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COLLECTIVE MONITORING BY CIVIL SOCIETY

Report on the Analytical Findings of Monitoring Activities

2021

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Report content methodology

This report presents analytical findings of civil society's collective monitoring of the Armenian Government's actions under the EU-Armenia CEPA (hereinafter "CEPA"). The monitoring also covers the Armenian Government's actions under documents developed and adopted under CEPA, including the Republic of Armenia National Strategy for Human Rights Protection, the Judicial and Legal Reforms Strategy, and the Anti-Corruption Strategy. The monitoring report includes also the recommendations presented to the Armenian Government by civil society in the context of actions under the aforementioned documents and the findings of their analysis.

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Constitutional Reforms

- **Development of a draft constitutional reform by the Constitutional Reform Commission**

As a result of the war unleashed by Azerbaijan against the Republic of Artsakh on 27.09.2020 and political tensions in the Republic of Armenia (RA) following the war, the activities of the professional commission on Constitutional reforms were effectively suspended.[1] The members of the commission did not have a general agreement to continue the work. A proposal to create a new commission was presented to the RA Prime Minister on February 2021. The legal process for the creation of a new commission on constitutional reforms or a "council" was launched by the decision of the Prime Minister of 17.12.2021, by which the de facto terminated activities of the previous commission[2] were legally terminated. The competition for the candidates to the council on Constitutional reforms was announced by the Ministry of Justice on 21.12.2021 according to the new decision of the Prime Minister. Representatives of three NGOs and two non-parliamentary political parties were selected on 12.01.2022 through a competition process announced[3] by the RA Ministry of Justice. The announcement[4] on the nomination of representatives of international organisations in the constitutional reform council was also published. The list of individual staff members of the Constitutional reform council and its activities [5] were also approved by the January 27th 111 A Decision of the RA Prime Minister Nikol Pashinyan.
In fact, a significant side of the constitutional changes is substantially changed due to the establishment of the new council. In that respect, the legal side of the representation of both the previous and the planned new commission is ensured. In terms of its content the state policy of the process of constitutional reforms is extremely vulnerable. Neither the previous, nor the current commissions have a study, research signaling guidelines by the state authorities, on the basis of which the constitutional changes will not become the end purpose in themselves. The voiced opinions on the changes of the state administration lack in-depth analysis and evidence and are of superficial and situational nature. There is no justification for the termination of the previous commission, moreover, there is no requirement to submit a report that would prove the efficiency or inefficiency of the use of public resources. The results of the monitoring of the activities of the previous commission show that the teamwork in the commission lacked institutional solutions with coordinated, interconnected legal regulations. The commission did not offer systematic solutions to basic problems.

- **Transitional justice**

Action: Development of a draft law on the "Procedure for the Establishment and Functioning of a Fact-Finding Commission" development of (a package of draft laws, if necessary)

The 2019-2023 Strategy of the RA Judicial and Legal Reforms envisaged to establish a fact-finding commission in the first quarter of 2020. However, the draft legal act of the RA Ministry of Justice on the fact-finding commission was circulated for proposals in May 2020. According to the author Ministry, the draft is in the process of its development. The state policy on the establishment and functioning of the fact-finding commission, rather its absence, indicates the danger of the prospect of other instruments of transitional justice, such as confiscation of property of illegal origin, vetting of the judicial system, and ethics of the management system. The main task of the fact-finding commission is not the

[1] Available at: https://reforms.am/reforms/constitution/#
[2] Decision of the RA Prime Minister of 30.12.2019 N 1986-A
[3] Available at: https://moj.am/article/3044
[4] Available at: https://www.moj.am/article/3038
[5] Available at: https://www.moj.am/article/3057

implementation of punitive actions, but to reveal a high degree of reality from political and public rumors and their legal recording, being the basis for the increase of efficiency of public system, aimed at policy development, which is however not at all realised by public authorities. In fact, it must be noted, that the authorities have failed in the above-mentioned policy.
A total of 32 proposals were submitted by civil society concerning the draft through the unified website for publishing draft legal acts run by the RA Ministry of Justice (e-draft.am). The website is legally considered as one of the compulsory platforms for conducting public discussions. Despite the fact that according to the N 1146-N RA Government decision of 10.08.2018 the author of the draft has to summarise received comments and proposals within 15 days after the completion of public discussion and to publish the results of the summary of public discussion, as well as the amended version of the draft, as of August 2021 the author of the draft has not summarised the received proposals, neither has published the amended version.

