

Joint intervention by the IHF, the Helsinki Association of Armenia, the Moscow Helsinki Group and the Human Rights Society of Uzbekistan

Friday, 28 September 2007:

Working session 9, Rule of law II: Prevention of torture

Major concerns in the struggle to prevent and eradicate torture

The International Helsinki Federation for Human Rights (IHF) would like to use this opportunity to raise three issues of major concern, which deserve careful consideration when strategies for preventing and combating torture and ill-treatment are developed, namely: lack of accountability for torture committed during unrecorded interrogation, misuse of psychiatric detention and use of self-incriminating statements made under coercion. Examples from **Armenia**, the **Russian Federation** and **Uzbekistan** will be used.

It is common practice in **Armenia** that individuals are verbally and physically abused while held and interrogated "off the record" at police stations. As there are no records of such interrogation sessions, it is difficult for the victims to prove that they have been subjected to torture and ill-treatment – a practice resulting that results in impunity.¹ A recent case of death in custody has served to highlight concerns about lack of accountability for torture and ill-treatment resulting from unlawful interrogation practices:

- On 12 May 2007, Levon Gulyan, a restaurant owner, was brought to a district police station in Yerevan to be heard in a shooting that had taken place close to his restaurant a few days earlier. His interrogation was not recorded. Later the same day, he was found dead in the yard of the Criminal Department of the Police of Armenia, a superior body. According to official information, he died when trying to escape by jumping from a second-floor window. However, his family and local human rights defenders suspected that he died as a result of police ill-treatment; he reportedly bore signs of torture after returning from previous police hearings related to the shooting.² An official investigation into the case is still ongoing and has included numerous irregularities and procedural violations – such as refusal to hand out expert reports to the legal representatives of the victim's family. Employees of Gulyan's restaurant have also been summoned by police – without legal notice – and subjected to pressure and intimidation.³

Concerns have arisen in the **Russian Federation** about signs of a return to the Soviet era practice of abusing psychiatric detention as a tool of repression. A basic problem is that although decisions to forcibly detain individuals in a psychiatric hospital must be approved by a judge, judges routinely accept psychiatric evaluations submitted by local authorities without question.⁴ The following case has attracted wide international attention, but is believed to be only one example among many:

- Larissa Arap, an opposition activist, was detained during a medical examination required to renew her driver's license at the beginning of June 2007 and subsequently forcibly placed in a psychiatric hospital near Murmansk under the pretense of being a "danger to the public." Her treatment was sanctioned by court and an appeal by her family was rejected. She was held against her will for a total of 46 days, during which time she was reportedly drugged and beaten. She is believed to have been detained in reprisal for comments she made in an article about the allegedly abusive practices at psychiatric hospitals in the Murmansk region, which was published in the newspaper of the United Civil Front opposition movement led by former world chess champion Garry Kasparov.⁵ She was eventually released on 20 August 2007 after an expert group commissioned by Russian Ombudsman Vladimir Lukin concluded that there were no grounds for her hospitalization and that she should be placed in outpatient care.⁶

The use of torture and ill-treatment in pre-trial detention remains widespread and systematic in **Uzbekistan**. As a result of such practices, detainees are frequently forced to confess to crimes, sometimes after being arbitrarily arrested on grounds fully unrelated to the crimes of which they are subsequently accused. Courts routinely admit self-incriminating statements as evidence, thereby ignoring allegations of abuse raised by defendants during trial, even in death penalty cases.⁷ The following case was documented during a recent IHF mission to Uzbekistan:⁸

- In August 2005, the Ferghana Regional Court convicted A.Turabaev, S.Khakimov and I. Abdullaev, three men in their early 20's, on charges of murder and attempted murder and sentenced them to death. In the court-room, the men retracted confessions made during interrogations, alleging that they had been subjected to severe beatings and other ill-treatment, with Turabaev and Khakimov reportedly having been so badly abused that they were not able to walk for one month. The court, however, ignored these allegations and only dropped additional charges of raping one of the murder victims, to which the men also had confessed, when a forensic examination showed that no rape had taken place. In January 2006, the Supreme Court upheld the sentences against Turabaev and Khakimov, while changing the one against Abdullaev into 20 years' imprisonment.

Recommendations:

To the OSCE participating States:

1. The IHF calls on the OSCE participating States to renew their commitment to preventing and eradicating torture and ill-treatment in all its forms and to take vigorous measures to addressing remaining problems in their countries, including through close cooperation with relevant international mechanisms and institutions.

In addition, we recommend:

To the authorities of Armenia:

2. Ensure that arrests and interrogations are carried out in accordance with relevant provisions of the law and that any allegations of torture and ill-treatment by law enforcement officials – including in the case of Levon Gulyan – are promptly, impartially and thoroughly investigated. If evidence of police involvement in the death of Gulyan is found, the perpetrators should be duly prosecuted and punished.

To the authorities of the Russian Federation:

3. Condemn any forms of “punitive psychiatry” and make sure that the case of Larissa Arap and other cases where individuals allegedly have been placed in forcible psychiatric detention without compelling grounds and subjected to ill-treatment are properly investigated with a view of bringing all those responsible to justice and for preventing similar cases from re-occurring.

To the authorities of Uzbekistan:

4. Comply with recommendations made by the UN Special Rapporteur on Torture following his visit to Uzbekistan in late 2002, including with respect to ensuring that judges are attentive to the condition of defendants brought from pre-trial custody and order a medical examination whenever there are allegations of torture and ill-treatment, even in the absence of a formal complaint, and that they do not admit as evidence confessions that have been made during pre-trial interrogations without the presence of legal counsel and that are not confirmed during trial.

To the OSCE and its institutions:

5. Give particular attention to the problem of misuse of forcible psychiatric detention to intimidate and punish "inconvenient" individuals, such as political opponents and human rights defenders, which has resurfaced in a number of OSCE countries.

¹ Information from the Helsinki Association of Armenia to the IHF, August 2007.

² IHF, "Open Letter to the Armenian Head of Police on the Death of Levon Gulyan in Police Custody," 17 May 2007, at http://www.ihf-hr.org/documents/doc_summary.php?sec_id=58&d_id=4403

³ Information from the Helsinki Association of Armenia to the IHF, August 2007.

⁴ Union of Councils for Jews in the Former Soviet Union (UCSJ), *Bigotry Monitor*, Nr. 32, Volume 7, 24 August 2007.

⁵ "Psych Clinic Releases Russian Activist," *Associated Press*, 20 August 2007; UCSJ), *Bigotry Monitor*, Nr. 32, Volume 7; The Observatory for the Protection of Human Rights Defenders, "Release of Ms. Larisa Arap from the psychiatric hospital of Apatity," 21 August 2007.

⁶ "Independent Investigator Says Journalist Should Not be Kept in Psychiatric Hospital," *Radio Free Europe/Radio Liberty*, 14 August 2007.

⁷ The death penalty is still in force in Uzbekistan, but in accordance with a presidential decree from 2005, it will be abolished as of 2008 and replaced with life imprisonment.

⁸ An IHF mission report is forthcoming and is expected to be published by the end of September 2007.