



**HELSINKI ASSOCIATION**

**ANNUAL REPORT ON THE HUMAN  
RIGHTS SITUATION IN THE REPUBLIC  
OF ARMENIA FOR THE YEAR 2010  
PREPARED BY HELSINKI ASSOCIATION**

**VOLUME I**

**YEREVAN**

**2011**

This Report has been prepared by Helsinki Association within the frame of “The human rights situation in Armenia” Project with the financial support of the US Embassy in Armenia and The Norwegian Ministry of Foreign Affairs.

## CONTENT

Introduction .....	3
Freedom of Speech and Mass Media.....	10
Human Rights Defenders.....	21
Peaceful Assembly.....	30
Torture and Ill – Treatment.....	46
Vahan Khalaphyan .....	56
Freedom of Belief and Conscience .....	100
Annex .....	107

Helsinki Association presents 2010 Annual Report on human rights situation in Armenia and can state unequivocally that human rights and fundamental freedoms are being flagrantly violated in Armenia.

In 2010, the Armenian authorities still have ignored the fulfillment of the requirements brought forward in Resolutions adopted by PACE on Armenia (No. 1609<sup>1</sup>, 1620<sup>2</sup>, 1643<sup>3</sup>, 1677<sup>4</sup>).

Notwithstanding that the authorities, under the pressure of the international society, have released many activists arrested and sentenced on the occasion of the events of March 1, 2008, 9 persons are still in prison and they are considered by Helsinki Association as political prisoners in accordance with international standards<sup>5</sup>.

On October 4, 2010, Helsinki Association has applied to the Secretary General of the European Council, the PACE President, the members of standing and monitoring Commission of PACE, the High Commissioner for Human Rights of the European Council, with a letter, where it has mentioned that a group of political prisoners are still in prisons, and that the pressure on the political opposition is still underway. The conditions, under which the detainees and the condemned in prisons are kept, are still bad, not in line with any European standard; tortures in Police units and Army become the reason for fatal incidents and are not disclosed, and this is of permanent nature. Fulfilling the orders of the prosecutor's office and the authorities, the courts fail to exercise justice. Those responsible for the death of ten innocent victims in the course of the events of March 1 and the true organizers of that crime have not yet been held liable. By the aforementioned letter, Helsinki Association has requested the co-rapporteurs of the PACE Monitoring Commission to visit Yerevan as soon as possible and to look at the conformity of the Republic of Armenia to the requirements of the European Council.

Armenia is still under monitoring as a member state of the European Council.

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

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

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

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

<sup>5</sup> <http://www.amnesty.org/>

Almost three years after the events of March 1, the circumstances of the death of ten citizens have not yet been disclosed. Artak Zeynalyan, the representative of assignees of 9 victims on case of March 1, has appealed the inaction of the Special Investigation Service on the ground of failure by them to disclose anything on part of the murders<sup>6</sup>. All court instances of the RA have dismissed the appeal.

On February 4, 2010, the draft resolution titled “Involvement of the Army in the events of March 1, 2008, in Armenia” has been posted on the official website of PACE. The Draft has been presented by Goran Linblad, Head of the official delegation of Sweden. The draft is undersigned by 20 PACE Members of Parliament. With this document, the authors of the draft have accused the RA authorities for carrying out state coup in Armenia, criticized the report presented by the RA NA ad hoc committee examining the events of March 1 and 2, and considered it as a biased one, recommending to hold personally responsible all the officials involved in the army’s participation in the event<sup>7</sup>.

In accordance with Article 62 (5) of the RA Law on making amendments to the RA Law “On Television and Radio”, on December 16, 2010 “A1+” TV Company was deprived of an opportunity to return TV air for the 13<sup>th</sup> time according to the results of the broadcast competition announced by the National Television and Radio Commission. “Gala” TV Company of Gyumri also was deprived of the right of digital broadcasting<sup>8</sup>.

In 2010, Armenian authorities initiated a series of legislative amendments; particularly amendments have been made in the legislative field related to the freedom of speech and media. Amendments have been made in laws “On Language” and “On Public Education”, according to which opening of foreign language schools in Armenia becomes possible, thus causing a huge wave of complaints among the public. Nevertheless, on December 22, 2010, the draft law was adopted by the NA.

Legislative amendments have also been initiated with regard to the RA Law “On conducting meetings, assemblies, rallies and demonstrations”.

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<sup>6</sup> <http://hahr.am>

<sup>7</sup> <http://assembly.coe.int/Mainf.asp?link=/Documents/WorkingDocs/Doc10/EDOC12157.htm>

<sup>8</sup> Chapter “Freedom of Speech and Mass Media”.

Through 2010, the RA authorities have presented two drafts for the reforms of the RA Electoral Code to the PACE Venice Commission. Various political forces of Armenia have submitted own recommendations on the reforms of the RA Electoral Code. In the opinion of the experts of Helsinki Association, it is impossible to conduct fair and transparent elections in Armenia not because of deficiencies available in the Electoral Code, but rather because of lack of political will by the RA authorities.

Through 2010, tortures and violence were still in place in the Police and Armed Forces of the RA. At least one fatal incident has been recorded in Police unit (Vahan Khalaphyan<sup>9</sup>).

*In 2010, increase in fatal incidents has been recorded in the RA armed forces.* Getting information connected with those incidents is complicated. Still being a closed system, the command of the RA Armed Forces tries to conceal, in any possible way, the number of soldiers died in army as a result of tortures and cruel attitude. The fact of death is mainly explained by suicide, fatalities or murder by the adversary. Compulsory military service in the territory of the Republic of Mountainous Karabagh is still in place.

On January 10, 2011, Helsinki Association has applied to the RA Ministry of Defense, requesting to provide the organization with the following information:

1. How many RA citizens have been called up for compulsory military service in the RA and NKR armies in January-December 2010?
2. How many fatal incidents have been recorded from January 2010 to present in the RA and NKR armies, particularly those as a result of violence, suicide, fatalities, murder by the adversary?

Referring to the RA Law “On State and Official Secrets”, the RA Ministry of Defense has communicated the following in relation to the questions brought forward by the organization “...the first information requested by you is considered as a state secret, since it relates to the number of troop deploying, combat personnel and number”. “...The RA Ministry of Defense

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<sup>9</sup> Annex “Vahan Khalaphyan”, page 56.

cannot provide you data on fatal incidents in the RA armed forces for 2010, since according to the mentioned order it is an official secret”.

According to the information provided by Helsinki Citizen’s Assembly Vanadzor Office, 42 fatal incidents have been recorded in the RA armed forces in the period of January 1-December 1 of 2010.

On January 10, 2011, Helsinki Citizen’s Assembly Vanadzor Office applied to H. Harutyunyan, the Head of the Penitentiary Service at the RA Ministry of Justice, requesting to provide the organization with the following information:

1. How many pretrial detainees and how many convicts are there in the RA penitentiary institutions?
2. How many fatal incidents have been recorded, particularly those as a result of murder, suicide, fatalities, diseases?
3. How many patients with tuberculosis and HIV are there in the RA penitentiary institutions?
4. How many cases of escape from prison have been recorded from January 2010 to present?

The RA MOJ Penitentiary Service has provided the following information:

1. As of January 1, 2011, 1437 detainees and 3705 convicts are kept in the RA MoJ Penitentiary Service;
2. From January 2010 till now, 38 fatal incidents have been recorded, of which 32 – as a result of disease, 1 – fatality and 5 – suicide;
3. As of December 31 2010, 47 and 22 convicts and detainees, respectively with tuberculosis and HIV/AIDS are kept in penitentiary institutions, that are being treated in “Detainees’ hospital” and “Nubarashen” penitentiary institutions.
4. From January 2010 to present, 1 case of escape from prison has been recorded.

Any incident of violence occurring at the RA Armed Forces, Police, Prosecutor's Office is being obscured by the RA Forensic Medical Expert Examination Center, that is fulfilling the orders of the aforementioned structures.

In Armenia, violation of rights of LGBT community (lesbians, gays, bisexuals, and transgender) is continued. Notwithstanding that the representatives of LGBT community continue to be subjected on a regular basis to violations, they do not file complaints, avoiding publicity, becoming a laughing stock by the society, and being subjected to dual violence by law-enforcement authorities.

On April 6-8, 37<sup>th</sup> FIDH Conference was held in Armenia; about 150 human rights defenders from different countries of the world, as well as representatives of non-governmental organizations and the justice system of Armenia participated in it. In 2010, Forum for Future of Democracy and the EU-Armenia NGO Conference on "Fair trial and independence of the judicial right" were held in Yerevan. It should be noted that only "elected" representatives of the civil society were invited to these conferences.

A number of international organizations have published reports on the human rights situation in 2010.

In the Report (Freedom in the World 2011: The Authoritarian Challenge to Democracy)<sup>10</sup> of Freedom House, an American advocacy organization, Armenia has been categorized as a "partly free" country. In the Report, countries are classified into "free", "partly free" and "not free" countries. When determining the ratings of countries, the assessment of political rights and civil freedoms has been taken into consideration.

Armenia has been also addressed by Human Rights Watch, a reputable advocacy organization, in its Report<sup>11</sup> published in 2011, where it has criticized the Armenian authorities for failing to conduct proper investigation with regard to the events of March 1 and impeding the freedom of assemblies. The Report also mentions that a serious problem of tortures and cruel treatment conducted within Police is still in place in the country.

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<sup>10</sup> <http://freedomhouse.org>

<sup>11</sup> <http://www.hrw.org/en/world-report-2011>

In 2010, the Bureau of Democracy, Human Rights and Labor Affairs at the United States Department of State has published its annual Report on the situation of religious freedom in Armenia<sup>12</sup>, which states that while the Constitution provides for freedom of religion and the right to practice, choose, or change religious belief; however, the law places some restrictions on the religious freedom of members of minority religious groups. According to the Report, certain privileges are granted to the Armenian Church that are not available to other religious groups.

On March 19, 2010, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published its Report<sup>13</sup> related to the events of March 1, 2008, stating that all those detained by law-enforcement authorities during the post presidential elections of 2008, were subjected to physical violence even when the detainees had not shown any resistance.

In 2010, Armenia has been observed within the regular overall observation by the UN. When listing the problems of Armenia, countries considered as democratic ones, have mainly emphasized the freedom of speech, religion and media, regulation of law-enforcement system, independence of justice, fair investigation of the offense and crimes during and after the presidential elections and punishment of those responsible<sup>14</sup>.

In 2010, a statement was made by Human Rights House Foundation<sup>15</sup> and South Caucasian Advocacy Network on the right to the freedom of peaceful assemblies in the Southern Caucasus, calling for OSCE and its member states to prioritize the reinforcement of those mechanisms that guarantee the exercise of the right to freedom of peaceful assemblies and rallies<sup>16</sup>.

“Freedom Advocate, Armenia 2010” annual award being granted by the U.S. State Secretariat to individuals and non-governmental organizations, was granted in 2010 to three Armenian judges – Ruzanna Barseghyan, Judge of the First Instance of General Jurisdiction in Aragatsotn Marz;

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<sup>12</sup> <http://armenian.armenia.usembassy.gov/news111810.html>

<sup>13</sup> <http://www.cpt.coe.int>

<sup>14</sup> [http://www.upr-info.org/IMG/pdf/A\\_HRC\\_15\\_9\\_E.pdf](http://www.upr-info.org/IMG/pdf/A_HRC_15_9_E.pdf)

<sup>15</sup> Human Rights House Foundation is the Secretariat of the Human Rights House Network, uniting more than 70 advocacy organizations throughout 15 countries of the world. [www.humanrightshouse.org](http://www.humanrightshouse.org)

<sup>16</sup> <http://hahr.am/>

Hovsep Bedevyan, Judge of the Administrative Court of Appeal, and Marine Melkonyan, Judge of the First Instance Court of General Jurisdiction in Lori Marz. US Ambassador to Armenia Marie Yovanovich has stated in her speech that these three judges have their contribution to the advantage of the rule of law and judicial independence in Armenia.

On March 10 2010, USA Ambassador to Armenia Marie Yovanovich awarded Civil Society Activist Mariam Sukhudyen with “Woman of Courage” Award. The award was granted to Mariam Sukhudyen for manifestation of responsibility, virtue and leadership in protection of environment and children with specific needs and for pursuing justice.

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

On October 20 2010, “Reporters without Borders” International Non-Governmental Organization presented Worldwide Press Freedom Index 2010 covering the period from September 2009 to September 2010<sup>17</sup>. In the list comprised of 178 countries that have been examined, Armenia is in 101th place with 27.50 scores. High scores indicate deterioration of the situation in the field of Mass Media. The organization has conducted its annual survey based on 43 criteria, including violence and attacks towards reporters, as well as censorship and the fact of impunity of officials having used violence towards freedom of mass media. On January 27, 2010, Council of Europe Parliamentary Assembly adopted Recommendation 1897<sup>18</sup> addressed to the Committee of Ministers of the Council of Europe recommending the Committee to call on the Government of Armenia to revise their legislation on providing broadcast licenses, which has been passed as a countermeasure to the judgment of the European Court of Human Rights in the case of *Meltex Ltd and Mesrop Movsesyan v. Armenia* as of 17 June 2008.

According to the data published by the Committee to Protect Freedom of Expression, 9 incidents of physical violence against journalists and 19 incidents of pressure on Media and Media staff have been recorded in 2010. Besides, 18 incidents of violations of the right to receive and spread information have been recorded<sup>19</sup>.

In the Republic of Armenia the right to free speech is provided for under the RA Constitution. Article 27 defines: “Everyone shall have the right to freely express his/her opinion. No one shall be forced to recede or change his/her opinion. Everyone shall have the right to freedom of expression including freedom to search for, receive and impart information and ideas by any means of information regardless of the state frontiers. Freedom of mass media and other means of mass information shall be guaranteed. The state shall guarantee the existence and activities of an independent and public radio and television service offering a variety of informational, cultural and entertaining programs.”

This field is also regulated by the RA Law “On Mass Media” adopted on December 13, 2003. According to Article 4(3) of the RA Law “On Mass Media”, the following shall be prohibited:

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<sup>17</sup> <http://www.rsf.org/>

<sup>18</sup> <http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta10/EREC1897.htm>

<sup>19</sup> <http://www.khosq.am>

1. Censorship;
2. Any compulsion towards the one performing journalistic activity or journalist that is aimed at spread of any information or waiver of its spread or any compulsion leading thereto;
3. Impeding legal professional activity of reporter.

By its content, the Law conforms to the international standards. However, in practice it is not operational.

In 2010, a number of incidents of violence against journalists, pressures on mass media, violation of their rights to receive and spread information have been recorded.

*On February 11, 2010, the publisher of “Haykakan Zhamanak” (Armenian Time) “Dareskizb” LLC under the compulsion of the Service for Compulsory Enforcement of Judicial Orders had to pay a fine of 3 million AMD to lift the lien on its bank accounts and to continue the printing of the daily. However, after the fine had been paid, the lien on the accounts of “Dareskizb” LLC was not lifted. It was lifted only on March 3, 2010, after refutation of the article printed in “Haykakan Zhamanak” was published.*

*On April 23, 2009, a lawsuit brought by Levon Kocharyan, the youngest son of the RA Second President Robert Kocharyan, vs. “Haykakan Zhamanak” Daily has commenced in the Court of General Jurisdiction of Kentron and Nork-Marash Communities of Yerevan. The reason for the lawsuit was an article published in “Haykakan Zhamanak” Daily on February 6, 2009, about Levon Kocharyan being arrested, at the end of 2008, in Dubai. The Claimant requested refutation of the information discrediting his honor and dignity and paying moral loss in an amount of 16 mil. 120 thousand AMD.<sup>20</sup>*

*According to the information spread by “GALA” TV Channel of Gyumri on March 23, 2010, as a result of direct pressures imposed by some state and force agencies, some advertisement ordering organizations would avoid to show their advertisements on the TV Company’s air.*

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<sup>20</sup> 2009 Annual Report of Helsinki Association, Freedom of Expression and Mass Media.

*Within one month, 26 advertisement ordering companies have withdrawn their advertisements from the air of the TV Company.*

*On January 13, 2010, the editorial office of “Haykakan Zhamanak” Daily was warned that some groups were walking around from one newspaper kiosk to another in various parts of Yerevan and buying the entire set of published issue of “Haykakan Zhamanak” Daily as of January 13. Such a collection of the daily has been recorded in several other parts of the city. According to the Daily, the reason is the information published in the issue as of January 13 on the clash of bands of NA MPs Seyran Saroyan and Levon Sargsyan<sup>21</sup>.*

*On April 16, the film “Election” shot by the scenario of publicist Tigran Paskevichyan was to be shown at the National Center of Aesthetics. However, the directorate of the Theater has informed them that the director of the Center Levon Igityan has banned the show of the film. Later on, it transpired that the ban was imposed by the Ministry of Education and Science. This is the second film by T. Paskevichyan, the show of which is being banned (“Otarum” (Alienation), October 2008)<sup>22</sup>.*

*On May 24, after publication of article “On Contrary to Yerkrpah (land defender)” about an unlawful action by the Head of Armavir Military Police Garrison at the RA Ministry of Defense and the President of “Glorious fighter” organization Grisha Sargsayn in “Chorrord Inqnishkhanutyun” Daily (Fourth Self-Power), the latter has called to the editorial office of the Daily and threatened the journalist of “Chorrord Inqnishkhanutyun” Taguhi Tovmasyan and photo-reporter Gagik Shamshyan, saying that he is going to “punish them” and “shot on head”. Besides, he has shouted out “Have you forgotten how many people I have got? I am going to come and bombard your editorial house; you don’t know me yet”<sup>23</sup>.*

Journalists are still being subjected to violence and attacks while exercising their professional duties.

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<sup>21</sup> <http://www.armtimes.com/223>

<sup>22</sup> Second quarterly report by Committee to Protect the Freedom of Expression (April-June 2010) <http://www.khosq.am>

<sup>23</sup> <http://chi.am/> No 131 (Forth self-power), May 25, 2010.

*On February 24, 2010, the photo reporter of “CHI” and “Aravot” newspapers Gagik Shamshyan was subjected to violence, when taking pictures of officials entering into the building of the Prosecutor’s Office. Investigating officer of the Police Investigation Department Gagik Margaryan had rushed at Shamshyan, scolded at him and stroked his face with his hand bag. Shamshyan was taken to hospital by ambulance. After an additional examination in the medical center, it was revealed that he had got haemorrhage of ear membrane<sup>24</sup>.*

*On May 31, when exercising professional duties, the journalist of “Haykakan Zhamanak” Daily Ani Gevorgyan was taken to custody, and then arrested. A criminal case has been instituted against her as per Article 316(1) of the RA Criminal Code “On imposing violence against the representative of authority”. In her interview with “Azatutyun” (Liberty) Radio Station, A. Gevorgyan has mentioned that, in the entire course of the incident, various types of violence have been conducted against her – she has been stroke both by hands and feet.*

*On May 31, the policemen have impeded also the exercise of duties of another journalist of “Haykakan Zhamanak” Syuzanna Poghosyan and correspondent of “Hayk” newspaper Lilit Tadevosyan. They taken to custody and taken to Police Unit and then released in a few hours.*

*On September 14, Sashik Sargsyan, brother of the RA President S. Sargsyan, has assaulted a journalist of “Haykakan Zhamanak” Daily, when the journalist would begin taking the picture of him in the buffet of the NA when talking with other members of Parliament. Yelling, Sargsyan, with his fists stretched out, has jumped from his place and attacked the journalist. He had been somehow been sat back in his place, after which the members of parliament have taken him out of the building of the Government<sup>25</sup>.*

*Two persons, Gurgen Kilikyan and Vladimir Serobyan arrested with regard to the organized attempt upon the editor-coordinator of “Armenia Today” internet news website Argishti Kiviryan in 2009, have been released in 2010. According to A. Kiviryan, the attempted murder against him has*

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<sup>24</sup> <http://www.a1plus.am/am/social/2010/02/25/shamshyan>

<sup>25</sup> <http://www.armtimes.com/16774>

*been ordered by the Head of Akhelkalak Police Samvel Petrosyan, about whose activity he had very sharp publications. On April 30, 2009, A. Kiviryan has been cruelly beaten in the main entrance of his apartment building and has been taken with severe injuries to hospital. The attackers have used baseball sticks, as well as fire-arms; however Kiviryan has succeeded to escape any fire-arm injury. A criminal case has been commenced by the Police on the basis of Article 117 of the RA Criminal Code (causing moderate damage to health by intend). A week later, the criminal case has been transferred to the National Security Service and re-qualified as per Article 34-104 (2(7)) of the RA Criminal Code (a murder attempt by a group of persons).*

In 2010, a number of amendments have been made in the legislative field related to the freedom of speech. According to experts, the changes have both positive and negative sides. Particularly, Article 164 of the RA Criminal Code provides for a sanction in case of interfering in journalist's activity. In 2010, the bill "On making amendments and supplement to the Criminal Code of the Republic of Armenia" passed second reading and the RA National Assembly completely adopted it. By this, in Article 164 of the RA Criminal Code "On impeding legal professional duty of journalist", the sanction envisaged for impeding the activity of journalists has become stricter: the fine of 50-100-fold of the minimum salary is replaced by 200-400 – fold and a new paragraph has been added, according to which it envisages incarceration of 3-7 years, if the same actions take place by conduct of violence that is dangerous for the life or health of journalist or his/her relations or by the threat of conducting such violence.

On May 18, the RA National Assembly adopted the package of draft laws "On making amendments and supplements to the RA Civil Code"; "On making amendments to the RA Criminal Code" and "On making amendment to the RA Criminal Procedure Code". According to the draft laws, Articles 135 "Slander" and 136 "Assault" of the RA Criminal Code are revoked; instead, the procedure and the conditions for the compensation for the damage caused to the honor, dignity or business reputation of a person shall be defined by the RA Civil Code. These draft laws being under consideration since 2009, have been criticized by experts and journalists. Many concerns have vanished after the amendments to the draft law were made by the working group established after its adoption by the RA NA through first reading on March 18 2010; however, some experts think that

unless Article 333 “False reporting” of the RA Criminal Code is still in place, with formulations not discerning much from slander, there will always be the risk of holding mass media criminally liable<sup>26</sup>.

On June 10, in course of the extraordinary session of the RA NA, the draft law “On making amendments and supplements to the RA Law “On television and radio” was completely adopted through second reading.

