Организация Объединенных Наций A/HRC/16/47/Add.3

Генеральная Ассамблея

Distr.: General
17 February 2011
Russian
Original: English

Совет по правам человека
Шестнадцатая сессия
Пункт 3 повестки дня
Поощрение и защита всех прав человека, гражданских, политических, экономических, социальных и культурных прав, включая право на развитие

Доклад Рабочей группы по произвольным задержаниям

Добавление

Поездка в Армению* **

Резюме

По приглашению правительства Рабочая группа по произвольным задержаниям посетила Армению 6−15 сентября 2010 года. В ходе поездки Рабочая группа провела встречи с различными государственными органами исполнительной, законодательной и судебной ветвей власти государства. Ей была также предоставлена возможность встретиться с задержанными, заключенными, представителями гражданского общества и учреждений Организации Объединенных Наций.

Рабочая группа посетила 14 центров содержания под стражей, включая тюрьмы, где содержатся уже осужденные лица и лица, находящиеся под стражей до суда; полицейские участки и места для задержанных в полиции; центры для приема иммигрантов; психиатрические клиники, а также центры для размещения женщин и несовершеннолетних. Все эти объекты расположены в Ереване, Абовяне, Артике, Горисе, Севане и Ванадзоре. Кроме того, Рабочая группа осуществила три необъявленных посещения полицейских участков в Арапане, Горисе и Севане. Рабочей группе удалось провести конфиденциальные беседы со 153 задержанными, выбранными в произвольном порядке.

* Резюме настоящего доклада распространяется на всех официальных языках. Сам доклад, содержащийся в приложении к резюме, распространяется только на языке представления.

** Представлен с опозданием.

В настоящем докладе сообщается об институциональных и законодательных механизмах, связанных с лишением свободы и обеспечением прав человека в Армении, действующих со времени обретения государством независимости в 1991 году. В докладе отмечены важные законодательные реформы, которые были осуществлены в последние годы и которые способствуют формированию более действенных правозащитных стандартов для лиц, лишенных свободы. В докладе также дается краткое описание системы уголовного правосудия, с тем чтобы лучше понять условия, в которых функционирует система лишения свободы.

Рабочая группа отмечает, что со времени обретения независимости в Армении было осуществлено большое количество законодательных реформ и позитивных инициатив в целях содействия обеспечению защиты от неправомерного лишения свободы. Рабочая группа хотела бы, чтобы эти законы осуществлялись более активно, как и системные изменения, направленные на улучшение деятельности полиции, прокуратуры и судебных органов для обеспечения того, чтобы при лишении свободы соблюдались установленные стандарты в области прав человека. В этой связи Рабочая группа отмечает необходимость изменения практики "приглашения" отдельных лиц в качестве свидетелей с целью их последующего допроса и ареста полицией по подозрению в причастности к совершению преступления.

Независимость судебных органов, магистратов и судей является основополагающим компонентом создания условий, в которых обеспечивается уважение прав человека задержанных и заключенных. Огромное значение для защиты от незаконного лишения свободы имеют институциональные преобразования и изменения. В этой связи важное значение имеет наличие таких национальных механизмов, как Управление защитника прав человека и Комитет по правам человека и общественным делам Национального собрания, и Рабочая группа всецело поддерживает эти инициативы.

На основании своих выводов и в целях недопущения случаев произвольных задержаний Рабочая группа дает ряд рекомендаций правительству. Эти рекомендации направлены, в частности, на обеспечение защиты права на надлежащую правовую процедуру; обеспечение независимости судей и магистратов; внесение изменений в законодательство и практику оставления под стражей и вынесения приговора; и пресечение практики применения пыток и жестокого обращения по отношению к лицам, лишенным свободы.

В своем докладе Рабочая группа также отмечает, что законодательство и практика, касающиеся времени оставления под стражей, по сравнению со сроком вынесенного приговора приводят к чрезмерно продолжительным срокам тюремного заключения, несоразмерным с тяжестью преступления, за которое осуждено то или иное лицо. Необходимость учета возможности условно-досрочного освобождения и критериев, касающихся освобождения под залог или возвращения подозреваемых под стражу, требует согласования с сопутствующими изменениями на практике. Проблема насилия в процессе задержания и проведения допроса также требует особого внимания. Реформа уголовного процесса должна быть направлена на регулирование практики вызова лиц в качестве свидетелей на беседу в полицию, где их могут задержать в качестве подозреваемых, поскольку максимальный срок содержания под стражей в полиции зачастую не соблюдается и это может приводить к нарушению прав задержанных. Необходимо обеспечивать соответствующую подготовку сотрудников полиции и Национальной службы безопасности для изменения этой практики.

Рабочая группа также рекомендует обеспечивать более эффективную защиту просителей убежища, беженцев и незаконных мигрантов. Следует улучшить защиту прав просителей убежища, беженцев и мигрантов, в частности, предоставив им возможность оспорить решение о задержании в судебном органе, а также посредством процедуры пересмотра таких решений до того, как таких лиц, задержанных на границе, выдворят из страны.

Annexe

Report of the Working Group on Arbitrary Detention on its mission to Armenia (6–15 September 2010)

Contents

I. Introduction

1. The Working Group on Arbitrary Detention, which was established pursuant to Commission on Human Rights resolution 1991/42, whose mandate was assumed by the Human Rights Council by its decision 1/102 and extended by resolution 15/18, visited Armenia from 6 to 15 September 2010 at the invitation of the State party's Government. The Working Group's delegation was composed of El Hadji Malick Sow, Chairperson-Rapporteur of the Working Group; fellow member Mads Andenas; the Working Group's Secretary and another staff member from the Office of the United Nations High Commissioner for Human Rights.

2. During the visit, the Working Group was grateful for the ongoing cooperation from the Government and the authorities with which it dealt and would like to thank them for their collaboration. The Working Group was able to arrange meetings with all the persons that it requested.

