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## Conseil des droits de l'homme

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**Promotion et protection de tous les droits de l'homme,  
civils, politiques, économiques, sociaux et culturels,  
y compris le droit au développement**

## **Rapport de la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme, Margaret Sekagya**

### Additif

### Mission en Arménie\*

#### *Résumé*

Du 12 au 18 juin 2010, la Rapporteuse spéciale sur la situation des défenseurs des droits de l'homme a effectué une visite en Arménie, où elle s'est entretenue avec de hauts responsables de l'État et des défenseurs des droits de l'homme d'horizons divers. Cette visite avait pour but d'évaluer la situation des défenseurs des droits de l'homme en Arménie à la lumière des principes énoncés dans la Déclaration sur le droit et la responsabilité des individus, groupes et organes de la société de promouvoir et de protéger les droits de l'homme et les libertés fondamentales universellement reconnus (Déclaration sur les défenseurs des droits de l'homme).

Après un chapitre d'introduction, la Rapporteuse présente, dans le chapitre II, le contexte général dans lequel les défenseurs des droits de l'homme exercent leurs activités en Arménie. La société civile, et notamment les défenseurs des droits de l'homme, exercent leurs fonctions dans un environnement de plus en plus politisé et rares sont les acteurs qui n'ont pas été touchés par les divisions politiques de ces dernières années, en particulier au lendemain des événements de 2008.

\* Le résumé du présent rapport est distribué dans toutes les langues officielles. Le rapport proprement dit est joint en annexe au résumé, et il est distribué dans la langue originale seulement.

Dans le chapitre III, la Rapporteuse spéciale décrit le cadre juridique et institutionnel pour la promotion et la protection des droits de l'homme en Arménie. Elle note avec regret que les réformes récemment adoptées et les projets de réforme au cadre législatif existant risquent d'entraver les activités des défenseurs des droits de l'homme et elle est particulièrement préoccupée par les informations faisant état de violence à leur encontre.

Dans le chapitre IV, la Rapporteuse expose en détail les difficultés rencontrées aujourd'hui par les défenseurs des droits de l'homme en Arménie dans leurs activités légitimes. Elle souligne que les événements de mars 2008 ont contribué à instaurer un climat très politisé, empêchant toute coopération constructive entre les autorités, le Médiateur et les défenseurs des droits de l'homme. Les restrictions à la liberté d'association, les entraves à la liberté de réunion, les restrictions à la liberté d'expression et l'impunité pour les violations commises à leur encontre sont autant de menaces pour les défenseurs des droits de l'homme.

Enfin, dans le chapitre V, la Rapporteuse spéciale formule ses conclusions et recommandations à l'intention du Gouvernement et des autres parties prenante.

## Annexe

### Report of the Special Rapporteur on the situation of human rights defenders on her visit to Armenia

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## I. Introduction

1. Pursuant to General Assembly resolution 60/251 and Human Rights Council resolution 7/8, the Special Rapporteur on the situation of human rights defenders conducted an official visit to Armenia from 12 to 18 June 2010, at the invitation of the Government.
2. The purpose of the visit was to assess the situation of human rights defenders in Armenia in light of the principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (hereinafter the Declaration on Human Rights Defenders). An examination of the legal framework in the country, the institutional policies, and the mechanisms for promotion and protection of human rights were of particular importance to this assessment.
3. The Special Rapporteur would like to thank the Government for its ongoing cooperation with the special procedures of the Human Rights Council, for extending the invitation to her, and for its cooperation prior to and during the mission. During her visit, she had the opportunity to meet with the Prime Minister; the Deputy Minister of Foreign Affairs; the Minister of Justice; the Chair of the Standing Committee on Protection of Human Rights and Public Affairs; the President of the Court of Cassation; the Chair of the Constitutional Court; the Deputy Chair of the Standing Committee on State and Legal Affairs and the Deputy Head of Police.
4. The Special Rapporteur also met with a broad segment of civil society and with human rights defenders engaged in a wide range of civil, political, economic, social and cultural rights work, as well as with members of the opposition parties, representatives of United Nations agencies, diplomatic missions and intergovernmental organizations. She would like to thank them for their cooperation and availability throughout her visit.
5. The Special Rapporteur would also like to thank the organizations and individuals who made her visit possible by coordinating her meetings with the authorities and with civil society. In particular, she would like to thank the United Nations Resident Coordinator and the Resident Representative of the United Nations Development Programme in Armenia as well as her staff at UNDP for the excellent support provided in organizing the visit.

## II. General context in which human rights defenders operate

6. A state of the Soviet Union starting from 1920, Armenia's independence was formally declared on 23 September 1991, following a national referendum two days earlier. Since then, Armenia has been a democratic republic with a presidential system of government, with legislative power belonging to Parliament. Armenia joined the United Nations in 1992, and in 2006 issued a standing invitation to all special procedures.
7. The most traumatic events of recent Armenian history took place following presidential elections on 19 February 2008, in which Serzh Sargsyan, the incumbent Prime Minister, was elected President of Armenia. Although Mr. Sargsyan was declared to have won the election with 52 per cent of the votes, political opposition groups refused to recognize the result and organized popular demonstrations which developed into a continuous protest in Yerevan city centre. On 1 March 2008, police forces violently dispersed the protesters. Ten persons were killed, two of whom were police officers, while hundreds were reported to have been injured. At least 102 demonstrators were arrested, and more than 27 cases were documented of detainees alleging ill-treatment while en route to police stations or while in police custody. In addition, at least 81 prominent opposition political figures and their supporters were arrested between 25 and 27 March 2008, some of

whom also alleged ill-treatment whilst in police custody. Furthermore, there were documented violations of due process, including incommunicado detention and lack of access to a lawyer of one's choosing.<sup>1</sup>

8. The international community, including the Council of Europe and the Organization for Security and Cooperation in Europe (OSCE), quickly expressed concern regarding the violence and arrests. On 2 March 2008, the United Nations High Commissioner for Human Rights issued a press statement expressing her concern regarding "reports that force had been used against peaceful demonstrators and that opposition protestors had been detained". She called upon the authorities "to exercise the utmost restraint and to ensure that due process is followed in the case of any detention".<sup>2</sup>

9. A state of emergency declared between 1 and 21 March 2008 provided for a temporary blackout of media reporting on opposition activities, and also saw the adoption by Parliament of new, restrictive amendments to the Law on Peaceful Assemblies. The political situation since then has stabilized, yet opposition groups and large sectors of civil society continue to criticize the ruling administration. In addition, implications of the March 2008 violence continue to impact on the working environment for human rights defenders in Armenia.

10. The amendments to the Law on Peaceful Assemblies were withdrawn on 22 April 2008, following international criticism, yet public assemblies and demonstrations continue to be restricted under the pre-existing 2004 legislation. Although an amnesty adopted by the National Assembly on 19 June 2009 led to the release of the majority of the remaining detainees,<sup>3</sup> human rights groups and the opposition have alleged that over a dozen opposition supporters remain in prison to date, and called for their recognition as political prisoners. The Government in turn claims that those detained in connection with the March 2008 events are not being detained for political reasons, but rather for specific offences, including the illegal storage of weapons and ammunition.<sup>4</sup>

11. In a statement on 14 May 2010, following a visit to Armenia, the President of the Parliamentary Assembly of the Council of Europe (PACE), stated that reforms were urgently needed in order to demonstrate "clear determination" to "restore public confidence, move towards reconciliation and consolidate the democratic process in the country".<sup>5</sup>

12. Days after taking office, President Sargsyan established a high-level working group to coordinate the implementation of the proposals contained in PACE resolution 1609 related to the activities of democratic institutions in Armenia. The group, which includes representatives of all three branches and from the National Radio and Television Commission, has worked towards the implementation of democratic reform.

