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International Convention for the Protection of All Persons from Enforced Disappearance

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Agenda item 6
Consideration of reports of States parties to the Convention

List of issues in relation to the report submitted by Armenia under article 29, paragraph 1, of the Convention

Addendum

Replies of Armenia to the list of issues* **

[Date received: 29 December 2014]

1. The possibility of Armenia making the declaration envisaged by articles 31 and 32 of the International Convention for the Protection of all Persons from Enforced Disappearance is currently being discussed; following determination on its appropriateness the Committee on Enforced Disappearances will be immediately notified thereof.

2. With regard to application of article 18(4) of the Constitution of Armenia, article 6(1) of the Constitution of Armenia needs to be mentioned, which prescribes that the Constitution has supreme force, and its norms apply directly. Therefore, any person is free to refer to international bodies protecting human rights and freedoms according to procedures defined by such bodies, and the exercise of this right may not be hindered in any way.

3. After the draft report on fulfilment by Armenia of its obligations under the Convention had been discussed by the relevant subdivisions of the Police of Armenia it was submitted for national circulation, whereupon the opinions of concerned agencies, namely, the Ministry of Justice of Armenia, General Prosecutor's Office of Armenia, National Security Service, Judicial Department of Armenia, Ministry of Defence, as well as Ministry of Foreign Affairs were included in the draft report. The report has also been agreed with the Office of Human Rights Defender of Armenia.

* The present document is being issued without formal editing.
** Annexes are on file with the Secretariat and are available for consultation.

4. Taking into account the fact that no cases containing elements of crime envisaged by the Convention have been registered within Armenia, bringing practical examples of application of Convention provisions and of references made thereto is not possible.

5. No single case of enforced disappearance has been registered. At the same time, the State cannot disregard the principle of prohibition of enforced disappearance since according to article 5 of the Law of Armenia "On international treaties" an international treaty of Armenia having entered into force in the prescribed manner shall form an integral part of the legal system of Armenia and its norms shall apply directly within the territory of Armenia. Where an international treaty ratified by Armenia prescribes norms other than those provided for by laws and other legal acts of Armenia, norms of the ratified international treaty shall apply.

6. Relevant amendments to the Criminal Code of Armenia are still in the initial or drafting phase and it is, thus, not possible to give clear dates or provide the final content. The draft is currently being coordinated with concerned State bodies, Office of Human Rights Defender of Armenia and representatives of civil society, as a result of which it may undergo changes. However, attached to this letter we may submit to you an initial text of the report.

7. Since the arrest, detention, abduction or any other form of deprivation of liberty of persons by another person or groups of persons acting with the authorization, support or acquiescence of the State, and the refusal to acknowledge the deprivation of liberty or concealment of the whereabouts of the disappeared person inevitably place the disappeared person outside the protection of law, such consequence, hence, has been viewed as a mandatory element.

8. According to the Convention, enforced disappearances constitute a crime and, in certain circumstances defined in international law, also a crime against humanity. According to article 5 of the Convention, such circumstances include the widespread or systematic practice. Taking into account the referred provisions, in the prepared draft enforced disappearance has been defined as a crime against humanity, and enforced disappearance in the circumstances referred to above has been included in Chapter 33 of the Criminal Code of Armenia on "Crimes against peace and humanity".

9. The person shall be held criminally liable where he or she is aware of dangerous consequences of the act for public. This provision is based on the principle of guilt. Where the person having executed the order has been conscientiously mislead, which means that the unlawfulness of the order or executive order being executed has not been obvious, he or she shall not be held criminally liable. Criminal liability for this act shall be imposed on the superior giving such order or executive order. In cases where unlawfulness is obvious criminal liability shall also be imposed on the person executing the order. The person may not evade criminal liability by referring to his or her superior's obviously unlawful order since article 47(2) of the Criminal Code of Armenia provides that a person having committed an intentional criminal offence upon an obviously unlawful order or executive order shall be held liable on general terms.

10. A continuous crime comprises the situation where the act has ended but the criminal situation remains so long as the perpetrator has not been captured or has not surrendered. A continuing crime includes two or more similar acts committed with joint intent for the same purpose. Since they aim for the same purpose, are similar and are committed with joint intent, continuing crime is, hence, defined under one article.

