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PERMANENT MISSION OF THE REPUBLIC OF ARMENIA

2203/408/2018

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 United Nations High Commissioner for Human Rights and, with reference to the latter's letter No. OL ARM 1/2018, dated 29 March, 2018, has the honour to transmit the reply to the joint communication of the Special Rapporteur in the field of cultural rights; the Special Rapporteur on violence against women, its causes and consequences; and Working Group on the issue of discrimination against women in law and in practice.

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 United Nations High Commissioner for Human Rights the assurances of its highest consideration.



Encl.: 15 pages.

OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

Government of Armenia

Reply to the letter dated of 29 March 2018 of the Special Rapporteur in the field of cultural rights; the Special Rapporteur on violence against women, its causes and consequences; and Working Group on the issue of discrimination against women in law and in practice, pursuant to Human Rights Council resolutions 28/9, 32/19, 15/23.

1. Please provide any additional information and/or comment(s) you may have on the allegations made.

It is clear from the content of the submitted letter that, unfortunately, the issues raised in it proceed from false information and interpretation regarding the provisions of the Law in question, entitled “On prevention of violence within the family, protection of victims of violence within the family, and restoration of peace in the family” (hereinafter referred to as “the Law”). In particular, with regard to the interpretation of traditional family values as an intention to reinforce gender stereotypes, we should stress that no provision in the Law may be used for reinforcement of gender stereotypes. It would contradict point 4 of part 1 of Article 86 of the Constitution of the Republic of Armenia, which enshrines the promotion of actual equality between women and men as an objective of the state’s socio-economic and cultural policy. By signing the Council of Europe Convention on preventing and combating violence against women and domestic violence (hereinafter referred to as “the Istanbul Convention”), the Government has undertaken an obligation to ensure that no cultural or religious stereotype is used to justify violence. At the same time, we would like to assure you that our traditional family values in no way justify violence against women, but exactly the opposite. Therefore, we positively deny all assumptions that any provision of the Law may lead to violence or justification of violence against women. As for the provisions on restoration of peace in the family and strengthening traditional family values mentioned in the title and principles of the Law, they may not be interpreted in isolation from the other provisions of the Law and factual circumstances

of each specific case, all the more so against the will of the person subjected to violence. Exclusion of violence and promotion of an atmosphere of mutual respect are exactly what is meant by “traditional values”. To promote this perception of traditional values, the Government has initiated a number of measures aimed at raising public awareness, such as short video clips on public television, posters, quotes by famous, reputable personalities, and various other ways, which break the existing stereotypes regarding traditional family values, including those with respect to the dominant role of the man and violence as a standard of conduct. The vision of a family based on love and respect, a traditional family value formed in our national culture and promoted by the government, is disseminated instead. Exactly this kind of family is promoted by the Constitution of the Republic of Armenia.

According to the letter, it is not clear whether the Law applies only to couples who are in registered marriage or also to those in unregistered marriage. Whereas, it is obvious from sub-point (a) of point 1 of part 1 of Article 4 of the Law that both persons in legally registered marriage and those in actual marital relationship may be regarded as subjects of violence within the family. As for the judgements made in the second paragraph on page 2 of the letter with respect to protective measures, it should be noted that in the case of a threat of violence within the family, not only a decision on issuance of a simple warning but also one on immediate interference may be made, this being in full compliance with the requirements of Article 50 of the Istanbul Convention (emergency barring order) and ensuring a high level of protection.

With regard to the issue of criminalisation of violence within the family under the Law, we should clarify that according to the legislation of the Republic of Armenia, an act may be criminalised exclusively under the Criminal Code; therefore, the Law may not contain criminalising provisions. At the same time, it should be noted that the main manifestations of violence within the family are already covered by different articles of the Criminal Code. And it is not required by any international standard that domestic violence must necessarily be criminalised as a separate offence. As for the small

number of acts mentioned in the Istanbul Convention, which have not yet been included in the current Criminal Code, the Government is not going to abandon its commitments made in this regard. However, in the interest of providing more complete and effective regulations, the matter should not be given a fragmentary solution but, rather, relevant reforms must be introduced via the new draft Criminal Code of the Republic of Armenia.

