EU- ARMENIA Comprehensive Enhanced Partnership Agreement

"Support to CEPA monitoring, implementation and communication"

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CEPA PROGRESS MONITORING

updated by the CSOs (in some areas)

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Table of Content:

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BRIEF

Of the discussion held on October 18, 2023 regarding the monitoring of implementation of the EU-Armenia Comprehensive and Enhanced Partnership Agreement

The Comprehensive and Enhanced Partnership Agreement (CEPA) is the most fundamental document between the EU and Armenia that enables implementing reforms at all levels of public life, industry, and the government system of Armenia, aligning Armenia with the European standards both at legislative, as well as practical levels.

To implement CEPA, the Government of Armenia has developed a road map, the coordination and supervision of which has been assigned to the RA Deputy Prime Minister M. Grigoryan's Office.

The Civil Society of Armenia has been closely monitoring both the process of developing the Agreement and its implementation, after its signature and ratification. By adhering to its mission, civil society makes its contribution to the systematic monitoring and, subsequently, providing assessment and recommendations both to the Government of the Republic of Armenia and the European Union institutions.

The first, and so far, the only monitoring project was conducted in 2020-22, by a group of non-governmental organizations and covered a limited number of CEPA areas based on the interests and activities of the organizations involved. As a result of this project, 2 reports were published and offered to the wider public and the decision-makers. The Reports can be accessed by the following link: https://www.osf.am/wp-content/uploads/2022/04/. This project has been coordinated and supported by the Open Society Foundations Armenia, which terminated its activities in late December 2022. No systemic monitoring has been conducted since then.

Within the framework of the European Union-funded "Support to CEPA monitoring, implementation and communication" project, the Civil Society Capacity Building support team of the project, in collaboration with the EUD, organized a discussion, where the representatives of the NGOs that conducted CEPA implementation monitoring, provided their assessment of the current situation given the issues and observations raised in the previous report. The assessments were related to the following areas: judicial reform, criminal justice, police reform, equal opportunities and anti-discrimination, anti-corruption reform, health care, social justice in education, and labor rights.

This document was compiled under the "Support to CEPA implementation, monitoring and communication" project, by the KE4 and SNKE based on the contributions from the CSOs as listed below:

1. Araks Melkonyan, Protection of Rights without Bounders, NGO
2. Arthur Sakunts, Helsinki Citizens Assembly Vanadzor office, NGO
3. Daniel Ioannisyan, Union of Informed Citizens, NGO
4. Larisa Minasyan, Independent Expert

5. Hayk Abrahamyan, Non-Discrimination and Equity Coalition, NGO
6. Varuzhan Hoktanyan, Transparency International Anti-Corruption Center, NGO
7. Violeta Zopunyan, Center for Rights Development, NGO
8. Tatevik Khachatryan, Democracy Development Foundation

JUSTICE / JUDICIARY

CEPA ARTICLE 12

Rule of law and respect for human rights and fundamental freedoms

1. In their cooperation in the area of freedom, security and justice, the Parties shall attach particular importance to the consolidation of the rule of law, including the independence of the judiciary, access to justice, the right to a fair trial as provided for by the European Convention on Human Rights, and procedural safeguards in criminal matters and victims' rights.

2. The Parties shall cooperate fully concerning the effective functioning of institutions in the areas of law enforcement, the fight against corruption and the administration of justice.

3. Respect for human rights, non-discrimination and fundamental freedoms shall guide all cooperation on freedom, security, and justice.

As we speak about judiciary reforms, one major and radical issue comes up, without which all constitutional reforms might be, essentially, threatened.

The advocacy of judicial reform faces problems, which do not find fundamental solutions for a long time, leaving a negative impact on justice institutions. These are the persisting problems of the Supreme Judicial Council, the independence and impartiality of the judiciary, the right to a fair trial, and the education sectors. This contributes to low trust in the judiciary system as a whole. Judicial reforms should proceed in several directions and aim to tackle both legislative amendments and enforcement.

The Supreme Judicial Council also needs reform, the election of a former member of the ruling political party, who was the Minister of Justice as the Council's president is seen as one of the most problematic issues.

The RA government did not implement vetting in the judicial system, instead, the RA Executive Power and the Minister of Justice considered disciplinary proceedings against judges as a vetting toolkit. The Minister of Justice announced an increase in the number of disciplinary proceedings against judges: https://www.aravot.am/2021/09/30/1219121/

In 2022, the Supreme Judicial Council reviewed 24 proceedings, of which 23 were disciplinary penalties related to the judges, and 1 – to a member of the Supreme Judicial Council. Most of the motions were on exposing the judges to disciplinary liability, 18 motions, were filed by the Minister of Justice, and 4 by the Ethical and Disciplinary Council of the Assembly of Judges. As a result of examinations, 11 motions of the Supreme Judicial Council on sanctioning the judge with disciplinary liability, have been satisfied, whereby the responsibilities of 3 judges, including a member of the Supreme Judicial Council, were terminated. In the first half of 2023, 14 proceedings were examined by the SJC, 12 of which were submitted by the Minister of Justice, and only 2 by the Ethical and Disciplinary Commission. During the first semester of 2023, the powers of 7 judges were terminated. It should be noted that there is no uniform practice in the Supreme Judicial Council's decisions regarding the disciplinary responsibilities of judges and the reasons for the penalties. Moreover, the type of measures applied to the judge is not properly justified by the SJC, especially in the context of maintaining the principle of proportionality between the violation committed and the disciplinary penalty chosen. The reasons given in separate decisions of the Supreme Judicial Council were not sufficient. In the decisions, only legislative regulations were cited, but in the instance of a specific case, the justification provided was simply insufficient. Such a concern is especially topical in the cases of defining disciplinary violations as significant and terminating the judge's powers, and if the legislation of Armenia does not provide for an effective mechanism for exercising the right to appeal the judicial act adopted by the Supreme Judicial Council.

The issue of court overload continues to pose stress. The courts are case-loaded, resulting in lawsuits being put off, because of the absence of public defenders. At the same time, it should be noted that the workload of public defenders affects the effectiveness of free legal aid provided by the state, which in turn becomes a problem from the point of view of access to justice.

The selection of judges continues to be one of the problems of the judiciary. The Supreme Judicial Council also elects and promotes judges who have received a negative conclusion of the integrity check by the Corruption Prevention Commission. Furthermore, former members of the ruling political power or persons closely affiliated with that power are also elected. There have been cases of appointing a judge in the higher courts, based on party affiliation, such as the facts of appointing a judge from the members of the Civil Contract Party. The process of selection and promotion of judges in the Court of Appeal is not public. This makes it impossible for civil society institutions to monitor the process and understand on what basis these people are being appointed as judges of higher courts. The process of drawing up the list of candidates for judges of the Court of Cassation is carried out without public accountability by the Supreme Judicial Council, and by the National Assembly, although the discussion of the issue of the selection of candidates for judges is carried out in an open session, in practice, the selection of candidates for judges is made exclusively by the votes of the ruling political force, without the possible interference of the opposition. Of course, the conclusions on integrity checks by the Corruption Prevention Commission are advisory, but they are

also not public, and the Supreme Judicial Council appoints persons with negative integrity to the position of the judge without any justification.

Issues of Preparation of Judges

In December 2022, with the amendments made to the Judicial Code, which is a Constitutional Law, a special procedure for the selection of candidates for judges was introduced, which implies being elected as a judge by passing a complex qualification exam without studying at the Justice Academy. The exclusion of professional academic training can significantly affect the quality of justice. The need for this was justified by the fact that, because of a complex qualification check, the vacant positions in the judicial system would be quickly filled. At the same time, with the same legislative changes, the psychological testing phase was also removed, which is also problematic, because psychological testing was an essential element for the selection of judicial candidates, as it was aimed at checking the candidate's sense of responsibility, listening ability, self-control, moderate use of power (influence) and other non-professional qualities that are necessary for the effective functioning of a judge.