Human Rights Watch reputable international organization, OSCE Representative on Freedom of the Media Dunya Miyatovich, Ambassadors of EU Member States to Armenia, as well as local organizations have expressed their concerns on the draft law. Particularly, Human Rights Watch has voiced its concern, according to which beginning from 2011, the number of broadcasted TV channels will reduce from 22 to 18, which will increase the risk of restricting variety of opinions. Particularly new TV Companies may suffer, since, according to the adopted draft law, during the competitions for the license, the advantage will be given to already functioning companies or those with at least 3 years of broadcasting experience<sup>27</sup>. According to OSCE Representative on Freedom of the Media Dunya Miyatovich, in spite of these amendments, the RA Law on Television and Radio is not promoting the diversity of opinions of airing in this digital area. According to her, the deficiencies of the law are restriction of the number of TV Channels, lack of clear-cut rules for satellite, cellular and internet airing by putting all types of airing under the regime of licensing or permission by the regulatory body (“License is the only legal basis enabling to conduct broadcasting in the territory of the Republic of Armenia” (Article 46)<sup>28</sup>, authorization by courts of termination of the broadcast license based on the law embedding inappropriate restrictions to the media freedom and lack of procedures and conditions for establishment of private digital TV channels.<sup>29</sup>

The articles regulating the digitalization per se and organization of competitions for licensing have not been changed significantly, and according to experts they will contain vast elements of

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<sup>26</sup> Second quarterly report by Committee to Protect the Freedom of Expression (April-June 2010) <http://www.khosq.am>

<sup>27</sup> <http://www.hra.am/am/hr-reviews/2010/06/16/hrw>

<sup>28</sup> According to the Committee to Protect the Freedom of Expression, the authors have actually created grounds for not allowing satellite and internet airing.

<sup>29</sup> <http://www.a1plus.am/am/official/2010/06/16/dunja-mijatovic>

subjectivity in determination of the winners in competitions. Only under the pressure by international organizations, the authors incorporated a provision, according to which where a licensed person is selected, this choice should be justified and grounded<sup>30</sup>.

Notwithstanding the concerns voiced by international structures and organizations, as well as local organizations, the RA President S. Sargsyan signed the law on making amendments to the RA Law on Television and Radio on June 17.

As per amendments made in the Law “On Television and Radio” at the RA NA on September 10 2008, competitions of broadcast licensing shall be prohibited in Armenia till July 20, 2010. The RA Government has justified this initiative with introduction of the broadcasting digitalization process in Armenia. After this legislative amendment, a number of TV and Radio Companies in Armenia, whose license rescinded, continued broadcasting by extension of the term of the license issued by the National TV and Radio Commission, whereas A1+ TV Company had been taken off the air a few hours after its license was lost.

On February 19, 2010, the RA Court of Cassation dismissed the claim by the founder of “A1+” TV Company “Meltex” LLC on revision of the rulings of the Court of Cassation as of February 27, 2004, and April 23, 2004. On February 27, 2004, the Court of Cassation upheld the verdict of the RA Economic Court as of January 21, 2004, by which the lawsuit filed by “Meltex” LLC vs. the National TV and Radio Commission on revocation of the ruling on providing broadcast license with 63 decimeter frequency to “Cinemax” LLC had been dismissed. On April 23, 2004, the Court of Cassation has left in effect the ruling of the Economic Court as of March 23, 2004, by which the lawsuit of “Meltex” LLC against the National TV and Radio Commission was dismissed for failure by them to properly justify the reasons of not providing a license as per the outcomes of competitions held on June 11 and July 13, 2003. The present claim of “Meltex” filed with the Court of Cassation was accountable for by newly transpired circumstances, i.e. the judgment of the European Court of Human Rights on the case of the Founder of “A1+” vs. the Republic of Armenia dated June 17, 2008, according to which failure to provide a broadcast license to “Meltex” LLC has

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<sup>30</sup> Second quarterly report by Committee to Protect the Freedom of Expression (April-June 2010).

been considered as violation of Article 10 of the European Convention. The Court of Cassation decided that the court rulings disputed by the founder of A1+ had been made in conformity to the legislation effective in 2004 and were not subject to revision. “Meltex” LLC had applied to the RA Constitutional Court claiming to recognize paragraph 1 of Article 204/28 of the Civil Procedure Code as anti-constitutional, since that provision was the ground for the ruling made by the Court of Cassation. In view of the outcomes of the case hearing, the Constitutional Court of the Republic of Armenia, being guided by Article 102 of the RA Constitution and Articles 19, 32 and 60 of the RA Law “On Constitutional Court” decided to:

1. Abate the case proceeding, on the basis of the claims by “Melatex” LLC and citizens S. Flejyan, I. Oganezova, A. Baghdasaryan and A. Baghdasaryan, with regard to determining the issue of conformity of Paragraph 1 of Article 204.28 of the RA Civil Procedure Code with the Constitution of the Republic of Armenia, taking also into consideration that Article 204/28 embedded in Article 76 of the RA Law (AL-277-N) “On making amendments and supplements to the RA Civil Procedure Code” adopted on November 28, 2007, that contravenes the RA Constitution and has been revoked on the ground of the legal viewpoint expressed in Paragraph 13 of the CCD-758 of the RA Constitutional Court and Paragraph 5 of the concluding part, which has not been yet brought into conformity with the RA Constitution neither by Law AL-233-N adopted by the RA National Assembly on December 26, 2008, nor by any other law coming next to it, as well as the fact that the right of other persons interested in filing a lawsuit with a competent court with new circumstances within the scope of the matter of this case should not be considered exhausted on the ground of legal viewpoints expressed by the decision No. CCD-751 of the RA Constitutional Court, as of April 15, 2008, and the requirements of Paragraph 12 of Article 69 of the RA Law “On Constitutional Court”.
2. Pursuant to paragraph 2 of Article 102 of the Constitution of the Republic of Armenia, this decision shall be final and shall enter into force from the moment of its promulgation.

On the basis of the decision made by the Constitutional Court, on the ground of “a new circumstance” or “newly emerged circumstance”, “Melatex” LLC, through its representatives,

applied to the RA Court of Cassation, requesting to commence a proceeding for review of court acts previously made by the Court of Cassation. By its ruling, as of 04.03.2010, the Court of Cassation, on the ground of “newly emerged circumstance” accepted the cassational appeals brought by “Melatex” LLC to proceedings, thus making a ruling “On accepting the cassational appeal to proceedings”. However, once again it failed to review the court acts previously made by it, making reference to the same legal regulation governing the legal institute of “new circumstance” though with another Article numbering, which has been once recognized by the Constitutional Court through its decision as contravening the Constitution and void, and once again it reconfirmed its standpoint and assessed application of that revoked norm towards “Melatex” LLC as non legitimate.

According to Article 62(5) of the RA Law “On making amendments to the RA Law “On Television and Radio”, on July 20, 2010, National Television and Radio Commission (NTRC) announced competitions for licensing of TV broadcasters to conduct airing via digital broadcasting network in the territory of the Republic of Armenia. On December 16, NTRC announced the results of broadcast competitions. Once again A1+ TV that had been off the air since April 2, 2002 and that had subsequently participated in and lost all competitions, did not get a chance to get back to the air. According to the Chairman of NTRC Grigor Amalyan, in the package of A1+ there had been fake documents. According to him, the foreign countries presented in the package that provide financial assistant to “Melatex” Company actually do not exist. The President of “A1+” M. Movsisyan considered such accusation as ungrounded. “Gala” TV Company of Gyumri also had been deprived of the right to broadcast.

Human Rights Watch International Organization condemned the decision on not granting a broadcast license to “A1+” according to the results of the broadcast competition announced by the National Television and Radio Commission, on the contrary to the judgment made by the European Court of Human Rights, according to which the previous denials had violated the freedom of expression. According to the statement made by Georgi Gogia, South Caucasus researcher at Human Rights Watch: “Today’s decision is another setback for freedom of expression and information in

Armenia. It is clear that keeping the critic off the air is more important to this Government than its international-legal obligations”<sup>31</sup>.

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<sup>31</sup> <http://www.hrw.org/en/news/2010/12/16/armenia-new-rebuff-broadcaster>

## **HUMAN RIGHTS DEFENDERS**

RA Law “On Public Organizations” (adopted on December 4, 2001), regulates the legal relations in connection with formation, activities, re-organization and dissolution of public organizations that arise while exercising the constitutional right of a person to form public associations with other persons and acceding thereto in the Republic of Armenia.

The legislation does not provide for any limitation in issues pertaining to establishment of public organization on human rights, provided that the goals of the latter do not contravene the RA Constitution and the legislation governing this field.

As to the state registration of public organizations, this is also regulated by the RA Legislation, particularly, the RA Laws “On Public Organizations” and “On State Duty”.

Issues related to free cooperation with other similar national and international organizations also are provided for under the Law on Public Organizations.

In 2009, Armenian authorities initiated making amendments to the RA Law “On Public Organizations”. On April 15, 2010, Ministry of Justice sent to public organizations already redrafted bill that was prepared by the Ministry upon the recommendation of public organizations. However, in opinion of public organizations, even with this redraft, nothing had been changed and expressed their concern that the envisaged amendments pursue the goal of defining control over the activity of public organizations. Inspectorate of Control over the legality of defined by law special non-commercial organizations’ activity of the RA Ministry of Justice Staff that is established in accordance with the RA Government Decision, dated August 5, 2010, also pursues the goal of defining control over the activity of public organizations.

RA Law “On Human Rights Defender” was adopted on October 21, 2003.

In accordance with Article 83.1 of the RA Constitution, as a result of elections held in the National Assembly, Armen Harutyunyan, with more than 3/5 of the total votes of the Members of Parliament, was elected the first parliamentary RA Human Rights Defender for the term of 6 years.

According to the RA Law “On Human Rights Defender”, the complaints that are subject to the Defender’s consideration shall be those that are relating to:

Protection and restoration of human rights and fundamental freedoms violated by state governance, local self-government bodies and their officials, creation of state protection guarantees for human rights and fundamental freedoms, respect and protection of human rights and freedoms by state government and local self-government bodies and the officials thereof and public servants.

In course of 2010, the Human Rights Defender presented ad-hoc public reports “On the Right to Peaceful Assembly in the RA” and “On the Right to Freedom of Speech in the RA”. The Human Rights Defender had also presented the RA Draft Law “On Assemblies”<sup>32</sup>.

On February 1, 2011, Human Rights Defender Armen Harutyunyan submitted a statement for resignation to the Chairman of the RA NA, as he assumed another office of a Special Representative of the UN High Commissioner for Human Rights in the Central Asia as a result of competition. From February 20, 2006, to December 31 2010, the Human Rights Defender’s Office had received 18,346 applications-complaints; violated rights of 8,703 persons have been restored. According to the Defender, in the course of the recent five years, the main complaints received were related to Yerevan Municipality, Marz Municipalities, Police, Courts and the Ministry of Justice<sup>33</sup>. The number of the complaints is not an evidence of the effective activity of the institute of the Human Rights Defender. In their interviews with “Liberty” Radio Station, Armenian advocates have severely criticized the institute of the Human Rights Defender. According Michayel Danielyan, the Chairman of Helsinki Association, in countries like Armenia, the Ombudsman’s institute should not be at all, “Since the authorities of the Human Rights Defender will always be limited; he will not be allowed to work. That is why it is completely meaningless to have such a position in Armenia”<sup>34</sup>.

According to Artur Sakunts, the Head of Helsinki Citizen’s Assembly Vanadzor Office “The Human Rights Defender does not address equivalently the problems related to violation of servicemen’s

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<sup>32</sup> <http://ombuds.am/main/am/10/31/0/4/>

<sup>33</sup> <http://tert.am/am/news/2011/02/02/ombudsman2/>

<sup>34</sup> <http://www.azatutyun.am/content/article/2296822.html>

rights, fatal incidents and political prisoners within the Ministry of Defense or armed forces...There is a certain gap between the assessments and actions by human rights defenders' organizations and the practice of the institute of the Defender"<sup>35</sup>.

In its Report published in 2011, Human Rights Watch advocate organization states that the Police has closed the investigation on case of the attack on the Chairman of Helsinki Association Mikael Danielyan on May 2008. M Danielyan was wounded when the attacker had shot him with a pneumatic gun after a quarrel. The investigation was allegedly closed due to lack of criminal intent. A court rejected Danielyan's appeal against the decision.

Mariam Sukhudyán, civil society activist, presented, in November 2008, to the public on the national television the case of two girls who had been subjected to sexual harassment in one of schools of Yerevan. Police charged Sukhudyán with falsely reporting a crime<sup>36</sup>. On March 10, 2010, the United States Embassy awarded Sukhudyán its first ever Woman of Courage Award. A day later, the criminal case against her was dropped.

On July 5, 2010, US State Secretary Hillary Clinton visited Armenia. During the meeting with the representatives of Civil Society, Mikayel Danielyan, the Coordinator of the South Caucasus Network<sup>37</sup> of Human Rights Defenders and the Chairman of Helsinki Association, members of Network Artur Sakunts (Helsinki Citizen's Assembly Vanadzor Office) and Levon Barseghyan ("Asparez" Club of Journalists) handed to the US State Secretary letters from human rights defenders of Armenia, Georgia and Azerbaijan about the human rights situation<sup>38</sup>. US State Secretary H. Clinton answered, on August 24, 2010, the aforementioned letter of the Armenian organizations of the South Caucasus Advocate Network, sharing the concerns of public

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<sup>35</sup> <http://www.azatutyun.am/content/article/2296822.html>

<sup>36</sup> <http://www.hrw.org/en/world-report-2011>

<sup>37</sup> The South Caucasus Network of Human Rights Defenders unifies 30 human rights defenders public organizations from Armenia, Azerbaijan and Georgia. In Georgia the Network's activity is coordinated by the Human Right's Center, in Georgia – the International Organization for the Protection of Journalists' safety and freedom, and in Armenia – Helsinki Association.  
[www.caucasusnetwork.org](http://www.caucasusnetwork.org)

<sup>38</sup> <http://hahr.am/>

organizaitons related to the crucial need in Armenia of the reforms in the fields of human rights and democracy<sup>39</sup>.

On June 14-18, 2010, Margaret Sekagia, the UN Human Rights Defenders Special Rapportear, after her visit to Armenia presented a number of recommendations, particularly the need of public acceptance of the role and importance of human rights defenders in democratic society. The Special Rapportear had expressed her concern in relation to the cases of violence and persecutions towards journalists and human rights defenders, and had mentioned that such cases exhibit the obvious availability of the culture of impunity in Armenia<sup>40</sup>.

Ever since in February 1, 2010, the South Caucasus Network of Human Rights Defenders had made the following statement <sup>41</sup> “On 19 January, 2010 the Court of First Instance of Kentron and Nork Marash districts of Yerevan, presided by the Judge M. Martirosyan, passed a sentence upon Nikol Pashinyan, Editor-in-Chief of “Haykakan Zhamanak” daily and convicted him to 7 years of imprisonment”. N. Pashinyan is charged on the bases of Article 225 (1) “Organization of mass disorders” and Article 316 (1) “Inciting violence against the authorities” (with regard to this article he Pashinyan has been acquitted) of the RA Criminal Code. Detainment has been chosen as a precautionary measure for him. On May 9, the RA Criminal Court of Appeal left in effect the decision of the Court of General Jurisdiction of Kentron and Nork-Marash Districts and decided to apply on Pashinyan Paragraph 7(2) of the Decision of the RA NA “On declaring amnesty”, as of June 19, 2009, and to reduce the outstanding part of measure of punishment by the half of the term. On May 5, the RA Court of Cassation dismissed the petitions of appeal of both parties with justification that those are ungrounded and do not derive from the materials of the case. In the course of entire proceeding, Helsinki Association conducted monitoring, as a result of which it recorded substantial violations. In particular:

- the equality of the parties had not been observed;
- the incrimination had not been grounded with proof;

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<sup>39</sup> [www.asparez.am](http://www.asparez.am)

<sup>40</sup> The Special Rapportear will present her report in the 16<sup>th</sup> Session of the UN Human Rights Commission in March 2011, and will submit additional recommendations to the attention of the Government and other interested parties.

<sup>41</sup> <http://caucasusnetwork.org/index.php?a=main&pid=173&lang=eng>

- the criminal intent had not been in place.

The Court had ignored the provisions of resolutions of PACE, according to which no one shall be punished for any act of violence unless he/she committed violence and prompted others to violence, as well as those provisions by which PACE calls upon the Armenian authorities to release those persons who yielded themselves to law enforcement bodies, being wanted or underground.

In case of N. Pashinyan, Articles 2, 6, 7, 16, 18, 19, 21, 22, 27, 29 of the RA Constitution, Articles 8, 17, 23, 65,90,105,106,107,124,126,127, 340 of the RA Criminal Procedure Code of and Articles 6, 10, 11 of the European Convention for the Human Rights and Fundamental Freedoms have been flagrantly violated.

*Being incarcerated, the editor-in-chief of “Haykakan Zhanakak” Nikol Pashinyan was subjected to physical and psychological abuse in Kosh penitentiary institution, Aragatsotn Marz, through October-November, 2010, since he had declined to yield the requirements, i.e. stop writing criticizing articles from the prison. In course of two months he had been attacked for four times, and later on taken to Artik penitentiary institution, where he is being kept in a prison cell alone. Before his move, on November 11, while being asleep, he had been assaulted by two masked individuals.*

Degrading treatment and torture towards a person are prohibited by the RA Code (Article 17 of the RA Constitution), as well as International Treaties on human rights, like the European Convention for the Human Rights and Fundamental Freedoms (Article 3), International Covenant on Civil and Political Rights (Article 7), The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Article 2), observance of which is obligatory by the Armenian authorities. It is accepted by International organizations on the protection of human rights that assaulting a person or keeping alone in prison cell are equal to degrading treatment towards the particular person, thus, contravening the international commitments assumed by Armenia.

On December 13, 2010, Human Rights House Foundation and South Caucasian Human Rights Defenders Network adopted a statement with their concern on the recent attacks towards Nikol

Pashinyan, that was addressed to the President of Armenia Serzh Sargsyan, the RA Deputy Minister of Justice Nikolay Arustamyan, the RA Prosecutor General Aghvan G. Hovsepyan; they were calling for the Armenian authorities to immediately release him. Particularly – “Ensure the safety of Nikol Pashinyan in prison and conduct an immediate and impartial investigation with regard to the attacks towards Nikol Pashinyan and hold liable those responsible, ensure independent medical examination for Nikol Pashinyan...”<sup>42</sup>

*On December 13, 2010, the office of Artak Zeynalyan, Member of South Caucasus Network of Human Rights Defenders, coordinator of "Jurists against Torture" NGO, and lawyer, was attacked. Unknown people have broken into the Office, broken the locks on the doors of shelves for documents, taken the monitor of the computer and the deciphering device of satellite TV channels. The “robbers” did not take the money in the Office. A criminal case was commenced with regard of this case. In January, 2011, when the Report was being prepared, the advocate’s Office was once again attacked.*

Helsinki Association has disseminated a statement, where it expresses its conviction that the case of the previously made attack is not disclosed because of the inaction of the police and that it is sure that the latest similar case will not be disclosed as well. Helsinki Association has stated that the aforementioned attacks have been the order by authorities, which is directed directly against the human rights defender’s activity of Artak Zeynalyan. These types of measures pursue the goal of impeding the activity of the human rights defender<sup>43</sup>.

Manifestations of intolerance towards the human rights defenders and their activities have been pursued by pro-authority parties and organizations, as well as media, naming them grant-consumers and spies.

On February 12, 2010, Aravot daily published an open letter addressed to the editors of “Aravot” daily and “A1+” Aram Abrahamyan and Mesrop Movsisyan, respectively, where “Youth for the

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<sup>42</sup> <http://www.armtimes.com/20019>

<sup>43</sup> [http://1in.am/arm/armenia\\_society\\_6358.html](http://1in.am/arm/armenia_society_6358.html)

progress and democracy” organization had stated that “...it is incomprehensible to us how have some of our national media allowed to publish in their papers the statement by “30” unknown to anyone, self-promoted “human rights defender” organizations around a web, by which they dare to talk to Armenian authorities in the way of ultimatum, and, moreover, to claim the international society to impose sanctions on Armenia and to continue the monitoring...”<sup>44</sup>.

The statement was related to the arrest and imprisonment of the editor-in-chief of “Haykakan Zhamanak” daily Nikol Pashinyan, which was adopted by the South Caucasus Human Rights Defenders in February 2010.

On July 7, 2010, “Hayots Ashxarh” (Armenian World) pro-authoritarian daily published an article (author Kima Yeghiazaryan) on the meeting, on July 5, with human right defenders within the framework of the visit of the US State Secretary Hillary Clinton to Armenia, where it is stated, in particular “...of the heads of more than two dozen grant-consuming organizations there were present Mika Danielyan, Boris Navasardyan, Levon Barseghyan, Artur Sakunts, Artak Zeynalyan, Melisa Brown, Nune Sargsyan, etc. It transpires that our “civil society” begins with and ends by the grant consumers, banner-bearers and the agents of Levon Ter-Petrosyan...”. “... We, certainly, do not know, who and how have decided, or by the wish of what party has the representational composition of this “civil society” chosen; however, the reality is that, these individuals, in view of their anti-national activity take the last place vs. the first one in the society...”. “...The heart-to – heart meeting was also “significant” in view of the fact, that the Chairman of Helsinki Association Mika Danielyan managed to transfer a heartfelt letter to Clinton, which perhaps could not but open and read it en route to Georgia...”<sup>45</sup>.

On November 19, “Hayots Ashxarh” Daily published a letter of an ex-land defender “Spy or defenders of human rights?”: “...It is impossible both to receive grant and not to become a spy.

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<sup>44</sup> <http://aravot.am/>

<sup>45</sup> [http://armworld.am/archive.php?day=7&month=7&year=2010&next=0&lang=\\_arm#?paperid=3904&pageid=120985&lang](http://armworld.am/archive.php?day=7&month=7&year=2010&next=0&lang=_arm#?paperid=3904&pageid=120985&lang)

*Defending the human rights is a crucial task, but at the same time a good mask, being concealed under which one can easily spy”. The letter was related to the criticism by the Chairman of Helsinki Association Citizen’s Assembly Vanadzor Office Artur Sakunts “...one who has nothing to do with war, who has made discrediting of the Armenian army his own business, means for receiving grant, is talking about Artsakh fight for freedom.... We also have no clue where will be Artur Sakunts in case of the possible recommencement of the war, or to be more precise – which party he will side with; whom is he going to give the information on the RA armed forces for custody. Only he and those amply financing him for acquiring this information and discrediting the Armenian army know about this”<sup>46</sup>.*

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<sup>46</sup> <http://armworld.am/detail.php?paperid=3990&pageid=123399&lang=>

## **PEACEFUL ASSEMBLY**

The right to freedom of peaceful assembly and the freedom of association with others is regulated by:

RA Constitution (Articles 29, 44, etc.);

The Convention “For the Protection of Human Rights and Fundamental Freedoms” (Article 11);

International Covenant on Civil and Political Rights (Article 21; 22);

RA Law “On Conduct of Meetings, Assemblies, Rallies and Demonstrations” (hereinafter, Law on Meetings), as well as the RA Law “On Administration Fundamentals and Administrative Proceedings” and the RA Law “On Legal Acts”.