13. In June 2008, the National Assembly of Armenia set up an Ad Hoc Commission for Inquiry into the events of 1 and 2 March 2008, which has completed its work and made its report public. Also in June 2008, the Public Council of Armenia was created in accordance with the President's decree.

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<sup>1</sup> A/HRC/WG.6/8/ARM/2, para. 22; and A/HRC/WG.6/8/ARM/3, para 12.

<sup>2</sup> Press Statement, Office of the High Commissioner for Human Rights, 2 March 2008. Available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=9032&LangID=E>

<sup>3</sup> A/HRC/WG.6/8/ARM/2, para. 20

<sup>4</sup> A/HRC/15/9, para. 74.

<sup>5</sup> "Armenia needs a clear roadmap of reforms in order to consolidate democracy", 14 May 2010. See: [http://assembly.coe.int/ASP/NewsManager/EMB\\_NewsManagerView.asp?ID=5553](http://assembly.coe.int/ASP/NewsManager/EMB_NewsManagerView.asp?ID=5553)

14. In particular, international organizations, international NGOs and local human rights groups have repeatedly criticized the lack of any meaningful investigation into the deaths and injuries of 1 March 2008, and into the allegations of ill-treatment and violations of due process.<sup>6</sup> The Government asserts that satisfactory investigations into the allegations of police ill-treatment have already been completed.<sup>7</sup> As an unresolved issue, this and other concerns including corruption, impartiality of the judiciary, lack of independence of the media and restrictions to freedom of assembly and association have formed the basis of a lingering resentment towards the authorities. Many of those who met with the Special Rapporteur during her mission described a pervasive sense of impunity and corruption which has profoundly impacted upon the context within which human rights defenders operate in Armenia.

15. Civil society and, in particular, human rights defenders, function within an increasingly politicized environment. Few actors have been unaffected by the political divisions of recent years, particularly in the wake of the 2008 events. Few NGOs support the Government, yet those who do not openly align themselves with the political opposition are often perceived as holding a pro-Government bias, making it increasingly difficult for human rights defenders to adopt or maintain positions of political neutrality.

16. This trend of politicization has led to suspicion, cynicism, discouragement and fragmentation within civil society itself, as human rights defenders find themselves competing within an increasingly defensive and adversarial environment, in which they are required to protect themselves from discredit and stigmatization. As a result, human rights defenders find it difficult to form networks or coalitions between themselves to work more effectively, or to cooperate with the government in order to address matters of concern.

17. The prevailing atmosphere of political dispute has also led to a context within which civil and political rights defenders appear to predominate within the human rights community. In contrast, economic and social rights activists, including those who work on women's' and lesbian, gay, bisexual and transgender (LGBT) rights as well as other social issues, are able to escape much of the politicization of other organizations, and the authorities have been responsive to some of their recommendations. However, economic and social rights activists often find themselves marginalized within dominant human rights discourse and are successful in their work insofar as it does not impact on civil and political issues, or touch on the vested interests of powerful individuals within society.

18. Many international organizations and diplomatic representatives are active in Armenia. In particular, international institutions such as PACE and OSCE have been vocal in their response to the events of March 2008, as well as in calling for reform. In addition, the international community has made considerable funding initiatives in Armenia since independence. However, criticism has been expressed that these efforts have at times been ineffective. Piecemeal funding has seen much of the development of the past decade focused on donor-led projects, with little emphasis on institution- or capacity-building, with the effect of restricting the output and focus of the work of human rights defenders. Criticism was also expressed to the Special Rapporteur that a lack of coordination between members of the international community in the country, as well as lack of a shared emphasis on human rights issues, had limited their potential effectiveness in pressuring the authorities to recognize and provide necessary infrastructure for human rights defenders.

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<sup>6</sup> "Armenia needs a clear roadmap of reforms in order to consolidate democracy", Statement by President of Parliamentary Assembly of the Council of Europe (PACE), 14 May 2010, [http://assembly.coe.int/ASP/NewsManager/EMB\\_NewsManagerView.asp?ID=5553](http://assembly.coe.int/ASP/NewsManager/EMB_NewsManagerView.asp?ID=5553);

<sup>7</sup> A/HRC/15/9, paras. 71-73.

However, it seems clear that the politicization of human rights organizations has the effect of impeding effective cooperation with the diplomatic and international community.

19. A lack of human rights infrastructure has impacted in particular on human rights defenders with regard to the proposed National Action Plan for Human Rights. The slow pace of progress in the drafting and implementation of the plan has been interpreted as emblematic of the lack of recognition and working space granted to human rights defenders as actors within civil society. In response to calls for the elaboration and implementation of a National Action Plan,<sup>8</sup> the Government points to the work of the Office of the Human Rights Defender (Ombudsperson) in preparing a concept note, and predicts that the first draft of the plan should be ready before the end of 2010. However, concerns have been expressed regarding the exclusion of human rights defenders and civil society actors from this process.

### **III. Legal and institutional framework for the promotion and protection of human rights**

#### **A. Legal framework**

##### **1. Domestic level**

###### *(a) Constitution*

20. Chapter 1 of the Constitution of Armenia, adopted in 1995, specifies that Armenia is a sovereign, democratic, social State governed by the rule of law (art. 1). Article 3 further specifies that the human being, his or her dignity and fundamental human rights and freedoms are of ultimate value. The State shall ensure the protection of fundamental human and civil rights in conformity with the principles and norms of international law. The Constitution specifies: "The State shall be limited by fundamental human and civil rights as a directly applicable right" (art. 3).

21. Article 6 declares that international treaties shall come into force in the country only after being ratified or approved. The international treaties are a constituent part of the legal system of the Republic of Armenia.

22. Chapter 2 of the Constitution encompasses a set of fundamental human and civil rights and freedoms, including the respect for human dignity (art. 14), the right to equality before the law (art. 14 (1)), and the prohibition of discrimination based on any ground (art. 14 (1)). Chapter 2 also includes civil and political rights such as the prohibition of torture and inhuman and degrading treatment or punishment (art. 17), the right to effective legal remedies (art. 18), the right to freedom of movement (art. 25), the right to freedom of opinion and expression (art. 27), the right to freedom of association (art. 28), and the right to freedom of peaceful and unarmed assembly (art. 29). The Constitution further grants certain economic, social and cultural rights, including the rights to strike and to fair remuneration (art. 32), and the right to preserve his or her national and ethnic identity (art. 41), among many others.

23. A referendum on a series of amendments to the Constitution of Armenia took place on 27 November 2005. The referendum introduced numerous substantive provisions regarding human rights and fundamental freedoms, bringing the Constitution further into compliance with international human rights standards.