Recommendations:

- *Establish by legislation the prohibition of political party members or persons engaged in active politics from being elected to the position of judges for at least three years,*
- *In the framework of the evaluation of the integrity of the candidates for judges, including the criteria for members of the political party and the candidates' family members regarding the party membership or being part of active political activities,*
- *Restore the stage of psychological testing of candidates for judges and provide an effective methodology and procedure for evaluating their emotional intelligence, moral judgment, and value system. At the same time, ensure the transparency of the process of engaging psychologists, the standards and requirements expected from candidates, and the publicity of psychological tests and evaluation results.*
- *To ensure by legislation the publicity and reasoning of the decisions of the Supreme Judicial Council regarding the selection of candidates for judges and candidates for promotion, especially in the case of selecting and including in the relevant lists candidates who have received negative and positive conclusions of the evaluation of integrity by the Corruption Prevention Commission,*
- *To ensure the publicity of the conclusions on the integrity evaluation issued by the Corruption Prevention Commission, at least the final part,*
- *To ensure the transparency and public accountability of the process of selection of candidates for judges to be promoted in the Courts of Appeal and Cassation by the Supreme Judicial Council,*
- *To practically ensure the proper justification of the decisions made by the Supreme Judicial Council, in particular, to present clear and sufficient justifications regarding the qualification of the judge's action, as well as the justification of the penalty applied to the judge and the proportionality of the attributed action.*

Prosecutor General

Concerns remain about the independence and impartiality of the Prosecutor General's Office, as well as the lack of reforms within the system. Despite the 2019-2023 Judicial Reform Strategy, which

provided for reform actions in the prosecution system, the Judicial Reform Strategy 2022–2026 contains only one reform point, regarding the continuous review of the conduct of functioning prosecutors. Despite the existing problems and the recommendations given by international organizations, including the OECD, the reforms of the prosecutor's office are not implemented. In particular, the General Prosecutor is elected by the Parliament, on the recommendation of the Standing Committee on State-Legal Affairs, from among the candidates presented by the political factions. The procedure for selecting the General Prosecutor is not meritorious and there are risks of politicization of the election. The same person can be elected to the position of General Prosecutor for two consecutive terms. No independent expert assessment is given during the elections. The General Prosecutor can be dismissed by Parliament, but the grounds provided by the law "On the Prosecutor General's Office" are unclear. The structure of the General Prosecutor's Office is highly centralized and non-transparent, with no self-governing body, such as the Prosecution Council, to ensure the independence and transparency of the Prosecutor's Office and prosecutors. The members of the Qualification Commission and the Ethics Commission at the General Prosecutor's office are selected by the Prosecutor General, including the non-prosecutor members of the commissions, and the order of operation of the commissions is determined by the Prosecutor General, affecting the independence of the commission's work. Although the Qualification Commission is responsible for the selection and interviews of prosecutor candidates, the final decision on the selection and appointment of a candidate to a particular position rest with the Prosecutor General, which is not transparent. Moreover, the process of selecting prosecutors also includes closed competition, which is not public and not subject to review. Similarly, the issue of promotion of prosecutors is not merit-based and transparent and rests on the discretion of the Prosecutor General.

Recommendations:

- *Make changes to the Constitution of Armenia to limit the possibility of re-election of the same person to the post of Prosecutor General for two consecutive terms.*
- *Make changes to the Constitution of Armenia to create a Prosecutor's Council with the involvement of prosecutors and non-prosecutor members.*
- *Establish strict criteria for candidates for the post of Prosecutor General and provide an opportunity for eligible candidates to self-nominate.*
- *To review the principles and procedure of formation and operation of the qualification and ethics commissions of the prosecutor's office.*

CRIMINAL JUSTICE

From the perspective of legislative regulations, one of the recent developments qualified as a positive shift in the criminal justice sector, had to do with the new Criminal Procedure Code, whereby the Corruption Prevention Commission investigators are conducting the pre-investigation of corruption crimes, however, the process of electing the leader of this body needs to be further improved.

Another positive development marked was the mandatory audio recording, envisaged by the new Criminal Procedure Code (CPC). The audiovisual recording should start from the moment of commencing the investigative action without interruptions, except for unforeseen technical impairments or other objective reasons. The audiovisual recording is meant to ensure the completeness, and visibility of investigative action, more reliable evidence and better safeguards against torture and inhuman treatment.

Another positive development is the possibility of using house arrest as a new measure of restraint in Armenia, however, cases of arbitrary and groundless detention continue.

The right to freedom from torture, degrading and inhuman treatment

The situation of criminal justice continues to remain problematic in terms of guaranteeing the exclusive right to freedom from torture, and degrading and inhumane treatment.

Special Investigative Service has been operational since 2008 and was engaged in the investigation of torture and corruption crimes. The dissolution of this investigative body was planned by the Judicial Reform Strategy 2019-2023. Now the Investigative Committee of Armenia is investigating the torture cases. The Council of Europe Committee for the Prevention of Torture required Armenia to ensure the independence of investigative bodies dealing with torture-related cases, however, this independence is not yet fully maintained, and the head of the Investigative Committee is appointed directly by the Prime Minister and reports to the latter. The Investigative Committee, which examines cases of torture, should review their approaches, and examine them from the perspective of the abuse of power during investigation. For these cases, the background and completeness of the case should be specifically verified, in addition to special training/qualification of investigative officers, particularly for sensitive cases (misconduct in private kindergarten). The Investigative Committee is still connected to the Police, even though they are de facto separate institutions.

Currently, the inhumane and degrading treatment is not articulated clearly in the Criminal Code, therefore it cannot be criminalized. The chain of inhumane treatment starts with police departments and detention places stretching as far as prisons. Most reports on torture obtained from the police testify to a serious regress over the past year.

Torture and medical care in prison constitute two of the main infringements of human rights. Medical aid is missing in the prisons and the prisoners are provided only with medicines; however, no adequate care and examination is conducted, except for emergencies, despite the important fact that the medical aid for imprisoned persons has been transferred from the Ministry of Justice to the Ministry of Healthcare. Instances of torture in institutions are not being registered and no appropriate needs and risk assessment of new detainees is conducted.

Inadequate examination and unreliable statistics on sudden deaths are observed in the penitentiary system, and mortality cases are rarely investigated, as for suicides, these cases are not discussed at all and are not even acknowledged to be a problem.

The crimes and incidents of torture in penitentiary institutions should be examined by specially trained units. Officers conducting examinations now lack both knowledge and skills. Further efforts should be made to involve psychiatrists and expert psychologists in the investigative teams.

The state is obliged to provide certain compensation to victims of torture, ill-treatment, inhumane and degrading conduct, especially where this conduct has been displayed by law enforcement bodies, as well as to provide quality psychological rehabilitation support to the victims of torture, witnesses, and their family members.

Right to parole of persons held in custody

The system of conditional release is unclear and unpredictable. Authorities do not take measures to adequately inform both the prisoners, as well as the public as a whole, of what parole means, what the process is and who could use it. There are no sufficient meaningful opportunities for the prisoners to earn scores for a conditional release. More collective efforts should be exerted in the criminal justice system for efficient collaboration to prioritize restorative justice.

The members of the Public Monitoring Group cannot visit and meet with the detained persons, on whom a ban on meetings has been imposed, while these bans should not have been extended to the Group, they should have had the opportunity to have unhindered meetings with these persons.

Institutional issues related to the protection of the rights of persons with mental health impairments and the need for more fundamental improvement of mental health continue to remain relevant.

THE COURSE OF POLICE REFORMS

In 2020, the Government adopted the Police Reform Strategy of RA and the deriving Action Plan 2020–2022[1]. Nevertheless, because of several objective and subjective circumstances, both the timing and the content of further reforms took quite a different form than planned.

In 2020, to coordinate police reforms, a respective council headed by the Prime Minister was established,[2] where among others, representatives of civil society were engaged. The Ministry of Justice was appointed as the focal point for the reforms. In January 2023, the Ministry of Internal Affairs was established, which became the key responsible agency for reform, and Vahe Ghazaryan was appointed as the Minister of Internal Affairs. His appointment was followed by a joint statement of the representatives of civil society, declaring that Vahe Ghazaryan was radically opposed to the implementation of true reforms, and the CSOs left the council coordinating police reforms[3].

Thus, over recent years no changes have taken place in the behavior, structure, and capacities of the Police concerning policing at assemblies and rallies. The key responsible unit for policing at

[1] RA Government Decision N638-L dated April 23, 2020, on the approval of the RA Police Reform Strategy and the deriving Action Plan 2020-2022: https://www.arlis.am/documentview.aspx?docID=141877

[2] RA Prime Minister's decision No. 903-A of August 2020, on the establishment of a coordination council for police reforms, the composition and procedures thereof, and approval of the procedure of a tender for non-governmental organizations to be involved in the individual staff of the Council https://www.irtek.am/views/act.aspx?aid=106627

[3] NGOs cease their membership to the police reform coordination council: https://uic.am/16581

assemblies are the police troops, which by their structure, knowledge, and, to a certain extent, armor, are not police, but rather a military unit (infantry) unit.

Despite the introduction of a Patrol Service, which significantly improved the fight against crime by street patrolling service and set forth all preconditions for shaping the image of a policeman as a public servant, the leadership of the police promoted the Patrol Service to be more of formal structure rather than having real content, while degrading the principle of equal treatment of all citizens (and excluding the privileged). Furthermore, over the years the patrols started to get involved in non-statutory functions failing to perform their primary functions.

No significant progress was made in maximizing the efficiency of the fight against crime (except for the street patrolling service). In contrast to the strategy plan, no changes took place in the administration of crime statistics, which is manipulative and draws an unrealistic picture for the wider public (for example, 75 per cent of homicides on 5 years basis, are considered as "resolved cases", whereas only 25 per cent of these cases reached the court).

Recent years marked not only a lack of any positive change towards prevention of torture and ill-treatment but also the tools to prevent it have been reduced (for example, the cameras installed in police units through donor funding, have been turned off). In 2023, three cases of violence exercised against lawyers in the police unit were recorded, which is unprecedented for the past 10 years.

There is no anti-corruption policy in police service; no police officer, at any stage, undergoes an integrity check, while certain components of attestations (professional examination and interview) are formal.

