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Communication from Armenia concerning the Poghosyan group of cases against Armenia (Application No. 44068/07)

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Réunion : 1201 réunion (3-5 juin 2014) (DH)

Référence du point : Plan d'action consolidé

Communication de l'Arménie concernant le groupe d'affaires Poghosyan contre Arménie (requête n° 44068/07) (***anglais uniquement***).

ACTION PLAN[1]
POGHOSYAN GROUP OF CASES

(i) Poghosyan v. Armenia (Application no. 44068/07), Judgment of 20/12/2011, final on 20/03/2012
(ii) Asatryan v. Armenia (Application no. 24173/06), Judgment of 09/02/2010, final on 09/05/2010
(iii) Muradkhanyan v. Armenia (Application no. 12895/06), Judgment of 05/06/2012, final on 05/09/2012
(iv) Piruzyan v. Armenia (Application no. 33376/07, judgment of 26/06/2012, final on 26/09/2012)
(v.) Malkhasyan v. Armenia (Application no. 6729/07), Judgment of 26/06/2012, final on 26/09/2012
(vi) Sefilyan v. Armenia (Application no. 22491/08), Judgment of 02/10/2012, final on 02/01/2013

I. CASE SUMMARY

(i) Poghosyan v. Armenia: Article 5 of the Convention

The European Court of Human Rights ("the Court") considered that "the applicant's detention between 13 June and 2 July 2007 was unlawful within the meaning of Article 5 § 1" and held that "[t]here has accordingly been a violation of Article 5 § 1 of the Convention."

The Court assessed that "after the applicant was arrested by the police on 13 April 2007 and subsequently detained on the basis of the above-mentioned order, he was never brought before a judge or a judicial officer for the purposes of Article 5 § 3." It further noted that "the practice of not bringing a person in hiding before a judge following his arrest was found to be in violation of the guarantees of Article 5 § 3 of the Convention by the Court of Cassation in its decision of 26 December 2008… There has accordingly been a violation of Article 5 § 3 of the Convention."

The Court reiterated that it has already found in a number of cases that "the refusal to examine an appeal against detention simply because a fresh decision extending detention had been meanwhile adopted by a lower court was in breach of the requirements of Article 5 § 4" and noted that "this practice was found to be unacceptable and in violation of the guarantees of Article 5 § 4 of the Convention by the Court of Cassation in its decision of 28 November 2008… There has accordingly been a violation of Article 5 § 4 of the Convention."

(ii) Asatryan v. Armenia: Article 5 of the Convention

The Court concluded that "… the applicant continued to be deprived of her liberty, despite the fact that there was no court decision authorising her detention for that period as required by law" and, thus, "[i]t follows that the applicant's deprivation of liberty during that period was unlawful… Accordingly, there has been a violation of Article 5 § 1 (c) of the Convention."

(iii) Muradkhanyan v. Armenia: Article 5 of the Convention

[1] This Action Plan is the updated version of the one submitted on 4 February 2014.

The Court concluded that "the applicant's detention between 14 October and 29 December 2005 failed to meet the Convention requirement of lawfulness." It further stated that it appeared "this was due to the absence of clear rules governing detention procedures once a trial court decided to remit a case for further investigation… There has accordingly been a violation of Article 5 § 1 of the Convention."

The Court concluded also that "the length of the applicant's continued detention was in breach of the 'reasonable time' requirement of Article 5 § 3 of the Convention… There has accordingly been a violation of that provision."

(iv) Piruzyan v. Armenia: Article 5 of the Convention

The Court noted that it had already examined an identical complaint in another case against Armenia. Particularly, in the *Poghosyan* judgment it concluded that "there had been a violation of Article 5 § 1 of the Convention in that the applicant's detention was not based on a court decision." It saw no reason "to reach a different conclusion in the present case and conclude[ed] that the applicant's detention between 19 February and 12 March 2007 was unlawful within the meaning of Article 5 § 1… There has accordingly been a violation of Article 5 § 1 of the Convention."

The Court also considered that "the reasons relied on by the Lori Regional Court and the Criminal and Military Court of Appeal in their decisions concerning the applicant's detention and its extension were not 'relevant and sufficient'… Accordingly, there has been a violation of Article 5 § 3 of the Convention on this account."