In accordance with the Constitution (Article 6), in the RA international treaties are the constituent part of the legal system of the Republic of Armenia and they prevail the national laws; hence, the freedoms guaranteed by the Convention “For the Protection of Human Rights and Fundamental Freedoms” (Article 11) and International Covenant on Civil and Political Rights (Article 21; 22) cannot be limited by the national legislation of the RA.

The RA NA adopted the Law on Meetings on May 28, 2004. In its Protocol 1374<sup>47</sup> PACE had expressed its concern on the legitimacy of the not yet adopted draft law that is in circulation. Notwithstanding the concerns expressed by PACE, the RA NA adopted the Law on Meetings, which was assessed by the Venice Commission as a restricting one<sup>48</sup>.

On March 20, 2008, when the emergency situation regime was still underway, the NA made amendments to the Law on Meetings. By these amendments, significant limitations with regard to issues on exercising, by the people, the freedom of peaceful assembly in Armenia were introduced.

One of the amendments made to the Law on Meetings envisages that conduct of public events by an authorized body (head of local state government body, Mayor of Yerevan) can be prohibited, if, as

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<sup>47</sup> <http://assembly.coe.int/Main.asp?link=http://assembly.coe.int/documents/adoptedtext/ta04/eres1374.htm>

<sup>48</sup> European commission for democracy through law (Venice commission) **opinion on** the law on conducting meetings, assemblies, rallies and demonstrations of the Republic of Armenia adopted by the Venice Commission, at its 60th Plenary Session, (Venice 8-9 October 2004)

per reliable information, those are directed at forced subversion of the constitutional order, inflammation of national, racial and religious hatred; preaching of violence or war, or if those may result in mass disorders and crimes, distortion of state security, public order, public health and morality, abuse of other's constitutional rights and freedoms.

OSCE-ODIHR Expert Panel on Freedom of Peaceful Assembly has expressed an opinion, according to which limitation of rights in view of such grounds is permissible only upon the availability of an inevitable threat to violence.

According to Article 3 of the RA Constitution, “The human being, his/her dignity and the fundamental human rights and freedoms are an ultimate value. The state shall ensure the protection of fundamental human and civil rights in conformity with the principles and norms of the international law. The state shall be limited by fundamental human and civil rights as a directly applicable right”.

The RA Constitution provides for two mechanisms for limitation of basic rights and freedoms of human being and citizens (including the right to peaceful assemblies).

Firstly, under ordinary conditions, if it is necessary in a democratic society for the interests of national security, public order, crime prevention, protection of public health and morality, constitutional rights and freedoms, as well as honor and reputation of others (Article 43).

Secondly, in case of martial law or state of emergency. Particularly, Article 44 of the Constitution defines that special categories of fundamental human and civil rights may be temporarily, equivalent to the situation, restricted as prescribed by the law in case of martial law or state of emergency within the scope of the international commitments assumed on deviating from commitments in cases of emergency.

Article 43(2) of the Constitution prescribes that limitations on fundamental human and civil rights and freedoms cannot exceed the scope defined by the international commitments assumed by the Republic of Armenia.

Before making amendments in the law on meetings and thereafter, there are provisions in the law, by which authorities in the course of conduct of public events is to be reserved for the Police. Particularly, Article 8 (2) of the Law states that during mass public event the police shall ensure general legality and protection of public order, expel from the venue of the mass public event persons who engage in unlawful activity or violate public order. This means that in the course of conduct of peaceful and unarmed public events, where there are unlawful actions or violation of public order, the Police has an obligation to expel persons conducted violation to maintain the peaceful nature of the event and avoid possible mass disorders.

As per the Law on meetings, in cases and by the procedure stipulated by the law, the right to make decisions on terminating the public event conducted in violation of provisions of the law on meetings and to demand such termination from the organizer of the public event is reserved for the Police. If the organizer fails to terminate the public event, police can, in cases and according to procedures stipulated by the law, compulsorily terminate public or other event.

As per the legislation, any potential decision made by the Police to dispel an assembly shall be made in compliance with the fundamental principles of administration, i.e. it shall be directed at the goals pursued by the RA Constitution and laws, and means to attain this goal shall be useful, necessary and moderate ones (Article 8 of the RA Law “On the Fundamentals of Administration and Administrative Proceedings”).

Thus, all the legislative grounds and possibilities are in place to maintain the lawfulness and public order during the events, and to restore the lawfulness or to terminate public mass event in cases of certain manifestations of violations with the view to escape a chaotic situation.

However through 2010, while having the decision of Yerevan Municipality on deeming the notification accepted, in the course of almost all assemblies, rallies and events organized by the

opposition party Armenian National Congress, the police have always made an attempt to stir up and instigate the participants of the rally. Police has conducted violence, there has been scuffle, participants have been illegally taken to the police unit or arrested, and curses have been mouthed towards the participants of the events. During the days of rallies, the roads to the capital have been blocked and the cars making for Yerevan have been checked.

In the course of the conduct of almost all rallies and meetings, the start up of the rally has been without any incidents, whereas when being in progress, the police would create obstacles, accompanied by squash of the participants, thus resulting in clashes between the police and the participants.

An inseparable part of meetings, rallies and events has been instigations by police. Those are mainly organized at the front part of rally, where are the active masses and the organizers of the event. It has become a tradition for police to mouth curses towards the participants. This is done for the purpose of instigation with the view to inflaming the peaceful demonstrators. Police reacts more aggressively those calls that are addressed to the president<sup>49</sup>.

Through 2010, police has applied violence and conducted arrests with regard to the participants of the demonstration, events and rallies. In most of cases the police have been based on Article 316 of the RA Criminal Code - imposing violence against the representative of authority. Police has restricted the right of human beings to free movements.

On February 19, 2010, the rally organized by the opposition party Armenian National Congress that was dedicated to the 2<sup>nd</sup> anniversary of the presidential elections with faked results, release of political prisoners and disclosure of the crime of March 1, was especially manifest for obvious expression of violence.

*The course of the rally was peaceful from Koryun Street to the crossroad of Sayat-Nova and Abovyan streets; thereafter the police applied instigations by pushing, cursing, hitting the people; it tried to move them back on the pavement, justifying that the participants impede the traffic, whereas*

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<sup>49</sup> This information has been provided by the observer of Helsinki Association Arman Veziryan.

*the road was open for the traffic. As a result of the clash, a young activist Vahagn Gevorgyan was forced by policemen into their car, which took them to an unknown direction; later on, in 20 minutes they have returned him after having a ride through the streets of the city.*

*After the final point of the rally was reached, when the participants were in a non-visible part, the police rounded them up and without any reason attacked the participants, applied violence and with punches took 6 young activists (Areg Gevorgyan, Varag Nahapetyan, Sergey Gasparyan, Sargis Gevorgyan, Vahagn Gevorgyan, Tigran Arakelyan) to the police unit<sup>50</sup>. According to S. Grigoryan, “On February 19, they forced him, Vahagn and Sergey into the car. They laid him down in horizontal position and one of the red beret policemen sat on him and tried to hurt him. They have cursed in the car and twisted their arms...” All six young people taken to the police unit had been given a reference for forensic medical expert examination and the fact of bodily harms of various degrees have been recorded.*

In the period from May 28 to June 2, police had prohibited the entry of the activists of the opposition party Armenian National Congress to Freedom Square. For three days in a row, police and persons in civilian clothes had impeded the free movement of the citizens and had illegally taken several citizens to police while exercising their constitutional right to organize and run a non-massive event<sup>51</sup>.

*From May 28 to June 2, 17citizens had been taken to the custody in the Police units; of these citizens Davit Kimijyan and Sargis Gevorgyan were arrested. They were charged by Article 258 (3(1) and 316 (1) of the RA Civil Code<sup>52</sup>. The police had also arrested Ani Gevorgyan while she was exercising her professional duties (Article 316 (1) of the RA Civil Code).*

*Entry into the Square was prohibited only for the representatives of the political opposition, whom the policemen would recognize by face. As a result of actions by the police, there had been a scuffle, which lasted for about one hour and was accompanied by bilateral insults. Jointly with the*

<sup>50</sup> <http://www.youtube.com/watch?v=f3CsU4aOp7c>

<sup>51</sup> <http://www.youtube.com/watch?v=efhjw3D-2JY>

<sup>52</sup> <http://www.youtube.com/watch?v=pEDuwn47hR8>

*policemen, about 30-40 persons in civilian clothes had participated in the violent actions fulfilling the instructions made by the policemen. Deputy Head of Yerevan Police R. Melkonyan had given the following explanation to “Liberty” Radio Station: “Why should they come...Here is an underground parking lot. People should not get together here in huge numbers...tomorrow or later this would become a place of meetings”<sup>53</sup>.*

From May 28 to June 2, in the Square of Freedom, the policemen impeded the sitting strike by the member of the Armenian National Congress Vardges Gaspari and opposition young people.

*The scuffle began, when young people in civilian clothes approached Tigran Arakelyan, follower of ANC, and forced him into the car by insulting, pushing and pulling out, and took him without any explanation to the questions why and what for<sup>54</sup>. By the instruction of Commander of Patrol-Guard Service of Police R. Melkonyan, the policemen had applied force, pushed and pulled out the participants of the event, justifying their action as follows: “they are violating the public order and the Square of Freedom is not a place for sitting strike”<sup>55</sup>.*

*ANC member Vardges Gaspari had been expelled from the Square of Freedom in lying position. Six people holding his arms and legs in lying position on the ground had thrust him out of the Square, laid him down in the police machine and taken to the Police unit<sup>56</sup>. A bit later, participants of the sitting strike Sargis Gevorgyan, Vahagn Gevorgyan, Sergey Karapetyan and the Member of foreign relations committee of the Congress Vladimir Karapetyan were also taken to police unit. According to T. Arakelyan “in the Police unit, the Head of Kentron Police Ashot Karapetyan said “...there is no way we would allow you to gether in the Square of Freedom...”. After keeping them for 3 hours in the police unit, they were released; in the course of their being in the police unit the invited advocate had not been allowed to see them. The answer of the Police had been as follows: “What is it that we are doing here for having an advocate? We aren’t commencing a case, are we?”<sup>57</sup>*

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<sup>53</sup> <http://www.azatutyun.am/content/article/2057350.html>

<sup>54</sup> [http://www.youtube.com/watch?v=WtX\\_KO5tdS0](http://www.youtube.com/watch?v=WtX_KO5tdS0)

<sup>55</sup> <http://www.azatutyun.am/content/article/2055767.html>

<sup>56</sup> [http://www.youtube.com/watch?v=e\\_uIt94c0vE](http://www.youtube.com/watch?v=e_uIt94c0vE)

<sup>57</sup> <http://www.a1plus.am/am/politics/2010/05/31/vardges-gaspari>

*In October 19, when the Council of Europe “For the Democratic Future” Forum was underway, the police impeded the course of the protest of 60 demonstrators by installing barriers limiting their movement. The police had closed the road by metallic fence and impeded people to cross the street, resulting in traffic jam. The demonstrators were prohibited to distribute leaflets prepared by the demonstrators to the participants of the forum.*

*On November 12, as a result of an incident taken place between the participants and dozens of policemen during the protest organized by the Armenian National Congress in front of the building of the RA General Prosecutor’s Office with claim to release the political prisoner, the policemen tried to prohibit ANC member Vardges Gasparyan to move near the building of the prosecutor’s office, the law enforcement officials had tried to move him by force and prohibited him to go by that part. The policemen had pushed him down on the ground<sup>58</sup>.*

During demonstrations, rallies and meeting, taking the active participants into custody and then keeping them for more than 3 hours as defined by law and releasing after the end of the demonstration or rally, is of permanent nature.

*On November 9, during the Forum of EU-Armenia public organizations “On Fair Trial and Independence of Judicial Right”, 4 ANC activists (Sargis Gevorgyan, Vahagn Gevorgyan, Areg Gevorgyan and Sargis Ghazaryan) were taken into custody to the police unit; they had voiced their protest to inform the participants of the Forum about the unlawfulness in Armenia. Gathering together, the mass was not allowed to pass through metallic barriers installed by the police. According to ANC member Vladimir Karapetyan, the policemen had approached the young people and requested them to leave the area. Four young people, who had declined to surrender, were scuffled, instigated to clash and taken to Kentron Police unit by being pulled by hair. As it was communicated by ANC member Aram Manukyan, there were traces of violence and beating on the young people. The police had impeded the movement of ANC members, without allowing them to distribute the participants of the Forum the leaflets on the events of March 1, political prisoners and the abuse of the human rights in Armenia.*

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<sup>58</sup> <http://www.youtube.com/watch?v=mqU-Fo1LuiU>

*On December 3, 2010, during the protest event of the Armenian National Congress in support of political prisoners in Ijevan, about which the Municipality had been previously notified, the area envisaged for the event was closed from two sides by the police forces. In the course of the rally following the event, there had been instigations, scuffles and insults by the policemen addressed to the participants. As a result of the scuffle, ANC activist Hrant Tamrazyan was taken to police unit; after keeping him for half an hour they released him.*

Exercise of the right to peaceful assemblies in 2010 by citizens had not been impeded, with exception of December 10, when rally was organized on occasion of the international day of the defense of human rights and April 6-8 during the meeting in the vicinity of Matenadaran, rally and preceding thereto events organized by ANC in days of the 37<sup>th</sup> Forum of FIDH on “Justice; New Challenges” dedicated to human rights that was held in Armenia. No policemen were present during the meeting, and during the rally their number was significantly small unlike the meetings held previously. FIDH President S. Belhassen, and a number of defenders of human right participated in the meeting calling for release of all political prisoners in their speeches. In fact, Armenian authorities only in view of the attention of international society behave themselves as democratic power, not impeding the right of citizens to peaceful meetings.

Thus, as it was through the previous years, in 2010 as well, the rights of citizens to the freedom of peaceful assemblies and association with the others in the RA as prescribed by the RA Constitution, regulated by the RA Laws “On Conduct of meetings, assemblies, rallies and demonstrations”, “On the Fundamentals of Administration and Administrative Proceedings” and “On Legal Acts”, as well as the Convention “For Protection of Human Rights and Fundamental Freedoms” and International Covenant “On Civil and Political Rights” were violated.

Articles 10-12 of the Law on meetings regulating the process of exercising the right to the freedom of peaceful assemblies define the content of the notification on conduct of public event and the procedure of its filing and consideration. According to it, the organizers shall notify in writing on the conduct of mass public events to the head of the community of the location of the mass public event; if it is in Yerevan, the notification shall be addressed to the Mayor of Yerevan. Before the

amendments as of 19.03.2008, notification was considered legal and subject to consideration, if it was presented not later than a three-working day period and not earlier than 20 days before the date scheduled for the conduct of the event. According to the amendments, the three-day period was extended to five days. According to Article 12 (6), as a result of consideration of the notification, if the circumstances mentioned in Article 13 are not present, then the notification on conduct of mass public event shall be deemed accepted and the event shall take place in the location and at the time mentioned in the notification.

Prior to the changes, the Law on meetings contained a norm, according to which should the authorized body fail to issue a decision prohibiting the conduct of the mass public event by 16:00 of the working day following the receipt of the notification, the organizers shall have the right to conduct the mass public event on terms and conditions set forth in the notification.

The law effective prior to the amendment also provided for conduct of spontaneous meetings, for which submission of a notification to the participants of local self- governments was not envisaged. As a result of amendments, spontaneous meetings were prohibited; later on, under the pressure of European structures again an amendment was made to the law on meetings and the institute of spontaneous meeting was introduced; however, according to the new edition, it will no longer be considered as a legal one, if continued for more than 6 hours (6.1 paragraph, Article 6).

While the law on meetings provides for decision making only in such case, when the exercise of the right to the freedom of peaceful assembly is to be prohibited, a tradition has been established, according to which an administrative act – a decision on deeming the notification accepted or on prohibiting it shall be mandatorily made with regard to the notification.

From March 1, 2008 till now the RA Police has been still prohibiting the entry of the activist members of the opposition Armenian National Congress to the Square of Freedom, notwithstanding the fact that the construction work commenced in 2008 is already accomplished and the square is functioning.

Ever since September 17, 2010, 37 requests have been submitted to the Municipality by the opposition alliance of the Armenian National Congress on conduct of meeting in the Freedom Square, all of which have been denied by the representative of the Mayor. The reason for prohibiting the conduct of meetings have been, for example, an administrative act of the Municipality or just an internal letter of one of the subdivisions on organization of another event in the particular day and place, or the reasoning, according to which the meeting to be conducted will violate the rights of others being present in that location, etc. Particularly, by the decision made by Yerevan Municipality the requests presented have been denied by the following reasoning – the reasons for prohibiting meetings in the Freedom Square are marry-go-rounds or rides installed in the square and organization of exhibition-sale of books or work of art. The denial of requests filed by ANC on conduct of a meeting in the Freedom Square in December was justified by the Yerevan Municipality in view of rehearsals of New Year events to be conducted from December 6 to January 1. In fact, the Municipality presents by its note a prohibition for one full month, which is not permitted by the Law<sup>59</sup>.

The Law on Meetings regulates also the cases, where at the same time several persons apply to self-government bodies for their intention to organize assembly in the same location and in the same place. In such case, first of all the first incoming notification is to be considered and decision is to be made thereon, and local self-government body shall be obliged to offer to each of the other organizers other days for the conduct of mass public event (in the location and time mentioned in the notification) and other times (in the location and the day mentioned in the notification), if there is such a possibility (Article 13 (4)).

*Being guided by the requirements of Article 13 (1(2)) of the RA Law “On Conduct of Meetings, Assemblies, Rallies and Demonstrations”, some other event is to be conducted during the same day, time and in the mentioned location, excluding the conduct of the particular event, the Municipality prohibited the conduct of a mass public event (meeting) in the Freedom Square. At the same time, on the basis of the provisions prescribed by international treaties – the requirement of exercising the*

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<sup>59</sup> The information on the notifications filed by the Armenian National Congress with Yerevan Municipality on meetings to be organized in the Freedom Square have been provided by Vahagn Hayotsyan, ANC member, Executive Secretary of “Armenian All-National Movement” party.

*right of citizens to conduct peaceful meetings, rallies, demonstrations, Yerevan Municipality had proposed to conduct the mass public event of the Member party of the ANC alliance “Armenian All-National Movement” in the day and at the time mentioned in the notification in the vicinity of Matenadaran on November 9, 2010<sup>60</sup>. A similar proposal had been made also for conduct of meetings scheduled for other days.*

In fact, the Armenian authorities have a clear position of not making the Freedom Square available for those meetings and assemblies that are organized by the Armenian National Congress.

It should be noted that in course of all meetings, events and rallies organized by the Armenian National Congress, irrespective of the place where they have been conducted, the area of the Freedom Square is being rounded up by the police forces of the RA.

From April 7, 2009 to present, the RA Police has pursued the goal of prohibition of the entry of activists and public figures of the Armenian National Congress into Northern Avenue as well, reasoning that they are not allowed even to stroll there. The RA Police representatives mainly prohibit those opposition activists whom they know by face, who would get together from 18:00-20:00 every day before April 7 in Northern Avenue for political stroll.

The decisions on prohibiting assemblies are made on the basis of amendments made to the Law on Meetings that entered into force after the declared emergency situation on 01.03.2008. The decisions prohibiting assemblies refer to the conclusions received from the Police and the National Security Service. Under the pressure of the Council of Europe, as a result of amendments to the Law on Meetings, a provision was introduced in the Law, according to which the organizers of meetings have a right to dispute the legitimacy of “official conclusion” in court.

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<sup>60</sup> Decision of Yerevan Municipality on the results of the consideration of the Notification. No. 87; October 21, 2010; signed by G. Baghdasaryan, the authorized representative of Yerevan Municipality.

In the decision, the representative of the Mayor of Yerevan refers to Article 13(1(3)) of the Law on Meetings, i.e. “...Mass public events can be prohibited only in those cases, if...3)the grounds defined under Article 9 of this Law are available”.

According to Article 9 (4(3)) of the Law on Meetings:

*“3) If, according to credible data, the conduct of the event creates imminent danger of violence or real threat to the national security, the public order, the health and morality of society, life and health of persons, the constitutional rights and freedoms of others or is aimed at forcibly overthrowing the constitutional order, or inflaming racial, ethnic, or religious hatred, or preaching violence or war, or may lead to mass disorders or cause a substantial material harm to the state, to a community, natural and legal persons.*

*Such data may be considered credible, if the Police or the National Security Service adjunct to the Government of the Republic of Armenia would issue a justified official opinion on the data. In the same manner, the aforementioned bodies issue an opinion on the discontinuance of such grounds”.*

The formulation of Article 9 (4(3)) of the Law on Meetings is not clear; it does not make it clear:

- by what procedure and by which incentive does the Police and/or the National Security service present/issue (present the grounds for prohibition, and issue- discontinuance of the grounds) an “official conclusion”;
- whether “official conclusion” is presented on own initiative or they are prompted to present/issue it;
- if they present/issue after being prompted, then how and within what timeframes and who is fulfilling this incentive:
- after the incentive is fulfilled, within what timeframe is the Police and/or the National Security Service presenting/issuing the “official conclusion”;
- whom are they presenting/issuing the “official conclusion”;
- is the “official conclusion” presented/issued orally or in writing? Is it subject to publication in the bulletin of departmental normative acts of the Republic of Armenia and/or in “Republic of Armenia”

- daily and/or official publication by “Armnews” news program, or it is a secret document and when a request is submitted to get familiar with the materials of the case, it is not provided to the requestor?
- if the “official conclusion” is a document, what is written therein and in what volume and what is the scope of its coverage through the period from the incentive to presentation/issue?
  - if the “official conclusion” is a document, whether it should have a sequential number and/or date of compilation;
  - can the “official conclusion” be presented/given to a concrete person for depriving him/her of the right to the freedom of peaceful assemblies or it relates to the all without exception?
  - can “official conclusion” relate to a concrete form of an event or all the forms of manifestation of the right to freedom of peaceful assemblies?
  - Is the fact of presentation/issue of “official conclusion” an only and satisfactory condition to consider the “data” as credible, or the authors shall compulsorily state in the “official conclusion” that “the data are “credible” and “checked”;
  - is “official conclusion” per se subject to dispute or it can be disputed by the lawsuit on disputing the decision on prohibiting a mass public event, or Administrative Court is obliged to address its legitimacy within the framework of its obligation to clarify the case evidence ex officio?