In recent years, the police also stood out for providing incorrect information to representatives of the donor community, a corruption scandal involving donor-related supplies, as well as embezzlement of donor funds due to police mistakes.

The high level of bribery and other facts of corruption in the police remains disturbing. Reliable alerts and disclosure of law enforcement officers on cases of corruption within several police departments are widespread4. Furthermore, at present, the technologies allow for preventing most of these cases, yet no intention to deploy those technical means can be traced by the police.

Tackling a small part of the mentioned problems entails further discussions and studies, and the following recommendations are listed below to help solve the remaining issues:

Recommendations:

- *Install video cameras in police departments covering all spaces where people invited to police can be visible.*
- *Introduce an incentive system for criminal investigation officers to promote the collection of evidence not linked to the testimonies of citizens.*

[4] Criminal chain of selling drivers' licenses for bribe unveiled: 7 people were charged https://www.tert.am/am/news/2023/12/02/investigative/4041827
Three people offered a job in the police for 150,000 AMD each: they agreed: https://news.am/arm/news/791404.html
Officers of Internal Security Department of the Ministry of Internal Affairs have uncovered alleged cases of bribery crime by police officials: https://www.police.am/news/view/nav200123ngn.html

- *Essentially revise the procedure for maintaining crime statistics and embed, as the key indicator, the implementation of inevitable punishment mechanism, and revise the definition of the term "resolved crime".*
- *Establish mechanisms to facilitate effective support to the pre-investigation by criminal investigation officers, consider restoring investigative functions within the police service and the introduction of detectives.*
- *Add effective criminal investigation instruments and start implementing phone conversation tracking measures.*
- *Clearly regulate the process of taking applications from citizens, as well as create a mechanism for collecting feedback from citizens who have reported or applied to the police for any matter.*
- *Define clear regulations and criteria for appointments into positions within police service, with minimal space for discretion, aimed at the content of the reform, not the formal side.*
- *For the disciplinary liability of the police, create minimum discretion scales linking those with the deliverables of the service, rather than its form.*
- *Exclude the involvement of the Patrol Service in any functions contradicting its statutory goals or forms of service.*
- *Create a mechanism for the patrol officers, obliging them to immediately present a report concerning all cases when the person violating road traffic rules, presents himself as an officer of a law enforcement body.*
- *Passa clear legislation, regulating the procedure for issuing the coupons labelled "Not subject to inspection", its designation, in addition to the actions of the patrol when presented with such a coupon.*
- *By demilitarizing the police force to establish professional police units to service assemblies.*
- *Review professional examination questionnaires of attestation to include questions to evaluate the level of professional knowledge.*
- *Introduce an integrity check mechanism designed through the Corruption Prevention Commission for all high-ranking police officers.*
- *Elaborate and introduce an anti-corruption strategy for the police, adding internal controllability and external transparency of all potential processes.*

FIGHT AGAINST CORRUPTION

CEPA ARTICLE 4

Domestic reform

The Parties shall cooperate in the following areas:

(a) developing, consolidating, and increasing the stability and effectiveness of democratic institutions and the rule of law;

(b) ensuring respect for human rights and fundamental freedoms;

(c) making further progress on judicial and legal reform, to secure independence, quality and efficiency of the judiciary, the prosecution and law enforcement; (d) strengthening the administrative capacity and guaranteeing the impartiality and effectiveness of law-enforcement bodies; (e) further pursuing public administration reform and developing an accountable, efficient, transparent and professional civil service; and (f) ensuring effectiveness in the fight against corruption, enhancing international cooperation in combating corruption, and ensuring

effective implementation of relevant international legal instruments, such as the UN Convention Against Corruption of 2003.

ARTICLE 12

Rule of law and respect for human rights and fundamental freedoms

1. In their cooperation in the area of freedom, security and justice, the Parties shall attach particular importance to the consolidation of the rule of law, including the independence of the judiciary, access to justice, the right to a fair trial as provided for by the European Convention on Human Rights, and procedural safeguards in criminal matters and victims' rights.

2. The Parties shall cooperate fully with the effective functioning of institutions in the areas of law enforcement, the fight against corruption and the administration of justice.

3. Respect for human rights, non-discrimination and fundamental freedoms shall guide all cooperation on freedom, security, and justice.

ARTICLE 16

Fight against organised crime and corruption

1. The Parties shall cooperate in combating and preventing criminal and illegal activities, including transnational activities, organised or otherwise, such as: (a) smuggling of migrants and trafficking in human beings; (b) smuggling and trafficking in firearms including SALWs; (c) smuggling and trafficking illicit drugs; (d) smuggling and trafficking in goods; (e) illegal economic and financial activities such as counterfeiting, fiscal fraud and public-procurement fraud; (f) embezzlement in projects funded by international donors; (g) active and passive corruption, in both the private and public sector; (h) forging documents and submitting false statements; and (i) cybercrime.

2. The Parties shall enhance bilateral, regional, and international cooperation among law-enforcement bodies, including the possible development of cooperation between the European Union Agency for Law Enforcement Cooperation ("Europol") and the relevant authorities of the Republic of Armenia. The Parties are committed to implementing effectively the relevant international standards, in particular those enshrined in the UN Convention against Transnational Organised Crime of 2000 and the three Protocols thereto. The Parties shall cooperate in preventing and fighting corruption in line with the UN Convention Against Corruption of 2003, the recommendations of the Council of Europe Group of States against Corruption ("GRECO") and the OECD, transparency about asset declaration, the protection of whistle-blowers, and the disclosure of information on final beneficiaries of legal entities.

Corruption Prevention Commission (CPC)

a/ CPC capacity enhancement

According to the RA Government Decision 114-A dated February 3, 2022, an amendment was introduced to the RA Government Decision 1500-A adopted on September 10, 2020, on “Approval of the number of employees and the staff list of the RA Corruption Prevention Commission structural units”, as a result of which the number of CPC staff became 57.

b/ Expansion of the CPC functions

As a result of changes introduced to the RA Law on CPC (LA-164-N) by the RA National Assembly on June 9, 2022, the CPC shall start exercising oversight of contributions made to campaign funds, donations made for referendum and local referendum campaigns, the expenditures and calculations thereof starting from January 1st, 2024, instead of January 1st, 2023.

As a result of changes and amendments introduced to the RA Law on Corruption Prevention Commission on December 7, 2022, by the RA National Assembly (LA- 541-N, has become effective on January 2, 2023) the CPC has been entrusted with the responsibility of overseeing the observance of restrictions on accepting gifts by public servants and persons holding public position undertaking also the regulation and control over the procedure of registration of gifts and maintenance of the gift register. The grounds for requesting a situational declaration by the CPC were also defined by the same law.

And finally, on the same day (December 7, 2022), the National Assembly through another law (LA-496-N, entered into force on January 1, 2023), made supplements to the RA Law on CPC, according to which, the CPC was entitled "in case of whistleblowing to register, consider, implement measures and maintain the statistics on every report, that falls within its competence," as well as to exercise other functions provided by the RA Law on "Whistleblowing System".

c/ CPC Activities on Implementing Laws

In 2022, the CPC has instituted 143 proceedings, of which 118 – on violations associated with declarations, 15 are disciplinary proceedings against judges, 8 proceedings were instituted based on explicit violation of non-compliance requirements, 1 was instituted on the ground of non-compliance and situational conflict of interests and 1 – only on the ground of situational conflict of interest. In the case of the 2 proceedings mentioned above (one- on violations associated with the declarations, and the other – on non-compliance and situational conflict of interests) relevant materials were submitted to the RA Prosecutor General's Office.

In 2022, the CPC has conducted a review of 42 applications and 10 media publications offering consultancy thereof. Most of them – 33 applications and 5 media publications, were associated with non-compliance requirements. As a result of the examination of one of the applications, a proceeding was instituted, in consequence of which a conclusion on violation of the non-compliance requirement was issued (the Deputy Governor of Shirak region was also a member of the Community Council). Another 3 proceedings were instituted in 2022 on the grounds of violation of non-compliance requirements and situational conflict of interests, which were still pending as of December 30 of the year concerned. In addition to applications received and media publications, the CPC, on its initiative has carried out 107 reviews on observance of non-compliance requirements by the MPs of the RA National Assembly. The latter were still in progress as of December 30, 2022. Based on the examinations referred to above, proceedings against 5 MPs of the RA National Assembly were initiated. A conclusion on the absence of violations was issued for four of them and in the case of one MP, the proceeding was still pending as of the first quarter of 2023.

In 2022, the CPC carried out a study on the integrity of 515 persons applying for public offices. The Commission has issued 505 conclusions, of which 278 were positive, 64 – were negative and 163 were positive with reservations. The summary report on Anti-Corruption Strategy Monitoring contains no information about the decisions made regarding the appointment of the officials for whom negative conclusions were drawn. In 2022, around 5000 declarations were checked and analyzed. 118 procedures were instituted for failure to submit the declarations promptly, for submission of the declarations with violations as well as for the provision of invalid data, and 107 of those procedures were dismissed, in the case of 10- fines were imposed, and for 1 – warning notice on violation of the requirements on filling out declarations was issued.