11. The provision under article 15(1) of the Criminal Code of Armenia complies with criminal law principles. In the given case justice and humanity principles are upheld in that the imposed punishment may not be more severe than the punishment that may have been imposed on the perpetrator by law of the place where the criminal offence has been

committed. This approach complies with the internationally accepted legal principles. According to the territorial principle, punishment for a crime must be imposed according to the law of the State where the crime has been committed. And under such circumstances where the person has committed a criminal offence within the territory of one State and is held liable within the territory of another State, regard needs to be had to the law of the State where the criminal offence has been committed and such a punishment needs to be exposed which does not exceed the upper threshold of punishment provided for by the law of the foreign State within the territory whereof the criminal offence has been committed and which may have been imposed within that State.

12. According to article 56 of the Criminal Procedure Code of Armenia, commanders of military units, corps and heads of military institutions shall be entitled to carry out inquest of cases regarding acts which have been committed within the territory of a military unit, or are attributed to military servants undergoing fixed term military service. Preliminary investigation into the referred cases shall be conducted by the bodies envisaged by article 190 of the Criminal Procedure Code of Armenia (Investigation Committee of Armenia, National Security Service of Armenia, Special Investigative Service of Armenia). Taking into account the fact that there are no military courts in Armenia, the referred cases are examined by courts of general jurisdiction.

13. According to article 176 of the Criminal Procedure Code of Armenia, a further reason for instituting a criminal case shall be the disclosure of information on a crime, material traces and consequences of a crime by the inquest body, investigator, prosecutor, court, judge while exercising their powers. This means that the investigator shall be obliged to institute a criminal case not only upon receiving reports on crimes, but also on his or her own initiative upon disclosing information on crimes. According to article 55(2) of the Criminal Procedure Code of Armenia, the investigator shall be authorized to prepare materials on the instance of crime and institute a criminal case and accept the relevant case for proceedings in accordance with the rules of jurisdiction prescribed by the Code or forward it to another investigator for examination.

14. According to article 190(6) of the Criminal Procedure Code of Armenia, preliminary investigation into crimes committed in complicity with officials holding leading positions in legislative, executive and judicial bodies of Armenia, persons performing special State service, in relation to their official position or committed by them shall be conducted by investigators from the Special Investigation Service. Where necessary the Prosecutor General of Armenia may withdraw from the proceedings of investigators of other investigation bodies and submit to proceedings of the investigators from Special Investigation Service such criminal cases which relate to crimes having been committed in complicity with the listed officials, or crimes having been committed thereby, or crimes in relation to which these persons have been declared as victims, as well as any other criminal case which due to its factual circumstances requires a comprehensive, complete and objective examination. According to part 6.1 of the same article, preliminary investigation into cases on crimes committed in complicity with servants of Special Investigation Service in relation to their official position or committed by them shall be conducted by the investigators of national security bodies.

15. Motive for committing a criminal offence related to enforced disappearance may not serve as a ground for refusing extradition of the person having committed the criminal offence. It needs to be mentioned that according to article 488(2)(2) of the Criminal Procedure Code of Armenia, request for extradition of a person may be refused where the person whose extradition is requested is persecuted on political, racial or religious grounds. This means that the motive for persecuting the person on political, racial or religious grounds and not the motive for committing the criminal offence by the person may serve as a ground for refusal.

16. Article 488 of the Criminal Procedure Code of Armenia clearly defines the grounds for refusing extradition. With regard to extradition of persons representing certain categories who enjoy immunity by virtue of law, it should be mentioned that the issue of extradition of diplomatic representatives of foreign States and other persons enjoying diplomatic immunity in cases when they commit a criminal offence within the territory of Armenia is settled in compliance with international law norms.

17. Taking into consideration the fact that the treaties on extradition concluded by Armenia with other States do not refer to specific types of crime in cases of which extradition is granted, and they rather contain general provisions on extraditing persons where they have committed crimes without referring to peculiarities for individual crimes, types of crime related to enforced disappearance, hence, have not been specifically included in the treaties on extradition. Bilateral and multilateral treaties on extradition concluded or ratified by Armenia relate to all the criminal offences envisaged by the Criminal Code.

18. The same applies to conditions for providing legal assistance in the absence of international treaties. Chapter 54.1 of the Criminal Procedure Code of Armenia provides for legal assistance in criminal matters in the absence of international treaties. In particular, according to article 487 of the Code, extradition for the purpose of subjecting to criminal liability is granted for such acts which are deemed punishable by laws of the requesting foreign State and of Armenia and which are punished by an imprisonment for a term of no less than one year. Whereas extradition for the purpose of enforcing criminal judgment is granted for such acts which are deemed punishable by laws of the requesting foreign State and of Armenia and for which the person has been convicted to imprisonment for a term of no less than six months.

