

The final assessment of the Ombudsman regarding the actions of the Police conducted on 23 June

We have requested an official explanation from the Police pertaining to a number of issues on the mass incidents occurred in Baghramyan Avenue and the Freedom Square in the morning of 23 June. By analyzing the explanations provided by the Police on 03 July, 2015, by combining them with the published video materials and the facts recorded by us, we consider that the actions of the Police of 23 June are taken as a whole unlawful. Below we present the recorded violations based on the degree of concern.

Before addressing separate issues, we deem it necessary to indicate that we assess positively the tolerant behavior of the Police, its law-abidance, the non use of administrative liability and the persistent efforts aimed at ensuring the security of the participants of the demonstration during other days of the protest.

The following issues are based on our position regarding the actions of the Police:

1. A number of Policemen in civilian clothes participated in the actions of 23 June in violation of the Law, used unlawful force towards the demonstrators, breached the rules of ethics of police officers. The Law on Police obliges policemen to wear a relevant uniform while ensuring the maintenance of public order. In the visible part of the uniform there needs to be a special strip which would give the possibility to personally identify the policemen. However, many police officers not only didn't wear an established Uniform, but they even didn't have a special strip, which would allow to identify them. In many cases police officers in civil clothes exercised violence against demonstrators while forcibly taking them to the Police, the reason of which was not in any way due to aggressive behavior of the demonstrators and implementation of the expected objective of the Police. Moreover, taking advantage from the impossibility of being identified on the spot, those persons have used improper expressions and have scolded the demonstrators in a number of cases.

We urge to take measures aimed at subjecting those policemen in civil clothing who have displayed unlawful behavior to strict liability.

2. The police officers have hindered the activities of mass media outlets, have used force against the journalists. They have also forcibly taken them to the Police and damaged their equipment.

The freedom of journalistic activity includes also the right to freely cover assemblies. Moreover, during its professional activity, journalist as a person performing public duty, is protected by the legislation of the Republic of Armenia. The Law on Freedom of Assemblies stipulates that mass media representatives are not participants of assemblies. Moreover, the Police is obliged to support journalists performing their professional duty, ensure their protection from any encroachment. Whereas police officers themselves prohibited video recording in various cases on 23 June. This activity also involved use of force, without any reason. As far as damaging equipment of journalists is concerned, the Police has provided no substantiation at all regarding those cases. Such behavior contradicts with the fundamental objective of the Police to protect people and their property, the more so, when it comes to journalists performing their professional duty.

We urge to restore the material damages caused to journalists, subject the Police officers who have hindered the professional activity of journalists to strict liability.

3. In Baghramyan Avenue and later on in the Freedom Square the use of special means (water cannons and physical force to disperse the demonstrators) was not stipulated by absolute necessity.

The Police has explained that the prohibition of the march towards the Residence of the President was due to the circumstance, that the Law prohibits to hold an assembly at such a distance from the Residence of the President, which threatens the normal activity of that institution, therefore, it was necessary to carry out preventive countermeasures. It is necessary to note that the part of the Baghramyan Avenue, where marching was prohibited by the Police, can not be regarded as being at such a distance from the Administrative Building of the Presidential Residence, in the event of crossing the latter the normal activity of the relevant state body would have been hindered.

The Law on Freedom of Assemblies envisages that if an assembly is being held with the violation of the notification requirements, the Police shall be obliged to inform by a loudspeaker that the assembly is unlawful and that the participants may be held liable. However, together with that, the Law also states that if the Assembly has a peaceful nature, the Police is obliged within its powers to support the assembly. The same legal stance was expressed in the judgements of the European Court of Human

Rights, as well as in the joint opinion by the Venice Commission and the OSCE/ODIHR regarding the Draft Law on Freedom of Assemblies emphasizing the inadmissibility of dispersing an assembly even without notification, but of peaceful nature, as well as the obligation of the Police to support such an assembly.

The Police substantiated the arrest of the participants of the demonstration of 23 June by the existence of obvious hooliganism features in the actions of the demonstrators. It is necessary to note that all the demonstrators who were taken to the Police, have been released without any official charges against them.

Dispersing the Assembly could have been regarded as lawful if the Police had possessed substantiated information about such special circumstances, such as, in particular, armed demonstrators, mass disorders initiated by them or possible actions threatening national security. However, the Police has not made any statement or warning about having such information. More than that, the behavior of the Police contradicted with the most important Principle of Prohibition of Arbitrariness, since in the evening of the same day of dispersing the Assembly and in the subsequent days crowded Assemblies were held in Baghramyan Avenue. However, unlike the actions carried out in the morning of 23 June, the Police has not taken any step aimed at dispersing the assembly.

As far as the violent actions against demonstrators who moved from Baghramyan Avenue to Freedom Square are concerned, the reasoning of the Police presented to us, according to which the demonstrators in the Freedom Square called for returning to Baghramyan Avenue, doesn't stem from the Law. First of all, the Police itself called upon the demonstrators to move to Freedom Square. Besides that, even the appeals of holding assemblies without notification, can not serve as a ground to disperse peaceful assembly or terminate it.

We urge to exclude the improperly substantiated actions of the Police during peaceful assemblies, to forcibly terminate assemblies purely in the existence of solid and persistent reasoning and substantiation, merely in exclusive cases.

4. In some cases, some high ranking officials from Yerevan Police have ignored the requirement of non-politicization of the activities of the Police, as well as the requirement of acting exclusively within the scopes established by the Law.

The legal acts regulating the activity of Police prohibit policemen while performing their

professional duties to express political positions or opinions, to advocate behavior on some political phenomenon, process, or to come up with assessments. Whereas, starting from the very first days of the assembly, the policemen serving in that place expressed political and personal viewpoints regarding the demonstrators and their activities, not of a legal nature. Particularly, the high ranking Officer urged the demonstrators to accept the offer of the authorities, to review the strategy of the Assembly. The Officer also provided separate advice with regard to issues out of the competence of the Police. Besides that, separate participants of the Assembly have been labeled as provokers by the policemen (without any legal grounds), some separate demonstrators have been given criticisms of personal nature. We urge to abstain from similar behavior in the future.

We expect detailed examination and proportional assessment not only from the Police, but also from the Special Investigative Service of the Republic of Armenia regarding all the unlawful actions of the police officers.

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