Independence and Impartiality of the Judiciary

Some progress has been registered with respect to the independence of the judicial system, which is due to the so-called dichotomy of the judiciary between the ruling and the opposition judges. On the one hand the phenomenon is extremely condemnable, since the principle of the independence of a judge presupposes acting exclusively by the law, on the other hand, such a contradiction in reality, may lead to and results in some improvement of the environment and issuance of quality judicial acts. Unfortunately, the policy of imitation of judicial reform is not accompanied by the realisation of the need to introduce systems of independence of the pre-trial bodies, and the process of ethics verification is not applied in essence.

Action: To amend the RA Judicial Code Constitutional Law in order to clarify the criteria for the evaluation of the work of judges within the framework of guarantees of independence, to improve the control mechanisms stipulated by the law on the judicial examination process

According to the amendments in the "RA Judicial Code" Constitutional Law commissions on the evaluation of the work of judges, training and ethics issues were formed, each of them having functions related to the preservation of rules of conduct, ensuring professional standards of activity, and professional qualities. The adopted legal regulations aimed at ensuring the transparency and accountability of the organisation of activities of the commissions are by all means assessed positively, since they ensure the participation of NGO representatives and mechanisms for ensuring actual impact. Three draft amendments on the "RA Judicial Code" Constitutional Law were presented by the government during 2021, aimed at resolving the issue of the workload of the judiciary, as well as expanding the opportunities of disciplinary proceedings against the judges. The presented drafts do not even contain partial solutions and violate the independence of the judiciary. The mechanism of case allocation to the judges had extremely unacceptable records in 2021, in particular, the defective practice of allocation of criminal cases to judges by hand containing significant corruption risks has continued. The issue has particularly exacerbated in relation with the so-called "political" trials, as well as in a number of cases of initiating disciplinary proceedings by the Minister of Justice against the judges who rejected the requests of applying the detention measure. It is not possible to assess the policy of reducing the workload of the judiciary even partially, since those steps are not calculated in the context of reforms of the legislation leading to controversial legal relations. In particular, the policy of reducing the workload of the administrative court is limited exclusively to increasing the number of judges, which, most certainly, cannot solve the problem. The current legislation regulating tax, urban development,

access to information and other sectoral relations of administrative nature itself creates a favourable environment for increasing the number of disputed relations. In this regard, no state body has initiated a strategic policy to address these systemic issues, analytical capacities are lacking with respect to this issue.

Before the amendments in the "RA Judicial Code" Constitutional Law were introduced on 25.03.2021 the evaluation of the work of judges was conducted by the Supreme Judicial Council based on the criteria defined by the "RA Judicial Code". Article 138 of the "Judicial Code" criteria for the evaluation of the work quality and professionalism of judges include the ability to substantiate the judicial act. The application of the mentioned criterion is problematic and the organisations, that carried out the current monitoring have presented their observations on making changes and amendments in the "RA Judicial Code" Constitutional Law in their published opinion on the draft RA Constitutional Law and adjacent legislation, according to which "without excluding intentional or negligent violations committed by judges in connection with the criterion of substantiation of certain judicial acts, the definition of this criterion as an assessment of work efficiency is inadmissible and extremely risky".

Assessing the substantiation of the judicial act presupposes the establishment of legal appeal procedures, which forms the basis of the establishment of judicial system. Definition of such a criterion contradicts the most important principle of the independence of a judge and creates conditions for putting pressure on judges. It must be noted, that from the point of view of the criterion of substantiation of the judicial act, the issue of legal qualification of a judge intentionally or by negligence committing violations in some cases has been resolved by relevant articles of the criminal law, such as Article 352 of the RA Criminal Code, which states that "making an evidently unfair judgment, sentence or other judicial and other act equals to criminal activity[6]".

