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\* Please see attached a DVD disk.

\* [www.hahr.am](http://www.hahr.am)

## **INTRODUCTION**

The situation of Human Rights in the Republic of Armenia in the year of 2009 was mainly related to the developments of events followed by the presidential elections of 2008 and events of March 1 in political, economical, social and human rights fields.

Trials over oppositional activists continued in 2009 which were accompanied by rude violations of the right to fair trial. Though the authorities of Armenia declared amnesty on 19 June under pressure of international community and civil society and released many activist arrested and convicted with regard to events of March 1, however 13 persons remain in prisons. In the opinion of Helsinki Association they are political prisoners. PACE Resolutions 1643 and 1677 strictly criticized the Armenian authorities that they violated and restricted the political and civil rights of citizens by means of judicial system. In many cases the authorities directly ignored requirements of Resolutions of the Council of Europe. Particularly, PACE Resolution 1677 states that detention as preventive measurement shall not be applied towards those activists who voluntarily have seized themselves to law-enforcement bodies before the deadline (July 31, 2009) determined by the requirements of amnesty declared by the National Assembly of Armenia on 19 June 2009. This provision was only partially implemented by the authorities of Armenia. The authorities continue to convict persons with regard to the events of March 1 in accordance with testimonies of police officers, the trials continue with mass violations of the rights to equity of parties, presumption of innocence and fair trial. National and international renowned organizations referred to these issues in their reports and statements.

The year of 2009 was rich with new violations of the right to voting. During the elections of the City Council of Yerevan in May and Elections of the National Assembly on 10 January<sup>1</sup>, 2010 the authorities of Armenia widely used all administrative resources to apply mass pressure, attacks and physical abuses.

In 2009 the Armenian authorities initiated changes into the law on “Non-Governmental Organizations”. The Government granted the draft adopted on 23 September. According to the opinion of NGO representatives this draft law pursues the aim to control the activities of non-governmental organization.

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<sup>1</sup> Helsinki Association referred to the elections of the National Assembly of January 10, 2010 as numerous violations and abuses took place since the pre-election campaign (December 2009) in its annual report.

According to part 1 of Article 19 of the “Convention against Torture and Other Cruel, Inhuman or Ill-treatment and Punishment” the Republic of Armenia submitted its joint 3<sup>rd</sup> and 4<sup>th</sup> joint periodic report on measures implementation of the United Nations Convention against torture and other cruel, inhuman or degrading treatment or punishment. The report provides information on measures taken in the period extending from 2001 to 2009.

In 2009 trials of cases of late soldiers continued. It is rather difficult to obtain information about these cases, because the army in Armenia is a closed system. On 10 December 2009 Helsinki Association applied to the Ministry of Defense of the Republic of Armenia requestion the following information:

1. How many citizens of the Republic of Armenia joined the military service in the Republic of Armenia and the Republic of Nagorno Karabakh within January-December 2009?
2. How many death cases were drown up in the armies of the Republic of Armenia and the Republic of Nagorno Karabakh within January-December 2009, particularly how many cases of abuse, suicide, accidents and murder from the side of enemy were there?

Nevertheless, Helsinki Association did not receive any answer.

Armenia remains under observenace as a member state to the Council of Europe. During the session held in December the monitoring committee expressed its deep concern and demanded the Armenian authorities to propose amendments into the judical and police systems, criminal execution facilities, as well as to take measurs towards the elimination of such negative practices as the use of detention as a preventive measurement, ungrounded rejections of applications about holding rallies, mass manifestations of forbidden treatment towards arrested and detained persons in criminal execution facilities and police departments.

There are persons in Criminal Execution Facilities of Armenia who according to international standards Helsinki Association considers political prisoners<sup>1</sup>.

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<sup>1</sup> <http://www.amnesty.org/>

# **MARCH 1**

On February 19, 2008 presidential elections were held which were followed by protest demonstrations and rallies of opposition in the Liberty Square. On March 1, 2008 peaceful and armless protest actions were dispersed as a result of military and police actions, with the presence of well-known authorities and with the usage of special means. According to the official information 10 persons died, dozens of citizens received physical injuries of various degrees of seriousness, hundreds of people were arrested. More than a hundred people were imprisoned for different periods; most of them were released after the National Assembly declared amnesty on 19 June, 2009 which was the result of pressure from the side of international community. Dozens of people were prosecuted.

It has been 2 years since the tremendous events of March 1<sup>st</sup>; however death circumstances of died citizens remain unrevealed.

Within 2008-2009 the PACE adopted 4 resolutions regarding Armenia: 1609<sup>1</sup>, 1620<sup>2</sup>, 1643<sup>3</sup> and 1677<sup>4</sup>. The resolutions touched upon many issues; also they highly criticized the actions of the Armenian authorities which subjected the activists of opposition to political prosecution.

Upon the suggestion of Thomas Hammerberg, Council of Europe Commissioner for Human Rights on 23 October 2008 the President of Armenia signed an order to establish a Fact-finding Group examining the events of March 1, 2. The Fact-finding Group was dissolved on the reason that there were disagreements between the members of the Group. In 2009 the Group presented its, as well as reports of individual members.

According to the order of the President of Armenia as of 23 October 2008 the Fact-finding Group is composed of 5 members. The Group members were proposed from the political coalition (2 members), “Heritage” party (1 member) and from the political power of Levin Ter-Petrosyan (1 member), also 1 member is proposed from the Office of the Ombudsmen of Armenia. In May 2009 the Group was dissolved as three members were not attending the sessions (Vahe Stepanyan – representative from the Office of Ombudsman, Robert Avagyan and Gevorg Tovmasyan- coalition representatives). The two other members of the Fact-finding Group were Seda Safaryan (“Heritage” party representative) and Andranik Kocharyan (representative from the Armenian National Congress).

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<sup>1</sup> <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta08/ERES1609.htm>

<sup>2</sup> <http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta08/ERES1620.htm>

<sup>3</sup> <http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta09/ERES1643.htm>

<sup>4</sup> <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta09/ERES1677.htm>

The Fact-finding Group provided the results of examination of death circumstances of Hamlet Tadevosyan, officer of the tubes of the Police of Armenia to Helsinki Association<sup>1</sup>.

Examining the details of the criminal case and having interviews with investigators the experts of the Fact-finding Group, the investigation witnesses and medical employees revealed obvious inconsistencies in the materials of the criminal case.

*During the pre-investigation stage the Investigation staff violated the law, which together with other circumstances, lead to the disappearance of H. Tadevosyan's bulletproof jacket. The Fact-finding Group found out that H. Tadevosyan was the only victim whose clothes underwent double investigation. There was nothing written about the bulletproof jacket in the expertise records of K. Hovsepyan. It was obvious that the bulletproof jacket was very important to ascertain death circumstances of H. Tadevosyan.*

*There is also inconsistenete information about the parts which were and later were missing on the shoes of H. Tadevosyan.*

*Without any appropriate clarification, the expert A. Hovhannisyanyan concluded that the explosion took place near the legs of H. Tadevosyan. This conclusion of the expert can not be trustworthy as the expert came to that without being informed about the source of the explosion and without taking into account the fact that H. Tadevosyan wore a bulletproof jacket.*

*The Fact-finding Group considers that the huge haematoma in the rethroperitonal area was caused by the shock wave, which meant that the explosion took place near the genital organs of H. Tadevosyan. The expert admitted this fact at the Fact-finding Group, but did not mention it in the report.*

*Reports of forensic experts were neither well-grounded, nor answered the questions addressed by the investigators. This fact did let the investigation body to take into account the possible variants of H. Tadevosyan's death, including the explosion of a grenade which could be attached to him. All these violations seriously weaken the official variant of the investigation grounding it by the assumption that the explosion took place because of the grenade thrown from the side of the demonstrators.*

On December 2009 Artak Zeynalyan, as an assignee-relatives' representative, applied to the Office of Prosecutor General of Armenia and appealed the inaction of the Investigative Department on the ground that the Department did not carry out effective investigation to the circumstances of the victims of the events of March 1. He demanded the Prosecution to

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<sup>1</sup> [http://hahr.am/images/stories/cases/march1/TadevosyanEngTrans\\_May18.doc](http://hahr.am/images/stories/cases/march1/TadevosyanEngTrans_May18.doc)

recognize the fact of violence of the rights of the relatives to be free of torture and inhuman treatment, to explain the right to receive amends to assignees of the assignees of victims and to provide the assignees with reimbursement.

Relatives of death persons were recognized as assignees only 5 month later the events of March 2 took place, scenes of action were not examined; the pre-investigation body did not provide the assignees with the investigation materials which would enable them to protect their rights, file motions and claims. The assignee of police officer H. Tadevosyan did not participate in the appeal process.

The Prosecutor General of Armenia failed to examine the claim reasoning that the assignees of victims were not considered as parties of the legal process. However, all assignees were recognized as victim assignees under the decision of the Special Investigation Department and according to the order they authorized the persons filing claim to defend their rights at court and in other state departments.

According to Artak Zeynalyan the violation on the examination of the death circumstances of victims are as follows.

*As a result of examination of the death circumstances of a soldier of the Police of Armenia Tigran Abgaryan<sup>1</sup>, the real circumstances were not revealed. Nothing was clarified about persons who were present there. The bulletproof jacket of Tigran Abgaryan was not seized according to the criminal case. The pre-investigation body failed to investigate the circumstances on how the jacket was taken away from the hospital without letting the investigators know about it. It is incomprehensible why the investigator set the examination of a jacket on 17 March 2008, while it was seized on 8 March. Though the expert stated in the conclusion that there were 4 bullet holes on the jacket, however in his final conclusion he stated that only one shot took place, nevertheless the investigation group did not take any steps to clarify this circumstance.*

*The following violations were committed during the examination of death circumstances of Davit Petrosyan, Zakar Hovhannisyan, Grigor Gevorgyan, Hovhannes Hovhannisyan, Samvel Harutyunyan:*

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<sup>1</sup> The Report of the Fact-finding Group on the investigation of the death circumstances of T. Abgaryan is available on [http://www.hahr.am/index.php?option=com\\_content&task=view&id=173&Itemid=103](http://www.hahr.am/index.php?option=com_content&task=view&id=173&Itemid=103)

*The investigation body did not find out which police subdivisions were present at scene of action, “Makarov” type guns attached to the policemen of all police subdivisions were not examined and did not undergo ballistic examination which would enable the investigation body to find out which guns had the shots been made from and if Davit Petrosyan and Zakar Hovhannisyan were shot by those guns. With regard to Zakar Hovhannisyan the investigation body did not find out under which circumstances Z. Hovhannisyan received physical injuries, if he underwent beatings and only after that he was shot down. With regard to Davit Petrosyan the investigation body did not find out under which circumstances he received gunshot wound on his back. Gunshot wounds speak of the fact that the police officers used target guns against unarmed citizens at short distance. The pre-investigation body, violating the rights of victims’ assignees, does not let them familiarize themselves to the materials of the case.*

*With regard to the death circumstances of Tigran Khachatryan, Armen Farmanyanyan, Gor Kloyan died of special means “Cheryomukha- 7”, the investigation body did not carry out an expertise and did not find out what kind of injuries the person could receive from the usage of special means “Cheryomukha-7”. The investigation body did not even find out if the persons who used special means were informed about the usage order of them. The investigation body did not find out who of the commanders gave the illegal order to use “Cheryomukha-7” and why the officers executed illegal orders. Two persons died of “Chryomukha-7” received the injuries on the heads, one of them on his forehead, and the other on the neck, which spoke of the fact that the shots were made by the sharpshooter. The investigation body did not find out why and under which circumstances the shots by the sharpshooter had been made. After the report of the Fact-finding Group was issued the investigation body filed an accusation against persons who used special means blaming them of using special means heedlessly. Nevertheless, those persons were aware that they could not use special means “Cherymukha-7” towards the group of people.*

In 2009 December the “Haykakan Zhamanak” daily published a document containing the order N0038 issued by the ex-Defense Minister of Armenia Mikael Harutyunyan on 23 February, 2008. The order says:

*“In order to fulfill the obligations of the armed forces of the Republic of Armenia provided by the Constitution, I order the armed forces of Armenia to remain in appropriate state since 18:00 o’clock of 23 February until receiving a special command. To create group of officers in the*

*central department and in other separate departments of the Ministry of Defense of Armenia and to provide them with arms ... ”<sup>1</sup>.*

*“5. To the head of the department of Fundamental Construction of Ministry of Defense, according to the instructions of head of Yerevan division, to provide the arriving subdivisions with all necessary material means and normal conditions ”<sup>2</sup>*

When answering the questions of the Fact-finding Group studying the events of March 1, M. Harutyunyan concealed this order.

According to Article 8.2 of the Constitution of the Republic of Armenia the armed forces of the Republic of Armenia shall ensure security, defense and territorial integrity of the Republic of Armenia, as well as inviolability of its borders. The armed forces shall maintain neutrality in political matters and remain under civilian control.

The Ministry of Defense of RA clarified: “Within the periods before and after the presidential elections of 2008, internal political situation of the country, as well as the situation in Armenia and in border regions was rather tense. .... The basis for the order of the ex Defense Minister of Armenia was to bring the armed forces to a battle situation in order to prevent all possible dangerous and unwanted developments, to guarantee the security and inviolability of borders”<sup>3</sup>. According to experts it rather incomprehensible why the frontier troops were in Yerevan on the above-mentioned days in 2008.

On 24 December 2009 a criminal case was filed against Armen Sargsyan, ex head of the department of Fundamental Construction of Ministry of Defense according to part 1 of Article 38-306 of the Criminal Case of Armenia.

In response to the provisions of Resolution 1609 of PACE towards Armenia, the Temporary Committee for studying the events of March 1, 2 established by the decision of the National Assembly of Armenia on 16 June 2008, presented its report on 16 September 2009 /the head of the Commission is Samvel Nikoyan, vice Speaker of the National Assembly of Armenia/.

The Conclusion of the Report says:

*“The most disputable question which also has a great public concern is whose actions have led to death. The Commission did not answer these questions, as does not have any right to become*

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<sup>1</sup> “Haykakan Zhamanak” daily, 15 December, 2009, #235 {2424}, [www.hzh.am](http://www.hzh.am)

<sup>2</sup> “Haykakan Zhamanak” daily, 25 February, 2010, #33 {2456}, [www.hzh.am](http://www.hzh.am)

<sup>3</sup> “Hayots Ashxarh” daily, 17 December, 2009, #238/3038, [www.armworld.am](http://www.armworld.am)

*an investigation body and fulfill the obligations which are the obligations of the investigation body /provided by the Criminal Procedure Code of Armenia/”.*

With regard to the usage of special means “Cheryomukha-7” which led to deaths of 3 persons and injuries of 6 citizens, the report says:

“The condition under which the tear-gas bullets were used violating the security rules speaks of the fact that police officers also receive physical injuries of various degrees of seriousness as a result of the tear-gas”.

*“The usage of special means “Cheryomukh-7” maybe was necessary as the situation dictated it, nevertheless, these actions were not legal. The Commission condemns the actions of some police officers hoping that law-enforcement bodies will deal with them”.*

There were responses to the reports of Seda Safaryan and Andranik Kocharyan, the oppositional members of the Fact-finding Group studying events of March 1 about the death circumstances of soldiers Tigran Abgaryan and Hamlet Tadevosyan.

*“The Commission agrees with the observation of the Group upon the fact regarding the absence of bulletproof jacket of H. Tadevosyan for the examination process is the violation of criminal procedure norms. Nevertheless, the Commission considers that the omissions mentioned by the Group could not hinder to reveal the death circumstances”. In response to the objections filed by the Special Investigation Department towards the report of S. Safaryan and A. Kocharyan, the Commission came to the conclusion that the variant of reporters was not admissible”.*

Gurgen Arsenyan, member of the Commission, head of the United Work Party and Naira Zohrabyan, ex-member of the Commission, representative from “Prosperious Armenia” party stated that the actions of the police were not legal in some cases. Artsvik Minasyan and Artyush Shahbazyan, representatives of the Armenian Revolutionary Federation Dashnakcutyun expressed their special opinion on their disagreement according to which “police actions, on the whole, were legal and appropriate”.

According to Aram Karapetyan, head of “New Times” party the Commission represented only the viewpoint of authorities. Lots of questions are left without answers, death circumstances of 10 victims are not revealed, and no state or competent body answered who gave the order to shot on demonstrators.

The Raporteurs of the Parliamentary Assembly of Council of Europe John Prescott and George Columbie<sup>1</sup> evaluated the report issued by the Temporary Commission of the National Assembly of Armenia studying the events of March 1, 2 as thorough, but not as complete. The description of political events were rather “one-sided” and partial and there is a lack of analysis on developments of events following March 1, 2. The report does not touch upon and are not analyzed the events following March 1, 2, particularly regarding the arrests and criminal prosecution of oppositional activist. There is an impression that the Commission wanted to avoid to criticize the authorities.

There are no concrete results towards revealing the death circumstances of 10 persons. It is necessary to find those bullets which killed 5 persons on March 1, as well as it is necessary to find the arms which were used to kill those persons.

The Raporteurs advised to continue the works of the Temporary Commission of the National Assembly of Armenia by questioning people and control the fulfillment of advice mentioned in the report.

In 2009 the arrests of oppositional activists of the case of “March 1” continued, which are represented in the chapter “Fair Trial and Effective Remedies”.

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<sup>1</sup> [http://assembly.coe.int/ASP/NewsManager/EMB\\_NewsManagerView.asp?ID=5145](http://assembly.coe.int/ASP/NewsManager/EMB_NewsManagerView.asp?ID=5145)

## **HUMAN RIGHTS DEFENDERS**

The Law of the Republic of Armenia on “Non-governmental Organizations” adopted on December 04, 2001 regulates the legal relations arising while exercising the constitutional right of a person to form public associations in Republic of Armenia and pertains to the formation, activities, re-organization and dissolution of public organizations.

The legislation does not define any restrictions in establishing human rights defender non-governmental organizations, if their aims and goals do not contradict to the Constitution of the Republic of Armenia and legislation regulating this field.

The Law as well defines the issues of membership to non-governmental organizations.

For example Article 3 of the national law on “Non-Governmental Organizations” provides:

A person's right to form associations with other persons encompasses the right to freely set up an association, the right to become a member (participant) of an organization, and the right to freely withdraw from membership (participation) of an organization, regardless of nationality, race, sex, language, religion, political and other beliefs, social origin, welfare standards and citizenship. This right may be restricted, in cases and manner envisaged by law, for the servicemen of the military and law enforcement bodies.

Regarding the state registration of non-governmental organizations, so this issue is also regulated by the legislation of the Republic of Armenia, particularly by law on “Non-Governmental Organizations” and “State Duty”

The issues on free cooperation with other national and international organizations are also provided by the Law on “Non-Governmental Organizations”.

The state in general has disobedience attitude towards human rights defenders, however this attitude gets broken from time to time.

The vivid examples of the above mentioned can serve the cases of violence towards human rights defenders and journalists.

“Human Rights Watch” human rights defender organization addressed to this issue in its report issued in 2010.

“Attacks and prosecution against human rights defenders were added to the cases of violence on journalists and oppositional activists”. Human Rights Watch mentioned about three such cases in its report<sup>1</sup>.

The case of human rights defender of Helsinki Association Arshaluys Hakobyan can serve as one of the best examples of the attitude of disobedience.

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<sup>1</sup> <http://www.hrw.org/world-report-2010>

On June 05 2009 A. Hakobyan was arrested. He participated at the elections of the City Council of Yerevan held on May 30, 2009 as an observer. A. Hakobyan was charged of part 1 of Article 316 /Abuse against the representative of authorities/. On May 31 A. Hakobyan together with the observers' group of Helsinki Association visited polling station 8/23 in Malatia-Sebastia district. The head of the electoral commission and its members prohibited them to carry out their observation mission. The observers' group was taken away from the polling station. They warned the observers about possible physical punishment. A Hakobyan submitted a statement addressed to the chief of the Special Investigation Service with regard to the incident.

In the morning of June 05 they phoned A. Hakobyan and told him to have to come to the investigation department to give testimonies. A. Hakobyan refused to go and told them that he would be ready to give testimonies in case he received official summons. Later, two police officers came to his place, went to his bedroom, woke him up and gave him the summons of the Special Investigation Department. It did not contain the information about the person who called him, his status; number of the criminal case and its name, as well as it was not signed.

A. Hakobyan refused to sign such paper and stated that it was illegal. The police officers started to force him to sign the "summons". After long pressures A. Hakobyan signed the paper on the wrong place, as he did not have his contact lens on his eyes at that moment (A. Hakobyan has problems with eyes). The police officer got nervous and continued to exert pressure on him. A. Hakobyan demanded them to leave his apartment. Being angry on him, police officers called other policemen and took him to the police department. A Hakobyan underwent beatings and inhuman treatment at the police department of Kentron district.

In November 2008 "Haylur", program aired by the National Television of Armenia broadcast a video about the situation of Nubarashen Boarding School No11. The video was particularly about a teacher of that school Levon Avagyan and sexual harassment towards the children. However, the accusation is brought against Mariam Sukhudyán, the youth green movement activist of S.O.S Teghout.

According to the summons sent to her on August 15, 2009 M. Sukhudyán was informed that she was accused of part 1 of Article 135 of the Criminal Code of Armenia /Slander/. While she was informed at police department that the Article was changed to paragraph 3 of Article 2 of the Criminal Code of Armenia / False denunciation/.

M. Sukhudyán received summons from the Investigation Department of the Police of Erebuni district on October 20, 2009 and she again was charged of part 1 of Article 135 of the Criminal Code of Armenia /Slander/.

Another criminal case is connected with the chairman of “Helsinki Association” human rights defender NGO Mikael Danielyan. The case was concealed by investigative bodies, prosecution and courts.

On May 21 Tigran Urikhanyan, leader of non active political party attacked and shot at M. Danielyan using his gas pistol. M. Danielyan received slight physical injuries. Though there were lots of witnesses, the authorities had not launched criminal prosecution against T. Urikhanyan till 2009.

Two decisions were made with regards to the criminal case of M. Danielyan. These two decisions were illegal, however the investigation body, courts and the Prosecution General ignoring numerous illegalities of the criminal case, rejected the claims. The investigator terminated the criminal case against T. Urikhanyan on grounds that his actions were a self-defense. In fact, the investigation grounded the fact of intentional violence towards M. Danielyan, however qualifying his actions as a necessary self-defense; they evaluated his action as lawful.