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<sup>8</sup> A/HRC/15/9, paras. 65 and 93.9.

(b) *Law on conducting meetings, assemblies, rallies and demonstrations*

24. The Law of the Republic of Armenia on Conducting Meetings, Assemblies, Rallies and Demonstrations was adopted on 28 April 2004. The stated objective of the law is to create the necessary conditions to conduct peaceful, unarmed meetings, assemblies, rallies and demonstrations while protecting national security and public safety of a democratic State, public order, public health and morals, rights, freedoms, dignity and the reputation of others (art. 1 (1)).

25. The law defines the various categories of meetings and assemblies and declares that, as a general rule, mass public events may be organized only after written notification to the relevant bodies (art. 10 (1)). The police has the right to terminate the mass public event if it is conducted without prior notification, it is prohibited (art.9.4), all organizers are absent, or organizers or participants continue violating public order despite warning by a police representative (art. 14 (1)).

26. The Law has been amended on several occasions notably following criticism by the Venice Commission and the OSCE Office for Democratic Institutions and Human Rights (ODIHR)<sup>9</sup> since certain provisions imposed unjustified and excessive restrictions on the freedom of assembly.

(c) *Law on public organizations*

27. The Law of the Republic of Armenia on Public Organizations (NGO Law), adopted on 4 December 2001, is the core domestic text governing the exercise of the right to freedom of association in Armenia. The law establishes a regime of notification in relation to the legal existence of non-governmental organizations (NGOs). These may function without State registration; however, an unregistered NGO is not recognized as a legal entity.

28. Public organizations shall be considered registered, unless the registration is rejected, or upon expiry of the term set for the consideration of the application for registration. The registration of an organization is carried out upon submission of its application. The State registration body is obliged to consider the registration application and either register the organization or reject its application within 21 days upon receiving all required documents.

29. A Draft Law on the Amendments to the Law on Public Organizations was approved by the Government of Armenia on 23 September 2009. The Draft Law would require the convening of the governing body of the organization once every four years (instead of the current requirement of no less than once in every two years), the proposed amendments would introduce a new requirement for the executive body of the organization to report, in order to enhance transparency, on the work and property use of the organization (including finances) by 1 April of the following year. This report should be published in at least 1,000 copies and one copy should be submitted to the relevant State body.

30. In the justification of the Draft Law, the Government mentions, inter alia, that a number of NGOs have expressed their disappointment that some provisions of the NGO Law would create complications for their activities; they have made a series of proposals related to enhancing the effectiveness of NGO activities, including amendments to legislation. However, since its introduction, more than 90 civil society organizations have expressed their opposition to the proposed amendments and various NGO representatives

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<sup>9</sup> Opinions by the Venice Commission and OSCE/ ODIHR  
([http://www.venice.coe.int/site/dynamics/N\\_Opinion\\_ef.asp?L=E&OID=290](http://www.venice.coe.int/site/dynamics/N_Opinion_ef.asp?L=E&OID=290))  
([http://www.venice.coe.int/docs/2008/CDL-AD\(2008\)018-e.pdf](http://www.venice.coe.int/docs/2008/CDL-AD(2008)018-e.pdf)).



who met the Special Rapporteur stated that were neither consulted nor were their concerns taken into account. It is felt by a coalition of NGOs that by introducing the amendments, the Government is attempting to limit the right to establish unions. Further objections relate to the perception that by adopting the amendments in their current form, the principle of self-governance of civil society organizations would be put in danger, that the State will have an opportunity to directly interfere in the internal working of the organization, that the reporting requirements would put a significant financial burden on NGOs and that the additional paperwork requirement would duplicate the functions of state supervisory organs.

31. On 30 October 2009, in a letter addressed to the Head of the OSCE Office in Yerevan, the Minister of Justice requested an assessment of the draft NGO Law. According to OSCE/ODIHR, the Draft Law in its current form lacks overall coherence. Some of the changes could possibly be interpreted as improvements to the workings of public organizations in Armenia, but others impose additional burdens and attempt to strengthen the control of the State over public organizations. Some of the provisions are therefore difficult to justify, and are in tension with relevant international standards and practices.

32. The Special Rapporteur concurs with the views and analysis of the OSCE/ODIHR and wishes to stress the importance of the full and meaningful involvement of representatives of civil society in deliberations regarding the Draft Law. The Special Rapporteur further regrets that despite requests to this end to the Ministry of Justice and the Ministry of Foreign Affairs, she has not received the latest version of the Draft Law and was therefore only able to consider the publicly available version. The Special Rapporteur wishes to emphasize the importance of transparency and inclusion of affected organizations in the legislative process.

(d) *Law on the human rights defender (Ombudsperson)*

33. The Law of the Republic of Armenia on the Human Rights Defender (Ombudsperson), adopted on 21 October 2003,<sup>10</sup> regulates the organizational structure and functioning of the Ombudsperson's Office. Article 2 of the Law of the Republic of Armenia on the Human Rights Defender (hereinafter the Law on Human Rights Defender) defines the Ombudsperson as an official acting pursuant to the Constitution and the Law of the Republic of Armenia, as well as to principles and norms of international law, and who, on behalf of the State, protects the human rights and fundamental freedoms if they are violated by central and local government agencies or their officials.

34. The Ombudsperson is elected by the National Assembly by a three-fifths majority for a term of six years. The Ombudsperson is independent in executing his/her powers and not subordinated or accountable to any central or local government agency or official (art. 5). The Ombudsperson considers complaints concerning violations of central and local government agencies or their officials of human rights and fundamental freedoms provided by the Constitution, laws, other legal acts and the international treaties of the Republic of Armenia, and by the principles and norms of international law (art. 7). The Ombudsperson can attend Cabinet meetings and sessions of the National Assembly, has free access to military units, police detention centres as well as to other places of detention. Under articles 11 and 12, complaints must be submitted to the Ombudsperson one year from the day when the complainant became aware of, or should have become aware of, the violation of his or her rights and freedoms. Although the Ombudsperson cannot intervene in judicial processes, he or she can ask for information on any case that is at the stage of trial and can

<sup>10</sup> See [www.parliament.am/legislation.php?sel=show&ID=1457&lang=eng](http://www.parliament.am/legislation.php?sel=show&ID=1457&lang=eng).

direct recommendations and/or comments to the court, so as to guarantee the rights of citizens, including human rights defenders.

35. Pursuant to section 42 of the Decree of the President of the Republic of Armenia No. NH-174-N of 18 July 2007, draft laws concerning human rights and freedoms, prior to their submission to the Government, shall be presented to the Ombudsperson for an opinion. The Ombudsperson is also designated as the national preventive mechanism pursuant to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

## **2. Regional level**

36. Armenia has been a member of the Organization for Security and Cooperation in Europe (OSCE) since 30 January 1992, of the Council of Europe since 2001, and has ratified most of its major human rights instruments, including the Convention for the Protection of Human Rights and Fundamental Freedoms in 2002, the Framework Convention for the Protection of National Minorities (1998), the European Social Charter (2004), and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (2002).

37. The Commissioner for Human Rights of the Council of Europe, the Council of Europe Committee for the Prevention of Torture (CPT), and the PACE regularly issue reports and adopt recommendations on the human rights situation in Armenia.