3. The Working Group visited detention facilities within the capital Yerevan and in other cities, including Abovyan, Aparan, Artik, Goris, Sevan and Vanadzor. These detention facilities included: the police holding cells in the districts of Yerevan and Sevan; prisons such as Aparan; Goris; Nubarashen and Vardashen; the Erebuni Detention Facility; the National Military Detention Centre in Yerevan; the Abovyan prisons for juveniles and women; the Yerevan Reception Centre for Migrants at Moldovokm Street and two psychiatric facilities, Sevan Psychiatric facilities and Vanadzor Psychiatric facilities. The Working Group also paid two unannounced visits to police stations at Aparan and Goris and one to Sevan Prison. Interviews were carried out privately with detainees and prisoners in all of these facilities. The Working Group also tried to conduct, without success, an unannounced visit to the detention room for arrivals in an irregular situation at Zvartnots Airport in Yerevan.

4. The Working Group held meetings with senior Government authorities, including: the Chair of the Constitutional Court; the President of the Criminal Chamber of the Court of Cassation; the Chair of the Standing Committee on the Protection of Human Rights and Public Affairs of the National Assembly; the Deputy Ministers of Foreign Affairs; Justice and Defence; the Deputy Prosecutor General; the First Deputy Minister of Health; and the Chief of Staff of the Police.

5. The Working Group also held meetings with the Human Rights Defender (Ombudsman); the Chair and the members of the Board of the Armenian Bar Association; the Public Monitoring Group of Police Detention Facilities; the Prison Monitoring Group under the Ministry of Justice; magistrates of the Courts of Appeal; first instance judges; and former detainees linked to the post-electoral incidents of 1 March 2008 (see paragraph 52).

6. The Working Group also met with various representatives of civil society and members of the opposition parties; representatives of United Nations agencies and intergovernmental organizations operating in the country. The Working Group expresses its appreciation for their cooperation during its visit.

7. The Working Group expresses its thanks to the Government of Armenia for having extended an invitation to visit the country and cooperating before, during and after the visit.

8. The Working Group would also like to particularly acknowledge the arduous and extensive work carried out by the Armenian Bar Association which is engaged in the challenging task of highlighting and resolving the critical issues raised in this report. The information that they provided on the legal context of Armenia with regard to deprivation of liberty was very valuable.

9. The Working Group would like to particularly thank the United Nations Resident Coordinator, the United Nations Development Programme's Resident Representative and her staff for the excellent support providing in organizing and carrying out the visit.

II. Overview of institutional and legal framework

A. Political system

10. Armenia declared its independence from the Soviet Union on 21 September 1991. It is a democratic and constitutional republic with a unicameral legislature, the National Assembly. The President of the Republic is the head of State and oversees the functioning of the legislative, executive and judicial branches of Government. The Prime Minister and the ministers hold the executive power in Government.

11. The President is elected by the citizens of Armenia for a term of five years. Article 49 of the Constitution states that the President is to uphold the Constitution and ensure the normal functioning of the legislative, executive and judicial authorities.

12. The legislative power in Armenia is vested in its National Assembly, which consists of 131 members and is elected for a five-year term.

B. International and regional human rights obligations

13. Armenia became a member of the United Nations in 1992 and has acceded to more than 50 human rights international treaties and protocols, including the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol, and the Convention on the Rights of the Child (see appendix II).

14. On a regional level, Armenia has acceded to the European Convention for the Protection of Human Rights and Fundamental Freedoms in 2002 and recognizes the powers of the European Court of Human Rights. Since 2009, an estimated 20 judgments have been delivered by the Court.

C. The judiciary

15. The judiciary of Armenia is responsible for the administration of justice in accordance with the Constitution and the laws. The court system is organized into: the Administrative Court; basic trial courts; civil and criminal appellate courts; the Court of Cassation and the Constitutional Court. The Court of Cassation is the highest judicial body presiding over non-constitutional matters and one of its functions is to ensure the uniform application of law, its correct interpretation and support in the development of legislation.

16. Citizens have the right to appeal directly to the Constitutional Court, which rules on the constitutionality of legislation, signed international agreements and electoral issues. It is composed of nine members. The Constitutional Court can receive applications from citizens who have had their cases decided by all other courts and who still want to challenge the constitutionality of decisions made against them. In 2009, the Constitutional Court received appeals lodged by 295 persons.

17. The Constitution defines the procedure and formation and activities of the Council of Justice. It also defines the procedure, activities and formation of the Council of Justice. The Council of Justice consists of nine judges elected by secret ballot for a period of five

years by the General Assembly of Judges in Armenia, two legal scholars appointed by the President of the Republic and two legal scholars appointed by the National Assembly. The Chairman of the Court of Cassation chairs the Council of Justice. The Council of Justice oversees matters relating to the independence of judges and can impose disciplinary sanction on judges. It also makes recommendations on candidates for judgeships, who are then appointed by the President.

18. The Court of Cassation has discretionary review authority as the highest judicial body over non-constitutional matters. The 2007 Judicial Code assigned new roles to the Court of Cassation to the effect that it will provide the uniform application of law and its correct interpretation. The authority of the Court of Cassation is defined by the Constitution and laws.

19. There are approximately 216 judges in Armenia for a population of around 3.2 million. Fifteen judges are former prosecutors.

D. The Prosecutor General

20. The Office of the Prosecutor General is a unified and centralized system headed by the Prosecutor General, whose office operates in accordance with the powers granted by the Constitution. Among other responsibilities, the Prosecutor General has to operate within the powers granted by the Constitution and prescribed laws to instigate criminal charges, prosecute, oversee preliminary enquiries and defend the interests of the State in court.

E. The National Police and the National Security Service

21. The Law on the Police was passed by the Armenian National Assembly on 16 April 2001 and the Law on Police Service was passed on 30 June 2002, providing for the Ministry of Interior to be restructured and the Penitentiary Division of the Police to be transferred to the jurisdiction of the Ministry of Justice. The National Police performs its functions according to legislation such as the Criminal Procedure Code of Armenia 1998, the Criminal Code 2003 and the Law on Treatment of Arrestees and Detainees. The National Security Service is responsible for intelligence activities, national security and border control. The National Police carries out around 80 per cent of the criminal investigations.

F. The penitentiary system

22. The penitentiary system, under the jurisdiction of the Ministry of Justice, was previously administered by the Ministry of Internal Affairs. The Penitentiary Service comprises 13 penitentiary institutions. A critical development and reform in the penitentiary system was the creation of public supervision bodies consisting of members of civil society who have the right to free access to penitentiary institutions to familiarize themselves with the conditions therein and to meet with detainees in private. The Prison Monitoring Group under the Ministry of Justice and the Public Monitoring Group under the Police Department are the two mechanisms which have been given these supervisory roles.

