

## EU-Armenia

# The EU should obtain significant improvements in the field of human rights

*Paris, Brussels, Yerevan – 10 February 2009*

*In view of the EU-Armenia troika COPS meeting to be held on the 12<sup>th</sup> of February and in order to contribute to the monitoring of the implementation of the EU-Armenia Action Plan in the field of human rights, the International Federation for Human Rights (FIDH), the Civil Society Institute (CSI), the Foundation Against Violation of Law (FAV) and the Helsinki Committee of Armenia (HCA) wish to draw EU attention on the following assessment and recommendations.*

The EU and Armenia held their 9<sup>th</sup> joint Cooperation Council on 9 December 2008. In its press release the EU “noted Armenia's progress in the implementation of the ENP Action Plan”, “agreed that there is still room for further progress” and “underlined the importance of the respect for the rule of law, democratic and pluralistic principles, protection of human rights and fundamental freedoms, as well as freedom of expression and freedom of the media, as essential elements in the bilateral dialogue.”

Our organisations are deeply concerned by the absence of a precise identification of key human rights concerns in Armenia despite the preoccupying situation that has prevailed since the February 2008 Presidential elections.

On 5 March 2008, the Council of the EU had expressed its “deep concern about the situation in the Republic of Armenia after the presidential elections”, “condemned the acts of violence committed during the events of 1 March, which resulted in the loss of life and numerous injuries” and “called upon the Armenian authorities to release any citizens detained for exercising their right to peaceful assembly and to lift the state of emergency, which imposes restrictions on media freedom, the freedom of assembly, and on political parties.”

Our organisations wish to underline that 10 months later, the situation remains extremely preoccupying. On 18 December 2008, the Monitoring Committee of the Parliamentary Assembly of the Council of Europe (PACE) recommended to “suspend the voting rights of the members of the Armenian parliamentary delegation to the Assembly (...) until the Armenian authorities clearly demonstrate their political will to resolve the issue of persons detained in relation to the events of 1 and 2 March 2008, in line with its demands, as expressed in Resolutions 1609 (2008) and 1620 (2008).<sup>1</sup>” In its session of 27 January 2009, the Assembly decided not to suspend the voting rights of the members of the Armenian parliamentary delegation to the Assembly, but decided to remain seized of the matter and invited its Monitoring Committee to propose any further action to be taken as required by the situation<sup>2</sup>.

1 For more details, see [http://assembly.coe.int/ASP/NewsManager/EMB\\_NewsManagerView.asp?ID=4301](http://assembly.coe.int/ASP/NewsManager/EMB_NewsManagerView.asp?ID=4301)

2 See Resolution 1943 (2009) of the Parliamentary Assembly at:  
<http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta09/ERES1643.htm>

FIDH and its member and partner organisations in Armenia remain preoccupied by the following issues:

- **The human rights situation following the 2008 Presidential Elections and March 2008 events;**
- **Political prisoners and 1<sup>st</sup>-of-March detainees, acts of repression against representatives of the opposition;**
- **Torture and ill-treatment;**
- **Violations of the independence of the judiciary;**
- **Violations of the right to free assembly;**
- **Violations of freedom of speech and acts of repression against journalists.**

Our organisations urge the EU to ensure that these issues remain key priorities within the framework of its political dialogue with Armenia and that concrete steps are taken to implement recommendations formulated to Armenia by the Council of Europe, the OSCE, the UN and *reach ENP Action Plan priorities*. In particular, our organisations call upon the EU to take into consideration the following assessment and recommendations in the preparation of the ENP progress report on Armenia and in view of the upcoming sub-committee meetings.

## **1. Follow-up of the Presidential Elections 2008 and March 2008 events**

Nine candidates entered the race for president in the 2008 election. Two major candidates disputed the presidential seat: the prime minister in office Serzh Sargsyan and former president Levon Ter-Petrosyan. A climate of intolerance, fed by both sides, prevailed during the pre election campaign. Irregularities were observed during the election campaign and on election day. Three NGOs - Civil Society Institute, Free Forum for Civil Initiatives and the Armenian Committee of the Helsinki Citizens' Assembly - established a joint initiative called "Legal Initiative: Elections 2008". In January, the initiative set up a free hotline that any citizen (including observers and members of the electoral commissions) could call and obtain information about the elections and other issues of concern. One of the purposes of the hotline project was to initiate strategic litigation, based on at least one case. Potential cases came up and the Initiative offered free legal support but no case was lodged, reflecting the public's general mistrust of the judiciary<sup>3</sup>.