Presentation of an officially justified conclusion by the Police or the National Security Service does not automatically result in prohibition of the conduct of respective mass public event. If it is the goal to be pursued, the law should not have used the word “may”.

In the law application practice, when the conclusions presented by the Police and the National Security Service are in place, in one case the one presenting notification would be prohibited to exercise the right to the freedom of peaceful assemblies, and in the other case – the other requestor would be permitted to do so. This fact proves the theoretical anticipation of the arbitrary use by an Administrative Body of the term “may”.

The freedoms to assemblies and association guaranteed by Article 11 of Convention envisage permissible restriction of these freedoms on the grounds and terms under Article 11(2). The Convention allows restrictions of those freedoms only, if

- the particular restriction is provided for under national law of the defendant country;
- the restriction pursues any legitimate goal or goals that are pursued by Article 11 (2) of the Convention;
- the particular restriction is necessary in a democratic society.

To determine in each case whether the disputed intervention is justified or not, the following test shall be carried out:

1. It is necessary to find out whether the disputed restriction is provided for by the law;
2. It is necessary to find out whether the given restriction provided for by the law pursues any legitimate goal prescribed under Article 11(2); if the restriction is provided for by the law and pursues the legitimate goal prescribed under Article 11(2), then find out whether the particular restriction “is necessary in democratic society”? Where the disputed restriction fails to meet the requirement of “being provided for by the law”, there will not be a need to continue the proceeding; violation of that right per se assumes violation of Article 11.

The requirement for the restriction of the freedoms provided for by the mentioned articles to be “provided for by law” assumes, in the first place, the availability of written and published law adopted by the RA National Assembly. This condition is available. However, the availability of written and published law adopted by the RA National Assembly per se does not assume meeting of the requirement “provided for by law”.

According to Article 43 of the RA Constitution, limitations on fundamental human and civil rights and freedoms may not exceed the scope defined by the international commitments assumed by the Republic of Armenia.

It derives from the principle of constitutionally prescribed legal country and the aforementioned norms that the key issue of the state is to protect constitutionally prescribed rights and freedoms, derivative of which is (or it acts independently) the obligation of the state to ensure the exercise of constitutionally prescribed rights, and in this case it is the right to peaceful unarmed assemblies.

The right of assemblies is an exclusive right; they can be limited; however, it is according to the Constitution that the limit of these restrictions is the internationally assumed obligations that cannot be exceeded. The scope and the content of these obligations are provided in a number of international documents, which are the constituent part of the RA legislation, as well as in the acts of the European Courts of Human Rights.

## **TORTURE AND ILL-TREATMENT**

In the aftermath of its independence in 1991, Armenia has ratified almost all international documents with regard to human rights, including the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, as well as two Facultative Protocols to the Convention.

In accordance with Article 19(1) of the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the States Parties shall submit to the Committee reports on the measures they have taken to give effect to their undertakings under this Convention, within one year after the entry into force of this Convention for the State Party concerned, after which the States Parties shall submit supplementary reports every four years on any new measures taken, and such other reports as the Committee may request.

According to Article 10 (1) of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, on March 19, 2010 the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) submitted to the Government of the Republic of Armenia its Report on the visit to Armenia on 15-17 March, 2008<sup>61</sup>. The Report states that, after the presidential elections taken place in 2008, persons arrested by law enforcement officials have been subjected to physical violence, even in those cases when they have not shown any resistance to law enforcement officials.

Article 1 of the Convention against Tortures clearly defines torture as “any act by which severe pain or suffering is inflicted by public official or other person acting in an official capacity”.

In the course of 2010, law enforcement officials have conducted criminally punishable actions as provided for under Article 341 of the RA Criminal Code (Forcing by the judge, the prosecutor, the investigator or person in charge of inquiry to make testimony). The Article provides for a punishment also in cases, where the same action has been accompanied with the use of mockery, torture or other violence towards persons referred to in paragraph 1 of that Article.

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<sup>61</sup> <http://www.cpt.coe.int>

According to Article 5 of the Law of the Republic of Armenia “On Police”, adopted in 2001, the Police staff is prohibited to put to the torture, to do violence, exercise other cruel means humiliating the human honor and dignity; such actions create liability by the procedure defined under law.

*On April 13, 2010, 24 year old Vahan Khalafyan was taken to Charentsavan Police Unit on suspicion of robbery; he died there, by a fatal knife injury, according to the official version<sup>62</sup>. A criminal case was commenced on the basis of Article 110 (1) of the Criminal Code “Causing somebody to commit suicide”. According to the official version, as a result of being subjected to violence in the police unit, Khalaphyan committed suicide using knife. Forensic medical expert examination of Khalaphyan’s corpse suggested that violence had been used towards him.*

*Four policemen were charged with regard to this case – Head of Criminal Investigation Department of Charentsavan Police Unit Ashot Harutyunyan and three operative authorized officers – Moris Hayrapetyan, Gagik Davtyan and Garik Ghazaryan. The Head of Department was charged for causing Khalaphyan to commit suicide, and the other three for failing to prevent the violence manifested by their supervisor.*

*On November 26, 2010, Artak Kocharyan, born in 1991, applied to Helsinki Association. He is a pupil in “Zatik” orphanage. According to Kocharyan, in the morning at about 9:30 of November 25, 2010, policemen in civilian clothes, without any explanation, insulting him and two other people and manifesting inhuman treatment towards them, took them into custody to Zeytun Investigation Department. In the Police they were beaten by 4 persons, their fingerprints were taken. They threatened A. Kocharyan to put narcotics in his pocket should he refuse to sign that he had committed robbery. They incarcerated him illegally till 00:10, during which they beat him for 3 times and subjected him to torture.*

*RA Citizens Avetik Gevorgyan, Khachik Hovsepyan and Artur Simonyan having the status of the convicted and the witness in Charentsavan Investigation Department on a commenced criminal case No. 66100510, had applied to Helsinki Association. According to their statement, on February 25, 2010, they were taken into custody from the vicinity of the Central Bank in Yerevan to Charentsavan*

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<sup>62</sup> Annex “Vahan Khalaphyan”.

*Investigation Department, where they had been subjected to torture and beating, as a result of which they had forced out slanderous testimonies against Khachik Hovsepyan. Witness Artur Simonyan was illegally kept for 24 hours in the department, he had been tortured and testimony had been forced out of him, and his own car which was put in pledge in bank had been kept for ten days in the premises of the department. A. Simonyan was using the mentioned car as a taxi and it was the only means of his living; as a result of not being able to use the car, he could not discharge the loan, as a result of which he had to sell it.*

*In 2010 Lusine Mnatsakanyan, resident of the RA Armavir Marz, had applied to Helsinki Association. According to the application written to Helsinki Association and the testimony given by her husband Serob Vardanyan at court, in the morning of October 15, 2009, a group of policemen, most of whom in civilian clothing, came to their house and, without submitting any notification and any document, carried out search, and applying physical pressure thereon had prohibited them to intervene in the search in any way. Delivering numerous blows on Vardanyan, at the same time they had also threatened with weapon. After finishing the illegal search of their apartment, the policemen had called three employees of the rural municipality, after which they had taken Vardanyan to police unit and commenced a criminal case against him. In the police unit Vardanyan had seen Ashot Mshetsyan, another convict on the same case, who according to Vardanyan was “severely beaten and thrashed”. In the unit Vardanyan had signed a protocol, stating that he had given “three doses of drug” to Mshetsyan. Vardanyan had signed it under the pressure of threat, since the policemen had warned him that should he fail to sign it, he would find himself in a worse condition as compared to Mshetsyan. Serob Vardanyan and Ashot Mshetsyan were charged on the basis of Articles 266 (2(2 and 2.1) and 268 (3) of the RA Criminal Code.*

*Artur Avagyan, investigator of Vardenis Investigation Department and Senior Lieutenant commenced criminal case No. 31150710 as per Article 177(2(1)) of the RA Criminal Code and according to his decision, Valeri Alkamyanyan was involved as the convict. On April 13, 2010, detainment had been applied to Alkamyanyan as a precautionary measure. According to the statement made by V. Alkamyanyan, on the day of his arrest violence was applied against him and investigator A. G. Avagyan was participating therein. Eight employees of police in the Police Unit had subjected*

*him to torture and severe beating and had humiliated his dignity. Investigator A. G. Avagyan had forced Alkamyán to sign some papers, for more than two months had not provided him with advocate and translator (Alkamyán does not have command of written Armenian and his speaking and understanding skills of Armenian are moderate), had taken decisions on assigning expert examinations and received conclusions and had not notified Alkamyán of the decisions taken.*

*Being assisted by Helsinki Association, V. Alkamyán has been provided, since June 2010, with an advocate, and the investigation has been compelled to provide him also with a translator.*

According to Article 17 of the RA Constitution, 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.* Criminal Code adopted in 2003 embeds Article 119, according to which punishment is defined for an action of torture. Never the less, the content of the Article is incomplete, and the envisaged punishment is a mild one and does not conform to the internationally accepted general meaning of the term of torture. However, unlawfulness is continued by law enforcement officials – current RA Laws are being flagrantly violated, human rights, guaranteed by the RA Constitution, the European Convention “For the Protection of Human Rights and Fundamental Freedoms” and a number of other international documents to which Armenia has acceded, are being abused.

In accordance with Article 17 of Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment being ratified by the RA National Assembly on May 31, 2006, the Republic of Armenia has committed to approve, appoint or create one or several national preventive mechanisms for the purpose of preventing tortures on national level not later than one year after ratification of or acceding to it.

The Law on making supplement to the RA Law “On Human Rights Defender” adopted by the RA National Assembly in 2008 defines that the Defender is a national mechanism of the prevention as defined by the Optional Protocol of the Convention (Article 6.1).

According to Article 105(1) of the RA Criminal Execution Code, in one prison cell of a half-closed correctional institution, the number of the people must be below 6. And Article 73 of the same Code just defines that a dwelling space allocated to each detainee shall not be less than 4 square meters. Never the less, this provision of the law is violated and more persons are kept in cells than it is envisaged by the Law. According to the results of the Helsinki Association's observation mission group, being detained or convicted persons in some penitentiary institutions, particularly in Nubarashen penitentiary institution, is considered torture, humiliating and inhuman treatment.

When detecting servicemen with bodily harms in military units or in case of investigations of degrading treatment, the medical staff does not properly respond to this, does not notify law-enforcement authorities that some injuries or others can be attributed to torture or manifestation of degrading treatment.

Pretrial authorities fail to conduct objective investigation in relation to torture and degrading treatment in Army, as a result of which a private soldier having no relation with torture is being charged and the true offenders remain unpunished. Or the bodily harms of servicemen are interpreted as a result of misfeasance or violation of the rules of the military service code of conduct by an official. It is not a rare case, when suicide, fatalities or shooting by adversary is presented as the reason for serviceman's death. In such cases, the pretrial authorities suspend the criminal proceedings, notwithstanding that as per the conclusions of expert examination, traces of violence on corpse are being recorded. Usually the time spans for pretrial investigation and forensic medical expert examination with regard to such cases are lengthy; litigations with regard to cases of soldiers that die in the army as a result of torture has commenced and continued in the course of 2010.

*On May 15, 2008, Andranik Hayrapetyan, term serviceman in Mountainous Karabagh, while being on combat guard, died as a result of a bullet shot by adversary, according to the official version. In the photographs made by Helsinki Association, the representative of the assigner of the victim, there had been scratches and wounds inflicted prior to death. On this occasion, a criminal case was commenced on the basis of misfeasance by the commander and violation by him of the rules of carrying out military service. The criminal case commenced on occasion of the fact of killing of the soldier is currently suspended. With regard to this criminal case, the Court of General Jurisdiction*

*of Shengavit District, a verdict was made on 31.07.2009, according to which E. Avetisyn, commander of 1<sup>st</sup> detachment of 1<sup>st</sup> division of 3<sup>rd</sup> company of 1<sup>st</sup> infantry battalion, was incriminated and sentenced to incarceration for a period of 4 years and 6 months and lieutenant-colonel A Petrosyan was incriminated and sentenced to incarceration for a period of 3 years and 3 months. In February 2010 they were granted amnesty.*

*On August 30, 2007, a term serviceman Tigran Ohanjanyan died in the military base of Karchaghbyur village of Vardenis region of Gegharkunik Marz. According to the official version, the reason of the death of the late soldier was exposure of electric current on his body. The conclusion of the expert examination stated that death was caused because of exposure of electric current. His parents insisted that T. Ohanjanyan had been killed as a result of violence; in the course of forensic medical expert examination, traces of violence had been detected on the corpse; besides, according to forensic doctor Vigen Adamyan's conclusion of forensic medical expert examination, the set of teeth of the dead were complete, whereas his parents insisted that when being recruited, one of the teeth of T. Ohanjanyan had been missing. On occasion of the soldier's death, a criminal case was commenced on the basis of negligent attitude to the service. No criminal case had been commenced with regard to the fact of the murder of the serviceman. In 2009 the criminal proceeding instituted on occasion of the murder of T. Ohanjanyan commenced in the Court of General Jurisdiction of Gegharkunik Marz. As per the verdict made by the court in 2010, the persons accused were acquitted<sup>63</sup>.*

*On 24.08.2008, in Military Unit of the Ministry of Defense No. 50869M/U, Narek Galstyan was killed. The fact of the death was being proved by bruises, scratches and haemorrhages in the area of neck, anterior forehead, posterior part of right ear, the anterior part of both legs and other parts. The pretrial examination came to the conclusion that at night, at 2a.m., Narek Galstyan had made an attempt of stealing petrol from metallic container and was suffocated there from gases. When Narek's relatives insisted on the bodily harms, particularly the traces of rope in the area of neck, they were orally communicated that a rope had been thrown over the neck of the soldier to pull him*

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<sup>63</sup> According to Article 366 of the RA Criminal Procedure Code, if when making an acquittance verdict, a person conducted the crime is still unknown, the court shall, after the verdict enters into force, send the case to the Prosecutor for settlement of the issue on commencing criminal prosecution towards a new person.

*up. None of the relatives of N. Galstyan was recognized as the victim's assignee; they were not given an opportunity to get familiar with the conclusion of forensic medical expert examination and other conclusions of expert examination with regard to the criminal case, as well as investigation actions. On 22.09.2008 Aram Haroyan, Head of the headquarters of artillery regiment, was incriminated on the criminal case on the basis of Article 314 of the RA Criminal Code (Official Forgery). Since 2010, Helsinki Association has been taking measures to disclose this case.*

In 2010, increase in the number of fatalities in the RA armed forces has been recorded. While in previous years the authorities could successfully conceal from the public the criminal cases occurring in the army, in 2010 the number of such cases reached intimidating sizes, thus, compelling the authorities to voice this issue<sup>64</sup>.

*On 01.02.2010, in the Military Unit of the RA Ministry of Defense No. 12798M/U, Andranik Sargsyan was killed. On 22.06.2010, G.Kh. Khalatyan, Senior Investigator of Investigation Unit of 9<sup>th</sup> Garrison at the RA Ministry of Defense, declined, by his decision, the commencement of criminal case on the basis of the materials, justifying it by non availability of corpus delicti. According to conclusion No. 112/7 of forensic medical expert examination, "there are scratches in the area of upper brow and anterior forehead in the right part of head, scratches on pectus and right pelvic girdle, scratches on buttocks, which have been inflicted by a dull instrument when he was alive shortly before his death..." The Chairman of Helsinki Association Mikayel Danielyan has applied to the RA Prosecutor General A. Hovseption with the following petition "Revoke the decision of G. Kh.Khalatyan on dismissal of commencement of a criminal case on the basis of materials No. 15-20, as of 22.06.2010..." With delay, by note No. 34/14-10-10, official of RA General Prosecutor's Office A. M. Zalinyan had notified M. Danielyan on 30.11.2010 that "the examination suggests that the decision made by the materials on declining commencement of the criminal case on the ground of lack of the ground for corpus delicti is legal and there are no grounds to revoke it".*

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<sup>64</sup> The data below are presented on the basis of media publications.

*On 28.07.2010, in the Military Unit of the RA Ministry of Defense No. 36534 M/U, 6 servicemen (Senior Lieutenant Vardges Tadevosyan, Term servicemen Garegin Hovsepyan, Andranik Sargsyan, Robert Hovhannisyanyan, Artyem Manasyan and Karo Ayvazyan) were killed at the same time. As per the initial version, Karo Ayvazyan had killed by a fire-arm one Lieutenant and one sergeant; thereafter with the same gun he had killed other 3 servicemen approaching the scene of actio and then committed suicide. Ayvazyan had done this because the killed officers had shown disrespectful attitude towards his friend. Garegin Hovsepyan was the only one among the victims of the incident of July 28, on whom obvious traces of violence had been detected. According to the parents of the victim, all the fingers of the young man's hands had been broken, there was a big tumor on the his head in the area of carotid artery, there was deep wound inflicted by a sharp instrument on his occiput. Availability of bruises and other injuries on the corpses of other killed servicemen were explained largely by the fact that the corpses had been transported by "not appropriate" cars.*

*An emergency had taken place on 20.11.2010 with fatal outcome, as a result of which 4 servicemen were killed and 4 others wounded as a result of burst of machine-gun fire. On 21.11.2010 Manvel Hazroyan, servicemen of the same military unit, who had been wounded during the incident, was charged pursuant to Article 104 (2(1)) – for homicide of two and more persons; Article 34-104 (2(1))- attempt of homicide of two and more persons, Article 365 (1) violation of combat ruling regulations, of the RA Criminal Code. According to Hazroyan's father – Armen Hazroyan, his son could not kill 4 persons, wound 3 others and then shoot on himself – firstly on his abdomen and then on his head.*

*On 16.06.2010, Yervand Sargsyan's dead body, who had been a servicemen of Military Unit No. 37447 of NKR Defense Army being recruited from military commissariat of Armavir on May 12, 2010 was detected in a water channel. According to the results of forensic medical expert examination, he had died of mechanical suffocation as a result of being drowned in a consequence of closure of respiratory tract. According to the soldier's father, he had seen scratches and bruises on various parts of his son's body; he noted that the elbow had been broken; there was such an impression that he had been dragged along. With regard to this case, the father was recognized as*

*an assignee of the victim; however, the investigator had not provided him with the materials of the case.*

*On 19.11.2010, in Military Unit No M/U of the RA Ministry of Defense (Chambarak town), term serviceman Robert Avetisyan was killed as a result of fire-arm injuries. As per information communicated by press, Avetisyan was killed as a result of so-called “shoot-out” among servicemen. However, according to the version presented by the Military Prosecutor’s Office, Avetisyan had crossed the prohibited communication line with the adversary, had failed to say the password and to comply with the instructions, and that was the reason we had been killed by his co-serviceman, one of the patrol team members.*

# **VAHAN KHALAPHYAN**

On April 13, 2010, officials of the RA Charentsavan Police Unit took the resident of the same town Vahan Khalafyan into custody. Khalaphyan was incarcerated in the police unit from 10:00 to 17:00, for about 7 hours, in the course of which he had been questioned; in the course of the interrogation he had been asked questions incriminating him with regard to theft; in fact he had been in a status of suspect. While being in the RA Charentsavan Police Unit, Khalaphyan had not had a lawyer. Being under the jurisdiction of the police, he had been inflicted bodily harms, including that being inflicted by a sharp instrument, and had died. High ranked police officials, including the RA Head of Police Alik Sargsyan stated from the very outset that Khalaphyan had committed suicide. The pretrial authority had investigated only the version of suicide and failed to conduct any investigation in the police unit with regard to approving or disproving the version of murder of Khalaphyan. As per the evidence acquired as a result of pretrial investigation and court trial, Khalaphyan had been inflicted bodily harms having cause and effect relationship with his death in a room, where along with him had been also three policemen. The pretrial authority had incriminated the three policemen being with Khalaphyan in the same room, as well as one policeman who had slapped and cursed Khalaphyan. The essence of the charge was that the blows and curses had negligibly resulted in a grave consequence – suicide committed by Khalaphyan. The three policemen being with Khalaphyan in the same room had been accused for not preventing the slaps inflicted on Khalaphyan by a policeman with higher rank and position. In the stage of the court trial, the court had shown an evidently reluctant attitude to all petitions directed at identification of the circumstances proving versions other than the version of the suicide. The court dismissed motions for conducting investigation experiment and some other petitions as well. The court of first instance considered the version of suicide as proven. Nevertheless, the observation mission of Helsinki Association has brought up a version, according to which Khalaphyan had been beaten to death and died as a result of blows inflicted on his head. Later on, the police officials had stabbed him with knife on his abdominal area. When Khalaphyan was taken to hospital, there he had been stabbed for the second time, which was done for the following reason: the depth of the first stab by the policemen was 3 cm, which could not have resulted in death. That is why the second knife stab had been inflicted on the dead body with depth of 12 cm, the purpose of which was to injure the abdominal aorta being located on the posterior abdominal wall. This was done by a person with a good knowledge of human anatomy, who also knows very well the consequences of the injury of that very aorta.

According to Helsinki Association, that person could have been doctor of that hospital<sup>65</sup>. However, according to the forensic medical expert examination, the abdominal aorta had not been injured.

The verdict of guilty was made with regard to two policemen - the one that had slapped Khalaphyan and one of the policemen being in the same room with him. The court failed to make the claims of the injured party to recognize the facts of violation of the rights of Khalaphyan to personal immunity, fair trial, being devoid of torture and inhuman treatment and the right to life and did not explain the reason why it had not considered those facts.

### **Circumstances of the case trial**

- 1.1. On April 6, 2010, robbery of different cloths costing 1.5 mil. AMD total was committed from a wooden construction located in the vicinity of building No. 29, District 3 of Charentsavan town.
- 1.2. With regard to the case, the RA Police Charentsavan Investigation Unit commenced criminal case No. 66101110, investigatory and operative-search measures were taken.
- 1.3. Within the scope of operative activity conducted to disclose the mentioned crime, in the morning of April 13, 2010, Vahan Khalaphyan was taken to the RA Charentsavan Police Unit.
- 1.4. Khalaphyan had been taken to the RA Charentsavan Police unit upon direct instruction by Ashot Harutyunyan, Head of the Criminal Investigation Department, Major Police.
- 1.5. Khalaphyan was taken into custody to the Police Unit by Mores Hayrapetyan, authorized operative officer of the Criminal Investigation Department of the RA Charentsavan Police, Senior Lieutenant of Police.
- 1.6. The instruction on taking Khalaphyan into custody to the RA Charentsavan Police Unit was conveyed to Ashot Hayrapetyan from the Head of Charentsavan Police Unit and his deputy.
- 1.7. Khalaphyan had actually been incarcerated while being in the RA Police Charentsavan Unit.