G. Human Rights Defender (Ombudsman)

23. The Human Rights Defender's Office in Armenia was established in 2004 and has significant influence on the human rights situation in the country, particularly in dealing with increasing complaints and applications in recent years. The Human Rights Defender

aims to protect human rights and fundamental freedoms from violation by the State and local self-governance bodies and by their officials. The Human Rights Defender is also mandated to create State guarantees and mechanisms for the enforcement and protection of human rights and fundamental freedoms, including contributing to and facilitating the improvement of legislation related to human rights and fundamental freedoms. It also aims to bring Armenian legislation into line with the norms and standards of international law.

24. The Human Rights Defender is elected by the National Assembly pursuant to article 83.1 of the Constitution and to the Law on Human Rights Defender 2003. The Defender is recognized as an independent and autonomous public official who implements the rules and procedures for the protection of human rights and fundamental freedoms which are being or have been violated by State and local governmental and their officials, elected or otherwise. Immunity is enjoyed by the Defender during his or her entire term in office and is also extended to all documents and communications in her/his possession.

25. The Human Rights Defender has free access to any State institution or organization, including military units, prisons, preliminary detention facilities and penitentiaries.

26. In 2009, an estimated 5,200 complaints were lodged with the Human Rights Defender's Office.

H. The National Assembly Committee on Human Rights and Public Affairs

27. The spheres of activities of this Committee include human rights and fundamental freedoms, children's rights, gender issues and national minorities. The Committee has a supervisory function and receives a number of complaints from the general public. Since 2007, it has received approximately one hundred complaints.

I. Constitutional framework

28. The Constitution of the Republic guarantees everyone the right to liberty and security, and provides that such rights may be restricted only in the case of lawful detention determined by a court sentence on the basis of non-compliance with a law or legal act. The Constitution also states that international treaties shall constitute part of the legal system. Furthermore, in cases where ratified international treaties define norms other than those provided for by laws, the norms of treaties shall prevail.

29. The Constitution further states that fundamental human rights and freedoms are an ultimate value and that the State should ensure that the protection of fundamental human and civic rights and freedoms are in conformity with the principles and rules of international law.

30. Article 16 expressly provides for the rights to liberty and security; the deprivation of these can only be done in accordance with prescribed law and, if an arrested person is not detained within 72 hours by a court decision, s/he must be released immediately. Police investigators and prosecutors should obtain a warrant from a judge to detain an arrested suspect in excess of 72 hours, but those requests are rarely denied. The right to compensation for damages is also available to a person who has been wrongly deprived of her/his liberty.

31. The Constitution expressly states that it shall guarantee the independence of the judiciary. It also expressly prohibits torture, inhuman or degrading treatment or punishment and stipulates that an arrested, detained or incarcerated person is entitled to human treatment and respect of dignity.

J. Criminal justice legislation

32. The Armenian Code of Criminal Procedure details the grounds and the procedure for pretrial detention and other measures of restraint to secure the defendant's appearance at trial. Among the measures of restraint for which the Code of Criminal Procedure provides are detention, bail, written obligation not to leave, personal guarantee, an organization's guarantee and supervision by the commander of the military unit (for military personnel).

33. A significant reform is the Law on Treatment of Arrestees and Detainees adopted in 2002. It defines, inter alia, the general principles of legality, equality of arrestees or detainees before the law and respect for human rights in compliance with the Constitution, the Criminal Code and the Criminal Procedural Code and well-known principles and norms of international law. This law also defines the guarantees for ensuring arrestees' and detainees' rights, their duties and the procedure for releasing these persons from arrest and detention.

34. The Law on Arrestees and Detainees provides the specific grounds for keeping a person in a place of arrest, which act must be based on an arrest warrant and a court decision choosing detention as a means of preventive measure. The court decision must be passed in accordance with the Criminal Procedure Code. It is forbidden to admit and keep a person in places of arrest and detention in other cases.

35. In accordance with the law, pretrial detention may be applied by court decision if the alleged crime is punishable by at least one year of imprisonment, or when sufficient grounds exist to suspect that the accused intends to abscond or interfere with the judicial proceedings – in particular by exerting unlawful influence on other persons involved in the case – to tamper with evidence or to commit another criminal offence.

36. The Law on Arrestees and Detainees specifically states that it is forbidden to use physical violence or inhuman or degrading actions against arrestees or detainees.

K. Legal aid

37. The right entitling citizens to effective legal remedies to protect her/his human rights is also protected by article 18 of the Constitution.

38. Armenia has an active public defender system that provides legal assistance to citizens. Legal assistance is guaranteed in article 10 of the Criminal Procedure Code of Armenia and article 13, paragraph 6, of the Law on Arrestees and Detainees.

39. An estimated one third of criminal cases are handled by 56 public defenders and an amendment in the law means new staff will be added to this number.

III. Observations made by the Working Group

A. Positive aspects

40. The Working Group would like to acknowledge the positive efforts made by the Government in carrying out significant reforms to legislation, particularly the Code of Criminal Procedure, which has been amended in order to bring Armenian penal legislation into conformity with international standards for fair trial and due process of law. More than 200 amendments have been approved by the National Assembly during recent years and new amendments are currently under consideration.

41. The Working Group also highlights the effort made to improve the physical conditions in the prisons and detention centres it visited and, particularly, the good rapport between prisoners and detainees and penitentiary guards. During the private interviews that it held, the Working Group did not receive any allegations of torture, ill-treatment or abuse of power by prison guards. Of the country's 40 police detention centres, 33 have been refurbished. Another commendable and progressive reform made by the Legislative is that of the Penitentiary Code 2004 relating to prison visits. Convicts sentenced to life imprisonment were permitted to receive visits by their relatives more often (at least three short-term and one long-term visit per year). Prisoners in general have the right to receive at least four short-term visits a year. Although the number of visit seems not to be sufficient, this has provided necessary contact between prisoners and their families, which is particularly crucial for enhancing continuity of family relationships.

42. In addition, the Working Group was pleased to learn that detention centres and prisons are visited and monitored, on a permanent basis, by the Public Monitoring Group of Police Detention Facilities and the Prison Monitoring Group under the Ministry of Justice.

43. The Working Group welcomes the work carried out by the Constitutional Court and the possibility that any citizen may have direct access to the Court. Between January and September 2010, the Constitutional Court received 354 constitutional recourses and complaints.