The Venice Commission referred to the regulations,[7] governing the evaluation of judges' activities and noted that they should clearly define that the evaluation of the ability of the judge to administer and regulate justice, such as keeping the deadlines, timetables, and other conditions, should be taken into account together with the workload and other similar circumstances.[8] At the same time, it should be noted that the introduced legislative changes do not provide for a regulation and procedure for appealing the decision on the evaluation results, which is also problematic.[9]

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[6] Published opinion on the draft RA Constitutional Law and adjacent legislation for changes and amendments in the "RA Judicial Code" Constitutional Law is available here

[7] According to the protocol of the Venice Commission it is important that the assessment is mostly qualitative and focuses on the professional qualities of the judge. The assessment of the judge should not be based on the content of the judgements and decisions made by the judge. Moreover, it should be avoided to use such qualitative evaluation criteria, as returning the claims and their justification (CDL-AD(2014)007, Joint opinion on the draft law amending and supplementing the judicial code (evaluation system for judges) of Armenia): The Venice Commission determined that the purpose of the regular assessment of the judge is to identify his individual needs, aimed at persuing his qualificational development and promotion (CDL-AD(2015)007-e): Regular assessments are an important tool in the activities of the judge, in order to allow him to improve his work and can be used as a basis for promotion. According to the recommendation of Kiev the assessment of the judges can be used for the improvement of various aspects of their professional activities, as well as for possible promotion. Regular assessments of the judges, that may lead to their dismissal or other sanctions do not correspond to their life service. (OSCE/ Kyiv Recommendations on Judicial Independence in Eastern Europe):

[8] See CDL-AD(2017)018, Bulgaria - Opinion on the Judicial System Act.

[9] CCEJ has noted that a process needs to be established, that would allow to appeal the evaluations in an independent body or in the court. Hence, the evaluated judge should have a possibility to make his contribution to the evaluation process in such a way, that this contribution is useful. (…) The evaluated judge should have a right to efficiently appeal unfavorable assessment, especially when it is related to the "civil rights" of the judge with respect to Article 6 of the European Convention on Human Rights and Fundamental Freedoms. These rights to efficiently appeal are particularly important, when the assessment can have serious consequences for the judge (See CCEJ N 17 (2014) opinion, paragraph 4 accessible here https://rm.coe.int/no17-in-armenian-17-2014-/16808e6529)

According to parts 1 and 2 of Article 139 of "Judicial Code": 1. The assessment of the work of judges is carried out by the Commission on the Evaluation of Judges Activities on the basis of criteria determined by this Code. 2. The SJC defines the methodology for the evaluation of the activities of judges, including evaluation indicators of the assessment criteria determined by Article 138 of the present Code, the procedure for the collection of necessary data for the evaluation and other details necessary for the evaluation of the work of a judge.

In August 2020 the RA Supreme Judicial Council adopted SJC-53-N-9 Decision on "On defining the procedure and timetable for the assessment of the work of judges, procedure for the collection of data, necessary for the assessment, methodology, scales, and the evaluation sheet". According to the latter, the evaluation indicators of the criteria determined by Article 138 of the Judicial Code were defined. It should be noted that in some cases the indicators deviate from the established criteria and positions expressed by the CCEJ, in particular, the decision defines the indicators of the ability to effectively manage the workload of the department, dealing with the assessment of judge's work and work planning, which, among others, provides for the ratio of appealed and annulled (cancelled) judicial acts and the number of judicial acts overturned (annulled) on unconditional grounds for reversal, and points were defined accordingly. First of all, it is not clear what the number of overturned judicial acts and the ratio of the latter to appeals has to do with the ability to effectively manage the workload and work planning. In addition, in its opinions N 11 (2008) and N 17 (2014) the CCEJ considered it problematic to base the assessment on the number or percentage of judicial acts that were overturned or appealed.[10]

Hence, the procedures for the activity of the evaluation committee and for the assessment of the work of judges have been changed, however, taking into consideration the positions set forth in this sub-paragraph based on international standards (introduction of the procedure for appealing the evaluation results, changing the criterion related to the "ability to substantiate the judicial act", and not considering the overturned judicial acts as an evaluation indicator) the reasonable ratio between the criteria of the assessment of the work of judges and the criteria of the independence of judges and the inadmissibility of arbitrary interference will be determined.

