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**DH-DD(2017)252**

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Meeting: 1280 meeting (7-9 March 2017) (DH)

Item reference: Action plan (17/02/2017)

Communication from Armenia concerning the case of KAREN POGHOSYAN against Armenia (Application No. 62356/09)

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Réunion : 1280 réunion (7-9 mars 2017) (DH)

Référence du point : Plan d'action

Communication de l'Arménie concernant l'affaire KAREN POGHOSYAN contre Arménie (Requête n° 62356/09) (**anglais uniquement**)

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**THE GOVERNMENT OF THE REPUBLIC OF ARMENIA**

**ACTION PLAN**

**CASE OF KAREN POGHOSYAN v. ARMENIA**

(Application no. 62356/09, final on 30/06/2016)

(Supervised by the Committee of Ministers under the standard procedure)

Department for Relations with the European Court of Human Rights

Ministry of Justice of the Republic of Armenia

17 February 2017

## STATE OF EXECUTION OF THE JUDGMENT

### I. VIOLATIONS OF THE CONVENTION FOUND BY THE COURT

1. The case of *Karen Poghosyan v. Armenia* concerns the violation of the principle of legal certainty and the right to the peaceful enjoyment of the applicant's possessions by admitting in 2009 the out-of-time appeals lodged by the Yerevan Mayor's Office and the Deputy Prosecutor General and by quashing the final judgment of 8 June 2001 which had recognized the applicant's ownership right in respect of a building and his right of use in respect of the plot of land (violation of Article 6 § 1 and Article 1 of Protocol 1 to the European Convention on Human Rights (hereinafter, the Convention)).

### II. INDIVIDUAL MEASURES

2. It should be recalled that in the judgment at issue the European Court of Human Rights (hereinafter, the Court) reserved the question of the application of Article 41 of the Convention inviting the Government and the applicant to submit their written observations on the amount of damages to be awarded to the applicant and, in particular, to notify the Court of any agreement that they may reach. In this regard, the Government, *inter alia*, notified the Court that on 28 September 2016 the applicant's lawyer had lodged an appeal on points of law with the Court of Cassation seeking the re-opening of the applicant's case on the basis of a new circumstance.

3. The Government would like to inform the Committee of Ministers about further developments regarding the re-opening procedure. On 2 December 2016 the Court of Cassation decided to re-open the case and send it to the Civil Court of Appeal for a fresh examination. On 28 December 2016 the Civil Court of Appeal decided to uphold the judgment of Shengavit District Court dated 8 June 2001 recognizing the applicant's ownership right in respect of the building and his right of use over the plot of land. This decision entered into force on 28 January 2017.

4. In the light of the above and in line with the respondent state's obligation to take measures that will achieve, as far as possible, *restitutio in integrum* for the applicant, the Government are of the view that the final judicial act of the Civil Court of Appeal dated 28

December 2016 is the first step in putting an end to the violations found by the Court in the instant case and remedying the negative consequences for the applicant. As to the second step in restoring the applicant's violated rights; once the applicant files an application with the State Real Estate Registry to formalize his rights and the respective state registrations are made, the Government will provide both the Court and the Committee of Ministers with the corresponding information.

### III. GENERAL MEASURES

5. The judgment was translated into Armenian and published on the official websites of the Ministry of Justice ([www.moj.am](http://www.moj.am)) and of the Armenian Government Representation before the European Court of Human Rights ([agent.echr.am](http://agent.echr.am)) on 30 June 2016. Considering the importance of preventing further similar violations, as well as of effectively implementing the Court's judgment, the relevant authorities involved were duly informed about the judgment and provided with the corresponding translation.

6. In addition, the respective training curricula of the Justice Academy<sup>1</sup>, the Police Academy<sup>2</sup> as well as the Law Institute of the Ministry of Justice<sup>3</sup> have special training courses on the Convention and the Court's case-law in general, and judgments delivered in respect of Armenia, in particular. It is also worth to mention that relevant courses on both the Convention and the Court's jurisprudence are included in the academic programmes of higher education institutions of Armenia.

7. Taking note of the fact that the violations found by the Court in the instant case were connected to the application of relevant domestic provision (giving a possibility of departure from principle of legal certainty) in the applicant's case by the Civil Court of Appeal at the material time, and not to the legislation itself, the Government undertake measures to ensure effective execution of the judgment and prevention of the similar violations in the future. In

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<sup>1</sup> The Justice Academy provides trainings for acting judges and candidates for judges, prosecutors and candidates for prosecutors, investigators as well as other public officials.

<sup>2</sup> The relevant materials are taught at the Police Academy, particularly within the Bachelor's, Masters and Distance Learning Programmes of the Faculty of Law as well as in the College and the Faculty of Trainings and Qualification of the Police Academy in the framework of subjects "Human Rights and the Police", "The Major Problems of the Theory of Human Rights".

<sup>3</sup> The Law Institute provides trainings for penitentiary officials and civil servants.

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particular, to understand whether the applicant's case was an isolated one or there is an issue of judicial practice in this regard, the Government, in cooperation with the Judicial Department of the Republic of Armenia, are conducting a survey on the judicial acts regarding the application of domestic provision at stake.

8. The Government will periodically update the Committee of Ministers as to the progress of the execution of the Court's judgment under consideration.