**This fact is being proved by the following evidence available in the case and examined in the course of the court proceeding:**

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<sup>65</sup> <http://www.armtimes.com/18980>

1.7.1 From the testimony by Vardan Khalaphyan, witness – “Before Vahan would put on his clothes, I asked the police what had happened? They told me that there had been a brawl and that **Vahan is to be taken to Charentsavan Police Unit** for revealing the circumstances of that brawl. Vahan put on his clothes and during that period I could not ask him anything and he left following the policemen.” (Protocol of the court session as of 15.07.2010, paragraph 2, page 5, from bottom).

1.7.2. From the testimony by Vardan Khalaphyan, witness – “**I approached Tonoyan and asked why had Vahan been taken to the Unit; Samvel Tonoyan answered that he had been taken to the unit on suspicion of committing robbery.**

I told him that **the policemen told that he had been taken to the police unit on suspicion of brawl, but Tonoyan answered that they should have said this so that not to cause any suspicion.**” (Protocol of the court session as of 15.07.2010, line 2, page 6, from top).

1.7.3 Question by A. Zeynalyan’s (to Vardan Khalaphyan) – “**Tell me please, whether your brother was summoned or taken to the Police Unit?**

Answer by the witness – They took him,

Next question – **did they present any document?**

Answer by the witness – **No** (Protocol of the court session as of 15.07.2010, middle of page 6).

1.7.4. G. Margaryan’s question (to Vardan Khalaphyan) – the three of them, when they took him, **did they get out of the unit for an instant?**

Answer by the witness – **I have been in the unit from the morning till 17:00 and have not seen them coming out.**

Next question – In the morning, when the policemen came, **did they deliver a notice to your brother?**

Answer by the witness – **No** (Protocol of the court session as of 15.07.2010, middle part of page 7).

1.7.5. Witness Arthur Khalaphyan (testimony) – “I asked, why they had taken, and Vardan said that there had been a brawl. Both of us at around 10.30 went to Charentsavan Police Unit and the two of us tried to enter the unit to learn why they had taken Vahan, but...(Protocol of the court session as of 15.07.2010, paragraph 2, page 10, from the bottom).

1.7.6. A. Zeynalyan’s question (to Arthur Khalaphyan) – When you were standing at the Police Unit, **had any of the suspects come out?**

Answer by the witness – **One of them with a police official** (Protocol of the court session as of 15.07.2010, paragraph 6, page 11, from the top).

1.7.7. A. Zeynalyan’s question (to witness Samvel Tonoyan) – You said that **Heboyan had told to summon people to the police unit**, tell me, please, **what category of summon that was?**

Answer by the witness – **to conduct operative clarifications.**

Next question – **Do you realize that after being summoned to the police unit, the mentioned persons cannot come out from there at own will?**

Answer by the witness – **Yes.**

Next question – What is the legal ground? Had they been taken into custody or arrested?

Answer by the witness – **We had summoned them.**

Next question – **Have you given the instruction to summon in person?**

Answer by the witness – **Yes, I was instructed by the Head, and I instructed Ashot.** (Protocol of the court session as of 21.07.2010, middle of page 11).

1.7.8. Question by the accused A. Harutyunyan (to witness Norik Heboyan) – As far as I understood, **taking him to the police unit, taking him into custody was carried out by your instruction.**

Answer by the witness – **Yes** (Protocol of the court session as of 18.08.2010, paragraph 10, page 7, from top)

1.7.9 Accused M. Hayrapetyan (testimony) “...at about 10:00 **Ashot Harutyunyan called me and Hamlet Davtyan to his office and gave us a paper, on which first name, last name and address were written, so that I would take the mentioned person into custody in the police unit.**

It should be noted that I and Hamlet went out at around 10:00, walked down to 3<sup>rd</sup> district, I guess, building 29, apartment 16.

...

Vardan asked us in, I told him to wake up Vahan, let him come, we are going to the police unit; Vardan inquired about what had happened. I told him that he had been involved in a brawl and there is some stuff to be clarified. Before then, Ashot Harutyunyan had told me that they had been involved in a quarrel, go and take them here....(Protocol of the court session as of 18.08.2010, paragraph 2, page 15, from top).

1.7.10. Accused M. Hayrapetyan (testimony) – “...Ashot Harutyunyan told to take Vahan together with Hamlet to Mirumyan’s offices; I told him **that I would compile the protocol on custody, though I had given the same question before it as well, he told not to do it, when I will tell you, then you will compile it. And he warned that everything is being done under his supervision**”. (Protocol of the court session as of 18.08.2010, paragraph 3, page 15, from bottom).

1.7.11. Question by S. Sapharyan (Accused M. Hayrapetyan) – **Who took Khalaphyan to toilet?**

Answer by the accused - **I took him.**

Next question – From who did take the key?

Answer by the accused - I did not take the key.

Next question – As far as I understood it, the toilet is being locked.

Answer by the accused - I hadn't taken the key, **the toilet was open** (Protocol of the court session as of 18.08.2010, paragraph 5, page 17, from tom).

1.7.12. A. Zeynalyan's question (Accused M. Hayrapetyan) – **Had you taken Khalaphyan to toilet?** At what time had you taken?

Answer by the accused - I can't remember.

Next question – Had he already eaten the food when you took him?

Answer by the accused -**I don't remember, but we were in the office of Kamo Mirumyan** (Protocol of the court session as of 18.08.2010, middle of page 22).

1.7.13. The accused Gagik Ghazaryan (testimony) – "...they were standing in front of the police unit; we all together entered the unit and **gave food to all detainees, including Vahan.** (Protocol of the court session as of 20.08.2010, 2<sup>nd</sup> paragraph, page 2, from top).

1.7.14 The accused Ashot Harutyunyan (testimony) – "I entered my office; said - are you Vahan? he said – yes; I learnt who, what and how was he; I asked him in what relations he was with those persons; he said that he knew them as residents of Charentsavan. I also asked if he had been with them on 4-6<sup>th</sup> of the month; he said – no, I haven't been; I asked have you been this day and that time as a participant of theft and he said that **when Mores would take me here, he was talking about a quarrel; I said him – no, we have just said so in view of the interest of our operative activity. I said him that he had been taken to police unit for robbery;** he said that he had not been involved in that theft. (Protocol of the court session as of 20.08.2010, paragraph 2, page 16, from top).

1.7.15. The accused Ashot Harutyunyan (testimony) – "...I am getting out, **asking Mirumyan to provide his office,** since I am going out and Mirumyan says that there is no problem. **Perhaps at**

**about 11-12 Vahan goes with Mores to Mirumyan's office.** (Protocol of the court session as of 20.08.2010, paragraph 1, page 16, from the bottom and the middle).

1.7.16. The accused Ashot Harutyunyan (testimony) – "...we are getting to Charentsavan at around 16:30; I came to the police unit.... I went to Mirumyan's Office; Vahan stood up; then Gagik Ghazaryan, Garik and Mores were in the office; I asked Mores what he had found out; he said that nothing; I said how is that you haven't clarified anything, **you have been next to him all day long and I have told that you are going to work with him and you have not found out anything?** I have instructed you to carry out concrete activities, and what is the reason that you have not done anything? (Protocol of the court session as of 20.08.2010, paragraph 2, page 17, from the top).

1.7.17. A. Zeynalyan's question (to the accused A. Harutyunyan) – from your testimony we understood that it was you who had said that **Moris would take Vahan, and taking him to the unit, Moris had told that he was Vahan,** and at the same time **you mentioned that you had used, as an excuse, a the brawl for taking the diseased into custody; this means that - had you taken him into custody by practicing deception, you had taken him into custody by another excuse or in reality there was another reason?**

Answer by the accused - ...Usually in the Higher Police School, and in course of practice, **when they go to take people to the police unit, they do not say unequivocally that they are taking him for a certain issue, and always they do it using another legend, another excuse, not that they are cheating, but so that others do not learn on the outside....**(Protocol of the court session as of 27.08.2010, paragraph 1, page 11, from the bottom).

1.7.18. A. Zeynalyan's question (to the accused A. Harutyunyan) – **Did you say here in the court that their being in the police unit you don't consider to be legal and that their being in the police unit has been illegal?**

Answer by the accused - considering by me of being legal or not considering, personally my consideration as a policeman and not the decision maker in that situation what should be done; **once again I repeat that I do not consider it to be legitimate,** however, in order to clarify that

circumstance, let's go back a little and see to what extent is A. Harutyunyan's action or inaction fits...

Next question – Thus, is there any legal ground in the Criminal Procedure Code to keep persons by such manner and procedure in police unit? Do you consider this to be law-governed, legitimate? And you said in your testimony that it is not legal.

Answer by the accused - **Once again I tell, that I cannot convince that it is legal to keep or not to keep**, and as to taking and summoning people, I already said that we had been led by the law on operative investigation activity to make an operative inquiry; and whether he had stayed for that long and what recording had been made or not, I say once again, that I do not admit it unequivocally.

...

Next question – Thus, you had sent Moris in person?

Answer by the accused – Yes, let it be like this.

Next question – **Have you given a notice, so that he would have appeared on the basis of it?**

Answer by the accused – This question had been asked to me in the special investigation unit as well, whether there had been a notice or not. **When the assignment was given, I hadn't asked if there was a notice or not.** (Protocol of the court session as of 27.08.2010, paragraph 3, page 12, from the top).

1.7.19 From the testimony of witness Vardan Khalaphyan – **“It was around 4 o'clock, I asked if I could bring food to my brother,** they answered – yes; I went, brought food to my brother and went in to him...(Protocol of the court session as of 15.07.2010, paragraph 5, page 6, from the top).

1.7.20. From the testimony of witness Samvel Tonoyan – “I went out of the police unit and saw that Vahan's brother Vardan was standing nearby the unit. In about 10 minutes the operative authorized officer G.Ghazaryan approached me and said that **the relatives of those being taken up into**

**custody had brought food and want to transfer to their relatives, and I allowed”** (Protocol of the court session as of 21.07.2010, paragraph 1, page 10, from the bottom).

- 1.8. On 13.04.2010 Khalaphyan was taken into custody by the officers of Charentsavan police and kept incarcerated without any legal ground. Khalaphyan had been in incarceration for about 7 hours, from 10 to 17.
- 1.9. At the time of being taken into custody, Khalaphyan had not been a suspect, accused, convict, condemned, witness or victim of any criminal case, including the theft as of 06.04.2010 (criminal case No. 66101110) – he had not had any procedural status. He had never been called by any law enforcement authority to participate in a procedural action and had never avoided thereof; no decision on taking Khalaphyan into custody made by an investigation or pretrial authority, investigation, prosecutor or court had ever existed.
- 1.10. On 06.04.2010 Khalaphyan was taken into custody to Charentsavan Police unit on suspicion of being involved in theft; he was questioned and **in the course of the interrogation he had been asked questions incriminating him**; in fact he had been in the status of suspect.
- 1.11. While being in the RA Charentsavan Police Unit, Khalaphyan had not had a lawyer.

**These facts are proven by the following evidence available in the case and examined in the course of the case proceeding:**

- 1.11.1. Accused M. Hayrapetyan (explanation) – “...Head of the Criminal Investigation Department, Major Police Ashot Harutyunyan and K. Mirumyan **had an explanatory talk to V. Khalaphyan, so that he would confess the act committed by him, since his friends had already confessed the theft conducted by them....**”(materials of the official investigation, protocol as of 13.04.2010, page 2, from the bottom).
- 1.11.2. Question by H. Khalaphyan (to witness Samvel Tonoyan) – What it was that might have kept Vahan from admitting his guilt, in case when he had made such an expression?

The witness’s answer – **He was saying, after you bring them to conduct confrontation; it is too much if three of them have confessed** (Protocol of the court session as of 21.07.2010, paragraph 12, page 13, from the top).

- 1.11.3. Witness M. Hayrapetyan (testimony) – “...Ashot Harutyunyan began to **ask questions to Vahan Khalaphyan about a theft. From that talk it became clear that Ashot Harutyunyan was asking to Vahan Khalaphyan about the theft, and Vahan Khalaphyan was answering that he had not committed any theft.** ...(Protocol of the court session as of 18.08.2010, middle of page 15).
- 1.11.4. The accused M. Hayrapetyan (testimony) – “... A. Harutyunyan told Vahan to stand up; Vahan stood up. A. Harutyunyan told that the material evidence is in Echmiadzin and **those participating with you have confessed; you also confess. Vahan Khalaphyan said that - I have not committed robbery and I have nothing to do with that theft, bring someone, let him stand in front of me, let me see who is that who is telling that I am involved in theft**”.(Protocol of the court session as of 18.08.2010, paragraph 1, page 16, from the top).
- 1.11.5. The accused G. Ghazaryan (Testimony) – “...A bit later Harutyunyan came, entered; Vahan stood up and **addressing Vahan, Harutyunyan told that they had just come from Echmiadzin, the goods are there, everything is there, the material evidence is available, the three of them have confessed; what are you saying, are you involved or not? He said unequivocally that no, I am not involved, I have not done anything, I am not aware of it.**”(Protocol of the court session as of 20.08.2010, paragraph 2, page 21, from the top).
- 1.11.6. The accused Ashot Harutyunyan (testimony) – “...I entered my office, said - are you Vahan?, he said – yes; I learnt who, what and how is he; I asked him what relations he has got with those persons; he said that he knows them as residents of Charentsavan. I also asked if he had been with them in any place on 4-6<sup>th</sup> of the month; he said – no, I haven’t been; I asked **have you been this day and that time as a participant of theft and he said that when Mores would take me here, he was talking about a brawl; I said him – no, we have just said so in view of the interest of our operative activity. I said him that he had been taken to police unit for robbery; he said that he had not been involved in that theft.** (Protocol of the court session as of 20.08.2010, paragraph 2, page 16, from the top).
- 1.11.7. Accused A. Harutyunyan (testimony) – “...**I turned to Vahan’s side and said that Vahan, I have just coming back from Echmiadzin, there are goods over there; yes, I want to also stress that I hadn’t reached yet to Charentsavan, when Mores Hayrapetyan called me and said me that Davit is already telling the robbery, Shiraz has already admitted his**

guilt; I said – how about Vahan? Mores said that there is nothing concrete about Vahan. I said what are they then doing? He said – taking explanations. I already reach the unit, enter the office and say to Vahan, that Vahan all of them have already admitted and told the details of the robbery, they are convinced that you are a participant with them; Vahan said that – I haven't participated in that robbery and haven't got any information about that robbery. I asked Vahan, whether he is convicted, Vahan said – no. I told him that it would be better if you admit; Vahan said that he hadn't participated in robbery and he is not aware; I said – admit your guilt and this will be a mitigating circumstance and at that time the door opened and I was called out. (Protocol of court session as of 20.08.2010, top of paragraph 2, page 17)

**1.11.8. Question by the presiding judge (to the accused A. Harutyunyan) – Are you sure that failure to admit guilt by a person is viewed as an aggravating circumstance? I connect this with that circumstance that in your testimony you have mentioned that you have said: “Vahan, come on and confess the truth, because if you fail to confess, that will aggravate your guilt and this will be considered as an aggravating circumstance.**

Answer by the accused – It is that way in the practice.

Next question - **Articles 62-63 of the Criminal Code define clearly the responsibility and the list of circumstances mitigating and aggravating the punishment, particularly those related to aggravating circumstances.**

Answer by the accused – **I have told him, that if you fail to admit, it will be worse.** (Protocol of Court session as of 27.08.2010, paragraph 4, page 21, from the bottom)

1.12. While being incarcerated in Charentsavan police, Khalaphyan had been subjected to violence; however it had not been necessary for calling him to order; in terms of his conduct; he had not given occasion for this.

1.13. Before being taken to the Police unit, there had not been those bodily harms on Khalaphyan that were recorded after his death.

**The fact has been proven by the following evidence available in the case and examined in the course of case proceeding:**

1.13.1. Conclusion No. 353 of Forensic Medical Expert Examination of V. Khalaphyan's corpse – "Haemorrhage under the parietal region subcutaneous, haemorrhage under the mucous of the upper lip in the area of the left corner of the mouth, haemorrhage on left submental region, scratches on the nasal arch region, on the anterior area of the middle third of the right tibia, on the right kneecap region, on the inner surface of the right tibia-foot joint area, on the external-anterior region of the upper third of the left tibia, on the anterior area of the middle third of left tibia with the haemorrhage around it and on the posterior surface of the right elbow joint area. ..." . (Volume II, reverse side of page 149, Subsection "Forensic Medical diagnosis", Annex, page 152, picture 3, pages 154, 155, photos, page 158 – scheme).

1.13.2. Prosecutor H. Harutyunyan's question ( to Vardan Khalaphyan) – “ On April 13, 2010, **when your brother went to Charentsavan unit, were there bodily harms before leaving the house?**

Answer by the witness, - **No.**

Next question- Had your brother been a participant of a quarrel the days before the case or not?

Answer by the witness, - No, I can say it for sure". (Protocol of the court session as of 15.07.2010, page 6, middle part)

1.13.3. Question by the lawyer S. Safaryan (to Vardan Khalaphyan) – You answered to the prosecutor's question **that there had not been any bodily harms on your brother; was that your assumption?**

Answer by the witness – **My brother and I sleep side by side and, naturally, we were taking off our clothes in the evening and I had not noticed any bodily harm on him, and if there had been anything, my brother would have told me for sure.** (Protocol of the court session as of 15.07.2010, page 8, middle part)

1.13.4. Question by the presiding judge ( to Arthur Khalaphyan) – Your testimony made it clear that you and Vardan Khalaphyan had been at the entrance of Charentsavan police unit whole day long and you said that Vardan had entered in, taken food, come out. Tell us, please, did you talk to him? And if yes, then what did he say? **How was Vahan.**

Answer by the witness, - Yes, I talked to him; **he said, that he was fine.**

The next question –That means **that he hadn't noticed anything unusual?**

Answer by the witness, -**No.** (Protocol of the court session as of 15.07.2010, page 12, paragraph 2 from the top)

1.13.5. Prosecutor K. Piloyan's question (to Mirumyan) – Tell us, please, **have you noticed external injuries on V. Khalaphyan?**

Answer by the witness – **No.**

The next question – On the next day, when you were asked to provide your room, **did you notice any injuries on V. Khapaphyan's body then?**

Answer by the witness – **No.** (Protocol of the court session as of 15.07.2010, page 13, middle part)

1.14. At the Charentsavan police unit Khalaphyan had been humiliated and beaten by Ashot Harutyunyan.

**The fact has been proved by the following evidence available in the case and examined in the course of case proceeding:**

1.14.1. A. Zeynalyan's question (to Vardan Khalaphyan) – You mentioned that Ashot Harutyunyan went through the corridor to the right and **you heard loud voices and curses; tell us, please, were those curses pronounced by Ashot Harutyunyan?**

Answer by the witness – **Yes, that was his voice.** (Protocol of the court session as of 15.07.2010, page 7, paragraph 11 from top)

1.14.2. Piloyan's question (to the witness Samvel Tonoyan) – You said - who has told you about this case?

Answer by the witness – When we went out from special investigation unit, **Garik Davtyan said, that in Mirumyan's office Harutyunyan had slapped Vahan for one time. And Gagik said that he inflicted a "paternal slap"**. I have learnt about it after going out of the special investigation unit, though I had asked them before that and they had not told me the truth.

The next question – Did they say that **that one "paternal slap" had been inflicted by Ashot Harutyunyan?**

Answer by the witness – **Yes.** (Protocol of the court session as of 21.07.2010, page 11, paragraph 1 from the top)

1.14.3. The accused Garik Davtyan (testimony) – "... approximately 5 minutes later entered Ashot, .... . He entered and addressing Khalaphyan said, come on, stand up; Khalaphyan stood up and he said, that you know that the guys with you had told about the robbery, we had gone to Echmiadzin for the material evidence, for a few times he pronounced the word Echmiadzin; it is up to you - you may tell or not, at the very moment the door opened and it was one of the servicemen from the police control room and he said, that comrade Harutyunyan, you are asked to the phone. **Harutyunyan said it is up to you – you may tell or not and mouthed a curse and inflicted a slap** and went out of the room. (Protocol of the court session as of 18.08.2010, page 27, paragraph 3 from the top)

1.14.4. K. Piloyan's question (to the accused Garik Davtyan) – That **means he inflicted a slap once, that is why you do not consider yourself guilty?** And if he would have inflicted slap for many times, you would have considered yourself guilty?

Answer by the accused – **Yes.** (Protocol of the court session as of 18.08.2010, page 32, paragraph 1 from the top)

1.14.5. A. Zeynalyan's question (to the accused Garik Davtyan) – **Mores Hayrapetyan said in his testimony, that at the time, when A. Harutyunyan was beating Vahan Khalaphyan, you were present there; tell us, please, does M. Hayrapetyan say the truth?**

Answer by the accused – **I was there at the time of the slap.**

The next question – Mores Hayrapetyan described the second incident; you say that there were three of you at the time of the incident in the room; **does Mores truly present the fragment of beating by feet?**

Answer by the accused – **I have not seen such a thing.**

The next question – **At that time you have been in the room, but didn't you see anything?**

Answer by the accused – **Yes.** (Protocol of the court session as of 18.08.2010, page 33, middle part)

1.14.6. A. Zeynalyan's question (to the accused Garik Davtyan) – **Is slapping of the one being taken into custody by a policeman a legal action?**

Answer by the accused – **No.**

The next question – **As a policeman, as a lawyer, what did you do after that illegal action?**

Answer by the accused – **Nothing.**

The next question – **Is that a legal action by you?**

Answer by the accused – **It is not legal, but it is not a crime either;** what could I do? (Protocol of the court session as of 18.08.2010, page 33, paragraph 16 from the down)

1.14.7. Lawyer A. Harutyunyan's question ( to the accused Garik Davtyan) – You said, that at the time, when A. Harutyunyan entered the room, you had been in the office; tell us, please, what was the duration of the entire course of events?

The answer by the accused – **All in all, Ashot Harutyunyan's entry, infliction of the slap, the whole conversation took 3 minutes.** (protocol of the court session as of 18.08.2010, page 36, middle part)

1.14.8. Answer by the accused Garik Davtyan (to the question of the presiding judge) – Yes, **I consider those right and left slaps as one slap.**  
The next question – Do you insist on this?