19. Authorities competent to adopt decisions on granting extradition or on refusing extradition and the procedure for appealing against such decisions are defined by article 479 of the Criminal Procedure Code of Armenia.

> "1. Where international treaties of Armenia envisage extradition of a person having committed a crime to the foreign State deemed as a party to that treaty and unless otherwise stipulated by the treaty, with regard to a person who is within the territory of Armenia:
>
> > 1) decision on granting extradition or on refusing extradition shall be adopted by the Prosecutor General of Armenia where the case is pending in pre-trial proceedings;
> >
> > 2) decision on refusing extradition shall be adopted by the Minister of Justice of Armenia where the case is pending in court proceedings, as well as where there is a judgment having entered into legal force with regard to the person concerned;
> >
> > 3) decision on granting extradition shall be adopted respectively by the court examining the case, or the court having delivered the judgement, upon motion of the Minister of Justice of Armenia where the case is pending in court proceedings, or where there is a judgement having entered into legal force with regard to the person concerned.
>
> 2. The competent authority having adopted the decision on granting extradition or on refusing extradition shall inform about the decision the person with regard to whom it has been adopted and shall explain to him or her the right to appeal against it.
>
> 3. Decisions of the Prosecutor General of Armenia on granting extradition or on refusing extradition and decisions of the Minister of Justice of Armenia on refusing extradition may be appealed to the Court of Appeal within 10 days upon receipt of

the decisions, and the decisions of the Court of Appeal may be appealed to the Court of Cassation within 5 days upon the receipt thereof. The Court of Appeal and the Court of Cassation shall examine the case and adopt a decision with regard to it within 5 days upon receipt of the appeal respectively.

4. In cases provided for by part 3 of part one of this article, the court shall examine the case and adopt a decision within 10 days upon receipt of the motion of the Minister of Justice of Armenia.

Court decisions provided for by point 3 of part one of this article may be appealed and considered through appeal and cassation procedure within the time limits provided for by part three of this article.

5. Where a decision on granting extradition or on refusing extradition has been appealed, the competent authority having adopted that decision shall within 3 days forward to the court documents confirming the lawfulness and relevance of the referred decision.

6. Examination of the case in courts of first instance and courts of appeal shall be conducted with the participation of the person with regard to whom the decision on granting or refusing extradition has been adopted and/or with the participation of his or her counsel and the prosecutor.

In the course of trial the court shall not address the issue of guilt of the appellant restricting itself to verification of compliance of the decision on granting extradition or on refusing extradition with the laws of Armenia and international treaties.

7. Following such verification the court shall adopt one of the following decisions:

1) not to satisfy the appeal and to leave the decision on granting extradition or on refusing extradition unchanged;

2) to satisfy the appeal and to abolish the decision on granting extradition or on refusing extradition.

8. Where extradition under an international treaty of Armenia is conditioned by any guarantee to be given to Armenia by the State deemed as a party to the treaty concerned, the question of sufficiency or admissibility of the guarantee of that State for Armenia shall be decided by the Prosecutor General of Armenia with regard to cases pending in pre-trial proceedings, and by the Minister of Justice of Armenia with regard to cases pending in court proceedings and cases on enforcing the judgement.

9. Where extradition of a person, including a national of Armenia, to a foreign State or an international court is refused, but there are sufficient grounds provided for by this Code to institute a criminal prosecution against him or her with regard to the act for which extradition is requested by the foreign State or the international court, the Prosecutor General of Armenia shall initiate a criminal prosecution against that person, and in cases provided for by the relevant international treaty of Armenia and in the manner prescribed thereby shall take over the case concerning the relevant criminal prosecution from proceedings of the court of the foreign State or the international court and accept for proceedings the case instituted against that person by the competent authority of the foreign State by conducting relevant criminal prosecution in the manner prescribed by this Code."