With regard to the reminder on due diligence, we should note that the competent law enforcement bodies pay particular attention to the cases of violence within the family and violence against minors. In particular, there is a specialised subdivision functioning in the Police, and the Chairperson of the Investigative Committee has issued a special order on the investigation of cases of violence within the family.

Below we present the statistics provided by the Police of the Republic of Armenia on the cases of domestic violence during 2016-2017:

793 cases of domestic violence investigated in 2017.

The mentioned 793 cases were perpetrated by:

- sexual partner — 3 cases,
- husband against wife — 471 cases,
- wife against husband — 20 cases,
- parent against child — 66 cases,
- child against parent — 99 cases,
- other members of family — 97 cases.

2 293 cases of violence against women were recorded in 2017, of which 94 were against sexual integrity and sexual freedom, and 624 were cases of domestic violence.

The 624 cases of domestic violence against women were perpetrated by:

- sexual partner — 0 cases,

- husband against wife — 456 cases,
- wife against husband — 3 cases,
- parent against child — 38 cases,
- child against parent — 64 cases,
- other members of family — 63 cases.

2 357 cases of violence against women were recorded in 2016, of which 112 were against sexual integrity and sexual freedom, and 599 were cases of domestic violence by:

- sexual partner — 1 case,
- husband against wife — 439 cases,
- wife against husband — 6 cases,
- parent against child — 38 cases,
- child against parent — 63 cases,
- other members of family — 52 cases.

The Government of the Republic of Armenia adheres to the international commitments assumed by it, including those with respect to ensuring accessibility of justice and support for women subjected to violence. For this purpose, the rights of persons subjected to violence to legal assistance, first aid and psychological aid have been ensured by a package attached to the Law. As for the right to reparation for the harm suffered, it is ensured in the following ways: by bringing an action — through civil procedure on general grounds — for reparation of pecuniary damages suffered; by issuing a protective order which obligates the perpetrator of violence to cover the expenses of the person subjected to violence which arose as a result of the committed violence. Besides, the authorised body must open a bank account for temporary material support for persons subjected to violence.

It is not clear why an impression has been created that the discretion to apply protective measures is too wide or that the consequences of violating their requirements are too mild. The grounds for issuing protective orders are expressly prescribed by the Law. Moreover, the procedure for adoption of a decision on immediate interference has been prescribed by the draft Order of the Chief of Police, which lists with maximum precision the criteria for risk assessment and provides an appropriate checklist. The grounds for issuing a protective order do not lack precision either, and the court needs a certain scope of discretion to perform its constitutional function and form its inner conviction. As for the consequences of violating the requirements of a protective measure, measures of both administrative and criminal liability are envisaged, depending on the nature of the violation. Addressing the burden of proof, it is important to stress that the latter is not on the victim, be it in the case of adopting a decision on immediate interference (which is adopted by the police officers *ex officio*) or in the case of criminal prosecution. Moreover, according to the procedure introduced by the package, where appropriate, a prosecutor may *ex officio* institute prosecution in cases requiring private charges, regardless of the victim's consent to such prosecution.

2. Please provide information on specific plans to implement the requirements of the law, particularly those related to the creation of new government-funded shelters, including the number and location of new shelters planned, time frames for their opening, and budget allocations.

The Law was adopted by the National Assembly of the Republic of Armenia on 13 December 2017 and entered into force on 31 January 2018.

On 27 February 2018, the Decision No 181-A “On approving the list of measures ensuring the application of the Law” was approved upon the Decision of the Prime Minister of the Republic of Armenia, according to which, legal acts ensuring the

enforcement of the Law must be submitted to the Government of the Republic of Armenia during the year.

In particular, the Government plans to adopt nearly 14 sub-legislative acts, the purpose of which is to ensure full and effective application of the Law in practice. These acts will more thoroughly regulate the activity of the Council for Prevention of Violence within the Family, requirements for support centres and shelters, procedure for the centralised record-registration of cases of violence within the family, procedure for adoption of decisions on immediate interference and risk assessment, certain specific aspects of medical service, rehabilitation of perpetrators, reconciliation procedure, and many other related issues.