Another feature of the initiative was the launch, on election day, of legal assistance "ambulances", that operated throughout the country. On board each ambulance there was a lawyer, a civil activist, an observer and, in some cases, a journalist. There were rapid response groups that received the calls from the hotline, monitored violations and provided on-site protection for citizens.

The hotline continued to operate after the elections: the situation remained very tense and violations were still being committed, their number even increasing. The legal consultations focused on criminal cases and the massive arrests of demonstrators. Lawyers for the project were defending detainees and trying to secure their release when possible. Practice showed that in many cases the mere presence of a lawyer was sufficient to obtain the release of detainees.

In its resolution 1609 ("Functioning of democratic institutions in Armenia", 2008)<sup>4</sup>, PACE states, on the election process itself: "Although the ad hoc committee which observed this election considered that it was "administered mostly in line with Council of Europe standards", it found a number of

<sup>3</sup> The few persons who were initially willing to come forward refused to participate in the last minute, fearing the consequences of a legal action.

<sup>4</sup> The full text of the resolution is available at:  
<http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta08/ERES1609.htm>

violations and shortcomings, the most important of which were: unequal campaign conditions for the candidates, the lack of transparency in the election administration and a complaints and appeals process that did not give complainants access to an effective legal remedy. In addition, a number of cases of electoral fraud were witnessed.”

The OSCE and EU election-observation missions also noted irregularities during the voting, including intimidation, attempted vote-buying, and ballot-box stuffing, even during the vote count. However, they concluded that the election was "conducted mostly in line with OSCE and Council of Europe commitments and standards".<sup>5</sup>

According to the Central Election Commission, Serzh Sarkisian won the elections with 53 % of the vote, while Levon Ter-Petrossian got 21,5 %. The opposition did not trust these figures and demanded a re-examination of the results. On February 25, Mr. Ter-Petrossian lodged a complaint before the Constitutional Court requesting it to invalidate the outcome of the February 19 election and to call for new elections. Protest actions started in Freedom Square in Yerevan. On the morning of March 1<sup>st</sup> the police used force to break up the rally. But other demonstrations soon followed and at night clashes between the police and some of the protesters began. During these clashes the police used firearms, and military forces and vehicles were brought into the city. As a result, 10 people were killed and about 200 were injured. Up to this day, nobody has been charged for these deaths. The lack of transparency of the investigation into the deaths has only increased the feelings of anxiety and mistrust among the population.

On 1 March 2008, President Robert Kocharian decreed a state of emergency in Yerevan for 20 days which was confirmed by Parliament the next day. All public gatherings were banned, media coverage passed under state control, and some independent websites were banned.

In view of events surrounding the February 2008 presidential elections, including the post-electoral developments, PACE has issued two resolutions on Armenia: the aforementioned resolution 1609 (“Functioning of democratic institutions in Armenia”) was followed by resolution 1620 (“The Implementation by Armenia of Assembly Resolution 1609”). In these resolutions, PACE made the following requests to the Armenian authorities:

- To revoke the amendments made on 17 March 2008, to the Law on Conducting Meetings, Assemblies, Rallies and Demonstrations;
- To immediately initiate an independent, transparent and credible inquiry into the events on 1 March 2008 and the circumstances that led to them;
- To release all persons detained on seemingly artificial and politically motivated charges who did not personally commit any violent acts or serious offences;
- To initiate an open and serious dialogue between all political forces in Armenia on the reforms with regard to the political system, electoral process, freedom and pluralism of the media, freedom of assembly, independence of the judiciary and police behaviour.

The Armenian authorities set up the Republic of Armenia's National Assembly Ad-Hoc Inquiry Committee in order to investigate the events of March 1<sup>st</sup>. At the time, they rejected all suggestions made by the opposition regarding its composition. This commission is currently conducting its investigation, and its sessions are open. The opposition has decided to boycott the Commission's work, claiming that its composition does not provide for an equal representation of all. The opposition has nevertheless agreed to participate in the work of a fact-finding group set up according to PACE requirements by the President of Armenia on 23 October 2008. Its composition

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5 See the Press release “Armenian presidential election mostly in line with international commitments, but further improvements necessary at <http://www.osce.org/item/29779.html>

was completed in November 2008, and comprises two representatives of the ruling coalition, two representatives from the opposition<sup>6</sup>, and is chaired by one representative of the Ombudsman office.

