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MONITORING ACTIVITIES WERE IMPLEMENTED BY PEACE DIALOGUE NGO WITHIN THE FRAMEWORK OF THE PROJECT “**PROACTIVE CIVIL SOCIETY PARTICIPATION IN THE PROTECTION AND PROMOTION OF HUMAN RIGHTS IN THE ARMENIAN ARMED FORCES**”.

THE PROJECT IS SUPPORTED BY THE EMBASSY OF THE FEDERAL REPUBLIC OF GERMANY IN ARMENIA, WITH FUNDS FROM THE GERMAN FEDERAL FOREIGN OFFICE.



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THE FINAL REPORT OF THE MONITORING GROUP OBSERVING THE ACTIVITIES OF THE MINISTRY OF DEFENSE OF THE REPUBLIC OF ARMENIA WITHIN THE FRAMEWORK OF THE 2017-2019 ACTION PLAN DERIVED FROM THE NATIONAL STRATEGY FOR HUMAN RIGHTS PROTECTION





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Abbreviations

RA	Republic of Armenia
PD	Peace Dialogue non-governmental organization
NGO	Non-governmental organization
HRP	Human Rights Protection
HRP Strategy	National Strategy for Human Rights Protection
HRP AP	Action Plan derived from the National Strategy for Human Rights Protection
MoD	Ministry of Defense
AF	Armed Forces
CMMC	Central Military Medical Commission
NA	National Assembly
SC	Security Council
CSOs	Civil Society Organizations
PMT	Preliminary Military Training
CM CoE	Committee of Ministers of the Council of Europe
MEI	Military Educational Institution
MP	Military Police
SNO	State-run Non-profit Organization

Foreword

Dear reader,

On the following pages you will find the final report on activities implemented by the RA Ministry of Defense within the framework of its 2017-2019 Action Plan (hereinafter Action Plan) derived from the National Strategy for Human Rights Protection. The report has been compiled by the Monitoring Group created as part of Peace Dialogue NGO's (PD's) initiative: **“Proactive Civil Society Participation in the Protection and Promotion of Human Rights in the Armenian Armed Forces”**.

Over the past 10 years, PD has been implementing numerous programs and initiatives aimed at strengthening democratic values in Armenia, developing human rights as a common societal value, and protecting the rights and interests of various vulnerable groups. Since the organization's founding, some of its strategic goals have included

- **development of society's proactive civic, human rights and peace-building potential;**
- **protection of human rights and fundamental freedoms;**
- **establishment of civil control over decision-making processes in state bodies, etc.**

The organization pays close attention to issues concerning human rights protection in the Armed Forces, since the absence of control mechanisms by the civil society actors in this field makes the potential danger for violating human rights and fundamental freedoms extremely high. A significant part of the organization's initiatives in this area is aimed at increasing the role of civil society in the process of public policy-making through human rights monitoring.

In September 2018, PD initiated the project **“Proactive Civil Society Participation in the Protection and Promotion of Human Rights in the Armenian Armed Forces”**. That project sought to develop effective mechanisms for monitoring the RA MoD activities within the framework of the **2017-2019 Action Plan derived from the National Strategy for Human Rights Protection**. It envisaged realization of the following activities:

- **establishing an independent Monitoring Group for carrying out continuous monitoring of MoD activities within the framework of the HRP Action Plan;**
- **providing continuous technical and methodological support for the effective work of the Monitoring Group;**
- **providing constant, consistent assistance to citizens whose rights had been violated during military service; and**
- **raising awareness among RA MoD officials, members of parliament, Armenian citizens and relevant international actors of the successes and failures of the HRP Action Plan and making recommendations for improving the human rights situation in the RA Armed Forces.**

About the 2017-2019 Action Plan derived from the National Strategy for Human Rights Protection

In order to make the actions of Armenian Government's executive branch bodies more systematic and effective in the field of human rights protection, the Government issued its Decision N 483-N on 4 May 2017 approving its **"2017-2019 Action Plan derived from the National Strategy for Human Rights Protection"**¹.

The Action Plan (AP) defines 96 actions, with schedules, criteria, expected results, and responsible bodies specified for each of them.

For the purpose of monitoring and coordinating the AP, the Government of Armenia set up an Action Plan Coordinating Council consisting of representatives of different government branches and government officials. The procedural code for Coordinating Council activities, as well as its goals, composition and functions, are set out in the Armenian Government Decision N 483-N from 4 May 2017 approving the 2017-2019 Action Plan Derived from National Strategy for Human Rights Protection. According to the decision, the Coordinating Council does the following:

- 1. hears and discusses quarterly reports on the implementation process for the AP by responsible executive bodies and state bodies as stipulated by the law;**
- 2. examines and discusses semi-annual written reports on the implementation of AP activities by the responsible executive and state bodies as stipulated by the law;**
- 3. organizes public discussions of semi-annual written reports on the implementation of the activities envisaged by the AP carried out by the responsible executive bodies and state bodies as stipulated by the law;**
- 4. may make recommendations to promote the effectiveness of the AP and facilitate its implementation after having reviewed and discussed the reports of responsible executive bodies and state bodies as stipulated by the law.**

According to the concept, the responsible authorities are to submit written reports on the process of implementation of the activities carried out during the reporting period to the RA Government staff and the Ministry of Justice within five days after the end of each half-year. Meanwhile, the Coordinating Council is to organize discussions each quarter, during which work done by all departments is presented.

1. See the Armenian Government Decision N 483-N of 4 May 2017 on approving the 2017-2019 Action Plan derived from the National Human Rights Strategy (<https://www.arlis.am/DocumentView.aspx?DocID=113223>)

The concept also envisages that the Coordinating Council will organize public hearings on a semi-annual basis. Said hearings are to include the participation of civil society representatives, aiming at creating a platform for representatives of interested NGOs to present their comments and suggestions for changes during the course of AP implementation.

About the Monitoring Group

The Monitoring Group formed as part of the “**Proactive Civil Society Participation in the Protection and Promotion of Human Rights in the Armenian Armed Forces**” project is comprised of seven representatives of Human Rights and Media NGOs.

The members of the Group are (in alphabetical order) as follows:

Ani Sargsyan - Asparez Journalists' Club NGO branch, Kapan Youth Civic Center

Anush Hakobyan - Transparency International Anti-Corruption Center NGO

Azniv Siradeghyan - Journalists for Human Rights NGO

Eduard Danielyan - Socioscope NGO

Maria Galstyan - Peace Dialogue NGO

Ruben Martirosyan - Peace Dialogue NGO

Shahane Khachatryan - Independent Journalists Network NGO (Epress.am)

Zhanna Aleksanyan - Journalists for Human Rights NGO

Monitoring Group experts include the following persons:

Artur Sukiasyan - Lawyer

Diana Ter-Stepanyan - Transparency International Anti-Corruption Center NGO, Research Coordinator

Mushegh Shushanyan - Lawyer

Project Director: **Edgar Khachatryan** - Peace Dialogue NGO

Project Coordinator: **Marianna Khazhakyan** - Peace Dialogue NGO

Monitoring methodology



Based on the logic of the “**Proactive Civil Society Participation in the Protection and Promotion of Human Rights in the Armenian Armed Forces**” project, monitoring work implemented by the Group aims at examining and revealing gaps between legal regulations and law enforcement practices in the Armed Forces with regard to provisions in the 2017-2019 Action Plan derived from HRP Strategy. The Monitoring Group is also developing a package of proposals aimed at filling said gaps and eliminating shortcomings in legal regulations and law enforcement practice.

The final report includes the study of data from AP activities, for which the RA MoD was responsible. Thus, during the preparation of this report, the Monitoring Group studied Actions (from the 2017-2019 Action Plan derived from the National HRP Strategy) number 28, 29, 30, 31, 32, 33 and 34 defined in the Government Decision N 483-N approved on 4 May 2017².

Monitoring Group studies have focused on three main areas:

- **Document analysis.** Letters received from the RA Ministry of Defense in response to Peace Dialogue’s written inquiries have been studied.
- **Legal analysis.** Legal regulations cited by the Ministry of Defense and other regulatory and legal acts regulating the human rights sphere have been studied.
- **Study of Law Enforcement Practice.** The practical application of legislation regulating human rights issues was studied in relation to subjects of these legal relations, i.e. those persons regulated by said norms. The Monitoring Group looked at how the legal acts were applied to the beneficiary groups.

During the preparation of this report, data collection was implemented using three main methods:

1. **Analyzing letters** received by Peace Dialogue NGO in response to written inquiries made to the RA Ministry of Defense and legal norms cited in those texts, as well as other legal acts;
2. **Conducting standardized interviews** with subjects regulated by the aforementioned legal norms. (In the context of this report, subjects of legal relations were, for example, military conscripts).

For the purpose of studying the practical application of legal acts developed within the framework of the 2017-2019 Action Plan derived from the HRP Strategy, selection for inquiries with subjects of legal relations regulated by relevant norms was made using the snowball sampling method. Due to the peculiarities of the defense sphere, it was impossible to use a representative sample method. This is because there are certain restrictions on confidentiality in the field. Based on the above, surveys were conducted among 290 conscripts and their family members to investigate conscription activi-

2. See the Armenian Government Decision N 483-N of 4 May 2017 on approving the 2017-2019 Action Plan derived from the National Human Rights Strategy (<https://www.arlis.am/DocumentView.aspx?DocID=113223>)

ties. Group members managed to meet with 100 conscripts during the winter conscription and 190 conscripts during the summer conscription. This was done at Military Conscription Offices, medical institutions, and so on. Due to a lack of human resources, surveys were conducted only in the Lori and Syunik regions and in Yerevan. Thus, one southern and one northern region was selected in addition to the capital city.

3. **Legal assistance** has been provided to 38 citizens over 12 months of the project's implementation. In 5 cases, lawyers involved in the project, with valid authorization, currently represent and protect participating citizens in court. Information obtained during the legal consultations was also used as a source of information during the monitoring.

Group considerations on the content structure, continuity of actions and measurability of the results of the 2017-2019 Action Plan derived from the National Strategy for Human Rights Protection



Studying the provisions set out in the **“Methodological Guidelines for Developing Strategies”** part of the Appendix³ entitled **“Methodological Guidelines for Developing Concepts, Strategies and Programs”** of the Protocol Decree N 2 of the RA Government from its meeting on 22 January 2015, which existed at the time of the approval of the 2017-2019 Action Plan derived from the HRP National Strategy of the RA Government Decision N 483-N, dated on 4 May 2017, strategies developed by the RA Government should

1. **clearly set out the strategy’s main purpose;**
2. **clearly indicate actions to be taken;**
3. **indicate the names of beneficiaries (beneficiary groups) and the outcomes of discussions with them;**
4. **describe the services provided (if any);**
5. **specify the strategy’s performance standards;**
6. **define procedures for managing, monitoring and calculating measures in the strategy;**
7. **specify timelines for strategy implementation stages, situations and expected outcomes at the end of specific phases;**
8. **resent risks associated with strategy implementation.**

In essence, the Action/Activities’ Plan is designed to ensure effective strategy implementation and was meant to build on the existing strategy and follow the priorities and goals set out therein.

The document providing the substantive justification of the HRP AP is the Decree⁴ signed by the RA President on 29 October 2012 for approving the HRP National Strategy. In the Appendix to the order, the current HRP National Strategy is presented. According to this document, the strategy had been designed to ensure the implementation of a consistent, comprehensive human rights policy in the Republic of Armenia.

According to the document, in order to achieve this goal, there should be

1. **a single policy document that will coordinate the government’s main human rights policy;**
2. **targeted solutions for various human rights issues in order to ensure policy continuity.**

It should be noted that the document sets out the objectives of the activities to be implemented, as well as the strategy’s key principles and priorities as meant for beneficiaries. The main focus of planned activities are also mentioned. However, it is not clear for what period the priorities and actions are defined. In addition, the part on **“Strategy Principles”** does not stipulate any liability for failing to comply with the strategy and actions envisaged by public authorities in the pre-defined manner and time-frame.

It should be noted that during past years PD has also monitored implementation of actions by the Defense Ministry defined in the 2014-2016 Action

3. See the Appendix to the Protocol Decree N 2 of the RA Government sitting on 22 January 2015 (https://www.e-gov.am/u_files/file/decrees/arc_voroshum/2015/01/2-5_1ardz.pdf?fbclid=IwAR2BovZTb3K2HrXB8relNq6sfU2j9TT4znqLckkbZzEoLDkiMl0LBAf3-4)

4. See the Decree of the RA President on the approval of the National Strategy for Human Rights Protection (<https://www.arlis.am/documentview.aspx?docID=79027>)

Plan⁵ derived from the same Strategy. Interestingly, many of the actions included in this document are no longer included in the new AP, even if some of them had not been carried out or completed by prior deadlines. It could be concluded that some actions were removed from the AP as a result of changes in legislation regulating the defense sector or due to loss of relevance. In many cases, however, the logic of removing actions from the AP is not justified by any means. For instance, Article 35 of the 2014-2016 AP on “strengthening measures to prevent and eliminate irregular relations in the Armed Forces and ensuring rapid, impartial and detailed investigation of all non-regular relations and non-combat deaths in the Armed Forces” is in no way included in the 2017-2019 Action Plan. It should be noted that as a result of the actions referred to in this Article, elimination of non-regular relations in the AF, implementation of preventive measures in the AF, training to raise awareness of torture and ill-treatment were expected. Article 108 of the same 2014-2016 Action Plan stated that topics related to the rights and responsibilities of servicemen, human rights protection in the Armed Forces and teaching methodologies thereon will be reviewed as part of the “Preliminary Military Training” (PMT) subject; this was to be completed by the second half of 2016. According to information provided by the MoD, this action also envisaged a revision of the military science textbook; this has also not been done. Moreover, the same article was not included in the 2017-2019 Action Plan. It should be noted that there are many such examples of interruptions of previous actions without any analytical justification.

Since there is no analysis of the monitoring results, AP performance standards, or the logical connection between activity programs in the three-year plan to be presented to the public for scrutinizing, it remains unclear what grounds exist for not including these and other similar actions in the 2017-2019 Action Plan. Why were they replaced with new ones instead? Did Defense Ministry’s analyses show that non-regular relations in military units were abolished or at least reduced, or did the need for actions aimed at speaking about human rights during military service and increasing awareness levels of the prohibition of torture and ill treatment in military science textbooks fully disappear? Similar examples indicate that during the development of the 2017-2019 Action Plan derived from HRP Strategy, the Defense Ministry simply ignored one of the goals of the strategic documents; namely, ensuring policy continuity.

For objectivity’s sake, it should be noted that some actions included in the 2014-2016 Action Plan derived from HRP Strategy have indeed been included in the 2017-2019 AP. For example, Article 110 of the previous AP and Article 29 of the new AP address the issuance of documents in cases of early discharge due to health issues. The action specified in Article 110 of the 2014-2016 Action Plan was not carried out within the pre-defined period and was included in the list of actions planned for the next three years. However, if the Defense Ministry intended to draft a legal act in Article 110 that would define “a 7-day time-frame” for provision of documents, Article 29 of the 2017-2019 AP only refers to setting “a reasonable time-frame” for provision of documents. The latter is less clear and less precise in terms of measurability. Again, due

5. See the 2014-2016 Action Plan derived from the National Strategy for Human Rights Protection (<https://www.arlis.am/documentview.aspx?docID=92644>)

to a lack of an analytical basis, it remains unclear what the reason was for the change in the formulation of the action and its expected outcome.