On December 07, 2009 the Constitutional Court of the Republic of Armenia acknowledged part 1 of Article 290 of the Criminal Procedure Code of Armenia anti-constitutional. This is the Article which formed the basis of rejection of claims filed by M. Danielyan against illegal decision of the investigation body. According to the decision of the Constitutional Court of Armenia it declared part 1 of article 290 of the Criminal Procedure Code of Armenia as contradicting to the Constitution of the Republic of Armenia (Applying to a prosecutor).

1. In January 2009, the Chairman of Helsinki Association Mikael Danielyan received Freedom Defender Award Armenia 2008 by US State Department for distinguished performance as an advocate for the Human rights of All Armenians for many years, and especially during the tumultuous political events of 2008.
2. This year the US State Department honored the editor-in-chief Hetq.am mass media Edik Baghdasaryan with this award.

Murder cases of human rights defender activities had not been drawn up in Armenia.

In general, it can be stated that the authorities of Armenia did not intervene into the activities of non-governmental organizations. However, it's worth mentioning that some non-governmental human rights defender organizations carry out the instructions of state authorities.

Arman Danielyan, chairman of “Civil Society Institute” NGO, Avetik Ishkhanyan chairman of “Armenian Helsinki Committee” NGO, Vardan Harutyunyan chairman of “Law and Freedom

Center” NGO applied to A. Khanjyan, a temporarily acting of the chief of the investigation department of the RA Police with a letter:

“Dear Mr. Khanjyan

The citizen Arshaluys Hakobyan is charged of part 1 of Article 316 of the Criminal Code of Armenia. His preventive measurement was chosen as detention.

We are sure that A. Hakobyan, being in freedom, will not hide and will not hinder the investigation. We suggest you to change the preventive measurement of A. Hakobyan”.

It’s worth mentioning that if the new draft law on non-governmental organizations is approved, the quality of relations between state and non-governmental organizations will essentially be changed. New draft law provides control in the way of intervention in the activities of NGOs, which is unacceptable for the state striving for civil society.

According to paragraph 1 and 2 of point 1 of Article 15 of the Law on “Non-Governmental Organizations”:

1. For the implementation of its statutory goals, in the manner prescribed by the law, the organization has the right:
  - 1) To disseminate information about its activities;
  - 2) To organize and carry out peaceful meetings, rallies, marches and demonstrations without weapons.

Cases of State intervention in publishing and disseminating information by non-governmental organizations were not noted. However, there were cases when the publishing houses refused to print the posters about upcoming rallies. There were even cases when the publishing house returned back the money paid beforehand to print the posters and explained that that was an internal instructions of authorities not to print.

The Law on “Human Rights Defender of Armenia” was adopted on October 21, 2003.

According Article 83.1 of the Constitution of Armenia, the National Assembly of Armenia held elections on February 17, 2006 and Armen Harutyunyan was elected a human rights defender of the Republic of Armenia taking more than 3/5 of the total votes. He was elected for 6 years.

According to the Law on “Human Rights Defender of Armenia”:

The Defender shall consider the complaints of individuals (including citizens) regarding the violations of human rights and fundamental freedoms provided by the Constitution, laws and the international treaties of the Republic of Armenia, as well as by the principles and norms of International Law, caused by the state and local self-governing bodies and their officials.

However, the real picture is quite different.

The vivid example of a work-style of the human rights defender of Armenia is his activities carried out with regard to the criminal case of Arshaluys Hakobyan, human rights defender of Helsinki Association.

Chairman of Helsinki Association M. Danielyan applied to the human rights defender of Armenia claiming that A. Hakobyan underwent violence and expected his interference.

On October 20, 2009 M. Danielyan received a decision signed by A. Harutyunyan about termination of complaints consideration, which had the following content:

According to the letter No. 35/850 of H. Hunanyan, deputy of the chief of the Police of the Republic of Armenia, the Police of Armenia carried out an official investigation. According to investigation results facts of subjecting A. Hakobyan to violence had not been proved.

Based on the above mentioned human rights defender of Armenia decided to terminate the consideration of M. Danielyan's letter.

On the same day (20 October 2009) preventive measurement of A. Hakobyan as a detention was changed to a signature not to leave his place of residence. The case was sent to undergo new examination. Three days later human rights defender of Armenia held a press conference and announced the following:

“It's rather difficult to cooperate with law enforcement bodies and especially with Prosecution. But the ombudsman's non-public activity is more effective”.

His idea he based on the case of Arshaluys Hakobyan which was sent to prosecution for additional examination. Armen Harutyunyan believes that if mass media focused on his activities, then the prosecution would not do anything.

A. Harutyunyan himself defined the spectrum of his functions.

“We say that police officer beat a person, they call the police officer and ask him if he beat that person, he says no, and they write to us the following: We are sorry, but the violation of the rights of the mentioned person is not proved”.

It is also incomprehensible that attitude of the ombudsman of Armenia towards the issue of bring to liability state authorities.

“In case the state authorities obviously violate the right of a citizen, why does not the ombudsman exercise his right to apply to Court” Ombudsman of Armenia expressed the following opinion with regard to this: “We can apply to Court but I assure you that if the



Ombudsman sues any state authority, he will not win the case, that is why we try to find alternative ways to solve the problems<sup>1</sup>”.

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<sup>1</sup> <http://a1plus.am/am/politics/2009/10/23/armen-harutyunyan>

## **FREEDOM OF SPEECH AND MASS MEDIA**

On 20 October 2009 “Reporters Without Borders” international non-governmental organization presented its annual report on freedom of mass media/Worldwide Press Freedom Index 2009/ which included reporting period since September 1, 2008 to September 1, 2009. It is worth mentioning that in 2007 Armenia was the 77 one in the list of 169 countries, and in 2009 Armenia had the 102 place.

“Human Rights Watch” non-governmental organization also addressed the situation with mass media in Armenia in its report, particularly. *“Observers from Europe stated that the voting in general corresponded with the European standards, however they mentioned cases when proxies, local observers and journalists had been threatened and attacked”*.

Human Rights Watch stated: *“It has been 7 years since AI+ TV Station does not receive a license for broadcasting. However, it should be stated that the European Court of Human Rights announced a judgment in favour of independent TV Station”*.

*“Last year human rights defenders underwent attacks and prosecution, as well as the year was noted by violence towards journalists and opposition activists”*.

“Freedom House” organization conducted researches of the situation of mass media in Armenia. Armenia was in the list of semi-authoritarian countries in its annual report. Freedom House is regulated by a 7 point system in its evaluations, where 1 point stands for the best result, and 7 for the worst. Armenia received 5.39 points and according to Liza Mauts, editor of the report, Armenia was classified as a country with semi-authoritarian system.

Committee for Freedom of Speech issued its report for the year of 2009. In general, in 2009 there were fewer violations of rights of journalists and mass media, than it was in 2008. 18 cases of physical violence against journalists were drawn up in 2008, in the year of 2009 they were 11. 16 cases of pressure on mass media and mass media representatives were drawn up in 2008, in the year of 2009 the number was 14. Cases of violation of the right to obtain and disseminate information were reduced by 1 within this year. Last year the number was 14, this year the number of cases was 13.

The right to freedom of speech is enshrined in the Constitution of the Republic of Armenia. Article 27 of the Constitution provides: “Everyone shall have the right to freely express his/her opinion. No one shall be forced to recede or change his/her opinion. Everyone shall have the

right to freedom of expression including freedom to search for, receive and impart information and ideas by any means of information regardless of the state frontiers.

Freedom of mass media and other means of mass information shall be guaranteed.

The state shall guarantee the existence and activities of an independent and public radio and television service offering a variety of informational, cultural and entertaining programs”.

This field is also regulated by the RA law on “Mass Media” adopted on December 13, 2003. The content of the law corresponds to the international standards. However, it does not work in practice.

According to paragraph 3 of Article 4 of the Law on Mass Media, the following is forbidden:

1. censorship;
2. to compel the implementer of media activity or a journalist to disseminate or refrain from the dissemination of information;
3. interfering with the legitimate professional activities of a journalist.

Article 164 of the Criminal Code of the Republic of Armenia calls to liability those who interferes the professional activities of a journalist. Particularly, hindrance to the legal professional activities of a journalist, or forcing the journalist to disseminate information or not to disseminate information, is punished with a fine in the amount of 50-150 minimal salaries, or correctional labor for up to 1 year. The same actions committed by an official abusing one’s official position, is punished with correctional labor for up to 2 years, or imprisonment for the term of up to 3 years, by deprivation of the right to hold certain posts or practice certain activities for up to 3 years, or without that.

However, none of these norms do works in practice.

Within the year of 2009 a number of violence-cases against journalists were drawn up.

*On 16 January the photo journalist for “Aravot” and “Chorord Ishkanutyun” dailies Gagik Shamshyan was attacked by a police officer at the incident near the building of the Court of First Instance of Shengavit. G. Shamshyan fall down and hit his head on the ground. X-Ray expertise showed that G. Shamshyan had concussion of the brain. A criminal case was filed, which was later terminated on the ground of lack of "corpus delicti".*

*On 11 February an incident took place between journalists and court bailiffs at the Court of First Instance of Kentron and Nork Marash districts of Yerevan. During the trial of ex Prosecutor General Gagik Jhangiryan, judge Zhora Vardanyan instructed the bailiffs to suggest*

*the journalists to go out the court hall. A dispute was stirred up between journalists and bailiffs which turned to a scuffle; jacket of G. Shamshtyan was torn. A criminal case was filed, which was later terminated on the ground of lack of "corpus delicti".*

*On 13 March a dispute was stirred up between the security officers of Yerevan State Linguistic University (during the protest of students of the university) and G. Shamshtyan. According to G. Shamshtyan the security officers behaved themselves rather aggressively, and then they threw him on the ground and kicked him. G. Shamshtyan received serious injuries, as a result he had inner bleeding.*

*A criminal case was filed according to Article 164 /Impeding the professional activities of a journalist/ and Article 118 /Beatings/ of the Criminal Code of Armenia. On 14 July criminal proceedings against those who were guilty were terminated taking into account the amnesty declared by the National Assembly of the Republic of Armenia on June 19, 2009.*

*In the evening of April 8 on the Northern Avenue Davit Jalalyan, journalist of AI+ mass media was attacked during the protest action when he tried to have pictures of actions of demonstrators and police officers.*

*On 30 April Argishti Kiviryanyan, coordinator of information agency "Armenia Today" was hardly beaten at the entrance of his house. He was taken to hospital with numerous serious injuries. The attackers used bats and a gun, fortunately Kiviryanyan was lucky and did not receive a gun shot.*

*The police filed a criminal case according to Article 117 of the Criminal Code of Armenia /Infliction of willful light damage to health/. A week later the criminal case was transmitted to the National Security Service. According to the statement issued by the National Security Service the criminal case of A. Kiviryanyan was re-qualified to paragraph 7, part 2 of Article 34-104 /Attempt to assassination by a group of people/. The investigation is still pending.*

*In the evening of May 06 two unknown men beat the journalist of "Shant" TV Nver Mnatsakanyan and ran away. The journalist went to the hospital; a forensic-medical expertise was carried out. The results showed that the journalist had slight physical injuries. N. Mnatsakanyan was sure that the incident was directly connected with his professional activities. A criminal case was filed pursuant to point 3 of part 2 of Article 113 of the Criminal Code of Armenia /Infliction of willful medium-gravity damage to health - by a group of persons or by an organized group/.*

Journalists still undergo violence during the elections while carrying out their professional activities.

*On May 31, 2009 during the elections of the City Council of Yerevan Levon Sargsyan, member of Parliament (The Republican party) ordered his bodyguards to take away the journalists Tatev Mesropyan, Marine Kharatyan and Gohar Veziryan from the polling station 9/01. As a result of a conflict Gohar Veziryan underwent beatings. They took away the cell phone and voice recorder of Marine Kharatyan, the journalist of “Zhamanak” daily. The three journalists had to leave the polling station. According to the official variant of the police G. Veziryan attacked the bodyguards of L. Sargsyan at the moment of his voting process and violated the public order.*

*At polling station 8/05 staff member of “Haykakan Zhamanak” daily Arthur Hovakimyan underwent violence. He tried to record the bullet stuffing done by a group of young men. The young men took away camera and journalist’s license and demanded him to leave the polling station.*

*At polling station 8/05 Armine Avetyan, journalist for “168 Zham” daily, Lilit Tadevosyan, journalist for internet publication “Tert.am” and Sona Ayvazyan, observer of anti-corruption center “Transparency International” underwent violence when they tried to prevent the ballot stuffing by a group of people. As a result of a conflict A. Avetyan received slight physical injuries. They pushed L. Tadevosyan away and prohibited her to take pictures.*

*In front of the polling station 13/09 a group of young men hindered the journalists of “Liberty” radio station and “A1+” internet web site, the head of the electoral committee threatened them.*

*At polling station 7/25 one of the young men attacked Nellie Grigoryan, journalist of “Aravot” daily when she tried to shoot how those men threatened the proxy of opposition. Noticing that the journalist was shooting him, he attacked her. Then he took away her camera and ran away. When N. Grigoryan stated that her activities had been hindered and it was a criminal act, later a group of young men returned back her camera, but the memory card was missing.*

On 1 June the General Prosecution office of Armenia issued a message which said that a criminal case was filed with regard to violence towards the journalists and observers during the elections. However, no one was brought to liability.

According to facts of Committee for Freedom of Speech the year of 2009 was full of cases of violence towards mass media and journalists. The vivid examples are the numbers of trials on activities of journalists and mass media.

On 19 February the Cassation Court of Armenia rejected the claim of “Melteks” LLC, founder of “A1+” TV Station. On February 27, 2004 the Cassation Court of Armenia left the judgment of the Economic Court of Armenia as of January 21, 2004 unchanged. The Court rejected the claim of “Melteks” LLC against the National Committee of the Television and Radio on providing broadcasting license for 63 deci-metrical frequency. On April 23, 2004 the Cassation Court of Armenia left into effect the judgment of the Economic Court as of March 23, 2004. According to this judgment the claim of “Melteks” LLC against the National Committee for Television and Radio was rejected.

“Melteks” LLC submitted a claim to the Cassation Court which was based on new conditions, that is the decision of the European Court of Human Rights (June 17, 2008) against the Republic of Armenia, according to which the Republic of Armenia violated Article 10 of the European Convention by not providing broadcasting license to “Melteks” LLC.

The Cassation Court made a decision that judgments of “A1+” were announced in accordance with operation legislation of the year 2004 and were not a subject for review.

“Melteks” LLC applied to the Cassation Court of Armenia demanding the Court to recognize part 1 of Article 204/28 of the Civil Trial Code of Armenia, as the Cassation Court used this provision to make its decision.

On February 23, 2010 the Constitutional Court of Armenia ruling by Article 102 of the Constitution of the Republic of Armenia and Articles 19, 32 and 60 of the Law of Armenia on the “Constitutional Court” decided:

1. According to the claims of “Melteks” LLC and citizens S. Fldjyan, I. Oganezova, and A. Baghdasaryan, according to part 1 of Article 204/28 of Civil Trial Code of Armenia to terminate the proceedings on the correspondence of the above mentioned Article with the Constitution of Armenia taking into account. Accepting Part 1 of Article 204/28 of the Civil Trial Code as grounds, the Cassation Court refused to fulfill the demand of the European Court's verdict favoring "A1+" in June 2008.

2. According to part 1 of Article 102 of the Constitution of Armenia, that is the decisions and conclusions of the Constitutional Court shall be final and shall come into force following the publication thereof.

*On February 21, 2009 Hrach Hakobyan, responsible for the publication of “Haykakan Zhamanak” daily was arrested on the Street May 9. He was taken to the Military Police where they tried to find out his relation with a person who was wanted. H. Hakobyan was kept in the Military Police for 9 hours. They took away his personal things, including keys and a cell phone.*

*On 25 February during the incident near the police department of Nor Nork district, Tigran Muradyan, the head of criminal investigation department attacked Gagik Shamshyan, photo journalist of “Aravot” and “Chorrord Ishkhanutyun” dailies blustering out threats that he would break his photo camera. The journalist tried to take pictures of oppositional figure Lyova Eghiazaryan when he had been taking to the police department. The police officers told the group of human rights defender of Armenia, MPs Zaruhie Postanjyan and Armen Martirosyan that they did not bring such person to the police department. When G. Shamshyan showed the pictures taken by him, head of the criminal investigation department T. Muradyan attacked him.*

On March 24, 2009 the trial over photo journalist G. Shamshyan started at the Court of First Instance of Kentron and Nork Marash districts. He is charged of Article 343 of the Criminal Code of Armenia /Contemptuous treatment of court/.

On 05 August during the trial of "Republic" party's political council member Smbat Ayvazyan judge Gagik Avetisyan ordered the bailiffs to take the journalist out of the court hall and he was closed in the basement of the same building. Later, he was taken to the Police department of Kentron where was kept for 2 hours. On 17 April the Court of First Instance of Kentron and Nork Marash districts acknowledged photo journalist G. Shamshyan guilty and sentenced him to a pay a 350,000 dram fine.

On June 19, 2009 the National Assembly of Armenia declared amnesty and the Criminal Appellate Court of Armenia applied amnesty on him. G. Shamshyan decided to take the case to the European Court of Human Rights.

On March 31, 2008 the trial over Gohar Veziryan, journalist of “Chorrord Ishkhanutyun” daily started at Court of First Instance of Kentron and Nork Marash districts. She was charged with Article 343 of the Criminal Code of Armenia (Contemptuous treatment of court). On May 14, 2009 the Court acknowledged G. Veziryan guilty of Article 343 of the Criminal Code of

Armenia and sentenced her to pay a 350,000 dram fine. As a result of amnesty declared by the National Assembly of Armenia the Criminal Appellate Court of Armenia applied amnesty on her.

On April 23, 2009 the Court of First Instance of Kentron and Nork Marash districts started the examination of the claim filed by Levin Kocharyan (son of the second president of Armenia Robert Kocharyan) against “Haykakan Zhamanak” daily. The reason for the claim was the article published in “Haykakan Zhamanak” daily on 6 February, 2009. The article spoke about the arrest of L. Kocharyan in Dubai at the end of 2008. The plaintiff demanded the daily to disprove the information degrading honour and dignity of L. Kocharyan and reimburse moral damage for 16 million and 120 thousands Armenian drams.

On 05 June the Court announced the verdict according to which the claim was granted partially: “Haykakan Zhamanak” daily is obliged to publish a disproof, to pay 3 millions and 620 thousands drams and reimburse 72 thousands drams for court costs. The founder of the daily appealed to the Appellate Court of Armenia. According to the decision of 2 October the appellate claim of “Haykakan Zhamanak” daily was granted partially, the sum of the fine was reduced by 620 thousands drams. The founder of the daily applied to the Cassation Court of Armenia.

Nikol Pashinyan, editor-in-chief of “Haykakan Zhamanak” had been wanted since March 2, 2008. On July 1, 2009 N. Pashinyan voluntarily came and seized to law enforcement bodies. He was charged with Article 225 /Organization of Mass Disorder/ and Article 316 of the Criminal Code of Armenia. Preventive measurement of N. Pashinyan was chosen as detention. The Court did not change his preventive measurement even after he was nominated as a candidate for by-elections of the National Assembly of Armenia. In January 2010 N. Pashinyan was acknowledged guilty according to Article 225 of the Criminal Code of Armenia /Organization of Mass Disorder/ and convicted him to 7 years of imprisonment.

*On 10 December an incident took place between the MP of the Republican Party Gagik Melikyan and journalist of “Hayq” daily Arman Galoyan. The MP got angry by the article published in the newspaper on 03 December. G. Melikyan invited the journalist to his office where he attacked the journalist using bad language. He even warned the journalist of physical punishment.*

Before all rallies held by the oppositional power - the Armenian National Congress the policemen used to close all roads from regions taking to the capital.

*On 1 June G. Shamsghyan was violently taken into the car on the freeway of Ashtarak-Yerevan. He was not allowed to take pictures of how the police officers prohibited people and cars to come to the capital in order to take part in the rally. After the arrival of the group of the human rights defender of Armenia the police officers set the journalist free, however they did not let him take pictures.*

On 4 July the Writers' Union of Armenia held a session. The chairman of the Writers' Union of Armenia Levon Ananyan required license for representatives of mass media. Such kind of practice was not carried out before. According to the opinion of the journalists who did not have licenses, that process was implemented in order to hinder the access of those journalists to the building, who used to criticize the situation of the Writer's Union of Armenia.

On 9 July the Administrative Court of Gyumri started the examination of the claim filed by the chairman of "Asparez" journalist club Levon Barseghyan against the staff of the President of Armenia. The plaintiff demanded the Court to oblige the staff of the President to provide him with the copy of a document signed by the ex President Robert Kocharyan; this document answered the letter of John Danilovitch, chief director of "Millennium Challenges" corporation (March 2008).

During the trial of 9 July no one representing the staff of the President was present there. Head of the staff of the President Karen Karapetyan explained his refusal to provide the information claiming that the letter of R. Kocharyan addressed to J. Danilovitch was not considered as information and asked the Court to examine the case without him. The judgment of the Administrative Court of Gyumri rejected the claim of L. Barseghyan on 9 October. "Asparez" journalist club will apply to the European Court of Human Rights.

On November 28, 2009 the session of the Republican Party of Armenia took place. The journalist who should cover the session had been strictly selected. None of the journalists from "Chorrord Ishkhanutyun", "Haykakan Zhamanak", "Hayq", "Hraparak", "Taregir" dailies was included in the list of invited journalists.

On 06 July the draft law on making amendments to the Law on Mass Media provides norms restricting the rights and responsibilities of journalists.

According to the opinion of the experts the draft law provides ungrounded restrictions. In case the draft approved, the restrictions can be the tool for secret censorship. Armen Harutyunyan, human rights defender of Armenia wrote a letter to the Speaker of Hovik Abrahamyan. A Harutyunyan expressed an opinion that the draft law provided provisions which contradicted to Article 10 of the Convention on Human Rights and Fundamental Freedoms and case law of the European Court of Human Rights.

Despite the fact the Government of the Republic of Armenia gave a negative conclusion on 30 July, the document was included in the agenda of the National Assembly.

On 21 August the National Assembly of Armenia approved new order for licensing the journalists. According to the opinion of independent experts, the new order can be used against the representatives of mass media. Particularly, Article 6 of the Law of Armenia on Mass Media provides only one case which can deprive the journalist from getting a license, that is: “The license for the journalist can be terminated by the application submitted by the body carrying out journalist activities”.

According to the order adopted by the National Assembly of Armenia the journalist is deprived of the license if “he/she disseminates information about the activities of the National Assembly and its staff, which did not correspond to reality, which is approved by the court judgment”.