After the 1st-of-March events, the authorities made some attempts to initiate a dialogue with the opposition, but the latter has declared the release of all political prisoners as a precondition for dialogue. The 1609 PACE resolution requested that the opposition follow the Constitutional Court's decision and recognize the election of Serzh Sarkisian, which the opposition has refused to do. There is still no effective dialogue to this day.

On December 18, 2008, the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe proposed a draft resolution, mentioning that the Parliamentary Assembly considered the progress to be insufficient, despite the political will expressed by Armenian authorities to address the requirements set out in Resolution 1609 (2008), adopted on 17 April 2008. The point 9 of the draft resolution reads: "Notwithstanding positive developments in some areas, the Assembly finds it unacceptable that persons have been charged and deprived of their liberty for political reasons and that political prisoners exist in Armenia. Therefore, despite the positive steps taken towards the establishment of an independent, transparent and credible inquiry, the Assembly decides to suspend the voting rights of the members of the Armenian parliamentary delegation to the Assembly, under Rule 9, paragraphs 3 and 4.c, of the Rules of Procedure, until the Armenian authorities have clearly demonstrated their political will to resolve the issue of persons deprived of their liberty in relation to the events of 1 and 2 March 2008, in line with its demands, as expressed in Resolutions 1609 (2008) and 1620 (2008)."<sup>7</sup> As seen above, this resolution was considered by the Assembly on 27 January 2009. In its resolution 243 (January 2009), the Assembly stated that it remained "dissatisfied with, and seriously concerned by, the situation of persons deprived of their liberty in relation to the events of 1 and 2 March 2008 and who may have been charged and imprisoned for political motivations."<sup>8</sup>

It should be noted here that the opposition had some access to TV and radio in the pre-election period, but not after. Our organisations underline that the equal access to political life and to the national media is a clear indicator of the willingness and ability of the State to uphold democracy and the rule of law. Equal access to the media should not be limited solely to the pre-electoral period, when it is monitored by intergovernmental organisations.

### ***The European Union should encourage the Armenian authorities:***

- To take all necessary measures to encourage and facilitate dialogue between the opposition and the government; request an efficient and transparent national investigation on the grave violations committed in March 2008, including on the death of 10 people; help to reinforce and improve the conditions for the independent observation of the elections by actors of Armenian civil society, and not solely by international observers.
- To make sure that political pluralism in the media is guaranteed at all times, including between elections.

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6 I.e. one representative of the "Heritage" party (the sole opposition party represented in Parliament) and one representative of the "Armenian National Movement" (the opposition party led by Levon Ter-Petrosyan).

7 <http://assembly.coe.int/ASP/APFeaturesManager/defaultArtSiteView.asp?ID=831>

8 <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta09/ERES1643.htm>

## **2. Political prisoners in Armenia and 1<sup>st</sup>-of-March detainees; repression against representatives of the opposition**

Prior to the 2008 presidential election campaign, there were only three persons detained in Armenia who were regarded as political prisoners. Two were members of the “Armenian Volunteers' Unity”<sup>9</sup>, who were arrested after the first meeting of the movement on December 3<sup>rd</sup>, 2006, where they had voiced their disagreement with the Armenian authorities' approach to settling the conflict in Karabakh. The third was a journalist:

- Zhirayr Sefilyan, the former commander of the “Shushi” special-task battalion, coordinator of the “public initiative for the protection of the released territories” and one of the leaders of the “Armenian Volunteers' Unity” movement. On 6 August 2007, he was sentenced to 1.5 years of imprisonment for violating article 235 of the Criminal Code (illegal possession of a weapon). He was released on 10 June 2008.

- Vardan Malkhasyan, member of the “Armenian Volunteers' Movement”. On 6 August 2007, he was sentenced to 2 years imprisonment for violating Article 301 of the Criminal Code (Public calls for seizing state power by force, changing the constitutional order of the Republic of Armenia). He was released on December 10, 2008.

- Arman Babajanyan, founder and editor-in-chief of the opposition daily newspaper “Zhamanak Daily” published in both Armenia and California. He was arrested on 26 June 2006 and subsequently sentenced to 4 years in prison on charges of evading compulsory military service, falsification of documents related to his military service and embezzlement. He is still in prison.