Overall, the Monitoring Group paid special attention to issues related to the measurability of actions included in the 2017-2019 Action Plan derived from HRP Strategy. The verifiable standard indicators set for nearly all actions to be carried out by the Defense Authority in the 2017-2019 period do not allow for the proper measurement of these actions' effectiveness, for understanding whether action implementation led to an increase in the protection of the beneficiary group's or groups' rights. In order to avoid uncertainties and to ensure the measurability of the results of actions, clear and measurable indicators should have been established for each action. On the basis of said indicators, it would have been possible to carry out effective monitoring and organize the evaluation of the AP implementation. According to the above-mentioned "Guidelines for Development of Concepts, Strategies and Programs" that also involve other important requirements, strategic indicators should be included in the strategy document. Procedures should also be set for managing, monitoring and implementing measures for the planned activities. It should be noted that such procedures are also not defined neither in the strategy itself, nor in the RA Government Decision N 483-N from 4 May 2017. The latter defined the order of activities of the Coordinating Council responsible for monitoring and coordinating the AP. Given the uncertainty of such indicators and the absence of an effective and realistic monitoring mechanism, it is unclear what criteria and indicators for measuring effectiveness have been, and are being, taken into consideration for monitoring carried out by the Coordinating Council; the latter being composed of representatives of various government departments and state bodies.

The strategic document also does not address possible risks associated with the implementation of the strategy; no mechanisms are outlined to counter them. In this regard, it should be noted that the RA Government Decision N 483-N from 4 May 2017, specifying the order and scope of activities for the Coordinating Council of the HRP AP, states that the semi-annual written reports submitted by responsible government executive bodies and state bodies as stipulated by law should include summary information on the risks or issues that may interfere with, or jeopardize, the successful implementation of actions envisaged in the AP. The aforementioned semi-annual reports, however, are not available on the Justice Ministry's website. In the minutes from three Coordinating Council sessions held based on guidelines in the 2017-2019 Action Plan derived from HRP Strategy, and posted on the institution's website, there are hardly any references to discussions of risk.

To summarize the aforementioned, the Monitoring Group has come to the conclusion that in the existing strategy:

- **A logical correlation has not been ensured between the 2014-2016 and 2017-2019 Action Plans derived from HRP Strategy; actions are often sectional in nature;**
- **The public does not have access to the findings of the implementors of MoD actions within the HRP AP or the monitoring results and analyses made by the Coordinating Council responsible for monitoring. This**

makes the logic for ensuring continuity of actions unclear;

- **Strategy performance standards and monitoring and evaluation mechanisms are unclear. This diminishes opportunities for the effective monitoring by both responsible state bodies and civil society representatives;**
- **No legal consequences have been established for state bodies in case of failure to comply with actions outlined in the strategy; i.e. in the specified manner and within the time-frame provided;**
- **In the strategic document, possible risks during the implementation of the actions were not taken into account, and no mechanisms were put in place for their mitigation or reduction.**

**Civil society representatives'
opportunities and
collaboration with state
bodies in monitoring
activities carried out as part
of the 2017-2019 Action Plan
derived from the National
Strategy for Human Rights
Protection**



In an order on the “Approval of the National Strategy for HRP” signed by the RA President on 29 October 2012, there is a section on **“Basic Principles of the Strategy”** which specifically states that **“Civil society, through relevant organizations, will be involved during the implementation, monitoring and evaluation of the Strategy and Action Plan by authorities responsible for enhancing the effectiveness of human rights protection.”**

Prior to the launch of the **“Proactive Civil Society Participation in the Protection and Promotion of Human Rights in the Armenian Armed Forces”** project, PD officially informed the Ministry of Defense about the aforementioned project and requested ministerial assistance in monitoring planned activities. The response to the letter was positive; there was a willingness to assist the Monitoring Group in carrying out its work.

It should be noted that, during the implementation of the AP, especially in responding to official inquiries and written letters sent by PD, the Ministry of Defense generally adopted a cooperative approach; almost all letters sent to the Ministry received answers. All the same, responses to the letters were often delayed (i.e. not meeting deadlines stipulated in the Armenian Freedom of Information Act⁶); sometimes the replies did not contain exhaustive answers to all questions asked.

We welcome the fact that representatives of RA MoD units responsible for the actions to be implemented by the MoD within the framework of the 2017-2019 Action Plan derived from the HRP Strategy participated in the development of the monitoring methodology. In November 2018, as part of a working meeting organized by Peace Dialogue, heads of MoD units presented activities carried out by their units within the framework of the 2017-2019 HRP Action Plan as well as legal acts adopted as a result thereof. They responded to questions asked by Monitoring Group members. It should also be noted that during the implementation of the project, cooperation was strengthened with the Human Rights and Integrity Building Centre of the RA MoD. This Center coordinates activities carried out by the Defense Ministry within the 2017-2019 HRP Action Plan.

The Monitoring Group’s interim report on the activities of the Ministry of Defense within the framework of the 2017-2019 HRP Action Plan, published in March 2019, was sent by PD staff to the RA Security Council Office, the NA Standing Committees on Human Rights and Public Affairs, Defense and Security, as well as the Ministry of Defense. It should be noted that the issues raised in the interim report and the recommendations presented have caught the attention of the above-mentioned NA Committees and the representatives of the RA SC Office.

Discussions are now under way on how to work more closely with the National Assembly (the Armenian Parliament), the Security Council, and the Office of the Human Rights Ombudsman within the framework of monitoring activities carried out by the Defense Ministry within the 2020-2022 Action Plan derived from the HRP National Strategy. These bodies are directly authorized to manage the development and implementation of defense policy concerning human rights.

6. See the RA Freedom of Information Act (<https://www.arlis.am/documentview.aspx?docID=1372>)

With a written letter MoD-19/10, dated 22 July 2019 and addressed to the Minister of Defense, PD requested that the ministry provide information on the extent to which the Monitoring Group's recommendations in its interim report on ministerial activities within the framework of the 2017-2019 Action Plan derived from National Strategy had been taken into account. In its response, the MoD wrote "...the recommendations presented in the report were generally accepted by the relevant departments. Some of them will be taken into account as part of ongoing changes."

As already presented in the interim report⁷, the Monitoring Group aims not only to study and analyze legal acts adopted as part of the HRP AP, but it also wants to review the application of adopted legal acts and their impact on the protection of beneficiaries' human rights. In this context, it should be noted that the Monitoring Group generally failed to obtain the MoD's formal consent to be involved in certain activities implemented within the 2017-2019 HRP Action Plan. The Monitoring Group needed to be present in order to observe law enforcement practices and their impact on the protection of beneficiaries' rights.

Peace Dialogue NGO requested in a written letter MoD-18/22 to the Ministry of Defense dated 23 November, 2018 that it be granted the opportunity to interview conscripts during the draft. This was to be done in the course of the work of Conscription Commissions. The Monitoring Group also wanted to interview persons who were discharged early from their military service due to health problems; this would have taken place at military hospitals or CMMCs. The MoD, however, did not give the Group such permission.

After having found out that there is, nonetheless, a practice of accessing RA MoD military units and military hospitals for one purpose or another by civil society representatives, PD, with an official letter MoD-19/5 dated 22 July 2019, requested clarification as to whether or not there was indeed a procedure, criterion or legal basis for access to RA MoD military units and military hospitals for carrying out certain activities. If so, what are the basis and the grounds for which this or that organization receives permission to enter military units or military hospitals and take certain actions there.

On 2 August 2019, in its reply note MoD 510 XX-803, the RA MoD stated that permission or consent to enter military units or military hospitals for carrying out certain activities is set in accordance with Article 260⁸ of the RA Law on "Rules of Procedure of the RA Armed Forces", which specifically states: "Members of military families and other persons may, with the permission of the military unit's commander, visit the barracks, the canteen, the military history room and other facilities to acquaint themselves with the life and routine of the military unit's personnel. Certain servicemen shall be assigned to accompany these persons and provide necessary explanations. "In fact, as can be seen from the letter's content, the organization's (PD's) questions were not answered; it is unclear on what basis or on what grounds this or that organization is granted or denied access to military units or military hospitals.

7. See the Interim Report of the Monitoring Group observing the activities of the Ministry of Defense of the Republic of Armenia within the 2017-2019 Action Plan for HRP (https://peacedialogue.am/2019/03/16/hrap_interim_r/)

8. See "Disciplinary Code of the Armenian Armed Forces of the Republic of Armenia" (<https://www.arlis.am/DocumentView.aspx?docID=75199>)

Nevertheless, the Monitoring Group received official consent from the RA MoD to observe the implementation of an action relating to inclusion of the subject “Human Rights in the Armed Forces” in the curricula of MEIs as specified in Article 30 of the 2017-2019 Action Plan derived from the HRP National Strategy. Monitoring Group members were given the opportunity to participate in human rights lessons at MEIs. For this purpose, the Ministry provided the contact information of the official responsible for conducting human rights trainings at the RA MoD V. Sargsyan Military University. It was intended that said contact should provide information on the days and hours of the trainings. During May-October 2019, however, PD did not receive this information, even though, during that time, organization employees made several phone calls to the official and asked for the details of the trainings: i.e. dates and times⁹.

The Decree on the **“Approval of the National Strategy for HRP”** signed by the President of the RA on 29 October 2012 speaks of involving civil society in the implementation, monitoring and evaluation of the strategy and AP by the responsible state authorities. However, the order does not put forward a clear concept as to what mechanism shall be used by CSOs for such monitoring. The text gives the impression that this “involvement” should involve only organizing discussions with CSO participants on the AP derived from the National Strategy. In such a case, it is unrealistic to expect serious content recommendations from CSOs on the effectiveness of activities to be taken; specifically, by the Defense Authority. As a result of the sector being restricted, possibilities for examining the impact of legal acts and implemented activities for the legal entities (in this case: conscripts, law enforcement officers or persons with equivalent standing) by civil society representatives are very limited. It should be noted that such content recommendations should first and foremost be of interest to Ministry of Defense officials and, in general, to state authorities. This is because authorities responsible for implementing the Action Plan cannot objectively monitor their own work. Unbiased assessments of work carried out can be provided, however, with the involvement of civil society. Such cooperation would make it possible to enhance the level of human rights protection in the Armed Forces and reform the sector.

As we have already mentioned, the Monitoring Group was not given the opportunity to study the impact of the MoD’s actions on the relevant legal entities within the framework of the AP. The Monitoring Group reported that eligibility criteria for the access to MoD military units and military hospitals by CSOs, as well the lack of institutional mechanisms for monitoring Defense Authority activities within the framework of the 2017-2019 Action Plan for HRP derived from the National Strategy, led to a situation where the MoD may, at its own discretion, allow or deny CSOs access to Conscription Commissions, military units or hospitals. This significantly reduces monitoring possibilities for civil society representatives.

In this context, in order to better coordinate the monitoring of the MoD’s activities within the framework of the further action plan for HRP derived from the National Strategy, it will be necessary to cooperate closely with

9. The results and conclusions from the detailed studies of the Monitoring Group on this point can be found in the next section of this report.

CSOs and bodies with the powers and tools needed for the formulation and implementation of human rights policy. These include the National Assembly (the Armenian Parliament), the Office of the RA Security Council, as well as the Office of the Human Rights Ombudsman. In addition, it is necessary to develop and establish clear mechanisms for CSO participation in the newly-developed HRP AP through transformation of declarative participation into a real, tangible actions.

**Study Results of MoD
Activities in the framework of
the 2017-2019 Action Plan
derived from the HRP Strategy**



This section introduces the results of monitoring activities and the study of the effectiveness of Armenian MoD Actions carried out as part of the 2017-2019 Action Plan derived from HRP Strategy. The Monitoring Group for the project “Proactive Civil Society Participation in the Protection and Promotion of Human Rights in the Armenian Armed Forces” implemented the monitoring work and study of activity results.

Article 28. Developing mechanisms for military conscripts to receive their medical examination report/results on a mandatory basis

EXPECTED OUTCOME	VERIFIABLE STANDARD OF ACTION IMPLEMENTATION	RESPONSIBLE ENTITY AND CO-IMPLEMENTERS	IMPLEMENTATION TIMELINE	FUNDING SOURCE
Decisions made by medical and military medical commissions relating to military conscripts, as well as medical check-up results issued by medical institutions, now provided to the conscripts on mandatory basis.	The draft legal act has been submitted to the Armenian Government.	Armenian Ministry of Defense	First quarter of 2018	No additional funding required

GROUP OBSERVATIONS

Article 28 of the 2017-2019 Action Plan derived from the HRP National Strategy approved by the Armenian Government Decision N 483-N of 4 May 2017 states that, during the first quarter of 2018, mechanisms shall be developed for mandatory provision of medical examination results for military conscripts. The expected outcome of the activity mentioned above mandates that decisions made by the medical institutions and military medical commissions pertaining to military conscripts, as well as the medical examination results, are to be provided mandatorily by the medical institutions.

In response to Peace Dialogue’s inquiry dated 4 April 2018, in their letter MoD/510-XX-292 dated 20 April 2018, the Armenian MoD referred to Article 17, Part 5 of the Law¹⁰ on Military Service and the Status of Servicemen as well as the Appendix 1 of the RA Government Decision N 405-N dated 12 April 2018 as the mechanism mandating provision of medical examination results to conscripts.

10. See Armenian Law on Military Service and the Status of Servicemen (<https://www.arlis.am/documentview.aspx?docid=117633>) (<https://www.arlis.am/documentview.aspx?docid=117633>)

The Article 17, Part 5 of the RA Law on Military Service and the Status of Servicemen mentioned by the Ministry of Defense states that citizens shall have the right to acquaint themselves with the course of their health check-up and medical examination; receive the examination reports and other documents; submit suggestions, explanations or objections; appeal medical examination results relating to their health condition in the manner defined by this law and other laws.

The same response letter mentions that the RA Government Decision¹¹ N 405-N of 12 April 2018 defines the procedure for a citizen's health check-up and medical examination, responsible bodies for health check-up and medical examination, the procedure for their activities, as well as for referral for health check-up and medical examination, and forms of examination reports/results in accordance with Appendix 1. Article 35 of the aforementioned Appendix stipulates that the doctor at the Military Conscription Office (the responsible person from the commission) shall complete a medical examination report/results on the health status of the conscript using the N 3 form. The latter is confirmed with the signature of the doctor at the Military Conscription Office (the responsible person from the commission). The Head of the Military Conscription Commission shall, if requested by the citizen or their legal representative/authorized person, provide a copy of the medical examination report on the health condition of the conscript from that individual's personal file.

In the legal norms referenced, receiving reports/results based on health check-ups and medical examination results, is defined as a citizen's right. This means that legislators linked receipt of medical examination report/results with citizens' exercising their basic rights. The formulation used by the legislators and government executive branch entities thus infers that if a citizen fails to exercise their rights and does not take steps to obtain their medical report, it will not be provided to them.

It should be noted that after receiving the response from the MoD, this issue has been partially settled. However, this holds true only as concerns conclusions stated in the provisions of Article 26, Part 4 and Article 28, Part 4 of the Procedure for Compulsory Conscription for Ordinary Military Staff established by the RA Government Decision¹² N 1132-N dated 4 October 2018.

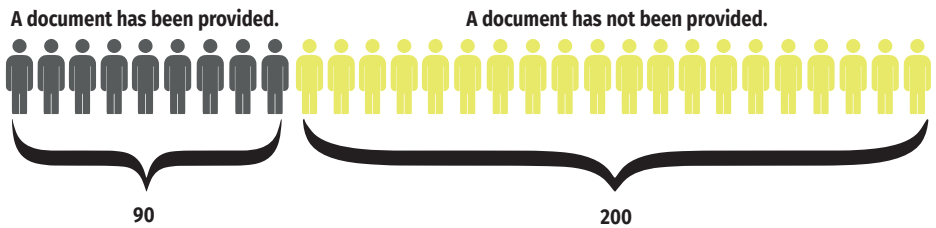
In order to study law enforcement practice related to the legal mechanism defined in Article 28 of the Action Plan, Peace Dialogue NGO addressed the Armenian Ministry of Defense with an official inquiry MoD-18/22 dated 23 November 2018. It requested that the Monitoring Group have the opportunity to conduct surveys with citizens during the activities carried out by Con-

11. See the Armenian Government Decision N 405-N from 12 April 2018 on Procedures for citizens' health check-up and medical examination, procedures for referral for health check-up and medical examination, bodies conducting health check-up and medical examination, forms of examination reports, lists of medical examinations and medical institutions, procedures for compensation of services provided and on annulment of a number of Armenian Government Decisions (<https://www.arlis.am/documentview.aspx?docid=121636>)

12. See the RA Government Decision N 1132-N on the Approval of the procedure for the compulsory military service conscription (<https://www.arlis.am/documentview.aspx?docID=125957>)

scription Commissions. The MoD, however, did not grant such an opportunity. Yet, during the 2018 winter conscription and 2019 summer conscription, after conducting surveys with 290 conscripts, the Monitoring Group found that only 90 out of 290 respondents received their medical check-up results and/or medical examination report (See Figure 1).