38. European Union relations with Armenia are governed by the EU-Armenia Partnership and Cooperation Agreement, signed in 1996 and entered into force in 1999. Armenia became part of the European Neighbourhood Policy in 2004. The first round of the EU-Armenian Human Rights Dialogue took place on 9 December 2009.

## **3. International level**

39. As at October 2010, Armenia is a State party to the major United Nations human rights treaties, including the International Covenant on Civil and Political Rights and its two Optional Protocols, concerning the right of individual petition and the abolition of the death penalty, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol, the Convention on the Rights of the Child and its two Optional Protocols, on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography.

40. Armenia has also signed the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Convention on the Protection of the Rights of All Migrant Workers, the Convention on the Rights of Persons with Disabilities and its Optional Protocol, and the International Convention for the Protection of All Persons from Enforced Disappearance.

41. Armenia is also a party to the Geneva Conventions of 12 August 1949, and to the Additional Protocols I and II. Armenia signed the Rome Statute of the International Criminal Court.

## **B. Institutional framework**

### **1. The Human Rights Defender Office**

42. The Office of the Human Rights Defender was set up in 2004. The International Coordinating Committee of National Human Rights Institutions (ICC) accredited the Office with “A” status in 2006.

43. The Special Rapporteur met the former and current Ombudspersons, Larisa Alaverdyan and Armen Harutyunyan. The latter was appointed in February 2006 in a difficult climate, following the departure of the first Ombudsperson. As the institution is gradually expanding its activities and gaining recognition, the number of individual complaints received is rising.

44. In April 2008, the Ombudsperson presented a report on the March 2008 post-election violence which criticized conduct of the authorities and pointed to a number of irregularities committed during and after the 1 March 2008 demonstrations.<sup>11</sup> The Government unfortunately did not answer questions raised in the Ombudsperson’s report.

45. The Office of the Ombudsperson expressed concern about the lack of financial and human resources hindering its mandate and the possible establishment of regional branches. The Special Rapporteur is therefore concerned that understaffing as well as the low wages of staff members could have a negative impact on the Office’s independence.

46. Several human rights defenders whom the Special Rapporteur met expressed skepticism about the role and efficiency of the Office. Their perception is that it is not independent and does not necessarily work with human rights defenders. The absence of a focal point on human rights defenders and the lack of systematic consultation with the civil society were seen as a real impediment to a fruitful collaboration.

### **2. The Standing Committee on Protection of Human Rights and Public Affairs**

47. The Standing Committee on Protection of Human Rights and Public Affairs of the National Assembly (hereinafter the Standing Committee) has a supervisory function and receives a number of complaints from the general public (approximately 100 since June 2007).<sup>12</sup>

48. It is composed of nine deputies and its spheres of activities include human and civil rights and freedoms, law and notary services, children’s rights, parties and other public associations, religion, gender issues, national minorities, information.<sup>13</sup> In particular, the Standing Committee has a role in drafting laws and was involved in the drafting of the NGO Law.

49. The Special Rapporteur met with the Chair of the Standing Committee who reported that public hearings were convened on the Draft NGO Law and that NGOs then had the opportunity to comment on the draft amendments. Nonetheless, he had received a letter of complaint signed by 280 NGOs about the amendments and transmitted the NGOs’ concerns to the Chair of the National Assembly. The Special Rapporteur was assured by the Chair

<sup>11</sup> See [www.ombuds.am/main/en/10/31/0/8](http://www.ombuds.am/main/en/10/31/0/8).

<sup>12</sup> Report by the Council of Europe Commissioner for Human Rights [https://wcd.coe.int/ViewDoc.jsp?id=1283639&Site=COE&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864#P158\\_13078](https://wcd.coe.int/ViewDoc.jsp?id=1283639&Site=COE&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864#P158_13078)

<sup>13</sup> National Assembly of the Republic of Armenia, see <http://www.parliament.am/committees.php?do=show&ID=111152&lang=eng>.

that the Draft NGO Law will not be adopted before new public hearings following the summer judicial recess.

50. In relation to the Declaration on Human Rights Defenders, the Standing Committee expresses its readiness to amend relevant laws if the Ombudsperson was to submit a proposal of draft legislation on the domestication of the Declaration.

### **3. The National Television and Radio Commission**

51. The National Television and Radio Commission (NTRC) is the regulatory body appointed to oversee regulation and licensing of private broadcast media in Armenia. Established under article 37 of the Law on Television and Radio Broadcasting 2000,<sup>14</sup> the NTRC is described as “an independent State regulating body”.<sup>15</sup> This is not to be confused with the Council of Public Television and Radio, established under article 29 of the same act, which oversees regulation of public broadcast media. Concern has been expressed that neither body is free of interference from the Government.

52. In particular, given its role in the regulation of independent media, the composition of NTRC has been criticized. Under article 5 of the legislative regulations set out in 2001, NTRC is composed of nine members appointed directly by the President. Other comments on the NTRC have included OSCE’s criticism that the 2010 amendments to the Law on Broadcasting failed to ensure political and ideological pluralism of NTRC. In addition, the system of financing NTRC does not provide for an automatic guarantee of its financial independence from the State. In addition, there has been criticism of the transparency of broadcasting tender processes. Although legislation provides that NTRC can include independent experts in the tender processes, to date it has never done so. Serious concerns are expressed that these various issues undermine NTRC’s impartiality and integrity as an independent broadcast regulator.

## **IV. Challenges faced by human rights defenders**

### **A. Overview of civil society in Armenia**

53. In the course of her visit, the Special Rapporteur had the opportunity to engage actively with representatives of civil society in Armenia. Extensive consultations were held in the capital, Yerevan, during which human rights defenders were able to voice their concerns and share information with the mandate holder about the challenges they are currently facing. Human rights defenders in Armenia are active mostly in the field of civil and political rights but also in some areas of economic, social and cultural rights. Most NGOs are concentrated in the capital.

54. According to Government estimates, there are currently approximately 3,000 NGOs registered in Armenia. However, according to information received by the Special Rapporteur, only a small fraction of these organizations is actually active. Civil society appears to be deeply divided along political lines and is often characterized by apathy, disillusionment and frustration. The deep divisions experienced within civil society contribute to the problems and challenges faced by human rights defenders today, as independent human rights work and monitoring seems to be almost entirely impossible. NGOs and human rights defenders are quickly labelled according to their perceived

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<sup>14</sup> See <http://ux1.parliament.am/legislation.php?sel=show&ID=1464>.

<sup>15</sup> See <http://ux1.parliament.am/legislation.php?sel=show&ID=1630>.

political affiliation and categorized as either pro-Government or pro-opposition, leaving no neutral ground to carry out quality human rights work.

55. Civil society organizations appear to be largely dependent on donor funding. Additionally, civil society appears to consist primarily of NGOs; there appears to be a lack of trade unions, community organizations or similar entities.

56. The Government seems not to consider NGOs as potential partners, nor are they perceived by society as representative. Awareness about the activities of civil society organizations is also very low. The media often ignores NGO initiatives, reports and press conferences, and, furthermore, NGOs are frequently denied access to the media. The Special Rapporteur notes with serious concern that human rights defenders are regularly depicted in a distorted manner in State-controlled media and even smeared. Human rights defenders have been time and again labelled as foreign agents, spies, cronies and the “fifth column”.