Article 31 of the Law on Making Amendments to the "RA Judicial Code" Constitutional Law adopted on 25.03.2020 envisages supplementing the Code with Article 105.1: "1. The results of the written test can be appealed to the appeals commission within fifteen days after the publication of the results. 2. The appeals commission with the relevant specialisation shall be formed within five days after receiving the first appeal against the results of the examination in the given specialisation, consisting of two judges and one legal scholar, who will be selected through a lottery from five candidates with the particular specialisation, proposed by and with the consent of the Commission on Education Issues and at least three candidates for legal scholars in the relevant field of law, proposed by the Authorised Body. Members of the evaluation commission cannot be included in the appeals commission. 3. Provisions of Article 104 apply to the procedures related to the membership in the appeals commission, implementing the activities of the commission, payment to the members of the commission, termination of their responsibilities, as well as termination of the activities of the commission, and provisions of Article 105 apply to the revision of the results of the appeal. 4. The appeals commission examines the appeal and makes a decision on it within five days after the expiration of the deadline for the appeal. The appeals commission may reject or uphold the appeal against the results of the examination, in whole or in part. 5. The results of a written examination may be appealed through a court procedure on the basis of procedural violations, if they were appealed to the appeals commission".

[10] See CCEJ N 11 (2008) opinion, paragraph 57 and N 17 (2014) opinion paragraph 35.

Thus, the procedure for appealing the results of the examination has been introduced, but it must be noted, that it limits the possibility to appeal the results of the examination through the court procedure. In particular, paragraph 5 of Article 105.1 determines the right to appeal the results of the examination through a court procedure only in case of violation of procedures, and not as such and after the appealing to the appeals commission. Restricting the grounds for appealing the results of the examination, in so far, by restricting the possibility to appeal these results as such through the court procedure, is not lawful and limits the exercise of the right defined by Article 61 of the Constitution.

Referring to the issue of appeals commission envisaged as an alternative means to appeal the examination results, it must be noted that the Constitutional Court by its SDO-1571 decision stipulated, that by using alternative means of dispute resolution for reducing the workload of the courts and/or for pursuing other legitimate purposes by introducing various out-of-court institutions and procedures, has declared that "it has to be exercised in the light of the legal positions on access to justice and fair trial of the European Court of Human Rights and the Constitutional Court".[11] In addition, the responsibility of members of the evaluation commission to substantiate and justify specific assessment assigned to the candidate's response has not been determined, which in practice may lead to the arbitrary evaluation of the candidate's work.

The Law on Making Changes and Amendments to the "RA Judicial Code" Constitutional Law adopted on 25.03.2020 introduced changes in the procedure of adopting decisions by the Supreme Judicial Council, in particular, Article 24 of the Law introduced changes in Article 94 of the Code, defining that "the decisions of the Supreme Judicial Council are adopted through open vote by the majority of the votes of the total votes of the Council members, except the cases envisaged by this Code". Paragraph 6 of the same Article envisages that "decisions of the Supreme Judicial Council to subject a Judge and a member of the Supreme Judicial Council to a disciplinary liability are taken in the consultations room through the open vote". (…). According to paragraph 1 of Article 109 of the "Judicial Code" "an open voting takes place in the consultations room of the Supreme Judicial Council after the completion of the final discussion of the interview results, during which each member of the Supreme Judicial Council votes "for" or "against" according to his or her inner conviction". According to paragraphs 6 and 8 of Article 108 of the Judicial Code: "6. During the interview members of the Supreme Judicial Council are provided with a questionnaire, with the evaluation criteria defined by the present article and the decision of the Supreme Judicial Council. Each member of the Supreme Judicial Council evaluates each candidate according to his or her own conviction, mentioning his or her observations related to the evaluated features. 8. During the preparation of the list of candidates for the position of a judge, during voting the members of the Supreme Judicial Council take into account the results of the written qualification test and of the oral interview, results of the psychological test, and the advisory opinion on the ethics, provided by the Corruption Prevention Commission concerning the candidate."

Thus, despite the fact that the "RA Judicial Code" determines that the members of the Supreme Judicial Council take into account the results of the written qualification test and of the oral interview, results of the psychological test, and the advisory opinion on the ethics, provided by the Corruption Prevention Commission concerning the candidate, nevertheless, in the absence of the legislative requirement for the rationale for evaluation in the Code, the evaluation of candidates for judges by the members of the Supreme Judicial Council is left to the internal conviction of each member. As a result, the evaluation is unpredictable, unclear for the candidate and unsubstantiated.