44. The Working Group also commends the work being carried out by the Human Rights Defender, who received and processed 5,200 complaints during 2009. The Working Group has taken note of the case-law of the Constitutional Court and the Supreme Court of Cassation which gives effect to due process requirements based on international human rights law and national constitutional law and principles.

B. Challenges to the administration of justice in relation to deprivation of liberty

1. The independence of the judiciary, and the right to fair trial and due process

45. Throughout its visit, the Working Group received information concerning recurrent violations of the right to a fair trial and due process of detainees and prisoners. The independence of judges and magistrates was also criticized by convicted prisoners who reported to the Working Group that evidence submitted on their behalf was not admitted or processed and judges had not called defence witnesses to provide information that would help their case. Additionally, defence lawyers had difficulties in accessing their trial files. This was exacerbated by a practice where prosecutors did not disclose materials to the court and were not compelled to do so by the presiding judge.

46. The vast majority of cases that were sent to trial resulted in convictions. The Working Group is concerned that the lack of internal independence of judges has and will adversely affect the right to liberty of citizens as prescribed by the Constitution and existing laws. It notes that it is not primarily lack of independence following from interference from other branches of the State, but an absence of the necessary independence in the actions of magistrates and judges that is problematic. Judges have the heavy responsibility of administrating justice and, in reaching that noble objective, they must demonstrate that they are independent and impartial in ensuring the right to fair trial and due process of law and that the rights of the accused are respected.

47. The Working Group received information relating to the form of court judgments whereby most sentences and judicial decisions lacked proper reasoning and legal basis. Some jurists interviewed were of the view that numerous sentences and other judicial

decisions follow too closely the requests by the prosecutors. The issue highlighted in these discussions was that judges too often did not take into account the arguments made by the defence and gave more favourable consideration to the prosecution's submissions. The Working Group is concerned to hear that a judge had been disciplined because he had issued a decision in favour of the defence. In a series of judgments, the Supreme Cassation Court has laid down requirements as to the grounds to be given for judgments and ruled that this field of law should develop in order to satisfy international human rights standards and due process requirements.

48. The Working Group notes that the fight against corruption currently carried out by the Government also has implications on the independence of the judiciary. Judges seem to be limiting themselves in the application of justice, ordering harder penalties in fear of being perceived as not sufficiently firm in combating corruption or complicit in corruption.

49. The principle of equality of arms between accusation and defence is one of the basic prerequisites of a fair trial. The Working Group received information that magistrates and judges were favouring and granting requests to the prosecutor and rarely giving regard to those coming from the defence. A number of convicted prisoners were also of the view that the judge had not acted as an independent and impartial authority but as a legal official at the same level, or even at an inferior level, to that of the prosecutor. The Working Group considers it important to point out that, if the principle of equality of arms between prosecution and defence is not fully observed and guaranteed by the judge, justice can not been rendered.

50. The Working Group received allegations that prosecutors are more defenders of the State than defenders of society and the law, adhering to a principle of presumption of guilt, instead of a presumption of innocence. The courts are perceived more as a body rubber-stamping the decisions of the prosecutor than a defender of citizens' rights or due process guarantees. Prosecutors very much overshadow defence lawyers during trials: this has serious implications for the legal profession.

51. Many detainees interviewed stated that they have no need for the services of a defence lawyer because such services are, at the end of the day, of little use. These detainees maintain that it is more important to have good relations with the investigators and prosecutors. Many detainees in remand did recognize the importance or the benefits of having a defence lawyer and seemed to have even less confidence in public defenders. Although the Government has made serious efforts to guarantee legal counsel at public expense to defendants who otherwise cannot afford counsel, many detainees stated that they perceived public defenders as the colleagues and friends of prosecutors who they may even be colluding with them. This was one reason given by many defendants for preferring to argue their own case in court.

52. The Working Group would also like to reiterate the significance of the remedy of habeas corpus in protecting citizens against violations relating to deprivation of liberty. The Working Group has consistently emphasized that habeas corpus in itself is a human right and necessary in order for persons to take proceedings before a court, so that the court may decide without undue delay upon the lawfulness of that person's detention and order the release where detention is not lawful. Moreover, State parties to the International Covenant on Civil and Political Rights should note that article 2 thereof obligates State parties to ensure that an effective remedy is provided to any person deprived of their liberty and whose rights have been violated.

53. The Working Group notes that, in some cases, the State sent certain individuals to other countries without observing normal extradition procedures. An existing agreement between the National Police of Armenia and the Police of the Russian Federation allowed for this practice. This agreement is understood to be based on a regional agreement

involving the Community of Independent States. Decisions on sanction and/or refusal to extradite are made by the Prosecutor General where the case is in the pretrial proceedings. Four persons were extradited in 2010 owing to decisions made by the Prosecutor General.

54. The Working Group is also concerned that the selection of judges should not be done at the discretion of the President but rather that the President should only endorse the candidates put forward for judgeship: such an amendment to the law would be to ensure genuine safeguard of the independence of the judiciary.

2. Arrest and detention of persons linked to the 1 March 2008 incidents

55. One of the critical events in recent Armenian history was the presidential election of 19 February 2008 and its aftermath, when clashes occurred between law enforcement agents and political opposition activists who held public demonstrations against the election results. Mass arrests and detentions occurred and 10 individuals were killed and 200 injured. Investigations were then carried out that targeted the organizers of the demonstrations. More than 5,000 persons were arrested for several hours and 110 opposition activists were charged and tried under charges such as “mass disorders”, “possession of weapons”, “resisting arrest” or “usurpation of State authority”. The Government later issued amnesty to many of those who were imprisoned in relation to 1 March incidents. The Working Group reviewed the situation of 13 persons detained in relation to the 1 March 2008 demonstration and was able to hold private interviews with five of them in various prisons.

56. The Working Group received information that decisions relating to detentions and arrests of political opposition members had been inappropriately documented and were often not in conformity with international standards or with national legislation. Rather than being the exception, pretrial detention was put into practice widely without proper legal grounds.

57. The Working Group also received information that the relatives of detainees linked to the 1 March events had been detained to apply pressure on members of the political opposition. Information has been documented regarding serious due process violations, including detention incommunicado and lack of access to a lawyer of choice. Youths have also been detained for handing out pamphlets in support of the opposition parties. The Working Group also received information that 200 of the wounded were representatives of the police who were injured trying to prevent the demonstration.