The Ministry of Labour and Social Affairs has already drafted and submitted to the Government of the Republic of Armenia five legal acts which bear on such matters as the centralised record-registration of cases of violence within the family, shelters and the requirements for shelter staffs, as well as financing, temporary support to persons subjected to violence within the family, formation of the Council for Prevention of Violence within the Family, etc. Only after the adoption of the aforementioned legal acts will measures aimed at their introduction, including ones pertaining to the activities of the shelters, be implemented.

It should be noted that according to Article 23 of the Law, the provisions on the services provided by shelters shall enter into force one year following the day of official promulgation of the Law.

Since 1997, more large-scale and comprehensive services to persons subjected to violence within the family in the Republic, including shelter services, have been provided by NGOs, which have the necessary knowledge, capacities and skills for carrying out these activities. NGOs closely cooperate with all the organisations and institutions concerned, including with bodies performing the functions of prevention of

violence within the family and protection of persons subjected to violence within the family.

As for the creation of shelters by the state, according to Article 20 of the Law, shelters may be created by the state, non-commercial organisations established by local self-government bodies or other non-commercial legal persons.

Considering the aforementioned, as well as the fact that the record-registration of cases of violence in the family prescribed by the Law is not yet being carried out (the procedure for record-registration is a new mechanism, which is yet in the stage of development) and the lack of any clear estimation of the number of persons subjected to violence in the family and those in need of support and, in particular, shelter service, creation of new shelters by the state is not planned in this stage. The state will support — through delegation of services as prescribed by the Law — the organisations currently operating in the Republic and providing shelter services.

As regards the number and location of support centres and shelters, we think that non-inclusion of that information in the Law is quite justified, since such issues are not subject to regulation by law but are regulated by the decision of an authorised body for practical convenience. The most important goal is that these institutions conform to the requirements set and are able to provide the necessary services to the beneficiaries. As for financing, the necessary funds are generated both from the State Budget and other funds not prohibited by law, including those provided by the EU Budget Support Programme.

3. Please provide details of the training programmes that will be used to instruct law enforcement and judicial officials, as well as health and social workers, in handling domestic violence cases.

Pursuant to the Order issued by the Head of Police of the Republic of Armenia, since May this year, training programmes for the officers of the competent subdivision of

the Police of the Republic of Armenia (Police unit (group) in charge of cases involving minors and prevention of violence within the family) have been conducted in the Educational Complex of the Police of the Republic of Armenia, during which they have been introduced to and studied the provisions of the Law of the Republic of Armenia on “Prevention of violence within the family, protection of victims of violence within the family, and restoration of peace in the family” concerning the functions vested in the Police of the Republic of Armenia, as well as orders developed by the Police, regulating the functions of the Police officers in accordance with the requirements of the mentioned Law. The police officers take a pass-fail exam after the completion of the course.

In addition to this, with the support of the United Nations Population Fund, workshops in accordance with the provisions of the Law of the Republic of Armenian “On prevention of violence within the family, protection of victims of violence within the family, and restoration of peace in the family” and sub-legislative acts deriving from it are being conducted in marz [regional] departments of the Police of the Republic of Armenia by a representative of the Police of the Republic of Armenia and an expert in domestic violence. The workshops were attended by the officers of the units (groups) in charge of cases involving minors and prevention of violence within the family operating in the subdivisions of marz departments of the Police, as well as by the management staffs of the departments and divisions. Workshops have already been conducted in the Kotayk and Lori marz departments of the Police.

At the same time, training programmes conducted by international organisations are planned to be organised, during which police officers will study the international practice and learn professional and practical skills to work with persons subjected to violence within the family and to apply them in their daily service.

As regards the colleagues in social sector, since 2015 (following the adoption of the Law of the Republic of Armenia “On Social Assistance”), the Ministry of Labour and Social Affairs, with the support and assistance of international and non-governmental

organisations, has been implementing informational and educational programmes aimed at developing the capacities of the specialists in the bodies in charge of prevention of violence within the family, as well as institutions providing support and offering services to persons subjected to violence within the family. In the nearest future, after adopting legal acts ensuring enforcement of the Law, it is planned to develop new training modules and guidelines, as well as conduct training programmes based on them.