The Court further observed that it had previously found a violation of Article 5 § 3 in a number of cases "in which an application for bail was refused automatically by virtue of the law… In the present case the applicant's requests to be released on bail were similarly dismissed." The Court, thus, considered that "such automatic rejection of the applicant's applications for bail, devoid of any judicial control of the particular circumstances of his detention, was incompatible with the guarantees of Article 5 § 3... There has accordingly been a violation of Article 5 § 3 of the Convention on this account."

The Court also noted that it had already examined a similar complaint in another case against Armenia. Particularly, in *Poghosyan* judgment it held that "denial of judicial review of the applicant's detention on the sole ground that the criminal case was no longer considered to be in its pre-trial stage had been an unjustified restriction on his right to take proceedings under Article 5 § 4." It saw no reason "to reach a different conclusion… There has accordingly been a violation of Article 5 § 4 of the Convention."

(v) Malkhasyan v. Armenia: Article 5 of the Convention

The Court reiterated that it had already examined an identical complaint in another case against Armenia. Particularly, in the *Poghosyan* judgment it concluded that "there had been a violation of Article 5 § 1 of the Convention in that the applicant's detention was not based on a court decision." It saw no reason "to reach a different conclusion in the present case and concludes that the applicant's detention between 10 and 22 June 2007 was unlawful within the meaning of Article 5 § 1… There has accordingly been a violation of Article 5 § 1 of the Convention."

The Court also considered that "the reasons relied on by the District Court and the Criminal and Military Court of Appeal in their decisions concerning the applicant's detention and its

extension were not 'relevant and sufficient'… Accordingly there has been a violation of Article 5 § 3 of the Convention."

(vi) Sefilyan v. Armenia: Article 5 of the Convention

The Court reiterated that it had already examined an identical complaint in another case against Armenia. Particularly, in the *Poghosyan* judgment it concluded that "there had been a violation of Article 5 § 1 of the Convention in that the applicant's detention was not based on a court decision." It saw no reason "to reach a different conclusion in the present case and concludes that the applicant's detention between 10 and 22 June 2007 was unlawful within the meaning of Article 5 § 1… There has accordingly been a violation of Article 5 § 1 of the Convention."

The Court considered that "the reasons relied on by the District Court and the Court of Appeal in their decisions concerning the applicant's detention, its extension and when refusing bail were not 'relevant and sufficient'… Accordingly there has been a violation of Article 5 § 3 of the Convention."

The Court concluded also that "the manner in which the proceedings before the District Court were conducted on 7 February 2007 failed to ensure an adversarial procedure and equality of arms between the parties… There has accordingly been a violation of Article 5 § 4 of the Convention on this count."

II. INDIVIDUAL MEASURES

Just satisfaction

The just satisfaction award has been paid:[2]

(i) *Poghosyan v. Armenia* – EUR 10,000, paid on 15/06/12;
(ii) *Asatryan v. Armenia* – EUR 2,500, paid on 09/08/2010;
(iii) *Malkhasyan v. Armenia* – EUR 4,543, paid on 14/11/2012;
(iv) *Muradkhanyan v. Armenia* – EUR 6,227, paid on 14/11/2012;
(v) *Piruzyan v. Armenia* –EUR 8,018, paid on 14/11/2012;
(vi) *Sefilyan v. Armenia* – EUR 6,055, paid on 15/03/2013.

III. GENERAL MEASURES

(i) Dissemination of information about the judgment

The *Poghoyan*, *Asatryan*, *Muradkhanyan*, *Piruzyan*, *Sefilyan*, and *Malkhasyan* judgments were translated into Armenian and published on the official website of the Ministry of Justice on 20 December 2011, on 9 May 2010, on 20 February 2013, on 31 October 2013, on 27 August 2013, and 25 February 2014, respectively. The relevant authorities involved were duly informed about all of the judgments and provided with the translations.

[2] Evidence previously supplied (Annexes 1-6 of the *Poghosyan Group* Action Plan, submitted on 4 February 2014).

The study of the Court's case-law and the *Poghosyan Group* of cases, in particular, have been included in the training curricula of the Police Academy, the Prosecutors' School, and the Judicial School, The Public Service Training Courses as well as in the trainings organized for the staff of the detention facilities. These judgments will be also included in the respective training curricula of the newly established Justice Academy.

(ii) Legislative measures

(a) Violation of Article 5 § 1: unlawful detention of the applicants in 2005 and 2007 due to various shortcomings of the domestic law in force at the material time and the judicial practice followed (in all cases of the *Poghosyan Group*).