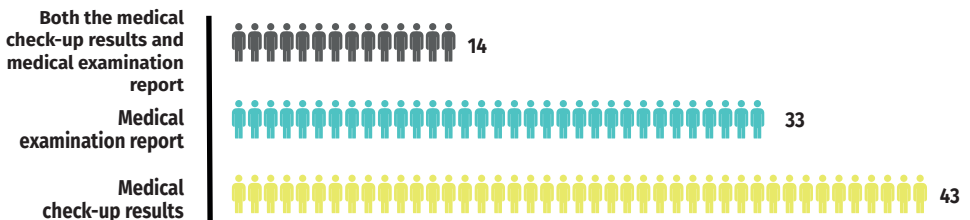
Figure 1. Have you been provided with your medical check-up results and/or the medical examination report?



We have the following estimate as to what documents conscripts have received. However, this estimate should be approached with a degree of skepticism, since, according to the group conducting the direct inquiries with conscripts, respondents found it difficult to identify clearly what documents they had received. According to the respondents, the provided documents contained (Figure 2) the following:

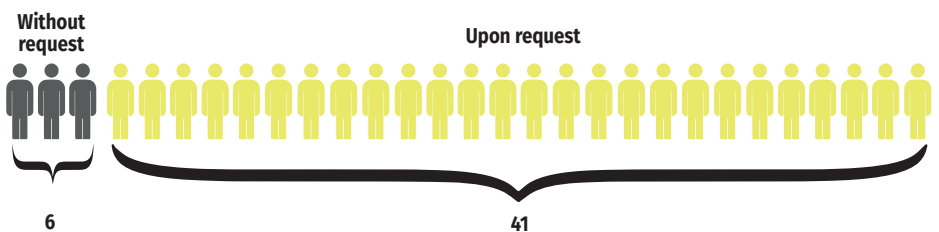
- Medical check-up results and medical examination report - 14 persons
- Medical examination report - 33 persons
- Medical check-up results - 43 persons

Figure 2. What documents have been provided to you?



Only 47 of the 290 conscripts surveyed received a report on their health condition. Moreover, 41 persons of those surveyed received a report only upon request (Figure 3).

Figure 3: Was the medical examination report issued upon your request?



All those recruits who received their health reports (47 persons) had them delivered in person.

The reasons for not providing the documents upon request were mainly as follows:

- **Will be provided at the Military Conscription Office - 32 persons**
- **Was not justified in any way - 8 persons**
- **Received at the Military Conscription Office after having applied for the documents - 7 persons**

Below, you will find conscripts' comments on reasons for medical institutions' refusal to provide health records.

They said in "the Republican" and "Cardiology department" (medical institutions) "... we are warned strictly not to give any documents to the conscripts; we send them all to the Military Conscription Office.

Lori, Vanadzor, 18 years old

At the hospital they said that it would be sent to the Military Conscription Office within 10 days, and you can pick it up there. The conscript was called from the Military Conscription Office to come collect the notice. At the Military Conscription Office, he declared that he disagreed with the medical report which stated he was fit for military service and he wanted to appeal. The recruit refused to collect/accept the notice. At the Military Conscription Office, he was told that if he didn't take the notice, they would not provide the documents. He had to take the notice and only afterwards submit a written application so that he could receive all his documents including his health records.

Yerevan, 18 years old

At the Erebuni hospital, they said that the medical exam results would be sent to the Military Conscription Office. When they learned that the recruit wanted to appeal the results, the Military Conscription Office provided only the medical exam papers and the medical conclusions report.

Shirak, Bayandur, 22 years old

In the Oncology Department, they said that all papers would be sent to the Military Conscription Office. There, he only received his papers after submitting an application. The conscript reported that he had a 6 cm long and 3.5 cm wide birthmark. During the first examination, he was told that he was not fit for service. However, six days later he was phoned and called again. At the Shahumyan Military Conscription Office they said that he was still fit for service but with some limitations. The limitations meant that he was to stay out of the sun and away from dust. The conscript reported having spinal pain as well. The doctors said it was nothing and would go away: the conscript was just exhausted.

Yerevan, 18 years old

The conscript was told: “Just see if you are fit or not...?” The documents must remain with us. “

Lori, Vanadzor, 18 years old

At the Charentsavan Military Conscription Office, they could obtain medical papers sent from the hospital only by fighting for them. The conscript was allowed only to take a photo of the conclusions report using his phone.

Kotayk, Charentsavan, 19 years old

The conscript underwent a medical exam at the Mlayan Ophthalmology Clinic. There, they refused to provide the medical exam results. They said that they had no right to do so; they are forbidden to provide any documents. They stated that the conscript could receive his documents from the Military Conscription Office. The conscripts’ parents immediately called the MoD hotline where the operator confirmed they had the right to receive all documents. However, even after that, the conscript did not receive his medical exam results. Only after appealing to the Hrazdan Military Conscription Office was he able to obtain the check-up results and medical examination report.

Kotayk, Hrazdan 19 years old

The Izmirlian medical facility provided the medical exam results voluntarily. The conscript also underwent another examination at the National Center for Tuberculosis in Abovyan. However, no documents were provided there; that institution said the conscript could get them from the Military Conscription Office. The latter provided the check-up results upon request; the medical examination report was provided orally.

Kotayk, Abovyan 18 years old

The conscript was told that medical exam papers could be obtained from the Military Conscription Office; they were forbidden to provide any documents. After having submitted an application to the Military Conscription Office, the conscript received the check-up papers and the medical examination report.

Gegharkunik, Varsner, 19 years old

The conscript was sent to the Grigor Lusavorich Center for further examination. They did not provide any documents after the examination. The conscript did not request them, as he was sure he was not fit for military service. At the age of 18, he had already received deferment due to heart problems. He had no doubt that he would be ineligible this time. Days later, however, he received a notice. After that, he went to the Sevan Military Conscription Office and demanded the medical check-up results and medical examination report. According to the conscript, the staff there responded rudely and told him to go and serve: “You’re faking your

illness.” Only after meeting with “an important person” (probably someone from the military commission) and submitting an application, did the conscript finally get his medical examination report and the check-up results.

*Gegharkunik, Sevan,
22 years old*

“The hospital said a copy of the documents would go to the Military Conscription Office; the Military Conscription Office said it should be in our papers.”

Lori, Vanadzor, 18 years old

At the Grigor Lusavorich medical facility he was told that they had no right to provide him the medical exam results. The parents, however, took the initiative to read the documents. The exam data was sent to the Military Conscription Office, but the conscript did not receive the medical exam data or conclusions report: neither from the hospital, nor from the Military Conscription Office. The Military Conscription Office stated verbally that the conscript was fit for service. When the parents demanded that they be given the papers, officials said that even people worse than their child had been accepted for service. After conducting an additional review using their own resources, the family appealed to the Public Council adjunct to the MoD.

Armavir, 18 years old

Thus, not only are health records not provided to conscripts mandatorily, but conscripts also face serious hurdles when requesting said documents.

CONCLUSIONS

The Monitoring Group’s study of implementation of Article 28 of the 2017-2019 Action Plan derived from the National Strategy for Human Rights Protection, approved by the Armenian Government Decision N 483-N on 4 May 2017 reveals that submitting a draft legal act (a bill) to the Armenian Government was considered the benchmark for this action in the AP. **The Monitoring Group concluded that the developed verifiable standard for implementing the action does not provide sufficient opportunity for measuring the action’s outcome.**

The Monitoring Group finds that, as a mechanism for mandatory provision of medical reports to conscripts, the legal acts presented by the Armenian MoD do not actually implement requirements in the Decision N 483-N of 4 May 2017. Thus, they cannot be considered to be realization of the expected outcome of the Government decision.

In Article 28 of the 2017-2019 Action Plan derived from the NS for HRP, approved by the Armenian Government Decision N 483-N of 4 May 2017, the term “mandatory provision” was intentionally used. This means in the context of the legal act adopted as a result of the envisioned action, regulations

on providing medical examination reports shall be imposed imperatively, and provision of the conclusions must be based on a mandatory condition. The formulation included in the above-mentioned decision by the Armenian government implies the adoption of a legal act that would define the issue of medical report to conscripts as a mandatory procedure. Per the spirit of the law as described, issuance should not be conditioned on requests for such documents. Meanwhile, Part 5 of Article 17 of Armenian Law on Military Service and the Status of Servicemen mentioned by the MoD and Appendix 1 of the Government Decision N 405-N from 12 April 2018 (both are considered to be mechanisms for the compulsory issue of medical reports by the Ministry of Defense) do not define issue of the medical examination report as being mandatory.

In this case, the logic for including such an action in the Action Plan is unclear. This would mean that prior to the adoption of the above-mentioned legal acts, conscripts did not previously have the right to request the decisions related to their health. Nor could they request medical examination reports from medical institutions and medical military commissions: this is not true. It is expected that the inclusion of such an action in the Action Plan would have been justified by a study and analysis. The latter would justify the necessity for, and prioritization of, including such an action in the 2017-2019 HRP Action Plan. The Monitoring Group, however, failed to find such a document. In addition, the Monitoring Group's studies show that even after including this action in the HRP AP, conscripts still do not receive, for the most part, medical exam reports in a mandatory fashion. The inclusion of this action in the AP could only be justified by the State provided there were no preconditions for issuing conclusions reports, i.e. they were provided on a mandatory basis (automatically).

Article 29. Establishing a reasonable time-frame for providing documents for early discharge due to health issues

EXPECTED OUTCOME	VERIFIABLE STANDARD OF ACTION IMPLEMENTATION	RESPONSIBLE ENTITY AND CO-IMPLEMENTORS	IMPLEMENTATION TIMELINE	FUNDING SOURCE
Reasonable time-frames have been established for issuing documents properly while stating the reasons for early release of persons discharged due to health issues prior to their planned end of service.	A draft legal act has been submitted to the Armenian Government.	Armenian Ministry of Defense Armenian Ministry of Health	First quarter of 2018	No additional funding required

GROUP OBSERVATIONS

Article 29 in the Action Plan states that, within the first quarter of 2018, a reasonable time-frame shall be established for issuing documents in cases of early discharge due to health issues. To exercise the rights of early discharged persons due to health issues, a reasonable timeline for issuing documents has been established as an expected outcome for this action. The reasons for early discharge are to be properly stated in the document.

The Armenian Ministries of Defense and Health are mentioned as the responsible entities and co-implementors in the Action Plan. Peace Dialogue NGO submitted a written inquiry to both bodies to determine their activities they have carried out and their responsibilities in connection with the implementation of this provision as defined in the Government decision.

In response to the inquiry, the Ministry of Health first responded by phone and then with an official letter. The ministry stated that it has not taken any actions on this matter. They suggested Peace Dialogue contact the Ministry of Defense.

In response to Peace Dialogue's inquiry, the Armenian Ministry of Defense, on 20 April 2018, in its letter MoD/510-XX-292 referred to Part 3 of Article 29 of Armenian Law on Military Service and the Status of Servicemen¹³ and Appendix 1 of the Government Decision N 405-N¹⁴ from 12 April 2018 as legal acts defining reasonable timelines for issuing documents for early discharged persons due to health issues.

After having studied the above-mentioned documents, the Monitoring Group discovered that said legal acts: Article 29, Part 3 of the Law on Military Service and the Status of Servicemen and Appendix 1 of the Government Decision N 405-N of 12 April 2018 do not include provisions on timelines for issuing documents for early discharged persons due to health issues.

Article 29, Part 3 of the Law on Military Service and the Status of Servicemen states that military servicemen carrying out compulsory duty, both privates and officer staff, are discharged from military service by order of the Armenian Minister of Defense. In case of early discharge from military service, due to health issues, the serviceman shall also be provided with documents on his health condition. The specified article in the law does not stipulate any time-frame for issue of such documents.

The Government Decision N 405-N of 12 April 2018 defines the procedure for a citizen's health check-up and medical examination, responsible bodies for health check-up and medical

13. See Article 29 Part 3 of the RA Law on Military Service and the Status of Servicemen (<https://www.arlis.am/documentview.aspx?docid=117633>)

14. See the Armenian Government Decision N 405-N from 12 April 2018 on Procedures for citizens' health check-up and medical examination, procedures for referral for health check-up and medical examination, bodies conducting health check-up and medical examination, forms of examination reports, lists of medical examinations and medical institutions, procedures for compensation of services provided and on annulment of a number of Armenian Government Decisions (<https://www.arlis.am/documentview.aspx?docid=121636>)

examination, the procedure for their activities, as well as for referral for health check-up and medical examination, and forms of examination reports/results, in accordance with Appendix 1. Article 108 in the Appendix only states that copies of CMMC certified results/reports are sealed by the CMMC. They shall be provided to the examined serviceman or his legal representative/authorized person upon request.

The Appendix mentioned also does not set any deadline for issue of documents to early discharged servicemen due to health issues.

To study law enforcement practices for the legal mechanism defined in Article 29 of the Action Plan, Peace Dialogue NGO addressed the MoD with an official inquiry MoD-18/22 dated 23 November 2018. The inquiry requested that the ministry give the Monitoring Group the opportunity to conduct surveys with servicemen discharged early due to health issues. The Monitoring Group asked to meet with them in military hospitals and after CMMC sessions. However, by the time the Monitoring Group completed preparation of its interim report, the inquiry still remained unanswered. Only on 21 February 2019 did the Monitoring Group receive a reply on behalf of the MoD's Secretary General (No. MOD/510-XX-182). The latter said they had no objections to meetings with early discharged servicemen, while informing that they were no longer in MOD jurisdiction once discharged. The response completely ignored Peace Dialogue's request that the Ministry allow Monitoring Group members to work with servicemen in military hospitals and after their CMMC sessions.

CONCLUSIONS

Studying the facts mentioned above, the Monitoring Group concluded, as in the previous case, that the benchmark developed for this article does not provide the opportunity to measure the action's outcome. **A similar action was included in the previous 2014-2016 Action Plan¹⁵ derived from the National Strategy for Human Rights Protection (See Action 110).** Nevertheless, this action was not implemented within the given timeline. This is probably why it was once again included in the 2017-2019 Action Plan. In the previous AP, this action was formulated as follows: **“defining a 7-day period for the Defense Ministry to provide, by law, documents for early discharged servicemen due to health issues”**. It is clear that the term “7-day period” makes the action's outcome more measurable, but the same is not true for the term “reasonable timeline”.

In response to the Monitoring Group inquiry, the MoD referred to legal regulations specified in Armenian law on Military Service and the Status of Servicemen and Government Decision N 405-N dated 12 April 2018. These legal regulations do not satisfy the requirement in Article 29, since there are no provisions on the time-frame. The absence of a legal act setting a reasonable time-frame for issuing documents to early discharged persons due to health problems is inadmissible. For, according to Appendix 1 of the Gov-

15. See the Armenian Government Decision N 303-N on Approval of the Action Plan derived from the National Strategy for Human Rights Protection dated 27 February 2014: (<https://www.arlis.am/documentview.aspx?docID=92644>)

ernment Decision N 405-N dated 12 April 2018, conclusions by the Armenian MoD's CMMC may be appealed in court within two months from the date of the conclusions were issued.