Besides the political prisoners, there are also 73 prisoners of conscience in Armenia. All of them are Jehovah's witnesses who refused to undergo the mandatory military service<sup>10</sup>.

Following the 1st-of-March events, more than 100 people have been detained on various charges. Most of the cases were clearly politically motivated. The detainees are predominantly opposition activists, including three members of Parliament who supported the opposition. The trials of 1st-of-March cases started at the end of March and some are still on-going. In most of the cases, the witnesses are police officers, often the very ones who made the arrest. Although their testimonies are neither clear or precise, the verdicts are often delivered on the basis of these testimonies.

According to the statistics provided by the General Prosecutor's Office, as of December 17, 2008:

- Five persons were acquitted;
- One person saw his criminal case dismissed under the Article 183 of the Criminal Procedure Code on the grounds of reconciliation with the injured;
- Five persons were sentenced to a fine;
- Thirty eight persons were conditionally released;
- Fifty two persons were sentenced to prison;
- In the case of 26 persons, criminal persecution against them was dismissed.

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9 The “Armenian Volunteers' Unity” was founded in December, 2006. According to their charter, its mission is to uphold the territories that were regained during the Karabakh war.

10 In 2003, Armenia adopted a law on alternative service. However, some consider that it does not represent a real alternative to military service and refuse to sign for it. People doing an alternative civil service still fall under the authority of the ministry of defence and are considered as soldiers (for instance, they can receive medical care in military hospitals only for the whole duration of their 4-year-long civil service).

The main charges were based on article 225 (mass disturbances) and article 316 (use of violence against a representative of authorities) of the Criminal Code of the Republic of Armenia.

In 2008 there were three hearings of the case of “The Seven” on 19, 23 and 27 of December<sup>11</sup>. On December 23 and 27 the hearings were postponed because the defendants did not stand up when the judge entered the courtroom and the judge decided to impose a sanction for contempt of court and ordered the defendants to leave the courtroom. For the last two sessions, plain-clothed police officers were brought to the court room and filled almost half of it. During all of the hearings opposition supporters and relatives organized demonstrations in front of the court building.

Despite the large number trials related to the 1st-of-March events, none has yet been charged for the death of the 10 people who perished on that occasion. The relatives of the victims are none the less eager to have those responsible for their death to be brought to justice.

The arrest and detention of opposition activists in February-March 2008 actually occurred before the state of emergency was introduced; after March 2, they took place on a massive scale. Not infrequently, those arrested were subjected to violence both at the time of arrest and in police custody. The majority of them were denied the right to a legal representative and were sometimes, in contravention to the law, held in police custody for 2 or more days. On top of the arrests that were officially reported, opposition supporters throughout the country had to endure other forms of persecution. Some were forcibly brought to police departments, threatened with the loss of their jobs and their homes were searched. Violence continued after the state of emergency was lifted, at the time when the opposition started to hold their “political walks”<sup>12</sup> on the Northern Avenue in Yerevan. Participants in the walks would be taken to police departments, held there for several hours before being released.

In December 22, 2008, at a press conference in Yerevan the Council of Europe Commissioner for Human Rights Thomas Hammarberg characterized the prosecution of the opposition as a “political vendetta” and told reporters: “I am critical about some of the trials that have already been concluded and about the preparation of the major case against the seven prisoners... I have not seen any strong evidence so far which would make it possible for an independent court to sentence these seven for attempting to change power in this country with violence”<sup>13</sup>.

Apart from the 1st-of-March related court cases, representatives of the opposition have been subjected to accrued physical aggressions and judicial harassment in the pre- and post-election periods:

- On the morning of 15 November 2007, Narek Galstyan, Chairman of the Sargis Tkhruni Student-Youth Union of the Social Democratic Henschak Party was forcibly removed from the taxi he was in by masked aggressors and severely beaten. As a result of this attack, he had to be

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11 Seven opposition leaders, Alexander Arzumanyan (former foreign Minister), Myasnik Malkhasyan (MP), Sasun Miqaelyan (MP), Hakob Hakobyan (MP), Grigor Voskerchyan, Suren Sirunyan, and Shant Harutyunyan are accused on the articles 225, 235, 300 and 316 of the Criminal Code of Armenia.