The issue of unlawful detention of persons due to the contradiction of Article 138 (3) of the existing Code of Criminal Procedure ("the CCP") with Article 11 (2) and Article 136 (2) of the same Code and with Article 5 § 1 of the Convention has been resolved by the Court of Cassation. In particular, in its decision no. 3/0106/01/08 dated on 10 April 2009, the Court of Cassation, taking into account the Court's case-law, found that "the suspension of the detention period on the ground that the case has been transmitted by the prosecutor to a court constitutes an unlawful limitation of a person's right to liberty." It further found that:

> "[I]n cases in which there are less than fifteen days left before the expiry of the two-month detention period, that is less than the time-limit within which a judge who has taken over the case is to adopt one of the decisions envisaged by Article 292 of [the CCP], the investigating authority, when transmitting the case to the court, must also resolve the question of a person's detention, namely release him if the grounds justifying his detention have ceased to exist or file a motion with the court seeking a prolongation of the detention period if there are [relevant grounds]."

These assessments of the Court of Cassation were cited in the *Poghosyan* judgment.

The Government indicates that the issue of unlawful detention is resolved also by the Draft Code of Criminal Procedure ("the Draft Code").[3]

Particularly, Article 116, Article 118, and Article 119 of the Draft Code prescribe as follows:

> "Article 116: Lawfulness of Applying a Restraint Measure
>
> 1. A restraint measure may not be applied unless there is reasonable suspicion that the Accused has committed the act attributed to him.
> 2. A restraint measure may be applied if it is necessary:
> 1) To prevent the escape of an Accused;
> 2) To prevent the commission of a crime by the Accused; or
> 3) To ensure the fulfillment by the Accused of obligations placed on him by law or by Court decision.
> 3. Justifying the circumstances mentioned in sub-paragraphs 1 to 3 of Paragraph 2 of this Article is not required:
> 1) In case of applying certain alternative restraint measures stipulated by this Code; or
> 2) In case of the initial application of detention or an alternative restraint measure upon a person accused of a grave or particularly grave crime.
> 4. When choosing the type of the restraint measure, all the possible circumstances ensuring or hindering proper conduct by the Accused shall be taken into consideration.

[3] The Draft Code is scheduled to be adopted in 2014.

Article 118: Detention and Its Lawfulness

1. Detention is the deprivation of liberty of the Accused by Court decision in the cases and procedure stipulated by law for a term defined by law and by such Court decision.
2. Detention may be applied only in case the application of alternative restraint measures is impossible or insufficient for preventing the illegal conduct of the Accused.
3. Detention may be applied only in case when, based on the sufficient totality of factual circumstances, the Investigator or Prosecutor have justified and the Court has confirmed with reasoning the relevant conditions of lawfulness envisaged by Article 116 of this Code. In Court Proceedings, the reasoned confirmation of such conditions by Court is sufficient for applying detention.
4. When prolonging the detention term, the due diligence exerted by the Body Conducting the Criminal Proceedings for the purpose of discovering circumstances of significance to the proceedings in question, as well as the necessity of continuing the criminal prosecution of the Accused in question must be justified in front of Court, as well.

Article 119: The Detention Term

1. A person may be held in detention so long as it is necessary to secure the normal course of the proceedings, but in any event such term shall not exceed the maximum periods of holding in detention, as prescribed by this Article.
2. During the Pre-Trial Proceedings, the initial detention term may not exceed one month. In Pre-Trial Proceedings, the term of holding the Accused in detention may be prolonged for a term not longer than two months each time, provided that the maximum periods prescribed by this Article for holding an Accused in detention during Pre-Trial Proceedings is respected.
3. The maximum period for holding the Accused in detention during Pre-Trial Proceedings is:
1) Two months in case of accusing of a non-grave crime;
2) Four months in case of accusing of a medium-gravity crime;
3) 10 months in case of accusing of a grave crime; and
4) 12 months in case of accusing of a particularly grave crime.
4. The period of holding the Accused in detention shall be calculated from the moment of his *de-facto* deprivation of liberty. The calculation of the period of detention shall also include the time during which the Accused was by Court decision in a medical institution for the performance of an expert examination or while applying medical supervision as a security measure in respect of him.
5. The calculation of the total period of holding in detention shall not include the time period during which the person was in custody in the territory of another state in relation to the transfer of proceedings or the extradition of the person."