In the absence of a legal act defining a time-frame, documents may be provided at any time. This could even be later than the date set for an appeal of the conclusions, or for a period that does not leave sufficient time to prepare documents properly prior to the appeal deadline. Such situations could violate the citizens' right to appeal.

The Monitoring Group also sees some contradictions in the list of documents to be provided to the conscript. There are discrepancies between the formulations in Article 29, Part 3 of the Law on Military Service and the Status of Servicemen and Appendix 1 to the Government Decision N 405-N from 12 April 2018. Particularly, according to Article 29 (3) of the Law on Military Service and the Status of Servicemen, in case of early discharge from military service due to a medical condition, the serviceman shall be provided with his existing medical documents; this implies issuance of a complete set of documents on the serviceman's health condition. In the formulation of Appendix 1 to the Government Decision N 405-N, it is stated that only a copy of the CMMC's conclusions shall be provided.

The above non-compliance can be interpreted and applied arbitrarily; in some cases leading to a violation of citizens' rights.

Furthermore, in case of a serviceman's disagreement with the conclusions and the necessity to appeal the findings, the mere content of the conclusions could be insufficient. In order to make a reasoned complaint, copies of all health-related documents on which the conclusions are based, will be required. Therefore, the more acceptable of the two formulations as specified in the law would allow servicemen to obtain their complete set of health-related documents.

It should also be noted that the MoD did not respond to the Monitoring Group's written inquiries in a timely, reasonable manner defined in the Armenian Freedom of Information Act. In particular, this applies to the Monitoring Group's request to interview conscripts during the recruitment process by the Conscription Commission as well as to interview conscripts who have been discharged early due to health problems, i.e. interviews in military hospitals and CMMCs.

Article 30. Incorporating the subject of “Human Rights in the Armed Forces” into the curricula at military educational institutions and making said curricula available on the official website of the Ministry of Defense of the Republic of Armenia (i.e. for distance or remote-learning purposes)

EXPECTED OUTCOME	VERIFIABLE STANDARD OF ACTION IMPLEMENTATION	RESPONSIBLE ENTITY AND CO-IMPLEMENTORS	IMPLEMENTATION TIMELINE	FUNDING SOURCE
Relevant changes have been introduced to the curriculum. As a result, military personnel have proper knowledge of the protection of human rights.	The subject “Human Rights in the Armed Forces” has been incorporated into the curricula of the MEI and is now available on the MoD’s official website for remote-learning purposes.	Armenian Ministry of Defense	First quarter of 2018	Other financial resources not prohibited by law

GROUP OBSERVATIONS

Article 30 of the Action Plan calls for the incorporation of the scholastic subject “Human Rights in the Armed Forces” into military educational programs’ curricula. It also states that these curricula must be available on the Armenian Ministry of Defense’s official website for distance learning purposes. As an outcome of the action, the Action Plan anticipates that appropriate changes will be made in the curricula. This will result in Armed Forces personnel acquiring proper knowledge in the field of human rights protection.

When monitoring this action, Peace Dialogue NGO sent an inquiry MoD-18/19 dated 15 October 2018, requesting that the Ministry of Defense provide information on the following topics:

- **Have there been relevant changes made in educational programs, as a result of which Armed Forces personnel now acquire proper knowledge in the area of human rights protection? If so, what changes have been made?**
- **Has the subject “Human Rights in the Armed Forces” been included in military educational institutions’ curricula? If so, how often is the sub-**

ject taught and what manuals are used?

- **What is the procedure for selection of teaching staff?**
- **Is the subject “Human Rights in the Armed Forces” available on the MoD’s official website for distance learning purposes? The organization requested to receive a link to this section of the website.**

In the response letter MoD/510-XX-974 of 9 November 2018, the MoD particularly noted the following:

“At Armenia’s Marshal A. Khamperyants MoD Military Aviation University this topic has been included in a course on military law as a separate subject. It is taught during the 7th semester as part of a program with 42 academic hours. At Armenia’s V. Sargsyan MoD Military University, the subject is taught during the first year in a program with 32 academic hours.

The following guidelines were used for course development:

1. “Handbook for Organizing and Conducting Training on Human Rights and Fundamental Freedoms in the Armed Forces”, developed by the OSCE’s Yerevan office, Yerevan, 2016,
2. A. R. Avetisyan, T. V. Simonyan and others, “The Issues of Military Law, Collection of Materials”, Yerevan, 2015

The course also included “Council of Europe Documents on Human Rights in the Armed Forces”, in particular:

- **CM CoE Recommendations No. 4 (2010);**
- **Servicemen’s Rights, PACE Recommendation No. 1742 (2006);**
- **PACE Resolution No. 2120 (2016).**

Selection of teaching staff is done using a public tender (call for participation), in accordance with the order on “Organizing and Conducting a Competition to Fill Vacancies at Armenian MoD MEIs” approved by Armenia’s Minister of Defense.

For the purpose of monitoring the action to include the subject of “Human Rights in the Armed Forces” in the curricula of MEIs as defined in Article 30 of the HRP AP, Peace Dialogue addressed to the MoD of the RA with an official written note 18/22, dated November 23, 2018. On February 21 of this year, MoD, with an official response 510/XX-182, authorized Group members to participate in human rights courses at MEIs under its authority. For this purpose, the Ministry provided the contact information of the official responsible for conducting human rights courses at the RA MoD Military University named after V. Sargsyan, in order for him to specify the days and hours for the course. However, in May-October of 2019 the organization failed to obtain the above-mentioned information from the said official, who regularly stated that he would notify the organization as soon as the course began. For this reason, the Group was unable to determine whether the subject of “Human Rights in the Armed Forces” was included in the curricula of military educational institutions as a compulsory subject or it was of a one-time or temporary nature.

CONCLUSIONS

Monitoring Group members, having been introduced to the program for the course “Human Rights in the Armed Forces” at Armenia’s Marshal Armenak Khanperiyants MoD Military Aviation University and the curriculum for the subject “Human Rights” at the V. Sargsyan RA MoD Military University, found out that topics in the curricula provided are mainly aimed at general education on the topic. General human rights and the rights of serviceman during military service are not sufficiently reflected in the programs. Even so, such courses make it possible to provide Armed Forces personnel with appropriate knowledge on human rights protection. The course is quite comprehensive and fully sufficient (if close attention is paid) for future officers to gain knowledge of the logic of human rights, the importance thereof, and developing respect for said rights.

Unlike with the previous Articles 28 and 29, the verifiable standard developed for this action does make the anticipated change. The change is tangible compared to the previous state of affairs.

In the formulation of the standard, it is stated that the course “Human Rights in the Armed Forces” will be accessible on the Armenian MoD’s official website for distance learning. However, as of the fourth quarter of 2018, the material was not available on the website. The material did later become available (on 5 August 2019)¹⁶. According to the Monitoring Group’s report from Q4 2018, the material has not been posted on the MoD’s website; this despite the fact that the deadline for the action was Q3 2018.

Despite the fact that the Monitoring Group had formally agreed with the MoD that the former’s members would participate in human rights courses at military educational institutions within the framework of the 2017-2019 Action Plan, the Monitoring Group has not been provided with any information on the start date, class days and hours, or about the incorporation of lessons on human rights into military training institutions’ curricula as a compulsory subject. The above-mentioned situation gives us reason to believe that the course did not in fact take place, despite statements and information received from the Armenian Defense Ministry’s Human Rights and Humanitarian Center confirming that these courses were taking place and proceeding in a regular manner.

16. See the curricula for the subject “Human Rights in the Armed Forces” (http://mil.am/files/LIBRARY/Human_Rights/Մարդու%20իրավունքները%20զինված%20ուժերում.pdf)

Article 31. Providing mechanisms for military conscripts/recruits to receive information on the protection of their rights by developing a procedure for sending (along with a call-up notice) a brochure clarifying rights to draft deferment, exemption from military service, deployment at a base close to their place of residence and other rights

EXPECTED OUTCOME	VERIFIABLE STANDARD OF ACTION IMPLEMENTATION	RESPONSIBLE ENTITY AND CO-IMPLEMENTORS	IMPLEMENTATION TIMELINE	FUNDING SOURCE
Awareness of their own rights has been raised among conscripts.	The draft legal act has been submitted to the Armenian Government.	Armenian Ministry of Defense	First quarter of 2018	Other means not prohibited by the law

GROUP OBSERVATIONS

Article 31 of the Action Plan states that efforts will be made for “Providing mechanisms for conscripts to receive information on the protection of their rights by developing a procedure for sending (along with a call-up notice) a brochure clarifying rights to draft deferment, exemption from military service, deployment at a base close to their place of residence and other rights”. The expected outcome is raising conscripts’ awareness of their own rights.

On 4 April 2018, Peace Dialogue NGO addressed the Armenian Minister of Defense with a written request MoD-18/7 to obtain information on implementation of the Government’s National Human Rights Strategy. In its response from 20 April 2018, the Armenian Ministry of Defense (ref. MoD/510-XX-292) said that conscripts’ rights and obligations are defined by law. Procedures therefor are set out in the **“Procedures for compulsory military service conscription”** document, and the draft decision approving that document is ready and will be submitted to the Armenian Government shortly. In the letter, the Ministry refers to Government Decision N 1132-N¹⁷ on **“Approval of**

17. See the Armenian Government Decision N 1132-N on Approval of the procedure for the compulsory military service conscription (<https://www.artis.am/documentview.aspx?docID=125957>)

the procedure for the compulsory military service conscription” dating from 4 October 2018. That document had not yet been sent to the Government at the time of the MoD’s reply.

According to Article 19, which is now in force, in the framework of declared drafts for mandatory military service for regular staff (based on Armenian Government Decision N 1675-N from 21 December 2017, Decisions NN 430-N, 450-N, 451-N and 457-N dated 12 April 2018, Military Conscription Offices are obliged to inform conscripts about MoD programs, officer trainings and conditions for admission to MEIs. The Military Conscription Offices must also ensure registration of conscripts and other functions specified by law. This applies to conscripts who wish to participate in these programs and officer training courses and who seek admission to MEIs.

The Armenian Government Decision N 1675-N¹⁸ dating from 21 December 2017 defines the procedure for signing contracts with military servicemen from ordinary staff carrying out compulsory service. This applies to recruits who wish to enter military service at a place, and under conditions, specified by the Armenian Ministry of Defense.

The Armenian Government Decision N 430-N¹⁹ of 12 April 2018 defines the conditions for granting deferments from compulsory military service to a citizen for targeted study and its termination.

The Armenian Government Decision N 450-N²⁰ of 12 April 2018 defines the procedure and conditions for granting deferments from mandatory military service to citizens who have made significant achievements in the field of sports.

The Armenian Government Decision N 451-N²¹ of 12 April 2018 defines the procedure and conditions for granting deferments from mandatory military service to citizens who have made significant achievements in the fields of science and education.

The Armenian Government Decision N 457-N²² of 12 April 2018 defines the procedure and conditions for granting deferments from mandatory military service to citizens who have made significant achievements in the fields of art and culture.

Thus, the legal acts mentioned in Article 19 approved by the Armenian

18. See the Armenian Government Decision N 1675-N of 21 January, 2017, on Establishing procedures to conclude an agreement for compulsory military service for ordinary staff, who wish to enter military service at a place and under conditions specified by the Armenian Ministry of Defense (<https://www.arlis.am/DocumentView.aspx?DocID=118237>)

19. See the Armenian Government Decision N 430-N of 12 April, 2018, on Conditions for granting a deferment from compulsory military service to a citizen for targeted study and its termination (<https://www.arlis.am/DocumentView.aspx?DocID=126626>)

20. The Armenian Government Decision N 450-N of 12 April 2018 on Procedures and conditions for granting deferment from mandatory military service to citizens who have made significant achievements in the field of sports (<https://www.arlis.am/DocumentView.aspx?DocID=123792>)

21. The Armenian Government Decision N 451-N of 12 April 2018 on Procedures and conditions for granting deferment from mandatory military service to citizens who have made significant achievements in the fields of education and science, on the amendments to the Armenian Government Decisions NN 1394-N of 29 August, 2002 and 117-N of 5 February, 2015, as well as invalidation of Armenian Government Decision N 15 of 13 January, 2000 (<https://www.arlis.am/DocumentView.aspx?DocID=123049>)

22. The Armenian Government Decision N 457-N of 12 April 2018 on Procedures and conditions for granting deferment from mandatory military service to citizens who have made significant achievements in the fields of art and culture (<https://www.arlis.am/DocumentView.aspx?DocID=122788>)

Government Decision N 1132-N of 4 October 2018 cited by MoD relate to only two rights: legal procedures on the right to sign a contract with the Ministry of Defense and the right to receive deferment. Whereas, Article 31 in the 2017-2019 Action Plan derived from the National Strategy for Human Rights Protection defines mechanisms for informing conscripts about their rights (deferment, discharge from military service, deployment at a base close to place of residence, etc.)²³ and the protection thereof.

Apart from this, Article 19 does not mention any mechanisms informing military conscripts of their rights and the protection thereof but speaks instead of informing conscripts about programs, officer trainings and admissions conditions for military educational institutions. All this is carried out by the Armenian Ministry of Defense in accordance with the above-mentioned Armenian Government Decisions.

Article 21 in the Armenian Government Decision N 1132-N states that the corresponding Military Conscription Office is responsible for the proper implementation of conscription of compulsory military service for ordinary staff. A head of the Conscription Office, who makes decisions in accordance with Form N 4, registers conscription data for recruited citizens who have no grounds for deferment or discharge from compulsory military service by law. He registers them for compulsory military service for ordinary staff and does so within a three-day period. Registration is recorded in a book of decisions on conscripts in accordance with form N 5. Then, by providing a copy of the decision to the citizen or his legal representative (in case this right is exercised as per Armenian law), he notifies the latter of the conscript's rights in accordance with forms NN 6 and 6.1.

Forms NN 6 and 6.1 approved by Armenian Government Decision N 1132-N on 4 October 2018 also refer to notifications on a limited number of rights. Form N 6 refers to the right not to be included in combat duty, and form 6.1 speaks to the right for brothers to serve at the same military base/in the same military unit. Moreover, the N 6 form, as defined by Armenian Government decision, notifies conscripts about the right not to be included in combat duty. It does not contain a direct reference to the statement that the conscripts cannot be involved in combat duty or involved in military operations (The last sentence of Article 26 Part 2 of the RA Law on "Military Service and the Status of Servicemen")

The Monitoring Group finds that there is legal uncertainty in the formulation "in case of exercising the right prescribed by law" mentioned in Article 21 of the procedure approved by the Armenian Government Decision N 1132-N dating from 4 October 2018. The article states that the head of the Military Conscription Office makes a decision on calling a citizen to register for compulsory military service for ordinary staff by providing a copy of the decision to the citizen or his legal representative (in case this right is exercised as per Armenian law), he notifies the latter of their rights in accordance with NN 6 and 6.1. The above-mentioned formulation suggests that provision of

23. The right of deployment at a base close to their place of residence has been removed from the list of privileges envisaged for conscripts in Armenian Law on Military Service and the Status of Military Servicemen

notices to military conscripts (defined in forms NN 6 and 6.1) as stipulated in the Armenian Government Decision is done so under specific conditions: mentioned notices are not provided to conscripts in all cases. Such an approach does not correspond to Article 31 of the Action Plan derived from the National HRP Strategy. The latter does not set out any mechanisms that make informing military conscripts of their rights and the protection thereof contingent upon any condition.