Reforms carried out in the field of corruption prevention and emerged challenges

a/ Improvement of the declaration system

Since February 2023, a new electronic declaration system has been launched, because of which the process of filling out declarations has been simplified and has become more transparent, with the human factor being excluded. Another important change made by the National Assembly through making amendments and supplements to the Law of the Republic of Armenia

"On Public Service" (LA-540-N) is the expansion of the scope of declarants, which includes the heads of public and community non-profit organizations, foundations established by the state, commercial organizations with 50% or more of RA and community share, heads of executive bodies.

b/ Specifying the requirements for non-compliance for persons holding public positions and public servants

Several important concepts were introduced as a result of supplements and amendments made to the RA Law on Public Service through the Law 540-N adopted by the National Assembly on December 7, 2022. Namely, the situation of potential conflict of interest and the mechanisms of its prevention were ensured by law, and the concept of private interest was introduced. In addition, the institute of accreditation was developed, etc[5].

Investigation of corruption-related crimes

a/ Fostering the capacities of the Anti-Corruption Committee

As of January 1, 2023, the Committee employs 32 people, holding independent positions and 40 people carrying out intelligence activities. According to the RA Prime Minister's 1450 – A decision, dated December 6, 2022, as of January 1, 2023, the number of employees of the Committee shall increase by 100 and it shall be carried out in a phased manner. It should be noted that there is no information about this important step on the website of the Committee (https://www.anticorruption.am/hy/). On the other hand, it can be assumed that the Prime Minister's decisions are mandatory, then the number of committee posts should have been increased by 100 from June 1, 2023. Only after that increase, it will be possible to create regional departments of the committee, which is planned for the 2019–2022 strategy.

- **Specialized Anti-Corruption Courts**

The Anti-Corruption Court was formed in July 2022 and by the end of the same year, it was fully established appointing 10 judges specialized in the investigation of corruption-related crimes and 5 – in anti-corruption civil cases.

As a result of amendments made on December 23, 2022, to the RA Judicial Code, it was established that as of January 1, 2024, an Anti-Corruption Appeal Court shall start functioning. Earlier, the appeal of judicial acts rendered under the investigation of corruption-related crimes in the criminal and civil courts of appeal was carried out by 3 judges of each of those courts, who were appointed in 2022.

The system of specialized anti-corruption courts was accomplished by the establishment of the Anti-Corruption Chamber of the RA Court of Cassation. It was established on February 9, 2022, by the RA National Assembly as a result of amendments made to the RA Judicial Code. 6 out of 10 judges of the mentioned Chamber were elected by the RA National Assembly sessions held on June 27–30 of the same year. Later, the other 4 judges were also elected.

[5] By the law referred to, the institution of anti-corruption program manager in state and local self-government bodies was introduced.

Confiscation of illegal assets

a/ Establishment of structures for confiscation of illegal assets

There were no new structures established during 2022_2023. The activities of the Department for Confiscation of Property of Illegal Origin at the Office of Prosecutor General are highlighted in the Anti-Corruption Strategy Monitoring Report (see Measure 34).

Public Procurement System

The most serious change in the field of public procurement in 2022 was the elimination of the extrajudicial component of the procurement appeal system, which was planned both by the State Finance System Reform Strategy and its implementation Action Plan 2019–2023 and the Anti-corruption Strategy and its implementation Action Plan 2019–2023. That change was implemented through the Law on Amendments to the RA Procurement Law (HO-4-N), which was adopted by the National Assembly on January 21, 2022, and entered into force on June 1 of the same year. With it, the extra-judicial institution of the person who examines procurement complaints was abolished and the possibility of examining those complaints only in court (based on civil law) was left. The Ministry of Finance of the Republic of Armenia, which is the authorized body of the public procurement system of Armenia, initiated this legislative change, justifying it as being part of the Agreement on Public Procurement of the World Trade Organization (WTO) and the CEPA (see Article 271 of the Agreement). It should be noted that from May 2022 to 2023 Transparency International, with the support of Open Society Foundations – Armenia, implemented a pilot project in which the procurement appeals system was monitored before and after the abolition of its extrajudicial component, after which the monitoring results of the two periods were compared. These results indicate that a purely judicial appeal does not live up to expectations, leading to other problems that reduce the independence, efficiency and impartiality of that system. Another important point was introduced in the public procurement system of Armenia by the law on making additions and amendments to the aforementioned law on procurement. According to it, the law defined the conditions for the implementation of alternative procurement arrangements for the implementation of new investment projects, which, if provided for in the legal acts regulating relations with procurement, national procedures will be possible to apply. One more addition made in the law on procurement established the audit of the financial reports of the political parties.

Transparent and accountable management

a/ Increase in the volume of encrypted information

Identification of changes that the RA Law on State Secret (to become effective on January 28, 2024), adopted on March 1, 2023, has led to the publishing of a joint opinion of several human rights NGOs regarding the RA draft law on “State Secret" submitted to the National Assembly on 04.11.2022, which in several aspects does not comply with the best international practices and standards, and also contains the risk of inadequate restrictions on the right to freedom of information.

[6] Increasing the independence and efficiency of the procurement appeals system is one of the obligations undertaken by Armenia under the WTO Agreement on Public Procurement and Article 271 of the GCC. According to the Ministry of Finance, it was hindered by the low efficiency of the existing extrajudicial procurement component, and based on this, it was proposed to cancel this component.

Thus, it is recommended to review several legal regulations contained therein and to amend the legal provisions accordingly.

Anti-corruption Strategy 2019–2022

According to the Monitoring report, out of 43 Strategy measures 25 were implemented fully, 8 were mostly implemented, 7 were implemented partially, and 3 were not implemented ((i.e. 11 – establishment and functioning of the institute of ethics committees and integrity officers), 14 (ensuring the system of meritocracy in the field of Civil Service) and 33 (strengthening international cooperation in the frame of investigation and detection of corruption-related crimes)).

Identified weaknesses: despite the above-mentioned changes, there are still fundamental gaps identified by local and foreign experts, which may put in question the existence of political will to fight corruption and its efficiency. These shortcomings are listed below:

a/ Anti-corruption policy

Little attention is paid to the spheres with high corruption risks (tax and customs, procurement etc.). There is no clear link between the expected outcomes, measures and indicators. Several policy papers remain unfulfilled. The implementation of the strategy is hampered by insufficiency of resources within several components of the institutional system, as well as by frequent changes in the governing bodies.

Recommendations:

- *In anti-corruption policy documents, first of all, in the strategy and its action plan, a separate approach should be applied to anti-corruption policy in high-risk areas;*
- *The same applies to the case of high-ranking politicians.*
- *When developing an anti-corruption policy, apply corruption risk assessment methods to highlight the issues that should be resolved as a result of the implementation of that policy.*
- *Anti-corruption policy documents should be based on previously collected and analyzed reports from various government agencies.*
- *Strengthen the capabilities of the Anti-Corruption Policy Council and expand its powers.*
- *In the process of monitoring and evaluating the plan of anti-corruption strategy and its implementation measures, include their budget performance report.*
- *In the monitoring and evaluation reports of the anti-corruption strategy and its implementation measures, analyze more seriously and highlight the causes of shortcomings.*

b/ Conflict of interests and declarations

There is still no unified system for the regulation of conflict of interests for different categories of public servants. The legislative regulations on conflict of interests remain on paper. Consistent enforcement of rules of conduct is impeded by the lack of capacities of relevant authorities, namely the CPC.

Recommendations:

- *Continue to improve the legislation on conflict of interest, in particular, to establish that the head of a public body or the person in charge of welfare in that body must be obliged to resolve the situations of conflict of interest that*

are reported by sources outside that body, for example, the media. It is also necessary to regulate the situational conflicts of interest that appear in the case of public officials who do not have a direct superior. The law should also establish special regulations for resolving conflicts of interests of prosecutors, members of the government and members of the councils of elders.

- *Ensure proper enforcement of existing legislation related to certain manifestations of conflict of interest. In particular, we are talking about applying measures of responsibility to public servants and officials for such violations, such as not reporting and resolving situational conflicts of interest that have arisen on their part, violating restrictions on accepting gifts and hospitality, violating incompatibility requirements, violating post-tenure restrictions, failing to rescind decisions made as a result of conflicts of interest or contracts, not forfeiting gifts received illegally, and not rehiring former officials in violation of post-tenure restrictions.*
- *Add non-judge officials working in the management circles of the judicial system to the list of declarants.*
- *Declare cars and other movable property owned abroad.*
- *Declare in-kind gifts received in the form of work or service.*
- *In the interesting part of the declaration, declare also the connection of the declarant and/or its affiliated persons with the trust management companies managing their shares.*
- *To ensure the availability of foreign non-open sources of information for the Corruption Prevention Commission.*
- *In practice, apply criminal liability to declarants who deliberately present false or incomplete information in their declarations.*

c/ Procurement

The main shortcomings in the public procurement system include oversight mechanisms that are not sufficiently efficient, low capacities to avoid conflicts of interest, weak anti-corruption mechanisms, and inefficient use of open sources and open codes.