Furthermore, according to Article 208 (2) of the Draft Code:

"If the Accused has been detained, then the accusatory conclusion shall, together with the Criminal Case File, be delivered to the Court no later than 15 days prior to the end of the detention period of the Accused."

Article 316 (2) prescribes that "[w]ithin a two-day period of receiving the Criminal Case File, the Judge shall render a decision on assuming the proceedings and scheduling a preliminary Court hearing."
According to paragraph 3 of the same Article, if the time period envisaged by Article 316 (2) is not kept, "the trial court, without taking decision on having preliminary court hearings, shall return criminal case to prosecutor who exercises supervision over the case."

Furthermore, paragraph 5 of the same Article prescribes that "[i]n a preliminary court hearing, the first court session shall be scheduled within a two-week period of rendering the decision envisaged by Paragraph 2 of this Article."

(b) Violation of Article 5 § 3: authorities' failure to bring the applicant promptly before a judge or a judicial officer (*Poghosyan* case); unreasonable length of pre-trial detention due to lack of diligence on the part of the authorities (*Muradkhanyan* case); lack of relevant and sufficient reasoning by national courts while considering the applicants' detention and its extension (*Malkhasyan*, *Piruzyan* and *Sefilyan* cases); automatic rejection of the applicant's application for bail (*Piruzyan* case)

In another decision, no. 0197/06/08 dated on 26 December 2008, the Court of Cassation referred to the issue of appearing before a judge following a person's arrest. In this decision, the Court of Cassation found the imposition of a preventive measure on an accused in whose respect a search has been initiated, to be "incompatible with the requirement of Article 5 § 3 of the Convention that [an arrested person] be promptly brought before a judge."
It further stated that:

> [The mentioned Article of the CCP] allows imposition of a preventive measure depriving a person of liberty in the absence of that person, without providing a possibility for the person discovered as a result of the search to appear before the court and for the question of his detention to be discussed in his presence.
> The Court of Cassation finds that such rules of the criminal procedure law will breach Article 5 § 3 of the Convention and will constitute a grave violation of a person's right to liberty if a person discovered as a result of the search is not brought promptly before a court[.]"

Moreover, by that very decision, the Court of Cassation imposed an obligation on the investigating authority to bring an accused to a competent court after his detention within the period of three days for the purpose of examining the issue of his detention once again.
This decision was later cited by the Court in its judgment at issue, as well.

Taking into consideration the legal position provided by the Court of Cassation in its decision, the issue of bringing an accused promptly before a court judge has been also envisaged in the Draft Code. The respective provision of the Draft Code, Article 297 (1), reads as follows:

> "If the decision to apply detention as a restraint was rendered without the participation of the Accused, then the Body Conducting the Criminal Proceedings shall be obliged, within 24 hours of detaining the Accused under the jurisdiction of the Republic of Armenia, to bring such person before the competent Court for a repeated examination of the issue of the detention imposed upon him."

With respect to the issue of sufficient reasoning of decisions held by national courts, the Government indicates that in its decision of 21 December 2006, the Court of Cassation has ruled that "in any event, a court shall substantiate both factual and legal reasoning of a judgment." In the very decision it went on to assess that "[i]n a judgment, it is necessary not only to cite the relevant norm of the law that shall be applied" but also to "substantiate the reasons of applying that certain norm." Within this particular case, the Court of Cassation, for lack of these reasons, has declared the court's judgment unsubstantiated and, therefore, not the one to be considered "lawful, persuasive as well as powerful." Later on, in decision no. ՍԴՈ-896 of 15 June 2010, the Constitutional Court of the Republic of Armenia has reiterated its assessment concerning the "constitutional necessity" of the reasoning of a judgment, developed in its decision no. ՍԴՈ-690 dated on 9 April 2007, and noted that "the legislation [should] exclude any statutory act which is unreasoned as that kind of act [would] fail to

comply with the fundamental principles of a state governed by the rule of law, to guarantee the right to an effective remedy as well as ensure the effective restoration of violated rights."

The Government also highlights that, according to Article 15 (4) of the Judicial Code,[4] the reasoning of a decision of the Court of Cassation or judgment of the European Court of Human Rights in cases with factual circumstances, including the interpretation of laws, "are of mandatory nature for a court while ruling on a case with similar factual circumstances," save the case, when it argues, by virtue of serious arguments, that those are not applicable to given factual circumstances.

