



ՀԱՅԱՍՏԱՆԻ ՀԱՆՐԱՊԵՏՈՒԹՅԱՆ ՄՇՏԱԿԱՆ ՆԵՐԿԱՅԱՅՈՒՅՉՈՒԹՅՈՒՆ
PERMANENT MISSION OF THE REPUBLIC OF ARMENIA

2203/478/2015

The Permanent Mission of the Republic of Armenia to the United Nations Office and other international organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the letter Ref:AL ARM 1/2015 dated 3 July, 2015, has the honour to transmit the response from the Government of the Republic of Armenia.

The Permanent Mission of the Republic of Armenia to the United Nations Office and other international organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Attached : 5 pages



A. M.
Geneva 31 August, 2015

Republic of Armenia

Communication sent on 3 July 2015 by Special Procedures of the Human Rights Council

In response to letter of 3 July 2015 the Government of the Republic of Armenia would like to communicate the following:

- 1. Please provide any additional information and any comment you may have on the above mentioned allegations.**
2. The Constitution of the Republic of Armenia adopted in 1995 reserved the right to peaceful, unarmed meetings, assemblies, rallies and demonstrations only to the citizens of the Republic of Armenia, whereas, as a result of constitutional amendments of 2005, that right was reserved to every person, *i.e.*, that right was extended to foreign citizens and stateless persons.

The law on “Freedom of assemblies”(adopted 14.04.2011) regulates in detail the rights and duties of organisers of public events, the powers of the authorised bodies and the police, limitations on organising and holding public events, procedure for notification on public events, etc.

Article 9 of the Law of the Republic of Armenia “On Freedom of Assemblies” stated: 1. “To conduct a public assembly, the organizer shall give written notification to the authorized body, with the exception of assemblies with up to 100 participants, urgent and spontaneous assemblies”. According to the Article 10 of the same law “the purpose of notification is to ensure that the state can take the measures necessary for securing the natural and peaceful course of the assembly, as well as take necessary measures for protecting the constitutional rights of other persons and the interests of the public”.

The above mentioned requirements of the law have been actually violated by assembly leaders.

The police have not been informed by the authorized body on initial and final assembly venue, approximate number of participants, time when assembly to be start or terminate, the purpose, object or technical means to be used for conducting assembly, contemplated number of stewards, the march route and the timing.

On June 22 starting from 18.30, immediately after carried out unlawful march towards the residence of the President of the Republic (according to the announcement of the organisers of the march), the Police regularly warned the organizers of the march that they violated the law (part 1 of Article 180.1 of the RA code on “Administrative violations”). The purpose of the warning was to influence on the behaviour of the demonstrators through leaders and to reach lawful maintenance of procedure.

Police appeals were entirely defied by the organizers. On June 22 starting from 19.00 till the moment of dispersing the assembly, demonstrators carried out a sit-in blocking Baghramyan Avenue. Negotiations and persuasion activities were conducted by the initiative of the Police, in particular the assembly organizers have been proposed to form a group and meet with the President. The proposal was not accepted. Then the police called upon to open the avenue suggesting gathering at the Freedom Square. This request also has been defied faced the resistance of organizers.

From June 19, 2015 starting from 23.00 through June 22, 2015 before making the decision to terminate the assembly, the police did not impede the process of conducting the assembly, did not use force against demonstrators, did not hold

responsible the actual organizers of the assembly in line with part 1 of Article 180.1 of the RA code on "Administrative violations", the police continued to maintain the public order, including security of demonstrators itself.

Hereby the police carried out its duty stated in Article 32 part 2 of the Law on Freedom of assemblies "to facilitate the peaceful assembly".

Such obligation has its limits of performance and cannot obstruct the police in all cases where there are basis of the termination of meeting envisaged by Article 33, part 1 of the same law.

As it is clearly defined by the law on "Freedom of Assemblies" - "an assembly is a temporary peaceful presence of two or more individuals", it means that every assembly should have a beginning and an end. Besides, the content of the right to freedom of assemblies does not include the satisfaction of a demand expressed during the assembly.