20. With regard to extradition of foreign nationals from Armenia, according to the Law of Armenia "On foreign nationals", the authorized body competent to institute an extradition case shall be the Police of Armenia which shall submit the extradition case to

the court and the final decision shall be adopted by the court. According to the same Law, it shall be prohibited to expel foreigners to a State where human rights are violated, in particular where he or she faces persecution on grounds of race, religious affiliation, social origin, citizenship or political convictions, or where the foreigners concerned may be subjected to torture or cruel, inhuman or degrading treatment or punishment, or to death penalty. Evidence on existence of threat of persecution or of real danger of torture or cruel, inhuman or degrading treatment or death penalty shall be submitted to the court by the foreigner concerned. The decision on expulsion may be appealed against by the foreigner in accordance with the judicial procedure prescribed by law. In case of an appeal against the decision on expulsion, expulsion of the foreigner from Armenia shall be suspended.

21. A similar approach is further included in the Law of Armenia "On refugees and asylum", article 9 whereof lays down the non-refoulement principle. The principle of non-refoulement, according to the referred law and the international law, implies that a refugee may not be in any manner whatsoever returned to the frontiers of territories where his or her life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion, or due to wide-spread violence, external attacks, internal conflicts, mass violations of human rights or other serious events violating public order. A foreign national or a stateless person may not be expelled, returned or extradited to another country where there are reasonable grounds to believe that there is danger he or she will be subjected to violent and inhuman or degrading treatment or punishment, including torture.

22. In all the referred cases, along with the evidence submitted by the person, the entity adopting the decision shall take into account the situation prevailing in that country, human rights and freedoms violations by the given State.

23. Articles 63 and 65 of the Criminal Code of Armenia provide that the suspect shall have the right, through the criminal prosecution body, to inform by telephone or through other possible means of communication about the place of and the grounds for keeping him or her in custody to his or her close relatives, and in case of a military servant, to the command of the military unit, not later than within 12 hours immediately after being taken into custody.

24. When a foreign national or a stateless person is taken into custody, within 24 hours the criminal prosecution body shall, through diplomatic channels, inform about the place of and the grounds for keeping him or her in custody to the country of citizenship, in case he or she is stateless, to the country of his or her permanent residence, and where necessary, to another country concerned, as well.

25. Where a foreign national or a stateless person taken into custody is entitled to — under international treaties of Armenia — contact with the representative of his or her country of citizenship or of the country of his or her permanent residence or with other representative competent to such a contact respectively or is entitled to a visit by that representative, the request by the person taken into custody to exercise that right shall be satisfied.

26. The suspect and the accused shall also have the right to meet their counsel in private, in confidence and in an unimpeded way, with no limitation as to the number and duration thereof.

27. The only exception is made with regard to the interrogation of the suspect. Paragraph 2 of part 2 of article 211 states that prior to the interrogation the suspect shall, at he or she so desires, have an opportunity to meet his or her counsel in private, in confidence and in an unimpeded way. Where there exists a necessity to conduct other procedural actions with the involvement of the suspect, the inquest body or the investigator may limit

the duration of visits by informing the suspect and his or her counsel thereof in advance. The duration of a visit with a counsel may not be less than two hours.

28. The Law of Armenia on Human Rights Defender shall lay down the guarantees for the Human Rights Defender to act independently. According to part 1 of article 5 of the Law the Defender shall be independent in executing his or her powers and shall be guided only by the Constitution and the Laws of Armenia, as well as recognized norms and principles of international law. The Defender shall not be subordinated to any State or local self-governing body or any official.

29. The Human Rights Defender has a Staff which carries out State service. The State service in the Staff of the Human Rights Defender is a professional activity carried out within the Staff of the Human Rights Defender with a view to ensuring the exercise of the powers conferred upon the Defender under the Constitution of Armenia and this Law. The Staff of the Human Rights Defender of Armenia also has offices in marzes. There are offices in three marzes: Gavar, Kapan and Gyumri.

30. The Defender and its Staff shall be financed from the funds of the State budget, which shall ensure their smooth functioning. The Defender shall be independent in managing his or her financial resources.

31. The Violence Prevention Department is established within the Staff of the Human Rights Defender of Armenia, where 5 experts, including a physician-expert are involved. The Department is also provided with a private car and driver, which ensures fully-pledged independence in respect of organizing visits not relating them to any other departments of the Staff of the Human Rights Defender.

32. The Defender, with a view to receiving consultation, may establish experts' councils comprised of persons with required knowledge in the sphere of human rights and fundamental freedoms. The Expert Council was established under the Violence Prevention Department of the Staff of the Human Rights Defender of Armenia which also contributes to the operations of the Violence Prevention Department.

33. With regard to this provision, which provides that the Defender is recognized as an Independent National Preventive Mechanism provided by the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, it should be mentioned that it is not the only function of the Defender.