With regard to the issue of unreasonable length of pre-trial detention due to lack of diligence, the Government refers to the respective provision of the Draft Code (Article 118 (4), which states as follows):

> "When prolonging the detention term, the due diligence exerted by the Body Conducting the Criminal Proceedings for the purpose of discovering circumstances of significance to the proceedings in question, as well as the necessity of continuing the criminal prosecution of the Accused in question must be justified in front of Court, as well."

As for the issue of automatic rejection of application for bail, assessed by the Court in its *Piruzyan* judgments, the Government refers to the Cassation Court's decision of 13 July 2007 (case of *Taron Hakobyan*, no. ՎԲ-115/07), in which it held:

> "The European Court's approach to the issue of [rejection of application for bail] is well manifested in the cases with similar legal and factual circumstances, *Caballero v. THE UNITED KINGDOM*, Application no. 32819/96, 08.02.2000 and *S.B.C. v. THE UNITED KINGDOM*, Application no. 39360/98, 19.06.2001. In its judgments, the European Court has assessed that if in certain cases the possibility to release a person on bail is banned by domestic law, then the limitation of judicial control over the issue of pre-trial release… is a violation of Article 5 § 3 of the Convention.
>
> Thus, it must be concluded from [the meaning of Article 5 § 3 of the Convention] that, when deciding the issue of detention, Armenian domestic courts shall be authorised to discuss the possibility of applying alternative restraint measures for ensuring the presence of the accused. Bail is an alternative restraint measure, according to Article 143 (4) of the Criminal Procedure Code… [Therefore], notwithstanding the gravity of the crime attributed to a person, domestic courts are authorised to consider the opportunity of pre-trial release on bail."

The Government also indicates that the rejection-of-bail issue has been envisaged while drafting the new Criminal Procedure Code and submits that, as distinct from the existing Code, bail has become an autonomous restraint measure by the Draft Code and not as one that "shall be granted only upon decision of the court about the arrest of the accused" (as in the CCP, Article 134 (4)).

The relevant provisions of the Draft Code provide as follows:

> "Article 122: Alternative Restraint Measures
>
> 1. The following are the alternative restraint measures:
> (…)
> 3) Bail;
> (…)

[4] The Judicial Code of the Republic of Armenia (ՀՕ-135-Ն) was adopted by the National Assembly of Armenian on 21 February 2007, entered into force on 18 May 2007.

2. Alternative restraint measures may be applied individually or in combination.
4. During the Pre-Trial Proceedings, the alternative restraint measures envisaged by sub-paragraphs 3 to 8 of Paragraph 1 of this Article may be applied:
1) By an Investigator—prior to the delivery of the accusatory conclusion to the Prosecutor together with the Criminal Case File;
2) By a supervising Prosecutor—from the time of receiving the accusatory conclusion together with the Criminal Case File from the Investigator to the time of its delivery to Court;
3) By a Court—while solving the Petition on applying a restraint measure or prolonging the time period of a restraint measure applied.
6. An Investigator may apply alternative restraint measures envisaged by sub-paragraphs 3 to 5 of Paragraph 1 of this Article only with the consent of the supervising Prosecutor.

Article 125: Bail

1. Bail is an amount of money defined by a decision of the competent body, which shall be transferred to the bank or other credit organization specified in the respective decision as a deposit for safekeeping in the form of the Armenian currency, securities, or other valuables for securing the proper conduct of the Accused. Real estate may be accepted as bail, if the decision to apply bail specifically mentions such possibility.
2. The amount of bail may not be less than 200-fold the minimal salary. When determining the amount of bail, the gravity of the crime attributed to the Accused and the property status of the Accused shall be taken into account. The pledgor shall bear the duty of proving the value of the bail.
3. Bail may be paid in by the Accused or any natural person or legal entity. If bail is paid in by another person, the Court shall explain to him the substance of the Accusation filed against the Accused, as well as the potential consequences in case the Accused engages in improper conduct.
4. The pledgor shall present a document confirming that bail has been paid in, which shall be annexed to the materials of the proceedings.
5. If the Accused has hidden from the Body Conducting the Criminal Proceedings or has left for another place without permission, has regularly failed to appear when invited by the Body Conducting the Criminal Proceedings, or has materially hindered the proceedings, then the supervising Prosecutor shall render a decision on turning the bail into revenue of the state, and shall, within a three-day period, send a copy thereof to the Accused and the person who paid in the bail, explaining to them the procedure envisaged by Articles 306 and 307 of this Code for appealing against such decision.
6. Bail shall be returned to the pledgor in all cases in which the violations stipulated by Paragraph 5 of this Article have not been proven or bail as a restraint measure is abolished or changed. The decision to return the bail shall be taken at the same time as taking the decision to abolish or change the respective restraint measure."