58. The Working Group would like to reiterate the fundamental importance of the right to freedom of opinion and expression and the right to peaceful assembly and association, and the important role that the Government has in ensuring that these rights are protected in conformity with the Constitution, prescribed national laws and international laws and standards on human rights. It would also like to see an improvement in the situation of those who wish to exercise these rights, particularly during significant milestones such as governmental elections.

3. Police custody, investigation and the “practice of inviting persons”

59. The practice of “inviting persons” to present themselves to police stations as witnesses was consistently criticized and pointed out to the Working Group during its visit. Police arrest individuals and hold them for up to 72 hours on the argument that they are material witnesses and, therefore, not suspects. A lot of the criticism was levelled at the recurrence of this practice and the treatment of suspects and invitees when in police custody. This practice is aggravated by the fact that suspects are invited to police stations under the pretext that they are material witnesses, only for them to have their status altered (from witness to suspect) during their time in custody, without any prompt court ruling or

legal counsel present. Sometimes, police officers hold persons beyond the statutory 72 hours and later change their status from witnesses to suspects, without the invitee having had access to a lawyer or informed of his rights as required by law.

60. The Working Group notes that excessive powers attributed to the police, the National Security Services and border guards facilitate the arrest and detention of many individuals without an arrest warrant issued by a judicial authority. Arrests are often not a consequence of a preceding police investigation, rather people are detained in order to be investigated. This affects not only the rights to personal freedom, free trial and presumption of innocence, but also the right to the security of person.

61. Many detainees and prisoners who were interviewed by the Working Group reported having been subjected to ill-treatment and beatings at police stations. Further, police and National Security investigators use pressure, including ill-treatment, to obtain confessions, as a central part of their investigations. Many detainees further reported that prosecutors and judges refused to admit evidence of ill-treatment to court proceedings. Many cases of beatings during arrest and interrogation while in detention were not reported because of fear of retribution. In other cases, individuals were beaten and then detained by police until they recovered, before being admitted to the penitentiary system, so that no medical examination would be carried out. Interviews and meetings with NGOs and legal professionals provide further support for these assessments.

62. During its visit, the Working Group received information that two persons died in detention while in police custody. According to the information received, they committed suicide. However, the Working Group considers that investigations by external, independent bodies are necessary, and inquests should be conducted into each case as soon the death takes places.

63. With regard to prison conditions, the Working Group supports the recommendation by the Commissioner for Human Rights of the Council of Europe that Armenia improve public monitoring of penitentiary institutions, with particular emphasis on ensuring that the group of public observers includes independent and impartial representatives from civil society.

64. The Working Group notes that the Prison Monitoring Group for police detention facilities is a critical mechanism for those who are detained by police. However, their mandate allows them only to visit holding cells, which hinders their investigative functions. The Working Group would like to see an expansion of this important group's mandate in order to ensure the rights of detainees and prisoners are respected.

4. Deprivation of liberty within the military

65. The Working Group was able to visit the military detention facility in Yerevan and interview detainees in private.

66. Arrest and detention within the military service is regulated by the Code of Criminal Procedure, although the military has its own military police, which undertakes investigations. The Working Group notes the positive initiative taken to reform disciplinary measures and the new draft code in place. Nevertheless, the Working Group received many reports relating to the difficulty that civil society and international organizations face in accessing information about those who are held in military detention. These concerns relate mainly to the treatment of military personnel in detention and in the military itself.

67. The Working Group notes with concern information on brutality against military personnel by commanders and the deaths that have been reported to have occurred within the military, without proper investigations carried out. There is also concern that abuse and ill-treatment of military personnel is used obtain information from victims who are being

investigated. Investigations carried out by investigators on crimes committed in the Army are under the control of Military's Prosecutor's Office, which is part of the Prosecutor General's Office, rather than the Ministry of Defence. The Working Group reiterates the constitutional guarantee for all citizens of Armenia, civilian and military alike, to be free from torture, ill-treatment and inhuman treatment.

68. The Working Group also received information regarding the arrest and imprisonment of 80 conscientious objectors of the Jehovah Witness faith. In recent years, young men of this faith have been imprisoned due to their refusal to enlist in the military and participate in the alternative civil service offered to enlistment. The Working Group was told that the alternative civil service, established by a 2003 Act, is not functioning in practice. The Ministry of Defence in Armenia has expressed its readiness to discuss the possibility of reducing the length of alternative service to an acceptable limit.

5. Prolonged duration of pretrial detention

69. The Working Group notes that a serious problem relating to pretrial detention exists in Armenia. Arrest and detention are used to prevent a suspect from fleeing, destroying evidence or preventing him or her from committing a future offence. The Working Group observed that people are held in police stations for longer than the three hours established by the law.

70. The Working Group further notes that the norm which establishes that suspects may be held up to 72 hours without charge in pretrial police detention facilities is generally respected and followed in practice. After 72 hours of detention, a great majority of people are either indicted or released. The law stipulates that pretrial detention cannot be extended beyond 12 months. This norm is usually respected in practice. The problem occurs when a trial begins, as there is no established time limit for its conclusion. Prosecutors regularly request and receive from judges trial postponements, on the grounds that they require more time to prepare for trial. Postponements are used as an excuse to prolong investigations. On the other hand, prosecutors claim that the responsibility for the postponement of trials belong to the defence lawyers, because they usually argue that they need more time to prepare their defence.

71. The consequence of a trial being delayed often means that a person can be detained without trial for an indefinite period, and many of those interviewed by the Working Group fell into this category. During the Working Group's visit, the average prison population comprised 3,728 inmates, of whom 422 were pretrial detainees and 305 detainees whose trials were in progress.

6. Lack of use of alternatives to detention

72. The Working Group observed a significant trend towards the use of detention as both a means to hold people in remand and court sentencing. Detention was habitually extended for the maximum possible period and alternatives to detention were rarely used. Additional problems also involve defence motions for bail, and other alternatives, being rejected or ignored.

73. Although the law provides for a bail system, bail is not sufficiently applied in practice. The case-law of the Court of Cassation establishes that bail can be granted even for serious crimes and particularly serious crimes. However, lower courts do not apply that case-law. Prisoners are thus required to serve the totality of their sentences, even when the law provides for the possibility of conditional release. This has consequences not solely for the overcrowding of prisons, but also the penitentiary regime, given that prisoners are deprived of both a key element of motivation to observe good behaviour while in prison and the possibility to advance the process of reintegration into society.