34. Article 7 of the Law of Armenia on Human Rights Defender states that the Defender shall consider the complaints regarding the violations of human rights and fundamental freedoms provided for by the Constitution, laws and the international treaties of Armenia, as well as by the principles and norms of international law, caused by the State and local self-government bodies and their officials.

35. Any individual may apply to the Defender irrespective of their national origin, nationality, place of residence, gender, race, age, political and other views and active legal capacity. The Defender shall have the right to admit the issue into consideration on his or her own initiative, particularly in cases when there is information on mass violations of human rights and freedoms, or if these violations are exceptionally of public significance or are connected with the necessity to protect the rights of such persons who are unable to use their legal remedies.

36. The Defender or his or her representative shall be entitled to unimpeded access, at his or her own initiative, to military units, arrest facilities, remand facilities or penitentiary establishments, as well as other detention facilities, in order to receive applications of the persons detained there.

37. Persons in arrest facilities, remand facilities, persons serving the sentence in penitentiary establishments, as well as persons in other detention facilities shall have the right to file an application with the Defender.

38. Private, unimpeded, and isolated communication with persons detained in arrest facilities, remand facilities or penitentiary establishments, as well as in other detention facilities shall be guaranteed to the Defender or his or her representative. The conversations of the Defender or his or her representative with these persons shall not be subject to interferences and audio interceptions.

39. The Defender shall have the right to unimpeded access to any State institution or organization, including military units, detention facilities, as well as remand facilities and places of imprisonment. Within the scope of his or her powers, the Defender shall enjoy the right of immediate reception by State and local self-government bodies, their officials, as well as managers of organizations and other officials, administration of detention facilities.

40. The Defender shall have the right to unimpeded access to arrest and detention facilities without any special permit.

41. Part 4 of article 29 of the Law of Armenia "On treatment of arrestees and detainees" provides for general provisions on compulsory registration of information on arrestees and detainees. The procedure for administration of registry books, personal cards and personal files and the information included therein shall be determined by relevant decisions of the Government of Armenia. Required information and both the data specified in part 3 of article 17 of the International Convention for the Protection of all Persons from Enforced Disappearance and additional necessary information, e.g. information on taking out of and returning to the imprisonment cell, visits, items handed in, etc. shall be included entirely immediately in the registry books and personal files.

42. The Law also determines the bodies carrying out supervision and control over the arrest and detention facilitates. Particularly, Chapter 7 of the Law provides for the judicial supervision, institutional supervision by superior bodies, prosecutorial supervision, as well as public supervision, which is conducted through public observers.

43. In the places of imprisonment information of the persons deprived of liberty shall be properly recorded under the supervision of the administration, however yet no complaint has been received.

44. Bodies and persons carrying out supervision and control over the operation of the arrest and detention facilities may have access to the information on the arrestees and detainees. Such information may be available to the persons having unimpeded access to the arrest and detention facilities without any special permission. Among such persons are:

(1) The President of Armenia, the Chairperson of the National Assembly of Armenia, the Prime Minister of Armenia, the Chairperson of the Constitutional Court of Armenia, the Chairperson of the Cassation Court of Armenia, deputies of the National Assembly of Armenia, heads of authorized public administration bodies or their respective deputies;

(2) The Prosecutor General of Armenia, his or her deputies, as well as those prosecutors, which shall, in the manner prescribed by law, exercise control over exercising sentences and other coercive measures;

(3) Officials of superior bodies of arrest and detention facilities;

(4) Representatives of international organizations based on international treaties of Armenia;

(5) The Human Rights Defender;

(6) Judges of Armenia, which, in the manner prescribed by law, shall examine issues of imposing detention as measure of restraint, issues connected with lawfulness of extension of the time period of detention or custody; complaints against violation of rights and freedoms of arrested and detained persons, as well as against other actions of administrations of arrest and detention facilities;

(7) Public observers exercising supervision over the execution of custody and detention.

45. The above-mentioned authorities and persons shall receive information required for the activities from the places of imprisonment upon relevant written or verbal requests.