Recommendations:

- *Reduce the volume of purchases made by one person.*
- *Improve conflict of interest legislation and practice in public procurement.*
- *In practice, criminalize individuals and legal entities who have committed corruption crimes related to purchases.*
- *Apply in practice the ban on concluding purchase contracts with persons previously convicted of corruption crimes.*
- *All purchasers defined by procurement legislation must make their purchases electronically.*
- *Make purchase data machine-readable.*

d/ Prosecution system

The election of the Prosecutor General is not based on the principles of meritocracy, it is not competitive and is exposed to the influence of political interests. The Prosecutor's Office is not protected from political influence. The system's closed competition and non-transparent promotion mechanisms provide the Prosecutor General with vast possibilities for using discretion.

Recommendations:

- *Create a permanent independent expert committee for public control in the prosecution system, in which representatives of civil society, lawyers, scientists, human rights defenders, etc. will be involved.*
- *Mainly conduct open tenders for vacant positions.*

- *Clarify the term "improper performance of obligations" for cases imposing disciplinary penalties.*

e/ Institutional anti-corruption system

The system is still in its early stage of formation and there is much to be done to strengthen the capacities of specialized anti-corruption bodies and to increase their transparency and accountability.

There is no special body that will manage the confiscated property of illegal origin to the benefit of the general public and the state.

Recommendations:

- *Create a state body that manages confiscated property of illegal origin.*
- *Clarify the grounds for dismissal of the head of the Anti-Corruption Committee or his investigators.*

f/ Criminalization of corruption-related crimes

Cases of conviction of high-ranking officials for corruption crimes continue to be very low. There are no cases of confiscation of wealth acquired through corruption. The situation is the same in the case of money laundering. There are reconciliation processes, the transparency of which is questionable. See the links to the RA General Prosecutor's Office messages regarding all these processes (there have been 4 such processes so far, the messages regarding 3 do not provide details):

https://prosecutor.am/article/2454

https://prosecutor.am/article/2477

https://prosecutor.am/article/4308

https://prosecutor.am/article/4317

https://prosecutor.am/article/4336

Both of them refer to the same case (the case of returning the building of AOKS to the state).

Recommendations:

- *More proactively enforce criminal charges for bribery in the private sector, bribery to obtain an undue advantage, illicit enrichment, corruption by a foreign official, money laundering, confiscation of property of illegal origin and trading in influence, persecution, and punishment.*
- *Take active steps to return property of illegal origin found abroad.*

NON-DISCRIMINATION

CEPA ARTICLE 84

The Parties shall strengthen their dialogue and cooperation in promoting the International Labour Organisation ("ILO") Decent Work Agenda, employment policy, health, and safety at work, social dialogue, social protection, social inclusion, gender equality and anti-discrimination, and thereby contribute to the promotion of more and better jobs, poverty reduction, enhanced social cohesion, sustainable development and improved quality of life.

Currently, the Constitution of the Republic of Armenia fails to be efficient on issues related to respect for equality and the prevention of discrimination. Article 29 of the RA Constitution, which deals with discrimination issues, does not provide a clear definition leaving room for ambiguity about the protection framework and prohibited forms of discrimination. Moreover, it does not oblige the state to undertake affirmative actions to address considerable inequalities. Though various laws contain fragmentary guarantees against inequality, however, they fail to comply with international human rights standards. The non-adoption by Armenia of comprehensive legislation on equality in compliance with international human rights commitments forces many to rely on a set of fragmented provisions prohibiting discrimination, which as a whole do not provide full protection.

The need for an Equality Act has been repeatedly highlighted in the National Human Rights Action Plans of recent years, the latest of which was adopted in 2023. The Ministry of Justice published a draft law on July 15, 2019, which was criticized by civil society organizations. They have identified its weaknesses, including:

1. incomplete list of prohibited grounds for discrimination, which fail to cover such factors as health status, sexual orientation, and gender identity;

2. weak and inadequate definition of discrimination, that does not prohibit explicitly multiple or intersectional discrimination and does not provide a proper definition of "reasonable adjustments";

3. limited executive powers and insufficient resources for the Office of the Human Rights Defender, under which, according to the law the National Equality Body shall function;

4. Lack of provisions on compensation of nonpecuniary damages for cases involving private entities.

As a step forward should be highlighted the fact that in January 2020 the updated draft of the law as well as the package of amendments to the RA Civil Procedure and Administrative Procedure Codes were submitted to the Prime Minister's office. These changes have expanded the powers of the Office of the Human Rights Defender to investigate cases of discrimination against private entities and discrimination cases in courts of general jurisdiction.

However, the progress stalled until August 2023, when the Ministry of Justice resumed the process of drafting the law, turning to the Council of Europe for expert analysis. The effectiveness of this decision is questionable since the previous drafts had been already reviewed by international organizations, including the Equal Rights Trust and the OSCE/ODIHR. Furthermore, the Non-Discrimination and Equality Coalition of Armenia is concerned with the Ministry's preference to use as a basis and work on the draft law of 2019, rather than on the 2020 version, which was already modified with the involvement of civil society.

Manifestations of hate speech and the crimes committed on the basis thereof are directly associated with the non-discrimination field. In 2021, 68 cases of hate crime were reported in Armenia, including 21 cases of "public calls for violence, public justification of violence or its propaganda". However, the available data on incidents of hate speech and hate crimes do not illustrate the real scale of the problem due to the lack of proper mechanisms for comprehensive monitoring and data collection.

In July 2022, the new Criminal Code and the Criminal Procedure Code came into force in Armenia criminalizing explicitly hate speech. Hate speech is defined as inciting or promoting hatred, discrimination, intolerance, or hostility, as well as distributing materials or items for such purposes. The new Criminal Code also includes provisions on aggravating circumstances, such as bias and the offender's hate motives. However, the question remains open whether these provisions effectively address the elimination of hate speech, hate crime and all forms of criminal discrimination.

In May 2022, the landmark judgment of the European Court of Human Rights highlighted that Armenia had failed to protect the applicant and investigate a homophobic crime (Oganezova v. Armenia). Victims of hate crimes against LGBTI continue to face identical treatment when dealing with law enforcement authorities, and these cases are often dismissed or downgraded to lesser charges. The Armenian legislation lacks recognition of discrimination based on sexual orientation and gender identity, this being coupled with the unwillingness of authorities to address cases of hate-motivated violence. This creates a climate of impunity and promotes hostility and violence against LGBT people vulnerable communities and their representatives. It also undermines trust

between LGBT people and law enforcement officials, as a result of which victims seek support from NGOs rather than the police.

Recommendations:

The Armenian authorities shall undertake the following steps:

Armenia shall adopt a comprehensive equality act that complies with international human rights standards. During the development of the law, the authorities shall have extensive consultations with civil society. The legislation shall:

- *Develop a hate speech monitoring mechanism and detailed guidelines for consistent and disaggregated data collection on hate speech and hate crime;*
- *Conduct relevant training for law enforcement officials, prosecutors and criminal justice system officials and provide clear guidelines on hate crimes;*
- *Review the provisions of the Criminal Code dealing with hate speech, aggravating circumstances, and discrimination to enable the criminal justice system representatives to combat effectively racist and anti-LGBTI hate speech, other hate crimes and forms of discrimination;*
- *Prohibit all forms of discrimination based on internationally recognized grounds in all spheres regulated by law;*
- *Impose affirmative actions to eliminate substantial inequalities;*
- *Define the procedures necessary for efficient enforcement;*
- *Establish an independent equality body with considerable powers and institutional safeguards to ensure its enforcement.*

HEALTH

CEPA ARTICLE 91

The Parties shall develop their cooperation in the field of public health to raise its level, in line with common health values and principles, and as a precondition for sustainable development and economic growth.

CEPA ARTICLE 92

Cooperation shall address the prevention and control of communicable and non-communicable

diseases, including through the exchange of health information, the promotion of a health-in-all-policies approach, cooperation with international organisations, in particular the World Health Organization, and the promotion of the implementation of international health agreements such as the World Health Organization Framework Convention on Tobacco Control of 2003 and the International Health Regulations.

While analyzing the healthcare sector of Armenia and the activities implemented in the field, the following problems can be identified:

Implementation of measures aimed at fighting cancer

The authorized body has partially fulfilled the commitment of creating a unified platform. As of September 2023, the database of patients diagnosed with cancer has been introduced into the electronic health system, however, the latter is still incomplete, as it includes only the data for the past three years. Furthermore, the designed platform lacks the report processing and generation features, which are essential from the perspective of the steps aimed at the development of the field, as the research based on the collected data shall contribute to the implementation of measures aimed at fighting cancer.

The platform does not include also the patient support function, which is envisaged by the road map and is provided on the online platforms of non-governmental organizations and associations active in the field (e.g. cancer. am, website of the "Henaran" Foundation, etc.). The screening register available on the platform is still on breast cancer only (and not for example on colorectal cancer yet).

It should be noted that the new and more comprehensive cancer treatment algorithms have not yet been developed per the guidelines of the European Society for Medical Oncology as outlined in the roadmap. The implementation of this process is slowing down due to the introduction of a comprehensive health insurance system. As an important prerequisite for the introduction of an insurance system, the development of clinical procedures for all health care services and their widespread application. The above-mentioned activities are quite extensive and are still under discussion with associations and consultants active in the sector.