The new order of licensing contains ungrounded restrictions which can be used in order to exert pressure against the representatives mass media.

Nowadays Armenia holds a position to subject oppositional mass media to criminal proceedings.

*On November 10, 2009 “Chorrord Ishkhanutyun” daily did not issue its periodical volume, instead a daily called “Chhorrord Inknishkhanutyun” appeared on press stands. Gagik Khandanyan, the judge of the first Instance of Kentron and Nork Marash districts made a decision to terminate daily’s publication taking into account the claim of “Gind” publishing house against “Chorrord Ishkhanutyun” daily. Granting the motion of the plaintiff the Court prohibited the publication of “Chorrord Ishkhanutyun” daily in any other publishing house.*

The authorities of Armenia took advantage of the Court's decision and did not let journalist of "Chorrord Ishkhanutyun" Taguhie Tovmasyan enter the building of the National Assembly of Armenia with her license and on 16 November she was prohibited to enter the court hall.

Today there are 45 TV Stations throughout Armenia, 15 of them are in Yerevan. None of the mentioned TV stations support the opposition of Armenia. They try to hold themselves back from covering any activities of the opposition.

On January 10, 2010, during by-elections of the National Assembly of Armenia none of mass media officially announced the prices for paid broadcasting. The reason for such behavior is the candidacy of oppositional activist Nikol Pashinyan.

On September 10, 2008 the National Assembly of Armenia made amendments to the law on "Television and Radio", and the competition for broadcasting licenses was terminated in Armenia till July 20, 2010. The Government of Armenia based this decision on the implementation of digital broadcasting process. After that change, a number of TV and radio stations continue their activities by prolonging their licenses (without any competition for obtaining broadcasting license). Whereas A1+ TV Station was deprived of broadcasting after hours of losing the license.

On 22 October Armenia held assembly discussions with Alek Thomas, EU expert on "Process of digital broadcasting and consequences of the implementation in Armenia".

They announced that there were unused frequencies and suggested to carry out necessary checking. It was clear that the claims of competent authorities on the fact that competitions could not be held because of lack of free frequencies did not correspond to reality.

The argument of the authorities that it was impossible to hold a new competition disappeared. It's worth mentioning that A1+ can also participate in that competition.

## **ELECTIONS**

In the year of 2009 Armenia held presidential elections; these elections like the previous ones were noted by numerous election frauds and violations.

On 31 May, 2009 the elections for the City Council of Yerevan were held. The elections were officially observed by 29 local NGOs and one international organization- the Congress of Local and Regional Authorities of the Council of Europe.

Nearly all local NGOs which held mentoring observation mission revealed significant violations which were able to have an effect on the election results. PACE in its Resolution 1677 states that according to the Congress of Local and Regional Authorities of the Council of Europe numerous allegations that fraud and violations were widespread during these elections. These demonstrate that public trust in the electoral process is still very low in Armenia<sup>1</sup>.

The elections for the City Council of Yerevan were impeded since the pre-election campaign stage.

Article 139 of the Election Code of Armenia determines responsibility in case the pre-election campaign is impeded.

*On 11 May 2009 women distributing leaflets about the planned pre-election meeting of the oppositional party Armenian National Congress were beaten in Avan district, Yerevan. They were followed and were attacked. Stones were thrown on them. The three women were taken to hospital with many physical injuries<sup>2</sup>. A criminal case was filed regarding this incident; however it was terminated under lack of corpus delicti. Whereas, observers of Helsinki Association presented a video recording proofing the fact of beatings, as well as photographs of those people who beat the women. All these formed the basis of the criminal case.*

Six parties and one party coalition took part in the elections of the City Council of Yerevan.

According to the official results announced by the Central Electoral Committee of the Republic of Armenia, the votes between 7 parties were distributed as follows:

The Republican Party of Armenia – 186 630 votes

Prosperous Armenia Party – 89131 votes

Armenian National Congress – 69140 votes

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<sup>1</sup> <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta09/ERES1677.htm>

<sup>2</sup> [http://www.hahr.am/index.php?option=com\\_content&task=view&id=132&Itemid=55&lang=am](http://www.hahr.am/index.php?option=com_content&task=view&id=132&Itemid=55&lang=am)

Orinats Yerkir Party – 20106

Armenian Revolutionary Federation Dashnakcutyun- 18094 votes

National Party – 8479 votes

Labour Socialist Party of Armenia – 1936 votes

According to the Election Code of Armenia the candidate is considered to be elected if he/she receives the votes of more than 50% of voters. If none of the candidates receives more than 50% of votes, so the second round of elections is held on the 14<sup>th</sup> day of voting. Two candidates who received the most votes participate in the second round.

Tigran Karapetyan, leader of the National Party stated about the rig of elections. The Armenian National Congress which took the 3<sup>rd</sup> place claimed about widespread election frauds. Also, the candidate representing the Armenian National Congress was the only candidate who applied to the Administrative Court of Armenia in order to nullify the results of elections. However, the Administrative Court of Armenia refused to accept the application submitted by the Armenian National Congress reasoning that Davit Harutyunyan, head of the Marxist Party, member of the coalition “Armenian National Congress” denied of his signature.

The Election Code of Armenia provides that the elections shall be held according to the international standards; that is they shall be free and fair. However, the elections in Armenia continue to be held along with numerous election frauds and abuses.

Article 139 of the election Code of Armenia the following shall be prosecuted in accordance with procedures defined by the law:

1. registering in voter lists in more than one electoral precinct, voting more than once, voting for another person;
2. violating the procedures and the timeframe for compiling voter lists;
3. distorting the voting results;
4. hiding the ballots, putting additional ballots in the ballot box;
5. distorting the election results intentionally;
6. forging the ballots and electoral commission stamps;
7. forging the protocols on voting and election results;
8. entering the precinct center with weapons while not carrying out official duties;
9. taking military servicemen to vote in a marching line or with weapons, or forcing them to go to vote;
10. intentionally hindering the normal work of electoral commissions on the voting day;

11. campaigning on the voting day and the day before;
12. hindering the free expression of voters' will;
13. violence or insults against electoral commission members, observers, proxies, representatives of mass media and member of initiative groups;
14. hindering election-related functions;
15. stealing the ballot box;
16. hindering the normal course of elections by electoral commission members or civil servants and employees of local self-government bodies;
17. coercing the expression of voters' free will;
18. violating the ballot secrecy;
19. publishing sociological survey results about candidates' ratings within seven days the voting day;
20. tearing off or marking election posters posted in specially designated areas;
21. disseminating false and libelous information about candidates or parties;
22. deceiving a person who is unable to vote on his/her own;
23. campaigning and disseminating any campaign materials by persons and organizations, which have no right to conduct pre-election campaign.
24. hindering the normal course of pre-election campaign;
25. disseminating anonymous printed campaign materials;
26. failing to submit declarations on the use of resources in candidates' and parties' pre-election fund in accordance with the established procedures;
27. failing to return electoral commission stamps;
28. state media's failing to provide equal conditions for all candidates;
29. commission chairmen creating obstacles for proxies, observers and representatives of the media who want to see sample ballots and electoral commission decisions, refusing to provide them with a copy of commission decisions or not allowing them to take excerpts from the decisions;
30. failing to fill out the electoral commission's register or registering it improperly.

During the elections of the City Council of Armenia of May 31 all types of election frauds took place. There were lots of cases to hinder the voting process; lots of trials took place, cases of violence and abuse towards proxies and observers, ballots stuffing, finding ballots of one polling station in another one.

*On May 31 since 07:30 "Gazel" cars from Aparan city were at the address of 1 Baghramyan*

*blind-alley, building 14. Since 08:15 unknown people were coming there and taking away the cars. According to the drivers talks they came to take people to different constituencies.*

*On the street Arshakunyats near supermarket SAS there were “Gazel” cars which should take the staff of the supermarket and people mentioned in their lists to different constituencies of Yerevan. Each of the staff members should present at least names of 40 voters. According to Alita Sargsyan, proxy from the Armenian National Congress to polling station 7/5, people had been taken there by cars, pressure had been exerted on her, as a result she was not able to perform her functions.*

*The observer from “Paros” association at polling station 1/1 of Avan district instructed old voters where to put the mark, particularly at which number the voter should put the mark.*

*At polling station 3/23 of Zeytun district one person signed for 2 ones, but received only one ballot. The Commission did not take any steps with regard to this fact.*

*At polling station 13/09 of Erebuni district the tables were placed the way which made it rather difficult to control the process of passport checking. Observer representing Helsinki Association told them to replace the tables, in response to him the head of the Commission answered the following: “Even if the tables are replaced, I won’t let any of the proxies to stand and control the process”. The secret voting was not guaranteed. The observers witnessed a case when one voter had 2 ballots in his hand. The work of journalists and observers were hindered. The observer from Helsinki Association A. Veziryan was told the following: “We will break your camera into pieces, you may not return home today, we will throw you down the wall”.*

*At polling station 13/25 of Erebuni district the work of journalists and observers were hindered, the head of the Commission did not let them make video recordings. The observer of Helsinki Association witnessed the case when they tried to make the ballots given for the Armenian National Congress invalid, in another case they tried to make the invalid ballot be valid in favor of the candidate from the Armenian Republican Party.*

*At polling station 10/20 Alexander Sargsyan, brother of the president Serzh Sargsyan performed an open voting and in response to voters he answered using bad language.*

*At polling station 10/32 the voting mechanism known as “Karusel” took place.*

*At polling station 8/3 Irina Hovhannisyan, journalist representing “Liberty” radio station was*

*hindered to perform her journalist activities. The head of the Commission Marat Apyan told her the following: “Do not put your nose into this, you are a young lady, go and get married”.*

*At constituency 13/39 the operator representing ALM TV Station was hindered to perform his functions. He was taken away from the polling station.*

*At polling station 8/23 of Malatia-Sebastia district the head of the Commission Samvel Khanyan hindered the chairman of Helsinki Association Mikael Danielyan and other observers to enter the constituency saying the following: “It’s our own sector, we know who casts his vote for whom. Don’t disturb us”. Another person came up to M. Danielyan and told him: “Leave the place like men in order to have problems”. Before the voting process started the ballots had already been cut off.*

The observers very often submit applications to competent bodies regarding the election frauds they observed, which, however, are not proceeded. Moreover, instead of bringing to liability those how are guilty, the applicants are usually called to account themselves.

*Arshaluys Hakobyan, photo journalist of the web page of Helsinki Association together with other observers visited the polling station 8/23 of Malatia-Sebastia on 31 May. The members of the electoral commission and its head hindered them to perform their observation mission. The observers’ group was taken away from the polling station and closed the door. Later, they were warned about the possible physical punishment. With regard to this A. Hakobyan submitted a statement addressed to the head of the Special Investigation Department of the General Prosecutor’s Office of Armenia.*

*In the morning of June 05 they phoned A. Hakobyan and told him to come to give testimonies. A. Hakobyan refused to go and told them that he would be ready to give testimonies in case he received official summons. Later, two police officers came to his place, went to his bedroom, woke him up and gave him the summons of the Special Investigation Department. It did not contain the information about the person who called him, his status, number of the criminal case and its name, as well as it was not signed.*

*A. Hakobyan refused to sign such paper and stated that it was illegal. The police officers started to force him to sign the “summons”. After long pressures A. Hakobyan signed the paper on the wrong place, as he did not have his contact lens on his eyes at that moment (A. Hakobyan has problems with eyes). The police officer got nervous and continued to exert pressure on him. A. Hakobyan demanded them to leave his apartment. Being angry on him, police officers called*

*other policemen and took him to the police department. A Hakobyan underwent beatings and inhuman treatment at the police department of Kentron district. Then he was taken to the Investigation department of Kentron districts having handcuffs on his hands. He was charged of part 1 of Article 316 of the Criminal Code of Armenia<sup>1</sup>.*

In its annual report Helsinki Association touched upon the by-elections for the Member of Parliament held on 10 January, 2010, as there have been numerous cases of violations and abuses since the pre-election period (December 2009).

On 10 January 2010 by elections for the Member of Parliament were held at constituency N10 of Yerevan. The by-elections were held because the Member of Parliament, businessman Khachatur Sukiasyan sent in his resignation. He was also being prosecuted for the events of March 1. 3 candidates were nominated at constituency N10. Among the candidates was Nikol Pashinyan, editor-in-chief of “Haykakan Zhamanak” daily. He was charged of part 1 of Article 225 of the Criminal Code of Armenia (*Organization of mass disorder*) and part 1 of Article 316 of the CCA (*Abuse against the representative of authorities*)<sup>2</sup>.

By elections for the Member of Parliament which should be held at constituency N10 of Yerevan on 10 January 2010 were noted by numerous rude violations of the Electoral Code of Armenia. According to Article 118 of the Electoral Code of Armenia National Assembly by-elections under majoritarian system shall be held in accordance with procedures set for regular elections within 80 days of the mandate becoming vacant.

MP from that district sent in his resignation on 8 September and did not take back his resignation on 1 October and according to Article 13 of the law on “Regulations of the National Assembly” the Speaker of the National Assembly should draw up the protocol and send it to the Electoral Commission of Armenia within 5 days, that is on 6 October. As the moment of mandate becoming vacant is recorded by the protocol on dismissing the MP liabilities. The deadline to submit such protocol was 6 October.

In this case the elections should be held on 25 December 2009. However, by-election was held on 10 January 2010.

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<sup>1</sup> Chapter “Right to Fair Trial and Effective Remedies”

<sup>2</sup> Chapter “Right to Fair Trial and Effective Remedies”

Violation of the article of the Electoral Code regarding the voting day, also led to the hindrance of pre-election campaign process. The Election Day was appointed on 10 January 2010 and factually they violated to right to disseminate information as the period from December 31 to January 10 was officially declared as holiday. Within this period newspapers and internet pages mainly did not work. Oppositional candidate N. Pashinyan was carrying out his pre-election campaign by means of the above-mentioned mass media.

Young activists from the pre-election headquarter of N. Pashinyan underwent abuses while they were engaged in pre-election campaign. Article 21 of the Electoral Code of Armenia was violated which clearly states about the procedures for the use of campaign posters and other materials, according to which parties and candidates shall have the equal right to freely publish and disseminate posters, leaflets and other printed campaign materials.

*On 27 December 2009 young activists representing the pre-election headquarter of N. Pashinyan Vahagn Gevorgyan, Sergey Gasparyan, Tevos Matevosyan, Sahak Muradyan and Sargis Gevorgyan underwent beating while they were disseminating leaflets to the population according to the order provided by law. A group of 20-30 people harshly beat the young men by iron bars and knuckleduster causing physical injuries and used bad language towards girls participating in the campaign. The attackers ran away only after the head of the pre-election headquarter Davit Matevosyan phoned the police. Beaten young men were taken to hospital with having many injuries on their faces and heads<sup>1</sup>.*

*According to witnesses the young men were beaten by the “guys of the district”, Davit Simonyan, one of the deputies of the head of the community was among them. They supported the candidate for by-elections of the National Assembly Ara Simonyan.*

The elections were officially observed by 10 local organizations. Nearly all observation missions of non-governmental organizations mentioned about lots of cases of election frauds and abuses towards observers, proxies and journalists.

According to the official date of the Central Electoral Commission the total number of voters participated in by-elections of the National Assembly at constituency N10 formed 24, 29 percent. This number speaks of the fact that the society has open ignorance and distrust towards the election processes.

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<sup>1</sup> See pictures at [http://www.hahr.am/index.php?option=com\\_content&task=view&id=201&Itemid=55](http://www.hahr.am/index.php?option=com_content&task=view&id=201&Itemid=55)

The votes between the candidates were distributed as follows:

Ara Simonyan – 6850 votes

Nikol Pashinyan – 4650 votes

Davit Hakobyan – 288 votes

Election frauds mechanism known as “Karusel” took place at constituency N10 during the election.

*At polling station 10/19 the member of the Commission signed for people who had not voted yet. Proxy of Davit Hakobyan Vladimir Karapetyan warned them and demanded to draw up a protocol, however another observer Vahagn Gevorgyan, journalist of “Haykakan Zhamanak” daily Hayk Gevorgyan and V. Karapetyan were thrown away from the polling station and the beatings continued outside. After that the polling station closed despite the fact that it was only 17:00. An hour and a half later the deputy of the chairman of the Central Electoral Commission A. Bakhchagulyan arrived at polling station and 10 minutes later the doors of polling station opened.*

*People were crowded there, also there were names of died people in the voters’ lists.*

*The observer from “Youth for Democracy” NGO witnessed an election fraud and demanded that the protocol should be drawn up. In response to that a member of the electoral commission beat him behind the eyes of A. Bakhchagulyan, and the head of the commission demanded him to leave polling station. However, they failed to take the observer out of the polling station.*

*During the counting of votes at that polling station, there were signatures which were the same and the head of the commission neglected that fact, and the process went on.*

*At polling station 10/19 the elections were declared invalid by the Central Electoral Commission.*

*The elections were declared invalid at polling station 10/15 as well. The observers witnessed cases when there were proxies without having even the necessary documents.*

*The observers witnessed cases when the proxy of the candidate Ara Simonyan brought in a group of pensioners with him for voting. Members of the commission very often help people to make their choice.*

*At polling stations 10/16, 10/17, 10/20 several proxies of the candidate A. Simonyan were present there at the same time. The observer told the head of the Commission that according to law more than one proxy was not allowed to be present at the same polling station.*

*A policeman stood in front of the polling station 10/31 and instructed the electors to vote for the candidate under the 2<sup>nd</sup> number- A. Simonyan. The proxies of the oppositional candidate N. Pashinyan were exerted pressure at all polling stations.*

*At polling station 10/12 the deputy head of the commission hindered the observer representing Helsinki Association to carry out his activities. As a result of interference, the conflict was smoothed over, but the observer was taken away from the polling station.*

*During the counting of votes the observers witnessed lots of violations, particularly 2 ballots had been found in one envelope, which should be declared as invalid ones according to law. However the ballots were declared valid, as they had been cast for the candidate A. Simonyan.*

*After a long dispute, a recounting took place. As a result two ballots were declared invalid and several valid ballots cast for N. Pashinyan were found out among the invalid ones. The invalid ballot cast for A. Simonyan was declared as valid. The head of the commission told the following: “The ballots for N. Pashinyan will be declared as invalid”<sup>1</sup>.*

During these elections the observers and journalists were forbidden to carry out their activities. Even if they have all necessary certificates, they were demanded to present their passports.

In addition to all widespread election frauds, these elections were mainly noted by the interference of so-called local authorities. They threatened, attacked the proxies and journalists, as well as subjected them to abuses.

*At polling station 10/19 the proxy of A. Simonyan attacked Gagik Shamshtyan, the photo journalist for “Chorrord Ishkhanutyun” and “Aravot” dailies demanding him to stop taking pictures. Then he attacked Anush Martirosyan, the journalist for the “Liberty” radio station trying to take her recording device. The head of commission and police officers did not respond to this incident. The journalists were taken away from the polling station.*

The Electoral Code of the Republic of Armenia defines the status of law-enforcement bodies. According to Article 45 of the Electoral Code of RA “The national and regional bodies of the

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<sup>1</sup> Information was provided by the observers of Helsinki Association.

Republic of Armenia Police, their services and divisions shall make sure that elections proceed in a natural fashion and that electoral commissions' work is unimpeded; at the commissions' request, they shall support the commissions' work is unimpeded; at the commissions' request, they shall support the commission in order to establish due order during election-related events, as well as to provide security during transportation of electoral documents from Central Electoral Commission to Territorial Electoral Commissions.

Upon discovering any violations of the Electoral Code, the member (members) of the electoral commission shall be required to report them to the competent authorities within five days”.

*Suren Martirosyan, proxy of N. Pashinyan at polling station 10/09 informed M. Makeyan, head of the “Democratic Homeland” party and proxy of N. Pashinyan that lots of people had been trying to take him away from the polling station in order carry out the ballot stuffing. At doors of the polling station P. Makeyan, K. Makeyan and S. Martirosyan were beaten by 25-30 persons. According to P. Makeyan those aggressive persons had been under effect of drugs. They were not able to be controlled and beat even their representatives. These people were the supporters of the candidate A. Simonyan.*

*They turned to the policeman in order to call them to order, and the latter answered: “Tell this to my chiefs”. According to proxy P. Makeyan by-elections for the National Assembly of Armenia were accompanied by the aggressive interference of bands and local authorities. One part of the group was working inside the polling stations, other part was working outside. They surrounded the polling station, and instructed the electors how to vote, and if the elector did not understand whom should he/she vote for, he/she simply did not reach the polling station.*

*P. Makeyan underwent medical examination and the doctor found out that he had craniocerebral trauma. According to the results of medical-forensic examination K. Makeyan's nose was broken.*

With regard to the above-mentioned incident the Police of Armenia issued a statement according to which the proxy who had been beaten was the proxy of A. Sahakyan and not the proxy of N. Pashinyan. P. Makeyan was called to police not as a victim, but as a witness.

The last elections held in Armenia give an ample ground to state that the country is still to far away from being a democratic country. The society is sure that it is not possible to have impact to the election processes through the electoral right provided by the Constitution of the Republic of Armenia and the Electoral Code of the Republic of Armenia.

## **PEACEFULL ASSEMBLIES**

The right to freedom of peaceful assemblies and freedom of association is regulated in Armenia by a number of domestic laws as well as international documents it acceded to. Among them are:

The Constitution of RA (Articles 29, 44 and others)

The Convention on Protection of Human Rights and Fundamental Freedoms (Article 11)

The International Covenant on Civil and Political Rights (Articles 21, 22)

RA Law “On Holding Assemblies, Rallies, Processions and Demonstrations (hereafter, the Law “On Assembly”), adopted on 28 April 2004

RA Law “On Administrative Principles and Administrative Procedure”

RA Law “On Legal Acts”

According to the Constitution of RA (Article 6), international treaties are component parts of the legal system of the Republic of Armenia enjoying superiority over the national laws. Accordingly, the freedoms guaranteed by the Convention on Protection of Human Rights and Fundamental Freedoms (Article 11) and the International Covenant on Civil and Political Rights (Articles 21; 22) can not be restricted by the national legislation.

The Parliament of RA adopted the Law “On Assembly” on the 28th May 2004.

In Resolution 1374<sup>1</sup> of the Parliamentary Assembly of the Council of Europe expressed its concern over the legitimacy of the draft-law on assemblies which hadn’t been adopted yet.

Despite the concerns expressed by the PACE, the Parliament of RA adopted the Law “On Assembly”, which was evaluated as *limiting*<sup>2</sup> in the final report of Venice Commission.