46. With a view to establishing the identities of the persons forensic medical examinations are being conducted where genetic research may be conducted, e.g. comparative DNA analysis if his or her next of kin so requires. There are no such databases in Armenia for establishing the identities of identities of corpses. However, it is necessary to mention that there is a fingerprint repository in place in the Police of Armenia, where in addition to the fingerprints of suspects, accused persons or convicts and their handprints taken from the scene of crime, fingerprints of non-identified corpses are entered as well. With a view to identification of persons and establishment of identities of corpses, their fingerprints are compared with those existing in the fingerprint repository. The fingerprint data in the fingerprint repository are processed in cards or electronic format. The fingerprint files/cards entered on the electronic fingerprint system are immediately encoded. The information of the fingerprint repository is used solely for the purpose of prevention, suppression and reveal of crimes, as well as identification of persons or establishment of the identities of non-identified corpses. The courts, prosecutor's office, inquest and preliminary investigation bodies may have access to the information of the fingerprint repository within the scope of their functions.

47. For committing the actions referred to in article 22(b) and (c) of the Convention the officials shall be held liable. For the failure to perform their duties properly they should be subject to disciplinary liability and in cases provided for by law — also to administrative and criminal liability, about which we mentioned in paragraphs 161-166 of the National Report. With a view to early prevention, training courses for the officials are conducted; both State and public supervision mechanisms are in place.

48. The trainings for law enforcement employees include studies of not only the national legislation, but also international instruments on human rights.

49. Thus, in 2014, for instance, 720 penitentiary servants received trainings at the Ministry of Justice of Armenia. The following subjects on human rights were included in the training programme:

	Volume of training received by trainees/academic hour		
		Including	
Topic	***Total***	*Lectures*	*Practical training*
International instruments on human rights	**14**	8	6
Human rights and fundamental freedoms. Discussion of relevant judgments of the European Court, group work.	**4**	2	2
Standard minimum rules for the treatment of prisoners. Discussion of relevant judgments of the European Court, group work.	**4**	2	2
Prevention of torture and inhuman or degrading treatment or	**4**	2	2

Topic	*Volume of training received by trainees/academic hour*		
		Including	
	Total	*Lectures*	*Practical training*
punishment. Situational issues, discussion of relevant judgments of the European Court, group work.			
European prison rules	**2**	2	

50. During the annual training for prosecutors organized based on the "Annual training programme for prosecutors" at the Academy of Justice in 2014, 281 prosecutors completed the course of "Current issues of European Court of Human Rights case-law on criminal matters" (duration: 20 study hours).

51. The national legal acts and international instruments regulating the sphere are studied during the trainings held regularly with the administration of police holding facilities. Seminar-consultations were organized as well. During them persons responsible for arrest facilities were provided with methodological guidelines and CDs which briefly elaborate on the regulatory legal acts covering the sphere, as well as provisions of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, extracts from the report on visit to Armenia by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, provisions of the Law of Armenia "On Human Rights Defender". Each week the arrest facility administration studies the above-mentioned legal instruments during the service-specific classes.

52. According to the Criminal Procedure Code of Armenia, a victim is declared the person to whom damage has been directly caused as a result of a criminally punishable act. Where the victim is dead or has lost the ability to express his or her will, the rights of the victim are exercised and obligations are fulfilled by the legal successor of the victim. Actually, both the victim and the legal successor of the victim are deemed a "victim" within the meaning of the International Convention for the Protection of all Persons from Enforced Disappearance.

53. As to the decision-making on declaring a victim, it is not a discretionary power, but just a judicial procedure deemed binding by the national legislation as result of which a person acts within the framework of criminal proceedings as a participant of the criminal procedure; i.e. the fact that the person (victim) is a victim is just enshrined in writing. This formal procedure is also implemented with regard to other participants of the procedure.

54. The decision on declaring a close relative of a victim a legal successor thereof is taken upon the request of the close relative. The prosecutor or the court selects the legal successor of a victim from among several close relatives having applied with the relevant request. Basically, such a decision is taken as a result of negotiations with the applying persons during which the latter agree on the selection of one of them. In case of disagreement, the kinship with the person is taken into account with preference given to closest relatives, as well as their relations, contact with the victim, etc. are taken into consideration.

55. The Law of Armenia "On social assistance" envisages the provision of social assistance the main purpose of which is to satisfy basic needs of persons in a difficult situation of life, create conditions for their integration into the society, promote the development of their skills of independent living and solving the emerging problems on

their own, prevent their social isolation, as well as help to address their social and financial issues. The Law also provides for the following main types of social services:

(1) Provision of advisory assistance;

(2) Provision of rehabilitation assistance;

(3) Provision of financial assistance;

(4) Provision of in-kind assistance;

(5) Provision of temporary shelter;

(6) Organization of care;

(7) Provision of legal assistance.