57. While certain human rights defenders have experienced direct violence and assaults, especially in the aftermath of the 2008 Presidential elections, in the majority of the cases harassment and intimidation are carried out by more subtle and sophisticated methods, such as stigmatization by the media and certain politicians; smear campaigns; intrusive tax inspections; threatening phone calls; and pressure on donors.

58. As will be explained further, freedom of assembly remains particularly problematic for civil society in general, and for human rights defenders in particular, in Armenia.

59. The Special Rapporteur was also informed by several of her interlocutors that the right to access to information is often violated and the provisions of the relevant law are not implemented in practice.

60. Among the most vulnerable groups of human rights defenders in Armenia are those working on the rights of LGBT persons, women human rights defenders, NGOs working in remote areas and environmental activists.

61. Defenders working on the rights of LGBT persons frequently face hate speech by the media and verbal and physical abuse by representatives of law enforcement agencies. Intimidation of LGBT defenders is recurrent and it is felt that they are not understood even by some other parts of the civil society. There is a lack of awareness about issues related to LGBT persons in society in general, but also within civil society itself. Defenders working on LGBT issues are not able to register their organization as such, and are often forced to carry out their activities as human rights and sexual health organizations.

62. Women human rights defenders are scrutinized by the media and public opinion and frequently receive no support from their families. NGOs in the regions, especially in remote areas remain very rare and face severe difficulties in carrying out their work. Environmental activists receive threatening phone calls, are beaten by policemen and face prosecution for their activities.

63. Further challenges are faced by NGOs due to a lack of coordination between various donor organizations and agencies and the various regional and international organizations present in Armenia which often result in duplication of activities and efforts. The Special Rapporteur believes that a more coordinated approach which delivers coherent messages, would significantly contribute to enhancing the effectiveness and efficiency of human rights NGOs in Armenia.

64. At the same time, the Special Rapporteur also wishes to highlight and commend best practices and positive examples, including the prison monitoring group formed in 2004 by the Ministry of Justice. The group is significant in that it is authorized to monitor and supervise the protection of human rights of persons in detention. The group has free access

to all penal institutions, may request information on the content of various documents, including the personal files and letters of prisoners, to examine the conditions at places of detention, and to have unrestricted, unsupervised access and contact to the detainees themselves. In 2006, a police monitoring group was established. NGOs nominate members of the group from among themselves. Members of the group are elected for a three-year term and work pro bono, receiving no State funding for the functioning of the group. There are 11 NGOs represented in the group. A similar monitoring group has been set up recently regarding closed pedagogical institutions for the mentally disabled.

65. The Special Rapporteur considers that networks (national, regional and international) of human rights defenders and NGOs not only contribute to a sense of solidarity between such organizations, but also significantly contribute to their effectiveness by exchanging strategies, challenges and practices. In this regard, the Special Rapporteur commends initiatives such as the South Caucasus Network of Human Rights Defenders and encourages the expansion of membership of this and similar initiatives. Networks of human rights defenders are also important in raising the profile of defenders and contribute to enhancing their security and protection.

## **B. Illegitimate restrictions on freedom of association**

66. Pursuant to article 28 of the Armenian Constitution, everyone has the right to create an association, trade union, or political party, and to be a member thereof. Limitations are placed on police officers, those serving in the military, members of the national security, prosecutor's office, as well as on judges and members of the Constitutional Court.<sup>16</sup>

67. The activities of NGOs in Armenia are regulated by the Law of the Republic of Armenia on Public Organizations, adopted on 4 December 2001.<sup>17</sup> As stated, a draft NGO Law is currently being discussed and various NGO representatives met by the Special Rapporteur expressed concerns about the suggested amendments.

68. As previously stated, the Special Rapporteur is of the opinion that certain proposed amendments will further impede the activities of public organizations. Concerns about the proposed amendments relate mainly to the requirement of re-registration in case of change of address or change of the executive body of the organization thus contradicting the recommendations of the Committee of Ministers of the Council of Europe (CM Rec 2007 14) on the legal status of non-governmental organizations in Europe which stipulate that approval from the State is not required for changes to the statute of an organization, unless it concerns their name and objectives; to the requirement of providing 1,000 copies of the annual report of the organization, which could potentially create an extra burden on the finances of small organizations; and to the proposal that a failure to provide information as requested, the State authorized body will be able to convene a meeting.

69. Concerning the latter, in case of failure to provide information as requested by the new article 16, the State-authorized body may on its own initiative submit a request for convening a special meeting. If the special meeting is not convened within a month after the request is made, the requesting party (in this case the State authorized body) can go to court with a claim to convene a meeting. The Special Rapporteur is concerned about the lack of clarity of this new provision and the risk that vesting the State authorized body with the power to request a meeting could lead to the dissolution of a human rights organization if the State-authorized body is dissatisfied with the information provided.

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<sup>16</sup> Restrictions on freedom of association are outlined in arts. 44, 45 and 55 of the Constitution.

<sup>17</sup> The Law on Political Parties (2002) and the Law on Trade Unions (2000).

70. In 2003, the Ministry of Justice tried to pass a Law on Foreign Grants. This attempt of the Government was stopped, following public discussions with civil society and its sharp criticism.

### C. Impediments to the freedom of assembly

71. The right to freedom of assembly is enshrined in article 29 of the Constitution of the Republic of Armenia.<sup>18</sup> After declaring independence in 1991, Armenia did not have a law regulating demonstrations and rallies. From 1995 on, article 29 of the Constitution applied. However, starting from the 1990s, the Yerevan City Administration prohibited on various grounds the demonstrations initiated by the opposition or NGOs, found them to be unauthorized and often applied administrative or criminal penalties in respect of the organizers and some participants. Since Armenia ratified the European Convention on Human Rights, several applications raising this issue were brought before the European Court of Human Rights.<sup>19</sup> In several cases, the Court found a violation of article 11 of the Convention (freedom of assembly and association).

72. On 28 April 2004, following the mass opposition protest on 12 April 2004, and while the state of emergency was still ongoing, the Law on Conducting Meetings, Assemblies, Rallies and Demonstrations was adopted by the National Assembly. The Law distinguishes between different types of assembly, namely mass public event, non-mass public event, spontaneous event and other event.

73. Pursuant to article 10 of the law, with the exception of spontaneous public events, mass public events may be held only after notifying the authorizing body in writing. The decision to prohibit conducting a mass public event may be appealed in court.

74. In March 2008, the National Assembly approved the last amendments to the law and the Special Rapporteur is of the opinion that certain provisions of the Draft Law still constitute unjustified and excessive restrictions to the freedom of assembly. In particular, article 9 states that a mass event could notably be prohibited if “there is credible information, according to which the event creates imminent threat of violence or poses a real threat to national security, the public order, the health and morals of the public, the life and health of persons, the constitutional rights and freedoms of others, or is conducted with the aim of forcibly overthrowing the constitutional order, inciting ethnic, racial, or religious hatred, or preaching violence or war, or may result in mass disorder, or inflict significant property damage to the State, a community, or natural or legal persons. Such information may be deemed credible, if an official substantiated opinion thereon has been submitted by the Republic of Armenia by the Police or National Security Service. In the same manner, these bodies issue an opinion on the termination of such grounds”. The vagueness of this article as well as the fact that what could constitute credible information is that which the police or the National Security Service confirm as such justifying the prohibition of a mass event may be used to unduly restrict defenders’ right to assemble. Furthermore, the provision does not say whether the credible information would be accessible to the organizer of the demonstration and whether it would be subject to appeal. Moreover, the

<sup>18</sup> Restrictions may apply pursuant to article 43 of the Constitution.