Answer by the accused – **Yes.** (Protocol of the court session as of 18.08.2010, page 37, middle part)

1.14.9. The accused G. Davtyan (explanation) – “... The Head of CIU Ashot Harutyunyan approached V. Khalaphyan and said that the stolen goods will soon be brought; the other guys have already told; it is up to you to tell it or not to tell; anyway you will be convicted with “waiver”; at that moment ..., when leaving A. Harutyunyan told V. Khalaphyan that “it is up to you whether to tell or not [...] **(curses) and inflicted a slap on him by hand** and went out of the office. After that there were two of us in the office and we had not talked anything with Khalaphyan; we were sitting there, where we had been at the beginning; approximately 5-6 minutes later V. Khalaphyan took the knife from the shelf and stabbed on his stomach. ... **I had not considered that slap as beating, because the slap was of educative character and was more like a “paternal slap” ...”.**  
(Materials of official investigation as of 04.05.2010)

1.14.10. The accused Gagik Ghazaryan (testimony) – “... we went to the police unit at about 16.30  
.....  
....

During the conversation, the door of Miroyan Karo’s office was half open; one came from the standby unit and said, that, you, Harutyunyan, are asked to the phone. While leaving the room Harutyunyan said, well, it is up to you if you want to tell or not, either way you are going to be sentenced and **at that moment he slapped** and went out. (Protocol of the court session as of 20.08.2010, page 10, paragraphs 1, 3-4 from the top)

1.14.11. Question by the presiding judge (to the accused Gagik Ghazaryan) – Eventually, **have you seen one slap?**

Answer by the accused – If one can name it a slap, then **yes**. (Protocol of the court session as of 20.08.2010, page 10, paragraph 15 from the down)

1.14.12. A. Zeynalyan's question (to the accused A. Harutyunyan) - **Have you been subjected to beating?**

Answer by the accused – **No**. (Protocol of the court session as of 27.08.2010, page 20, paragraph 9 from the bottom)

1.14.13. Question by the presiding judge (to the accused A. Harutyunyan) – Are you completely denying that you have done violence to V. Khalaphyan, even if it was in a form of a slap?  
Answer by the accused – There has not been violence by me even in a form of a slap. (Protocol of the court session as of 27.08.2010, page 22, paragraph 11 from the top)

1.15. While being under the jurisdiction of police, Khalaphyan had received bodily harms and died.

1.16. The incident had occurred in the office of the Head of Police Prevention Department Kamo Mirumyan.

1.17. At the time when the incident took place in Mirumyan's office, besides the deceased, there had been three others: Mores Artsruni Hayrapetyan, Garik Aram Davtyan and Gagik Vladimir Ghazaryan.

**The fact is being proved by the following evidence available in the case and examined in the course of the case hearing:**

1.17.1. A. Zeynalyan's question (to the accused Garik Davtyan) - **How many persons were there in the room at that time?**

Answer by the accused – **There were me, Mores, Gagik and Vahan.**

The next question – **Was Ashot Harutyunyan in the room at that time?**

Answer by the accused – **No**

The next question – **No other person had been there in the room?**

Answer by the accused – **No** (Protocol of court session as of 13.10.2010, paragraph 15, page 15, from the top)

1.18. On the anterior abdominal wall there were scratches inflicted by knife and pricked wounds.

1.19. Scratches made by knife and blows inflicted on Khalaphyan's abdomen by knife were made after baring his abdomen; his clothes are not damaged. The fact has been proved by the conclusion of expert examination of clothes.

1.20. Khalaphyan had worn the following clothes: trousers, shirt with shoulder ribbons, pants, sweater and jacket.

**The fact has been proved by the following evidence available in the case and examined in the course of case hearing:**

(Case Volume 1, page 293, conclusion of the expert, Protocol of Court Session as of 18.08.2010, paragraph 4, page 16 from the top; accused M. Hayrapetyan (testimony).

1.20.1. Question by A. Zeynalyan (to Vardan Khalaphyan) – What was on him?

Answer by the witness – grey trousers, sweater and **jacket**.

Next question – **Was the jacket on him** at that time?

Answer by the witness – **Yes** (Protocol of the court session as of 15.07.2010, of line 3, page 6, from the bottom)

1.20.2. Question by A. Zeynalyan (Vardan Khalaphyan) – when eating the food, did you pay heed whether his clothes were torn?

Answer by the witness – No, I haven't noticed tears.

Next question – **And was his shirt underneath the trousers or on it?**

1.21. The jacket on Khalaphyan had not been recognized as material evidence, had not been attached to the case and sent to expert examination.

1.22. Immediately after receiving injuries, Khalaphyan had lost his consciousness, his mouth “closed”, so said he had swallowed his tongue, wheezed.

1.22.1 Accused M. Hayrapetyan (explanation) – “...**We** laid him down on the floor on his back, to administer first aid. ....**after the blow, I saw that V. Khalaphyan immediately turned pale and could not speak** (protocol of official investigation materials as of 13.04.2010, pages 3-6)

1.22.2. A. Zeynalyan’s questions (Accused M. Hayrapetyan) – **Who had brought ammonia spirit?**

Answer by the witness – **Davtyan Garik had brought**, and everyone was helping the way they could.

Next Question – Was his tongue being swallowed?

Answer by the accused – I cannot tell.

Next Question – Can you tell, **what sounds he was producing?**

Answer by the accused – **He was wheezing** (Protocol of the court session as of 18.08.2010, paragraph 2, page 23, from the bottom).

1.22.3. Accused G. Davtyan (explanation) – “...thereafter V. Khalafyan **after stabbing himself, dropped the knife down and kneeled fainted. I shouted out and laid him down with his back on the floor to administer help** (materials of official investigation, protocol as of 13.04.2010)

1.22.4. Accused Garik Ghazaryan (explanation) – “... Once again I entered K. Mirumyan’s office, where a number of servicemen have got together as a result of our shouting. **Seeing that V.**

**Khalaphyan is in unconscious state, we administered first aid before the emergency service would arrive.** (Protocol of official investigation materials as of 04.05.2010).

1.22.5. A. Zeynalyan's question (to witness Samvel Tonoyan) – In what form was the shouting?

Answer by the witness – Well, they shouted, I rushed and opened the door, saw **Vahan Khalaphyan on the floor with abdomen open and they shouted ammonia spirit – ammonia spirit**, with Hamlet we went **on car**, brand 06, we **went to pharmacy to buy ammonia spirit and coming back to the police unit I saw that he had been already taken to hospital.** (Protocol of court session as of 21. 07.2010, middle of page 11)

1.22.6. A. Zeynalyan's question (to witness Norik Heboyan) – you mentioned that after hearing the noise, you have approached to Mirumyan's offices; tell me, please, what did you see?

Answer by the witness – I saw **Khalaphyan on the floor and operative authorized officers administering first aid.**

The next question – In what position he was fallen?

Answer by the witness – On his back.

The next question – In what direction was his head?

Answer by the witness – Head directed to the door side.

The next question – What else did you see?

Answer by the witness – **Mores Hayrapetyan was administering first aid.**

The next question – Can you tell me, what he was doing?

Answer by the witness – **As if he was swallowing his tongue.**

.....

Answer by the witness – **The breathing couldn't be restored.**

The next question – **In what way the breathing wouldn't be restored?**

Answer by the witness – Hayrapetyan Mores was helping and **opening his mouth** (Protocol of Court session as of 18.08.2010, page 4, from the top)

1.22.7. The accused Ashot Harutyunyan (testimony) – "...On Hamlet's car I took them to the police unit just because of being in rush and there **I saw that Mores Hayrapetyan with a spoon in his hand was opening Vahan's mouth; before then he was squeezing the mouth; I said what is up? They said that as if his tongue is being swollen; I don't remember who said that it is not a big deal, open his mouth by some thing, so that you could bring him back, and then I remember that someone was taking his pulse. Mores took the spoon and was trying uninterruptedly to open his mouth, and at that moment Vahan seemed to come back for a moment, I thought its ok, and Vahan said, it hurts, it hurts. And at that time the physician was injecting, one was spraying water, another one was doing something else, massaging his legs, in a word, it was a flurry...**(Protocol of court session as of 20.08.2010, paragraph 2, page 18).

1.22.8. Witness Garik Hazeyan (testimony) – "... I approached Vahan and tried to administer first aid. When giving first aid and **administering artificial breathing I felt that V. Khalaphyan's mouth was closed and I could not administer artificial breathing.** Then, I don't remember who from our staff I asked to **give something so that I could open Vahan's mouth and to at least pull his tongue from out of his teeth. First time I administered artificial breathing, but no use; for the second time I hold his nose and administered mouth-to-mouth artificial breathing; then V. Khalaphyan regained his consciousness, wide opened his eyes and looked at me...**

1.22.9. Prosecutor K. Piloyan's question (to witness Garik Hazeyan) – You said that **you couldn't open his mouth by your hands and applied to colleagues, so that they would give you something to open his mouth; tell me, please, did they give you something?**

Answer by the witness – Yes, then, as far as I remember, **they gave a spoon and from between the teeth I opened his mouth**, after which, **I tossed the spoon**. (Protocol of court session as of 05.10.2010, middle of page 3).

1.22.10. Question by the accused A. Harutyunyan (to witness Garik Hazeyan) – You said that the **mouth was closed**; did you try to open it with hand?

Answer by the witness – I tried with hand, but couldn't.

...

Next question – **Only his teeth or lips as well were closed?**

Answer by the witness – **His teeth were squeezed**. (Protocol of court session as of 05.10.2010, paragraph 19, page 9, from the bottom).

1.23. After receiving injury, Khalaphyan had involuntary defecation and urination and vomiting.

**The fact of occurrence of defecation is proven by Conclusion No. 166 of the RA MoJ Republican Forensic Medical Scientific-Practical Center:**

1.23.1. “6. Availability of stool was proven **in the stool-shaped traces on the upper backside half of pants; near the under pits of shirt (a bit further in the backside) and the trousers** of deceased V. L. Khalaphyan being presented for expert examination. The stool category was not identified, perhaps as a result of onset of erythrocyte hemolysis in erythrocytic suspensions thereby.” (Conclusion No. 166; page 10)

The occurrence of involuntary urination has been proved by the combination of the following evidence:

1.23.2. “**Urinary bladder** is pear-shaped, **empty**; mucous membrane is white-grey” (Case, volume II, reverse side of sheet 3 (147 pages) of the conclusion of forensic medical expert examination; middle part of “Internal examination of corpse” subsection).

1.23.3. Question by A. Zeynalyan (to expert G. Harutyunyan) - ...**Does this evidence that no urine has been identified in the urinary bladder?**

Answer by expert – **Yes.** (Protocol of Court session as of 13.10.2010, paragraph 4, page 4, from the bottom)

1.23.4. Question by A. Zeynalyan (to expert G. Harutyunyan) - ...**At least 100 ml. wouldn't be filled in course of 2-3 hours?**

Answer by the expert – It is possible; I don't exclude, we have residual urine in urinary bladder; the reason we are writing that it is empty is that it was not applicable for conducting a test.

Next question – **Could it be emptied as a result of involuntary urinating?**

Answer by the expert – **It is possible; we frequently have such cases.** (Protocol of the court session as of 13.10.2010, paragraph 4, page 5, from the top).

**The fact of vomiting is being approved by the combination of the following evidence:**

1.23.5. **“Stomach** entry and exit are free, **empty**, mucous is pale grey. (reverse side of 3<sup>rd</sup> sheet of the conclusion, line 16 from the top, subsection “internal examination of corpse”).

1.23.6. From the testimony of witness Vardan Khalaphyan - **“It would have been around 4 o'clock; I asked if they would allow to bring food for my brother; they answered – yes; I went and brought food for my brother and went to him. I transferred in person the sandwiches to Vahan, who shared one of the sandwiches in my presence and offered Garik Davtyan to eat; but he didn't want** (Protocol of court session as of 15.07.2010, paragraph 5, page 6, from the top).

1.23.7. Question by the representative of assignee of the injured - G. Margaryan (to Vardan Khalaphyan) – You said that you have seen your brother for two times; tell me, please, **for how many minutes have you seen him when giving the food?**

Witness's answer – for a few minutes.

Next question – What did he eat?

Witness's answer – The sandwiches (Protocol of court session as of 15.07.2010, middle of page 7).

1.23.8. The accused M. Hayrapetyan (testimony) – “...I have come and **seen that there is food on the table**, Vahan offered me to eat some food, I declined, **and said him to eat himself**”. (Protocol of Court Session as of 18.08.2010, paragraph 1, page 15, from the bottom).

1.23.9. A. Zeynalyan's question (to the accused M. Hayrapetyan) – **Had he drunk water?**

Answer by the accused – I had given water and he had eaten the food, he offered me as well to have some food, I declined.

Next question. – In what bottle had you given?

Answer by the accused - Coca-cola bottle (Protocol of court session as of 18.08.2010, paragraph 15, page 22, from the bottom)

1.23.10. A. Zeynalyan's question (to accused M. Hayrapetyan) – **Did you help yourself when Vahan treated?**

Answer by the accused – No.

Next question – Did Vahan eat the whole food?

Answer by the accused – No, half of the sandwich.

Next question – How many sandwiches were there?

Answer by the accused –As far as I remember – two. (Protocol of court session as of 18.08.2010, paragraph 8, page 24, from the bottom)

1.23.11. The accused Garik Davtyan (testimony) – “...I unintentionally entered the office on the opposite side – Mirumyan's office. I entered; Mores was sitting on the right side, and Khalaphyan –

on the left. **There was qabab on the table; I said – why aren't you eating; he said – I have already eaten;** I told him – take it from the table; and Khalaphyan took it and put on the safe (Protocol of court session as of 18.08.2010, paragraph 3, page 27, from the top).

1.23.12. Question by the lawyer S. Safaryan (to the accused Gagik Ghazaryan) – **Had Vahan Khalaphyan had food** before the arrival of A. Harutyunyan?

Answer by the accused – **Yes, he had;** well, I don't know when A. Harutyunyan had come (Protocol of court session as of 20.08.2010, paragraph 5, page 10, from the top).

1.23.13. Question by the lawyer S. Safaryan (to the accused Gagik Ghazaryan) – **Did you give two sandwiches to Khalaphyan?**

Answer by the accused – **Yes.** (Protocol of court session as of 20.08.2010, Paragraph 4, page 10, from the bottom)

1.23.14. Answer by the expert (to A. Zeynalyan's question) – **If there were pieces of qabab, meat, those would have been detected in the stomach.** Moreover, when we state that it is empty, then the stomach cannot be generally completely empty.

Question by the presiding judge to Vardan Khalaphyan – Tell me, please, at what time precisely have you taken the food? (the presiding judge addressed his question to Vardan Khalaphyan, the victim Vahan Khalaphyan's brother, sitting in the court room).

Vardan Khalaphyan's answer – At around 16:10, and the incident had happened in between 16:50-17:00.

Answer by the expert – **In any case, I haven't detected food residue in the stomach. In the entire course, the victim's relatives had been with me and seen how thoroughly I had examined, and I am sure that nothing had been omitted.**

Next question – Is it possible that he had vomited it out?

Answer by the expert – In the course of expert examination, no vomited masses have been detected around the mouth, on the face.

Next question – **If they had washed it out, would you have detected it?**

Answer by the expert – It is possible that I wouldn't have detected.

Presiding judge – **Dear expert, eventually we didn't get the answer to the question, whether within those 40-60 minutes it would have been possible for the food to pass through to duodenum and rectum.**

Answer by the expert – In view of the literature, being a mass of meat and being entirely removed from the stomach - I don't think so, at least a tiny mass would have been there.

1.24. Khalaphyan's face had been washed after losing consciousness.

**The fact has been proven by the following evidence available in the case and examined in the course of case proceeding:**

1. Question by A. Zeynalyan (to witness Norik Heboyan) – **Were they spraying water on his face?**

Answer by witness – **Yes.**

Next question – **Have they washed through water and have you seen that?**

Answer by witness – **Yes** (Protocol of court session as of 18.08.2010, paragraph 10, page 5, from the top)

2. A. Zeynalyan's question (Accused M. Hayrapetyan) – **Have you washed Vahan's face?**

Answer by the accused – No.

Next Question - **Who then?**

Answer by the accused – **Garik Hazeyan**. I helped Garik to pull out the sleeve of the clothe (Protocol of court session as of 18.08.2010, middle part of page 24)

1.25. In Kamo Mirumyan’s office, Khalaphyan began to experience clinical death; reanimation measures were taken with regard to him, massage of heart and artificial breathing were administered.

**The fact is proven by the following evidence available in the case and examined in the course of the case proceeding:**

1.25.1. “Note by the Director of “Charentsavan Medical Center) (Case, volume II, page 81).

1.25.2 Question by lawyer G. Antonyan (to the accused Gagik Ghazaryan) – **When administering aid, who was taking actions and what actions had been taken? What was concretely doing Mores?**

Answer by the accused – **Mores had put cotton-wool on the wound.**

Next question – **To stop bleeding?**

Answer by the accused – **There was no bleeding.**

Next question – Had you administered mouth-to-mouth respiration?

Answer by the accused – **I was administering heart massage, he opened his eyes, talked** (Protocol of court session as of 20.08.2010, paragraph 18, page 2, from the bottom)

1.25.3. Question by A. Zeynalyan (to the accused Gagik Ghazaryan) – Who was taking actions and what actions had been taken? And particularly who **was administering mouth-to-mouth respiration?**

The answer by the accused: - **I remember that they were administering mouth-to-mouth respiration, but who was doing, I don't know** (Protocol of court session as of 20.08.2010, paragraph 11, page 7, from the bottom)

1.25.4. A. Zeynalyan's question (to the accused Gagik Ghazaryan) – **Who was giving heart massage?**

Answer by the accused – **Me.**

Next question – **Have you an experience of giving heart massage?**

Answer by the accused – **I have been taught in the police that when there is cardiac arrest, one should give heart massage.**

Next question – **Did you check his pulse? Did he have pulse?**

Answer by the accused- **They said that he had, when Vahan became conscious, he was normal.** He was taken to the hospital, and for approximately 20 minutes, for half an hour he had been in the aid point, rather than in the operating room. (Protocol of the court session as of 20.08.2010, paragraph 4, page 7, from the top)

1.25.5. Answer by witness Kaprelyants (to the question by the lawyer S. Safaryan) - ...**We went to the police unit, entered the room, on the floor of the office we saw the victim lying on the floor in unconscious condition. He was almost in breathless condition, no pulse.** Then I understood that it is necessary to immediately take the patient to hospital. I instructed the nurse to administer two injections. At that time the ambulance was already there. We hastily transferred the victim to the machine and in the car **during the transportation I was administering him the necessary medical aid` respiration, indirect heart massage** (Protocol of the court session as of 01.10.2010, paragraph 11, page 2 from the bottom).

1.25.6. Answer by the accused (to the question of the accused A. Harutyunyan) – **When I saw that the patient is almost dead, his heart is not practically working, there is**

**no respiration, the patient is unmoved, at that moment we wanted to take him hastily to hospital.** (Protocol of the court session as of 01.10.2010, paragraph 16, page 4, from the top).

- 1.25.7. Question by A. Zeynalyan (to witness Valeri Kabilyants) – **what did you record? Could you feel the pulse? Was there fibrillation?**

Answer by the witness – I would rather say that there was no pulse; there were very rare pulse beating in carotid artery.

Next question – **was there a tracheal tube in your bag?**

Answer by the witness – No.

Next question – **Did you try to give heart massage?**

Answer by the witness – **Yes for 2-3 times I pressed the heart** (Protocol of the court session as of 01.10.2010, paragraph 16, page 5 from the top).

- 1.25.8. Answer by witness Valeri Kabirlyants (to the question of the accused A. Harutyunyan) – I have **seen two injuries in abdominal area. The victim was hardly breathing, his heart was hardly beating; he was lying without any movements** (Protocol of the court session as of 01.10.2010, paragraph 7, page 3, from the bottom).

- 1.25.9. Question by A. Zeynalyan (to witness Valeri Kabirlyants) – You said that you have **tried to give heart massage for 2-3 times; we understood from what you said that you had also given heart massage in the ambulance and you had administered mouth-to-mouth respiration, hadn't you?**

Answer by the witness – Yes.

Next question – **How many policemen there were in the ambulance?**

Answer by the witness – I can hardly tell you, but **for sure two of them were there.**

Next question – **having 2-3 people in the police car, could you administer both heart massage and mouth-to-mouth respiration?**

Answer by the witness – **Yes, for two times I pressed on his heart, gave heart massage, and administered ventilation for one time.**

Next question – **Is your stretcher made of texture?**

Answer by the witness – **Yes.**

Next question – **And you gave massage on a stretcher made of texture?**

Answer by the witness – **That is why I did it for two-three times and the only purpose was to bring him to hospital as soon as possible** (Protocol of the court session as of 01.10.2010, paragraph 15, page 5, from the bottom).

1.26. The site of occurrence has not been maintained and the picture has been distorted.

**The circumstance has been proven by the combination of the following evidence:**

1.26.1 The knife was detected not on the floor, where as per the testimonies it had fallen down, but from the shelf (case, volume 1, pages 5-8, Protocol “Examination of the site of occurrence”). According to Protocol “Examination of the site of occurrence”, the knife had been taken from the floor and put in the shelf by Gagik Ghazaryan “from the end parts of the handle”.

According to conclusion No. 11411002 of the forensic traceological expert examination of an expert the RA Expert Examination Center SNTD with regard to criminal case No. 66101210 and explanations provided by expert J. Sahakyan, besides the blade of the knife, empreinte latente is missing on the handle of the knife, even not applicable for conducting of a cross-examination. Fingerprints were found on the knife blade adjoining the handle, which would embed traces of different fragments of tiny papillary projections, though those had not been applicable for conducting cross examination.

1.26.2. From the testimony by witness Garik Hazeyan ... "...Then I began to massage Vahan's hands and feet. **I took off Vahan's shoes and asked our colleagues to open the window, so that there is air to breathe.** I loosened a bit his clothes and...(Protocol of the court session as of 10.10.2010, paragraph 8, page 2, from the bottom).

As per the examination of the site of occurrence, including the photos, it is recorded that the windows of K. Mirumyan's office are closed, the curtains – drawn.