(c) Violation of Article 5 § 4: domestic court's refusal to examine the applicant's appeal against detention on grounds not envisaged by the domestic law (*Poghosyan* case); lack of adversarial proceedings and equality of arms while deciding the applicant's extension (*Piruzyan* and *Sefilyan* case)

In its decisions nos. 0299/01/08 and 0235/06/08, dated on 28 November 2008 and on 26 December 2008, respectively, the Court of Cassation within the framework of another criminal case found unacceptable the restriction of the right to appeal against decisions imposing detention or prolonging a detention period on the ground whether the appeal was lodged within the scope of judicial control over pre-trial proceedings or during the court proceedings of the case.

The first one of the said decisions was also highlighted by the Court in its *Poghosyan* judgment.

In this regard, the Draft Code provides a statutory norm that reads as follows:

Article 396: Scope of Judicial Acts Subject to Special Review in the Appellate Court; Time Period and Procedure of Lodging Appeals

1. The following Judicial Acts of first instance Courts shall be subject to special review in the appellate Court:
(…)
2) A Judicial Act on granting or rejecting a Petition on applying a restraint measure within the framework of the Pre-Trial Proceedings or prolonging the term of a restraint measure applied earlier;
3) A Judicial Act on granting or rejecting a Petition on abolishing detention or applying an alternative restraint measure instead of detention within the framework of the Pre-Trial Proceedings[.]"

With respect to the issue of lack of adversarial proceedings and equality of arms, the Government refers to the Draft Code, the relevant provision of which was brought in line with the Council of Europe legal standards and the Court's case-law, in particular.

In particular, the relevant provision of the Draft Code states as follows:

"Article 21: Equality of the Parties and Adversarial Proceedings

1. In Court, the proceedings shall be conducted on the basis of the equality of the Parties and adversarial proceedings. Deviation from the principles of the equality of the Parties and adversarial proceedings shall be permitted only in proceedings related to judicial safeguards of the performance of Proving Actions, agreement and cooperation proceedings, cassation proceedings, and extraordinary review proceedings.
2. The Accusation and the defense shall be separated. They shall be carried out by different individuals. The Court shall safeguard the Parties' right to participate in the Court session.
3. The Court shall, maintaining its impartiality, create the conditions necessary for the Accusation Party and the Defense Party for the presentation and comprehensive examination of all the Evidence. Based on a Petition by a party, the Court shall support such party in obtaining the necessary Evidence in accordance with the procedure stipulated by this Code.
4. In Court, the Parties shall have equal possibilities for presenting and defending their position. A Judicial Act may be based only on such Evidence during the examination of which equal conditions were safeguarded for each of the Parties.
5. The Court is bound by the factual circumstances underlying the Accusation. However, the Court is not bound by the legal assessment of the act attributed to the Accused. The Parties' positions concerning the application or construal of the law shall not be binding for the Court."

Moreover, Article 188 of the Draft Code envisages the following:

"Article 188: Prohibition of Disclosure of Preliminary Investigation Data

1. Private Participants in the Proceedings and Persons Supporting the Proceedings shall have the right to disclose Preliminary Investigation data that became known to them in the framework of a due process of law, unless the Investigator has in writing prohibited such disclosure due to any of the grounds envisaged by Paragraph 2 of this Article.
2. Disclosure of the Preliminary Investigation data shall be prohibited if it may:
1) Hinder the normal course of the Pre-Trial Proceedings;

2) Become a reason for the commission of a crime;

3) Undermine the rights and legitimate interests of the Participants in the Proceedings or other persons; or

4) Lead to the disclosure of a secret protected by law.

3. The prohibitions envisaged by this Article concerning the disclosure of Preliminary Investigation data shall not apply to information shared between an attorney and his client."

IV. STATE OF EXECUTION

The Government will provide further information once there are any developments on the passage of the legislation.