<sup>19</sup> See *Mkrtchyan v. Armenia* (Application no. 6562/03), Judgment, 11 January 2007; *Galstyan v. Armenia* (application no. 26986/03), Judgment, 15 November 2007; *Ashughyan v. Armenia* (application no. 33268/03), Judgment, 17 July 2008. In all three cases, the European Court of Human Rights found a violation of Article 11 of the European Convention (right to freedom of peaceful assembly).

Special Rapporteur is concerned that the application in practice of some of the amended provision(s) relating to spontaneous assemblies is still problematic.

#### **Restrictions on demonstrations and rental of meeting spaces**

75. The Special Rapporteur is concerned by restrictions on gatherings in public spaces. According to various persons met by the Special Rapporteur, within the past three years, several applications to hold rallies, notably in Freedom Square, Yerevan were rejected.

76. Although gatherings of less than 100 participants do not legally require authorization, only notification, in practice the right to peaceful assembly is often denied or interfered with. During her visit, the Special Rapporteur was told that since the March 2008 events, defenders' freedom of assembly had been reduced.

77. In particular, peaceful demonstrators have been systematically followed and provoked by the police. Many defenders who periodically assemble to ask for impartial investigation into the events of March 2008 are verbally harassed by the police during their demonstrations. These allegations of provocation by the police during authorized rallies were, however, denied by the police.

78. Similarly, indoor gatherings have been hindered since March 2008, and the difficulties experienced by NGOs in renting meeting space appear to be systematic. Many NGOs attempting to organize events in venues such as hotel conference rooms have been refused due to unavailability. In the year 2009 alone, five such instances were reported to the Special Rapporteur. The justification was that owners of such conferences halls in Yerevan have allegedly been reluctant to rent out their facilities to avoid any problems. However, it was reported that hotel employees had to get approval from the State for each request for hall rental made by certain organizations. The Special Rapporteur is concerned about such instances of non-State actors impeding the freedoms of defenders for unknown and unjustifiable reasons.

79. Moreover, the Special Rapporteur is concerned that the current restrictions may be tightened in the years to come, especially before, during and after the next Parliamentary elections in 2012. As identified by the Special Rapporteur in her thematic report to the thirteenth session of the Human Rights Council (A/HRC/13/22), human rights defenders are often most vulnerable in the run-up to, during and directly after elections. Special efforts need to be made to ensure that the rights and freedoms provided by international human rights instruments and national legislation are not unduly restricted during election periods. The Special Rapporteur recalls her recommendations in this regard (*ibid.*, para. 56).

#### **D. Restrictions on the freedom of expression**

80. During her mission the Special Rapporteur met with various representatives of the media. It was noted that freedom of expression is nominally respected in Armenia. However, the Special Rapporteur is disturbed regarding reports of violence and attacks against journalists, with the overall impression of a climate of self-censorship, particularly concerning sensitive issues. In addition, the Special Rapporteur is dismayed regarding reports of judicial harassment, governmental restrictions, other forms of "informal pressure", and the lack of independent news media in the country.

81. Journalists appear to be most at risk when working on civil and political issues, adopting a critical stance against the authorities, or reporting on issues which may affect vested interests, such as corruption. It was reported that journalists have been violently attacked in the past two years. The Special Rapporteur expresses particular dismay regarding reports of the failure of the police and judiciary to investigate such incidents and



bring perpetrators to justice, leading to a prevailing trend of impunity for human rights violations which further encourages a cycle of self-censorship and reluctance to engage in investigative and human rights reporting.

82. Instances of violence against journalists include an attack against Edik Baghdasaryan, Chair of the Armenian Association of Investigative Journalists and editor of the on-line magazine HetqOnline. On 17 November 2008, Mr. Baghdasaryan was attacked by three unknown assailants as he was getting into his car, hitting him over the back of his head with a blunt object. Although the Armenian authorities condemned the attack and a criminal investigation was promptly opened, serious shortcomings in the investigations were reported: only one of three perpetrators was brought to trial, while the other two were released due to the lack of sufficient evidence.

83. On 24 February 2010, a photojournalist working for the newspaper *Aravot* was on duty at the Office of the Prosecutor when a man approached him and told him to stop taking photographs. When the photographer refused and produced his press identification, the man began to physically and verbally abuse him. This incident was captured on film and posted online, and the perpetrator was later identified as an investigator working in the Special Investigation Service of the Army and Police. An investigation into the incident was opened, but investigators later announced their conclusion that the photographer had assaulted the investigator, who had been trying to appease him. In addition, it was reported that the journalist had lodged a false claim with the Office of the Prosecutor in relation to the case.

84. The Special Rapporteur is particularly concerned that there may be a correlation between violence against reporters and recent political events in the country. For example, six documented incidents of assault and harassment of journalists took place during the 2009 Yerevan Municipal Elections. This included threats, physical and verbal assaults and journalists being prevented from entering polling stations, taking pictures, or carrying out other duties on 31 May 2009. Some of these instances were reported to the authorities but no action was taken in response.

85. The Special Rapporteur's attention was drawn to the concentration of independent media in the Yerevan area with the result that self-censorship, interference in media freedom and intimidation are more prevalent in the regions. Journalists in regional and rural areas are reportedly more reluctant to engage in investigative journalism or report on issues which may affect those with vested interests, and are equally more vulnerable to violence, intimidation or other forms of informal pressure.

86. Furthermore, several representatives of civil society interviewed by the Special Rapporteur described their difficulty in getting media attention regarding their human rights activities. For example, reports and publications issued by human rights organizations were not publicized or reported on by the media, and press conferences are poorly attended. It is believed that this may relate to the practice of self-censorship by news outlets.

87. The Special Rapporteur commends the National Assembly for its adoption on 18 May 2010 of amendments to the Armenian Criminal and Civil Codes, decriminalizing defamation and removing imprisonment from the list of penalties for insult, libel or slander. However, serious misgivings are expressed regarding the amendments' introduction of high monetary fines for slander through civil suits, primarily to be imposed upon media outlets. In addition, definitions of "insult" and "libel" contained in the provisions are considered overly vague, while legal matters such as permissible defences are not clarified by the legislative amendments.<sup>20</sup> Although criminal prosecution for defamation was relatively rare

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<sup>20</sup> See OSCE, "Analysis of the Draft Laws Amending the Defamation Legislation in the Republic of

under the previous legal provisions, civil suits filed against media organizations in recent years indicate a pattern of stigmatization and financial punishment of critical or investigative reporters. It is feared that the new provisions do not contain sufficient procedural safeguards for freedom of expression, and that they may be used restrictively against independent reporting.