74. In practice, judges appeared to decide whether the arrested person should remain in detention without reviewing what grounds existed for the arrest in the first place, essentially operating on the assumption of legality of police actions. If a judge does not inquire into the existence of reasonable grounds for arrest, judicial review falls short of international fair-trial safeguards. Limiting the scope of judicial enquiry to a mechanical application of custodial or non-custodial measures pending trial undermines the very raison d'être of judicial involvement in this stage of the proceedings: to maintain an effective safeguard of the right to liberty. It also leaves unaddressed fundamental concerns that influence the outcome of prosecutions. This was evidenced by the handling by courts of defence motions during the trials – such as motions aimed at excluding some of the evidence related to allegedly illegal or arbitrary detention.

75. Judicial review of arrest and authorization of detention did not fully satisfy the relevant international standards and national legal requirements. Court decisions for detention were not always reasoned properly and did not address the facts in the individual cases, but rather contained standard general phrases. Access by the defence to information regarding detention orders was also prohibited. The Working Group notes that the ratio in prisons between people in pretrial detention and those convicted seems proportional and adequate, with approximately one quarter of detainees on remand.

76. Detention should be regarded as the most severe measure of restraint and used as a measure of last resort only if less restrictive measures cannot ensure the proper conduct of the defendant and due administration of justice. The Human Rights Committee has stated that pretrial detention must not only be lawful, but also necessary and reasonable in the circumstances. It has recognized that the Covenant on Civil and Political Rights permits the authorities to hold people in detention as an exceptional measure if it is necessary to ensure appearance for trial, but it has given a narrow interpretation of the "necessity" requirement. It has noted that suspicion that a person has committed a crime is not sufficient to justify detention pending investigation and indictment.

7. Early provisional release

77. The Working Group notes that, in Armenia, early provisional release is a problematic issue and the failure to apply such release has negative consequences, including the overcrowding in prisons and the non-release of prisoners in situations of good behaviour and justified reintegration to society. This issue was raised repeatedly throughout the visit, as there does not seem to be any clarity or transparency relating to decisions made by the committees determining this matter. Exact standards and criteria are unclear as to how membership may be selected and the lack of an appeal mechanism makes justified parole unlikely.

8. Proportionality of sentencing

78. The issue of proportionality of court sentences is a matter of concern to the Working Group. A number of prisoners interviewed revealed that they were serving severely long and harsh sentences for crimes such as corruption, bribery and organized crime. A number of women interviewed at Abovyan prison reported that they were serving sentences of between 10 and 13 years for crimes such as trafficking, theft, swindling and embezzlement, all of which carry maximum sentences. Their sentencing seemed to exceed even the statutory provisions for these crimes.

9. Juvenile justice

79. The Working Group was able to visit and interview juvenile prisoners in Abovyan prison. It notes with concern the absence of an effective system of juvenile justice in

Armenia, particularly the absence of specific laws, procedures and juvenile courts. Legal proceedings for juveniles are regulated by chapter 50 of the Code of Criminal Procedure.

80. While Armenian legislation provides several essential standards regarding juvenile justice, issues relating to prevention, alternative punishment and rehabilitation for minor offenders remained unsolved. Cases were reported of physical abuse of juveniles when they enter the criminal justice system. There were no special standards of interrogation of juveniles who were suspects, accused, witnesses and victims, nor were there special court procedures for juveniles. There were no well-established alternatives to deprivation of liberty of juveniles. Other issues of serious concern relate the excessive use of pretrial detention for juveniles, the length of pretrial detention, the termination of secondary education in pretrial detention and the absence of rehabilitation and reintegration programmes for juveniles after their release.

81. The Working Group, in light of the mentioned problems, noted a serious need for psychiatric and psychological assistance to those in the juvenile prison as quite a number of them showed apparent signs of attempted suicide. According to the Government, two cases of suicide attempts have been investigated between 2008 and 2010.

82. Recent legislative changes allow convicted teenagers to serve their complete sentence in Abovyan rather than be transferred to a prison intended for adults. Recent positive reform of the Criminal Code – through the introduction of fines and probation and community service – has helped to reduce the number of detainees.

83. The Working Group understands that, despite the lack of a specialized system for juveniles, the number of juvenile prisoners and detainees is low in comparison with other countries in the region.

10. Deprivation of liberty on grounds of mental health

84. The Working Group was able to visit two psychiatric facilities outside Yerevan, the Sevan Psychiatric Hospital and the Vanadzor Psychiatric Facility, and was able to meet and speak with resident patients. The 2004 Law on the Psychiatric Service governs the internment of patients in these institutions, by decision of medical commissions composed by three medical doctors. Decisions by medical commissions can not be challenged before a judicial authority but are subjected to review by the same body every six months.

85. The Working Group noted the good relationships between the administration and psychiatric patients. It understands that the challenges faced by these two institutions relate more to access of resources for the care of patients and maintenance of the facilities, than to problems relating to deprivation of liberty.

11. Migrants in irregular situation, refugees and asylum seekers

86. Armenia has ratified the 1951 Convention relating to the Status of Refugees in 1993 and is also a party to the 1954 Convention relating to the Status of Stateless Persons and to the 1961 Convention on the Reduction of Statelessness. The Law on Refugees and Asylum in Armenia largely conforms to international standards regarding the arbitrary detention of asylum-seekers and refugees as reflected in the 1951 Convention. The legal asylum framework is regulated by the Constitution, legislation adopted by the National Assembly and executive decisions. The Constitution refers to political asylum and provides protection against refoulement. The State Migration Service is the main body responsible for the asylum system and migration issues in Armenia.

87. The Working Group observes that the Government is granting asylum and refugee status in accordance with the 1951 Convention and its 1967 Protocol. The Government is also providing temporary protection to individuals who may not qualify as refugees.

88. The Working Group notes the positive move by the Government to establish the Yerevan Reception Centre and visited this facility in which asylum-seekers and people demanding a refugee status are kept in adequate conditions, being free to go outside during the day hours. They are kept there during the entire duration of their legal procedures.