1.26.3. When administering aid, Khalaphyan's face had been washed and in Mirumyan's room they had used water in PET bottles for "Bjni" and "Coca-Cola" and one 1.5 liter PET bottle, (photo pictures of the site of occurrence, particularly pictures on pages 8 and 12 of the volume II of the case one can see 2 empty 1 liter PET bottles of ("Bjni" and Coca-Cola) and one 1.5 liter PET bottle).

However, on the floor of the office there is no puddle of water specific to that quantity of water, as is seen in the photos.

1.27. Through the pretrial stage, the pretrial investigation authority had examined only the version of Khalaphyan's suicide; no experiment was conducted to identify, whether it was possible, in presence of persons situated in the distance of 260,0 cm, 190 cm, 220 cm:

1.27.1 to open the door of the shelf and to take the kitchen knife from the shelf with right hand;

1.27.2 to stand up

1.27.3 to lift with left hand the jacket, sweater and the shirt that was put in the trousers and pants;

1.27.4. then to inflict two scratches with the sharp blade of knife from left to right across the entire length of abdomen;

1.27.5. after which to stab the area 1.0 cm below the navel, to the right of the middle line (the knife was thrust through the tissues by 3,0 cm).

1.27.6 to pull the knife out from tissues;

1.27.7. to stab for the second time – 1.5 cm above navel in the right area of the middle line (the knife thrust through Khalaphyan’s tissues by 10-12cm);

1.27.8 to pull the knife out of abdomen,

and whether it was possible that those present would reach the performer of these alleged actions only when he was pulling the knife out of the tissues with depth of 12cm, tossing it from his hands and losing consciousness.

1.28. In the course of the case hearing, a motion was filed with the court on 18.09.2010 for conduct of an experiment to identify whether **it was possible or not that the above presented incidents could have taken place under the described circumstances, by the described sequence and within the described timeframes.**

**It was claimed by the motion:**

1.28.1 to conduct an investigation experiment to check and test whether the circumstance of the cases described in the text of this motion had occurred under the described circumstances, by the described sequence and within the described timeframes;

1.28.2 For the purpose of providing maximum approximation of the investigation experiment to the reality, conduct it in the site where actions, events and cases described in the text of the motion have taken place, i.e. in the office of the Head of Prevention Division of the RA Police Charentsavan Unit (there will not be need to find a room, furnish it, etc);

1.28.3 With the view of having objective results of the investigation experiment, involve volunteers, students and court officers not having any interest in the outcome of the experiment;

1.28.4. Conduct video-recording of the process of the investigation experiment.

- 1.29. By his protocol decision the presiding judge had dismissed the motion on conduct of an investigation experiment, automatically referring Article 242 of the RA “Criminal Procedure Code” that provides for such procedural action.
- 1.30. After the testimony given by Kamo Mirumyan in the Court, on 27.08.2010 in the course of the court hearing the accused Ashot Harutyunyan gave a testimony on the fact that kitchen items (spoons, etc) had been in a jar in the shelf, rather than just laid on the drawer.
- 1.31. In the course of the court hearing, on 18.09.2010, a motion was filed with the court on summoning witnesses S. Tonoyan and K. Mirumyan before court for one more time and on questioning them.
- 1.32. The presiding judge had dismissed the motion with justification that it was not deriving from Article 353 of the RA Criminal Procedure Code (end of the court hearing).
- 1.33. In the court debate stage of the proceeding, a claim was filed with the court so that:

**The Court would recognize the fact of violation of Vahan Khalaphyan’s rights.** In the particular case, it is referred to the right to freedom of expression and personal immunity, the right to a fair hearing, the right to life, the right to freedom against violence and inhuman attitude, which are prescribed, respectively, in Articles 16, 18, 19, 20, 15 and 17 of the RA Constitution and Articles 5, 6, 3 and 2 of the Convention.

- 1.34. In its verdict, the court failed to address the claim of the injured on recognizing the fact of violation of Khalaphyan’s rights – it had neither satisfied, nor dismissed the claim.
- 1.35. In the stage of court debates of the court proceeding, circumstances, arguments, as well as consequences deriving thereof that exclude self-injury and suicide by Khalaphyan, had been presented to the court.

1.35.1. According to the evidence by the eye-witnessed accused, they had seen and heard opening of the shelf door; they had seen the moment when the hand was thrust into the shelf, they had seen the moment when the knife was taken out from the shelf; they had seen the knife in Khalaphyan’s hand; they had managed to notice the way he was holding the knife and the position of the knife; they had seen how he stood up. Once they saw how he raised the clothes with his left hand, Mores

Hayrapetyan “had rushed to him” and G. Davtyan “jumped up” from his seat not to allow him to injure himself. However, they had reached Khalaphyan at the time when he had already pulled out the knife of his abdomen and all these had lasted for 1-2 seconds. According to the accused, they had spared no effort not to allow Khalaphyan to injure himself. The accused had been in a distance of 260,00 cm and 190.000 cm from Khalaphyan having an obvious intention to injure himself (case, volume 1, protocol of examination, pages 64-83, page 67), Garik Ghazaryan had been in the room in the distance of around 240,00-260,00 cm. who also had been seeking to reach Vahan and to prevent the injury.

The question raised by me is as follows – whether Khalaphyan would have managed to completely conduct the self-injuring action within 1-2 seconds, which is attributed to him. To answer to this question, I find it appropriate to reveal, in the first place, the specificities of injuries and infliction of those injuries.

The first scratch stretches across the anterior abdominal wall for 23.0 cm; it is almost horizontal. The second scratch begins from left axillary line and goes down under obtuse angle of 15-20° stretching for 4 cm; then the scratch is interrupted by 4 cm and under an acute angle of 15-20° (in the form of a wedge of 130-140°) goes up intensively by the first 9.0 cm and generally stretching across the anterior abdominal wall for 34 cm. Thereafter the angle of knife held under angle of 15-20° is changed “in accordance with “11-5” of clock face), i.e. the first stab was inflicted by 80° angle towards horizontal plane (numbered as wound No. 2). After the knife was pulled out of the abdomen, once again the angle of the knife was changed “in accordance with “2-8” of clock face”, i.e. by 45° angle towards horizontal plane, but in the opposite direction; the angle is changed towards the first wound by approximately 125° (numbered as wound No. 1).

To inflict the injuries that are depicted in photos and the injury with the identified peculiarities, a much longer time period would have been required than it is described for a person with average capacities as was Khalaphyan. Hence, the efforts of the accused would have been a success and Vahan would have not been able to inflict injuries upon him.

Conclusion – Khalafyan has not inflicted injuries upon himself.

In view of the specificities available, none of the injuries available on anterior abdominal wall of Khalaphyan as is disclosed in the previous argument reiterates the other one. Let's observe the intensity of the scratches in colored pictures 1 and 2; not only those are obviously different from each other, but **various sections of the same scratch are the consequence of impacts of different strength**; those are not inflicted by a person pursuing a goal of realizing its intention and avoiding impediments. If being inflicted by a person pursuing a goal of realizing its intention and avoiding impediments, the scratches and wounds would have been parallel, without alteration of angles and the scratches would have been uninterrupted and homogenous and of the same intensity.

Conclusion – Khalafyan has not inflicted injuries upon himself.

1.35.3. According to the accused persons, before injuring himself with knife, Khalaphyan had raised the clothes by his left hand. Khalaphyan had worn the following clothes: trousers, shirt with shoulder ribbons, pants, sweater and jacket. (Case Volume 1, page 293, conclusion of the expert, Protocol of Court Session as of 18.08.2010, top of paragraph 4, page 16; the accused M. Hayrapetyan (testimony).

As per the conclusion of the forensic traceological expertise, besides the tear of the left arm pit of Khalaphyan's sweater, there was no other damage on his clothes. Thus, the knife had not pricked his clothes before reaching Khalaphyan's abdomen. One could infer from the testimonies that to be able to bare Khalaphyan's abdomen up to upper stomach area, he should have by one hand, the left one, pull up the jacket, sweater and the shirt inserted in his pants and trousers, and note that he should have done this without unfastening the belt of pants. He should have done this with one hand, since the other hand was busy by the knife held by him. Handling these actions with one hand is very complicated and unfeasible, and for these actions to be handled, more time would have been required. It is unlikely that Khalaphyan would have done that, and the accused have tried to impede him – one "by rushing" and the other – "by jumping up from his seat".

As a result of logical actions attributed to Khalaphyan and described above, **the time to be spent for baring the abdomen should be added to the time spent for inflicting the injuries, since the**

**attempt of the accused to impede these actions, as per the testimonies, had started from the moment, when they had seen the knife in his hand.**

Conclusion – Khalaphyan had not bared his abdomen and had not inflicted injuries upon him.

1.35.4 As per the conclusion of the forensic traceological expertise, besides the tear of left arm pit of Khalaphyan’s sweater, there was no other damage on his clothes. Thus, the knife had not pricked his clothes before reaching Khalaphyan’s abdomen. Vahan’s wound conditionally numbered II is below the waist, on the top of thigh bone on the anterior wall in the area of right supra ilica fossa, 1.0 cm below the level of navel. The belt of the trousers sits on the waist, on the top of the thigh bone (see the picture). In order for Khalaphyan to be able to inflict the wound number II on him, he would have pushed down the trousers, and before that unfasten the belt; such a circumstance is not circulated through the case; hence, this version is excluded. The second version is that he should have thrust the knife into his abdomen by pricking the belt and then the trousers or only trousers and pants. The second version is also excluded, since there is no damage on any of the clothes of Khalaphyan, including those with the projection of the attributed pricked wounds. **The only option of getting the wound numbered II is that the wound had been inflicted on Khalaphyan after unfastening the belt of the trousers, unbuttoning and unzipping it.**

Conclusion – Khalaphyan had not bared his abdomen and had not inflicted injuries upon him.

1.35.5. In many testimonies it is described that the knife had been in Khalaphyan’s hand and had felt down from his hand. According to other testimonies, “it has not been in hands of any other person”. It had fallen down on the floor from Khalaphyan’s hand.

However, the knife had been detected not on the floor, where it had fallen down, but in the shelf (case, volume I, pages 5-8, Protocol “Examination of the site of occurrence”). According to Protocol “Examination of the site of occurrence”, the knife had been taken from floor and put in the shelf by Gagik Ghazaryan “by holding from the end parts of the handle”.

According to conclusion No. 11411002 of forensic traceological expert examination of an expert of the RA Expert Examination Center SNT0 with regard to criminal case No. 661012010 and

explanations provided by expert J. Sahakyan, besides **the blade of the knife, no empreinte latente had been available on the handle of the knife, even those that would have been non-applicable for conducting cross-examination.** Fingerprints had been detected on the sector of the knife blade adjoining the handle; those fingerprints have contained traces of separate sectors of papillary patterns, though not applicable of cross examination.

**If the knife had ever been in Khalaphyan's hands, fingerprints should had remained on the knife handle, or traces of sectors of papillary patterns should had been on the knife handle, though not applicable of cross examination,** as is on the knife blade adjoining the handle. The person picking up the knife from the floor and putting it in the drawer had to leave at least fingerprints on the "end part" of the knife handle. **The only explanation of disappearance of fingerprints from the knife handle is cleaning those out.** They could not evaporate, since in case of evaporation the fingerprints detected in the sector of the knife blade adjoining the handle also should have been evaporated. Hence, **the knife had been in hands of a third person (persons) who had cleaned the fingerprints out to conceal his (their) identity.** Hence, if the knife would have been in Khalaphyan's hand, there would not have been any need to clean the fingerprints; moreover that would have been a vivid evidence that the knife had been in his hand. It is evident that someone had aimed to conceal the fact of the knife being in his hand.

Conclusion: the knife had not been in Khalaphyan's hand and he had not inflicted injuries upon himf by the knife in question.

1.35.6 **For the armpits to be soaked with stool as a result of involuntary defecation of Khalaphyan,** that has been recorded by the forensic traceologist, **he should have been at least in horizontal position** (or upside down) **and there should have been a trousers/pant/shirt tube, so that the liquid – the wash would have flown from its one end to another.** However, according to the testimonies, Khalaphyan in standing position had raised the clothes, bared the anterior wall of abdomen, so that he would inflict bodily injuries upon him, thus distorting the integrity of pant/trousers/shirt tube. **If Khalaphyan, had pulled out the shirt from under his pants in standing position** (the 1<sup>st</sup> scratch inflicted by the edge of knife in the upper stomach (epigastria), **then it would had been impossible for the armpits of his shirts to be soaked with stool.** These

are two opposing each other ideas that cannot be true at the same time. However, it is a fact that after involuntary defecation of Khalaphyan, the armpits of the shirt on him had been soaked with own stool. Hence, the version, according to which Khalaphyan had injured himself, is not true. **His abdomen had been bared later, when he had been laid on the floor**, and at this moment it is not essential what had been the reason that he was not been able to resist anything any more.

### **Conclusion:**

The occurrence is an imitation of self-injury or suicide.

1.35.7. In testimonies given in the case, including those given in the course of the case hearing, there are undeniable evidences that Khalaphyan had been given heart massage and administered artificial breathing.

It is beyond any doubt that Khalaphyan's heart had been subjected to an indirect massage and artificial respiration had been administered.

In professional medical literature and professional manuals or non professional popular literature and those related to emergency situations, one could find the answer to the question related to the instruction on giving indirect heart massage.

**The only instruction for administering indirect heart massage and artificial breathing is cardiac arrest and respiratory standstill; no other instruction is available.** These skills are being taught also in police educational institutions.

Squeezing the heart between vertebra and breast-bone with frequency by which the heart of a life human beats and by blowing air in lungs with frequency, by which a life human breathes, the one administering this means tries to restore the functioning of the body before medical brigade would arrive.

**And the moment of cardiac arrest and respiratory standstill is the beginning of the clinical death stage;** this classification of the stages of death is too conceivable: one can find it even in official websites of higher educational institutions and ministries.

Thus, it is a fact that in Mirumyan's office Khalaphyan began to suffer the phase of clinical death; note that this had happened before the arrival of first aid.

According to the testimonies given by the accused and the police-witnesses, the stab by knife on Khalaphyan had been immediately followed by artificial breathing and heart massage, i.e. clinical death (he had injured himself at around 17:10-17:15; at 17:15 emergency call had been recorded and in about 3 minutes the doctor had arrived).

I agree with the conclusion of the forensic medical doctor-expert, that the death could not be immediately recorded as a result of the cut of Khalaphyan's mesenterium vessels of intestines.

These vessels that have been cut – mesenterial jejunal artery and the venue, are not thicker than a match chop and, once again, I agree with the part of the conclusion made by the forensic doctor-expert, according to which **abundance of blood is attributable to the injured vessels.** Mammals, including human beings have developed, in the course of evolution, an important mechanism of protection of an individual from dying of bleeding. Equivalent to the reduction of the circulated blood volume as a result of bleeding, the blood pressure drops; as a result, the outflow of flood through the injury stops and this promotes the functioning of blood coagulation. And when an individual loses 20-40% of the circulated blood volume, then the organism withdraws the skin, muscles and intestine from blood circulation and the blood pumps through a small circle to heart, brain and lungs. In the course of this, heart beats become more frequent to up to 140 beats per minute, the arterial pressure drops to 60 mm/cc, and breathing becomes more frequent. This process advances gradually and lasts for hours.

However, the doctor of emergency aid had recorded, in a few minutes, lack of pressure, heart beat and breathing.

## Conclusion

The reason of Khalaphyan's death is not "wound I" of the anterior abdominal wall of Khalaphyan.

1.35.8. Immediately after receiving injuries, Khalaphyan had lost his consciousness, his mouth had "closed", so said he had swallowed his tongue and had wheezed; he had suffered involuntary defecation, urinating and vomiting.

These symptoms are of brain origin.

The Conclusion of forensic medical expert examination records:

**"...on the parietal region of head skin there is a intensively expressed reddish haemorrhage in size of 6.0x4.0 of irregular form (Conclusion, page 3, Subsection "Inner examination of corpse)".**

We possess good quality colored photos of the conclusion of forensic medical expert examination, which we could receive with active support of the presiding judge on this case.

Look at the pictures on pages 155 and 156 of Volume II. On the colored photos in addition to the hypodermic haemorrhage of skull parietal region, one can see subcutaneous haemorrhages of the frontal region.

Look at the brain depicted in the bottom photo on page 156 of Volume II; haemorrhages are detected under pia mater on the colored picture.

These bodily injuries are considered as acute bodily injuries, which will cause death if no quality professional aid is administered on a timely basis.

## Conclusion

Assessing and taking into consideration the facts, expert examination conclusions, including the narrative parts and annexes of the conclusions of forensic medical expert examination of the

victim's corpse and all the circumstances of the case in their combination and comparing those with the data provided in accessible scientific sources, I came to the conclusion that Khalaphyan had not committed suicide, he was killed. As a result of being inflicted acute bodily injuries, Vahan Khalaphyan had been in the state unconsciousness. To conceal the committed crime, they had carried out actions aimed at concealing the committed crime, instead of conducting actions directed at administration of emergency medical aid. They had bared the anterior abdominal wall, had inflicted by knife such bodily injuries and had done this in a way to create an illusion of suicide for the pretrial body. Thereafter, to conceal the traces of crime, they had cleaned the fingerprints out on the knife, traces of vomiting matters and had distorted the picture of the site of occurrence. Khalaphyan had died of the bodily injuries inflicted on him.

- 1.36. The court failed to address, in its verdict, the circumstances excluding self-injuring and suicide committed by Khalaphyan, neither it had disproved those.

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In the course of case hearing A. Harutyunyan gave testimony, according to which:

2. Accused Ashot Harutyunyan (testimony) – “from the corridor we heard sounds of heavy footsteps and noise, and I don't remember, I think it was Davtyan Garik, who said – what did you do? I went out and rushed there and saw that Gagik Ghazaryan went out from Mirumyan's office and is shouting out - emergency. **I entered in and saw that Vahan Khalaphyan is lying on the floor, with unclothed abdomen and I saw in that area a pricked part and bleeding.** Then Mores with the knife in his hand, said that he **stabbed him by this**, and then I am asking with confusion - did you call for ambulance; they said that they had called” (Protocol of court session as of 20.08.2010, middle part of page 18).

Subsequently, Harutyunyan repeated in his statements the things he had described in his testimony, according to which he had seen the knife in Mores's hand and the latter had felt how the knife was thrust in Vahan's abdomen. The fact that Khalaphyan had not

committed suicide and that the knife had been in the hand of another person and the fingerprints thereon had been cleaned out, are interconnected with the testimony-evidence given by A. Harutyunyan. I think that the fact, according to which Mores Hayrapetyan had thrust the knife into Khalaphyan's abdomen, is proven. And the scratches on the abdomen have been taken by Mores Hayrapetyan from his practice of providing an illusion of self-injury. Before the incident with Khalaphyan, suspect on another case Khachik Hovsepyan, in presence of Mores Hayrapetyan, on 25.02.2010 had made two parallel scratches on his abdomen with a piece of glass broken out from the office window.

According to the representatives of the victim, on part of Mores Hayrapetyan, the complete set of the articles on murder and specificities, as well as the aggravating basis thereof – the purpose of concealing the crime, is in place (Article 104 (2(11) of the RA Criminal Code).

According to the victim's representatives, Garik Davtyan and Gagik Ghasaryan had also committed an offence. They had been present, at least eye-witnessed the incident; they had done and still are doing everything – giving false testimony that Khalaphyan had inflicted self-injury, and then committed suicide, rather than he had been inflicted a severe bodily harm, and thereafter had carried out an imitation of suicide to conceal the crime. With their false testimony, Garik Davtyan and Gagik Ghazaryan would facilitate the failure of revelation of the truth – at the stage of bringing the crime to final they had provided assistance to the executor to create an illusion of suicide by affording real opportunities for bringing the crime to final. To put it otherwise, they had obscured the offender. According to the victim's representatives, Garik Davtyan and Gagik Ghazaryan must be held liable by the same article that is applicable for M. Hayrapetyan (reference to Article 28 of the RA Criminal Code)

1.37. Criminal procedure legislation of Armenia does not provide for the procedural right for the victims (their lawyers), so that they could bring a charge, according to their convictions, against the accused and defend the charge brought by them. The lack of the

procedural authority for the injured party to bring an a charge against the accused, we think, is a violation of the right of the injured to an effective means of legal protection.

1.38. A petition of appeal on this case was filed by the prosecutors that had defended the charge, the representative of the accused Ashot Harutyunyan and the representative of the injured.

1.39. In their petition for appeal, the prosecutors claim from the Court of Appeal to reach a damning verdict with regard to Garik Davtyan and Gagik Ghazaryan.

1.40. The representatives of Ashot Harutyunyan claim in their petition for appeal from the Court of Appeal to overturn the verdict and send it to the court of first instance for hearing with another panel.

1.41. Khalaphyan's representatives claim in their petition of appeal from the Court of Appeal to define the review procedure, to recognize the fact of violation of Khalaphyan's right to freedom and personal immunity; the fact of violation of the right to a fair hearing, the fact of being free from torture and inhuman treatment, the fact of violation of the right to life; to overturn the verdict KC 0078/01/10 of the court of general instance of the RA Kotayk Marz and make changes in it (to mitigate the punishment of Ashot Harutyunyan, to apply a punishment towards Mores Hayrapetyan in the form of incarceration; to find Garik Davtyan and Gagik Ghazaryan guilty for the execution of crime, by which they had been charged. At the same time they had requested the court to conduct an investigation experiment (the motion that was dismissed in the court of first instance), to summon Kamo Sergey Mirumyan and Samvel Pargev Tonoyan to court and question them again.

## **FREEDOM OF BELIEF AND CONSCIENCE**

The Constitution of the Republic of Armenia prescribes freedom of conscience and belief. However, there are some restrictions in the legislation with regard to religious minorities. The data as of December 31, 2010 suggest that there are 66 religious organizations officially registered in Armenia. According the Law “On the freedom of conscience and religious organizations”, registration is compulsory, if the particular religious organization intends to evolve such an activity that is provided for by law.

The Republic of Armenia recognizes “the exclusive historical mission of the Armenian Apostolic Holy Church as a national church in the spiritual life, development of the national culture and preservation of the national identity of the people of Armenia.” Both the Constitution and the Law on the freedom of conscience and religious organizations define the separation of the church and state; however, the Armenian Church is granted with the official status of national church. The Law on the Republic of Armenia and the Armenian Church of 2007 regulates the exclusive relations of the State and the Armenian Church, and certain privileges are granted to the Armenian Church that are not applicable to other religious groups. The law reserves a right for the Armenian Church to have permanent representations in hospitals, orphanages, boarding schools, military units, whereas according to the Law “On the freedom of conscience and religious organizations”, other organizations shall be granted the right of having a representative in the mentioned organizations only upon such request.