With a view to ensuring full-fledged enforcement of the Law, it is planned to conduct an educational programme for medical workers, which will include:

- (1) measures to raise awareness among the employees of medical institutions about the terms and procedure for reporting the cases of violence within the family to the Police, Investigation Committee or Prosecutor's Office of the Republic of Armenia;
- (2) trainings on how to inform the persons who come to medical institutions for medical assistance after an act of violence within the family about the available psychological and other services and how to refer them to support centres.

When talking about the trainings in the law enforcement system, it should be noted that the Police Academy and the Academy of Justice will continue to perform this function. In particular, it is worth mentioning that several relevant programmes, including the HELP course on Violence against Women and Domestic Violence and the project "Improving Women's Access to Justice in the Eastern Partnership Countries" implemented in cooperation with the Council of Europe, have already been successfully launched in the Academy of Justice.

The Project "Preventing and Combating Violence against Women and Domestic Violence" just started in Armenia with support of Council of Europe.

The Project aims at strengthening the capacity of key stakeholders involved in preventing and combating violence against women and domestic violence. The project focuses on increasing the knowledge of the Armenian new law on domestic violence

and of the relevant European standards, in particular, the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention). The project supports the implementation of the Council of Europe Action Plan for Armenia 2015-18.

The project objectives are:

- To increase the knowledge of legal professionals on how to put the victim and her needs at the centre when dealing with the cases of violence against women and domestic violence. This approach will be implemented through targeted trainings, peer-to-peer exchanges and expert support to develop a training curriculum for the Academy of Justice.
- To strengthen the knowledge of law enforcement professionals on violence against women and domestic violence through targeted trainings, development of a practical handbook for police officers to deal with cases and dissemination of relevant materials.
- To raise awareness on the Council of Europe Istanbul Convention and its standards among relevant stakeholders.

The project partners are the Academy of Justice and the Police of Armenia. Additionally, the Council of Europe co-operates with different state institutions, non-governmental organisations working in the field of combating violence against women and domestic violence.

4. Please provide details of the training programmes of public education in order to prevent domestic violence, and of any efforts to ensure access to information regarding this law, complaint mechanisms, and related services for those who may be subject to domestic violence.

With regard to measures of public awareness, it is worth mentioning that the Law requires that all manifestations of any support for violence within the family be excluded from educational materials; the 2017-2019 Action Plan deriving from the National Strategy for Human Rights Protection provides a similar obligation for the

National Council of Public Television and Radio, while the Council for Prevention of Violence within the Family to be established will have as its mission implementation of wide-scale public awareness-raising and educational measures. Back in the stage of discussions around the draft Law, the Government disseminated information among the public on the regulations established in the Law via large-scaled public discussions, television advertisements, different television and radio programmes, and lectures. Other state bodies — first of all, the Council mentioned above — will continue to perform this function. The function of providing information to potential victims will also be performed by “hot lines” which will operate in the support centres. Details on measures aimed at increasing public awareness will become known after the formation of said Council.

Every year since 2008, the National Institute of Labour and Social Research has been conducting State Budget-funded training courses for civil servants occupying highest, chief, leading and junior positions on “Gender-based violence” according to the programme approved by Decision of the Civil Service Council of the Republic of Armenia N 567-A of 8 July 2008. The draft Decision of the Government of the Republic of Armenia “On approving the 2018-2022 strategy for implementation of the policy of ensuring equal rights and equal opportunities for women and men in the Republic of Armenia and the action plan” provides for revision of the above-mentioned training module in accordance with the current legislation and for organisation of training courses.

In recent years, with a view to preventing violence within the family, the Public Relations and Media Department of the Police of the Republic of Armenia has been broadcasting public awareness-raising programmes which cover the concept of violence within the family, types of violence, powers of the competent bodies in the area of protection of victims of violence within the family.

At the same time, the Department in charge of Cases Involving Minors and Prevention of Violence within the Family of the Police of the Republic of Armenia conducts

workshops for the officers of the subdivisions of marz departments of the Police of the Republic of Armenia, during which they learn about the activities organised for the purpose of exercising the powers reserved to the Police of the Republic of Armenia by the Law of the Republic of Armenia “On prevention of violence within the family, protection of victims of violence within the family, and restoration of peace in the family”, as well as about how the persons subjected to violence within the family who refer to the Police should be informed of their rights and opportunities to benefit from the services available.