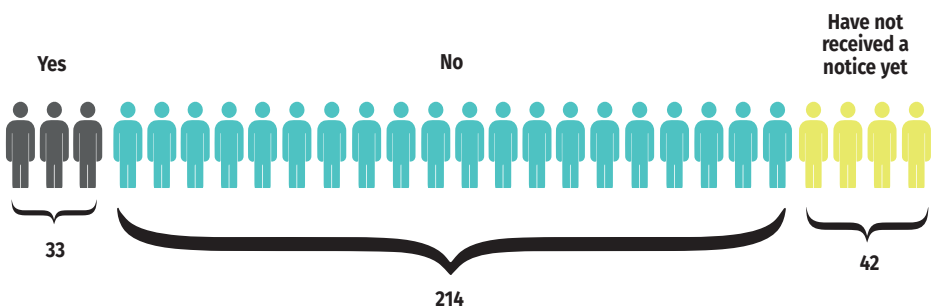
At the same time, the condition defined by Article 21 (approved by Armenian Government Decision N 1132 on 4 October 2018) is also unclear and contains risks that derive from its arbitrariness. It is unclear what criteria or what legal procedures the head of the Military Conscription Office will use to determine which conscripts shall enjoy the right prescribed by law.

In this regard, it should also be noted that during a meeting organized in the framework of the “Proactive Civil Society Participation in the Protection and Promotion of Human Rights in the Armenian Armed Forces” project for 2018, MoD representatives presented one copy of the brochure explaining conscripts rights that the Ministry had published. Ministry officials pointed out that the brochures are provided to conscripts along with notices. PD asked, in a written request MoD-19/7 dated 22 July 2019 that the Ministry provide information on how many copies of this brochure were printed and whether or not it was given to conscripts during the draft. The purpose of this inquiry was to find out whether the brochures will continue to be available and whether they will be distributed until all copies run out.

In its response letter, the Ministry informed PD that, during the 2018 summer conscription, the Ministry of Defense published brochures on the rights of servicemen in the required quantity. It did not plan publication of such brochures for 2019.

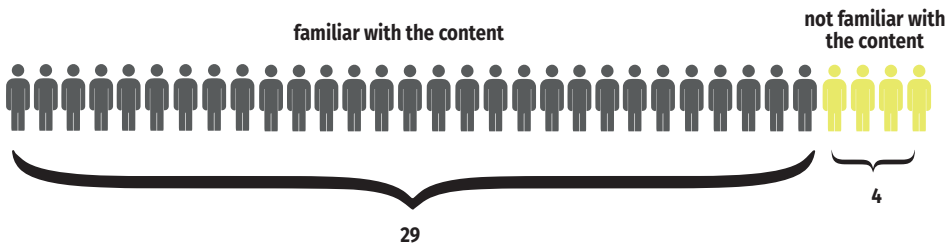
258 out of 290 respondents mentioned to the Monitoring Group that they received a notice on military service during the winter 2018 conscription and the summer 2019 conscription. 33 of them said they were provided a leaflet explaining their rights (Figure 4).

Figure 4. Have you been provided with a leaflet or brochure explaining the conscripts' rights?



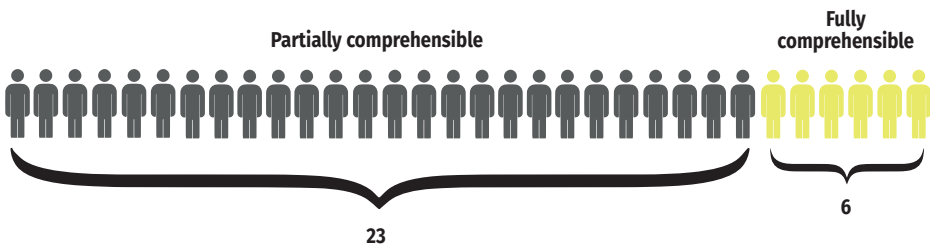
29 of the 33 conscripts who received the leaflet said they were familiar with the content (Figure 5).

Figure 5. Have you read the content of the leaflet or the brochure?



Only six of those who read the content (29) found the content to be “fully comprehensible”, and 23 rated it “partially comprehensible” in terms of their knowing and understanding the protection of their rights (Figure 6).

Figure 6. To what extent was it comprehensible/understood in terms of knowing and understanding the protection of your rights?



CONCLUSIONS

Based on the description above, the findings of the Monitoring Group are as follows:

As with the previous Actions 28 and 29, the verifiable standard developed for this article does not provide an opportunity to measure the action’s outcome.

The deadline for actions outlined in Article 31 of the 2017-2019 Action Plan derived from the National Strategy for Human Rights Protection approved by Government Decision N 483-N on 4 May 2017 was set for Q1 2018. Therefore, the implementation of the mentioned action during the third quarter of 2018 is a violation of the timeline set out in the Armenian Government’s Decision.

The Armenian Government Decision N 1132-N of 4 October 2018 cannot be considered a legal act ensuring proper implementation of the action envisioned by Article 31 of the 2017-2019 Action Plan derived from the National Strategy for Human Rights Protection approved by the RA Government Decision N 483-N on 4 May 2017 because

- **This decision defines a procedure for notifying conscripts about only a few rights. The decision does not even define regulations for notifying conscripts about the multiple rights mentioned in Article 31 of the 2017-2019 Action Plan derived from the National Strategy for Human Rights Protection.**

- **Mechanisms for informing conscripts about their rights are completely missing from the Government Decision,**
- **Regulations on notification procedures defined in the Armenian Government Decision N 1132-N of 4 October 2018 are not imperative, nor are they clear. According to the text of the RA Government Decision, notification is contingent upon certain circumstances. This does not comply with provisions in Article 31 of HRP AP which does not link mechanisms for informing conscripts about their rights and their protection thereof to any specific conditions.**
- **Despite the fact that the Ministry of Defense had published brochures on the rights of servicemen that were to be provided to conscripts during the draft, there were no plans to publish such brochures in 2019. In this case, it is not clear what kind of leaflets were provided to conscripts, and whether there was a different format used to provide information on conscripts' rights and the protection thereof. If the brochure was indeed not used, then what was the purpose to publishing it in the first place.**

From the aforementioned, it can be concluded that the Armenian Government Decision N 1132-N from 4 October 2018 did not contribute to raising awareness of their individual rights among conscripts. Therefore, the expected outcome of the actions defined in Article 31 of the 2017-2019 Action Plan derived from the National Strategy for Human Rights Protection approved by Government Decision N 483-N on 4 May 2017 has not occurred.

Article 32. Establishing mechanisms for the activities of the Observers Group conducting monitoring in solitary confinement facilities, taking into account the requirements stipulated in Armenian legislation and also cases of international best practice

EXPECTED OUTCOME	VERIFIABLE STANDARD OF ACTION IMPLEMENTATION	RESPONSIBLE ENTITY AND CO-IMPLEMENTORS	IMPLEMENTATION TIMELINE	FUNDING SOURCE
Additional guarantees have been established to protect the rights of detainees in solitary confinement facilities at military bases.	The draft legal act has been submitted to the Armenian Government.	Armenian Ministry of Justice	Second quarter of 2018	No additional funding is required

GROUP OBSERVATIONS

Article 32 of the 2017-2019 Action Plan derived from the National Strategy for Human Rights Protection outlines plans to create an Observers Group for conducting monitoring in solitary confinement facilities at military bases. These plans will take into account requirements stipulated in Armenian law as well as international best practices. The plan's expected outcome envisions that additional guarantees will be developed to ensure the protection of the rights of persons held in solitary confinement.

Peace Dialogue NGO sent an inquiry MoD-18/16 dated 31 July 2017 to the Ministry of Defense to find out the following:

- **Whether the draft law (bill) is ready. The new law (currently in draft form) will provide additional guarantees for protecting the rights of persons held in solitary confinement at military bases.**
- **What mechanisms have been established so that the Observer Group can conduct monitoring?**
- **What additional guarantees have been defined to ensure the protection of the rights of persons held in solitary confinement at military bases.**

The Ministry of Defense stated in its response MoD/510-XX-692 dated 20 August 2018 that in accordance with Article 47 of Armenian Law on Detention of Arrested Persons and Detainees and Article 32 of the Action Plan approved

by Government Decision N 483-N from 9 September 2017, the Armenian Ministry of Defense is drafting a bill for an Act on Approving the Activity Procedures for the Public Monitoring Group in the Military Police's Solitary Confinement Disciplinary Facility run by the Defense Ministry. The Act will be published in the official journal (the collection of laws/statutes) after its adoption.

The above-mentioned legal act was adopted on 18 January 2019. It entered into force on 11 February 2019. It should be noted that PD, through its inquiry MoD-19/9 dated 22 July 2019, requested that the Ministry inform the organization when the statement announcing the option to join the Observers Group would be published on the Defense Ministry's official website. However, as of 22 October 2019, the date of completion for the preparatory work for the current final report, the Defense Ministry had not yet responded.

Review of the Armenian Defense Minister's Decree N 1 from 18 January 2019 shows nonetheless that, although the Government order theoretically implements the action of Article 32 of the 2017-2019 Action Plan derived from National Strategy for Human Rights Protection, the Monitoring Group still has many questions as regards the situation resulted by the implementation of the Minister's Decree.

According to Article 5 of the Armenian Defense Minister's Decree N 1 dated 18 January 2019, approving rules of procedure for the Armenian Defense Ministry's Public Observers Group activity (hereinafter: legal act) in the solitary confinement facilities at military bases, persons included in other observers groups cannot be included in the new group. This provision is too general and vague. As a result, in fact, a Public Observers Group can include neither a member of another observers group with a mission to observe the places where the arrested and detained persons are kept, nor a member of any other observers group with another mission. In connection with the above-mentioned issue, PD, in its letter MoD-19/4 dated 9 March 2019 requested clarification on the limitations set out in Article 5 of the legal act. In its response MoD/510-XX-417 from 25 March 2019, the Defense Ministry stated that the purpose of such restrictions is to avoid possible conflicts of interest.

According to Article 12 of the legal act, persons or organizations whose activity is most closely related to the goals of, and issues addressed by, the Armenian Ministry Defense shall be given preference for joining the Group. The content of the aforementioned statement is disturbing: when addressing preferences for joining the Group, the connection between a person's or organization's activities and Defense Ministry objectives and program issues is taken into account rather than a person's or organization's activities related to Group goals set out in Article 2 of the legal act.

According to Article 13 of the legal act, refusal of a person's or organization's involvement as a member of the Group must be duly substantiated by the Armenian Ministry of Defense. In this article, there is no indication that a written administrative act must be carried out to reject a person's or organization's application to join the group. However, this is indeed a necessary condition. For, in case of disagreement with the rejection, the person or organization may exercise their right to appeal the rejection only by referring

to an administrative act.

Article 14 of the legal act states that the Group shall elect a Group leader with a simple majority of votes; and, if necessary, a deputy leader. At the same time, Chapter 5 of the legal act stipulates that Group sessions are held in accordance with an agenda approved by the Group leader. The date, place and time of the Group meetings are to be decided by the leader. In such conditions, it is not clear, and it is not regulated within the Procedures, who should host the first Group meeting until the time that a Group leader is elected.

Article 15 of the legal act states that the Group consists of five to ten members; with one representative from each organization. Peace Dialogue NGO, in a written note MoD-19/4 dated 9 March 2019, requested clarification of the reasons for selection of the number of Group members. In its response MoD/510-XX-417 dated 25 March 2019, the Ministry stated that the number of Observers Group members is designed to achieve the Group's optimal performance and also to accommodate the number of the solitary confinement facilities at military bases.

According to Article 37 of the legal act, media representatives may also be invited to Group meetings. The wording of this point states that the invitation shall be directed to a specific medium (specific media). In this case, media that have not been invited will be denied the opportunity to attend and cover news from Observers Group sessions. To address the issue, it would be more appropriate to state in the legal act that Observers Group sessions can be either open or closed: any medium would have the right to participate in open sessions.

Per Article 23 of the legal act, the Group submits quarterly and annual reports. There is no procedure specified for responding to individual cases.

CONCLUSIONS

Based on research carried out so far, the Group reported that the implementation timeline for the given action was Q2 2018. However, it was implemented in Q3 2019. This is a violation of the timeline set out in the Armenian Government's Decision.

According to Group members, Article 5 of the Armenian Defense Minister's Decree N 1 dating from 18 January 2019 which approves procedural rules for the Armenian Defense Ministry's Public Observers Group activities (according to which, a person who is involved in another observers' group may not join the Group) has no justification and unnecessarily restricts persons who are, or might be, involved in observation missions at places and structures in no way related to places where arrested and detained persons are kept.

The Group considers the approach set out in Article 12 of the legal act to be inadmissible. The approach sets preferences for membership in the Group to favor persons or organizations, whose activity is most closely related to Defense Ministry objectives and issues the Ministry addresses. Such an approach is problematic, since Observers Group activities should be aimed at protecting the rights of persons held in solitary confinement facilities

at military bases. Therefore, when addressing membership in the group, the connection of a person's or organization's activities to the objectives or issues defined for the Observers Group, as well as the protection of the rights of the persons kept in solitary confinement facilities at military bases shall be taken into account. There is no logic for accepting Defense Ministry objectives and issues addressed as the basis for selecting Group members, since the primary objectives and tasks of the Armenian Defense Ministry are related to the defense and security of the State. The latter is in no way related to Observers Group activities. In addition, in Article 12 of the legal act, one can find the formulation "most closely related," which is also problematic as there are no clear criteria for selection. With such wording, "most closely related" could be interpreted arbitrarily.

Article 13 of the legal act does not indicate that a written administrative act must be carried out to reject a person's or organization's application to join the group. According to the Armenian Act on Principles of Administration and Administrative Proceedings, individuals have the right to appeal administrative acts, including the contesting of interfering provisions of administrative acts, as well as the action or inaction of an administrative body (hereinafter referred to as an Act). According to Article 66, Part 1 of the Armenian Code for Administrative Procedure, a plaintiff may, through an appeal, seek to eliminate the interfering administrative act fully or partially (including the interfering provisions of the accompanying administrative act). On the basis of the above-mentioned, the Monitoring Group finds that the refusal of an application to join the Observers Group must be formulated using a written administrative act in order to exercise an applicant's right to appeal.

Article 14 of the legal act does not regulate who will host the first meeting until the election of the Group leader. In the absence of appropriate arrangements, election of a Group leader may occur without notification of all Group members or with other violations.

Article 23 does not define any procedures for responding to individual cases, except for submitting quarterly and annual reports. In the absence of the above arrangements, there are no mechanisms for informing the Minister of Defense about cases requiring urgent intervention. These cases can, in fact, only be found in annual or quarterly reports.

Article 33. Specifying characteristics/ attributes of certain diseases for which the conscript may receive deferment

EXPECTED OUTCOME	VERIFIABLE STANDARD OF ACTION IMPLEMENTATION	RESPONSIBLE ENTITY AND CO-IMPLEMENTORS	IMPLEMENTATION TIMELINE	FUNDING SOURCE
Necessary conditions have been established to prevent arbitrary decisions/conclusions.	The draft legal act has been submitted to the Armenian Government.	Armenian Defense Ministry Armenian Health Ministry	Fourth quarter of 2019	No additional funding is required

GROUP OBSERVATIONS

Article 33 of the 2017-2019 Action Plan derived from the National Strategy for Human Rights Protection states the necessity to specify characteristics/ attributes of certain diseases, for which a conscript may receive deferment. The article is meant to establish necessary conditions for preventing the adoption of arbitrary decisions/conclusions. The deadline for the implementation of the action is set for Q4 2019.

It should be noted that characteristics/attributes of diseases have been specified in Armenian Government Decisions NN 404-N²⁴ and 405-N²⁵ adopted on 12 April 2018. The list was completed by the Government Decision N 753-N²⁶ from 10 July 2018. On 26 September 2019, the Defense Ministry, in a written letter MoD/510-XX-907, informed Peace Dialogue that, as an addendum to requirements in Article 33 dated 25 July 2019, changes have been made to the Government Decision N 404-N through Decision N 952-N²⁷.

