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Comunicación escrita de la Defensora de los Derechos Humanos de Armenia*

Nota de la Secretaría

La Secretaría tiene el honor de transmitir al Consejo de Derechos Humanos la comunicación escrita presentada por la Defensora de los Derechos Humanos de Armenia**, que se distribuye de conformidad con el artículo 7 b) del reglamento del Consejo (véase la resolución 5/1, anexo) y con las disposiciones y prácticas convenidas por la Comisión de Derechos Humanos en su resolución 2005/74.

* Institución nacional de derechos humanos acreditada con la categoría “A” ante la Alianza Global de Instituciones Nacionales de Derechos Humanos.

** Se distribuye tal como se recibió, en el idioma en que se presentó únicamente.



Anexo

Comunicación escrita de la Defensora de los Derechos Humanos de Armenia

The Human Rights Defender of Armenia (HRD), an Ombudsman and National Human Rights Institution with the highest “A” international status, has an important role in the implementation, and the monitoring thereof, of the international human rights commitments of Armenia which are provided for by international and regional human rights treaties and conventions.

In the alternative UPR report, the HRD referred to issues which are among the priorities of the Human Rights Defender’s Office (HRDO), including the rights of persons with disabilities, the protection of the rights of LGBTQ+ persons, the rights of national minorities, the rights of the child, the protection from torture and other cruel, inhuman or degrading treatment or punishment, etc..

The HRD expands some of those themes, taking into consideration the word count limitations of the UPR submissions, and the need to further address them in detail.

1. Investigation of torture cases

The HRD, as the National Preventive Mechanism (NPM), constantly conducts analyses of the legislative and the practical situation regarding the absolute prohibition of torture.

The HRD highlights that Article 450 of the Criminal Code provides criminal responsibility for torture, while Article 441 establishes criminal liability for abuse of power or official authority or the influence resulting from it, committed by using violence or the threat of its use.

The HRDO analyses the statistical data received from the competent authorities regarding the criminal proceedings initiated under Articles 450 and 441 of the Code, to monitor and analyze whether effective investigation of torture cases is conducted by the authorities. Thus, according to the information received from the Prosecutor’s Office, 224 criminal proceedings were initiated in 2024 concerning cases of violence against citizens by police officers.

In 2024, 23 reports were also received regarding torture and other cases of violence against persons deprived of their liberty by investigators, police servicemen in places of deprivation of liberty, penitentiary institutions, as well as servicepersons of other places of deprivation of liberty as defined by the Constitutional Law on the Human Rights Defender of Armenia. In this regard, 23 criminal proceedings were initiated (8 Articles 441 and 15 under Article 450).

The HRD conducts unannounced visits to closed institutions, including penitentiary and psychiatric institutions. The HRD has registered some issues related to the filling of the form “conducting medical examinations and recording cases related to torture and other ill-treatment” (the Form) prepared by medical personnel in the penitentiary institutions and its addressing to the investigative bodies.

For example, in 2024, as a result of an alarming-call to the HRDO, the representatives visited one of the penitentiary institutions, and held a private meeting with a person deprived of his liberty. The representatives registered that the person was confined in solitary confinement without any legal basis, the detention conditions were not compliant with the required standards, and special measures were implemented against him twice. He had also self-harmed to protest his isolation and lack of human contact. The medical staff had prepared the Form and addressed it to the Investigative Committee, but criminal proceedings were not initiated. Although after the HRD’s intervention, when HRD submitted a report on the crime to the Prosecutor’s Office, the Investigative Committee initiated criminal proceedings under the elements of the crime of torture, it is important to have systemic mechanisms of addressing those issues by competent authorities. Otherwise, the situation will contradict international standards for the investigation of cases of torture and other manifestations of ill-treatment.

The HRD highlights that cases have been registered where the staff of penitentiary institutions fails to report the violations that have taken place in the facilities. The HRDO has registered that the reports of persons deprived of their liberty on cases related to intra-institutional relations (cases of ill-treatment of persons deprived of their liberty by the staff, intra-personal disputes between persons deprived of their liberty) are in some cases not addressed to the competent authorities by the staff. Some cases were revealed, where the administration of the penitentiary institution urged persons deprived of their liberty not to raise cases that have taken place, or simply those reports were not addressed to the competent state bodies. This practice is concerning, and may lead to a violation of the State's positive obligations. Hence, it is imperative to introduce effective mechanisms for reporting crimes in the penitentiary institutions.

The HRD highlights that investigations should be conducted when there are sufficient signs indicating the existence of torture or ill-treatment, regardless of the existence of a complaint. Moreover, the investigations must be prompt.

It should be noted that although the HRDO has registered some progress in this area, the standards for initiating and examining cases of torture are not always maintained. Hence, the practices should be further improved and developed.

2. Ill-treatment during interrogation

The HRDO has received some complaints regarding cases of ill-treatment against persons in police departments and investigative bodies conducting proceedings to obtain information or to force a person to commit or refrain from committing an act.