On 20 March, 2008 within the time period of Emergency Rule the Parliament of RA made amendments to the Law “On Assembly”.

The issues on the right of freedom of peaceful assemblies in Armenia were restricted by these amendments.

One of the amendments made to the law on assembly suggests that public events can be prohibited by the authorized body (head of the community, Mayor of Yerevan) if they are directed towards the overthrow of constitutional order, national, racial, religious discrimination, agitation towards abuses and war, or can lead to mass disorder and crimes, the disturbance of national security, public order, public health and morality, the violation of constitutional rights and freedoms of other people.

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<sup>1</sup> <http://assembly.coe.int/Main.asp?link=http://assembly.coe.int/documents/adoptedtext/ta04/eres1374.htm>

<sup>2</sup> European commission for democracy through law (Venice commission) **opinion on** the law on conducting meetings, assemblies, rallies and demonstrations of the republic of Armenia Adopted by the Venice Commission, at its 60th Plenary Session, (Venice 8-9 October 2004)

The Council of Observers of OSCE/ODIHR when addressing the issues of Freedom of Assemblies expressed an opinion that the restriction of the right on such grounds was acceptable only in case of an inevitable threat of abuses.

By implementing such restriction the Parliament of RA had to take into consideration Article 3 of the Constitution of RA, which states that “A person, his/her dignity, fundamental rights and freedoms are the highest values. A State shall guarantee the protection of fundamental rights and freedoms of a citizen in accordance with the principles and norms of international law. A State is limited by fundamental rights and freedoms of a man and citizen which enjoy a direct effect”.

The Constitution of RA defines two mechanisms for the restriction of a person’s or a citizen’s fundamental rights and freedoms (including the right to hold peaceful assemblies).

The first one is implemented in common conditions, if it is necessary in democratic society for its security, for the maintenance of public order, crime prevention, public’s health and morality and for the protection of constitutional rights and freedoms of others, honor and reputation of other people (Article 43).

The second one is implemented during military and emergency situations. Mainly, the Article 44 of Constitution of RA provides that certain rights and freedoms of a person and a citizen can be temporarily prohibited during military and emergency situations.

Part 2 of Article 43 of Constitution of RA provides that the restrictions of the rights of a person and a citizen can not exceed the range of international obligations and commitments assumed by Armenia.

Before and after the amendments to the Law “On Assembly”, there were a number of provisions authorizing the Police for a number of actions during mass events. Particularly, Article 8, part 2 of the Law states that the Police shall ensure the lawfulness and the maintenance of public order during mass events; the Police shall take away people who commit illegal actions or breach public order. This means that in case of any illegal acts during the peaceful events the Police have the right to take away the people who breached public order so as to maintain the peaceful event and to prevent possible mass disorder.

According to the Law on Assembly, the Police have the right to make a decision to terminate the public events in cases as defined by law. They also have the right to demand the organizers to terminate the public event. In case the organizer disobeys the Police or neglects a decision taken by the Police, the latter have the right to stop any public and other event which is defined by law. According to domestic legislation, the Police may take a decision to disperse an assembly taking into consideration the fundamental principles of administration. Such a decision shall be consonant with objective pursued by the Constitution of RA and laws, and the measures through

which it shall be achieved shall be appropriate, necessary and proportional (RA Law “On Administrative Principles and Administrative Procedure”, Article 8).

There are all necessary legal grounds and possibilities for maintaining legitimacy and public order during public events. The same refers to the grounds for terminating public events in cases of manifestations of violations in order to avoid chaotic situations.

However, within 2009 ruling by the decision of the Municipality of Yerevan on consideration of the notice, the Police always tried to prompt and provoke the participants of rallies held by the opposition of Armenia Armenian National Congress. The Police used violence, jostled the people and used bad language to the address of rally participants. During the days of the above-mentioned rallies the roads leading to Yerevan from regions were closed, all cars leading to Yerevan were checked.

On December 10, 2009 on the Human Rights Protection Day, the free movement of rally participants from the National Square to the Building of General prosecutor was hindered by the police officers. The police officers provoked beating between them and rally participants.

*On January 8, 2010 during the march held after the rally the police officers prohibited the participants to make any calls and appeals, again the police officers jostled the people hindering the process of the rally.*

Within 2009 numerous cases were noted when the police officers used violence toward people who were informing the population about the rally. The police officers applied power and arrests. The Police mainly applied Article 316 of the Criminal Code of Armenia toward them (*Showing Resistance against Law Enforcement Bodies*).

*On July 1, 2009 Tigran Arakelyan, the activist of the youth wing of the Armenian National Congress was beaten by the police officers for distributing leaflets informing about the upcoming rally. The police officers hit him by the butt of their pistol and he, together with two other young men Vahagn Ghukasyan and Sahak Muradyan who were also beaten, was taken to hospital. At first T. Arakelyan was called to the police department as a witness, and then he became a suspect and was arrested. An accusation was brought against him according to Article 258 of the Criminal Code of Armenia (hooliganism), then the accusation was re-qualified as to Part 3 of Article 316 of the Criminal Code of Armenia (dangerous violation against the representative of authorities). His preventive measurement was chosen as detention. On February 1, 2010 the criminal case of T. Arakelyan was discontinued on the ground of lack of evidence.*

*The year of 2009 was noted by peaceful demonstrations held in front of the building of the Police of the Republic of Armenia. Police officers freely used violence against the peaceful demonstrators.*

*On October 26, 2009 on the day of trial over editor-in-chief of “Haykakan Zhamanak” daily Nikol Pashinyan the police officers provoking peaceful demonstrators standing in front of the Court building in Shengavit district, attacked and beat them. Two young men, Sargis Khachatryan and Sargis Gevorgyan were taken to the police department; one of women-activists was taken to hospital with numerous physical injuries.*

The right to freedom of assembly is regulated by the Law “On Assembly”. Articles 10-12 define the informing content, its representation and discussion order for conducting public events. According to it, the organizers shall inform the head of the community, the Mayor of Yerevan in a written form about the venue of the public event. Before the amendments of 19.03.2008 the informing process was perceived as legal and was a subject to discussion, if the application was submitted not later than 3 working days before the event day and not early than 20 working days. The 3 days time period was changed into 5 days time period. According to the Article 12, part 6, in case if the grounds for holding a public event which are mentioned in the Article 13 are missing, the authorized body considers the notice and the event takes place on the venue and at the time mentioned in the application.

Before making the amendments to the Law “On Assembly”, there was a norm according to which if local authorities have not prohibited the holding of a mass event till 16:00 pm of the working day following the day of notice submission, the organizers automatically acquire the right to hold a mass public event under the conditions as mentioned in the application.

Before the amendments the Law also provided the right to hold spontaneous assemblies and it there was no need to inform local authorities about the assembly.

As a result of the amendments, spontaneous assemblies were prohibited, while under the pressure of the European institutions some amendments were made to the Law “On Assembly” and the institute of spontaneous assemblies again came into use. However, according to the new edition, it will be illegal if it lasts more than 6 hours (Article 6, part 6.1).

Though the Law “On Assembly” provides that a decision shall be taken only in case the right to hold a peaceful assembly is prohibited, it has become habitual that the authorized body composes an administrative act (a decision) either to consider the application or to prohibit the event.

The Law on Assembly also regulates the cases, when two organizers submit applications to the local authorities about their intentions to hold assemblies on the same day and on the same venue. In this case a priority should be given to the application that was submitted first, and the local authority shall suggest an alternative variant: to hold an assembly in the same place but at another hour, or at the same hour, but in another place.

During the pre-election stage of elections the right to freedom of peaceful assemblies is regulated also by the Election Code of Armenia.

According to paragraph 6 of Article 18 the pre-election campaign can be held «... in the form of public pre-election events (by holding pre-election rallies and meetings with the voters, public pre-election, discussions, debates, rallies, marches, rallies) ...».

*On January 7, 2010 representatives of the pre-election headquarter of Nikol Pashinyan, the opposition candidate for the Elections of MP from N 10 constituency tried to inform the citizens about the rallies which shall be held in the frames of pre-election campaign. They were with cars and microphones. According to the head of the pre-election headquarter Davit Matevosyan the police stopped the cars and prohibited the process of informing the citizens before the start of event. The police officers claim that the cars had posters on them and the cars had to be taken to the penalty area. The police officers demanded them to continue the informing process without microphones. They reasoned their demand by the security of those persons (according to the police officers the informing persons put their head out of cars with microphones on their hands, and they could hurt themselves as other cars were passing by), also they reasoned this from moral view point, citizens needed to have a rest as process was at weekends.*

Till March 1, 2009 all applications of the Armenian National Congress to hold rallies in Yerevan were rejected by the representative of Yerevan City Administration (YCA). YCA permitted only the march and rally of March 1, 2009. The Armenian National Congress submitted 22 applications within a month during the pre-election period of the elections for Mayor of Yerevan (March 31, 2009) to hold pre-election rallies at Northern Avenue. The reason for rejecting the application was that an event was to be held on the same place. They presented an administrative act or internal letter of some subdivision, or they gave another reason, that is the rally would violate the rights of others who will present there etc.

However, the Armenian Revolutionary Federation Dashnakcutyun faced no obstacles in holding rallies and strikes in front of the Government Building and the Building of the Ministry of Foreign Affairs in October.

Since April 7, 2009 the police officers prohibited the activists representing the Armenian National Congress to enter Northern Avenue, they could not even walk there. The police officers mainly prohibit those activists whom they know by face, who used to gather at Northern Avenue at 18:00-20:00 for the purpose of political walks.

*On April 7, 8, 9 the Police prohibited activist-citizens to enter the Northern Avenue and walk there. The police officers jostled and beat even women. Many of them were illegally taken to the police department. One person was detained according to part 1 of Article 316 of the Criminal Code of Armenia.*

*Marina Harutyunyan applied to Helsinki Association seeking legal assistance. Lieutenant colonel V. Osipov violated her rights (her rights to enjoy her rest and freedom of movement).*

*Helsinki Association applied to the Chief of the Police of Armenia Alik Sargsyan to find out if there are places in Armenia where the Armenian citizens can not walk and have a rest. If yes, so which are the legal acts that determine and ground the above-mentioned restrictions. If no, so how could the Police explain the actions of V. Osipov, were they legal or he abused his authority. The Police of RA answered that the right to freedom of movement could be restricted in case if it was provided by the Law on Police and by the Law on Organization meetings, rallies, marches and demonstrations.*

According to this answer there is no certain case when the right to freedom of movement can be restricted (otherwise they will mention it), thus the right to freedom of movement of M. Harutyunyan was violated.

The overwhelming majority of the above-mentioned decisions were mainly made in accordance with the amendments to the Law “On Assembly” introduced after the Emergency rule of 01.03.2008. The decisions prohibiting the assemblies, contained references of conclusions of the Police and State Security Service of RA.

Under the pressure of the Council of Europe, as a result of amendments made to the Law “On Assembly” a provision was made in the law according to which the legality of an “official conclusion” the organizers of rallies have the right to challenge it at Court.

The representatives of rally organizers applied to the Administrative Court to familiarize themselves to the “official conclusions”. The Administrative Court granted their demand. However, Yerevan City Administration did not provide the conclusions even after the verdict came into legal effect. They were able to get the conclusions only the Mandatory Executive Service on September 12, 2009. But they applied to Court on March 2008 in order to protect their violated rights.

The representative of mayor’s office of Yerevan in his decision referred to Article 13, part 1, point 3 of the Law on Assemblies, which says: “mass public assembly can be prohibited only in cases, when ... 3) there are grounds defined by the article 9 of the present law”.

According to Article 9, paragraph 4, point 3 of the Law on Assembly

*“3) if there are sufficient grounds that the assembly will pose a direct threat of violence breaking or it can endanger state security, public order, public’s health and morality, people’s life and health, constitutional rights and freedoms of other people or the assembly has its purpose to overthrow the constitutional order, to incite racial, national and religious hatred or can provoke mass disorders or to inflict damage to the state, community, physical or legal persons.*

*These data can be considered as trustworthy if the Police and State Security Service of RA have officially issued a well-grounded conclusion to this end. The same order exists for taking a decision on elimination of such grounds”.*

The definition of Article 9, paragraph 4, point 3 of the Law “On Assembly” is not clear. These refer to the following parts:

- What is the order according to which the Police and/or State Security Service of RA gives the grounds (the above mentioned official conclusions) to prohibit the assembly?
- Do they issue an “official conclusion” on their own or do they have to do it?
- If they are forced, then who forces them and when, and also how are they forced to do it?
- When the Police and State Security Service produce an “official conclusion”, are they forced to do it?
- Who shall they present this “official conclusion” to?
- Do they give the “official conclusion” in a written form or orally, is it a subject to be registered in the “Registry of Normative Acts” and in newsletter “Republic of Armenia” and/or by “Haylur” news program, or is it a secret document and it can not be provided to the person who wants to acquaint himself with the materials of administrative proceedings?
- If the “official conclusion” is a document, shall it have a number and date?
- Is “the official conclusion” served upon a concrete person in order to deprive him of the right to hold peaceful assemblies or is it given to anyone?
- Does “the official conclusion” refer to a concrete type of an event or to all types of the right to hold peaceful assemblies?
- Is the “official conclusion” considered to be an only and appropriate fact to consider the “data” as grounded, or shall the authors of it mention in this document that the data are “grounded” and “checked”?
- Can the “official conclusion” be appealed against by itself or shall it be argued at court as regards the decision prohibiting mass public event or shall the Administrative Court refer to its legitimacy in an “ex officio” capacity etc.

An officially grounded conclusion issued by the Police and the State Security Service does not mean itself that a given mass public event shall be prohibited. By perceiving such an aim, a term “can” should not be used in the legislation.

Under the conditions of the conclusions issued by the Police and the State Security Service, in one case a person who submitted an application to hold an assembly, was denied the right to hold

it, but in another case an applicant was allowed to hold an assembly (see below). This fact proves that the term “can” is used arbitrarily by Administrative Authority.

Article 11 of the Convention on Human Rights and Fundamental Freedoms provides that the freedoms can be restricted under the grounds and conditions of point 2 of Article 11. The Convention authorizes the restrictions on those freedoms only if:

- this restriction is provided by national legislation of the respondent state,
- the restriction perceives any legal aim or aims provided by the article 11, point 2 of the Convention,
- the restriction is necessary in democratic society,

In order to decide whether the disputable interference for the assemblies is legitimate in each and every concrete case, it is necessary to do the following test:

- it is necessary to find out if the disputable restriction is provided by law,
- it is necessary to find out if the restriction provided by the article 11, point 2 perceives any legal aim. If the restriction is provided by law and perceives the legal aim provided by the article 11, point 2, it is required to find out if such a restriction is necessary in a “democratic society”. In case if the disputable restriction does not satisfy the requirement “provided by law”, there will be no necessity to continue the examination: the violation of this requirement already means the violation of the Article 11.

The requirement “provided by law” of the restrictions of freedoms provided by the mentioned articles, first of all provides the existence of law drafted and published by the Parliament of RA. However, the existence of this law does not mean that the requirement of the claim provided by law is satisfied.

In case their rights were violated the organizers of assemblies pressed for their rights both before Mayor of Yerevan in an administrative order and before the Administrative Court. However, none of them referred to the claims of assembly organizers (all administrative claims remained unanswered).

According to the RA Law “On Assemblies” and “On Administrative Principles and Administrative Proceedings”, hearings shall take place in the premises of the local authorities as regards the consideration of a notice on assemblies. This procedure is called Discussion as defined by Article 12 of the Law “On Assembly. It provides the person who submitted a notice for holding an assembly with procedural rights which are present in administrative procedure of any legal state, as well as with the right “to be heard”. However, local authorities in many cases do not provide persons submitting a notice for holding an assembly with the right “to be heard”,

they do not inform about the place and date of the discussions. These discussions mostly took place without the authors of notices and the decisions prohibiting assemblies were made neglecting the procedural rights of the applicants.

According to Article 43 of the Constitution of RA, the restrictions of fundamental rights and freedoms of a person and a citizen can not exceed the framework defined by international commitments and obligations of Armenia.

According to the above mentioned norms and legal principles of a state provided by Constitution, the primary goal of the state is to protect the rights and freedoms enshrined by the Constitution, and the State shall put into practice the implementation of those rights. In the present case, it is the right to hold peaceful assemblies.

The right to peaceful assembly is an exceptional right. It can be restricted, but according to the Constitution, this restriction can be limited beyond the international obligations taken by a State and can not be overstepped. The scope and the content of these commitments are mentioned in many international documents, which form integrity with the legislation of RA, as well as they are mentioned in the papers of the European Court of Human Rights.

## **RIGHT TO FAIR TRIAL AND EFFECTIVE REMEDIES**

As a result of monitoring of the rights to fair trial and effective remedies, it can be said that during the trials mentioned below, regardless the fact that those trials have attracted the attention of the Armenian society, observers and mass media, the Courts of the Republic of Armenia obviously violated a number of domestic and international norms, particularly:

1. Articles 3, 17, 18, 21, 27 of the Constitution of Armenia
2. Principles provided by the Criminal Procedure Code of Armenia, that is Article 7 – Principle of Legitimacy, Article 9 - Respect for the Rights, Freedoms and Dignity of an Individual, Article 11 - Immunity of Person, Article 17 - Fair Trial, Article 18 - Presumption of Innocence, Article 23 - Adversarial System of Criminal Proceedings, Article 131.1 - Detainment of the accused before his arrest based on the order of the criminal persecution body, Article 134 - Concept and kinds of preventive measures, Article 207 - Interrogation of a witness under age, Article 331 - Appeals and their resolution, Article 354 - Content and procedure of oral argument.
3. Articles 3 and 6 of the European Convention on Human Rights and Fundamental Freedoms.

According to Article 5 of the Constitution of the Republic of Armenia the state power shall be exercised in conformity with the Constitution and the laws based on the principle of the separation and balance of the legislative, executive and judicial powers.

Article 18 of the Constitution of the Republic of Armenia defines that everyone shall be entitled to effective legal remedies to protect his/her rights and freedoms before judicial as well as other public bodies. And according to Article 14.1 Everyone shall be equal before the law. However, mostly these principles did not work and there are lots of cases of human rights violations as the judicial system of Armenia is not independent, because very often not only the executive and legislative bodies have their impacts on verdict, but also persons who have influence.

In practice, Armenia does not have the necessary mechanisms in order to guarantee the rule of law and impartiality of judges. The vivid example of impartiality of judges can serve the trials of oppositional leaders and their supports held within the year of 2009.

Particularly, though the materials and witness evidence did not prove the charge of Nikol Pashinyan, the Court presided by the Judge Mnatsakan Martirosyan announced a verdict according to which N. Pashinyan was found innocent under part 1 of Article 316 of the Criminal Code of Armenia, but was found guilty under the charges of part 1 of Article 225 of the Criminal

Code of Armenia (*Organization of Mass Disorder*). He was convicted to 7 years of imprisonment.

During trials the principle of Adversarial system of parties is violated. Very often the court rejects the motions without any ample grounds. As a results when the judges make their verdicts they restrict themselves to evidence provided by the prosecution side.

The vivid example of this is the trial of N. Pashinyan, where nearly all motions of the defense side were rejected without any reasoning, particularly the defense attorney filed a motion to change the preventive measurement of N. Pashinyan, as PACE Resolution 1677 calls the Armenian authorities to release those persons until the end of the trial who had been prosecuted (till July 31, 2009) under cases related to the events of March 1, 2008 in frames of amnesty declared by the authorities of Armenia. The prosecution side objected saying that the decision of the court regarding the detention as preventive measurment was made according to law and corresponded to all norms, PACE resolutions could not considered as legal decisions, the motion did not proceed from requirements of the Criminal Procedure Code of Armenia and was a subject to rejection. The Judge rejected the motion as of being ungrounded and considered that if N. Pashinyan was set free, he could exert pressure on witnesses.

This phenomenon so obvious that the overwhelming majority of the Armenian population does not have trust towards judges and judicial system in general. Today, as it was in the past the courts of Armenia does not carry out the effective protection of rights and does not guarantee the rule of law.

The vast majority of the society mentions that problems in the judicial system they has solved by means of bribe. However, they do not tell about this openly, as Article 312 of the Criminal Code of Armenia provides responsibility for giving a bribe.

Several reforms were implemented, the Courts received financial supports, but only court buildings of Yerevan and in some regions were reconstructed, others remain in very bad conditions.

On April 2009 the President of Armenia issued an order according to which the project for strategic activities of judicial reforms was established. The project suggested to implement reforms in order to reduce the risks of corruption and raise salary of judges. This will enable

judges feel more independent from all possible pressures. Salaries of judges depend on their professional experience and court.

According to Article 96 of the constitution of Armenia the Judge and the members of the Constitutional Court shall be irremovable. The Judge and the members of the Constitutional Court shall hold their offices until the age of 65. They may be removed from office only in the cases and in the manner prescribed by the Constitution and the law. The Council of Justice decides upon appointing a judge or remove him/her from office which ascertains the President of Armenia.

Helsinki Association carried out trial monitoring and found out that many judges were not professionals, they did not follow the ethic rules of judges and it is connected with the fact that the Council of Justice did not have objective approach towards the appeals of citizens regarding the behaviour of judges in order to prevent illegal actions.

According to the Law on “Advocay” it is required to be a member of the Chamber of Advocates in order to carry out lawyer activities. It is required to pass the necessary qualification examinations and receive a license. The license is given regardless political, religious and other views.

Lawyers activities are mainly hindered in law-enforcement bodies: police departments, prosecution agencies and courts. The above-mentioned bodies try to pursue the citizens not to apply to lawyers in order to be able to carry out their illegal actions. And this is the reason under which lots of illegal decisions and judicial acts are made.

It's worth mentioning that the law-enforcement bodies also hinder lawyers to carry out their defense activities. But owing to professional skills and perseverance of lawyer, there are exceptional cases when the law-enforcement bodies are not able to influence the cases.

Mushegh Shushanyan, the lawyer of Vardges Gaspari accused of the events of March 1, 2008 was charged of part 1 of Article 343 of the Criminal Code of Armenia (*Contemptuous treatment of court*). The defense attorney filed lots of motions with regard to his defendant. The Court continuously rejected those motions and the defense attorney left the court room as a protest sign. The Court considered it as a contemptuous treatment of court. Lawyers Ara Zakaryan and Artur Grigoryan were also charged of this accusations. The criminal cases were later discontinued, as

the Constitutional Court of Armenia found the Article 343 of the Criminal Code of Armenia as inconsistent with the Constitution of Armenia.