As per the legislation, registration of public organizations, including the religious associations as well, is not mandatory; however, only registered organizations are given the status of a legal entity. Only registered associations can publish papers and magazines of print run exceeding 1000 copies, rent spaces for meetings, broadcast programs on TV or radio. To meet the conditions of the registration, religious organizations must be “free of materialism and be intended for purely spiritual goals”, must have at least 200 adult followers, and be led by the principles of “a historically recognized holy scriptures”. The requirements to registration do not refer to religious organizations of national minorities.

Draft amendments to the Law “On the freedom of conscience and religious organizations” is being prepared. Some points may be subjected to amendments.

A new Article 24 is being drafted, which will create ample opportunities for termination of the activity of religious organizations and depriving them of their legal status.<sup>66</sup>

The new draft has caused a wave of concern among religious communities

*In 2010, while producing this Report, it became known that Nora Sargsyan, advisor to Armenia's Justice Minister Hrair Tovmasyan, has given an interview to Forum 18. "We recognize that the new law has found a negative response, and we will take that into account in the course of making amendments to the law" - Nora Sargsyan told in her interview given to Forum 18 on January 20. "A Justice Ministry working group is now revising the proposed Amendments to bring them into line with the recommendations." Nora Sargsyan communicated that it is planned to present the Law to the Venice Commission for discussion at its next plenary meeting on March 25 - 26<sup>67</sup>.*

On January 12, 2011, during our phone conversation with Vardan Astsatryan, Head of National Minorities and Religion Department, he communicated that as of today no essential violations or extraordinary cases have been recorded.

The Bureau of Democracy, Human Rights and Labor Affairs at the United States Department of State has published its annual Report for 2010 on the situation of religious freedom in Armenia<sup>68</sup>. It states that while the RA Constitution provides for freedom of religion and the right to practice, choose, or change religious belief, the law places some restrictions on the religious freedom of members of minority religious groups. According to the Report, certain privileges are granted to the Armenian Church that are not available to other religious groups.

The law on Education states that in secondary schools, education is secular. However, as of the current data this norm is being violated. Only the history of Armenian Apostolic Church is being taught at schools; children do not get any information about other religions. Children believing in other religions are being subjected to discriminatory treatment by teachers, and teachers compel the children not to have any contact with the children believing in other religions.

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<sup>66</sup> [http://www.forum18.org/Archive.php?article\\_id=1519](http://www.forum18.org/Archive.php?article_id=1519)

<sup>67</sup> [http://www.forum18.org/Archive.php?article\\_id=1530](http://www.forum18.org/Archive.php?article_id=1530)

<sup>68</sup> <http://armenian.armenia.usembassy.gov/news111810.html>

Organization of religious rites by registered religious organizations is regulated within the scope of current law. Legislatively, there is no obstacle in organization of religious rites; however, in practice there are artificially created problems.

*It had been communicated by “Jehova’s witnesses” organization that they cannot rent big spaces for their annual meetings. After reaching a preliminary agreement and transferring the money, they turn off power in that premises and force them out.*

It should be noted that most of the infringements connected with the RA Law “On the freedom of conscience and religious organizations” are those conducted with regard to “Yehova’s witnesses” organization. According to the current law, after the registration, all religious organizations shall enjoy equal rights. However, as we learnt from the conversation with the lawyer of “Jehova’s witnesses” religious organization Lyeva Margaryan, these organizations are not actually granted equal rights. So far the organization has filed 30 lawsuits with the RA Administrative Court against the State Revenue Committee in relation to customs clearance of the spiritual literature for arbitrarily excessive high prices. The lawsuits of the organization with regard to 13 cases have been dismissed, and 17 lawsuits are pending. Petitions for appeal filed with the RA Court of Cassation with regard to 12 lawsuits have also been of no effect. He also told us about 7 incidents of violence.

*On November 16, 2010, In Khachapar Village of Ararat, two Jehova’s witnesses were talking with the village people about Bible. The Head of the village Ohanyan had approached them on his car and getting out of it, had begun to curse and strike blows on Armen Abrahamyan. The Head of village had delivered blows on Armen’s back and intimidated him telling that if he would see once again any Jehova’s witness in the village, he would again beat them and toss their bags in the water channel. Witnesses have communicated about the incident to Ararat Police. In the Police they had been reluctant to accept the application and had yelled at them. They had told them that, if they accept the application, then they should not write about the beating.*

*On November 30, 2010, in Hnaberd Village of Aragatsotn Marz, Jehova’s witness women were talking with people about Bible. Approximately ten young people of the village had approached them and articulated the most violent curses of sexual nature, threatened the women that, should*

*they fail to leave the village, they would be beaten. They even had tried to hit the women. The young people had named them murderers and patricides. These words were said as a result of an incident that had taken place in Sevan Town on November 8, 2010, where Arman Totosyan, after being discharged from psychiatric hospital, had killed his parents. After that incident, some Armenian media began to spread absolutely ungrounded information about Arman Torosyan being as a Jehova's witness. As a result of this, a huge wave of slandering materials on Jehova's witnesses and their belief had been raised both by TV and other media, instigating religious intolerance.*

*For example, in the air of "Tesankyun" (Viewpoint) of the Armenian Public TV Channel as of November 11, 2010, the anchorman Gevorg Altunyan told, that Jehova' witnesses are threat for each country and are dangerous for each individual, family and society; "He had killed his parents, since Jehova had ordered to do so. In any way, the demon concealed in his body had justified that action that very way. Note that, the justification was made effortlessly and very serenely, as if that was how it should have been." There was a very tough criticism in this author's program addressed to sects in general; particularly the expressions "sect pack (gang), "Jehova's followers or other accursed" were used. "Perhaps I am seen as being intolerant, let it be. Let people accuse me for being intolerant. Let they say that I am an extreme" – said Gevorg Altunyan – "The incident in Sevan proves that the times of tolerance is in the past; it is time to come round."*

*To get information on the connection of Arman Torosyan with Jehova's witnesses, an inquiry was made to "Jehova's witnesses" organization and the reply letter came on November 11, 2010. "Jehova's witnesses" organization officially notifies that Arman Khachik Torosyan accused for the murder of his parents has not had any relation with "Jehova's witnesses" organization. To check the information, on November 25, 2010 the observers' team of Helsinki Association visited the place of residence of Arman Torosya in Sevan Town. During the visit, no relation has been found out between Arman Torosyan and Jehova's witnesses.*

*Watching that program, Sona Manusyan, psychologist of "Socioscop" Sociological Research and Consultancy Center, stated that the program in whole and the entire spirit of the program was built on the logic of sociological and psychological influence and was using some of the simple techniques of that logic. For example, the wording that was addressed to the audience would*

*contain expressed negative clichés, exaggerations (amounting to hate speech) and those were freely used by him. The material, the “information” presented by the anchorman was selective; the audience was not provided with sufficient background information on the presented incident and it was immediately communicated to the audience as a phenomenon occurred unequivocally in connection with and for the reason of Jehovaism without presenting the circumstances of the incident, the real relationship of the accused and his family with that belief. Thus, receiving incomplete and distorted information, the audience would build up an illusion that it had received true information on the tragic incident; besides, in parallel, a negative standpoint and feeling of an exaggerated threat would be formed and rooted.*

On December 9, 2010, Jehova’s Witnesses Christian Religious Organization in the Republic of Armenia brought an action before court against the Public TV Channel of Armenia and several representatives of it.

In Yerevan here and there one can see leaflets reading “Be careful of Jehova’s witnesses! Say no to sects!” So far, no one of the authors of these leaflets has been held liable.

The law “On Alternative Military Service” of 2003, was adopted in Armenia on July 1, 2004. According to the mentioned law, the types of alternative military service are as follows:

*Alternative military service* - military service not related with military watch, bearing, keeping and handling weapon for a period of 36 months;

*Alternative employment service* – employment service performed out of the RA Military Forces for a period of 42 months.

The duration of the regular military service is 24 months. Besides, military servicemen are given military service book, stating that they are servicemen; the books are being checked on a weekly basis and a special permission is required for leaving. Article 14 of the Law “On alternative military service” states that a state governance body in the defense field that is authorized by the Government of the Republic of Armenia shall organize the recruitment for the alternative service and control its implementation. According to Article 18, those that are on the alternative service shall be subjected

to the discipline of army. Article 21 identically treats those evading army and those evading the alternative service.

In 2004, Resolutions 1361 (Article 22<sup>69</sup>) and 1405 (Article 11.4<sup>70</sup>) adopted by PACE brings the attention of Armenia authorities to impermissible conditions of the alternative employment service with duration of 42 months. On July 9, 2004 Government Decree No. 940 “On locations for servicing the alternative service and the types of uniform for alternative servicemen” was adopted. According to it, 49 and 300 persons, respectively, can be recruited in alternative civil service (to the Ministry of Health, Ministry of Labor and Social issues, elderly houses, mental hospitals, jails), and Alternative Military Service in the military units of Syunik, Gegharkunik and Tavush (all these marzes are in the border area).

So far the Armenian authorities fail to consider that the Law “On Alternative Service” is not in line with the international standards. The Council of Europe criticizes the Law on a regular basis, mentioning that it is imperfect. Currently, 72 Jehova’s Witnesses are in jails under the control of servicemen for evading the alternative service. Almost all these Jehova’s witnesses are incarcerated for a period of two-three years for evading military service on religious grounds. They have been sentenced under Article 327 (1) of the RA Criminal Code, providing for a punishment for evading the compulsory military service or the alternative service.

In view of the change made in the Criminal Code in January 2006, evasion of alternative civilian service was qualified as a criminally punishable action.

As a sign of progress, since 2008 they have started to give military service books to all those that have been imprisoned for evasion of the military service and the alternative service, as per the order of the Minister of Defense S. Ohanyan. Before then, the detained persons could not register in their places of residence, and without that registration they could not get an identity card or a passport. Consequently, they could not be hired by the Government, could not leave the country and even get married.

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<sup>69</sup> <http://assembly.coe.int/Main.asp?link=http://assembly.coe.int/documents/adoptedtext/ta04/eres1361.htm>

<sup>70</sup> Implementation of Resolutions 1361 (2004) and 1374 (2004) on the honoring of obligations and commitments by Armenia <http://assembly.coe.int/Main.asp?link=http://assembly.coe.int/asp/search/pasearch.asp>

## Conscientious Objectors

### REPUBLIC OF ARMENIA

#### February 2011

Currently, there are **72** Jehovah's Witnesses who have been charged under the Criminal Code for their conscientious refusal of military service on religious grounds. Of these, **72** have been tried, convicted, and imprisoned; **no-one** is being held in pretrial detention; **no-one** received a suspended sentence. The names, dates of imprisonment, grounds (under criminal code<sup>71</sup>), duration of sentence and present locations of detention are as follows:

**Seventy-two** Jehovah's Witnesses have been tried, convicted, and imprisoned:

<i>Ashot Simonyan</i>	<i>March 12, 2008</i>	<i>§ 327 I, 36 months</i>	<i>Artik Penal Institution</i>
<i>Mkhitar Sargsyan</i>	<i>July 17, 2008</i>	<i>§ 327 I, 36 months</i>	<i>Erebuni Penal Institution</i>
<i>Shahen Asatryan</i>	<i>July 17, 2008</i>	<i>§ 327 I, 36 months</i>	<i>Artik Penal Institution</i>
<i>Mher Barseghyan</i>	<i>August 25, 2008</i>	<i>§ 327 I, 36 months</i>	<i>Erebuni Penal Institution</i>
<i>Vardan Kasemyan</i>	<i>September 2, 2008</i>	<i>§ 327 I, 36 months</i>	<i>Artik Penal Institution</i>
<i>David Mnatsakanyan</i>	<i>February 2, 2009</i>	<i>§ 327 I, 30 months</i>	<i>Erebuni Penal Institution</i>
<i>Vigen Sargsyan</i>	<i>February 2, 2009</i>	<i>§ 327 I, 30 months</i>	<i>Erebuni Penal Institution</i>
<i>Levon Bashberukyan</i>	<i>March 18, 2009</i>	<i>§ 327 I, 26 months</i>	<i>Erebuni Penal Institution</i>
<i>Nver Nazaryan</i>	<i>March 24, 2009</i>	<i>§ 327 I, 24 months</i>	<i>Erebuni Penal Institution</i>
<i>Tatul Arsenyan</i>	<i>April 20, 2009</i>	<i>§ 327 I, 24 months</i>	<i>Erebuni Penal Institution</i>
<i>Vladimir Sargsyan</i>	<i>April 21, 2009</i>	<i>§ 327 I, 30 months</i>	<i>Erebuni Penal Institution</i>
<i>Gevorg Karapetyan</i>	<i>May 11, 2009</i>	<i>§ 327 I, 24 months</i>	<i>Erebuni Penal Institution</i>
<i>Hovsep Mutafyan</i>	<i>May 12, 2009</i>	<i>§ 327 I, 24 months</i>	<i>Erebuni Penal Institution</i>
<i>Mher Hayrapetyan</i>	<i>May 18, 2009</i>	<i>§ 327 I, 24 months</i>	<i>Artik Penal Institution</i>
<i>Gagik Toplakhaltsyan</i>	<i>May 18, 2009</i>	<i>§ 327 I, 30 months</i>	<i>Erebuni Penal Institution</i>

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

<b>Harutyun Gagyan</b>	<i>May 28, 2009</i>	<i>§ 327 I, 30 months</i>	<i>Erebuni Penal Institution</i>
<b>Hayk Avagyan</b>	<i>July 9, 2009</i>	<i>§ 327 I, 24 months</i>	<i>Erebuni Penal Institution</i>
<b>Gor Aslanyan</b>	<i>July 27, 2009</i>	<i>§ 327 I, 30 months</i>	<i>Erebuni Penal Institution</i>
<b>Aram Apresyan</b>	<i>August 26, 2009</i>	<i>§ 327 I, 24 months</i>	<i>Erebuni Penal Institution</i>
<b>Kamo Sahakyan</b>	<i>August 26, 2009</i>	<i>§ 327 I, 24 months</i>	<i>Erebuni Penal Institution</i>
<b>Ishkhan Grigoryan</b>	<i>August 10, 2009</i>	<i>§ 327 I, 24 months</i>	<i>Kosh Penal Institution</i>
<b>Arkadi Mardoyan</b>	<i>August 28, 2009</i>	<i>§ 327 I, 30 months</i>	<i>Artik Penal Institution</i>
<b>Vanik Soghomonyan</b>	<i>August 31, 2009</i>	<i>§ 327 I, 30 months</i>	<i>Artik Penal Institution</i>
<b>Grigor Safaryan</b>	<i>September 4, 2009</i>	<i>§ 327 I, 30 months</i>	<i>Erebuni Penal Institution</i>
<b>Lyudvik Arshakyan</b>	<i>September 7, 2009</i>	<i>§ 327 I, 30 months</i>	<i>Kosh Penal Institution</i>
<b>Raphael Manukyan</b>	<i>September 17, 2009</i>	<i>§ 327 I, 30 months</i>	<i>Artik Penal Institution</i>
<b>Karapet Aghadjanyan</b>	<i>September 22, 2009</i>	<i>§ 327 I, 30 months</i>	<i>Kosh Penal Institution</i>
<b>Hakob Babudjyan</b>	<i>September 25, 2009</i>	<i>§ 327 I, 24 months</i>	<i>Erebuni Penal Institution</i>
<b>Artak Kroyan</b>	<i>September 30, 2009</i>	<i>§ 327 I, 30 months</i>	<i>Kosh Penal Institution</i>
<b>Vahram Grigoryan</b>	<i>October 2, 2009</i>	<i>§ 327 I, 24 months</i>	<i>Erebuni Penal Institution</i>
<b>Gevork Sargsyan</b>	<i>October 8, 2009</i>	<i>§ 327 I, 24 months</i>	<i>Kosh Penal Institution</i>
<b>Roman Minasyan</b>	<i>October 12, 2009</i>	<i>§ 327 I, 24 months</i>	<i>Kosh Penal Institution</i>
<b>Andranik Martirosyan</b>	<i>October 12, 2009</i>	<i>§ 327 I, 24 months</i>	<i>Kosh Penal Institution</i>
<b>Aghasi Sargsyan</b>	<i>October 14, 2009</i>	<i>§ 327 I, 24 months</i>	<i>Kosh Penal Institution</i>
<b>Hayk Ghazaryan</b>	<i>November 3, 2009</i>	<i>§ 327 I, 24 months</i>	<i>Kosh Penal Institution</i>
<b>Spartak Khanumyan</b>	<i>December 28, 2009</i>	<i>§ 327 I, 30 months</i>	<i>Artik Penal Institution</i>
<b>Vardan Vardanyan</b>	<i>January 19, 2010</i>	<i>§ 327 I, 24 months</i>	<i>Kosh Penal Institution</i>
<b>Hovhannes Kasemyan</b>	<i>February 2, 2010</i>	<i>§ 327 I, 24 months</i>	<i>Artik Penal Institution</i>
<b>Levon Vardanyan</b>	<i>February 18, 2010</i>	<i>§ 327 I, 24 months</i>	<i>Erebuni Penal Institution</i>
<b>Taron Pirapyan</b>	<i>March 2, 2010</i>	<i>§ 327 I, 30 months</i>	<i>Kosh Penal Institution</i>
<b>Karapet Sargsyan</b>	<i>March 18, 2010</i>	<i>§ 327 I, 24 months</i>	<i>Artik Penal Institution</i>
<b>Samvel Prutyan</b>	<i>March 23, 2010</i>	<i>§ 327 I, 30 months</i>	<i>Erebuni Penal Institution</i>

<b>Artur Torosyan</b>	<i>March 9, 2010</i>	<i>§ 327 I, 30 months</i>	<i>Erebuni Penal Institution</i>
<b>Ashot Khachikyan</b>	<i>March 29, 2010</i>	<i>§ 327 I, 24 months</i>	<i>Kosh Penal Institution</i>
<b>David Martirosyan</b>	<i>March 29, 2010</i>	<i>§ 327 I, 24 months</i>	<i>Kosh Penal Institution</i>
<b>Arayik Nahapetyan</b>	<i>April 11, 2010</i>	<i>§ 327 I, 24 months</i>	<i>Erebuni Penal Institution</i>
<b>Zorayr Arakelyan</b>	<i>April 14, 2010</i>	<i>§ 327 I, 30 months</i>	<i>Artik Penal Institution</i>
<b>Narek Seyranyan</b>	<i>April 22, 2010</i>	<i>§ 327 I, 24 months</i>	<i>Kosh Penal Institution</i>
<b>Levon Tumanyan</b>	<i>May 5, 2010</i>	<i>§ 327 I, 30 months</i>	<i>Erebuni Penal Institution</i>
<b>Rafael Khalatov</b>	<i>May 19, 2010</i>	<i>§ 327 I, 24 months</i>	<i>Erebuni Penal Institution</i>
<b>Narek Chinaryan</b>	<i>May 21, 2010</i>	<i>§ 327 I, 24 months</i>	<i>Kosh Penal Institution</i>
<b>Narek Pogosyan</b>	<i>May 24, 2010</i>	<i>§ 327 I, 30 months</i>	<i>Kosh Penal Institution</i>
<b>Suren Tonoyan</b>	<i>June 9, 2010</i>	<i>§ 327 I, 24 months</i>	<i>Erebuni Penal Institution</i>
<b>David Khlghatyan</b>	<i>July 19, 2010</i>	<i>§ 327 I, 24 months</i>	<i>Kosh Penal Institution</i>
<b>Andranik Bagiryan</b>	<i>August 2, 2010</i>	<i>§ 327 I, 30 months</i>	<i>Erebuni Penal Institution</i>
<b>Levon Avakyan</b>	<i>August 3, 2010</i>	<i>§ 327 I, 30 months</i>	<i>Erebuni Penal Institution</i>
<b>Edouard Ohandjanyan</b>	<i>August 3, 2010</i>	<i>§ 327 I, 24 months</i>	<i>Erebuni Penal Institution</i>
<b>Sevak Aghekyan</b>	<i>August 4, 2010</i>	<i>§ 327 I, 30 months</i>	<i>Erebuni Penal Institution</i>
<b>Alik Davtyan</b> <i>Institution</i>	<i>August 4, 2010</i>	<i>§ 327 I, 30 months</i>	<i>Nubarashen Penal</i>
<b>Vardan Antonyan</b>	<i>August 6, 2010</i>	<i>§ 327 I, 30 months</i>	<i>Erebuni Penal Institution</i>
<b>Manuk Khechoyan</b>	<i>August 9, 2010</i>	<i>§ 327 I, 30 months</i>	<i>Erebuni Penal Institution</i>
<b>Derenik Minasyan</b>	<i>August 11, 2010</i>	<i>§ 327 I, 24 months</i>	<i>Kosh Penal Institution</i>
<b>Vahe Avetisyan</b>	<i>August 13, 2010</i>	<i>§ 327 I, 24 months</i>	<i>Kosh Penal Institution</i>
<b>Artur Hayrapetyan</b>	<i>August 18, 2010</i>	<i>§ 327 I, 12 months</i>	<i>Erebuni Penal Institution</i>
<b>Anri Khachatryan</b>	<i>August 18, 2010</i>	<i>§ 327 I, 24 months</i>	<i>Erebuni Penal Institution</i>
<b>Hakob Engibaryan</b>	<i>August 24, 2010</i>	<i>§ 327 I, 27 months</i>	<i>Erebuni Penal Institution</i>
<b>Harutyun Mnatsakanyan</b>	<i>August 25, 2010</i>	<i>§ 327 I, 36 months</i>	<i>Erebuni Penal Institution</i>
<b>Gor Mesropyan</b>	<i>August 27, 2010</i>	<i>§ 327 I, 30 months</i>	<i>Erebuni Penal Institution</i>
<b>Artashes Arshakyan</b>	<i>September 6, 2010</i>	<i>§ 327 I, 30 months</i>	<i>Kosh Penal Institution</i>

<b><i>Nikolay Poghosyan</i></b> <i>Institution</i>	<i>September 7, 2010</i>	<i>§ 327 I, 30 months</i>	<i>Nubarashen</i>	<i>Penal</i>
<b><i>Vahagn Alikhanyan</i></b>	<i>September 24, 2010</i>	<i>§ 327 I, 30 months</i>	<i>Artik Penal Institution</i>	
<b><i>David Muradyan</i></b> <i>Institution</i>	<i>December 30, 2010</i>	<i>§ 327 I, 18 months</i>	<i>Nubarashen</i>	<i>Penal</i>

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

**No** Jehovah's Witnesses received a suspended sentence.