In one of the reported cases, the investigator conducting the proceedings informed a person under investigation that a forensic genetic examination should be conducted, for which it is necessary to provide a sample. The complainant refused to participate in the forensic genetic examination, but he was demanded to provide part of the clothes he was wearing, which he also refused. Consequently, according to the complainant, police officers assaulted him, he lost his consciousness, and medical assistance was not provided for a long period of time.

The HRD highlights that the State should undertake urgent measures to adopt legal acts and relevant guidelines clearly defining the procedures of taking samples from a person, excluding cases of the use of disproportionate physical force.

The national legislation of Armenia provides for audio-visual safeguards in criminal interrogations; the new Criminal Procedure Code of Armenia provides that investigative actions (except for examining a document, requesting information, and taking objects or documents) are mandatorily audio and video recorded, except when it is objectively impossible. Furthermore, the Code provides that investigative actions include interrogation, confrontation, on-site verification of testimony, examination, investigation, experimentation, recognition, requesting information, etc..

The video recording must begin at the moment the investigative action starts and continue until its completion, without interruption, except in the case of unforeseen technical malfunctions or other situations of objective impossibility. If video recording is interrupted, the investigative action itself is suspended, and the reasons for this interruption must be noted in a separate protocol. The investigative action resumes once video recording is resumed. The video recording ensures the integrity, visibility (including coverage, lighting, etc.), and audibility of the investigative process. According to Article 210 of the Code, if video recording of an investigative action subject to mandatory video recording is objectively impossible, the investigator must involve at least two witnesses in its implementation.

3. Gender equality and the protection of the rights of LGBTQ+ persons

Gender equality and the protection of the rights of LGBTQ+ persons are among the priorities of the activities of HRDO, taking into consideration their vulnerable situation, and the persistent negative stereotypes prevailing in the society.

In this regard, the HRDO has undertaken concrete measures to ensure the implementation of its mandate aimed at the protection of human rights of LGBTQ+ persons, and the restoration of their violated rights. For example, aiming to increase the visibility of LGBTQ+ persons, a

panel discussion was dedicated to protecting vulnerable groups, including LGBTQ+ persons, during the high-level conference dedicated to the 20th anniversary of the HRDO.

The HRD also analyses complaints addressed to the HRDO. The complaints addressed by LGBTQ+ persons in 2024 were related to discrimination, hate speech, and some issues during the processes of applying for asylum in Armenia.

In 2024, the HRD, with the representatives of the HRDO, participated in discussions of the draft package of Armenia's Law on "Ensuring Equality and Protection from Discrimination" held in the National Assembly with representatives from state bodies. The Defender has also provided a number of comments on the draft package of the mentioned Law.

The International Day Against Homophobia, Biphobia, and Transphobia was observed in Armenia, with the aim of uniting the efforts of LGBTQ+ persons, human rights defenders, and other stakeholders to raise awareness about the violations faced by LGBTQ+ persons and to protect them from discrimination and intolerance. On this occasion, "Pink Armenia" NGO organized a roundtable discussion in 2024 which was attended by human rights defenders, LGBTQ+ persons, and other stakeholders, including the HRD, who delivered a welcoming speech. A representative of the HRDO participated in a conference dedicated to Pride Month. Moreover, in 2024 the HRD attended a reception dedicated to Pride Month at the U.S. Embassy in Armenia, during which the HRD also delivered a welcoming speech.

During the observance of the Gender Equality Day in Armenia, an HRDO representative participated in a meeting-discussion organized by an NGO. The discussion focused on the prevention of violence against transgender individuals and sex workers in Armenia. During 2023-2025, HRD and HRDO representatives held numerous meetings with representatives of civil society, CSOs advocating for the rights of LGBTQ+ Persons, and members of the LGBTQ+ community.

Highlighting the importance of gender equality for the HRDO, the HRD established the Public Council on Women's Rights in 2022. The Council is composed of representatives of NGOs and independent specialists with necessary experience in the field of women's rights protection, aiming to support the HRD in her mandate to protect women's rights.

A significant measure implemented by the HRDO in this direction is the initiation of the Gender Equality Seal (GES) for public institutions in 2024, implemented for the first time in Armenia, and for the first time for an NHRI. The GES is a specifically designed methodology which aims to assist State institutions to integrate gender equality principles of the SDGs (SDG5) in the national legislation by employing and implementing gender-sensitive approaches in their operations.

The HRD highlights that in 2019, during the previous accreditation process, the SCA had recommended the HRDO to strengthen the implementation of its anti-discrimination mandate, in particular regarding LGBTQ+ and women's rights. Taking into consideration the measures undertaken by the HRDO in recent years, the SCA noted in 2024 that "the HRDA has been engaging actively to publicly address key human rights issues in the country, including discrimination, and the rights of women and LGBTQI people".

It should also be noted that the HRD has been the target of gender-based hate speech from certain actors since her election. The HRD was targeted due to her efforts in advocating for the rights of vulnerable groups, including people with disabilities, LGBTQ+ persons, etc.

The HRD highlights that the activities of the Office in these priority directions, inter alia, are continuous, and the HRDO has established effective mechanism of cooperation with state bodies, NGOs, CSOs, relevant experts in the sphere, as well as international organizations with a mandate to protect human rights, thus contributing to the improvement of the system of protection of human rights in Armenia.