89. However, a related issue is legislative inconsistency in the matter: the Law on Refugees exempts from criminal prosecution asylum-seekers who enter Armenia illegally, while the Law on State Borders considers all persons illegally crossing the border as transgressors. Border guards consider themselves bound by the Law on State Borders and, in practice, illegally entering asylum-seekers are detained by border officials and turned over to National Security Services for criminal investigation.

90. Illegal entry into the country is considered a penal offence, in breach of international law. Persons illegally crossing the State party's borders are usually condemned to 18 months' imprisonment. However, arrivals in an irregular situation, such as people entering the Armenian territory without the necessary entry visa, or those who overstay beyond the date of its expiry, are usually subjected to a fine and deported from the country, with prohibition to return to the country during a determined period. The Working Group has noted concerns about the opportunity to claim asylum when refugees are turned away at the border. There are further concerns about the treatment of border-crossing as a criminal offence in this context.

91. The Working Group is aware that migrants in an irregular situation who have entered Armenia through Zvartnots Airport are held in a special room and can be detained there for periods longer than 72 hours, which is the prescribed maximum time under the Law on Refugees and Asylum. The Working Group attempted twice – without success – to have access to this room but regrets that it was not so authorized by the relevant officials. No information was then obtained as to the procedures on treating those that are kept in this dwelling. The Working Group is concerned that a lack of identification and referral mechanisms for persons held in such a dwelling may result in prolonged "detention-like" situation for persons kept in this place.

92. The Working Group would like to ensure that clear procedures are also in place in dealing with persons who fear being extradited to their country of origin due to fear of torture, ill-treatment or death and who clearly have an intention of seeking asylum. The involvement of the Government of Armenia in the South Caucasus border management project to improve border security and the state border management is a positive step.

IV. Conclusions

93. **Problems of deprivation of liberty in Armenia are linked to the lack of independence of its magistrates and judges and the lack of impartiality of its prosecutors. Many judges fear that they would face retribution should they return an acquittal on sensitive cases. No judge has ever been prosecuted for having illegally deprived a person of her or his liberty. However, there are judges who have been prosecuted for having ordered a person's release. Judges are clearly perceived as being under the influence of prosecutors.**

94. **The Working Group notes significant developments in institutional and legislative reforms since Armenia gained its independence in 1991. It reiterates the importance of such reforms in dealing with acts relating to deprivation of liberty that are obsolete and contrary to the international law. It commends the Government in this regard and encourages it to continue with judicial reforms in order to bring its legislation into line with its obligations under international human rights law.**

95. **The Working Group is concerned, however, by the endemic practices carried out by institutions such as the Army, the Police, National Security services and border control personnel that are gross violations of human rights. The recurrent use of the force and ill-treatment of arrested and detained persons and prisoners should be expressly prohibited. Most instances of abuse of detainees occur in police stations. The Working Group also calls on the Government to abide by its obligations under various human rights conventions, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and ensure that its citizens are rigorously protected against such treatment when investigated, arrested or detained. Impunity should effectively be prevented and punished by the establishment and implementation of the necessary laws.**

96. **The Working Group notes with great concern that judges, magistrates and law enforcement agents are widely perceived to be weak and face corruption, and that the independence of the judges and magistrates has been consistently questioned by citizens, civil society and international organizations.**

97. **Violations of the right to a fair trial seem to be systematic and have distorted the role of judges and magistrates as impartial arbiters. Public confidence in the administration of justice seems to be very low. The Working Group would like reiterate the importance as fundamental entitlements of persons who are deprived of their liberty of ensuring the adversarial nature of trials, the principle of equality of arms, respect for the presumption of innocence, the right to defence and the right to be free from torture and ill-treatment. Laws and practices need to ensure that these rights are safeguarded.**

98. **The Working Group recalls that detainees have the right to a fair and public hearing by an independent and impartial judicial authority, as stated in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and principles of international customary law**

99. **Progress has been made in reforming penitentiaries and detention centres, mainly through the renovation of older facilities and the construction of newer ones. However, at some prisons, the Working Group found overcrowding, poor sanitation, minimal medical care and a lack of sufficient ventilation. The Government must guarantee the right to safety of all prisoners. Overcrowding seems to facilitate corruption in prison in several ways, including payment for moving to less-overpopulated cells.**

100. **The Working Group notes that the Government is well-aware of the remaining areas in which there is room for improvement to the system governing deprivation of liberty (as identified in this report) and appreciates that they are being addressed.**

V. Recommendations

101. **On the basis of its findings, the Working Group would like recommend that the Government:**

(a) Consider that the law and practice on remand in relation to sentencing have resulted in lengthy detention that is disproportionate to the crimes of which a person is convicted. Arrests warrants should be shown at the moment of the arrest and detainees should immediately be informed of all their rights. It is necessary to take into consideration the granting of early provisional release and the criteria for granting bail. Detaining suspects on remand requires tightening up with concomitant changes in practice;

(b) As part of criminal procedure reform, regulate the practice of "inviting witnesses" or suspects to police interviews, where potential violations of rights may occur. Efforts should be made to stop violence during arrest and interrogation. Police and National Security services training needs to take into account the prohibition of the use of torture, ill-treatment and degrading treatment on arrestees, detainees, prisoners and citizens alike;

(c) Systematically investigate all cases of police, military and National Security services abuse to avoid impunity and put an end to widespread ill-treatment of detainees;

(d) Ensure proper and thorough investigation of torture and ill-treatment cases, holding perpetrators accountable and making investigations public to the Armenian people, without jeopardizing the investigative process. Ensure thorough consideration of all accusations of torture made in courts and, if confirmed, inadmissibility of evidence obtained in such a way. Ensure full protection of persons deprived of their liberty from torture and ill-treatment, as per the State obligations under the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment; article 7 of the Covenant on Civil and Political Rights; article 17 of the Constitution of Armenia; and other relevant national legislation, such as the Criminal Code and article 2 of the Law on Treatment of Arrestees and Detainees;

(e) Ensure systematic civil society participation in the monitoring and investigation of police stations and prison facilities. In this regard, it should ensure access for a police monitoring group to all premises and facilities of the police where persons are detained;

(f) Implement training and capacity-building of all State law enforcement agencies such as the police, National Security Services and military personnel on international human rights standards;