12 Following the introduction of the state of emergency and the prohibition of demonstrations, the opposition devised a way to get round the prohibition of gatherings and demonstrations by “having a walk” on North Avenue every day at 6pm. They were filmed by the police and several dozen participants were arrested everyday up the date of the arrival of the Council of Europe delegation on 29 March 2008. The people arrested were released a few hours later, with the exception of those against whom criminal charges were brought.

13 see [http://khosq.com/en-us/article/2008/12/11/armenia\\_seven\\_on\\_trial\\_trial\\_of\\_seven\\_to\\_begin\\_december\\_19\\_2008](http://khosq.com/en-us/article/2008/12/11/armenia_seven_on_trial_trial_of_seven_to_begin_december_19_2008)

hospitalized in the intensive-care unit. Three days prior to the attack, he was apprehended and taken to the Police station for distributing leaflets;

- On 28 May 2008, around 2:00 PM in the centre of Yerevan, three unknown aggressors brutally beat Arsen Kharatyan, a leader of the opposition youth movement “Hima”. He was hospitalized with head injuries;
- On 25 June 2008, around 4:00 PM in Yerevan, in the subway situated on the intersection of Koryun and Abovyan streets (centre of the city) two persons beat Narek Hovakimyan, a member of the opposition youth movement “Hima”. He was hospitalised.

Following these incidents criminal cases have been initiated, however no criminals have been charged as yet.

***The European Union should encourage the Armenian authorities to:***

- Immediately release all political prisoners, including those deprived of their liberty in relation to the events of 1 and 2 March 2008, and all prisoners of conscience;
- Push for the amendment of the law on the alternative service in order to confer a civil nature to the alternative service;
- Call upon the Armenian authorities to stop all forms of psychological and physical harassment of representatives of the opposition.

### **3. Torture and ill-treatment**

In 2006, the National Assembly of the Republic of Armenia ratified the Optional Protocol to the UN Convention against Torture. Armenian civil society played a crucial role in the campaign for its ratification. In 2007, several Armenian Human Rights NGOs created a coalition<sup>14</sup> whose aim was to insure an effective implementation of OPCAT. The coalition initiated a number of discussions and round tables, to some of which the Ombudsman of the Republic of Armenia took part, devoted to the possible nature and implementation of the national preventive mechanisms (NPM) envisaged by OPCAT. As a result, it drafted a project for a joint-NPM, involving both the Ombudsman and NGOs specialized in the monitoring of places of detention. A draft law of this project was submitted to the National Assembly of Armenia in December 2007. This project was eventually rejected when, in April 2008, the National Assembly designated the sole Ombudsman as NPM, disregarding the requirement of the OPCAT for a transparent and open procedure of establishment and designation of the NPM<sup>15</sup>. As a result, the participation of the civil society, as required by OPCAT, is left to the goodwill of the Ombudsman, who can decide to associate (or not) the NGOs conducting day-to-day monitoring on torture and ill-treatment cases to the Mechanism’s work.

Most cases of torture and ill-treatment involve the police. The case of Levon Gulyan, who died a violent death on 12 May 2007 while in custody at the Police Headquarters of Yerevan is representative of the wide-spread practice of torture and ill-treatment in police custody<sup>16</sup>. From the

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14 The coalition was made up the following organisations: “Civil Society Institute”, “Foundation Against Violation of Law”, “Collaboration for Democracy Centre”, “Helsinki Committee of Armenia”, and “Helsinki Citizens' Assembly Vanadzor office”.

15 In April 2008 National Assembly approved the amendment to the Law on Ombudsman, submitted by the Government.

16 On May 12, 2007, Mr. Gulyan was taken to the Police Headquarters of the Republic of Armenia to serve as a

very day of Levon Gulyan's death several NGOs started to closely follow the developments of this case. The Civil Society Institute, Helsinki Citizens' Assembly Vanadzor office, Helsinki Committee of Armenia, Foundation Against Violation of Law, and Collaboration for Democracy Centre, have created a coalition that issues joint-statements, open letters, conducts press conferences and other events to maintain public attention on this case. The case was closed on 12 March 2008, for "lack of components of the crime", and eventually reopened in the summer of 2008 with a verdict of the court of appeal on 21 July 2008 that mentions high-level Police officials acting beyond their power, and violations of provisions of Criminal Procedure Code during the investigation. The commission of inquiry took into account the recommendations of the courts and now seems to act more openly and transparently. However, 18 months after his death, the inquiry has still to present its conclusions.