On June 22 from 19.00 the unlawful assembly paralyzed the traffic along Baghramyan Avenue (which is the one of the central streets of Yerevan) completely blocking the movement of vehicles and pedestrians. Traffic participants were forced to drive along other roads burdening streets and creating inconveniences for passengers. A group of people organizing illegal assembly, march, as well as sit-down strike in Baghramyan avenue of Yerevan City completely impeded the traffic of public transport, the constitutional freedom of free movement of numerous people, disrupted the quietness, thereby intentionally violated the public order demonstrating blatant disrespect towards society members for a long period of time.

Considering the fact that:

- a. The President responded to the demand raised by participants;
- b. leaders of the assembly violated the demand envisaged by Article 28 of the RA law on "Freedom of assemblies" (the actual leaders of the assembly avoided formally announcing their names and surnames, as well as the approximate time of the termination of the assembly),
- c. Participants of the assembly violated the demand envisaged by Article 29 of the RA law on "Freedom of Assemblies (the sit-in started from 22.00 to 05.30 was accompanied by the noise in areas adjacent to Baghramyan Avenue residential buildings disturbing the rest of the inhabitants),
- d. the sit-in was termless (approximately 10 hours) and its termination was indefinite
- e. There was also the necessity to eliminate the disproportionate restriction of other people's constitutional rights and the police, in line with part 1 of Article 33 of the RA law on "Freedom of assemblies", called upon the actual leaders and participants of the assembly to terminate the unlawful assembly.

Taking into consideration the fact that the actual leaders of the assembly avoided to carry out obligations imposed on them by RA law on "Freedom of assemblies", the police representative not less than 2 times warned participants by a loudspeaker that in case the assembly was not terminated during 10 minutes, the police had to disperse in including its power to use special means envisaged by the RA law "On Police". The assembly was dispersed in accordance with Article 34 of the RA law on "Freedom of assemblies".

The police have made a decision on the termination of meeting to balance realization of the rights of one group of citizens, in particular constitutional provisions about the

right to peaceful assemblies and expressions by indispensability of performance of constitutional laws of other citizens.

The right to peaceful assemblies does not and can't have an absolute nature and the Constitution of the Republic of Armenia provides for two mechanisms for limiting the rights of a person and of citizen (including the right to peaceful assemblies). One of the mechanisms is applied in ordinary conditions, in case where it is necessary in a democratic society for the protection of the national security, public order, prevention of crimes, protection of public health and morals, constitutional rights and freedoms, honour and good reputation of others (Article 43). The other one is applied during martial law or state of emergency.

Starting from June 19 till June 22-23 participants of the assembly fully exercised their rights (have had enough time to announce their demands and present them to the society, competent authorities and officials) and their subsequent implementation would disproportionately limit the public interest, namely the need to maintain public order.

On June 23, 2015 police used water cannon according to points 2 and 7 of paragraph 1 of Article 31 of the RA law on Police. It was applied when demonstrators did not obey the demand to terminate the assembly which caused disproportionate restriction of other people's constitutional rights. Meanwhile, the police have maintained the procedure of using force, which is envisaged by Article 33 of the RA law on "Freedom of assemblies". The power of the Police for exercising the special means is enshrined in part 3 of Article 33 of the RA law on "Freedom of assemblies".

On June 22, 2015 the criminal case N14203515 was initiated by the deputy prosecutor of Arabkir and Kanaker-Zeytun administrative districts by the 1st part of the Article 258 of the Criminal Code of the RA and was sent for preliminary investigation to the Investigative Department of Yerevan city of the Investigative Committee of the RA. The Criminal Case was admitted into production of the Investigative Department of Yerevan city of the Investigative Committee of the RA on 23rd of June, and an investigation is in process.

With regard to the allegations on the excessive use of force contained in the communication of the UN Special Procedures, it should be noted that no information is available confirming those allegations as the cases are still in the process of investigation.

2. Has a complaint been lodged by the victims or on their behalf?

Several victims presented an appeal to the Special Investigation Service, which is an independent body and is currently conducting criminal investigation of all cases.

3. Please provide the details, and where available the results, of any investigation, medical examination, and judicial or other inquiries which may have been carried out in relation to these cases. If no inquiries have taken place, or if they have been inconclusive, please explain why.

Such information can be provided only upon completion of preliminary investigation of the criminal case.

