



Yerevan, 11 July 2017

**INFORMATION NOTE ON  
THE VIOLATIONS OF HUMAN RIGHTS AND CRISIS OF  
JUSTICE IN ARMENIA DURING THE PERIOD OF JANUARY-JULY OF 2017**

This information note has been elaborated by the “Protection of Rights without Borders” NGO. It summarizes the criminal persecution instituted against the participants of “Sasna Tsrer” group activities and other related events, as well as the human rights violations during the trial on the case of Vahan Shirkhanyan and others<sup>1</sup>.

The reference includes the five trials during the months of April -July 10 of 2017, within which the human rights violations, especially the rights related to the violations of fair trial were demonstrated. The extended version of the information note with the details of the violations is presented in Armenian and is available on the web page with the following link [goo.gl/6zCq62](http://goo.gl/6zCq62).

The mentioned violations were demonstrated through

- the intervention and hindrance of the professional activities of the advocates,
- the persecution and harassment against the advocates,
- the violence and harassment against the defendants;
- the prosecution against the citizens participating in the court sessions.

**Intervention and hindrance to the professional activities of the advocate**

Within the presented cases, the advocates were identified with their defenders and persecutions against the advocates in regard to the implementation of their professional activities started.

The advocates involved in the presented cases were subjected to personal inspection: at the entrance of the court, body and personal belonging inspection of the advocates was conducted through a metal detector<sup>2</sup>. In case of any signal of the metal detector, a demand by the judicial bailiffs was presented to open the object, which was considered as a subject to signal. Even in case when, it was obvious that metal detector signaled for the existence of such objects, as coins, clothes and bags with metal on them, the bailiffs obliged the citizens to publically open their bags, wallets, empty their pockets and show the

<sup>1</sup> The mentioned court cases were selected exclusively on the grounds of the violations within the latter. See the details on the criminal cases within the trails in Annex 1.

<sup>2</sup> hrarak.am, The court session on Zhirayr Sefilyan’s case was held in tense situation video, <http://hrarak.am/?p=148969&l=am%2Flarvac+mtnolortum+texivo%D6%82necav+sefilyani+gorcov+datakan+nisty+tesanyut+fotosharg>



contents of the latter publically<sup>3</sup>. The security check itself is not a violation and may be outweighed by the legitimate interest in the prevention of crime. However, there are number of issues that cause the violation:

- The personal inspection of the advocates for the entrance to the court building was not considered as a demonstration of common practice: this practice has never been applied before, and the choice of the cases, for the participation in which requires personal inspection of the advocates was not conducted on the choice of concrete, predictable and fair criteria. Moreover, as stated by the advocates, the prosecutors, participating in the court sessions were not subjected to personal inspection on the same criteria. There was a situation where the camera recorded how the prosecutor leaves the courtroom by the entrance envisaged for the judge<sup>4</sup>. In addition, some cases were recorded, when a few advocates participating in the court hearing on the same criminal case were subjected to personal inspection and others were not subjected<sup>5</sup>. In the situation when the president of the Chamber of Advocates and the head of the Justice department were present the examination of the advocate and his belongings was not conducted<sup>6</sup>.
- As prescribed by the “Judicial Code”<sup>7</sup> of the RA, the judicial bailiffs have the right to determine the identity of persons, right to remove a person from the courtroom or to restrict the entry of such person into the courtroom, as well to examine the persons entering into the court or the courtroom, including their belongings and etc. However, no regulation regarding the order and means for their implementation is ensured by the domestic legislation (law, any sub-legal act). The legislation also lacks the procedural rules, which should be followed by the judicial bailiffs, regarding the use of technical equipments, including metal detector. This leads to a situation, where the demonstration of arbitrariness by the government agents (bailiffs) is uncontrollable and this inevitably brings to human rights violations.

Without clear, certain and detail regulations for the examination and screening of the advocates and their belongings can’t satisfy the requirement of “in accordance with the law” and, therefore there is a breach of the Article 8, right to respect for private life, guaranteed by the European Convention on Human Rights<sup>8</sup>.