The 1st-of-March events have highlighted the complexity of the situation. The media have reported a number of allegations of torture and inhumane treatment. Lusine Sahakyan, the lawyer defending G. Jhangiryan, the ex-Deputy of the General Prosecutor and member of the opposition, stated in court that her client was subjected to inhumane treatment while in custody. She put forward a motion to invite witnesses, but the court denied her motion. Seda Safarayan, the lawyer defending Mushegh Saghatelian, a high level official from the opposition, said in an interview to CSI that her client was mistreated at the time of arrest and while in custody. She has presented complaints to the court and the General Prosecutor, but no any investigation or feedback has followed.

According to Armen Harutyunyan, Ombudsman of the Republic of Armenia, his office has received a growing number of complaints from citizens claiming they have been intimidated and mistreated by law-enforcement agencies to give false incriminating testimony against arrested opposition members. Particularly, he mentioned a letter received from a citizen named Gagik Avdalyan, who wrote that officers from the Special Investigation Service and the Police, using physical and psychological violence, had forced him to give a false testimony against MP Myasnik Malkhasyan, one of the accused in the case of "The Seven" (see above<sup>11</sup>), and several other citizens<sup>17</sup>.

On December 23<sup>rd</sup> and 24<sup>th</sup> 2008, the Prisons Monitoring Group<sup>18</sup> carried out visits of the Nubarashen prison and to the Central Hospital for Convicts. They discovered that incidents had taken place in Nubarashen on December 23, when the Rapid Response Group of the penitentiary department had conducted a search of the institutions, including of inmates' cells. According to the detainees, incidents such as slaps, insults and pushes had occurred. According to Grigor Voskerchyan, one of the Rapid Response Group officers who searched his cell asked him what the charges brought against him were. Upon hearing that he had been charged under article 300 of the Criminal Code<sup>19</sup> and that his case was connected to the 1st-of-March events, the officer slapped the inmate in the face and kicked his leg.

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witness in a murder that took place in the vicinity of his workplace. A few hours later, his family was informed of his death. Police officers have given different version as to the circumstances of his death: some stated that he died after jumping from the 3<sup>rd</sup> floor window, trying to escape, while according to others he committed suicide. For more details, see: <http://www.fidh.org/spip.php?article5503>

17 <http://www.armenialiberty.org/armeniareport/report/en/2008/07/FD1B6B71-BBE6-4A40-A148-F25633F766C9.asp>

18 The Prisons Monitoring Group is an independent body established in 2004 as a result of consultations between the Ministry of justice and civil society. The Group consists of representatives of NGOs. It is authorized by the Ministry of justice to access prisons and pre-trial detention facilities, freely, and without prior notification. The mission of the Group is to monitor the situation of human rights in prisons and pre-trial places of detention and to formulate recommendations for further improvements. The Group issues annual and ad hoc reports.

19 Article 300 of the Criminal Code specifically incriminates "*actions aimed at the overthrowing of constitutional order*"



Different sources report that several clashes opposing inmates and the Rapid Response Group took place during the search. As a result, Zorik Arzumanyan, head of the Rapid Response Group, got injured, and his injury led to further violence towards all detainees in their cells. All of the convicts were injured. Members of the Monitoring Group recorded cases of broken noses, bruised faces, heads, backs, legs, and arms; wounded convicts could not move easily.

It appears from the observations of the Prisons Monitoring Group that officers of the Rapid Response Group made use of excessive force and abused their powers during their search operation at Nubarashen. In view of the length of the operation and of its massive character, the Prisons Monitoring Group concluded that the incident can be qualified as torture with a punishing nature.

***The European Union should encourage the Armenian authorities:***

- To conduct an impartial and objective investigation into the case of Levon Gulyan and reveal the circumstances under which the violent death of Gulyan occurred;
- In the cases where there are statements of alleged torture, the courts should not conduct judicial investigation based on testimonies or evidence allegedly obtained under torture, and investigate the alleged torture first, as required under international and regional human rights conventions;
- To adopt the law on National Preventive Mechanism where the participation of civil society actors is clearly prescribed.