Recommendations:

- *To ensure the complete entry of paper-collected data into the database.*
- *Develop and implement the reports generation function, including the reports provided by health workers by the law.*
- *Develop, adapt, and introduce new and more comprehensive cancer treatment algorithms to the guidelines of the European Association of Oncologists.*
- *To develop patient-centred support platforms in cooperation with sectoral public organizations.*

Development and implementation of a program aimed at the promotion of nursing

The activities aimed at the implementation of this measure kicked off in 2022. The order of the RA Minister of Health on "Approving the Strategy for Development of Nursing and the Action Plan for 2022–2026 Arising Thereof" has been adopted. Furthermore, there is a need to carry out monitoring over its introduction and implementation.

Recommendations:

- *To monitor the implementation of the strategy and action plan drafted based on that strategy.*

Primary Health Care (PHC) Reforms

This action was scheduled for 2021–2023, but as of November 27, 2023, no distinct and visible reforms have been carried out, except for the renovation of several outpatient care facilities. The Primary Health Care (PHC) reforms in Armenia are an important prerequisite for the introduction of a universal health insurance system, the launch of which is scheduled for 2024. It should be noted that a separate part of this measure makes up the training of family physicians, pediatricians, adolescent medicine specialists and school nurses as well as ensuring their continuing professional development. The authorized body conducts the mentioned training mostly through the National Institute of Health in an online format, with the effectiveness of those training courses being highly questionable. Coupled with their work and examination of patients, health workers hardly participate in this training and get relevant credits, while there are no mechanisms for checking the acquired knowledge. On September 19, 2023, the RA Ministry of Health adopted an order approving

the list of activities aimed at staffing regional healthcare facilities, including social support measures and incentive mechanisms for healthcare workers, which is still in progress and fails to meet with originally established deadlines.

Recommendations:

- *With the support of the EU expert potential, organize a detailed needs assessment aimed at the development of PHC.*
- *Postpone the full introduction of comprehensive health insurance until the improvement of the PHC system and its alignment with the insurance system.*
- *Introduction of mechanisms for checking the theoretical and practical knowledge of medical workers of the PHC.*
- *Ensure physical accessibility for all groups of patients in all institutions of the PHC ring.*

Awareness raising on publicly funded healthcare services

For implementation of this measure, the authorized body refers to informational posters displayed in healthcare facilities and the few videos produced. However, a question still arises whether they are accessible to the groups of society who need information about affordable services. In addition, it should be noted, that the informational videos developed by the RA Ministry of Healthcare have very little visibility (about 20 views on the YouTube channel). It is most effective when the healthcare worker (or the employee welcoming the patient at the reception desk) presents within the proper communication framework all the services available for the given patient on the spot. It is also essential to ensure the provision of information appropriately for patients with vision and hearing impairments.

The introduction of health insurance which completely changes the public financing mechanism, brings forward new challenges associated with this measure. However, there is a lack of information and public consultations on the issue concerned. As a result of meetings with healthcare workers, it became clear that they lacked information, even though the expected changes are directly linked to their daily activity and awareness-raising efforts among patients.

Recommendations:

- *Design information campaigns according to the targeted groups, and accordingly apply tools adapted to certain groups.*
- *To combine the delivery of information on the provision of services with the still-existing state order method and the changing insurance system.*
- *Conduct periodic training with health workers on the topic of communication skills development, which will contribute to the effective provision of primary information transmitted by the health worker to the patient.*
- *Provide accessible ways of providing information to those members of society who have visual or hearing problems.*

Measures aimed at enhancement of services within the framework of mental health services reform

For mental health services, the authorized body has concentrated its main resources on the renovation of facilities and implementation of construction works. In 2022, the Order[7] of the RA

[7] https://moh.am/uploads/2940hrh.pdf

Minister of Health on "Approving the activity plan for mental health maintenance and improvement and the list of measures arising thereof" was adopted, as well a working group for its monitoring and evaluation was established.

Recommendations:

- *Focus resources on the introduction of community-based or other decentralized approaches.*
- *To ensure the unhindered activity of the working group created in terms of monitoring and evaluation.*

System of Electronic Healthcare

The system was introduced back in 2017, however, to this day, it is not yet complete and does not comply either with the purposes outlined in the concept paper or other documents. In the Agreement, there is a reference to the introduction of telemedicine within the frame of the electronic healthcare system. In 2022, the government approved the procedure and conditions for the implementation of telemedicine, but they have not been applied in practice. As a rule, healthcare workers provide remote patient care services using the most popular social media messaging applications (Messenger, Viber, WhatsApp, etc.). This method is not secure, nor can it be controlled in any way.

The electronic healthcare system contains also govlimits platform[8], which is designed to illustrate transparently the actual work carried out in healthcare facilities providing state-guaranteed free medical care and services as well as medical assistance on preferential terms in Armenia, highlighting the actual occupancy rate, available beds and appointment bookings in those medical facilities. It is essential to have it updated permanently, but the users have repeatedly noted that the information available on the website does not correspond to the one provided by the healthcare facility. Even though this platform was introduced several years ago, the site still displays the "under test" disclaimer.

As for the process of electronic issuance of referrals and prescriptions, it should be noted that the function of issuing electronic referrals is not performed properly, since there are technical gaps and sometimes, before the already approved inpatient treatment, the patient has to visit the outpatient facility again to arrange the problems related to the referral. Moreover, the prescription procedure was not discussed nor any information on the results of its piloting two years earlier was published, and as of November 2023, e-prescription was still not available. To facilitate this process, first of all, it is necessary to fully introduce the register of medicines, concerning which the authorized body has mentioned that the cooperation with the "Scientific Centre of Drug and Medical Technology Expertise after Academician E. Gabrielyan" is still in progress. As for the relevance and importance of making the records electronically, it should be noted that healthcare facilities are currently keeping dozens of registers that are filled in manually. The introduction of the system was supposed to contribute to the reduction of document circulation, but currently, the documents are completed both paper-based and electronically.

A draft legal act[9] on the procedure for issuing referrals to healthcare facilities to receive state-guaranteed free and preferential healthcare and medical services is posted on the Unified Website for Publication of Legal Acts' Drafts. According to the mentioned draft, the procedure for

[8] https://www.armed.am/publicdata/?pg=govlimits
[9] https://www.e-draft.am/projects/6241/about

issuing an electronic referral will enter into force on October 1, 2023. It should be noted that technical problems occur in the use of the mobile application for the ArMed unified electronic system, which can be an obstacle for users while using it. Namely, before using the functional part of the application, it is necessary to undergo an identification, which is not always successful for the patient (user). Due to the changes in the face, injury or other problems, the person's identity document (the image available in the system) and the current physiological appearance may not match. In response to numerous questions regarding such identification issues, ArMed's representative recommended using a new-generation smartphone, which is unacceptable and incomprehensible. There should be various identification methods available since not everyone has a smartphone or can use it.

Recommendations:

- *Conduct periodic discussions with health workers who directly use the system to clarify the problems, difficulties and (or) the need to introduce new functions.*
- *Provide the data available on the "govlimits" platform with daily update mode.*
- *Taking into account the possible physiological changes of a person, to provide other options in addition to the face identification method.*
- *Review and resolve technical issues in the electronic referral process.*
- *To ensure the possibility of processing the same data by medical workers in only one way.*
- *To inform about the use of the electronic system in the wider society.*
- *To ensure the implementation of the register of medicines.*
- *To carry out a proper evaluation of the pilot program of electronic prescriptions, based on the latter, ensure the implementation of the entire process.*

Public Health

There are several points in the agreement referring to various aspects of this sector, and only a few of them have been implemented so far, i.e., adoption of anti-tobacco legal acts, planning of several meetings, discussions as well as campaigns on healthy lifestyle. An urgent and important issue is the adoption of the law on public healthcare, which shall regulate all its aspects most comprehensively. As early as 2021, a draft public health law was introduced, but it was never adopted, although it mostly dealt with the use of vaccination as a means to prevent diseases.

In terms of public health, a big legislative gap is seen also the fact that the mechanisms for assessing the impact of the mines' operation on the health of the general public (impacted community) have not been developed yet.

Recommendations:

- *Ensure the process of drafting, public discussion, and adoption of the law on public health.*
- *To adopt legal regulations regarding the assessment of damage to health as a result of mining.*
- *To ensure the implementation of complex approaches in campaigns aimed at healthy lifestyles of the authorized body, including nutrition, physical activity, environment, and other components.*

Palliative Care

As a result of years-long efforts, palliative care was introduced in RA and several organizations were licensed. As of October 2023, only 17 of the 33 licensed services are provided within the framework of public financing, and in some places, the financial resources appropriated for the whole year are underspent, which raises much concern. In two large regions, Shirak and Lori, the services are not available. A positive development is the adoption of the pediatric palliative care concept paper in 2022 and the introduction of the service itself.

A persistent obstacle is the prescription of painkillers, which is not regulated given healthcare workers' approaches, generation of demand as a result of the lack of information among patients, etc.