The right to apply to the court is provided by the Constitution of Armenia, however there were cases when the legislative body restricted the right of the person to apply to court. Particularly according to part 1 of Article 290 of the Criminal Procedure Code of Armenia complaints against illegitimate and ungrounded decrees and actions, envisaged in this Code, of the person in charge of investigation, the investigator, the prosecutor and operative and investigatory bodies can be submitted to the court by the suspect, the accused, the lawyer, the injured person, participants of criminal proceedings, other persons whose rights and legal interests were breached by these decrees and actions, if their complaints were not satisfied by the prosecutor. This norm was declared invalid by the Constitutional Court of Armenia on December 07, 2009 and inconsistency with the Constitution with regard to applying to the prosecutor.

On 21 May, 2009 T. Harutyunyan, the investigator of the Police of Armenia decided to terminate criminal proceedings of the case filed by the chairman of Helsinki Association M. Danielyan against Tigran Urikhyan, Arsen Mkrtychyan and Hamazasp Uzunyan with regard to abuses. It's worth mentioning that M. Danielyan was not informed about it though according to Article 262 of the Criminal Procedure Code the investigator shall provide the copy of his decision and explain the appeal order. After applying to the Prosecution General and receiving the decisions M. Danielyan applied to the Court of First Instance of Kentron and Nork-Marash districts in order to terminate the illegal decisions. Judges Gagik Poghosyan and Gagik Khandanyan decided that the appeal could not be examined at court, as M. Danielyan should apply to the prosecutor. The Court of Appeal and the Cassation Court had the same position towards the case though the Constitution of Armenia provides that everyone shall have the right to apply to court. M. Danielyan applied to the Constitutional Court of Armenia and the Court found this norm inconsistent with the Constitution.

Both courts and the prosecution offices of Armenia are not independent and impartial in their activities. The vivid examples can serve the trials of cases related to the events of March 1, which were held within the years of 2008-2009.

The courts also violate the reasonable time-periods of trials with regard to both criminal and civil cases. There are several cases trials of which are pending more than a year. It is due to many factors: courts are overloaded, the parties very often postpone the cases without any serious

grounds. There are even cases when the cases are terminated due to the fact that the judge was on holiday.

The example of violating the right to reasonable time-periods is the the trial of late soldier Tigran Ohanjanyan. It has started in March 2008 and ended only in Januray 2009.

A citizen Gagik Navasardyan applied to the Administrative Court of Armenia on June 05, 2009 in order to challenge the decision of medical-social examination. The Court appointed the trial on 06 November 2009, that is 4 months later, and the verdict was annouced on December 14, 2009, as the judge was on holiday from August to September.

*On June 05, 2009 a criminal case was filed against Arshaluys Hakobyan, photo journalist and monitor of Helsinki Association. Pre-trial investigation ended on 29 June 2009 and 20 days later the Investigation restarted and was over on 24 August 2009. Factually, the investgation body did not carry out any activities for a month. Since 06 June 2009 to 16 October 2009 A. Hakobyan has been detained. During the trial the prosecution side filed a motion to postpone the case and to send the criminal case to extra-investigation reasoning that the charge was subject to change and on February 05, 2010 the prosecution side discharged A. Hakobyan on the ground of lack of corpus delicti. He was charged of part 1 of Article 316 of the Criminal Code of Armenia. The Court of First Instance of Kentron and Nork-Marash presided by judge G. Avetisyan found A. Hakobyan innocent.*

There are numerous cases of violations of the rights of the arrested people:

- People were called to the police departments without summons and reasons. The time of bringing the persons to the department usually is not registered in the register-books, the protocols of detention are not drown up in time.

In the year of 2009 the practice of lack of summons by the law-enforcement bodies was widespread. Though this is a well-knownm the law-enforcement bodies did not bear any responsibility for this.

*A. Hakobyan was also called to the police without any summons. He participated at the elections of the City Council of Yerevan held on 31 May, 2009 as an observer from Helsinki Association. He was forbidden to enter the polling station in order to carry out his observation mission. The observers' group was taken away from the polling station and and they were warned about*

*possible physical punishment. A. Hakobyan submitted a statement addressed to head of the Special Investigation Department of the General Prosecution Office with regard to that.*

*In the morning of June 05 they phoned A. Hakobyan and told him to come to give testimonies. A. Hakobyan refused to go and told them that he would be ready to give testimonies in case he received official summons. Later, two police officers came to his place, went to his bedroom, woke him up and gave him the summons of the Special Investigation Department. It did not contain the information about the person who called him, his status, number of the criminal case and its name, as well as it was not signed<sup>1</sup>.*

*A. Hakobyan signed the paper on the wrong place, as he did not have his contact lens on his eyes at that moment (A. Hakobyan has problems with eyes). The police officer got nervous and expressed their bad attitude towards the members of his family and small babies. They made a lot of noise and stayed at his place for an hour and a half.*

According to Article 131 if the accused violates the terms of appearance, measures taken against him, the criminal proceedings body is entitled to issue an order about the detainment of such a person and, at the same time, to present to the court papers proving the necessity of his arrest. According Article 129 of the same Code detainment may not last more than 72 hours after the moment of detention.

According to Article 63 of the Criminal Procedure Code of Armenia:

1. the suspect has a right to defense. The body, conducting the criminal proceedings, provides the suspect with the possibility to implement the right to defense, he/she is entitled to, by all means and remedies, not prohibited by law.

2. The suspect has the right, in the manner, prescribed by this Code, on the following:

2) to receive immediately upon detention from the body of inquiry, the investigator or the prosecutor a written notification of one's rights and explanation;

3) to receive immediately upon detention or upon declaration of the resolution on the selection of precautionary measure from the body of criminal prosecution, the free copy of the resolution of the body of criminal prosecution or the copy of the resolution on the selection of precautionary measure; to receive immediately upon the completion of the protocol of detention its copy;

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<sup>1</sup> The copy of the summons is available at [http://www.hahr.am/index.php?option=com\\_content&task=view&id=145&Itemid=105](http://www.hahr.am/index.php?option=com_content&task=view&id=145&Itemid=105)

- 4) to have a defense attorney from the moment of presentation to him/her the resolution of the body of criminal prosecution, on detention, the protocol of detention or the resolution on selection of the precautionary measure; to refuse from defense attorney and to conduct the defense himself/herself;
- 5) to communicate without hindrance, with his/her defense attorney *tete-a-tete* and confidentially without limitation of the number and the length of the conversations;
- 6) to be interrogated with participation of the defense attorney;
- 7) to give testimonies and to refuse from giving testimonies;
- 8) to give explanations and to refuse from giving explanations;
- 9) within 12 hours after detention, to notify through the body conducting the criminal trial the close relatives on the place of his/her imprisonment, in the case of foreign citizens, to notify the embassy or the consulate;
- 10) to present materials for the inclusion into the criminal case;
- 11) to declare challenges;
- 12) to declare motions;
- 13) to object against the actions of the bodies of criminal prosecution and to demand the inclusion of his/her objections into the protocol of investigatory or other procedure actions;
- 14) to participate in the investigatory and other procedure actions or refuse from participation, if not otherwise prescribed by this Code, upon his/her motion and upon the permission of the body of inquiry, the investigator or the prosecutor personally or through the defense attorney;
- 15) to get acquainted with the protocols of investigatory and other procedure actions, in which he/she participated, and to issue remarks with respect to the correctness and fullness of the records in the protocol; to demand, during the participation in investigatory and other procedure actions, the inclusion into the protocol of the mentioned actions, the records on the circumstances, which, to his/her opinion had to be mentioned;
- 16) to be notified by the body, conducting the criminal trial on the adoption of the decisions, connected with the expert assessment and special checking, and upon his/her request to receive also free copies of these decisions;
- 17) to appeal the actions and the decisions of the bodies of inquiry, the investigator, the prosecutor and, the court;
- 18) to revoke the appeal filed by him or his lawyer;
- 19) to receive compensation for the damage, caused unlawfully by the actions of the body, conducting the criminal trial.

However, these rights are violated in practice, their demands are not satisfied.

*A citizen Hayk Jaghacpanyan was brought to the police department of Mashtoc on 29 December, 2009 at 06:00. Satenik Grigoryan, his mother, without being aware of the reasons of his son's detention asked the lawyer to intervene. The lawyer and Helsinki Association visited the police department and found out that together with H. Jaghacpanyan 7 other citizens were illegally brought to the police department the same day at the same hour. The visit of the lawyer and Helsinki Association got surprised and all 8 citizens were set free 30 minutes later.*

The preventive measurement for arrested people is mainly chosen detention ignoring the conditions such as having a minor children at his care etc. It's worth mentioning that the courts usually grant the motions of investigators violation the principle of presumption of innocence and the judges choose detention as preventive measurement on the basis of investigator's decision. Very often the defendant is not present at trial while they discuss the motions, and it mostly happens at courts of higher instances.

*On 06 June 2009 the Court of First Instance of Kentron and Nork Marash districts (presiding judge – G. Khandanyan) discussing the motion 13125509 filed by the investigator of the investigation department of Kentron district K. Nazaryan on the preventive measurement of A. Hakobyan, the court decided to grant the motion and the preventive measurement was chosen as detention for 2 months, that is till August 05, 2009. It's worth mentioning that the court did not take into account the facts that A. Hakobyan had a permanent job, as well as had 3 persons under his care – his wife and 2 minor babies (2 years of age and 1 months of age). This fact is inadmissible by the European Court of Human Rights which in its decisions, particularly in the case of Yagci and Sargin v. Turkey, No. 16419190, paragraph 52 stated: “The Court will never accept any court decision which will be based on standard formulations”.*

Though Article 143 of the Criminal Procedure Code of Armenia provides that bail may consist of money, securities and other valuables posted by one or several persons to the deposit of the court for the release from detention of someone accused of committing a crime classified as minor and medium gravity. Upon permission of the court, real estate may be posted as an alternative measure to bail.

However, when the Courts of Armenia make their decision on detention, they usually do not take into consideration the merit of crime or individuality of the accused.

There is the institute of a public defense attorney in Armenia, and if the person does not have the necessary material means, he/she can have the public defense attorney. However, even in this case a lot of documents are required from the accused which will tell the latter has no necessary material means. As well as there are cases when the public defense attorney and the private attorney cooperate with investigators and do not carry out appropriate defense.

According to Article 197 of the Criminal Procedure Code of Armenia the investigation shall be over no later than within 2 months. The investigation can be prolonged by the prosecutor on the grounded decision of the investigator. That's why regarding the specificity of a given criminal case, the time-constraints of investigation are different.

Despite the decisions on detention, the trials do not pass without the accused.

Though Article 16 of the Criminal Procedure Code of Armenia provides that trials at all courts shall be public. The court verdicts and final decisions in all cases are announced publicly. However, this principle is very often violated.

Persons who wish to attend the trials, the lawyers as well are conducted a personal search especially at the Appealate Court of Armenia.

*During the day of trial on the murder case of Andranik Hayrapetyan medicine prescribed for hearth disease were taken away from lawyer Nina Karapetyants and victim's assignee, they did not let them even take water to the court room.*

Police officers and bailiffs themselves decide the place of seat of each person. If the court holds trials which have a great public concern, police officers wearing ordinary clothes enter the court-room and take the seats in order to limit the number people wishing to attend the trial. The vivid example of that are the trials of cases related to the events of March 1st and the case of N. Pashinyan.

*On 20 October 2009 the trial over editor-in-chief of "Haykakan Zhamanak" daily started at the Court of Kentron and Nork Marash districts. He is charged of part 1 of Article 316 (Violence against a representative of authorities) and part 1 of Article 225 (Organization of mass disorder) of the Criminal Code of Armenia. His preventive measurement had been chosen detention since 1 July, 2009.*

*Persons were conducted a personal search by police officers and then by court bailiffs before entering the court-room. The trial was held at a court room which was separated from the public*

*by a glass wall. Photo journalists were forbidden to enter the court room as they said they could allow them to take pictures, as if it hinders the process of exercising the justice.*

*There are cases when the journalist tries to protect the right to his professional activities, and they demand him to leave the court hall, the court bailiffs even force them to leave the court hall.*

In the year of 2009 Helsinki Association carried out the monitoring mission at courts of Armenia, particularly at courts of Kentron and Nork Marash and Shengavit districts, as well as at courts of Kotayq region. This included mainly trial monitoring of criminal cases related to the events of March 1, and so-called “case of 7”. The accused of this case were Shant Harutyunyan, Grigor Voslerchyan, Hakob Hakobyan, Myasnik Malkhasyan, Sasun Mikaelyan, Alexander Arzumanyan and Suren Sirunyan. As a result of monitoring activities carried out by Helsinki Associations, the monitors of organization found out lots of violations.

It's worth mentioning that in March 2009 the National Assembly of Armenia made amendments to Article 300 of the Criminal Code of Armenia. The defendants of the case of 7 were charged of that Article. The above mentioned criminal case was as one trial proceeding till April 1, 2009, however as a result of amendments the judge Mnacakan Martirosyan decided to change the merit of charge of the defendants and the criminal cases had been separated. The criminal prosecution against the defendants was terminated with regard to Article 300 and the trial continued for the merits of Article 225 – organization of mass disorder.

*1. The trial of Hakob Hakobyan who was charged of part 1 of Article 225, of the Criminal Code of Armenia (Organization of mass disorder) was held at the Court of First Instance of Kentron and Nork-Marash districts Gagik Avetisyan was the judge to the case.*

*From the very beginning of the trial the parties have unequal conditions. This means that the Court violated Article 23 of the Criminal Procedure Code of Armenia (The Principle of Commotion).*

*The presiding judge displayed biased behaviour towards the prosecution side preventing the defense side to carry out the defense line of A. Hakobyan in a proper manner. The defense attorney submitted several motions with regard to it, however they all were rejected. The Court decided to return to other motions with a final act, but the it did not even take into consideration them. Thus, Article 331 of the Criminal Procedure Code of RA was violated.*

*During the trial pressure was exerted on the witnesses, namely on Gevorg Muradyan and Mushegh Antonyan. The latter was forced to accept his pre-trial testimonies, and even after the*

*trial the police officers tried to bring him to the police department illegally, but they failed. On the day when M. Antonyan was to give testimonies at court, an unknown person submitted an application that M. Antonyan was out of the country. This was done so as M. Antonyan could not give testimonies at court.*

*However, M. Antonyan had come to court, but the police officers illegally surrounded the court building in order to prevent him to enter the court building. After giving the testimonies the police officers gathered near the court building tried to abduct him, but the abduction was prevented owing to the lawyer, representatives of mass media and the office of Human Rights Defender of Armenia and MP Armen Martirosyan. M. Antonyan spent his night at the publishing house of “Chorrord Ishkhanutyun” daily. The newspapers wrote about this fact; however neither the court nor any competent body paid attention to this.*

*On 22 June, 2009 the court announced a verdict according to which H. Hakobyan was found guilty pursuant to part 1 of Article 225 of the Criminal Code of Armenia and was convicted to 5 years of imprisonment. H. Hakobyan was immediately set free from the courtroom as a result of amnesty adopted by the National Assembly of Armenia 19 on June, 2009.*

*2. Grigor Voskerchyan was charged of part 1 of Article 225 of the Criminal Code of Armenia. It's worth mentioning that in December 2008 Grigor Voskerchyan was subjected to beatings in the criminal execution facility, while his case was pending trial yet.*

*During the trials Gagik Poghosyan, the judge did not respond to that fact and displayed biased position in favour of the persecution side. He displayed rude behaviour towards the defense side and the defendant insulting them by inappropriate remarks. Without any reasonable explanations the judge held closed court hearings which prevented people to attend the trial of G. Voskerchyan. Regarding the prosecution side, so A. Nadoyan behaved himself rather aggressively towards the defense side, the witnesses as well as towards the public. He exerted pressure on witnesses trying to obtain necessary testimonies; he impeded the lawyers when they needed to file motions or submit statements. Nearly 90 percent of the motions filed by the defense side were rejected by the court, while the ones filed by the prosecution side were granted.*

*The witnesses to the case, as well as the defense side insisted for several times that the witnesses were subjected to pressure by the law-enforcement bodies. The security of witnesses was not guaranteed.*

*On 10 July 2009 the Court found Voskerchyan guilty under Article 301 of the Criminal Code of Armenia and convicted him to 2 years of imprisonment. Due to amnesty declared by the National Assembly of Armenia G. Voskerchyan was released.*

3. *Alexander Arzumanyan and Suren Sirunyan were charged of part 1 of Article 225. The case hearing was held at the Court of First Instance of Shengavit district. The presiding judge was Mnacakan Martirosyan.*

*During the whole trial the judge displayed biased and negative behaviour towards the defense side; nearly all motions were rejected or postponed. The reasons were that the court would refer to them in the consulting room, after the final decision was made.*

*The prosecutor displayed neglecting attitude towards the defendants and witnesses. This refers to those witnesses particularly, who refused to admit their testimonies given during the pre-investigation stage. They insisted that the testimonies were obtained under beatings and torture. On 22 June, 2009 the Court found A. Arzumanyan and S. Sirunyan guilty pursuant to part 1 of Article 225 of the Criminal Code of Armenia and convicted them to 5 and 4 years of imprisonment respectively. They were immediately set free from the courtroom as a result of amnesty adopted by the National Assembly of Armenia.*

4. *Shant Harutyunyan was charged of part 1 of Article 225 of the Criminal Code of Armenia. On May 13, 2009 the criminal prosecution was discontinued against him as Sh. Harutyunyan was taken to the Nubarashen Psychiatric Hospital due to his poor health condition. A forensic-medical examination was held. The examination results showed that at the moment of crime Sh. Harutyunyan was incapable.*

5. *Sasun Mikaelyan was charged of part 1 of Article 225 and parts 1, 2 of Article 235 of the Criminal Code of Armenia. The trial was held at the Court of First Instance of Kotayk region, the presiding judge was H. Sargsyan.*

*This trial was noted particularly by its numerous rude violations; pressure was exerted on witnesses, the prosecution side displayed cynical attitude towards the defense side. Tatul Karapetyan, one of the witnesses was called to the court by the prosecution office in order to give testimonies, but when the prosecution officers found out that his testimonies were favourable for them, the bailiffs prevented him to enter the courtroom. The employees of the office of Human Rights Defender of Armenia and Arsen Babayan, the head of the monitoring group of Helsinki Association was taken to Helsinki Association where he submitted an application requesting the NGO to protect him from the illegal acts of the law-enforcement bodies. He mentioned that he underwent torture and ill-treatment. They applied electroshock against him, beat him by batons and he had to give false testimonies. Now he decided to give the real and true testimonies. However, the witness did not appear before the court in order to give testimonies and the judge announced that T. Karapetyan was out of the country, he was in*

*Russia. Many of the witnesses were the soldiers who participated at the war of Kharabagh together with Sasun Mikaelyan. They were subjected to torture both by the police and in the prosecution officers. Several statements were made regarding those facts; however none of them received an appropriate response from neither the prosecution side nor the judge. Though there was a free and large courtroom in the court building, but the trial was held in a very small courtroom. This did not let the people attend the trial as the first row was fully taken by the officers of the National Security Service, though they wore ordinary clothes, the people knew them to be the officers of NSS. This situation very often led to conflicts between them and the ordinary people. Besides, there were ten bailiffs there who prevented the journalists and the observers representing the OSCE Yerevan to carry out their professional activities. As well as did not let them do video recordings.*

*The motions filed by the defense side were either rejected or postponed by giving reasons that the court would refer to them after the final act was made. However, none of the postponed motions received any response. Every person wishing to enter the court building had to be examined by metal searching device. Many of the relatives of S. Mikaelyan were not able to participate at the trial.*

*Despite the different testimonies given by the witnesses during the trial, on 22 June 2009 the Court found S. Mikaelyan guilty pursuant to part 1 of Article 225 and parts 1-2 of Article 235 of the Criminal Code of Armenia and convicted him to 8 years of imprisonment. The amnesty adopted by the National Assembly of Armenia was not applied to S. Mikaelyan.*

*6. The trial Myasnik Malkhasyan, charged of part 2 of Article 38-316 and part 1 of Article 225 of the Criminal Code of Armenia was held at the Court of Kentron and Nork Marash districts of Yerevan, the presiding judge was Armen Khachatryan.*

*The motions filed by the defense side were either rejected or postponed without providing any ample reasons. The Principle to equality of parties again was violated.*

*Two of the witnesses, Arayik harutyunyan and Gurgen Harutyunyan announced at trial that the testimonies given during the pre-investigation stage corresponded to reality, except the last part of them which were written by the police officers. That very last part formed the basis of accusation. Witnesses Gagik Avdalyan and Hmayak Galstyan refused to accept the testimonies given by them during the pre-investigation period claiming that they were obtained under torture. The witnesses' security was not guaranteed as one of them, namely Gagik Avdalyan was illegally taken away by the police officers from the court building. Hovhannes Tamamyanyan, the chief of the criminal investigation department of Armenia personally threatened him and warned*

*him not to give any testimonies at trial and keep on insisting his testimonies given during the pre-investigation stage.*

*On 22 June, 2009 Myasnik Malkhasyan was found guilty pursuant to part 1 of Article 225, and was convicted to 5 years of imprisonment. As a result of amnesty he was immediately set free from the courtroom.*

It's worth mentioning that in all the above-mentioned trials the defense attorneys were not provided the reasonable time to prepare their speeches, as well as the trial were mainly held on the same day and at the same hours, besides the police officers wearing ordinary clothes were always present at courtroom.

The attitude of judges towards the motions filed by the defense side was always rather critical and negative, as in overwhelming majority of cases the judges rejected the motions which were for example about inviting new witnesses or about carrying out new examination of cases.

