

Ombudsman Karen Andreasyan's statement on the situation in Yerevan

Taking into consideration the situation regarding the protests in Yerevan against raising electricity prices during last week, we express hope that the issues will be regulated lawfully and in an atmosphere of mutual understanding. For this reason, we call upon all the parties to display tolerance and law-obidance. We also present a brief memo on the national and international law pertaining to this situation.

It is recognized that the right to freedom of assembly is one of the pillars of every democratic society. The right of peaceful and unarmed assembly is guaranteed by the Constitution of the Republic of Armenia, which is ensured by the law on "Freedom of Assembly". The law, in its turn, provides for broad protection to the assemblies of peaceful nature, stating that even if the gathering was held in violation of the notification requirements, it stays under the protection, if it is of the peaceful nature.

The European Court of Human Rights in its judgments on the cases regarding freedom of assembly has always stated that any large-scale gathering in a public place inevitably creates inconvenience for the population. Although a demonstration in a public place may cause some disruption to ordinary life, including disruption of traffic, it is important for the public authorities to show a certain degree of tolerance towards peaceful gatherings if the freedom of assembly guaranteed by Article 11 of the Convention is not to be deprived of its substance (see Galstyan, §§ 116-117, Bukta and Others, § 37). Moreover, the required degree of tolerance can not be defined *in abstracto*. The Court must look at the particular circumstances of the specific case and specifically, to the extent of the disruption of ordinary life (Primov and Others v. Russia).

In general, the question of at which point an assembly can no longer be regarded as a temporary presence must be assessed according to the individual circumstances of each case. Nonetheless, the touchstone established by the European Court of Human Rights is that demonstrators ought to be given sufficient opportunity to manifest their views. Where an assembly causes little or no inconvenience to others, then the authorities should adopt a commensurately less stringent test of temporariness.

It should also be mentioned that State can impose restrictions on the exercise of the right to freedom of assembly under the provisions of the 2nd paragraph of the Convention. Restrictions on freedom of peaceful assembly in public places may serve the protection of the rights of others with a view to preventing disorder and maintaining the orderly circulation of traffic. (*Éva Molnár v. Hungary*). It should be noted that blocking of public roads as a protest tactic can be restricted in certain circumstances under Article 11(2) of the ECHR (*Lucas v. UK*). In the case of *Cisse v. France*, the evacuation of almost 200 illegal immigrants from a church in Paris who occupied it for two months, was considered to constitute an interference with the right of the freedom of assembly of the applicant (although it was justified based on the principle of protection of public health).

In the case of *Çiloğlu and Others v. Turkey* the European Court of Human Rights held that the illegal weekly strikes near the secondary school (each Saturday morning, for more than three years), where 60 individuals were involved, have turned into a permanent event, which hindered the transport traffic, disrupted public order and peace. Taking into consideration the duration and number of the previous protests, the dispersal of the protest was not considered as a violation of Article 11 of the Convention.

Taking into consideration the specific circumstances of the case of the *Éva Molnár v. Hungary*, the European Court of Human Rights held that police showed the necessary tolerance towards the demonstration, although they had had no prior knowledge of the event. In the Court's view, it inevitably disrupted the circulation of the traffic and caused a certain disturbance to public order.

Taking into consideration all the above mentioned principles and standards, the importance of ensuring fundamental right to freedom of assembly, as well as the importance of maintaining by the Police the principle of prohibition of arbitrariness, the principle of proportionality and other principles of administrative action, I call upon the Police of the Republic of Armenia to display utmost tolerance, substantiate each action regarding the assembly with consistent and lawful arguments, by ensuring uniform approach towards the same factual circumstances, in the exercise of discretionary powers be guided primarily by the necessity to protect human rights and fundamental freedoms.

I want to note that displacement, illegal possession, or damage of the garbage bins owned by the "Sanitek" company can lead to legal liability. By such actions the protestors impede the ordinary activity of the company, since the latter holds liability for non fulfilment or improper fulfillment of

its obligations pertaining to the process of garbage removal, which in its turn may become a reason for the Police to undertake relevant steps.

This is also to inform that we have initiated proceedings regarding the incident occurred on 23 June, 2015. In response to our urgent written note, the Police asked to provide responses by 05 July, 2015 due to the necessity of additional examination of the circumstances. Our decision on the incidents of 23-rd of June will be delivered within the shortest time possible after having received an official response from the Police.

Karen Andreasyan

Human Rights Defender of the Republic of Armenia