[11] Available at: https://concourt.am/armenian/decisions/common/2020/pdf/sdv-1571.pdf

From perspective of transparency, the regulation envisaged by point 7 paragraph 1 of Article 23 of the "Law on Corruption Prevention Commission" is considered problematic, according to which "7) in the cases envisaged by the law and according to the procedure, with relation to the candidates to the members of the Supreme Judicial Council, candidates to the judges of the Constitutional Court, candidates to the position of a judge, as well as in other cases stipulated by the law, presenting the advisory opinion on ethics, should not be published." Thus, the presented opinions on ethics related to the candidates to the judge's position are not public, which creates obstacles for the transparent implementation of that process. In addition, the opinion is considered by the members of the Supreme Judicial Council for the preparation of the list of the candidates to the position of a judge, in particular, according to paragraph 8 of Article 108 of the Judicial Code: " 8. During the preparation of the list of candidates for the position of a judge, during voting the members of the Supreme Judicial Council take into account the results of the written qualification test and of the oral interview, results of the psychological test, and the advisory opinion on ethics, provided by the Corruption Prevention Commission, concerning the candidate." Thus, the SJC has an obligation to consider a document, which is not public, and which is a violation of a principle of transparency in the process of decision making by the Supreme Judicial Council.
Considering the analysis above, we propose to amend the regulation envisaged by point 7 paragraph 1 of Article 23 of the Law on "Corruption Prevention Commission", by determining that in the cases determined by the law and the procedure, that candidates for the members of the Supreme Judicial Council, candidates to position of a judge at the Constitutional Court, candidates to the position of a judge, as well as in other cases stipulated by the law, present advisory opinion on ethics, which can be published.

Action: Ensuring the involvement of international experts in the process of selection of judges, including candidates to the position of judges of the Anti-Corruption Court, envisaged by this strategy.

Helsinki Citizens Assembly Vanadzor, a member of current collective monitoring, sent a questionnaire to the RA Ministry of Justice, and the latter has largely presented the issue of involvement of international experts in the selection process of the candidates for the judges of the Anti-Corruption Court, while the issue of involvement of international expertise in the selection of other judges, in general in the selection of candidates for the judges positions remained unanswered. At the same time, following information named "notes" is available on the implementation of current activity in the second bi-annual report of 2020: "Make amendments and changes in the "RA Judicial Code" Constitutional Law. Nevertheless, in order to ensure the involvement of international experts in the selection of candidates for judges, including the judges of the Anti-Corruption Court, envisaged by this strategy, it is planned to introduce changes through other draft legislative amendments". The question posed by organisation, inquiring in which legal act the planned amendment will be done remained unanswered by the RA Ministry of Justice.

The National Assembly on 14.04.2021 adopted as a whole in the second reading the laws on "Changes and Amendments in the "RA Judicial Code" Constitutional Law" and in the adjacent legislation[12], which envisage the establishment of a specialised Anti-Corruption Court. The correspondence of the mentioned legal package to the Constitution is currently disputed in the Constitutional Court. According to Article 11 of the Law on Changes and Amendments of the "RA Judicial Code" Constitutional Law: "44.1) In case of necessity of participation of experts in the qualification process carried out for the purpose of completing the list of candidates for the judges' position, the procedure for experts' involvement and requirements towards them are defined."

[12] Accessible at: http://www.parliament.am/register.php?ID=606#r9374

According to paragraph 10 of Article 19 of the Law "Within one month after the entry into force of this Law, the SJC shall establish the procedure for involving experts in the qualification examination process for the list of candidates for promotion to the relevant specialisation of judges of the anti-corruption and civil and criminal appeal courts in accordance with paragraphs 11-15 of this Article. The Judicial Department shall arrange a preliminary interview of the candidates with the experts appointed in accordance with the procedure, determined by the Supreme Judicial Council, within ten days but not later than five days before the interview, carried out for completing the list of candidates for the promotion of the judges with relevant specialisations of the Anti-Corruption and civil and criminal appeal courts, in accordance with the procedure established by the experts of the Supreme Judicial Council."

