

## ARMENIA

### CAT A/51/44

84. The Committee considered the initial report of Armenia (CAT/C/24/Add.4/Rev.1) at its 245th and 246th meetings, on 30 April 1996 (CAT/C/SR.245 and 246), and has adopted the following conclusions and recommendations:

#### 1. Introduction

85. The Committee welcomes the report of Armenia together with its core document (HRI/CORE/1/Add.51) and the valuable oral introduction given by the delegation of the State party.

#### 2. Positive aspects

86. The Committee welcomes the integration of the prohibition against torture in the newly adopted Constitution.

87. Similarly, it welcomes the creation of the Centre for Human Rights and Democracy in Erevan and the new agreement between Armenia and the International Committee of the Red Cross, which gives the latter the right to visit Armenian prisoners.

88. The Committee is encouraged by the information given to it about the developments in the reform of the Armenian legal system: it seems that high priority is given to human rights.

#### 3. Factors and difficulties impeding the application of the provisions of the Convention

89. The Committee is aware of the very difficult economic situation existing in Armenia and of the difficulties involved in its transition from one system of governance to another one that is based on democracy. The Committee also acknowledges the particular consequences of Armenia's unstable border situation.

90. The Committee has taken these matters into consideration in formulating its conclusions and recommendations. However, the Committee emphasizes that the difficult situation of the State party can never provide a justification for failure to comply with its obligations under the Convention.

#### 4. Subjects of concern

91. The Committee is concerned at the fact that Armenia has not considered it appropriate to introduce a specific definition of the crime of torture in its penal legislation.

92. It is not clear whether the provisions of article 2 of the Convention are adequately reflected in the domestic law of Armenia.

93. The Committee is concerned at the fact that it is not clear whether the laws, regulations and practices in Armenia effectively prohibit that a person be sent back to a country where he or she would be in danger of being subjected to torture.

94. The Committee has doubts about the effectiveness of the provisions for the safeguard of persons in police custody.

95. Finally, the Committee is concerned about the number of allegations it has received with regard to ill-treatment perpetrated by public authorities during arrest and police custody.

## 5. Recommendations

96. The Committee recommends that a definition of torture in conformity with the definition appearing in article 1 of the Convention be inserted into Armenian domestic legislation as a separate type of crime.

97. The Committee emphasizes that orders received from a superior implying the perpetration of an act of torture are illegal and should be sanctioned under criminal law. In addition, they cannot be considered by the person receiving such orders as justification for having committed torture. This should be clearly incorporated into the domestic law.

98. The Committee recommends that legal and practical measures be taken by the Armenian authorities to guarantee that a person be not expelled, returned (refoulé) or extradited to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to torture.

99. The Committee understands that the Government of Armenia is presently developing the jurisdiction of the Constitutional Court; the Committee recommends that the Government consider the possibility of establishing an effective and reliable judicial review of the constitutional rights of those who are illegally detained.

100. The Committee further recommends that Armenian authorities give high priority to the training of personnel enumerated in article 10 of the Convention.

101. The Committee recommends that the allegations of ill-treatment that were brought to its attention be duly investigated and that the result of such investigations be transmitted to the Committee.

## ARMENIA

### CAT A/56/44

33. The Committee considered the second periodic report of Armenia (CAT/C/43/Add.3) at its 440th, 443rd and 447th meetings, held on 14, 15 and 17 November 2000 (CAT/C/SR.440, 443 and 447), and adopted the following conclusions and recommendations.

#### A. Introduction

34. The Committee notes that the second periodic report of Armenia was not prepared in full conformity with the June 1998 guidelines for the preparation of periodic reports. It nevertheless welcomes with satisfaction the Armenian delegation's oral introduction of the report and willingness to engage in a dialogue.

#### B. Positive aspects

35. The Committee takes note with satisfaction of the following elements:

- (a) Ongoing efforts to establish a legal system based on universal human values in order to safeguard fundamental human rights, including the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment;
- (b) The moratorium on the application of the death penalty and the fact that the death penalty is not provided for in the draft Penal Code;
- (c) The fact that a person may not be extradited to another State if there are substantial grounds for believing that he would be in danger of being subjected to torture or sentenced to death;
- (d) The human rights training programme for government law enforcement officials and, in particular, employees of the Ministry of the Interior and National Security;
- (e) Cooperation between government authorities and non-governmental organizations;
- (f) The State party's decision to establish the post of Ombudsman.

#### C. Factors and difficulties impeding the application of the Convention

36. The Committee takes note of the transition problems the State party now faces.

#### D. Subjects of concern

37. The Committee is concerned about the following:

- (a) The fact that the draft Penal Code does not include some aspects of the definition of torture

contained in article 1 of the Convention;

(b) The fact that the rights of persons deprived of liberty are not always respected;

(c) The existence of a regime of criminal responsibility for judges who commit errors in their sentences on conviction, since it might weaken the judiciary;

(d) The lack of effective compensation for victims of acts of torture committed by government officials in contravention of the provisions of article 14 of the Convention;

(e) Poor prison conditions and the fact that prisons come under the authority of the Ministry of the Interior;

(f) The ongoing practice of hazing (“dedovshchina”) in the military, which has led to abuses and violations of the relevant provisions of the Convention. This practice also has a devastating effect on victims and may sometimes even lead to their suicide.

38. The Committee notes with concern that the State party has not taken account in its second periodic report of the recommendations the Committee made in connection with the initial report of Armenia in April 1996. In particular, it has not communicated the results of the inquiry on the allegations of ill-treatment that were brought to the Committee’s attention.

#### E. Recommendations

39. The Committee makes the following recommendations:

(a) Although Armenian legislation contains various provisions on some aspects of torture as defined by the Convention, the State party must, in order genuinely to fulfil its treaty obligations, adopt a definition of torture which is fully in keeping with article 1 and provide for appropriate penalties;

(b) Counsel, family members and the doctor of their own choice must be guaranteed immediate access to persons deprived of liberty;

(c) While welcoming the plan to transfer responsibility for prison administration from the Ministry of the Interior to the Ministry of Justice, the Committee invites the State party to establish a truly independent and operational system for the inspection of all places of detention, whether Ministry of the Interior, Ministry of Justice or Ministry of Defence facilities;

(d) The Committee recommends that the State parties should conduct impartial investigations without delay into allegations of hazing (“dedovshchina”) in the military and institute proceedings in substantiated cases;

(e) The Committee invites the State party to bring the regime of criminal responsibility for judges into line with the relevant international instruments, including the Basic Principles on the Independence of the Judiciary adopted in 1985 and the Guidelines on the Role of Prosecutors adopted in 1990;

(f) The Committee encourages the State party to continue education and training activities on the prevention of torture and the protection of individuals from torture and ill-treatment for police and for the staff of prisons, including Ministry of the Interior facilities and military prisons;

(g) The Committee recommends that, as soon as possible the State party should adopt the draft Penal Code, which abolishes the death penalty, in order to resolve the situation of the many persons who have been sentenced to death and who are being kept in uncertainty amounting to cruel and inhuman treatment in breach of article 16 of the Convention;

(h) The Committee would like to receive information concerning the recommendations it made in connection with Armenia's initial report, particularly those concerning the allegations of ill-treatment which were brought to its attention and were to be the subject of an immediate and impartial inquiry whose results were to be transmitted to the Committee;

(i) The Committee invites the State party to include the necessary statistics, disaggregated by gender and geographical region, in the next report to be submitted in October 2002;

(j) The Committee encourages the State party to make the declarations provided for in articles 21 and 22 of the Convention.