter, whose rape he had reported to police in 2008. They also allege that Daytyan's two daughters were deprived of their liberty and subjected to violence and mistreatment by police in an attempt to force them to testify against their father;

(d) Shirak Shahnazarian, the former police chief of Gyumri, who was accused in 2009 of allegedly beating and illegally detaining a citizen who made a complaint in custody.

37. Please provide information on the steps taken by the State party to establish an external complaints commission empowered to examine cases of abuse by public officials and to make recommendations for disciplinary action to the competent authorities, and to ensure that this commission is appropriately funded, independent, and impartial.

³⁶ CRC/C/15/Add.225, para. 39.

³⁷ CAT/C/ARM/3, para. 140.

38. Please provide information on steps taken by the State party to ensure that the right to lodge complaints is fully effective, to protect prospective complainants and their family members from reprisals, and to ensure the confidentiality of correspondence with complaints mechanisms, including those for individuals deprived of their liberty. Please provide the number of requests for protection and complaints of intimidation or harassment received from witnesses and victims of torture and ill-treatment during the reporting period. Please indicate how many requests for protection were granted and how many complaints of intimidation or harassment were investigated, with what outcome.

Article 14

39. Please provide statistical data on redress measures, including compensation and the means for rehabilitation, ordered by the courts and actually provided to victims of torture or their families during the reporting period. Please indicate whether the right to compensation for victims of torture and ill-treatment depends on the existence of a judgment in criminal proceedings and what steps the State party is taking to ensure that victims of torture or ill-treatment obtain redress even in the absence of a judgment in criminal proceedings.

40. Please indicate whether the State party makes physical, psychological, and social rehabilitation services available to all victims of torture. Please provide data on all redress provided in the execution of judgments of the European Court of Human Rights regarding cases of torture.³⁸

Article 15

41. Despite the fact that the Criminal Code of the State party prohibits extorting evidence from a suspect, accused, defendant in court, victim, witness or other persons participating in criminal proceedings through violence,³⁹ the Committee understands that in 2007, the European Court of Human Rights found that a court had admitted evidence obtained through torture as proof of guilt in a case against Misha Harutyunyan. The judge in that case reportedly justified the admission of this evidence on the grounds that the police engaged in violent treatment of Harutyunyan “for the purpose of elucidating the truth”. Following the European Court of Human Rights judgment, the Committee understands that the Court of Cassation reversed the original judgment against Harutyunyan and ordered a retrial, following which Harutyunyan was again convicted and sentenced to ten years in prison. Please comment on this case and provide information on measures taken by the State party to ensure that judges do not admit evidence obtained through torture or ill-treatment in court proceedings. Please indicate in particular whether the burden of proof rests with the prosecution to prove that confessions have been provided voluntarily and whether Magistrates are permitted to order independent medical examinations of suspects *ex officio*.

Article 16

42. Please comment on information before the Committee suggesting that members of law enforcement agencies have been accused of harassing journalists and that the authorities in the State party have failed to take special measures to protect threatened or vulnerable journalists or to punish those who seek to intimidate them. Please provide information on steps taken by the State party to address such harassment and to protect persons engaged in such activities. Please also provide updated information on the investigations into the April 2009 attack on journalist David Jalalian, the April 2009

³⁸ CAT/C/ARM/3, paras. 214-215.

³⁹ *Ibid.*, paras. 152, 154 and 156.

attempted murder of editor Argishti Kivirian, and the May 2009 attack on news anchor Never Mnatsakanian.

43. Please indicate measures that have been taken to ensure the adoption of a law which explicitly prohibits corporal punishment in all settings, including the home and all forms of alternative care. Please indicate whether the State party is considering introducing legislative and other measures which specifically address the issue of violence against children. Please provide data, if any, on cases of abuse, including sexual abuse and neglect, and ill-treatment of children, which may have occurred in child institutions and families, as well as information on specific programmes of systematic control of mechanisms in place to avoid institutional impunity in cases of abuse and ill-treatment. Are there complaints mechanisms to which children could have recourse?⁴⁰

Other issues

44. Please inform the Committee if the State party is considering making the declaration under articles 21 and 22 of the Convention, recognizing the competence of the Committee to receive and consider communications?

⁴⁰ CRC/C/15/Add.225, para. 39.