Recommendations:

- *In the medical institutions where the resources of state support were not used for palliative care, conduct studies to find out the reasons.*
- *To ensure the unhindered process of prescribing pain relief medicine and receiving those by the patients in the entire territory of the country.*

EDUCATION

Equity IN EDUCATION

CEPA ARTICLE 93

The Parties shall collaborate in the field of education and training to intensify cooperation and policy dialogue to approximate the education and training systems in the Republic of Armenia with the policies and practices of the European Union. The Parties shall cooperate to promote lifelong learning and encourage cooperation and transparency at all levels of education and training, with a special focus on vocational and higher education.

ARTICLE 94

Cooperation in the field of education and training shall focus, inter alia, on: (a) promoting lifelong learning, which is key to growth and jobs and can allow citizens to participate fully in society; (b) modernising education and training systems, including training systems for public/civil servants, and enhancing quality, relevance and access throughout the education ladder, from early childhood education and care to tertiary education; (c) promoting convergence and coordinated reforms in higher education in line with the European Union Agenda for Higher Education and the European Higher Education Area ("Bologna Process"); (d) reinforcing international academic cooperation, increasing participation in cooperation programmes of the European Union and improving student and teacher mobility; (e) encouraging the learning of foreign languages; (f) developing the national qualifications framework to improve the transparency and recognition of qualifications and competences within the European Network of Information Centers and National Academic Recognition Information Centers ("ENIC-NARIC") community aligned with the European Qualifications Framework;

(g) enhancing cooperation to further develop vocational education and training, while taking into consideration good practice in the European Union; and (h) reinforcing understanding and knowledge of the European integration process, the academic dialogue on EU-Eastern Partnership relations, and participation in relevant programmes of the European Union, including in the field of civil service.

ARTICLE 95

The Parties agree to collaborate in the field of youth to (a) reinforce cooperation and exchanges in the fields of youth policy and non-formal education for young people and youth workers;

(b) facilitate the active participation of all young people in society; (c) support mobility for young people and youth workers as a means of promoting intercultural dialogue and the acquisition of knowledge, skills, and competencies outside the formal educational systems, including through volunteering; and (d) promote cooperation between youth organisations to support civil society.

Equity of education and the right to quality education have been systematically eroded in the last decades, both before and after the Velvet Revolution of 2018. Such long-standing erosion of the system led to an unprecedented increase in learning poverty. Thus, as per the WB 2019 report, 35% of 10 years-old cannot read and understand a short age-appropriate text and 10% of 19-21 years-old have functional illiteracy.

In the meantime, the research based on official statistical data and the outcome of the 2015 TIMMS result shows that many children have limited access to quality education based on their social background, residential status, and gender.

The primary reason for this is the systemic corruption that totaled the system captured before the revolution when the system was controlled by the executive for both political and financial gains. After the revolution, the government failed to confront the systemic problems and undertake steps to restore integrity and institute safeguards ensuring good governance. Thus, the lack of accountability, absence of independent and effective assessment mechanisms, as well as the unmitigated practice of private tutoring by teachers of their students, and undue recognition of education achievements further deepen education poverty and undermine its equity.

Political control over such a system guaranteed the capacity for huge administrative abuse and financial embezzlement. In 2013 education was acknowledged as the most corrupt area by the Global Corruption Barometer. However, instead of addressing the root cause, the government chose to camouflage it by directing the reform towards elitist education, further depriving vulnerable and marginalized families of access to quality education.

The anti-corruption strategy for the area that the government engaged and got funding for did not address either of the main 4 corruption risks and drivers of inequity.

Those have been identified and studied and the course of action to mitigate them were suggested.

These are, or at least two of the risks, that remain unresolved. Moreover, the measures/structures initiated by the new authorities as part of the reform, call to conceal rather than resolve them. Each

of these problems/threats contributes to learning poverty and further undermining equity simultaneously.

First is private tutoring. Per se, it is not a problem and is accepted and exists in many countries and is reported to have some benefits. However, it is a threat, when it is conducted by the own teachers or by referrals of the own teachers or by the teachers of the same institution.

In Armenia, this has acquired grotesque features – under-teaching, i.e. literally solicitation of private tutoring. Thus, the quality of teaching is depleted and those who cannot afford private tutoring are deprived of quality education, second, the objectivity of assessment – an important tool of education, is jeopardized, and third – an obvious conflict of interest – pure corruption, takes place.

Previously, this was resorted to upper-mid-school and high school. Now it is common in even primary school. That is, even the students of primary classes are deprived of quality education in the class.

There were and there are no mechanisms that can identify and prevent such practices. Nor have these practices been outlawed and/or any consequences have been instituted for such vicious acts. The inspection authority conducts one visit per year, mostly formal and looking into the school's paperwork and own reports.

Second, is the politicization of the school system. In the past, the problem was greater, since the abuse of admin resources was rampant, particularly during the elections. This was one of the problems that the new authorities were keen to fight before they came to power. However, it was understood narrowly as only membership in the political party of a particular manager of an education institution. In the meantime, in a country where the executive power and the ruling party are perceived as being the same, the executive control over the school is what makes it a subordinate entity with no accountability – the entity that rules the school is the entity to which the school is accountable to. The patriarchal, pyramidal governance continues. The channels through which the regional governors and local authorities had been exercising undue pressure/dictate over the schools have not been either identified or blocked – legislatively or practically.

Third is procedural abuse at the appointment and dismissal of school staff.

It is worth mentioning that legislatively nothing has changed, inspection or trade unions show no substantial change.

However, the fourth problem is the most real and systemic vis a vis Education poverty and injustice. It propels poverty in education and conceals injustice.

This is undue recognition of educational achievements – false assessment. It is blatant and, in our face, – 35% of functionally illiterate grads of primary education, each one of them and collectively is the evidence of such violation at an industrial scale. The research shows other more concealed drivers for this violation – one of which we spoke about is private tutoring, but others are parental pressure for grades, grading in absentia, etc.

What is critical here is that the measures that the new government instituted, namely abandoning grades in primary education WITHOUT any alternative mechanism for proper assessment and

without any capacity building for such alternative assessment by the teachers, are killing any possibility of keeping real track of student attainments. In a country where assessment is only summative, to get rid of the only tool of a summative assessment is suicidal for any insight into what is going on with education.

Here, there is another systemic issue – there is no mechanism for getting real-time information about the education process in a school. Ad-hoc and rare inspections cannot identify systemic methodological problems simply because they do not provide enough information and data to analyze and make conclusions more so build responses.

Recommendations:

- *Assess and identify the students who do not possess minimal math and language skills for their respective levels. Design and implement immediate measures to close the literacy gap at all levels by instituting minimal learning outcome standards and employing rigorous additional tutoring.*
- *Institute accountable assessment mechanism that provides real-time information about the school and student status. Design and adopt measures to generate adequate feedback and follow-up activities in the case of needs/problems identified by the assessment. Train teachers in assessment techniques. Institute mechanisms for independent inspection at adequate time intervals and to identify integrity problems.*
- *Legislatively prohibit private tutoring of own students and the students at the same school. Institute inspection mechanisms and adequate punitive measures for teachers continuing this practice.*

LABOUR RIGHTS

Right to just and favourable conditions of work

CEPA ARTICLE 84

The Parties shall strengthen their dialogue and cooperation on promoting the International Labour Organisation (ILO) Decent Work Agenda, employment policy, health and safety at work, social dialogue, social protection, social inclusion, gender equality and anti-discrimination, and thereby contribute to the promotion of more and better jobs, poverty reduction, enhanced social cohesion, sustainable development, and improved quality of life.

ARTICLE 85

Cooperation, based on exchange of information and best practices, may cover a selected number of issues to be identified among the following areas: (...) (b) employment policy, aiming at more and better jobs with decent working conditions, including with a view to reducing the informal economy and informal employment; (d) fostering more inclusive labour markets and social safety systems that integrate disadvantaged people, including people with disabilities and people from minority groups; (e) equal opportunities and antidiscrimination, aiming at enhancing gender equality and ensuring equal opportunities between women and men, as well as combating discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation; (f) social policy, aiming at enhancing the level of social protection and modernising social protection systems, in terms of quality, accessibility and financial sustainability; (h) promoting health and safety at work; and (i) promoting corporate social responsibility.