As stated by the advocates, by such actions, the authority tries to suppress them, isolate the trails and create an illusion of conducting a trail, in the outcomes of which the members of the “Sasna Tsrer” Group will be subjected to liability within a closed-door trial<sup>9</sup>.

<sup>3</sup> hrarak.am, The court session on Zhirayr Sefilyan’s case was held in tense situation video, <http://hrarak.am/?p=148969&l=am%2Flarvac+mtnolortum+texivo%D6%82necav+sefilyani+gorcov+datakan+nisty+tesanyut+fotosharq>

<sup>4</sup> Armtimes.com, Do the prosecutors on the case of Sasna Tsrer go to the Judge’s office. The defender published a video. July 06, 2017թ., <http://armtimes.com/hy/video/2129>

<sup>5</sup> Zhirayr Sefilyan and Nerses Poghosyan did not stand up in the court. June 27 of 2017 <https://www.youtube.com/watch?v=eJepZ2RxuU8>

<sup>6</sup> Armtimes.com, The Department wants to persuade that the weapons are not being moved to court <http://www.armtimes.com/hy/article/116492>

<sup>7</sup> Article 213 of the Judicial Code

<sup>8</sup> S. and Marper v. The United kingdom, app. No 30562/04 30566/04, 04 December 2008, §§ 95-106

<sup>9</sup> «Azatutyun TV» media center, July 3 of 2017, 30 minute interview, Mushegh Shushanyan <https://www.youtube.com/watch?v=RrnBWP4wz5I>



### **Persecution against advocates**

In all the presented cases, when the advocates refused to publically show their personal belongings at the presence of third party, the bailiffs qualified these actions as a refusal to obey their legal requirements and did not allow the advocates to enter the courtroom. On the grounds of the intentional absence of the advocates, the court decided to apply the sanction against the advocate and filed a motion to the President of the Chamber of Advocates of the Republic of Armenia with the demand to subject the advocate to disciplinary sanction<sup>10</sup>.

Sanctions were applied towards the advocates also in all the cases, when the defenders followed the instruction of their defendants. After the case, when judge removed the defendant from the courtroom, the latter asked his/her defender to discontinue the court session and the defender followed his/her instruction<sup>11</sup>. For such conduct, the court filed a motion to the Chamber of Advocates of the Republic of Armenia with the demand to subject the advocate to disciplinary sanction.

Within the framework of the presented cases, motions, in regard to subjecting the advocates to disciplinary sanctions, were also presented by the RA Police, RA Prosecutor General's Office reasoning that, advocates expressed criticism towards the activities of the state agencies and in particular towards the prosecution and police<sup>12</sup>.

### **Sanctions applied towards the defendant during the trial**

During the trial on the case of Vahan Shirkhanyan and others started back from December 2 of 2016, as well as the presented four other court examinations, the chairing judges applied sanctions also against the defendants on the grounds of demonstrating disrespectful attitude towards the court.

As a disrespectful attitude, the court assessed the speaking of the defendant without the permission of the judge, the cases when the defendant with wounds and serious health problems was not able to stand up<sup>13</sup>. In all the above mentioned cases, the defendants were removed from the courtroom.

On 3 July 2017 the court removed 15 defendants out of 18 up to six hours as they did not stand up when the judge entered the courtroom<sup>14</sup>.

The application of sanctions against the defendants, as well as their removal from the courtroom is of continuing nature during the current court hearings.