**4. Violation of the independence of the judiciary**

The members of the Justice Council, the most important body for ensuring the independence of the judiciary, cannot be independent as long as the President of the Republic continues to have the power to handpick candidates from a list of Judges approved by the Justice Council, without any obligation to justify his/her choice. Candidates who have been removed from the list by the President have to go through the whole application procedure again to qualify as candidates for another vacant position. This procedure includes passing exams, and may also mean going back to the Judiciary School, being approved by the Justice Council as a candidate, and then, again, waiting for the President's approval (who may again choose to remove the candidate from the list)<sup>20</sup>. In spite of such obvious examples of legislation restricting the independence of the judiciary, the Implementation of the European Neighbourhood Policy in 2007 Progress Report<sup>21</sup> only stated that "the President is however still allowed the right to select the judges from a final shortlist" or that "overall, further efforts are needed to ensure the independence of the judiciary in practice".

The consequences of a limited or non-independent judiciary became visible with the number of decisions authorizing the detention of persons arrested in connection with 1st-of-March 2008 events, when the courts granted nearly all the requests for criminal prosecution bodies in this context.

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20 See: Civil Society Experts Assessment of Progress Report Armenia "Implementation of the European Neighborhood Policy in 2007" at: <http://www.partnership.am/files/ENP-final.rar>

21 'Implementation of the European Neighbourhood Policy in 2007', Progress Report Armenia, p.4

***The European Union should encourage the Armenian authorities to:***

- Make comprehensive and consistent amendments to the Judicial Code and other related legislation in order to guarantee the true independence of the judiciary and the right to a fair trial;
- Reduce the use of arrest as a preventive measure;
- Pay particular attention to the arrest of juveniles;
- Guarantee the principle of equality of arms for lawyers, especially to ensure the access to investigation materials.

**5. Right to freedom of assembly**

Shortly after the 1st-of-march events the Parliament of Armenia passed a law, which severely restricted citizens' right to freedom of assembly<sup>22</sup>. The law was obviously unconstitutional, and was condemned by the PACE in its Resolution 1609. On 11 June 2008 the National Assembly of Armenia has amended the law on staging meetings, assemblies, rallies and demonstrations, but fell short of restoring the earlier version of the law<sup>23</sup>. The law is more of a restrictive than a regulatory nature. Since March 2008 to the present day, over 70 applications to stage a rally submitted by the opposition have been turned down by the Yerevan City Hall with a reference to Article 9 of the Law: "Assemblies can be banned if the Police or National Security Service representatives have truthful data that the event creates a threat of violence, restriction of other persons' rights, threat for the national security etc". Nevertheless, it has to be noted that the opposition held 3 rallies (on June 20, July 4 and August 5) for which their applications had been rejected, and that they occurred without any serious incidents. During the rallies, the police constantly reminded the public that "this rally is not authorized. It is strongly recommended to go home." The rally that took place on September 15 was authorised by Yerevan City Hall and proceeded without incidents, but the police presence was considerable when compared to other rallies.

The gathering of October 17<sup>th</sup> was authorised, but not its associated march, which nevertheless took place without incidents

Furthermore, on the days when the aforementioned rallies were held no public transport worked between the regions and the capital, violating once more the freedom of movement, as already experienced during the March events, when some roads to the capital were simply blocked. Paragraph 4.2 of PACE Resolution 1620 makes it clear that guaranteeing the citizens' freedom of assembly in theory is not enough, and that it should be respected in practice.

***The European Union should encourage the Armenian authorities to:***

- Improve the law on assembly in accordance with the international standards on the right to freedom of assembly, in particular paragraph 9 of the current law should be withdrawn;
- Ensure transparency in the procedure of authorisation or refusal to stage a rally; this should be guaranteed namely by the publication of the applications submitted. Without such lists, the procedure remains closed and the monitoring of the number of refusals is impossible.

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<sup>22</sup> For the law adopted on 17 March 2008, see: [http://www.venice.coe.int/docs/2008/CDL\(2008\)036-e.asp#\\_ftn1](http://www.venice.coe.int/docs/2008/CDL(2008)036-e.asp#_ftn1)

<sup>23</sup> [http://www.venice.coe.int/docs/2008/CDL\(2008\)078-e.asp#P28\\_258](http://www.venice.coe.int/docs/2008/CDL(2008)078-e.asp#P28_258)

## 6. Freedom of speech. Repression and attacks against journalists

Freedom of speech in Armenia is restricted. Since 2002, when the National Commission on TV & Radio revoked the licenses of A1+ and Noyan Tapan TV Companies, all TV companies are under state-control.