Labour and Health Inspectorate Body

1. Since June 2021, as a positive development, the Labour and Health Inspectorate Body (Inspectorate) has been authorised to fulfil state oversight over the labour legislation, which has been one of the biggest problems in the field. This allowed dealing with individual labour disputes and carrying out inspections in response to allegations of labour rights violations.
2. The official statistics demonstrate that if in the second half of 2021, the Inspectorate mostly acted in response to individual complaints, in 2022, it proactively carried out inspections at various risky employers upon its initiative, in addition to reacting to individual complaints.
3. However, there is a need for further improvement to make the Inspectorate an effective remedy, to ensure better respect for labour rights and to prevent further violations. The legislation laying out the ground for its functions needs to be further clarified. In particular, the competencies, especially in subjecting to accountability, should be laid out in law not simply in its Statute. The law should establish the types of acts produced by the Inspectorate as well as methods to reveal violations (including inspection, examination, etc.).
4. Although the Inspectorate is entitled to the majority of powers envisaged by the ILO No. 81 Convention, the domestic legislation does not provide the power of the inspectorate to visit any time, including at night hours any enterprise for inspection and should inform the employee beforehand about the visit. Moreover, additional instruction should be provided by a superior to inspect other issues revealed during the inspection.
5. The Inspectorate is mandated to enhance awareness of both the employers and employees. Trial monitoring carried out by the Protection of Rights without Borders NGO (PRWB)[10] demonstrates that most of the issues that ended up in court could have been addressed earlier if the employer had better awareness of the legal requirements. In such a case, the development of templates or guides would allow us to avoid disputes in court. Raising awareness of a broader public on labour rights, as well as about the Inspection and its mandate is of paramount importance, especially in the regions of Armenia.
6. The PRWB's analysis demonstrates that the employees complain of violated rights mostly when they are fired, not while they are employed, fearing repercussions. The same conclusions derive from the analysis of the complaints submitted to the Inspectorate. Such complaints include but are not limited to failure to pay the unused leave, dismissals in violation of the procedure, poor substantiation of the dismissal orders and/or order to subject the employee to disciplinary punishment, discrepancies in the notification about dismissal procedure, lack of labour contracts or offering service contracts instead of labour contracts to avoid ensuring labour safeguards, etc. Moreover, the vast majority of complaints by employees to the Inspectorate were against private sector employers and public employers. About 40% of complaints by individuals were related to non-provision or miscalculation of the final count by the employee. The majority of the complainants (56%) were females.

[10] PRWB, Report on The Characteristics and the Problems of the Functions of the Health and Labor Inspection Body in the Field of Labour Rights, April 2023, https://prwb.am/2023/04/06/zekuyc-6/, Summary in English is available at: https://prwb.am/en/2023/04/06/zekuyc%e2%80%a4aroghjapahakan-ev-ashxatankhi-teschakan-marmni-gortcuneuthyan-arandznahatkuthyunnereh-ev-xndirnereh-ashxatankhayin-iravunkhi-olortum/

7. Despite the declared commitment of the Armenian Government to offer an electronic anonymous complaint system to the Inspectorate, to date it is not operational. According to the legislation in force, to respond to an alleged violation, the Inspectorate needs a personalised complaint. According to the official statistics, employees usually do not submit official complaints against their employer while they are employed. Hence, the lack of an anonymous mechanism undermines the efforts to address alleged labour rights violations promptly and improve work conditions.

8. Illegal employment continues to remain an issue of concern. In such a case, the employees are left without effective remedies to protect their rights as they are unable to demonstrate labour relationships if they do not have a copy of the employment contract and/or are not registered with the Tax authority. A mechanism of notification about the registration with the Tax authority could contribute to the transparency of the process for the employee.

9. Court monitoring demonstrates that as established by the court, in public institutions there is a practice of dismissals based on artificial cut-offs (made-up restructuring of units/departments). Or, in failure to follow the requirements for dismissing public officials and civil servants (no performance evaluation, other job not offered, etc.), abuse of disciplinary proceedings as a ground for dismissal[11].

Access to justice

10. Positively, the Civil Procedure Code envisages an expedited three-month procedure to deal with labour disputes. However, no similar procedure is legislated for labour disputes in the administrative court. PRWB trial monitoring demonstrates that in the majority of cases, the courts did not comply with the legal deadline.[12]

11. Positively, the Law on State Fees waives the payment of filing fees for applicants (employers) in labour disputes. However, PRWB trial monitoring demonstrates that the court did not apply a consistent approach and charged filing fees in some labour disputes.[13]

Protection of Labour Rights, Amendments to the Labour Code

12. Another positive development is ensuring the effective participation of civil society organisations and other relevant stakeholders in the process of drafting amendments to the Labour Code adopted on 3 May 2023 by the National Assembly. As a result, many recommendations presented by CSOs were reflected in the revised draft amendments, which offered important regulations regarding the work conditions, safeguards for the protection of

[11] PRWB, Examination of the judicial practice on Labour Disputes: Labour Rights Issues, 2022, https://prwb.am/2022/07/12/zekuyc%e2%80%a4ashxatankhayin-gortcerov-datakan-praktikayi-usumnasiruthyun%e2%80%a4-ashxatankhayin-iravunkhi-xndirner/; Summary of the report in English is available at: https://prwb.am/en/2022/07/12/zekuyc%e2%80%a4ashxatankhayin-gortcerov-datakan-praktikayi-usumnasiruthyun%e2%80%a4-ashxatankhayin-iravunkhi-xndirner/

[12] PRWB, Examination of the judicial practice on Labour Disputes: Labour Rights Issues, 2022, https://prwb.am/2022/07/12/zekuyc%e2%80%a4ashxatankhayin-gortcerov-datakan-praktikayi-usumnasiruthyun%e2%80%a4-ashxatankhayin-iravunkhi-xndirner/; pp. 275-276.

[13] Ibid., pp.266-275

workers from arbitrary layoffs, elimination of the possibility for termination of a working contract solely based on reaching the retirement age, etc.

13. Nevertheless, several issues persist in the domestic legislation. For instance, the regulations concerning collective labour relations are quite problematic and overregulated. The field of collective negotiations should be liberalised to enable the parties to settle a number of issues through negotiations on mutually beneficial terms.

14. Article 45 of the RA Constitution ensures freedom of association, guaranteeing individuals the right to connect with others, which includes the right to establish and join trade unions aimed at safeguarding labour interests. This, along with the freedom for workers and employers to form associations for protecting labour rights and interests (encompassing the right to establish or join trade unions and employers' unions), constitutes a fundamental pillar of labour legislation. This principle is explicitly laid out in Article 3, Part 1 of the RA Labor Code.

15. However, there exist certain constraints on the freedom of association as outlined in RA legislation (RA Law on Trade Unions, Article 6). These restrictions raise concerns in terms of international obligations undertaken by the state. Notably, actions are necessary to amend the RA Law on Trade Unions to enable employees of the prosecutor's office, judges (including those from the Constitutional Court), civilians engaged in police and security services, self-employed individuals, informal economy workers to establish and affiliate with organisations aimed at advocating for and safeguarding their interests.

16. Meanwhile, trade unions are not seen as effective mechanisms for the protection of workers' rights. The Confederation of Trade Unions of Armenia has a monopoly for participating in Social Partnership agreements on behalf of workers. The newly established trade unions that are not members of the Confederation are not eligible to participate in that format. Traditional trade unions lack transparency and accountability in front of their constituencies.

17. The Labour Code does not provide for the definition of indirect discrimination and distribution of the burden of proof in favour of the plaintiff in all cases regarding discrimination in labour disputes.

18. The legal system falls short of ensuring that employees have fair and favourable working conditions to the extent required for effectively upholding this right. Specifically, there are ongoing concerns about how employers factor in the gender of workers when making decisions related to employment, wage structures, leave entitlements, guarantees mandated by the Labor Code, imposition of disciplinary measures, and instances of termination in labour relations.[14] There are no adequate mechanisms to establish discrimination grounds in labour relations and no effective compensation mechanisms for the victims of discrimination. For example, the PRWB's trial monitoring demonstrates that if a female employee was dismissed after being notified about her pregnancy, the court did not examine the claim regarding discrimination but focused on procedural aspects and found the dismissal unlawful failing to acknowledge discrimination.

[14] https://hcav.am/labor-rights-statement-05-07-2021/

19. Furthermore, the legislation in the Republic of Armenia lacks a mechanism to consistently shift the burden of proof in favour of the plaintiff for instances of employment-related discrimination.

20. The Civil Procedure Code (Art. 214) requires factual and legal substantiation of dismissal orders. However, the Labour code does not contain explicit requirements for that. As a result, employers, being not aware of procedural requirements, are guided only by the Labour Code. In such a case, the court by default is obliged to find the dismissal order null and void for failure to ensure the requirements of Article 214 of the Civil Procedure Code. To address this, there is a need to include such a requirement in labour-related legislation.

Recommendations:

- *Revisit the Labour Code and bring it in compliance with the Armenian international obligations on the protection of labour rights;*
- *Revisit the legislation on trade unions to create a conducive environment for the unionisation of workers, increase their accountability to their members and enable their representation in Social partnership agreement regardless of their membership in the Confederation;*
- *Raise awareness of the broader public of the Inspectorate and avenues to file a complaint or receive a consultation on labour rights;*
- *To further clarify the legislation regulating the mandate of the Inspectorate and methods of revealing violations;*
- *To harmonise the labour and civil procedure legislation about the substance of dismissal orders.*
- *Envisage expedited procedure for the examination of labour disputes in administrative court.*
- *Ensure a uniform approach in not charging filing fees from employers in labour disputes in courts.*
- *Taking into account the international regulations regarding the violation of fundamental human rights and the limits of effective judicial protection, it is necessary to provide in the Labor Code the possibility of receiving non-material damage compensation in case of violation of a person's fundamental right to the prohibition of discrimination.*