*On March 30, 2009 at trial of late soldier Tigran Ohanjanyan the attorney filed a motion to carry out an exhumation of the dead body. According to the prosecution, T. Ohanjanyan was died of a current rush; however there were proofs that there wasn't any electricity wire there, as well as his body bore lots of physical injuries. The Court at last granted the motion a month later; the exhumation was to be carried out by Shota Vardanyan, the head of the Republican Scientific-Practical Centre of Forensic Medicine, a state non-commercial organization (SNCO) should be an alternative party. However, Shota Vardanyan refused to carry out the double examination of the dead body reasoning that he was insulted by the distrust attitude of mass media. He gave such a foolish answer to the letter of M. Danielyan. Regarding the SNCO, they answered that they did not have the necessary equipment to carry out the exhumation. The prosecution side filed a petition to invite leading professionals of different fields from the Ministry of Health of Armenia. The assignee representative objected commenting that the conclusion of an ordinary doctor could not be complete, the conclusion should be given by the medical-forensic doctor.*

*It's worth mentioning that the Republican Scientific-Practical Centre of Forensic Medicine is the only suchlike Center in Armenia.*

*Then, being aware that the victim's assignee felt bad and was not able to attend the examination on that day, the judge and the prosecution side tried to carry out the exhumation without letting the parents know about it. The process was terminated by the mother of the late soldier at cemetery.*

*During the trial of August 11 2009 a forensic-electric-technical examination was carried out. As a result it was found out that the experts found 30 volts of electricity without amperage, which meant that it could kill a person. In addition, the head of the substation mentioned if the electricity had 180 volts, so the equipment of radio substation would become out of order. However, such things had not happened.*

*During the trial of January 13, 2010 the Court decided that the evidence against R. Asatryan and K. Tovmasyan did not prove their crime.*

*The Court decided to find R. Asatryan and K. Tovmasyan innocent pursuant to part 2 of Article 376 of Criminal Code of Armenia and terminated the criminal proceedings against them. To leave real materials such as uniform and underwear clothes of T. Ohanjanyan, telescopic antenna guys and a register-book of military unit 28418 with the materials of criminal case. The case was returned to the Military Prosecution Office for a new investigation.*

It's worth mentioning that the list of witnesses called to give testimonies contained names of witnesses who were called from the investigation body, and all motions of the defense side on inviting witnesses were rejected.

*With regard to the murder fact, a criminal case of filed against R. Asatryan and K. Tovmasyan. They were charged of part 2 of Article 376. Though the Court granted the 13<sup>th</sup> motion on inviting witnesses, the Court questioned only 3 witnesses, and did not hear the rest of them.*

With regard to the work of the prosecution, trial monitoring showed that the prosecution side often objected the motions filed by the defense side. Both the judge and the prosecutor violating the right to presumption of innocence, obviously express their negative attitude towards the defendant. They consider the charge grounded as it was based on the materials of the criminal case, which creates the impression that the verdict is decided beforehand.

As a result of complaints on inappropriate conduct and work-style of prosecutors disciplinary proceedings were filed towards 9 prosecutors. The reasons were the following: abuse of power, negligent conduct, violation of laws etc.

As a result 1 prosecutor was fired from his position, 3 of them left their positions according to their applications, 1 prosecutor went to a lower position, 4 of them received different kinds of notifications.

However, there was a case, when the court ignored the objection to apply a speeded trial order, though it is provided by the Criminal Procedure Code of Armenia, if the prosecution side does not raise objection.

On 15 May, 2008 the soldier Andranik Hayrapetyan received a gunshot injury at his right thigh and died. According to the official variant he died of a gunshot from the side of the enemy. Victim assignee's representative is Helsinki Association. There were lots of scratches, abrasions and wound on the dead body which had been caused before the death. On 16 May 2008 an examination was held in Yerevan. Helsinki Association was able to take pictures of the dead body. Scratches and wounds were seen on those pictures.

The sergeant Edgar Avetisyan was charged of part 2 of Article 365 of the Criminal Code of Armenia (Violation of combat duty regulations). Lieutenant colonel, Commander Arthur Petrosyan was charged of part 1 of Article 375 of the Criminal Code of Armenia (Abuse of power, transgression of authority or administrative dereliction).

The criminal case filed with regard to murder case of the soldier now is terminated.

The trial of this case was held at the Court of First Instance of Shengavit district.

Ignoring the objection of the prosecution side on applying a speeded trial order, granted the motion filed by the defendants, applied a speeded trial. This criminal case is full of violations, particularly:

1. the materials of the criminal case proof that it was stated on the protocols on corpse examination that A. Hayrapetyan's trousers, belt, socks, slippers were taken by Y. Danielyan at corpse examination, however, later all listed things disappeared except the shirt, and they did not recognized as real evidence;
2. the scene of action was not clarified, and the investigator mentioned about it in the document;
3. it was grounded that the bullet taken from the corpse of the soldier was changed and another bullet was sent for examination. All these were grounded by the materials of the criminal case.

On July 31, 2009 the Court announced in a verdict, ignoring all violations mentioned above, according to which sergeant Edgar Avetisyan was found guilty and was convicted to imprisonment of 4 years and 4 months and lieutenant colonel, Commander Arthur Petrosyan charged of part 1 of Article 375 of the Criminal Code of Armenia was convicted to imprisonment of 3 years. They were not granted amnesty.

The accused brought an appellate claim which the Appellate Court of Armenia left unchanged. The accused brought a cassation claim to the Cassation Court. Another illegal action took place there. Though the Cassation Court did not accept and returned back the cassation claims, it applied amnesty on E. Avetisyan by a separate decision and decided to release him.

During the trial at the Cassation Court, the Court did not let Mikael Danielyan, representative of victim's assignee of Anahit Kirakosyan express his opinion reasoning that M. Danielyan did not have that right, the judge was not even aware of the fact that the criminal case contained the Power of Attorney verified by the notary. At next trial the Court engaged M. Danielyan as a party to the proceedings stating that the Court did not notice the Power of Attorney.

## **RIGHT TO OWNERSHIP**

In Armenia the right of ownership is provided by the Constitution of the Republic of Armenia and the Civic Code of the Republic of Armenia.

Particularly, according to Article 31 of the Constitution of Armenia:

“Everyone shall have the right to freely own, use, dispose of and bequeath the property belonging to him/her”.

“No one shall be deprived of property except for cases prescribed by law in conformity with the judicial procedure”.

According Article 163 of the Civil Code of Armenia:

“1. 1.The right of ownership is the right recognized and protected by statute and other legal acts of a subject at its discretion to possess, use, and dispose of property belonging to it.

The right of possession is the legally supported possibility to exercise actual control of the property.

The right of use is the legally supported possibility to extract from the property its natural useful characteristics and to also use the benefits from it. The benefits may occur in the form of income, growth, fruits, offspring, and in other forms.

The right of disposition is the legally supported possibility of determining the legal fate of the property.

2. The owner has the right at its discretion to make in connection with the property belonging to it any actions not contradicting a statute and not violating the rights and interests protected by statute of other persons, including alienating its property to the ownership of other persons, transferring to them the rights of possession, use, and disposition of the property, to give the property in pledge or to dispose of it in another way”.

In Armenia the right of ownership is violated everywhere. It’s worth mentioning the situation at courts.

About persons interrelated to “SIL CONCERN” – with regard to “BJNI Mineral Water Plant” CJSC

On 24.10.2007 according to the instructions of the head of the State Tax Service attached to the Government of Armenia /hereinafter referred to as Service/ the officers of tax service and operative-investigative department made checking of budget and other demands of law provided by the tax services in “BJNI Mineral Water Plant” CJSC /hereinafter referred to as Company / from November 05, 2007 to January 16, 2008.

According to the results on 16 January, 2008 a statement was drawn up and the Company was presented additional tax obligations of 4.067.201.600 AMD for VAT, payments of environmental and obligatory social insurance.

The statement was grounded by the reasons that the Company committed numerous environmental violations, as well as the meter (counter) was not disposed right after the gas-bolt. Water-meter of the Company was sealed by the inspector of the Ministry of Nature Protection last time on April 04, 2005. The Ministry of Nature Protection made checkings in the Company on August 18, 2005, February 16, 2006 and February 20, 2006. No kind of violation was found out as a result of the above-mentioned checking. Appropriate references were drawn up as a result of checkings. The water-meter was disposed in the Company by the inspector from the Ministry of Nature Protection, as well as a statement was drawn up with regards to that action.

The Company applied to the Administrative Court in order to nullify the above-mentioned statement of checking. The Service filed a counter-claim to confiscate the mentioned sum from the Company.

The Court did not take into account all above-mentioned conditions, rejected the claim and granted the counter-claim filed by the Service.

The Company filed two appeals against the judgment of the Court of the First Instance; however two claims were returned back. The Company also applied to the Constitutional Court of Armenia on the ground of inconsistency of Articles 7 and 19 of the Law on “Payments of Nature Payment and Nature Use” and Article 22 of the Law on “Taxes” with the Constitution of Armenia. The Constitutional Court of Armenia rejected the claim.

On July 24, 2009 the Company applied to the European Court of Human Rights.

“BJNI Mineral Water Plant” CJSC left several of its brands to “SIL CONCERN” LLC.

On 07 August, 2008 ceding contracts of brands were registered. On 06 November, 2008 the Service Providing the Compulsory Execution of Judicial Acts of the State Tax Service of Armenia filed a claim to the Council of Appeals of the Agency of Mental Property of the Ministry of Economy /hereinafter referred to as Council/ of Armenia asking to declare invalid the decision of the Agency of Mental Property on registering the contracts on ceded brands (07.08.2008).

On 02 December, 2008 the Company filed a claim to the Administrative Court of Armenia seeking the Court to find actions of filing a claim to the Agency of Mental Property of the Ministry of Economy of the Service Providing the Compulsory Execution of Judicial Acts of the State Tax Service of Kotayq region non-lawful. The Company based its claim on the ground that according to the Law on the “Service Providing the Compulsory Execution of Judicial Acts of

the State Tax Service (SPCEJA) the compulsory executor has no right to dispute the contracts/deals signed by the debtor and administrative act drew up as a result of contract. The above-mentioned actions contradict the Article 5 of the Constitution of Armenia. The Company also asked the Court not to discuss the claim of SPCEJA as the Service or any official person does not enshrined with such rights according to point a of part 1 of Article 31 and point b of Article 72 of the Law on “Administrative Principles”.

The Court dismissed the proceeding of this case reasoning that the actions of the Service officer did not have any legal consequences for the plaintiff; hence there is no dispute-subject to the court investigation.

On May 14, 2009 the Company filed a cassation claim, however it was returned back without any grounded reasons.

On November 23, 2008 senior compulsory executor of SPCEJA of Kotayk region H. Babajanyan together with other compulsory executors and with people wearing black uniforms which did not bear any badges, who were also in masks burst into the storehouse of “BJNI Mineral Water Plant” CJSC in Yerevan and to the Plant in Charencavan. They sealed the area and openly confiscated the vehicles of the Company. On 04 November, 2008 R. Minasyan, the head of the Kotayk region Tax Service Department answered in a written form that men in black uniforms and in masks were included the group from the operative department of SPCEJA central body.

The Company filed a claim to the Administrative Court asking the Court to find the actions of SPCEJA officers wearing black uniforms and masks non-lawful. On 10 April, 2009 the Administrative Court of Armenia rejected the claim of the Company mentioning that rights and freedoms enshrined by the Constitution of Armenia, international instruments, laws and other legal acts. The Company filed a cassation claim, which, however, was returned back. The Company submitted a claim to the European Court of Human Rights.

According to the decision of SPCEJA of December 08, 2008 the property of the Company was put up to a compulsory e-auction. On December 22, 2009 the Company filed a claim to the Administrative Court of Armenia against SPCEJA of RA asking the Court to abstain from actions to put the property of the Company to e-auction and declare the decision of December 08 invalid. Attached to the claim the Company filed a motion asking to Court prohibit the Service to put up the property of the Company to an auction. The motion was rejected reasoning that the auction can not make the execution of a judicial act impossible or difficult. During the trial the auction took place and the property belonging to the Company was sold.

On 04 April, 2009 the Court rejected the claim. The ground was the fact that the decision of 08 December, 2008 could not have any effects for the Company, as the property of the Company was put up to an auction according to another decision of the Service (January 10, 2009).

On 10 January, 2009 a decision was made to reject the motion of the Company.

The Company filed another cassation claim with regard to this case, which was again returned back.

According to the decision of SPCEJA of RA of January 10, 2009 the property of “BJNI Mineral Water Plant” CJSC was put to a compulsory e-auction. The auction took place and the property of the Company as one lot was alienated by “Armenia Royal Cigarette” CJC, and a contract was signed.

On 16 January, 2009 the Company applied to the Administrative Court asking it to abstain from actions of selling the property of the Company at the auction which the violation of the law, as well as to declare these actions and the decision to sell the property of the Company of January 10, 2009 invalid. On 19 March, 2009 the Administrative Court granted the demands partially. The decision made on January 10, 2009 by the Service was declared invalid, obliged the Service to stop the administrative proceedings No. 07-8007/08, as well as to abstain from the actions to hold a compulsory e-auction of the property. The decision of a compulsory e-auction of January 10, 2009, the record on the sale of the lot of February 16, 2009, the official registration of rights provided by the contract signed between the Service of Kotayk region and buyer “Armenia Royal Cigarette” cjsc on February 24, 2009 was declared invalid.

As regards to the rejected claim the Court stated that the Service is not obliged to notify the Company about the initial price of the lot, hence the Service did not violate any law as regards to it. The Company applied to the Cassation Court of Armenia; the claim was returned back.

The Company submitted several applications to the Service, particularly on February 20, 2009, March 03, 2009 and March 12, 2009 demanding all the materials of the administrative proceedings of No. 07-8007/08; however the Company was not provided any materials. On March 18, 2009 the Company filed a claim to the Administrative Court asking to Court to oblige the Service to provide the materials of the administrative proceedings No. 07-8007/08, as well as to provide the copy of a contract signed with the buyer, the copy of documents verifying the payment of the auction lot to the Company. With regard to this case during the trial of September 10, 2009 the representative of the Service stated that all materials would be copied and would be provided to the Company within 3 week. The materials have not been provided till present.

With regard to the Company on 12 December, 2008 a following decision /hereinafter Decision/ was made: “to sequestrate the property belonging to the debtor which is under control of others

/including rights to property /”. According to the decision the property belonging to “BJNI Mineral Water Plant” CJSC /hereinafter referred to as Company/ was sequestrated, no matter that the property was under control of other people, including rights to a property and restricted the right of their usage. The Company filed a claim to the Administrative Court of Armenia asking the Court to declare the above-mentioned decision invalid reasoning that the Article 5 of the Armenian Law on “Compulsory Execution of Judicial Acts” did not provide any opportunity to sequestrate the rights to property.

On 04 May, 2009 The Court granted the claim partially considering that the Decision sequestrating the rights to property was lawful. On June 04, 2009 the Company filed a cassation claim, which was returned back.

On 20 March, 2009 SPCEJA of RA applied to the Court of First Instance of Kotayk region demanding the Court to declare ““BJNI Mineral Water Plant” CJSC” bankrupt. The ground for the demand served the reason that the Administrative Court of Armenia declared the auction held by the Service invalid, where the property of the Company was sold there, and obliged to stop the administrative proceedings by the court judgment. The above-mentioned judgment was made on 19 March, 2009 and should be enter into force on 19 April, 2009; this means that the judgment did not enter into force the time the application was submitted. With regards to the application to declare the Company bankrupt, the latter submitted its objections stating the fact that under the conditions of a judgment which did not enter into force, the Company’s alienate contract of property was still active, which means that the Company on the ground of the administrative proceedings de jure did not have any commitments with regard to the state budget. However, the Court declared the Company bankrupt by its judgment passed on April 06, 2009. On 20 April, 2009 the Company filed an appellate claim, the Court rejected the claim. A cassation claim was filed, which was returned back.

On July 27, 2009 the Company filed its objections regarding the initial list of debtors. The objections were not taken into consideration. On August 06, 2009 the Court rejected the objections.

The manager filed a motion to sell the mineral water flow into the river with regard to bankrupt case. The Court, without any ground, did not let the Company sell the mineral water and to gather its assets without making expenses.

On 22 September, 2009 the Company filed a claim to the Administrative Court of Armenia against the Ministry of Nature Protection asking the Court to find the administrative actions of the Ministry of Nature Protection unlawful.

The Company blamed the Ministry of Nature Protection for that they disposed a meter, and after that no violations of environmental law was found as a result of checkings providing all necessary documents, which, in fact, the tax department did not take into account. The trial had not begun.

In February 2010 “BJNI Mineral Water Plant” cjsc was bought by Ruben Hayrapetyan, member of the Republican Party.

R. Hayrapetyan does not consider the events with regard to BJNI Mineral Water Plant” cjsc as a political prosecution.

With Regard to “BJNI GROUP” LLC

On 08 December 2008 according to the decision No. 34/08 of the Council of Appeals of the Agency of Mental Property ed the decision No. 815 on ceding the brand of the Company to “BJNI GROUP” LLC. “BJNI GROUP” LLC filed a claim to the Administrative Court asking to the decision No. 34/08. On 01 July 2009 the Court granted the claim.

Accorinding to a contract of 01 October 2008 “BJNI Mineral Water Plant” CJSC ceded several brands to “BJNI GROUP” LLC. The manager assigned for the bankrupt of “BJNI Mineral Water Plant” CJSC filed a claim to the Court of First Instance of Kotayk region asking the Court to annul the deal, as the contract on ceding the brands was a fake deal.

On 29 July 2009 the Court granted the claim filed by the bankruptcy manager giving reasons that the concluded deal was faked. However, the Court did not provide any grounds that the deal was faked. “BJNI GROUP” LLC filed an appellate claim asking to annul the judgment of the Court of the First Instance and reject the claim filed by the manager. On 22 September 2009 the Appellate Court of Armenia rejected the claim. “BJNI GROUP” LLC is preparing a cassation claim.

With Regard to “PIZZA DI ROMA”

“PIZZA DI ROMA” LLC /hereinafter referred to as Company/ applied to the Administrative Court to the order given by the State Tax Service of Armenia, to declare the actions as contradicting to the law and to return the computer processors back, as well as to the checking act. With regards to this case the Service submitted an act of 300.000.000 AMD toward the Company according to the information gathered and decoded illegally from the computers.

The Company stated that the processors were not seized according to the law, they were not sealed at the same moment, and hence it was possible to enter illegal data into the processors. A forensic accounting and forensic computerized expertise shall be carried out. The investigation is still pending.

Members of “PIZZA DI ROMA” LLC were charged with the following articles: Gevorg Safaryan-part 2 of Article 38-205 of the Criminal Code of Armenia (CCA), Anush Ghavalyan – part 2 of Article 205 of CCA, Sirun Dimaksyan – part 1 of Article 38-205 of CCA. According to the decision of the Court of the First Instance of Kentron and Nork-Marash districts, the Court decided to put confiscation on all kind of property of “PIZZA DI ROMA” LLC belonging to G. Safaryan, in case G. Safaryan did not fulfill his commitments, the Court will confiscate the personal property of G. Safaryan.

G. Safaryan and A. Ghavalyan filed an appellate claim asking the Court to annul the judgment of 07 April 2009 with regard to a civil claim. The Appellate Court rejected the claim.

On 18 July 2009 G. Safaryan and A. Ghavalyan filed a cassation claim, which was returned back.

On 06 May 2009 “PIZZA DI ROMA” LLC filed an appellate claim asking the Court to annul the judgment of 07 April, 2009 with regards to a civil claim and to leave it without any examination. The claim was based on ground that the Court violated Article 74 of the Criminal Procedure Code of Armenia, thus the Court did not recognize “PIZZA DI ROMA” LLC as a civil respondent and did not apply Article 367 of the same Code. On 19 June 2009 the Appellate Court of Armenia rejected the claim stating: “The judgment of the Court of First Instance of Kentron and Nork-Marash districts does not concern “PIZZA DI ROMA” LLC”.

Taking into account the above-mentioned “PIZZA DI ROMA” LLC” submitted an application to the Court of the First Instance asking the Court to make the property of Company free from arrest. On 01 September 2009 the Court rejected the application filed by the Company without presenting any ground for it. The Company is preparing to apply to the Cassation Court of Armenia.

#### With Regard to “SPORT TIME” LLC

On 01 July 2008 the contract CIS-FW07/AM-01 was signed between “ADIDAS” LLC and “SPORT TIME” LLC /hereinafter referred to Company/. According to the contract the supplier should supply brands of ADIDAS, REEBOK and SALAMON for “Summer-Winter 2007” season, as well as equipment for brand sport shops. The contract determined that the total sum of the products was 910.000 AMD, all expenses were included in the total sum.

On 31 October 2007 the Company submitted a notice to the chief of State Custom Committee of Armenia, which stated that under air load No. 421-1133 5030, which included sportswear, shoes and other accessories -353 units of 4882 kgs. The Company asked the Customs Committee to register the load under the provisions of Article 87 of the Custom Code of Armenia.

On 02 November 2007 the Committee let the Company know by the notice No. 11233/4-1 that the custom price of imported load can not be determined under the provisions of Article 87 of the Custom Code of Armenia as there were some omissions in the invoice regarding the expenses of transfer, insurance etc.

The Committee defined the custom value of products of “SPORT TIME” LLC not taking into account the price of the deal, but taking into account the price by which each product should be sold in the internal market. “SPORT TIME” LLC filed a claim to the Administrative Court demanding the following:

- To declare non lawful the actions of the Committee regarding price determination
- To recognize the custom sum of “SPORT TIME” LLC paid on 02 November 2007 of 9 188 412, 17 AMD as extra-payment, where 6 330 349,8 AMD was VAT and 2 858 062,3 AMD was custom duty.

On 30 December 2008 the Administrative Court fully granted the claim. The State Tax Committee of Armenia filed a cassation claim. On 27 May 2009 the Cassation Court of Armenia returned back the claim.

On 15 June 2008 “ADIDAS” LLC and “SPORT TIME” LLC signed a contract No. CIS-AM-01. With regard to the contract, the Company imported loads under the No. 412 1336 8471 to the Custom area. “SPORT TIME” LLC applied to the Tax Department of Armenia in order to register the load under the provisions of Article 87 of the Custom Code of Armenia. The Zvartnots Custom Service of Tax Department rejected to give an approval. On 06 April 2009 “SPORT TIME” LLC filed a claim:

- To annul the decision of 26 March 2009 of the Tax Department of Armenia to return the load back to the Company.
- To oblige the Tax Department to accept customs declaration C 4256, C 4257 and C 4258 of the Company and to return the load back to the Company.

On 14 May 2009 the subject of the contract changed and the Court was demanded to declare the sum of 3 878 674 paid for the imported products as extra-payment. On 27 August 2009 the

Administrative Court of Armenia the claim was fully granted. On 28 September 2009 the State Tax Department filed a cassation claim.

“SPORT TIME” LLC imported products to Armenia from 18 December 2007 to 16 April 2008. On 07 March 2008 the Company imported products under the invoice SO 0407912. The total sum was 4684, 75 and 50768 USD respectively, which included also CIP-Yerevan condition. On 25 March 2008 the Company imported products under the invoice SO 0407910, and the total sum was 130 917, 11 USD, which also included CIP-Yerevan condition.

“SPORT TIME” LLC applied to the Tax Department of Armenia in order to register the load according to Article 87 of the Custom Code of Armenia. On 13 December 2007 the Tax Department rejected the Company to determine the customs value of products under the method of deal price.