During the investigation of the criminal case, according to the principle of fair trial, prescribed by the Article 17 of the Criminal Procedure Code of the RA, procedural actions necessary for comprehensive, complete and objective investigation of the case circumstances have been launched.

In the framework of the criminal case up until now more than a dozen of representatives of mass media, allegedly having suffered from the actions of the Police Officers on June 23 2015, have been interrogated and recognized as victims, some of them (upon necessity) underwent forensic expertise, the conclusion of the expert has been received, destroyed video equipment have been taken, forensic-merchandise and forensic-tracing combined expertise has been assigned, multiple video records about incidents of June 23 have been attached to the case, which served as grounds that during the incident the Police Officers did not used truncheons.

Some of the participants of the demonstrations of June 23, 2015 on Baghramyan Avenue were also interrogated, and recognized as the victims.

In line with result of internal investigation carried out by the Police on the mentioned cases – 12 police officers have been faced disciplinary actions, including high ranking officers. At present internal investigation is suspended. The process will continue after the final results of the criminal case investigation.

During the preliminary investigation forensic medical examination have been appointed over 14 police officers of the RA physically injured on Baghramyan Avenue. According to 1 conclusion related to police officers, a slight damage has been caused to a police officer's health with short-term health disorder, according to 8 conclusions physical injuries of 8 police officers doesn't contain features of slight damage to health, expert conclusions concerning 5 police officers have not been received yet. During the preliminary investigation forensic medical examinations have been appointed towards 25 citizens physically injured on Baghramyan Avenue. According to 1obtained conclusion, physical injuries of one of the citizens doesn't contain features of slight damage to health, according to another conclusion physical damages of one of the citizens caused slight damage to health with short-term health disorder. The remaining 23 conclusions have not been received yet.

Please provide the full details of any prosecutions which have been pursued in relation to the cases. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?

Administrative or criminal sanctions have not been applied to demonstrators of the assembly. During the preliminary investigation of this criminal case pursuant to the article 177 of the Criminal Procedure Code of the RA, reports on crime committed by any person – namely physical injuries have not been submitted.

No one is involved as an accused within the scopes of this criminal case.

5. Please indicate any remedial action to be taken vis-a vis the victims aforementioned.

The alleged excessive use of force against victims has not been affirmed. Nobody has applied to the Police for remedy of damage to health. People have applied to the Police to claim material damage, which has been satisfied.

6. Please indicate what measures have been taken to ensure that the legitimate right to meet and assemble peacefully is respected and that the physical and psychological integrity of those exercising this right is guaranteed.

Assemblies were conducted with violation of the law, but as a matter of fact were peaceful. On June 19 starting from 23.00 before making decision to terminate the assembly (June 22 dawn June 23 at 5.30 a.m.) the police did not impede the process of conducting the assembly, did not use force against protestors, did not hold responsible the actual organizers of the assembly in line with part 1 of Article 180.1 of the RA code on "Administrative violations", the police continued to maintain the public order, including security of demonstrators. In other words Police have implemented its duty to support the peaceful assembly envisaged by Article 32, part 2 of the RA law on "Freedom of assemblies". The police leadership has ordered to the forces restoring the public order not to apply special means included means of police armament the use of which may cause physical pain or injury to the persons, in particular even such special mean as "rubber truncheon" has not been applied while dispersing the assembly.

The police dispersed the assembly at dawn in order to have relatively small number of participants of the sit-in.

While using water cannon has not been applied the maximum pressure of the regime of water supply in order not to cause physical damage to the participants of the assembly. Although the law envisages warning twice about the possibility of applying special means (in case there are necessary grounds to terminate the assembly), the police announced it dozens of times.

7. Please kindly indicate what measures have been taken to ensure that human rights defenders and journalists are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

Before dispersing the assembly, the police have appealed to all journalists at the scene with special warning to be within a reasonable distance, so that they will not suffer as a result of police actions. Please find attached the video where the police representative calls upon journalists to leave the assembly scene. The demand of the police was defied. The video clearly shows that some journalists take photos at the scene applying water cannon special mean, even trying to enter into water jet. In line with RA law on "Freedom of assemblies" during dispersal of the assembly journalists were obliged to leave scene, but some journalists continue to stay.