(g) Amend the Law on State Borders and the Criminal Code to incorporate provisions exempting asylum-seekers from detention for illegal entry into the country and improve detention conditions and detainees' access to information on asylum procedures and legal counsel;

(h) Establish proper reception facilities at the Zvartnots International Airport and at all major land entry points;

(i) Establish a programme to provide all border guards with initial and ongoing training on the 1951 Convention relating to the Status of Refugees, the Armenian Law on Refugees and all other international and internal legal norms concerning asylum-seekers and refugees. Ensure protection of all persons at risk of extradition who have expressed a clear intention of claiming political asylum and have not been able to do so in accordance with the established formal procedures in place;

(j) Ensure the adversarial nature of trials and the principle of equality of arms, and ensure respect for the presumption of innocence and the right to defence;

(k) Ensure full implementation of international and national fair trial standards, and adopt a separate law on legal aid;

(l) Ensure full enforcement and protection of the right to habeas corpus in accordance with the State party's obligations under article 2 of the Covenant on Civil and Political Rights and the former Commission of Human Right's view that habeas corpus is a personal right not subject to derogation, including during states of emergency;

(m) Ensure full protection of the rights to the freedom of opinion and expression; the right to peaceful assembly and the right to freedom of association, as provided by articles 18, 19, 21 and 22 of the Covenant on Civil and Political Rights and under articles 26,27, 28 and 29 of the Constitution;

(n) Improving the system for early release, establishing strict criteria for the Commission on Early Release's decision-making process, extending its composition to include civil society representatives and establishing an appeal mechanism;

(o) Subject police stations to independent human rights monitoring, as is the case in police detention facilities.

Appendices

Appendix I

Detention facilities visited

Artik Correction Facility

Aparan Police Detention Facility

Abovyan prisons for juveniles and women

Erebuni Detention facility

Goris Police Detention Facility

Goris Prison

Military Detention Facility

Nubarashen Prison

Sevan Prison

Sevan Psychiatric Facilities

Yerevan-Kentron detention facilities

Yerevan Reception Centre

Vardashen Prison

Vanadzor psychiatric facilities

Appendix II

International human rights conventions to which Armenia is a State party

International Convention on the Elimination of All Forms of Racial Discrimination

Convention on the Prevention and Punishment of the Crime of Genocide

International Covenant on Economic, Social and Cultural Rights

International Covenant on Civil and Political Rights

Optional Protocol to the International Covenant on Civil and Political Rights

European Convention on the Non-Applicability of Statutory Limitation to Crimes against Humanity and War Crimes

Convention on the Elimination of All Forms of Discrimination against Women

Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women

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

Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Convention on the Rights of the Child

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

Convention on the Rights of Persons with Disabilities

Optional Protocol to the Convention on the Rights of Persons with Disabilities

International Convention for the Protection of All Persons from Enforced Disappearance

Convention relating to the Status of Refugees

Convention relating to the Status of Stateless Persons

Convention on the Reduction of Statelessness

Appendix III

Excerpts from the Constitution of Armenia

Chapter 2 Fundamental Human and Civil Rights and Freedoms

Article 14

Human dignity shall be respected and protected by the state as an inviolable foundation of human rights and freedoms.

Article 14.1

Everyone shall be equal before the law.

Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or other personal or social circumstances shall be prohibited.

Article 15

Everyone shall have a right to life. No one shall be condemned to the death penalty or executed.

Article 16

Everyone shall have a right to liberty and security. A person can be deprived of or restricted in his/her liberty by the procedure defined by law and only in the following cases:

1) a person is sentenced for committing a crime by the competent court;

2) a person has not executed a legitimate judicial act;

3) to ensure the fulfilment of certain responsibilities prescribed by the law;

4) when reasonable suspicion exists of commission of a crime or when it is necessary to prevent the commission of a crime by a person or to prevent his/her escape after the crime has been committed;

5) to establish educational control over a minor or to present him/her to the competent body;

6) to prevent the spread of infectious diseases and other social dangers posed by mental patients, persons addicted to alcohol and drugs, as well as vagrants;

7) to prevent the unauthorized entry of a person into the Republic of Armenia, as well as to deport or extradite him/her to a foreign country.

Everyone who is deprived of his/her freedom shall in a language comprehensible to him/her immediately be informed of the reasons for this and of an indictment should such be brought against him/her Everyone who is deprived of his/her freedom shall have a right to immediately notify this to any person chosen by him/her.

If the arrested person is not detained within 72 hours by the court decision he/she must be released immediately.

Every person shall have the right to recover damages in case when he/she has illegally been deprived of freedom or subjected to search on the grounds and by the procedure defined by the law. Every person shall have the right to appeal to a higher instance court against the lawfulness and reasons for depriving him/her of freedom or subjecting to search.

No one shall be deprived of freedom for not honoring his/her civil and legal obligations.

No one shall be subjected to search otherwise than in conformity with the procedure prescribed by the law.

Article 17

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 18

Everyone shall be entitled to effective legal remedies to protect his/her rights and freedoms before judicial as well as other public bodies.

Everyone shall have a right to protect his/her rights and freedoms by any means not prohibited by the law.

Everyone shall be entitled to have the support of the Human Rights' Defender for the protection of his/her rights and freedoms on the grounds and in conformity with the procedure prescribed by law.

Everyone shall in conformity with the international treaties of the Republic of Armenia be entitled to apply to the international institutions protecting human rights and freedoms with a request to protect his/her rights and freedoms

Article 26

Everyone shall have the right to freedom of thought, conscience and religion. This right includes freedom to change the religion or belief and freedom to, either alone or in community with others manifest the religion or belief, through preaching, church ceremonies and other religious rites.

The exercise of this right may be restricted only by law in the interests of the public security, health, morality or the protection of rights and freedoms of others.

Article 27

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.

Article 28

Everyone shall have the right to freedom of association with others, including the right to form and to join trade unions.

Every citizen shall have a right to form political parties with other citizens and join such parties.

The rights to form parties and trade unions and join them may be restricted in a manner prescribed by law for the employees in the armed forces, police, national security, prosecutor's office, as well as judges and members of the Constitutional Court.

No one shall be compelled to join any political party or association.

Article 29

Everyone shall have the right to freedom of peaceful and unarmed assembly.

Restrictions on exercising these rights by the employees in the armed forces, police, national security, prosecutor's office, bodies as well as judges and members of the Constitutional Court may be prescribed only by the law.