<sup>10</sup> Azatutyun.am, the judge removed Zhirayr Sefilyan and Nerses Poghosyan from courtroom, June 27 of 2017 <https://www.azatutyun.am/a/28581688.html>

<sup>11</sup> 168hours.am, "Every time the Court concentrated on the standing up of Vahan Shirkhanyan in the court, and in that way it turns out, that the court sessions are deadlocked" June 23 of 2017 <https://168.am/2017/06/23/811854.html>

<sup>12</sup> Armtimes.am, A letter on subjecting Arayik Papikyan to disciplinary proceeding has been sent, June 30 of 2017 <http://www.armtimes.com/hy/article/116537>

<sup>13</sup> Lragir.am, The sanctioning criteria of the Judge Bektashyan, June 23 of 2017 <http://www.lragir.am/index/arm/0/right/view/155992>

<sup>14</sup> Armtimes.com, Only 3 accused out of 18 on the Sasna Tsrer case were brought to court, July 6 of 2017 <http://www.armtimes.com/hy/article/116939>



### **Violence against the defendants**

On June 28 of 2017, before the opening of the court session, the policemen and bailiffs subjected defendants, participants of the court session Areg Kyureghyan, Smbat Barseghyan and Mkhitar Avetisyan to violence, right in the courtroom<sup>15</sup>.

During the same day, Ararat Khandoyan, Areg Kyureghyan, Smbat Barseghyan and Mkhitar Avetisyan were subjected to continuous beating by the police at the basement of the same court.

The RA police denied the information, that the members of “Sasns Tsrer” group were subjected to violence. As stated by the police, the mentioned people were removed from the courtroom on the grounds of violating the public order and disobeying the legal requirements of the police officers.

According to the police, the wounds of the members of “Sasna Tsrer” Group were caused, since the latter had beaten the cell doors with their hands and feet.

### **Prosecution against the citizens participating in the court sessions**

The citizens are subjected to personal inspection for participating in the mentioned public, open court hearings, unlike other trials conducted with the same principal. Moreover, for participating in the above mentioned court sessions, while entering the court’s building, the judicial bailiffs collected the passport data of the citizens. Later, the police visited these citizens and demanded not to participate in the court sessions<sup>16</sup>.

On July 30 the member of “Founding Parliament” Paylak Tevanyan, who was actively participating in the court hearings, was apprehended. Later, the criminal charge was brought against him on the grounds that he had allegedly slapped on the face of the judicial bailiff<sup>17</sup>:

Before the court hearings on the mentioned cases, the police concentrated special forces in front of the court’s building, forbade the citizens to enter the court building reasoning that all the sits in the court room had already been occupied. In that area, the police subjected the citizens to violence: citizens were detained<sup>18</sup>.

As stated by the advocates, such activities were aimed at provoking the citizens to organize a mass disorder. Besides, such attitude towards the citizens participating in the court sessions is, in essence, an attempt to suppress the citizens having the will to participate in the court trial, as well as restrict their participation.

During the instituted trails on the grounds of the criminal persecution against the participants of “Sasna Tsrer” activities and other related events, as well as the trial on the case of Vahan Shirkhanyan, major

<sup>15</sup> Helsinki Association independent journalists network, gross violations during the trial of “Sasna Tsrer” case, June 28 of 2017

<sup>16</sup> Hetq.am, It is fixed in the court, who is whose relative: some people were visited by the local police, June 27 of 2017 <http://hetq.am/arm/news/80149/dataranum-fiqsum-en-ov-um-barekamn-e-omanc-aycelel-e-taxayin-ostikany.html#.WVLI7zPWL88.facebook>

<sup>17</sup> News center of “Azatutyun” TV, the interview of Paylak Tevanyan: - 25 minutes, July 3 of 2017 <https://www.youtube.com/watch?v=RrnBWP4wz5I>

<sup>18</sup> Hetq.am, discrimination against the defendant party, June 13 of 2017 <http://hetq.am/arm/news/79709/khtrakan-verabermunq-pashtpanakan-koxmi-nkatmamb.html>



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human rights violations take place, the combination of which leads to gross violation of the right to fair trial.

Taking into consideration the documented violations of human rights we call to the international organizations with the mission on human rights protection:

*Urge the Armenian authorities to immediately stop the rough violations of human rights and to establish the rule of law in the country. In particular,*

- *To ensure the effective application of the right to fair trial and to remove the persecutions against the defenders and defendants such as removal from the court rooms,*
- *to refrain from the intimidation in the professional activities of advocates,*
- *to establish the international trial monitoring mission for the presented cases.*