On 19 June 2008, The European Court of Human Rights ruled in favour of embattled television station A1+, which was forced off the air in 2002. The Court considered the refusal of the broadcasting license to be a violation of Article 10 of the European Convention on Human Rights. According to the verdict, the Armenian government must pay the station 20,000 euros.

On June 26, PACE (Resolution 1620) recalled that “there is a need for a pluralistic electronic media environment in Armenia and, referring to the decision of the European Court of Human Rights concerning the denial of broadcasting license to A1+, calls on the licensing authority to now ensure an open, fair and transparent licensing procedure, in line with the guidelines adopted by the Committee of Ministers of the Council of Europe on 26 March 2008 and with the case law of the European Court of Human Rights<sup>24</sup>.” Nothing has been done to that effect yet. Furthermore, on 10 September 2008, the National Assembly gave the bill its 3 readings according to which no competition for licenses will be held until 2011.

On September 9 several media organisations released a statement with regard to draft law “On Introducing an Addition to the RA Law ‘On Television and Radio’”, submitted to the agenda of the National Assembly session, underlining that this initiative of the Government had nothing to do with either the protection of the broadcasters, consumers, state or “with ensuring equal opportunities and prevention of market upheavals” (as noted in the governmental justification), but it was solely an attempt to eliminate the broadcast licensing competitions, like an unnecessary burden.<sup>25</sup>

From 1 to 20 of March 2008, during the state of emergency, all newspapers publishing articles critical of the authorities were not issued and websites were also banned or restricted. On March 1 many journalists suffered from various attacks while exercising their duty.

On 19 February 2008, voting day of the Presidential Elections, Lusine Barseghyan, a journalist from the daily newspaper “Haykakan Zhamanak” was assaulted and beaten in the 13/16 electoral area. The same day, Hovsep Hovsepyan, a cameraman of agency “A1+” was beaten and his camera was broken. Similar incidents happened to journalists of the newspapers “Zhamanak Yerevan” and “Hayq”. On 23 February, in the 5/12 electoral area, the photo journalist Gagik Shamshyan and another cameraman from “A1+” were subjected to violence and their cameras were broken; Naira Mamikonyan and Elmira Martirosyan, reporting respectively for the daily “Aravot” and “Hraparak”, faced similar incidents in the Malatia-Sebastia 7/19 electoral area.

During the night of March 21-22, the car belonging to Mr. Levon Barseghyan, head of the Board of “Asparez” journalist club in Gyumri was burned. Later, in April, a criminal case was initiated against him for disobedience to a police officer. He was sentenced to a fine of 50 000 AMD (approx. 120 euros).

On 25 March, in Hrazdan, several men attacked Taguhi Tovmasyan and Gagik Shamshyan, two journalists from the newspaper “Chorord Ishkhanutyun”. They hid in a local resident’s house and were able to return to Yerevan only after mediation from the Ombudsman).

On 11 August, Lusine Barseghyan, a journalist from the “Haykakan Zhamanak” newspaper was beaten, then taken to the “St. Grigor Lusavorich” medical centre where serious injuries to her head were found. A criminal case was initiated but the perpetrators were not found.

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24 The Implementation by Armenia of Assembly Resolution 1609 (2008):  
<http://www.hra.am/eng/?page=issue&id=18437>

25 [http://www.ypc.am/eng/index.php?go=newsletter/2008/september\\_eng/5\\_11](http://www.ypc.am/eng/index.php?go=newsletter/2008/september_eng/5_11)

On 18 August, in the centre of Yerevan, Hrach Melqumyan, the deputy head of radio “Liberty” (Yerevan office) was subjected to a violent attack by unknown persons. This incident was never elucidated.

On November 17<sup>th</sup> in Yerevan, Edik Baghdasaryan, journalist and human rights defender, President of the “Investigative journalists” NGO, editor of the electronic newspaper HetqOnline was exposed to a violent attack. He was beaten and consequently transferred to the hospital. Edik Baghdasaryan is well-known for his articles and investigations raising hot social, economic and public issues. Human rights and media organisations are convinced that the attack is connected to the professional activities of Edik Baghdasaryan.

***The European Union should call upon the Armenian authorities to:***

- Ensure freedom of the press; reform and revise the membership rules of the Commission on media;
- Launch an investigation on the attacks of journalists;
- Revoke the amendments to the RA Law “On Television and Radio” and create conditions for the reopening of the A+ broadcast.