56. Social services are provided to individuals, as well as their families.

57. The Civil Code of Armenia provides for the concept of non-material damage and reimbursement thereof. Within the meaning of the Code, non-material damage is physical or mental suffering caused as a result of a decision, action or inaction encroaching on non-material benefits belonging to a person from birth or by virtue of law or violating his or her personal non-property rights.

58. Where it has been established through a judicial procedure that rights (conventional rights) of a natural person which are guaranteed by articles 2, 3 or 5 of the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms have been violated as a result of a decision, action or inaction of a State body or an official, this person and, in case of his or her death or legal incapacity, his or her spouse, birth parent, adopter, child, adoptee, custodian have the right to claim, through a judicial procedure, reimbursement for the non-material damage caused.

59. According to the Civil Code of Armenia, statute of limitations does not cover claims for protection of personal non-property rights and other non-material benefits (except for the cases envisaged by law), as well as claims for reimbursement of damage caused to life or health of a citizen. However, the claims, submitted after three years have elapsed from the moment of origin of the right to reimbursement of such damage, are satisfied for past periods, not longer than for three years prior to submission of the claim.

60. The manner, ground and size of reimbursement of non-material damage caused as a result of violation of conventional rights and wrongful conviction are determined in accordance with the Civil Code.

61. Non-material damage is subject to reimbursement irrespective of the property damage subject to reimbursement. Non-material damage is subject to reimbursement irrespective of the existence of fault of an official while causing damage. Non-material damage is reimbursed at the expense of the State budget funds. The size of reimbursement of non-material damage is determined by the court in compliance with the principles of reasonableness, equitableness and proportionality.

62. When determining the size of reimbursement of non-material damage, the court takes account of the nature, degree and duration of physical or mental suffering, consequences of the damage caused, existence of fault while causing damage, characteristics of the person who suffered non-material damage, as well as other relevant circumstances.

63. The size of reimbursement may not exceed:

(1) 1000-fold of the minimum salary in case of violation of rights guaranteed by articles 2 or 3 of the Convention for the Protection of Human Rights and Fundamental

Freedoms, as well as in case where the convict has been acquitted under conditions provided for by article 3 of the Protocol No. 7 to the Convention (in case of wrongful conviction);

(2) 500-fold of the minimum salary in case of violation of the right guaranteed by article 5 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

64. The size of reimbursement of non-material damage may, in exceptional cases, exceed the maximum threshold envisaged, where grave consequences have been caused as a result of the damage caused.

65. The claim for reimbursement of non-material damage may be submitted within a six-month period upon entry into legal force of the judicial act confirming the violation of conventional rights.

66. The committal of the crime, discussed pursuant to the draft we have put into circulation, against children will be deemed an aggravating circumstance, for which more severe punishment will be imposed.

67. The Family Code of Armenia defines the grounds and procedure for revoking child adoption. Child adoption is revoked through a judicial procedure. The case on revocation of child adoption is examined with the mandatory participation of the custody and guardianship authority. Adoption is terminated upon the entry into force of the court judgement on revocation of child adoption.

68. Child adoption may be revoked in cases where the adopters avoid performing their parental responsibilities, abuse their parental rights, treat the adopted child cruelly, suffer from chronic alcoholism, narcomania or toxicomania, as well as in cases where the birth parent declared by the court dead or missing appears, a relevant court judgement is reviewed, the legal capacity of the birth parent who had been declared legally incapable is restored, upon the request of these parents.

69. The court may revoke child adoption on other grounds as well, stemming from interests of the child and taking account of the opinion of the child that has attained the age of ten.

70. The birth parents, adopters of the child, the custody and guardianship authority, as well as the adoptee that has attained the age of 18 — where there is a mutual consent of the adopter and the adopted child as well as birth parents of the adopted child for such revocation, provided that the birth parents are alive, are not deprived of parental rights, or the court has not declared them legally incapable — shall have the right to claim for revoking child adoption.

71. In case of revocation of child adoption through a judicial procedure, the mutual rights and obligations of an adopted child and adopters (relatives of adopters) are terminated, and the mutual rights and obligations of a child and his or her birth parents (relatives) are restored where this is in the child’s interests. Upon revocation of adoption, the child is returned to his or her birth parents by the court judgement. Where the birth parents are missing or the child’s return to the birth parents is not in his or her interests, the child is placed with the custody and guardianship authority.