5. Please provide details of any concrete measures that will be taken to ensure that domestic violence complainants are not coerced into undergoing reconciliation with their abusers.

With regard to the process of reconciliation of persons subjected to violence and perpetrators of violence, it should be noted that the Law (Article 10) and the sub-legislative acts stipulate and will stipulate all guarantees to ensure exclusion of any pressure or threat against persons subjected to violence. The mentioned process may be carried out exclusively with the written consent of the victim. Moreover, the meetings between reconciliation parties shall take place in the presence of a support centre employee, the purpose of this being the exclusion of any threatening actions. The person subjected to violence shall have the right to refuse at any stage to participate in this process. The support centre shall stop the reconciliation process where there is a reasonable assumption that the person subjected to violence within the family is participating in it under a threat. At the same time, there is a concern that if no state-supervised opportunity for reconciliation is provided, the victims may become involved in reconciliation processes independently and alone, outside legally-regulated platforms, which may leave them in an absolutely defenceless and vulnerable situation, whereas this institution will provide them with an opportunity to chose, ensuring their security in all stages. It is also worth emphasising that the institution of

reconciliation does not apply to minors and persons having no active legal capacity. In this light, it is worth mentioning that rehabilitation programmes are planned for the perpetrators of violence, in the context of which providing the members of the family with an opportunity to reconcile is well-justified if, and it goes without saying, the person subjected to violence has consciously given his or her consent and the necessary safeguards have been secured. Currently, the Minister of Labour and Social Affairs of the Republic of Armenia, the authorised body responsible for the implementation of the above-mentioned provision of the Law, has developed and put into circulation in the prescribed manner its draft Order “On approving the procedure for reconciliation of persons subjected to violence within the family and perpetrators of violence within the family”, pursuant to which the reconciliation process shall be carried out based on the principles of voluntarism, equality, impermissibility of arbitrary interference by anyone in the process.

6. Please provide information on any further measures Your Excellency’s Government intends to take in order to ensure the safety of domestic violence survivors, provide them with justice and restitution, and address the root causes of domestic violence in Armenian society.

Currently, with a view to ensuring the continuity of gender policy in the country, the draft Decision of the Government of the Republic of Armenia “On approving the 2018-2022 strategy for implementation of the policy of ensuring equal rights and equal opportunities for women and men in the Republic of Armenia and the action plan” has been developed and submitted in the prescribed manner to the Government of the Republic of Armenia. It defines the priorities of the state policy of ensuring equal rights and equal opportunities for women and men and is aimed at creating favourable conditions for women and men to enjoy their rights and opportunities in all fields of social life, taking into consideration the international commitments, including Sustainable Development Goals undertaken by the Republic of Armenia.

Six priorities have been identified in the draft, of which one is aimed at preventing and combating violence within the family. For the purpose of implementation of this priority, the action plan to be approved by the draft provides for many actions aimed at:

- ensuring prevention of violence within the family and complex legal regulation of relations in the field of the fight against it;
- creating an environment for effective application of the legislation of the Republic of Armenia regarding prevention of violence within the family;
- expanding the opportunities of providing assistance and the network of services offered to persons subjected to violence within the family; ensuring a unified approach to the provision of complex services to them;
- ensuring improvement of the knowledge and skills of the bodies in charge of prevention of violence within the family, institutions providing assistance and offering services to persons subjected to violence within the family, the personnel of law enforcement bodies, judges, advocates;
- increasing the level of awareness about violence within the family, as well as about mechanisms of the fight against it;
- establishing a spirit of intolerance towards violence within the family in the society.

As regards the requirements for reparation of persons subjected to violence within the family, the Ministry of Labour and Social Issues has developed and submitted to the Government of the Republic of Armenia a draft Decision of the Government of the Republic of Armenia “On approving the procedure for managing the account for temporary support for persons subjected to violence within the family”, which regulates the relations pertaining to the management of the account for temporary financial support for persons subjected to violence within the family and those

pertaining to the provision of temporary financial support to persons subjected to violence within the family.