Moreover, the Human Rights and Humanitarian Center of the Ministry of Defense informed Peace Dialogue that recommendations (made by civil society representatives, including PD and the Monitoring Group established within the framework of the project) on implementation of the 2017-2019 Action Plan derived from the National Strategy for HRP are being studied by the relevant departments at the Defense Ministry. Based on those recommen-

24. See the Armenian Government Decision N 404-N dating from 12 April 2018 on the List of diseases determining the degree of eligibility of a citizen or serviceman for military service, as well as the conditions of military service contraindicated for the health of the citizen or serviceman (<https://www.arlis.am/DocumentView.aspx?docID=121634>)

25. See the Armenian Government Decision N 405-N from 12 April 2018 on Procedures for citizen's health check-up and medical examination, rules for health check-up and medical examination, bodies conducting health check-up and medical examination, forms of examination reports, lists of medical examinations and medical institutions, procedures for compensation of services provided and on annulment of a number of Armenian Government Decisions (<https://www.arlis.am/documentview.aspx?docid=121636>)

26. See the Armenian Government Decision N 753-N from 10 July 2018 on Making amendments and additions to the Government Decisions NN 404-N and 405-N (<https://www.arlis.am/DocumentView.aspx?docid=123708>)

27. See the Armenian Government Decision N 952-N from 25 July 2018 on Amending the Government Decision N 404-N from 12 April 2018 (<https://www.arlis.am/DocumentView.aspx?docid=123708>)

dations, further changes will be made to the list of diseases in Decision N 404-N. It will be presented in November 2019.

The Armenian Government Decision N 404-N completes the list of diseases that determine the degree of eligibility for military service (Appendix N 1) and defines military service conditions that contraindicate the health state of a citizen or serviceman (Appendix N 2). However, it should be noted that during the observation of activities carried out in relation to Article 33 of the 2017-2019 Action Plan derived from NS for HRP, the Monitoring Group mainly relied on complaints from conscripts and their relatives. The Group studies did not look to analyze the lists of diseases and defects or degree of eligibility for military service mentioned in Decision N 404-N. Doing so would have required a more focused professional, even expert approach. So the Group instead studied the legal relations regulated by the above-mentioned documents. To a large extent, the Group's mission was to find out to what extent legal acts adopted per Article 33 of the 2017-2019 Action Plan derived from NS for HRP contribute to the legal protection of conscripts.

Based on complaints received from conscripts and their relatives, Peace Dialogue filed the administrative cases NN 5/0017/05/19²⁸, /0485/05/19²⁹ and /6694/05/19³⁰. During the investigation of these cases, a number of issues related to protection of conscripts' rights emerged. The study shows that the reason for violations of conscripts' rights was flaws in the health examination procedure by the RA CMMCs for conscripts (recruits). There were also problems with the legal framework regulating the field.

For instance, in the Administrative Case No. 5/0017/05/19 based on Seryozha Khachatryan's claim dating from 14 March 2019, the plaintiff filed a motion, during the pre-trial hearing, calling for a forensic examination. During discussions on the motion, a representative of the Republic of Armenia's Central Medical Commission, who was present at the hearing, said the issue of Seryozha Khachatryan's feet is such that it could have changed due to fluctuations in the patient's weight, physical overexertion, or due to other reasons.

Seryozha Khachatryan's health check-up (exam) during his service reported the following diagnosis: "Left knee bipartite patella, with a slight impairment of function. Double Hallux-Valgus, Degree 1-2, with a minor disorder of the foot-step". Here, we cite the medical report.

It turns out that with certain diseases, the patient's health can worsen due to many factors (weight change, physical overexertion, etc.). In fact, there may be situations when, during recruitment, a person's state of health enables him to be drafted for compulsory military service. However, shortly after being drafted, for one reason or another, the illness may become more severe and manifest itself in such ways that had it been in such a state during recruitment, the conscript would not have been drafted.

28. See the first reference in the report's section on Reference to court cases initiated within the framework of the project (p. 64)
29. See the second reference in the report's section on Reference to court cases initiated within the framework of the project (p. 65)

30. See the fourth reference in the report's section on Reference to court cases initiated within the framework of the project (p. 67)

Group observations allow it to conclude that the reason for many problems in this field involves the absence of legal acts governing the RA Central Medical Commission and how it conducts medical examinations for conscripts. Because there are no legislative guidelines, conscripts with health problems face legal issues related to the protection of their rights. In some cases, situations also arise where Armenian law cannot provide for resolution of disputed cases.

The Group has reported cases where reports on conscripts' health have been submitted without fully ascertaining their actual state of health; i.e. necessary medical interventions were not carried out.

A conscript who receives deferment to get treatment for a detected disease **(suffered from acute and transient psychotic disorders; including paranoid reactions, psychogenic paranoid psychosis, reactive psychosis, oneirophrenia, delusional outbreaks, etc. – later deemed cases with short, favorable development over time)** did not receive appropriate treatment during the deferment period. However, at the end of the deferment period and as a result of a subsequent medical examination, the Commission concluded that the recruit's health had improved. Based on this, they found him to be eligible for military service and he was recruited.

The Group recorded cases where conscripts underwent several medical examinations during the recruitment process and their results differed substantially. The Central Medical Commission made decisions on conscripts' suitability for service based on those findings. The latter suggesting a citizen was eligible for service with some limitations. Said conscripts were then drafted for service within four days: without further examination.

Additionally, 5 complaints were received during the study reporting that medical centers refused to examine citizens because they were conscripts (military recruits).

CONCLUSIONS

Based on observations made, the Group came to the following conclusions:

- **The aforementioned legal acts do not contain regulations for organizing the recruitment of citizens suffering from diseases that change over time or due to other influences. The frequency of medical examination for persons with such diseases during military service is not defined in such a way necessary for monitoring the dynamics of changes to the diseases and how they manifest themselves.**

Otherwise, there may be situations, where some time after being drafted and for one reason or another, the conscript's disease may become more severe and have such manifestations that would normally have prevented him from being drafted, i.e. had they been present during the recruitment process.

The only way to solve the problem now is as follows: servicemen having diseases with such specificities should, in case of complaints, go to a medical facility where a new medical examination is carried out. However, this is not

acceptable given problems are usually detected only when diseases have already become more complex, thus causing complaints.

- **One of the main problems related to the absence of procedural rules for conducting medical exams for conscripts by the Armenian Central Medical Commission is that there are no deadlines for the exams; deadlines for conducting examinations are not compliant with the Armenian Law³¹ on Principles of Administration and Administrative Proceedings or with regulations in the Administrative Procedural Code³². As a result, in legal relations with the Armenian Central Medical Commission, conscripts are actually deprived of guarantees provided by law.**

For instance, Section IV of Armenian Law on the Principles of Administration and Administrative Proceedings provides for appeal proceedings. This allows citizens up to one year to appeal rulings based on administrative acts (Article 71 of the Law on Principles of Administration and Administrative Proceedings). The deadlines for appealing administrative acts are set out in Article 72 of the Armenian Administrative Procedural Code. However, in the absence of regulations on examination of conscripts' health status by the Armenian Central Medical Commission, conscripts are not actually provided the opportunity to appeal in an out-of-court or judicial manner. They may receive notice of their recruitment for military service on the same day the Commission issues its findings. They will then be recruited the next day.

Seryozha Khachatryan³³, plaintiff in the Administrative Case No. 5/0017/05/19, and Kolya Baghdasaryan³⁴, plaintiff in the Administrative Case No. 6694/05/19, were conscripted for compulsory military service only a few days after the Armenian Central Medical Commission conducted their medical exams. After being drafted to military service, they began arguing in the courts about their health status. Nonetheless, disputed findings are already being applied to them.

Such situations contradict the logic of legal regulation of administrative proceedings, since administrative acts should be applied to citizens only after checking their legality: not during the check as such.

In the current situation, Seryozha Khachatryan and Kolya Baghdasaryan are completing their compulsory military service. However, there is undeniable suspicion that they are serving with health issues incompatible with military service. This puts both their health and their lives in danger.

Maxim Vardanyan³⁵, plaintiff in the Administrative Case No. 0485/05/19, has faced another legal problem as a result of the incompleteness of the Armenian Central Medical Commission's medical examinations procedural code. Due to disagreement with the Armenian Central Medical Commission's

31. See Armenian Law on Principles of Administration and Administrative Proceedings (<https://www.arlis.am/DocumentView.aspx?DocID=75264>)

32. See the Armenian Administrative Procedural Code (<https://www.arlis.am/DocumentView.aspx?docid=87705>)

33. See the first reference in the report's section on Reference to court cases initiated within the framework of the project (p. 64)

34. See the fourth reference in the report's section on Reference to court cases initiated within the framework of the project

(p. 67)

35. See the second reference in the report's section on Reference to court cases initiated within the framework of the project (p. 65)

findings, Maxim Vardanyan refused to accept his notice for departure to his military service. A criminal case has been opened based on that fact. The investigator of the criminal case decided to involve Maxim Vardanyan as a defendant in the case and a ban on leave was used as a precautionary measure against him. The indictment was filed under Article 327, Part 1 of the Armenian Criminal Code (avoidance of military or alternative service, military training or mobilization).

In order to prevent the above, and other, situations from happening and to secure conscripts' rights to appeal, it is necessary to establish procedural rules for examining conscripts' health status by the Armenian Central Medical Commission. This should stipulate terms for medical examinations that allow conscripts to exercise their right to appeal in case of disagreement with medical exam findings. The issue does not just relate to the right to appeal, but also to ensuring the right to an effective appeal. Theoretically, a person may also appeal their health check-up results after being drafted to military service (in person or through a representative). However, such appeals cannot be considered effective and purposeful because, according to the logic of Armenian legislation, implementation of an administrative act must be suspended and not enforced until such time that the legality of the administrative act has undergone proper and full review or judicial review.

It is worth noting that citizens' rights to appeal are guaranteed during the activities of other administrative bodies. For instance, in cases where a citizen is fined by administrative acts, administrative bodies take action to comply with the requirements of the administrative act only after the deadline for filing an appeal against the administrative act has expired and the administrative act has become indisputable.

- **A further obstacle to conscripts' right to appeal based on disagreement with health check-up/exam findings is the long duration of proceedings in the Armenian Administrative Court.**

For instance, plaintiff Seryozha Khachatryan in the Administrative Case No. 5/0017/05/19 was drafted for compulsory military service and has already been serving in his military unit for about 9 months.

The Armenian Administrative Procedural Code does not provide a deadline, or any other time limit, for examination of cases at the Armenian Administrative Court. The Code sets a reasonable time limit for the examination of cases at the Armenian Administrative Court. Given the Administrative Court's workload, the number of judges on the court, and a number of other circumstances, the average duration of administrative cases is 1-2 years. Moreover, in the regional courts run by the Administrative Court, review of administrative cases can last for 6-7 years or more. In case of an appeal against a final judicial decision, case examination lasts another 1-2 years. Such long periods for case review at the Armenian Administrative Court is of concern and is not in the interest of citizens seeking justice in court. Depending on the nature of the dispute at hand, in certain types of cases such situations may not be of great importance to the rights and interests of the parties involved in the case. For instance, when considering a small fine, when dealing with disputes over non-pecuniary property rights, etc. lengthy review periods may not matter so much. The situation is different when the Administrative

Court considers legal disputes related to the lives and health of citizens. Among these cases are, for instance, administrative cases where a person's health check-up/exam findings made by the Central Medical Commission are subject to judicial review. The importance of these administrative cases is that based on Central Medical Commission conclusions, conscripts are recruited for compulsory military service. There, of course, can be some cases where the conclusions are incorrect: resulting in the recruitment of conscripts with health conditions that are incompatible with military service.

Avoidance of such situations is foreseen in Armenian Administrative Procedural Code. The Armenian Administrative Procedural Code provides a guarantee that any administrative act, disputed due to its legality, will not be executed until the legality of said administrative act has been verified by judicial procedure.

Article 83, Part 1 of the Armenian Administrative Procedural Code stipulates that admission of a proceeding for a dispute claim shall suspend the enforcement of the disputed administrative act until the judicial act, substantially resolving the case, has come into force, except

- 1. in cases defined by law where the administrative act is subject to immediate enforcement;**
- 2. in cases where the administrative body, when adopting an administrative act (including a substantive decision on an administrative complaint) has stated in written form that immediate enforcement is necessary in the public interest);**
- 3. in cases when an administrative act is executed by an officer of the Justice Ministry's Compulsory Enforcement Service and execution of the act is later disputed in the course of an enforcement proceeding.**

However, the above requirement of the Armenian Administrative Procedural Code is widely ignored and violated during military conscription. All citizens, who have appealed the Central Medical Commission's findings on their health status, have been drafted for compulsory military service.

In this regard, however, MoD officials often point out that with such legal arrangements there is a risk that all conscripts will begin to appeal acts on their health exam findings. This would disrupt the normal recruitment process. However, this argument does not stand up against criticism from a human rights protection point of view. It restricts conscripts' right to appeal only because there is a possibility that the opportunity provided by the law could be used in a dishonest manner.

Article 34. Ensuring compulsory notification and distribution of copies of each legal act (e.g. fines, etc.) issued to conscripts, servicemen and persons of equivalent status to the serviceman in question or family members; plus developing a mechanism for introducing appeals procedures

EXPECTED OUTCOME	VERIFIABLE STANDARD OF ACTION IMPLEMENTATION	RESPONSIBLE ENTITY AND CO-IMPLEMENTORS	IMPLEMENTATION TIMELINE	FUNDING SOURCE
Fundamentals have been established to raise awareness of decisions affecting conscripts; this among conscripts themselves, servicemen and persons of equivalent status. Procedures have been introduced for appeals against such decisions.	A draft legal act has been submitted to the Armenian Government.	Armenian Ministry of Defense Armenian Ministry of Health	Third quarter of 2018.	No additional funding is required

GROUP OBSERVATIONS

Article 34 of the 2017-2019 Action Plan derived from the National Strategy for Human Rights Protection approved by the Armenian Government Decision N 483-N of 4 May 2017 (with the action to be implemented during Q3 2018) states that it will ensure compulsory notification and distribution of copies of each legal act (e.g. fines, etc.) issued to conscripts, servicemen and persons of equivalent status to the serviceman in question, or family members. Relevant bodies will also develop a mechanism for introducing appeal mechanisms. The expected outcome of the action mentioned above states that fundamentals will have been established to raise awareness of decisions affecting recruits; this among conscripts themselves, servicemen and persons of equivalent status. Procedures have been introduced to appeal such decisions.

In order to get information on implementation of requirements in the Armenian Government's National Strategy for Human Rights Protection, Peace Dialogue NGO sent an inquiry MoD-18/20 dated 15 November 2018 to the Armenian Minister of Defense.

In response to Peace Dialogue's inquiry, the MoD letter N MoD/510-XX-914 dated 25 November 2018 states that the Ministry plans, in 2019, to make amendments and additions to Armenian Law on the Disciplinary Code of Armenian Armed Forces. As a result of these amendments, the legislation will clearly define norms for notifying servicemen about incentives and disciplinary penalties imposed on servicemen and provide them norms for the application of subsequent acts. Moreover, provisions in Article 47, which defines procedures for appealing disciplinary sanctions imposed by said law, will be laid out in a more substantial manner.

The same letter also referred to Article 17 (5) of Armenian Law on Military Service and the Status of Servicemen³⁶ according to which:

A citizen has the right to learn about their health examination procedures and the course of medical examination and receive medical findings and other documents, submit proposals, explanations, or objections, appeal findings on their health condition in manners defined by this and other laws.

The formulation of the mentioned legal norm makes it obvious that provision of medical examination report is not defined as a mandatory task. In the mentioned legal norm, receipt of conclusions/findings from medical check-ups and medical examinations is defined as a citizen's right. This means the legislative body has linked receipt of findings based on medical examination results to a person's right to request such information. From the formulation used by legislators, it can be inferred that in cases where citizens do not exercise their right and do not take steps to acquire the health check-up results, they will not receive them.

The next legal norm referred in the Armenian MoD's response is Article 25 (12) of Armenian Law on Military Service and the Status of the Servicemen.