On 07 August 2009 “SPORT TIME” LLC filed a claim on the following demands:

- To declare non-lawful the action of the Tax Department of 18 December 2007 on additions to the customs value of products stated in the customs declarations No. C 24930, C 25933, C 25936, C 1058, C 1059, C 7066, C 7067 and C 7068.
- To recognize the 7 921 918, 37 AMD paid by the Company for the import of products stated in the above-mentioned customs declarations as extra-payment (18 December 2007).

On 27 August 2009 the Administrative Court of Armenia fully granted the claim.

On 28 September 2009 the Tax Department of Armenia filed a cassation claim.

With Regards to “NOR SHIN” LLC

On 24 October 2007 and on 17 December 2007 the inspectors of the State Tax Department of Armenia according to the order No. 1034648 of the chief of the Tax Department and order of 1-07/1050-A made checkings of budget and other demands of law provided by the tax services in “NOR SHIN” LLC .

On 18 December 2007 as a result of checkings an act No. 1034648 was formed, according to which a sum for additional tax obligations should be paid.

On 25 December 2007 “NOR SHIN” LLC filed a claim to the Economic Court of Armenia asking the Court to annul the act 1034648 formed on 18 December 2007 by the State Tax Department with regard to part 1 /Income tax/ and part 4 /VAT/. Accordingly the additional sum

of 11 328 700 AMD under the act No. 1034648 formed on 18 December 2007 was not a subject of impressments.

The cognizable case went to the Administrative Court which granted the claim filed by “NOR SHIN” LLC on 10 March 2008. The basis for the decision was the fact that the State Tax Department did not prove the fact that invoices were issued without containing product deals.

The deputy of the Prosecutor General of Armenia filed a cassation claim. The Cassation Court of Armenia partially granted on 28 August 2008 and the case was sent to the Court for a new examination.

On 24 July 2009 the Administrative Court of Armenia rejected the claim of “NOR SHIN” LLC. According to the decision of the Court of First Instance of Erebuni and Nubarashen districts made under the provisions of part 3 of Article 189 of the Criminal Code of Armenia the managing director of “NOR SHIN” LLC was found guilty and the judgment proved that documents containing no names of products were written out for the sum of 6 731 200 AMD.

With Regard to “EKONOMINKOSACIA” ACSJC

“EKONOMINKOSACIA” ACSJC /hereinafter referred to as Company/ filed a claim against the State Income Committee of Armenia. The Company asked the Court to annul the act form by the Tax Department as during previous years the Tax Department considered the Company as an Ascertained Tax Payer, so it accepted applications, and then during the checkings the Department stated that the Company can not be considered as an Ascertained Tax Payer and obliged the Company to pay a fine of more than 360 mill AMD. The basis for the claim was the fact that the Central bank of Armenia stated that the transportation of cash assets was considered to be a provision of transportation services, which in its turn is considered to be an object for an ascertained tax payer.

The Administrative Court of Armenia rejected the claim of the Company. The cassation claim was returned back. The case was dismissed.

The State Income Committee filed a counter-claim against the Company with a demand to seize the necessary sum of money.

The Company applied to the Administrative Court of Armenia asking the Court annul the act of the State Income Committee. The parties reached a settlement with regards to these cases.

According to the order N. 239 given on 01 June 2007 of the Prosecutor General of Armenia the plaintiff was fired from his position and was sent to a long service retirement.

Upon request of the personnel department of Prosecution the plaintiff submitted all necessary documents on his disease and he was given a retirement benefit which he received every month starting from 01 June 2007 to July 2008 included.

On 06 September 2008 the plaintiff received a notice from H. Kirakosyan, a chief of the personnel department of the General Prosecution Office of Armenia, which officially stated that the his retirement benefit was stopped according the order No. 166 given by the Prosecutor General of Armenia on 21 August 2008 as the documents on his disease were faked.

On 18 November a claim was filed to the Administrative Court of Armenia in order to annul the order N.166 of the Prosecutor General of Armenia given on 21 August 2008.

On 22 April 2009 the Administrative Court of Armenia fully granted the claim.

On 09 September 2009 A. Tamazyan, the deputy of the Prosecutor General of Armenia filed an application to the Cassation Court in order to return the cassation claim back.

On 13 June 2009 of the Cassation of Court of Armenia returned the claim back.

According to the decision of the Cassation Court came into effect at the moment it was made and was not subject to appeal.

On 22 April 2009 the judgment of the Administrative Court came into effect.

**PROHIBITION OF TORTURE AND ILL-TREATMENT,  
ARBITRARY ARREST AND DETENTION**

Since the time of its independence Armenia has adopted almost all international human rights documents including the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and two optional protocols to the European Convention.

The state parties to the Convention shall submit to the Committee Against Torture reports on the measures they have taken to give effect to their undertakings under this Convention within one year after the entry of the Convention into force, and then they should submit supplementary reports every four years on any new measures taken and any other report the Committee may request.

According to Article 19 of the UN Convention against Torture the States Parties shall submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have taken to give effect to their undertakings under this Convention, within one year after the entry into force of this Convention for the State Party concerned. Thereafter the States Parties shall submit supplementary reports every four years on any new measures taken, and such other reports as the Committee may request.

In 2009 the Republic of Armenia submitted its joint 3<sup>rd</sup> and 4<sup>th</sup> joint periodic report on measures implementation of the United Nations Convention against torture and other cruel, inhuman or degrading treatment or punishment. The report provides information on measures taken in the period extending from 2001 to 2009.

Article 1 of the Convention Against Torture clearly defines torture as “...pain or suffering inflicted by ... a public official or other person acting in an official capacity...”.

In the year of 2008 and in 2009 as well the law-enforcement bodies committed criminal actions which should be punished under Article 341 of the Criminal Code of Armenia, according to which “Forcing the suspect, the accused, the defendant, the aggrieved, the witness or the expert, or the translator, by the judge, the prosecutor, the investigator or person in charge of inquiry, by using extortion or any other illegal action, to make a false testimony, conclusion or translation, is punished with deprivation of the right to hold certain posts or practice certain activities for up to 5 years, or with arrest for the term of up to 3 months, or with imprisonment for the term of up to 2 years. The same action committed by the persons mentioned in part 1 by using torture, insult or

other violence, are punished with imprisonment for the term of 3 to 8 years, with or without deprivation of the right to hold certain posts or practice certain activities for up to 3 years.”

In May 2009 persons related to events of “March 1” applied to Helsinki Association. Many of them were called as witnesses to the criminal cases related to the events of March 1. Since March 2008 all of them have illegally been taken to police departments and prosecution agencies where they had undergone torture and inhuman treatment, beatings and ill-treatment.

*Gagik Avdalyan, one of the participants of demonstration held on 1 March, 2008 underwent harsh beatings within March 1-2 at the 6<sup>th</sup> Police department by 6-10 police officers. They took away his passport. They forced him to give testimonies against Myasnik Malkhasyan and Suren Sirunyan, otherwise they would beat him to death and would throw him to the dead bodies of March. Then they would say that he had died with them. As a result of those beatings G. Avdalyan received a fracture of face bone.*

Article 199 of the Law of Armenia provides administrative responsibility for taking the passport of a citizen illegally.

*Rafael Balbalyan, a witness to the cases of Sasun Mikaelyan and Myasnik Malkhasyan lost his sight as a result of beatings and concussion of a brain. He was taken to the police department and national security department without summons where they continuously threatened him. His son and he had been subjected to such kind of inhuman and degrading treatment that he claimed he would commit suicide if they came to his house again. The passport of R. Balbalyan was with the deputy of the chief of police.*

According to part 6 of Article 206 of the Criminal Procedure Code of Armenia the witness can be interrogated about any aspect significant for the case, including, about the personality of the suspect, the accused, the injured person, and other witnesses.

The witness is interrogated at the place the preliminary investigation is conducted, and when necessary, at the place where the latter finds himself.

The witness is interrogated apart from other witnesses. The investigator takes measures to prevent communication between witnesses summoned for the same case before the end of interrogation.

Prior to the interrogation the investigator ascertains himself in the identity of the witness,

informs the latter for which case he has been summoned and warns about the duty to relate everything known about the case, as well as gives instructions against refusal or avoidance to testify, about the established criminal responsibility for perjury. The witness is advised that he is not bound to give incriminating testimony against himself, his spouse or close relatives. After that, the investigator clarifies the relations between the witness and the suspect, the accused, the injured person and starts the interrogation.

The interrogation begins with a proposal to the witness to relate everything known to the witness about the case, after those questions can be asked.

*Witness to the cases related to events of March 1 Gevorg Muradyan was questioned without his lawyer being answered that he could not be provided with a lawyer, they did not explain to him his rights, he was without his parents /he was a minor then/. They changed his birth date in his testimonies. Testimonies of G. Muradyan had been obtained under beatings. The investigator and several other police officers subjected him to harsh beatings; they forced him to give testimonies. They did not let the witness go home for 3 days. One of the police officers said that he should not be beaten to death, as the witness told that he had a heart and lung diseases since his childhood. On the third day he learnt by heart the testimonies which had been obtained under torture and then he was set free in the evening.*

According to Article 5 of the Law on Police of Armenia adopted in 2001 the police officer shall be brought to liability for subjecting the person to torture, inhuman and degrading treatment or abuses.

*Participant of the rally of March 1, 2008 Hmayak Galsyan was taken to the 6<sup>th</sup> Police Department by the law-enforcement bodies where he had remained on the ground for 2 hours. He stayed at the department a day. He underwent beatings there on different hours. He was set free only on March 2, at 03:00 am.*

*On 18 March 2008 rally participant Tatul Karapetyan went to the police department of Hrazadan region. He was kept there for 3 days and underwent torture. The police officers forced him to give testimonies against Sasun Mikaelyan. They did not let him make a phone call or invite a lawyer. Then he was taken to the General Prosecution office where was threatened. He was kept there since 9:00 till 23:00.*

*Yasha Melkonyan was called to the police department of Hrazdan region on March 13, 2008, where he underwent torture in order to testify against S. Mikaelyan. They applied electro-shock on him. According to his words he had been tortured in a way that he had to write that he had been to somewhere, but he had not been there at all.*

The judges keep ignoring the statements of defense attorneys on the facts that testimonies of witnesses are usually obtained under torture and inhuman treatment at investigation stage.

Mushegh Shushanyan, defense attorney of Grigor Voskerchyan submitted several statements according to which the witnesses have been exerting pressure by the officers of the National security service.

*According to M. Shushanyan during the trial of May 12, 2009 Aghasi Grigoryan, an officer of the National Security Service of Abovyan was present in the room of witnesses. After the court hearing he together with witnesses Vahan Manukyan, Luiza Stepanyan, Ghamo Namadyan went out of the court building, he accompanied them to Yerevan cinema, got into the car with them and left away. Vardan Hasratyan, head of the National Security Service of Abovyan followed them. He also was present at the court building for the whole day. The defense attorney asked the Court to take measures in order to guarantee the security of witnesses. Judge G. Poghosyan gave a rude answer to it.*

*The car of Henrik Hartinyan, who was among the participants of the well known demonstration of March 1, 2008, was stopped near the Liberty Square without any explanations. An unknown person hit him on his head and he lost consciousness. H. Hartinyan was cruelly beaten, his bones were even broken. When he regained consciousness, he found himself in the 6<sup>th</sup> Police Department. They started questioning him and he was told that he'd better write everything the way they wanted; otherwise he would not stay alive. H. Hartinyan wrote everything they wanted as he was not able to realize anything. H. Hartinyan was set free on March 3, 2008 at 3:00 am.*

*Khachik Davtyan, one of the activists participating in the demonstration of March 1, 2008 was injured badly by a weapon called "Cheryomukha 7". On May 17, 2008 he was taken to the General Prosecutor's office, where he underwent torture and was threatened by the investigator to the case.*

*Khachik Davtyan told the Fact-finding Group dealing with the investigation of the events related to March 1, 2008 that he witnessed the 11<sup>th</sup> victim of the events of March 1, 2008. Then he again was called to the General Prosecutor's Office in order to be questioned.*

According to the domestic legislation of Armenia Article 17 of the Constitution of Armenia provides that no one shall be subjected to torture, as well as to inhuman or degrading treatment or punishment. Arrested, detained or incarcerated persons shall be entitled to human treatment and respect of dignity.

Article 119 of the Amended Criminal Code of Armenia says that a punishment is provided for torture. However, the illegal actions continue to be committed by the law-enforcement bodies of Armenia, they violate the laws of Armenia, as a result human rights are being violated which are guaranteed by the Constitution of Armenia, European Convention on Human Rights and Fundamental Freedoms and by a number of documents which were adopted by the republic of Armenia.

There are lots of cases of torture and abuses committed by the police officers. However, claims with regard to torture and inhuman treatment remain without any result and the police officers themselves commit crimes instead of combating against them.

*Arshaluys Hakobyan, photo journalist and observer of Helsinki Association was charged of part 1 of Article 316 of the Criminal Code of Armenia. He underwent torture and inhuman treatment at the police department of Kentron district<sup>1</sup>. On 10 June 2009 A. Hakobyan filed claims to the Prosecutor General of Armenia with regard to torture. A criminal case was filed against police officers who beat A. Hakobyan only on 28 November 2009. However the criminal proceedings were terminated on 29 December 2009 on the ground of lack of corpus delicty<sup>2</sup>.*

*In the year of 2009 Elona Danielyan, wife of Aleksey Nagaytsev applied to Helsinki Association. He was charged of part 3, paragraph 4 of Article 175 of the Criminal Code of Armenia. He was brought to the police department as a suspect according to testimonies of persons named Armen and Garnik Chaloyans, as he participated at robbery. Later on, they stated in their statements addressed to the defense attorney of A. Nagaytsev and law-enforcement bodies, that their false testimonies had been obtained under torture, that police officers threatened and force them to write the testimonies. Prosecutor of Erebuni district stated that pressure had not been exerted on*

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<sup>1</sup> Pictures bearing traces of abuses are available at [/www.hahr.am/index.php?option=com\\_content&task=view&id=152&Itemid=105](http://www.hahr.am/index.php?option=com_content&task=view&id=152&Itemid=105)

<sup>2</sup> Chapter "Right to Fair Trial and Effective Remedies".

*Armen and Garnik Chaloyan at investigation stage without taking into account the statement submitted by the accused with regard to torture. In 2009 the trial of the above mentioned criminal case started. Currently the trial is pending.*

*On March 12, 2009 the Prosecution terminated the criminal case of Levon Gulyan. Let us remind that L. Gulyan died on May 12, 2009 under uncertified conditions at the Police Building. On October 9, 2009 the presiding judge Gayane Karakhanyan of the Court of First Instance of Kentron and Nork Marash districts announced a decision according to which a new trial examination should start on the criminal case of L. Gulyan. The judge came to this conclusion after 4 months of examination of the claim filed by the lawyers against the termination of the case. The judge announced that it was necessary to listen to Gabriel Petrosyan, investigator of special cases, as there were unclearified answers in the case materials.*

On May 31, 2006 the National Assembly of Armenia ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Attitude and Punishment. According to Article 17 of its Protocol Armenia was obliged to establish a national preventative mechanism no later than a year after it ratify the Convention in order to prevent torture on domestic level.

In 2008 the National Assembly of Armenia adopted the law to make amendments into the Law on Human Rights Defender of Armenia. According to it the Ombudsman is considered to be a national preventative mechanism. The staff of Ombudsman of Armenia started to create a field of cooperation with non-governmental organizations.

Ruling by Article 47 of the Law on “Arrested and Detained Persons” and Article 21 of the Criminal Execution Code of Armenia, the Minister of Justice ascertained the order to carry out public control in criminal execution facilities and departments and to form a group of public observers.

According to the order of the Chief of the Police of Armenia as of 14 January 2005, a group of public observers was formed on 10 March 2006. This body is the controlling body dealing with problems of rights and freedoms arrested and detained persons.

Helsinki Association was not included in the group of observers.

In 2009 Helsinki Association applied to the Minister of Justice Gevorg Danielyan requesting him to provide the following information:

1. How many convicted persons were released from the Criminal Execution Facilities as a result of amnesty declared by the National Assembly of Armenia on 19 June 2009?
2. How many convicted persons can stay at “Nubarashen” CEI and how many convicted persons serve their sentences within January-December, 2009?
3. How many convicted persons can serve their sentences in every CEI of Armenia and how many convicted persons currently serve their sentences there?
4. How many cases of HIV/AIDS, tuberculosis, death, escape were protooled in every CEI in the year of 2009?

In response to the official letter of Helsinki Association the Criminal Execution Department of the Ministry of Justice provided only the following information: “As of 16 December 2009 there are 14 HIV/AIDS infected person, 48 patients have tuberculosis, and 13 cases of deaths were protooled within the same time-period”. At the same time the Criminal Execution Department of the Ministry of Justice mentioned that the following information was available at [www.moj.am](http://www.moj.am). However, the organization was not able to find the answers.

The conditions of prisoners in criminal execution facilities of Armenia resemble market relations. According to prisoners, particularly the prisoners of Nubarashen CEI, they can take shower once a week; they pay 1000 AMD to the jailer, also they pay extra 1000 AMD if they want to go to the bathroom. There is only cold water at prison cells. In order to bring electronic devices into the cell, the prisoners shall pay 5000-10000 AMD. No heating system exists at cells, so the prisoners have to bring them inside by paying 5000 AMD. Every month the prisoners of each cell shall pay 20000-30000 AMD to the chief of the regime. In summer they are allowed to bring ventilator and pay 5000 AMD for it. The toilet is inside the cell, they can use it out of charge. However, in “Yerevan-Kentron” CEI the toilet is not separated.

After 15 days of detention a meeting from behind the glass window is permitted for 15 minutes which is free of charge, and if the visitor pays 10 000 AMD the meeting can be arranged in a separate room.

The law provides that every prisoner can use the ordinary telephone, the charge is paid using payment cards /they are being sold at a higher price then they really cost/, however almost all prisoners have cell phones. They pay 20 000 AMD to the chief of regime for this.

An hour walk costs 1000 AMD for each cell, and in case the prisoners do not go out for a walk because of bad weather, they again have to pay this 1000 AMD. If the prisoner did something wrong he can be transferred from the ordinary prison cell to another cell. However the prisoner can stay at his ordinary cell if he pays 10000-20000 AMD the head of the regime.

There is no laundry there, it is allowed to bring in some washing powder and the prisoners wash their clothes themselves, or they send the clothes home.

The food quality is very bad, especially the quality of bread. The prisoners clean their cells themselves. There are numerous cases when the prisoners reconstruct their cells on their own.

The correspondence is made through order, but the letters are being read with the prison administration, and there can be some restrictions with regard to the behaviour of the prisoner.

It is allowed to use the library and bring books, newspapers, radio and TV from home. Very often the TV is brought on means of prisoners, however according to Article 17 of the Law of the Republic of Armenia on Arrested and Detained persons the State shall provide the TV.

Arriving at the prison the prisoners undergo medical examination /X-Ray examination, general examination and examination of physical injuries/.

In case of necessity the prisoners can be provided the first aid at night, they can be taken to the medical department of the prison. Psychologists, psychiatrists work there and they provide the patients with the necessary assistance. If there is a need, the prisoner can be taken to the psychiatric hospital. According to prisoners, this very often happens by means of money.

Medical inspections/examinations are held in prisons and if they find viral infections, the prisoner shall be isolated and necessary steps are taken.

It's worth mentioning that the cells of Criminal Execution Facilities are overcrowded. For example in Nubarashen Criminal Execution Facility the number of prisoners for the cell was 19, whereas there shall be only 12 prisoners. There were not enough mattresses there, so the prisoners had to sleep in turn.

According to part 1 of Article 105 of the Criminal Execution Code each cell shall have only 6 prisoners. And Article 73 of the Criminal Execution Code provides that each prisoner shall have the area of no less than 4 sq. meters.

With regard to investigation on cases of ill-treatment and even torture in military units, it should be stated that the medical staff does not reach in a proper manner, does not inform the competent bodies about such cases, they do not state that this or that injury have been caused as a result of torture.

With regard to cases of torture and ill-treatment in army the investigation bodies and the prosecution do not carry out an objective examination, as a result ordinary soldiers who are not guilty in torture, are charged with this and the real criminal remain unpunished. They usually claim that the reason for death is a suicide, border incidents, negligent conduct or the enemy's bullet /Andranik Hayrapetyan, Aznaur Arakelyan/ and often terminal the proceedings, though the expertise clearly shows traces of abuse.

Time constraints for the investigation and pre-trial examination of these cases are usually very long. Trials of soldiers died in the army as a result of torture started and continued within the year of 2009<sup>1</sup>.

On 15 May, 2008 the soldier Andranik Hayrapetyan received a gunshot injury at his right thigh and died in the Republic of Nagorno Karabakh. According to the official variant he died as a result enemy's bullet. The representative of victim's assignee is Helsinki Association. On 16 May 2008 medical forensic examination was held in Yerevan. Helsinki Association could take pictures of the dead body. Abrasions and traces of injuries were on those pictures, which had been caused before the death. A criminal case was filed against the commander for abuse of power and for violation of rules of military service.

*Criminal proceedings of the criminal case are terminated currently.*

*On 30 August 2007 soldier Tigran Ohanjanyan died in the military unit of village Karchaghbyur, Vardenis region. According to the official variant the reason for his death was the reaction of electricity on his organism. According to the conclusion of expertise the death was caused by electricity, however it's a false version and it was based on the parents assertion that T. Ohanjanyan was died because of violence. Nevertheless, according to the soldier's parents their son had died as a result of torture and abuses, because after the forensic medical examination of the dead body, traces of abuse had been found on the body. As well as, the medical expert Vigen Adamyan stated that his dental plate (upper and lower jaws) were complete, whereas the parents claimed that their son was enlisted to army and one of his teeth was missing. A criminal case*

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<sup>1</sup> Chapter "Right to Fair Trial and Effective Remedies".

*was filed for negligent conduct towards the service. No criminal case was filed with regard to murder case of the soldier.*

*In 2008 Armen Hovsepyan was enlisted to army in Nagorno Karabakh. According to his brother in the 3rd month of his service he got ill and was hospitalized at the hospital of Alishan, Karabakh. After that incident Armen started to get ill very often and the brother started noticing strange things in the behaviour of his brother. As a result of loss of memory his brother did not even recognize him, very often refused to eat something. They did everything in the military unit in order to prevent 2 brothers from talking to each other. During his last phone call he told his mother that he had been beaten. He was at the hospital on that day. After 10 days of being at the hospital of Alasha, Armen was transferred to the military hospital in Yerevan under fatal condition. He was under artificial respiration and died. According to doctors he had a haematoma of brain. The relatives have not been provided with the results of forensic-medical and anatomical expertise. A criminal case was filed with regard to the incident, the investigation is pending<sup>1</sup>.*

On December 30, 2008 Smbat Kirakosyan was enlisted to a military service to Nagorno Karabakh. On 16 May, 2009 Major Seyran Avanesyan obliged S. Kirakosyan to sign in the instruction book. S. Kirakosyan refused to sign saying that had not been instructed and felt bad, so could be able to be instructed. In response to S. Kirakosyan S. Avanesyan tried to hit the soldier. S. Kirakosyan hit the Mayor and the latter received a physical injury.