88. The Special Rapporteur also expresses her dismay regarding the introduction to law on 17 June 2010 of amendments to Armenia's Law on Radio and Television. Both local human rights defenders and members of the international community – including the OSCE Representative on Freedom of the Media and the European Union delegation in Armenia, among others – have expressed their belief that these amendments will allow the Government to reduce plurality of the media and prevent the emergence of independent broadcasting.

89. The amendments extend a suspension of the issuance of new broadcasting licenses, which was introduced in 2008 until a process of digitalization of broadcast frequencies is completed, with the effect of limiting the number of TV channels on the air in Armenia. The amendments are characterized by a lack of clear guidelines and rules for licensing procedures as well as the regulation of broadcasting by the regulating body, the National Television and Radio Commission (NTRC). In addition, provisions have been added specifying the content that channels may broadcast.<sup>21</sup> The Government claims to have accepted most of the recommendations made by the OSCE on the proposed bill.<sup>22</sup> However, the Special Rapporteur regrets that many key provisions of the bill were not altered before it was signed into law, and that an opportunity was lost to engage in this regard with international experts in the field.

90. The new legislative provisions are particularly worrying, given that it appears that few media outlets in Armenia are independently operated. Although print media enjoys a high degree of freedom – in contrast to broadcast media -- most publications are aligned with various political groups. The Special Rapporteur regrets that the politicization of civil society thus appears to affect the press, with the effect that little news is impartially reported or published.

91. The case of TV channel A1+ is seen as emblematic of governmental restrictions on freedom of the press. In 2002, independent TV channel A1+ was closed under the NTRC's mandatory broadcast licensing mechanism. Since then, A1+ has been repeatedly denied a renewal of its broadcast license. In 2008, the European Court of Human Rights ruled that the denial of service to A1+ was in breach of the European Convention on Human Rights, and fined the Government of Armenia €30,000, although it did not order the authorities to grant A1+ a license to broadcast.<sup>23</sup> To date A1+ remains off the air but continues its campaign against the NTRC's decisions while maintaining an online presence.

92. However, the 2010 amendments also grant NTRC power to enforce regulation of mobile and Internet-provided broadcasting, despite the lack of prior legislation providing for the regulation of these areas. It is thus feared that this may affect the ability of A1+ to

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Armenia", April 2010; [http://www.osce.org/documents/rfm/2010/04/43718\\_en.pdf](http://www.osce.org/documents/rfm/2010/04/43718_en.pdf).

<sup>21</sup> "Armenian broadcasting law fails to guarantee media pluralism, says OSCE media freedom representative", 15 June 2010. See: <http://www.osce.org/item/44607.html>. "OSCE media freedom representative calls for amendments to Armenia's draft broadcast law to promote media pluralism", 1 June 2010.

<sup>22</sup> See <http://www.osce.org/item/44229.html>. Also, "Comments on the Amendments to the Law of the Republic of Armenia on Broadcasting", OSCE, 2010. See: [http://www.osce.org/documents/rfm/2010/06/44230\\_en.pdf](http://www.osce.org/documents/rfm/2010/06/44230_en.pdf)

<sup>23</sup> *Case of Meltex Ltd and Mesrop Movsesyan v Armenia*, no. 32283/04, 17 June 2008.

carry out Web broadcasts in lieu of TV broadcasting. It has been stated with regard to the 2010 amendments that, “these norms compromising legal certainty seem to be not an incidental omission but a deliberate attempt to put all forms and types of audiovisual media services under strict regime of licensing (or permissions) of the NTRC and subject them to bureaucratic scrutiny and discretion”.<sup>24</sup>

93. Many stakeholders expressed great pessimism to the Special Rapporteur regarding the impact on Armenian media of the amendments to the Law on Radio and Television, with many fearing that freedom of the press and of the right to freedom of expression would be irreversibly damaged. Furthermore, several stakeholders expressed their belief that governmental restrictions on the media, such as the broadcasting amendments, were damaging public trust and interest in news reporting in general.

## **E. Impunity for abuses against defenders**

94. A major concern conveyed by human rights defenders to the Special Rapporteur is the question of impunity for violations committed against human rights defenders and journalists. A culture of impunity is deeply rooted in Armenian society and the law enforcement and legal systems.

95. One of the fundamental concerns frequently raised with the Special Rapporteur is the impunity surrounding the events of March 2008. According to information received, only two policemen have been charged so far and no one has been convicted.

96. Violence against journalists and human rights defenders frequently goes unpunished, with the police being reluctant, in some cases, to open investigations. Even in cases where investigations are opened, they are inconclusive and do not lead to prosecutions. Impunity for violations against human rights defenders and journalists has often led to further self-censorship.

97. The lack of public and political accountability was often noted in discussions with the Special Rapporteur. Society in general has a rather low level of trust both in the police and the judiciary. Widespread corruption adds to the perception of impunity. The Special Rapporteur wishes to acknowledge the efforts of the Government to crack down on corruption and increase the effectiveness of the police and the independence of the judiciary. The integrated anti-corruption programme is a right step in this direction. At the same time, the Special Rapporteur strongly stresses that the programme must be implemented in its entirety. The quality of investigations and prosecutions is believed to be sub-standard and needs to be enhanced urgently.

98. As noted, the apparent culture of impunity is closely related to deep-rooted problems within the police system and shortcomings of the justice system. The Special Rapporteur notes with serious concern that decisions of the Constitutional Court are frequently unheeded and that judgements of the European Court of Human Rights are very often not implemented.

99. On 21 May 2008, Mikael Danielyan, the head of the local Helsinki Association, was assaulted by and shot at by a person who was known to the authorities and whose identity was confirmed by eyewitnesses. The charges against the alleged perpetrator were dismissed and Mr. Danielyan was not recognized as the victim of the assault. According to information provided by the Government after the visit, during the preliminary

<sup>24</sup> “Comments on the Amendments to the Law of the Republic of Armenia on Broadcasting”, OSCE, 2010, op.cit.

investigation phase into the incident, several witnesses had been interrogated, forensic medical investigation had been launched and the police department received instructions to reveal the exact circumstances of the case. The Government further reported that the evidence acquired during the investigation did not reveal any connection between the assault and the human rights or other professional activities of Mr. Danielyan.

100. Mariam Sukhudian, an environmental activist and whistle-blower who reported on instances of sexual abuse committed against children in a boarding school, was initially charged with perjury, later downgraded to slander. The attention of the investigation and prosecution focused initially mainly on Ms. Sukhudian, instead of the alleged perpetrator of the abuses. According to the information provided by the Government after the visit, the criminal pursuit against Ms. Sukhudian was terminated. Moreover, a criminal case was initiated on the acts of child abuse against a former teacher in the boarding school who has been convicted and sentenced to two years of imprisonment.

101. The tragic events following the 2008 Presidential elections constitute another example of violations which have not been duly investigated. Investigations need to be undertaken with a view to ensuring meaningful and effective prosecution in compliance with international legal standards, including the Declaration on Human Rights Defenders. The Special Rapporteur wishes to stress that prompt, thorough and impartial investigations of all human rights violations are crucial to create a safe and enabling environment in which human rights defenders can carry out their activities.