In accordance with Article 25, Part 12 of Armenian Law on Military Service and the Status of the Servicemen, issued orders for granting deferment from compulsory military service to citizens subject to conscription as ordinary and reserve officer staff, or findings related to discharge from compulsory military conscription, or conclusions on citizens' health check-ups and medical examinations can be appealed within two months of their entry into force. Appeals should be made to the Armenian Minister of Defense or the courts in the manner defined by law. Submission of complaints before the revision of issued orders does not suspend the implementation of those orders.

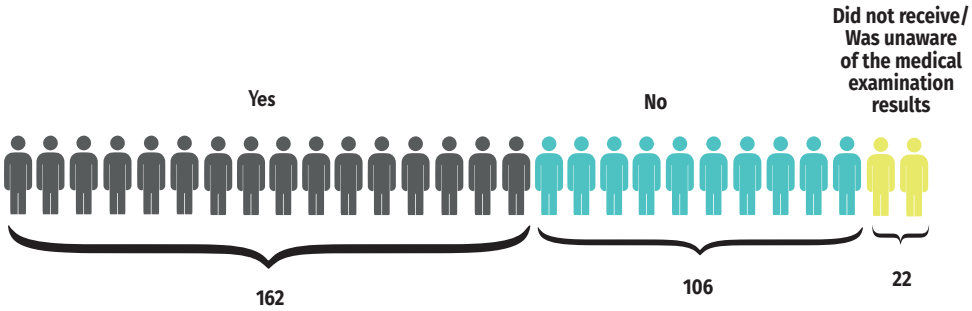
Regulations in Article 25, Part 12 of Armenian Law on Military Service and

36. See Armenian Law on Military Service and the Status of the Military Servicemen (<https://www.arlis.am/documentview.aspx?docid=117633>) (<https://www.arlis.am/documentview.aspx?docid=117633>)

the Status of the Serviceman refers to appeals against administrative acts, but the mentioned article does not stipulate provisions for introducing mechanisms to appeal them.

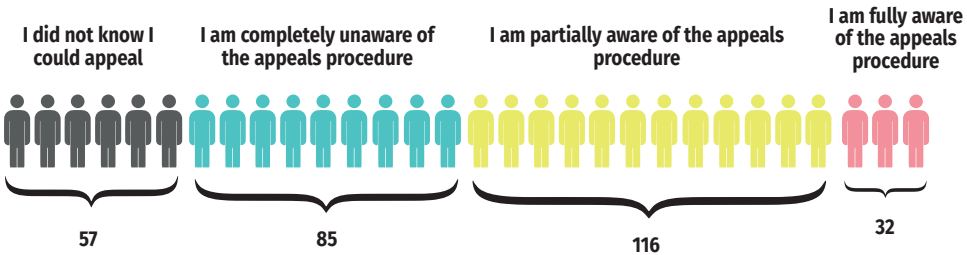
As a result of surveys conducted by Group members among 290 conscripts and their relatives, they found that 106 of 290 respondents did not agree with the medical examination report 22 of them did not receive the results, nor did they have any idea at all about the report. (Figure 6).

Figure 6. Do you agree with your medical examination report/results?



Additionally, only 32 respondents stated they were fully aware of the appeal procedure; the remaining 201 persons were partially aware or not at all aware of the appeal procedure. Some of them, 57 respondents, were unaware that they could appeal their medical examination results. (Figure 7).

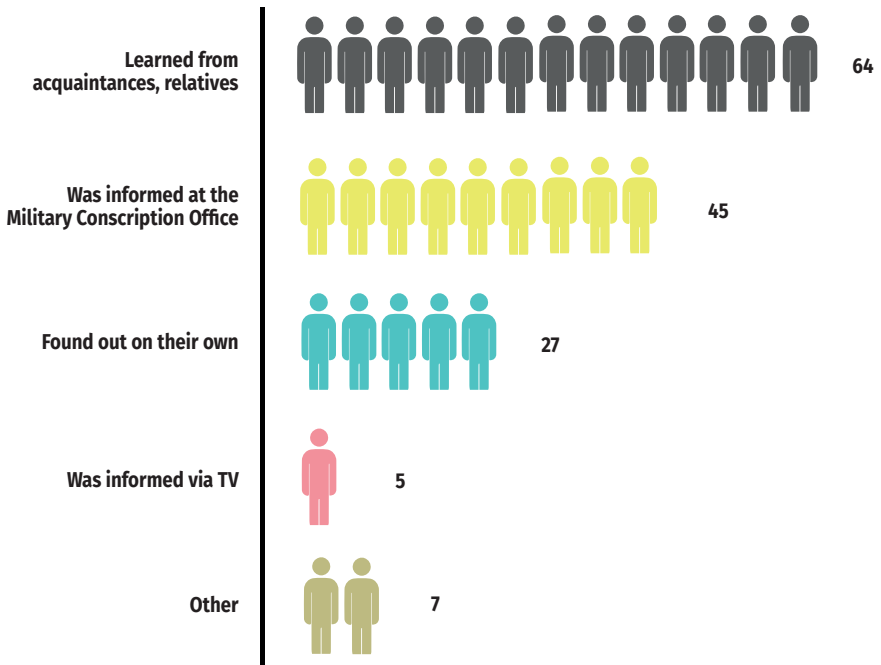
Figure 7. Are you aware of the appeal procedure? To whom, how and in what time-frame should you appeal your medical examination report/results?



In this regard, it should also be noted that 38 citizens surveyed applied to Group members for assistance in appealing their health check-up results. Experts in the Group are currently dealing with some of those appeals in court.

It is also interesting that a significant portion of the 148 conscripts (45 people), those familiar with the appeals procedure, had been acquainted with the procedure at the Military Conscription Offices (Figure 8).

Figure 8. Where did you learn about the appeals procedure?



It should be noted the expected outcome for the mentioned action (in the Action Plan) stated that procedures must be established for conscripts, servicemen and persons of equivalent status to appeal against decisions. However, regulations in Article 25, Part 12 of Armenian Law on Military Service and the Status of Servicemen³⁷ refer to only a limited number of individuals:

- **citizens subject to ordinary conscription,**
- **citizens subject to reserve officer conscription.**

The next legal norm referred to in the Armenian Ministry of Defense’s letter is Article 29, Part 3 of Armenian Law on Military Service and the Status of Servicemen which states

According to Part 1 of the same article, compulsory military servicemen in the private level and officer staff are released from military service in accordance with orders established by the Minister of Defense of the Republic of Armenia. In cases of early discharge from military service due to health conditions, the serviceman shall also be provided with documents on his health condition.

Article 29, Part 3 of Armenian Law on Military Service and the Status of Servicemen does not set any time-frame for submission of said documents.

The next legal norm referred to in the Armenian Ministry of Defense’s letter is Article 36, Part 4 on medical expertise procedures defined in the Armenian

37. See Armenian Law on Military Service and the Status of Servicemen (<https://www.arlis.am/documentview.aspx?docid=117633>)

Government Decision N 405-N³⁸ dated 12 April 2018.

According to Article 36, Part 4 of the health check-up and medical examinations procedure defined in the Armenian Government Decision N 405-N of 12 April 2018, **the medical institution is obliged to provide information on the health condition, the results of the medical examination, the diagnostics and treatment methods, the associated risk, possible options for medical intervention, consequences and treatment outcomes to the citizen, his legal representative or a person authorized by him.**

In the above-mentioned statement from the Armenian Government's Decision, the word "information" is used, and no clarification is provided as to what way (in what form) the information must be provided.

CONCLUSIONS

After studying the activities defined in Article 34 of the 2017-2019 Action Plan derived from the National Strategy for Human Rights Protection approved by Armenian Government Decision N 483-N on 4 May 2017, the Group concluded that the implementation deadline for actions set out in Article 34 was planned for Q3 2018. Therefore, implementation of the mentioned action in 2019 is a violation of the terms agreed by the Armenian Government.

As in the majority of cases, the verifiable standard of action for this article does not allow for measurement of the action's results.

It is impossible to draw any conclusions on the justification of these amendments and supplements until the package of amendments and supplements to Armenian Law on the Armenian MoD's Disciplinary Code is ready,

From the formulation used in Article 17, Part 5 of Armenian Law on Military Service and the Status of Servicemen, it can be inferred that if a citizen fails to exercise his right and does not take steps to receive the medical examination results/report, they will not be provided to him. Such a legal norm contradicts the logic of the Armenian Government's Decision N 483-N dated 4 May 2017, according to which distribution of notifications about any legal act (and copies thereof) adopted pertaining to conscripts, servicemen and persons of equal status is envisioned as a mandatory condition, i.e. not conditioned on the activities of the addressee of the legal act.

Article 25, Part 12 of Armenian Law on Military Service and the Status of Servicemen does not foresee provisions introducing appeal mechanisms for administrative acts.

Regulations in Article 25, Part 12 of Armenian Law on Military Service and the Status of Servicemen refer only to citizens subject to ordinary conscription and citizens subject to conscription to reserve officer staff. Therefore,

38. See the Armenian Government Decision N 405-N from 12 April 2018 on Procedures for citizens' health check-up and medical examination, rules for health check-up and medical examination, bodies conducting health check-up and medical examination, forms of examination reports, lists of medical examinations and medical institutions, procedures for compensation of services provided and on annulment of a number of Armenian Government Decisions (<https://www.arlis.am/documentview.aspx?docid=121636>)

as regards the subjects, the regulations in Article 25, Part 12 of Armenian Law on Military Service and the Status of Servicemen do not ensure the expected outcome of the action in the Action Plan.

Article 29, Part 3 of the law does not define any timeline for providing documents. Such a legal norm contradicts the logic of the Armenian Government Decision N 483-N dated 4 May 2017. According to the Decision, clear regulations on reasonable timelines for providing documents to early discharged persons due to health issues should be defined by the adopted legal act.

According to Article 36, Part 4 on citizens' health check-up and medical examination procedures defined in the Armenian Government Decision N 405-N, the means of providing information is not specified. That is, shall the information be provided in oral or written form; electronically or otherwise. In the same way, methods for providing information (by post, in person, or otherwise) are not regulated, and no timeline for providing information is set.

**Monitoring Group
recommendations on
activities implemented by the
Armenian Ministry of Defense
within the framework of the
2017-2019 Action Plan derived
from the National Strategy for
Human Rights Protection**



The Monitoring Group has developed the following set of recommendations based on its findings and conclusions after observing activities carried out by the Ministry of Defense of the Republic of Armenia within the framework of the 2017-2019 Action Plan derived from the National Strategy for Human Rights Protection. The Group will present these recommendations to both to the Ministry of Defense (as the body responsible for the actions); as well as to members of parliament (MPs); the Security Council; the Office of the Human Rights Ombudsman; local, international and other interested CSOs; and citizens working to improve the human rights situation in the Armenian Armed Forces.

Recommendations presented refer to Articles 28, 29, 30, 31, 32, 33 and 34 of the Action Plan. They are presented in packages for each specific action in the aforementioned articles.

ARTICLE 28. DEVELOPING MECHANISMS FOR MILITARY CONSCRIPTS TO RECEIVE THEIR MEDICAL EXAMINATION REPORT/RESULTS ON A MANDATORY BASIS. THE IMPLEMENTATION PERIOD WAS SET FOR Q1 2018.

- Through Article 17, Part 5 of the Armenian Law on Military Service and the Status of Servicemen and Appendix 1 thereto (approved by Armenian Government Decision N 405-N dated 12 April 2018), issue of medical examination report/results to conscripts shall be stipulated as a mandatory requirement.
- Amendments shall be made to Article 26 and to sub-article 4, and also to Article 28, sub-article 4 in the procedural rules for compulsory military service conscription, adopted by Armenian Government Decision N 1132-N of 4 October 4 2018. Said amendments will define regulations on procedures for issuing decisions on conscripts to the regional (Yerevan) Conscription Commission and National Conscription Commission.
- The Group insists that, in order to avoid future problems, the manner of submission of documents (in person, per post, by email or otherwise) must be defined by a legal act.

ARTICLE 29. ESTABLISHING A REASONABLE TIME-FRAME FOR PROVIDING DOCUMENTS FOR EARLY DISCHARGE DUE TO HEALTH ISSUES. THE IMPLEMENTATION PERIOD WAS SET TO Q1 2018.

- A clear time-frame for issuing documents, as well as an appeals procedure for conscripts who have been discharged due to health issues, shall be established through Article 29, Part 3 of Armenian Law on Military Service and the Status of Servicemen and/or by amending the Armenian Government Decision N 405-N dated 12 April 2018. Moreover, the time-frame for issuing the documents shall be as short as possible (no more than 7 days) so that citizens have sufficient time to review the documents and file a proper complaint.
- It is also necessary to define by legal act the manner of submission of documents (in person, per post, by email or other means).

ARTICLE 30. INCORPORATING THE SUBJECT OF “HUMAN RIGHTS IN THE

ARMED FORCES” INTO CURRICULA AT MILITARY EDUCATIONAL INSTITUTIONS AND MAKING SAID CURRICULA AVAILABLE ON THE OFFICIAL WEBSITE OF THE MINISTRY OF DEFENSE OF THE REPUBLIC OF ARMENIA (I.E. FOR DISTANCE OR REMOTE-LEARNING PURPOSES). THE IMPLEMENTATION PERIOD WAS SET FOR Q3 2018.

- In its interim report, the Group’s only recommendation for this article was as follows: “Make the “Human Rights in the Armed Forces” course available on the Ministry of Defense’s official website; this for distance/ remote-learning purposes as stipulated in the Action Plan.” The Ministry of Defense heeded the recommendation and, as of the date of preparation of this Final Report, the material was available on MoD website.
- The Group also proposes (in relation to Article 30) allowing civil society representatives to participate in human rights trainings at MoD-run military educational institutions and involving human rights CSOs in the training sessions, when necessary/possible.

ARTICLE 31. PROVIDING MECHANISMS FOR MILITARY CONSCRIPTS TO RECEIVE INFORMATION ON THE PROTECTION OF THEIR RIGHTS BY DEVELOPING A PROCEDURE FOR SENDING (ALONG WITH A CALL-UP NOTICE) A BROCHURE CLARIFYING RIGHTS TO DRAFT DEFERMENT, EXEMPTION FROM MILITARY SERVICE, DEPLOYMENT AT A BASE CLOSE TO THEIR PLACE OF RESIDENCE AND OTHER RIGHTS. THE IMPLEMENTATION PERIOD WAS SET FOR Q1 2018.

- Develop a procedure for notifying conscripts of their basic rights.
- Define the form and content of the brochure provided with the notice; as well as the procedure for its mandatory distribution.

ARTICLE 32. ESTABLISHING MECHANISMS FOR THE ACTIVITIES OF THE OBSERVERS GROUP CONDUCTING MONITORING IN SOLITARY CONFINEMENT FACILITIES, TAKING INTO ACCOUNT REQUIREMENTS STIPULATED IN ARMENIAN LEGISLATION AND ALSO CASES OF INTERNATIONAL BEST PRACTICE. THE IMPLEMENTATION PERIOD WAS SET FOR Q2 2018.

- In Article 5, sub-article 6 of the legal act of the public Observers’ Group for MoD Solitary Confinement Facilities adopted by Decree N 1 issued by the Minister of Defense, it specifies that persons involved in other observers groups may not be included in the public observers group for MoD Solitary Confinement Facilities. The legal act restricts involvement only to group members with observation missions at places where arrested or detained persons are held.
- Article 12 of the same legal act should define, as an essential criterion for deciding who can be included in such groups, the connection between a person’s or organization’s activities and the Observers Group’s objectives. The decision should also take into account the latter’s work on the protection of rights of persons held in solitary confinement facilities. To avoid arbitrary interpretations, the legal act should provide clear criteria instead of the formulation “most closely related” currently used in Article 12 of the legal act.