A criminal case was filed under part 2, paragraph 3 of Article 358 of the Criminal Code of Armenia */Violent actions towards the Chief/*. On July 13, 2009 the preventive measurement against S. Kirakosyan was chosen as detention. Currently, S. Kirakosyan is in the prison in Shushi.

On October 04, 2009 Aznour Arakelyan died while serving his military service in Nagorno Karabakh. According to the official variant he died of the fire shot from the side of the enemy. He received wound on his abdomen. A criminal case was filed pursuant to part 1 of Article 104 of the Criminal Code of Armenia. According to the results of forensic-ballistic and forensic-medical expertise the shot was made by the gun the bullet of which had 7.62mm measurements. As results of investigation carried out by the investigation body, the soldiers did not have guns of 7.62mm. According to V. Arakelyan, victim's assignee A. Arakelyan was killed by one of commanders. The investigation of the criminal case is pending.

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<sup>1</sup> "Gala" TV Station, Gyumri

On March 13, 2008 Edmond Hakhverdyan was enlisted to the military service in the Republic of Nagorno Karabakh. On 14 April 2009 the Court of First Instance of Tavush region found him guilty according to part 1 of Article 316 of the Criminal Code of Armenia and was subjected to punishment for 6 months. He was granted amnesty which had been declared by the National Assembly of Armenia. On July 9, 2009 was transferred to another military unit to continue his military service. On 20 July 2009 he left the military unit and went home. On 25 December 2009 he was found and brought to the Department of Military Police. A. Hakhverdyan was charged of part 1 of Article 362 of the Criminal Code of Armenia and detention is chosen as his preventive measurement. However, E. Hakhverdyan did not plead himself guilty.

## Freedom of Religion and Conscientious Objection

In the international report on Freedom of Conscience released by the U.S. State Department Bureau of Democracy, Human Rights, and Labor on October 29, 2009, it is said concerning Armenia, that the right to the freedom of conscience is fixed in the Constitution of Republic of Armenia. Nevertheless, the law includes certain restrictions for the religious minorities<sup>1</sup>.

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<sup>1</sup> <http://www.state.gov/g/drl/rls/irf/2009/index.htm>

According to the RA law on “Freedom of Conscience and Religious Organizations”, the registration is required, should the given religious organization promote activity which is stipulated by the law. Today 66 religious organizations are registered in Armenia. According to the law of RA on “Freedom of Conscience and Religious Organizations” , the Armenian Apostolic Church (Armenian Church in brief) with its traditional organizations, and other religious organizations function on the territory of Republic of Armenia, which are established and function inside the groups of its religious members according to their own regulation.

According to the RA law on "Freedom of Conscience and Religious Organizations", religious organizations are registered with the authorized state body, that is the Ministry of Justice, on the basis of expert conclusion of the authorized state body of religious affairs. The conclusion underlines, if the future activity of the given organization corresponds to legal demands of the law.

The rights of religious organizations without a state registration are more limited, anyway these kinds of organizations presenting traditional religious directions exist and the attitude of the state towards them actually is quite tolerant.

*Non-registered Muslims, for instance, were given an opportunity to restore the "Blue" mosque on the centre of the city, which became the place to pray there. Here the believers can freely celebrate spiritual holidays and hold funeral ceremonies. This fact refers to the political and economic interests between Armenia and Iran, and it does not exclude religious discrimination in Armenia.*

On March 22, 2009, National Assembly of RA addressed to the Venice Commission asking support for making changes in the RA law on "Freedom of Conscience and Religious Organizations".

According to the legislative initiative, the draft on the changes and supplements stipulates essential toughening concerning registration and activity of religious organizations.

*It is supposed to increase the number of supporters to 500 instead of 200; in case of Christian religion the organization should profess Jesus Christ as God and Savior and accept Holy Trinity; the competence of Armenian Apostolic Church is increased etc. .*

The change, stipulated for the Criminal Code of RA, is as follows:

Article 162 of the Criminal Code of RA / *Establishment, management or support of associations encroaching upon citizens' rights or against the individual, proselytism/*

- 1. Establishment, management or support of a religious or non-governmental association, whose activities inflict damage to the health of individuals, or with encroachments on other rights of individuals, as well as, incite citizens to refuse from their civil duties, is punished with imprisonment for the term of up to 2 years.*
- 2. Proselytism is punished with a fine in amount of 500 minimal salaries, or with arrest for the term of up to 1 year.*

The amendments make stronger the measure of punishment comparing with the previous one.

On March 19, 2009, RA National Assembly adopted the draft law by first reading. The Venice Commission gave a negative assessment to the stipulated changes in the RA law on "Freedom of Conscience and Religious Organizations".

The representatives of different religious communities in Armenia expressed their grave concern on the legislative initiative for the changes in the abovementioned law<sup>1</sup>.

According to the Article 17 of RA law on "Freedom of Conscience and Religious organizations", Apostolic Church of Armenia has the privilege to preach and expand freely its religion on the whole territory of Armenia, as well as promote charitable activity and have its permanent sacred representative in hospitals, nursing homes, military units, prisons including investigation detention places.

*In April 2009 Apostolic Church of Armenia criticized the Armenian visit of the U.S. Baptist choir "The Singing men of Oklahoma", who were invited by Evangelical Community of Armenia. The purpose of their visit was to cultivate goodwill ties of unity and commemorate the victims of Genocide. According to the information put in one of the sites of the choir, Armenia is considered to be a country with anti-Semitic elements<sup>2</sup>. Mother See of Holy Edchmiadzin blamed Evangelical Community of Armenia for trying to discredit Republic of Armenia and Apostolic Church of Armenia through speculating the memory of the victims. Under the oppressive influence of Apostolic Church of Armenia the name of the choir was changed into "The singing men of Oklahoma", though its original name was "The singing churchmen of Oklahoma". Later the choir announced that the information was put on the site by non official representatives.*

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<sup>1</sup> [www.forum18.org](http://www.forum18.org)

<sup>2</sup> <http://www.bgco.org/>

The law forbids Apostolic Church of Armenia to force the citizen to profess certain religion or participate in state government etc.

Though lessons of religion are taught in Armenian schools, they refer exclusively to the history of Apostolic Church of Armenia. A number of religious organizations have their Sunday schools as well.

Organization of religious ceremonies of registered religious organizations is regulated by the law in force.

According to the legislation, there is no obstacle for the organization of religious ceremonies, however artificial problems are raised.

*The fixed sum for the territory rented by the organization "Jehovah's witnesses" was transferred on the renter's account, but as the owner of the territory said, he was prohibited by Mother Church (Armenian Apostolic Church) to give a territory to the organization.*

According to the law in force all the registered religious organizations have equal rights. But as it turned out through the talks with Lyova Margaryan, the lawyer of the religious organization "Jehovah's Witnesses", in fact they are not endowed with equal rights.

*According to the religious organization "Jehovah's Witnesses", taxes were organized for importation of relevant literature in amount of 20 fixed taxes, and only after the appeal to the court the taxes were decreased to amount of 5-6. As to December 2009 "Jehovah's Witnesses" brought 15 lawsuits to the Administrative Court with regard to "tax terror".*

According to Article 18 of the law the State shall finance neither the activity of Religious Organizations nor of atheistic propaganda.

According to Article 13 religious organizations whose spiritual centers are outside the Republic of Armenia cannot be financed by those centers.

Religious organizations cannot be financed by political parties and cannot finance them.

The publishing activity of Religious Organizations is regulated by the applicable law of the Republic of Armenia. The above-mentioned rights appear from the moment of registration of the given religious organization in RA.

The provisions stipulated by the RA law on "Value Added Tax" could be cited as a privilege for all registered religious organizations. State Tax Service N 03/17 Order of the RA (June 23, 2003)

on "Procedure of Calculation and Payment of Capital Levy" can be mentioned as another privilege defined by the state. According to the abovementioned order, religious, cult buildings and residences belonging to religious organizations on the right to property are free of Capital levy. Adopted in 2003 the law "On Alternative Service" came into effect on July 1, 2004 and is divided into the following:

- an "alternative military service" – 36 months, that is, unarmed service yet in uniform;
- an "alternative labor service" – 42 months of service in a special blue colored uniform with words "Alternative Labor Service" written on the back.

The duration of the regular military service is 24 month. In addition, Alternative servicemen are given military record books where they are described as soldiers, are checked up on each week by the military and need permission from the military to go on leave. Article 14 of the Alternative Service Law says that the military organizes the alternative service call-up, while Article 13 says that individuals are assigned to their place of work by the military. Article 18 subjects those doing alternative service to the army's Code of Rules. Article 21 treats those who desert from the army and those who abandon alternative service in exactly the same way.

The Parliamentary Assembly of the Council of Europe in Resolution 1361 (Article 22<sup>1</sup>) and Resolution 1405 (Article 11.4<sup>2</sup>) adopted in the year of 2004 draws attention of Armenian authorities on unacceptable terms of the alternative labor service, the duration of which is 42 months. On July 9 2004 a decree of the Government №940-N "On Places of Performing Alternative Service and Order of Wearing and Types of Uniforms of Alternative Serviceman" took effect, according to which 49 persons can be called to alternative labor service (establishments under the Ministry of Health and Ministry of Labor and Social Issues – boarding-schools, old people's home, psychiatric establishments, isolation hospitals), and Alternative Military Service – 300 persons in military units of Syunik, Gegarqunik and Tavush regions (all of those regions are frontier ones).

Armenian authorities still deny or decline to consider the Law on Alternative Service as non-corresponding to international standards. Senior officials representing the Ministry of Justice or the Ministry of Foreign affairs repeatedly stated throughout the year of 2008 that the legislation regulating alternative service law had no contradiction with Armenia's international human rights obligations, including the Council of Europe. The latter has repeatedly criticized the law

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<sup>1</sup> <http://assembly.coe.int/Main.asp?link=http://assembly.coe.int/documents/adoptedtext/ta04/eres1361.htm>

<sup>2</sup> Implementation of Resolutions 1361 (2004) and 1374 (2004) on the honoring of obligations and commitments by Armenia <http://assembly.coe.int/Main.asp?link=http://assembly.coe.int/asp/search/pasearch.asp>

saying it was substandard. This opinion was sounded by Thomas Hammarberg, Council of Europe's Human Rights Commissioner. In particular he stated that the law did not provide a genuine civilian service as the service was still managed and supervised by the Ministry of Defense. In addition T. Hammarberg called on the Armenian authorities to free all its imprisoned conscientious objectors, those who cannot serve in the army or perform the alternative service under military control.

*On October 27, 2009 the European Court of Human Rights made an announcement concerning the case of Bayatyan /Jehovah's Witness/ against Armenia that it had had to determine, that the Freedom of Conscience, defined in the Article 9 of European convention, did not protect the rights of those, who refuse from military service.*

*Bayatyan's lawyer Andre Carbano announced that the resolution will be appealed in the Grand Chamber.*

Currently, there are 76 Jehovah's Witnesses conscientious objectors serving their prison terms for the refusal to join the alternative service under military control. Cases are underway against more than 15 other individual Jehovah's Witnesses who face potential imprisonment as early as January 2009. Nearly all of these Jehovah's Witnesses are serving prison sentences of between one and three years for refusing military service on grounds of religious conscience. They had been sentenced under Article 327, Part 1 of the Criminal Code, which punishes evasion of the call-up to military or alternative service. The maximum sentence under this article was increased to three years' imprisonment in December 2005. One Jehovah's Witness is serving a suspended two-year sentence.

As a sign of progress, since summer 2008 the practice of denying military cards to those who had served terms of imprisonment for refusing military and alternative service ended. Before that the young men who served their prison terms could not register their place of residence, and without a registered place of residence they couldn't get an identity card or passport. As a result, they couldn't get a job in the government, couldn't leave the country and couldn't even get married.

However, the public sentiment towards Jehovah's Witnesses religious groups is still highly negative, let alone the attitude of the Armenian Apostolic church and its servants.

## APPENDIX

### Conscientious Objectors

#### **REPUBLIC OF ARMENIA**

**January 1, 2010**

*Currently, there are 76 Jehovah's Witnesses who are in prison for their conscientious refusal of military service on religious grounds. Of these, 76 have been tried and convicted and 0 is being held in pretrial detention. The names, dates of imprisonment, grounds (under criminal*

code<sup>1</sup>), the duration of sentence and present locations of detention are as follows:

**Seventy-six** Jehovah's Witnesses have been tried and convicted:

<b>Yerem Hovhannisyan</b>	January 10, 2007	§ 327 I, 36 months	Artik Penal Institution
<b>Sayad Tovmasyan</b>	January 10, 2007	§ 327 I, 36 months	Artik Penal Institution
<b>Armen Zurabyan</b>	February 27, 2007	§ 327 I, 36 months	Erebuni Penal Institution
<b>Nshan Gevorgyan</b>	July 17, 2007	§ 327 I, 36 months	Erebuni Penal Institution
<b>David Aroyan</b>	August 3, 2007	§ 327 I, 30 months	Erebuni Penal Institution
<b>Andranik Aghekyan</b>	August 8, 2007	§ 327 I, 30 months	Erebuni Penal Institution
<b>Hayk Madatyan</b>	August 11, 2007	§ 327 I, 36 months	Erebuni Penal Institution
<b>Zora Melkonyan</b>	August 13, 2007	§ 327 I, 30 months	Artik Penal Institution
<b>Gor Kirakosyan</b>	September 21, 2007	§ 327 I, 30 months	Erebuni Penal Institution
<b>Mkrtich Smbatyan</b>	September 26, 2007	§ 327 I, 30 months	Erebuni Penal Institution
<b>Stepan Hovakimyan</b>	September 26, 2007	§ 327 I, 30 months	Erebuni Penal Institution
<b>Babken Shahinyan</b>	December 5, 2007	§ 327 I, 30 months	Erebuni Penal Institution
<b>Roman Hovhannisyan</b>	December 17, 2007	§ 327 I, 30 months	Artik Penal Institution
<b>Garik Gevorgyan</b>	December 25, 2007	§ 327 I, 30 months	Erebuni Penal Institution
<b>Samson Indzigulyan</b>	December 25, 2007	§ 327 I, 30 months	Erebuni Penal Institution
<b>Harutyun Vardazaryan</b>	January 9, 2008	§ 327 I, 30 months	Erebuni Penal Institution
<b>Hrayr Mkrtchyan</b>	January 14, 2008	§ 327 I, 30 months	Erebuni Penal Institution
<b>Hovhannes Arakelyan</b>	January 18, 2008	§ 327 I, 24 months	Erebuni Penal Institution
<b>Hovhannes Gogdjyan</b>	January 30, 2008	§ 327 I, 24 months	Erebuni Penal Institution
<b>Araz Arshakyan</b>	February 5, 2008	§ 327 I, 30 months	Erebuni Penal Institution
<b>Armen Mardoyan</b>	February 5, 2008	§ 327 I, 30 months	Artik Penal Institution
<b>Hamayak Eminyan</b>	February 6, 2008	§ 327 I, 27 months	Artik Penal Institution
<b>Davit Petrosyan</b>	February 7, 2008	§ 327 I, 30 months	Erebuni Penal Institution
<b>Martun Hovsepyan</b>	February 7, 2008	§ 327 I, 30 months	Erebuni Penal Institution
<b>Zhirayr Karyan</b>	March 6, 2008	§ 327 I, 30 months	Erebuni Penal Institution
<b>Arman Kareyan</b>	March 7, 2008	§ 327 I, 30 months	Erebuni Penal Institution
<b>Ashot Simonyan</b>	March 12, 2008	§ 327 I, 36 months	Artik Penal Institution
<b>Hovhannes Stepanyan</b>	March 31, 2008	§ 327 I, 24 months	Erebuni Penal Institution
<b>Karo Aleksanyan</b>	April 4, 2008	§ 327 I, 24 months	Erebuni Penal Institution
<b>Vahe Ananyan</b>	April 8, 2008	§ 327 I, 24 months	Erebuni Penal Institution
<b>Karen Voskanyan</b>	April 11, 2008	§ 327 I, 30 months	Erebuni Penal Institution
<b>Vahram Baghramyanyan</b>	June 3, 2008	§ 327 I, 30 months	Erebuni Penal Institution
<b>Alik Balayan</b>	July 14, 2008	§ 327 I, 24 months	Erebuni Penal Institution
<b>Mkhitar Sargsyan</b>	July 17, 2008	§ 327 I, 36 months	Erebuni Penal Institution
<b>Tigran Melikyan</b>	July 30, 2008	§ 327 I, 24 months	Erebuni Penal Institution
<b>Shahen Asatryan</b>	July 31, 2008	§ 327 I, 36 months	Artik Penal Institution
<b>Gevorg Danughyan</b>	August 8, 2008	§ 327 I, 24 months	Erebuni Penal Institution
<b>Gor Petrosyan</b>	August 15, 2008	§ 327 I, 24 months	Erebuni Penal Institution
<b>Mher Barseghyan</b>	August 25, 2008	§ 327 I, 30 months	Erebuni Penal Institution
<b>Vardan Kasemyan</b>	September 2, 2008	§ 327 I, 36 months	Artik Penal Institution
<b>Garegin Gogjyan</b>	September 13, 2008	§ 327 I, 26 months	Erebuni Penal Institution
<b>Armen Martirosyan</b>	October 2, 2008	§ 327 I, 24 months	Erebuni Penal Institution
<b>Gagik Shakaryan</b>	October 6, 2008	§ 327 I, 24 months	Erebuni Penal Institution
<b>Grisha Ohanjanyan</b>	October 13, 2008	§ 327 I, 24 months	Erebuni Penal Institution
<b>David Parsadanyan</b>	January 22, 2009	§ 327 I, 24 months	Erebuni Penal Institution
<b>Samvel Shkoyan</b>	January 22, 2009	§ 327 I, 24 months	Artik Penal Institution
<b>David Mnatsakanyan</b>	February 2, 2009	§ 327 I, 30 months	Erebuni Penal Institution
<b>Vigen Sargsyan</b>	February 15, 2009	§ 327 I, 24 months	Erebuni Penal Institution
<b>Levon Bashberukyan</b>	March 18, 2009	§ 327 I, 26 months	Erebuni Penal Institution
<b>Nver Nazaryan</b>	March 24, 2009	§ 327 I, 24 months	Erebuni Penal Institution

<sup>1</sup> Article 327 I states: Evasion from recurring draft military or alternative service call-up, training exercise or mobilization, without any order defined by legislation of the RA as grounds for exemption, is punished with arrest for a maximum term of two months, or imprisonment for a maximum term of three years (modified 16.12.2005)

<b>Tatul Arsenyan</b>	April 20, 2009	§ 327 I, 24 months	Erebuni Penal Institution
<b>Vladimir Sargsyan</b>	April 21, 2009	§ 327 I, 30 months	Erebuni Penal Institution
<b>Gevorg Karapetyan</b>	May 11, 2009	§ 327 I, 24 months	Erebuni Penal Institution
<b>Hovsep Mutafyan</b>	May 12, 2009	§ 327 I, 24 months	Erebuni Penal Institution
<b>Mher Hayrapetyan</b>	May 18, 2009	§ 327 I, 24 months	Artik Penal Institution
<b>Gagik Toplakhaltzyan</b>	May 18, 2009	§ 327 I, 30 months	Erebuni Penal Institution
<b>Harutyun Gagyan</b>	May 28, 2009	§ 327 I, 30 months	Erebuni Penal Institution
<b>Hayk Avagyan</b>	July 18, 2009	§ 327 I, 24 months	Erebuni Penal Institution
<b>Gor Aslanyan</b>	July 27, 2009	§ 327 I, 30 months	Erebuni Penal Institution
<b>Sergey Manukyan</b>	July 28, 2009	§ 327 I, 24 months	Artik Penal Institution
<b>Aram Apresyan</b>	August 12, 2009	§ 327 I, 24 months	Erebuni Penal Institution
<b>Kamo Sahakyan</b>	August 12, 2009	§ 327 I, 24 months	Erebuni Penal Institution
<b>Ishkhan Grigoryan</b>	August 12, 2009	§ 327 I, 24 months	Kosh Penal Institution
<b>Arkadi Mardoyan</b>	August 28, 2009	§ 327 I, 30 months	Nubarashen Penal Institution
<b>Vanik Soghomonyan</b>	August 31, 2009	§ 327 I, 30 months	Nubarashen Penal Institution
<b>Grigor Safaryan</b>	September 4, 2009	§ 327 I, 30 months	Erebuni Penal Institution
<b>Lyudvik Arshakyan</b>	September 7, 2009	§ 327 I, 30 months	Kosh Penal Institution
<b>Raphael Manukyan</b>	September 17, 2009	§ 327 I, 30 months	Artik Penal Institution
<b>Karapet Aghadjanyan</b>	September 22, 2009	§ 327 I, 30 months	Kosh Penal Institution
<b>Hakob Babudjyan</b>	September 25, 2009	§ 327 I, 24 months	Erebuni Penal Institution
<b>Artak Kroyan</b>	September 30, 2009	§ 327 I, 30 months	Kosh Penal Institution
<b>Vahram Grigoryan</b>	October 2, 2009	§ 327 I, 24 months	Erebuni Penal Institution
<b>Gevork Sargsyan</b>	October 8, 2009	§ 327 I, 24 months	Kosh Penal Institution
<b>Roman Minasyan</b>	October 12, 2009	§ 327 I, 24 months	Kosh Penal Institution
<b>Andranik Martirosyan</b>	October 12, 2009	§ 327 I, 24 months	Kosh Penal Institution
<b>Hayk Ghazaryan</b>	November 2, 2009	§ 327 I, 24 months	Kosh Penal Institution
<b>Spartak Khanumyan</b>	December 28, 2009	§ 327 I, 24 months	Artik Penal Institution

No Jehovah's Witness is being held in pretrial detention.

Article 70 I states: When assigning a punishment in the form of public work, arrest, imprisonment or keeping in the disciplinary battalion if the court comes to the conclusion that the correction of the convict is possible without serving the sentence, the court can conditionally decide not to apply this punishment.