

COMPLIANCE WITH RESOLUTIONS 1609 AND 1620 OF THE PACE **Report by the Central Headquarters of the Armenian National Congress**

In an earlier report made available to the representatives of the PACE, we have detailed a number of areas, where the Armenian government had done next to nothing to comply with the requirements of Resolutions 1609 and 1620. The situation has seen virtually no improvement since. In fact, the authorities seem to be emboldened by the world's preoccupation with the situation in Georgia, and have accordingly escalated their oppressive posture. On 25 August, for instance, the police attacked the peaceful protesters on Northern Avenue, tearing up their banners and posters. They have escalated the threats to break up the non-stop sit-in there, which has been ongoing since 4 July, as well as vowed to break up our next rally. We deem it necessary, therefore, to draw the attention of the PACE to the intolerable situation in Armenia yet again by highlighting the Armenian government's non-compliance with the key requirements set forth in Resolutions 1609 and 1620.

The Political Prisoners

The most distressing item of non-compliance with the requirements of Resolutions 1609 and 1620 is the fact that authorities in Armenia still hold 76 opposition activists in prison. The blatant and outrageous violations of the law, which have taken place and are still taking place in the treatment of these cases, are unprecedented in Armenia. We have grouped the political prisoners into six distinct categories, which are summarized in the Annex attached to this report, and which are worth describing in some detail.

Category I. The first of these categories includes individuals, who have been kept in pre-trial detention for an unreasonable length of time. There are eight such cases, which comprise Section 1 of the Annex. The Armenian law sets one year as the limit of pre-trial detention, but the law also sets precise conditions for keeping the accused in detention, which are not met in these cases. Specifically, extending the detention must be approved by the court after two months, but only if proof has been presented by the prosecution that the material under investigation has been too extensive to have been processed in the preceding two months and/or that new evidence to be investigated has surfaced. The detention of the aforementioned eight individuals has been extended three times for what can only be characterized as mysterious reasons since the prosecution has not explained why the previous two months were insufficient for completing the investigation. This practice is in clear violation of paragraph 4.7.1 of Resolution 1620.

Category II. This category represents eight opposition activists – cases 9 to 16 in the Annex - who have tried to prevent electoral fraud on February 19 or individuals who have tried to confront provocateurs during the pre-election rallies of the opposition, but

who have themselves been charged with committing electoral fraud. The presented evidence for this accusation in all relevant cases could have survived only in Armenian courts. For instance, in one case, namely that of Petros Makeyan and Ashot Zakaryan, the accused have been convicted for obstruction of the electoral process despite the fact that video footage presented to the court disproves the claims of the prosecution, as well as the fact that nine out of eleven witnesses have withdrawn their pre-trial testimonies, claiming that their earlier testimonies were obtained under duress. We invite impartial experts to reexamine all of them.

Category III. This category includes 15 individuals – cases 17 to 31 in the Annex - who have been detained or arrested in connection with the presidential elections and its aftermath, but who have been accused of unrelated crimes. The accusations themselves have no merit. Thus seven individuals – cases 17 to 24 in the Annex - have been arrested on charges of illegal gun possession, although none of them has been charged with carrying or using a weapon on 1 March. The charges in all cases are false, because the weapons in question have been legally registered. In the majority of cases, possession of bullets, which is not regulated by the Armenian law, is how the prosecution has defined illegal possession of weapons. Three individuals – cases 25 to 27 in the Annex - have been arrested on charges of tax evasion, which also lack any merit. Two individuals – cases 28 and 29 in the Annex - have been initially arrested on charges of usurpation of power and/or illegal possession of weapons, but after deciding that the cases against them cannot be proven even in Armenia's courts, the charge has been changed to resisting police officers while in detention. Such behavior on the part of the prosecution hardly requires any comment. Two other individuals – cases of 30 and 31 in the Annex - have been charged with abuse of power without any evidence. Indeed, one of them – Armen Sirunyan – has never had any power to abuse.

Category IV. This category includes 38 individuals – cases 32 to 69 in the Annex - where who have been arrested or tried solely on the basis of police testimony. As paragraph 4.7.3 of Resolution 1620 states, “a verdict based solely on a single police testimony without corroborating evidence cannot be acceptable.”

Category V. This category includes 4 individuals – cases 70 to 73 in the Annex – who have been charged or convicted not only on the basis of police testimony, but also on the basis of additional, corroborating evidence, which we know has been obtained illegally. That evidence has been obtained through blackmail, physical abuse, or through plea bargains, the legality of which is more than questionable.

Category VI. This category includes 3 individuals - cases 74 to 76 in the Annex – whose cases are unrelated to the elections and post-electoral developments.

The Situation Regarding the Freedom of Assembly

Shortly after the events of March 1, the parliament of Armenia passed a law, which severely restricted the citizens' right to free assembly. The law was unconstitutional,

seen as such by all impartial observers, and condemned by the PACE in Resolution 1609. To manage this public relations problem, the Armenian government decided to amend the law, although even after the amendment the law preserves the clause allowing the law enforcement authorities to ban rallies practically at will. That is precisely what they have done since the amendment was passed. With the exception of one case, where the authorities had entrapped themselves in some bureaucratic error, every single application to conduct a rally from the Popular Movement, and later the Armenian National Congress, starting from the day of the lifting of the state of emergency on 21 March has been turned down. The total number of such rejections as of this writing is over 70. More than 15 such rejections have been handed to the opposition after the visits of Council of Europe Commissioner for Human Rights Thomas Hammarberg and PACE President Lluís Maria de Puig. The opposition has held three rallies, nevertheless, on 20 June, 4 July and 1 August, which the police has not dispersed despite making threats to that effect. But refusing to authorize rallies and publicly threatening to disperse them by force greatly complicates the preparation and publicizing of the rallies, subjects their participants to a constant threat of attack by the police, which deters a large number of people from attending. During the days when the aforementioned rallies were held, the authorities made sure that no public transportation worked between the regions and the capital. Paragraph 4.2 of Resolution 1620 makes it clear that guaranteeing the citizens' freedom of assembly in theory is not enough. That right should be respected in practice. The Armenian authorities are in blatant and continuous violation of that right, and so far with no real consequences.

The Commission of Inquiry

It is difficult to imagine how the political atmosphere in Armenia can improve without a credible investigation of the events of March 1. A terrible crime was committed against the citizens of Armenia, who deserve to know the truth about it, and who deserve to see the guilty for that crime punished. Unfortunately, the government has resisted all efforts and proposals to create a credible, trustworthy, and independent investigative body. What it has created instead is an ad hoc parliamentary commission fully under the control of the authorities and staffed by people, who have previously blamed the opposition for the events of 1 March. In other words, the commission has members, like its chairman, who have their minds made up about what should have been determined only as a result of the investigation. Despite the preliminary discussions on creating a balanced investigative body with equal representation of the authorities, opposition-nominated experts, and a significant participation of international experts, no steps have been undertaken in that direction.

The law enforcement bodies themselves have registered very little progress in the investigation of the 1 March deaths. Thus far no criminal charges have been filed, and no suspects have been arrested or named within the framework of the official investigation of the 1 March events. It is fair to conclude, therefore, that the requirement of a fair investigation of the events of March 1 articulated in Resolution 1609 has been ignored by the Armenian authorities.