- In Article 13 of the same legal act states that a written administrative act must be issued in cases of rejection of applications submitted by a person or organization asking to join the Observers Group.
- Establish a procedure for convening the first meeting of the Observers Group and the person meant to do so; this should be outlined in the legal act.
- In Article 37 of the legal act defines that Observers Group meetings may be both closed and open; establish a procedure for publishing information from open meetings and stipulate that any media outlet has the right to participate in open sessions.
- Establish in the legal act a procedure for informing the Armenian Minister of Defense about cases that need urgent intervention on his part.
- There is a technical error in Article 52 of the legal act; a reference is made to Article 50, instead the reference should refer to Article 51 of the legal act.

ARTICLE 33. SPECIFYING CHARACTERISTICS/ATTRIBUTES OF CERTAIN DISEASES FOR WHICH THE CONSCRIPT MAY RECEIVE DEFERMENT

- Define the list of diseases and mark those that change over time or due to other influences. Also set out procedures for medical examinations for persons with these diseases during their compulsory military service at such frequency necessary for monitoring the dynamics of changes in the diseases.
- Establish a procedure for examining conscripts' health by the Central Medical Commission of the Republic of Armenia. Such terms and conditions for medical examinations should allow conscripts to exercise their right to appeal in cases of disagreement with examination report/ results.
- In cases where conscripts appeal the medical examination results reported by the Armenian Central Medical Commission, i.e. there is a dispute over the legality of the administrative act, the implementation of the administrative act must be suspended and not enforced until the legality of the administrative act has been reviewed internally or undergone judicial review. The administrative act should be applied to the addressee only after a check of its legality, not during the check.
- In order to protect the rights of conscripts with health problems, it is necessary to set a maximum period of 2-3 months for the review of disputes concerning conscripts' health in the Armenian Administrative Procedural Code. This proposal is substantiated by the fact that, after the adoption of the Armenian Administrative Procedural Code, the Civil Procedural Code of the Republic of Armenia (adopted in 2018) sets maximum time limits for handling certain types of cases. For instance, according to Article 210, Part 2 of the Armenian Civil Procedural Code, labor disputes are to be heard and resolved within three months after a lawsuit is filed.

ARTICLE 34. ENSURING COMPULSORY NOTIFICATION AND DISTRIBUTION OF COPIES OF EACH LEGAL ACT (E.G. FINES, ETC.) ISSUED TO CONSCRIPTS, SERVICEMEN AND PERSONS OF EQUIVALENT STATUS TO THE SERVICEMAN IN QUESTION OR FAMILY MEMBERS; PLUS, DEVELOPING A MECHANISM FOR INTRODUCING APPEALS PROCEDURES. THE IMPLEMENTATION PERIOD WAS SET FOR Q3 2018.

- It is necessary to establish a general legal regulation that applies to conscripts, servicemen and persons with equal status. In terms of subject matter, the regulation should not be directed at settling a specific case or situation, rather it should be formulated in such a way as to cover all kinds of acts related to the above-mentioned persons.
- In relation to issuing mandatory notices on any legal act applying to conscripts, servicemen and persons with equivalent status, it is also necessary to establish general legal regulations as concerns both the persons affected and the subject of regulation; said regulations should relate to all cases and to all above-mentioned persons in question.
- When formulating the legal act regarding the issue of mandatory notification on administrative/legal acts, we recommend that legislators follow regulatory guidance outlined in Article 59 of the Armenian Law³⁹ on Principles of Administration and Administrative Proceedings.
- Develop mechanisms for informing conscripts, servicemen and persons with equivalent status of their right to appeal decisions concerning them.

RECOMMENDATIONS TO BE TAKEN INTO ACCOUNT FOR THE DEVELOPMENT OF THE NEXT ACTION PLAN DERIVED FROM THE HRP STRATEGY.

- Ensure logical connections between Action Plans derived from the HRP Strategy and the continuity of the actions.
- Make public the findings of studies on standards in the Action Plans derived from the HRP Strategy, as well as the monitoring results and analyses carried out by the Coordinating Council (unless the publication of these analyses would be contrary to rules in Armenian legislation).
- Clarify standard indicators in the strategy; establish clear, measurable indicators for each action or activity; and develop mechanisms for their effective monitoring and evaluation.
- Define legal consequences for State authorities in case of failure to implement actions specified within the Strategy: both in the established order and time-frame.
- Take into account potential risks when developing the new Action Plan and put in place mechanisms to mitigate or lessen those risks.

39. See Armenian Law on Principles of Administration and Administrative Proceedings (<https://www.arlis.am/DocumentView.aspx?DocID=75264>)

- In addition to the above-mentioned recommendations, the Group views it as a necessity to develop and introduce a mechanism allowing civil society organizations to monitor the Action Plan derived from the HRP Strategy.

Appendices



Reference to court cases initiated in the framework of the project “Proactive Civil Society Participation in the Protection and Promotion of Human Rights in the Armenian Armed Forces”

As already mentioned in this report’s section on Monitoring Methodology, advocates, who were Group members, provided legal assistance to 38 citizens throughout implementation of the project; 5 of these persons are currently being represented and defended in court.

Below are brief descriptions of the court cases initiated by the Group within this monitoring initiative.

1. Administrative Case No. 5/0017/05/19. Seryozha (father’s name: An-dranik) Khachatryan demands, in his claim against the CMMC, the annulment of the Armenian CMMC’s medical examination conclusions issued on 12 December 2018 and 24 January 2019. Seryozha Khachatryan has congenital defects in his toes and knee joints.

The lawsuit was filed in the Armenian Administrative Court on 6 February 2019.

On 12 February 2010, the Armenian Administrative Court made a decision to accept to give standing to the proceeding. In the aforementioned civil case dating from 14 March 2019, a preliminary hearing took place. During the court session, the plaintiff filed a motion to carry out a forensic examination. During the discussion of the latter, the Armenian CMMC representative, present at the trial, objected to the motion on grounds that the legality of the disputed conclusions should be based on Seryozha Khachatryan’s current state of health rather than on the date prior conclusions were made. In such circumstances, the presiding judge considered it necessary to present to the court the x-ray exam results based on which the disputed conclusions from the Armenian CMMC had been drawn up.

The court hearing for Administrative Case No. 5/0017/05/19 dating from 14 March 2019 was postponed so that the plaintiff could receive the necessary x-ray exam results prior to the next court hearing. These documents could not be obtained because x-ray exam results require credentials from Seryozha Khachatryan. Also, given that information on a person’s health would be required, the credentials had to be notarized. Since Seryozha Khachatryan was doing his compulsory military service, the credentials had to be certified by his military commander.

The credentials, sent by Seryozha Khachatryan, were received on 17 April 2019. However, they were sent in plain, handwritten form and were not certified by the military commander. As a result, it was not possible to obtain necessary documents based on the credentials.

Given the absence of proper credentials, during the court hearing for the Administrative Case No. 5/0017/05/19 dating from 23 April 2019, the plaintiff filed a motion requesting/demanding the x-ray exam results, i.e. the basis for the disputed conclusions on Seryozha Khachatryan state of health. The court decided to take measures to obtain the x-ray exam results from the medical institution.

The next hearing of the case was scheduled for 30 May 2019, during which the court ruled to grant the plaintiff's motion for a forensic medical examination for Administrative Case No. 5/0017/05/19. The examination would be carried out by relevant experts at the Scientific-Practical Center for Forensic Medicine (SNPO), a State-run, non-profit organization governed by the Armenian Health Ministry.

X-ray examination results (x-ray films) dating from 12 November 2018 were used by the experts to address the following questions in their forensic conclusions. Whether Seryozha has health problems in his knee bone (patella) and both feet? If so, what diseases are present and what is the extent of the knee bone functional disorder and axis inclination of the first toes and their alignment with the first metatarsal bones.

If new questions arise during the course of the forensic examination, i.e. which may be of critical importance for clarifying questions about the examination, those questions, per the court, should also be answered.

In the same decision, the Armenian Administrative Court suspended proceedings for Administrative Case No. 5/0017/05/19 until receipt of the forensic conclusions.

Peace Dialogue NGO addressed a letter to the Armenian Minister of Health to obtain information on the progress of the examination. The Ministry's response stated that the forensic examination mandated on 30 May 2019 had not yet been carried out.

2. Administrative Case No. 0485/05/19. Maxim (father's name Robert) Vardanyan's claim against the Armenian CMMC for invalidating his health exam findings dating from 8 December 2018 and 18 January 2019. M. Vardanyan has had issues with his eyesight since childhood.

The lawsuit was filed in the Armenian Administrative Court on 25 January 2019.

On 29 January 2019, the Armenian Administrative Court made a decision to give standing to the proceeding.

During the preliminary hearing for the above-mentioned case dating from 6 May 2019, the plaintiff filed a motion to the court asking for a forensic examination. The court granted the motion, ruling that the forensic examination be carried out by the Scientific-Practical Center for Forensic Medicine (SNPO).

In order to clarify the situation, the court asked that the following question be addressed by the expert(s):

- **What health problems does Maxim Vardanyan have?**
- **If Maxim Vardanyan has eyesight problems, are these problems congenital or not?**
- **Given his health problems, is Maxim Vardanyan subject to compulsory military service as per Article 86, Point D on the “List of diseases determining the degree of eligibility of a citizen or serviceman for military service” as defined in the Armenian Government Decision from 12 April 2018.**

According to another ruling dating from 6 May 2019, the Armenian Administrative Court suspended the proceedings for Administrative Case No. 0485/05/19 until completion of the forensic medical examination.

In order to obtain information on the course of the forensic examination, Peace Dialogue NGO sent a letter to the Armenian Health Minister. The Ministry responded that the examination for the Administrative Case No. 0485/05/19 was completed on 20 August 2019 and a conclusion on the state of health was made. However, at the time of writing this report, the Armenian Administrative Court had not yet ruled on the reopening of Administrative Case No. 0485/05/19.

On 4 April 2019, M. Vartanyan was called as a witness for interrogations of the 4th Military Garrison Investigations Division of the General Investigations Department of the Armenian Investigative Committee. On the same day, the investigator made a decision to involve Maxim Vardanyan as a defendant and a ban on leave was used as a precautionary measure against him. The indictment was filed per Article 327, Part 1 (Avoidance of military or alternative service, military training and mobilization) of the Armenian Criminal Code.

It should be noted that because of his disagreement with the CMMC’s findings, Maxim Vardanyan refused to accept a recruitment notice for military service. A criminal case has been filed based on this fact. The investigator for the criminal case made a decision to involve Maxim Vardanyan as a defendant, and a ban on leave was taken as a precautionary measure against him. The indictment was filed per Article 327, Part 1 of the Armenian Criminal/Penal Code (Avoidance of military or alternative service, military training or mobilization). To examine Mr. Vardanyan’s health, the investigator conducting the proceedings on 4 April 2019 decided to order a comprehensive forensic exam. So far, no information is available on the results of the examination.

3. Administrative Case No. 5/0019/05/19. The claim of Robert (father’s name - Avetik) Hovhannisyan against the Armenian Central Medical Commission for invalidating Hovhannisyan’s health examination findings issued by the CMMC on 12 December 2018 and 24 January 2019. Robert Hovhannisyan has a congenital heart defect.

The claim was filed in the Armenian Administrative Court on 6 February 2019. The citizen, however, withdrew his request for legal assistance after receiving a recruitment notice to join the military. Given the plaintiff’s filing for restitution of his application, the Armenian Administrative Court ruled on 12 February 2019 to dismiss the lawsuit. Hovhannisyan is currently carrying out his compulsory military service.

4. Administrative Case No. 6694/05/19. The claim of Kolya (father's name - Karo) Baghdasaryan against the Armenian CMMC asking for the annulment of his health examination findings issued on 24 July 2019. In 2014, Kolya had an accident, as a result of which he lost consciousness and had a concussion. Subsequently, in 2016 and 2017, the plaintiff again suffered a head injury (details on the cause are not available), after which he complained of frequent headaches, dizziness, seeing dark spots before his eyes, seizures, and loss of consciousness.

The lawsuit was filed in the Armenian Administrative Court on 23 August 2019.

On 26 August 2019, the Armenian Administrative Court made a decision to give the case standing, and a preliminary hearing was scheduled for 16 October 2019

5. Administrative Case No. 0028/05/19. In his application against the Armenian Government, third party: Armenian Ministry of Defense, Armen Sargsyan demanded the annulment of the last paragraph of Article 3 in the Armenian Government Decision N 393-N dating from 8 April 2010. The article addresses "Regulations for compensation of tuition fee costs by military servicemen having graduated from military educational institutions in cases of refusal to do post-educational contractual military service".

The application was submitted to the Armenian Administrative Court on 27 December 2018.

On 15 January 2019, the Armenian Administrative Court decided to dismiss the application on grounds that the applicant had missed the deadline for filing with the court. When dismissing the application filed by Armen Sargsyan for Administrative Case No. 0028/05/19, the court took into account that Armen Sargsyan had been informed on 5 December 2017 that the amount of money owed as compensation for his tuition fees was 2,438,482 AMD. Thus, the last paragraph of Article 3 on "Regulations for compensation of tuition fee costs by military servicemen having graduated from military educational institutions in cases of refusal to do post-educational contractual military service" as defined in Armenian Government Decision N 383-N dating from 8 April 2010 was first applied to Armen Sargsyan through a real administrative act only in 2017: by calculating the amount of tuition fees subject to compensation.

Based on the above circumstances, the Court found that the time-frame set out in Article 193, Part 1 of the Armenian Administrative Procedural Code began after the date of the activity (the real act), i.e. in December 2017, per the relevant provisions of the disputed normative legal act. Based on these facts, the Court concluded that Armen Sargsyan missed the procedural deadlines for his application as per Article 193 of the Armenian Administrative Procedural Code.

An appeal, dated 15 January 2019, was filed against the Court Ruling on dismissal of the application. The appeal was submitted on grounds that regulations in the normative legal act disputed by Armen Sargsyan concerned the

calculation of costs incurred starting from the date of his release from the military. The aforementioned formulation states that the date of discharge from military service is set as the basis for application of the above-mentioned legal norm. The above-mentioned normative legal act may not be applied to a military serviceman earlier than the date of his release from the military. In cases of such wording in legal norms, it is only natural that the legal act cannot be applied to a period preceding the date of release from the military. Thus, the court's claim that, back in 2017, the requirement of the above-mentioned legal norm was applicable to the case of a military serviceman released from the military on 24 September 2018 is indeed unacceptable

Armen Sargsyan was released from the military by Armenian Defense Ministry Decree No. 1569 dating from 24 September 2018. Hence, the date of application of the legal norm in Armen Sargsyan's case is 24 September 2018. Any other interpretation of the date of application of the disputed legal norm as relates to Armen Sargsyan contradicts the wording "as of the date of release from the military" stated in the legal norm.

On 18 March 2019, the Armenian Administrative Court of Appeal made a decision to dismiss the appeal.

There is another Administrative Case No. 1362/05/18 relating to Armen Sargsyan currently under review by the Armenian Administrative Court. In his claim against the Armenian MoD, Armen Sargsyan demands a recalculation of the amount of tuition fees subject to compensation and a reduction of the amount subject to repayment against the amount of work completed on non-working Saturdays during his contractual service.

The case was filed at the Armenian Administrative Court on 8 February 2018.

As for Administrative Case No. 1362/05/18 dating from 1 April 2019, the Administrative Court ruled in favor of Armen Sargsyan's claim, thus obliging the MoD to recalculate the amount of tuition fees subject to compensation and to reduce the amount subject to repayment by the amount of work completed on non-working Saturdays during Mr. Sargsyan's contractual service.

As for Administrative Case No. 1362/05/18 dating from 1 April 2019, the MoD filed an appeal against parts of the ruling. The appeal was given standing by the Administrative Court of Appeals, and a hearing has been scheduled for 5 March 2020.

In the Administrative Case No. 1362/05/18 dating from 1 April 2019, Armen Sargsyan filed a request to the MoD (dated 20 June 2019), asking that the Ministry carry out the part of the ruling not subject to appeal. To date, the MoD has not taken any actions to comply with the ruling and has not responded to Mr. Sargsyan's letter.