## V. Conclusions and recommendations

### A. Conclusions

102. **Despite the creation of the Office of the Ombudsperson and the establishment of the existing legal framework, human rights defenders operate in a difficult environment in Armenia.**

103. **The recently adopted and proposed amendments to the existing legislative framework, notably the NGO Law and the amendments to the Law on Broadcasting, constitute regressive developments, and will obstruct the activities of human rights defenders. Hindrances to the right to freedom of assembly and to freedom of expression by Armenian law enforcement officers as well as private actors are also of concern to the Special Rapporteur. In particular, the Special Rapporteur is disturbed regarding reports of violence against human rights defenders, in particular journalists, and of a failure to fully and thoroughly investigate and prosecute such incidents.**

104. **The events of March 2008 have contributed to a very politicized environment in Armenia, preventing constructive cooperation between the authorities, the Ombudsperson and human rights defenders. In addition, continuing impunity for the alleged violations committed during this period further contribute to a climate of suspicion between different actors within civil society and within Armenian society in general. The Special Rapporteur hopes that her visit and report will create momentum for better cooperation between the authorities and Armenian civil society, and recalls the urgent necessity to ensure the accountability of those responsible for the abuses during the 2008 events in order to move towards a safer environment for all human rights defenders. In particular, bearing in mind the invaluable contribution that committed leadership can provide towards the national reconciliation required to overcome these divisions, the Special Rapporteur would like to reiterate a request she made to the Prime Minister during her meeting with him to publicly acknowledge**

the role and importance of human rights defenders in achieving a flourishing, pluralistic and democratic society.

105. The Special Rapporteur looks forward to a continued constructive dialogue with the Government on the situation of human rights defenders in all parts of the country. She calls on the United Nations agencies, donors and other international actors to improve their cooperation not only with civil society and in particular human rights defenders, but also with each other. The Special Rapporteur reminds the Government of Armenia of its human rights obligations and in particular calls upon it to fully implement the recommendations formulated during the universal periodic review.

## **B. Recommendations**

### **Recommendations for the consideration of the Government**

106. The Special Rapporteur recommends that the Government:

- Publicly acknowledge the role and importance of human rights defenders in achieving a flourishing, pluralistic and democratic society
- Build trust and foster dialogue, based upon a sincere commitment to cooperation, collaboration and mutual respect by all stakeholders to strengthen civil society and the media so that they can play a meaningful role in the democratic process
- Ensure the right to have effective access, on a non-discriminatory basis, to participation in the conduct of public affairs, which includes the right to voice criticism and submit proposals to improve the functioning of governmental bodies, agencies and organisations concerned with public affairs
- Fully consult, include and incorporate the views of the civil society and human rights defenders in decision-making processes, including the legislative process, formulation of national policies and reporting to regional and international human rights mechanisms
- Fully implement the recommendations of the Working Group on the Universal Periodic Review of the Human Rights Council and amend the legislation pursuant to the UPR recommendations approved by Armenia
- Include civil society in an ongoing and sustained process of follow up to the recommendations made during the assessment of Armenia in the universal periodic review process
- Address the specific needs of human rights defenders, including women and LGBT human rights defenders, in the National Action Plan on Human Rights
- Guarantee that existing laws, regulations and rulings are implemented and enforced fully, promptly and effectively, in compliance with Armenia's international obligations
- Ensure that the right to hold peaceful, open and public demonstrations is freely available to all individuals without undue restrictions
- Undertake prompt, thorough and transparent investigation of all human rights violations, in particular attacks against journalists, in order to create a safe and enabling environment in which human rights defenders can carry out their activities free of all restrictions and reprisals, including judicial harassment

- Ensure that investigations are undertaken with a view to ensuring meaningful and effective prosecution in compliance with international legal standards, including the Declaration on Human Rights Defenders
- Implement a comprehensive programme of reform within the police service, immediately take steps to ensure the full independence of the judiciary, and reform the administration of justice, which should be carried out in conjunction with the implementation of an extensive anti-corruption strategy in order to ensure accountability within government structures
- Recognize the role of the Ombudsperson as an important actor within Armenian society
- Strengthen the financial and material resources available to the Office of the Ombudsperson to allow the Office to fulfil its mandate more effectively
- Reconsider the necessity of the envisaged amendments to the NGO Law
- Should the amendments be revised, ensure that public hearings on the Draft NGO Law are convened by the Standing Committee and the Ombudsperson and that the view of the civil society is taken into account
- Fully incorporate recommendations of civil society and international experts into the amendments to the Law on Television and Radio
- Carry out civic awareness and human rights education programmes, to foster tolerance and respect for human rights, and to ensure the dignity and respect of the individual
- Review the 2010 Amendments to the Armenian Criminal and Civil Codes with regard to Insult and Defamation in consultation with civil society, with a view to ensuring a proper balance between protection of the right to reputation and the right to freedom of expression and the press, and to fully bring Armenian provisions in this regard into line with best international practice
- Review the 2010 Amendments to the Law on Television and Radio, with a view to fully consulting all stakeholders within the country as well as international experts and monitors. In particular, the amendments should be reviewed with a view to adopting the recommendations made by the OSCE Representative on Freedom of the Media
- Issue legislative regulations in order to ensure that NTRC is fully and completely independent of Government influence, including through the non-political appointment of its members, its financing and its operations
- Take concrete and effective steps to encourage plurality of media ownership and news reporting, including through a review of the current system of broadcast licensing and an end to the suspension of issuing of new broadcast licenses, and
- Ensure that new laws and amendments of existing legislation are in conformity with international standards and the human rights instruments ratified by Armenia.

**Recommendations for the consideration of the Office of the Human Rights Defender**

107. The Special Rapporteur recommends that the Office of the Human Rights Defender:

- Translate into Armenian the Declaration on Human Rights Defenders and ensure its dissemination
- Submit a proposal for a draft law on the harmonisation of the domestication of the Declaration on human rights defenders to the the Standing Committee on Protection of Human Rights and Public Affairs
- Create a focal point on human rights defenders in charge of liaising with civil society
- Increase its collaboration with civil society and in particular human rights defenders and NGOs through systematically consulting with civil society on the recommendations to be addressed to the authorities on draft laws that could potentially impact the activities of human rights defenders.

#### **Recommendations for the consideration of the international community and donors**

108. The Special Rapporteur recommends that the international community and donors:

- Make the situation of human rights defenders a high priority when carrying on a dialogue with the Armenian authorities
- Cooperate more effectively and coordinate its efforts to assist civil society in forming strong networks and coalitions, building capacity and fostering unity on topics of mutual interest increase their cooperation with human rights defenders while assessing the development and implementation of human rights projects
- Support the Ombudsperson in fulfilling his role vis-à-vis human rights defenders
- Ensure that all diplomatic missions are familiar with the Declaration on Human Rights Defenders
- Ensure that all European Union diplomatic missions are familiar with and implement on a systematic basis the EU Guidelines on Human Rights Defenders.

#### **Recommendations for the consideration of human rights defenders**

109. The Special Rapporteur recommends that human rights defenders:

- Improve coordinating networks aimed at strengthening the protection of defenders, particularly those outside the capital;
- Cooperate more actively with the Ombudsperson.