3. The National Assembly on 14.04.2021 adopted as a whole in the second reading the draft RA Law on "Amendments in the RA Law "On Remuneration of Persons Holding State Positions and State Service Positions". Correspondence of the mentioned law to the Constitution together with the laws on "Changes and Amendments in the "RA Judicial Code" Constitutional Law and in the adjacent legislation is currently under discussion in the RA Constitutional Court in accordance with the request of the RA President. A decision on the correspondence of the laws to the Constitution has not been made yet. The drafts were published for public discussion for the period 31.07.2020-15.08.2020 on the unified website for the publication of draft legal acts of the RA Ministry of Justice. 26 proposals were presented by the civil society with relation to the drafts, results of which were summarised in the summary sheet.[13] On 03.06.2021 the Government approved the proposal of the Supreme Judicial Council of 11.05.2021 to increase the number of judges in the RA Administratice Court of Appeal by three judges, RA Civil Court of Appeal by three judges, and the RA Bankruptcy Court by four judges.

On 08.07.2021 the Government approved the proposal to increase the number of judges in the RA First Instance Courts of General Jurisdiction and in the RA Criminal Court of Appeal and approved the reallocation in the "RA Law on the State Budget of 2021". The Government approved draft decision on making changes and amendments in the N 2215-N RA Government Decision of 30.12.2020, which envisages to increase the number of judges in the First Instance Courts of General Jurisdiction by 17 judges with a criminal specialisation (in Yerevan and in the provinces) and by three judges in the RA Criminal Court of Appeal. It must be noted, that the Ministry of Justice in its quarterly Report for the second quarter of 2020 has mentioned, that, based on the proposal of the Supreme Judicial Council, a government decision with the consent to increase the number of judges of the Administrative Court of Appeal by six judges, and of the Yerevan First Instance Courts of the General Jurisdiction by six judges has been prepared. However, as it was mentioned earlier, the Draft has determined a regulation to increase the number of judges in the Administrative Court of Appeal by three judges, in the RA Civil Court of Appeal by three judges, and in the RA Bankruptcy Court by four judges.

The issue of increasing the number of judges with civilian specialisation in the RA First Instance Courts of General Jurisdiction (in Yerevan and in provinces) remains unclear, since no draft has been published for public discussion in that regards, while the reports published by the Ministry of Justice do not contain clear information on that either, despite the fact that the major issue of the workload and of the need of increasing the number of judges exists also in the First Instance Courts of General Jurisdiction with a civilian specialisation as well. Moreover, Annex 1, which is considered as a guiding document for the Strategy, mentions an example with relation to the mentioned process of a workload of a judge on civilian cases, in particular, "the average annual workload of one judge on civilian cases in Yerevan in 2013 was 632 cases, while in 2018 it is 1290 cases, and in the provinces in 2013 it was 469 cases and in

[13] Available at: https://www.e-draft.am/projects/2644/digest?page=1

2018 – 1447 cases. The average annual workload of a judge on criminal cases in Yerevan was 66 cases in 2013, and 81 case in 2018, and in the provinces 74 cases in 2013 and 84 cases in 2018."

Activities of the Supreme Judicial Council

- **"RA Judicial Code" Constitutional Law**

Action: To envisage in the RA Judicial Code a possibility for a judge to appeal the decisions of the Supreme Judicial Council on the termination of the authority of the judge and subjecting the judge to a disciplinary liability.

The Constitutional Court notes, that in the context of all functioning constitutional legal regulations there is no legal possibility to appeal the decisions of the SJC on the issue of a disciplinary liability of a judge in any of the courts functioning in RA, since that would contradict to the status of the SJC as an independent constitutional body. In addition, the review of these decisions, thereby resolving the issue of subjecting a judge to a disciplinary liability, is beyond the scope of the constitutional functions of the courts in RA. The Constitutional Court finds, that the SJC decisions do not envisage a possibility of appealing the fact of the disciplinary liability of a judge through court results from the existing constitutional and legal regulations and does not violate the right of a person to judicial protection and fair trial.

Action: To develop legal amendments aimed at increasing the salary of prosecutors and related additional payments as well as increasing the number of prosecutors.

The RA Ministry of Justice informed about the progress of the activity on 14.09.2021, according to which the relevant department[14] dealing with the issues of Confiscation of Property of Illegal Origin was created in the structure of the RA Prosecutor General's Office on 03.09.2020. The increase of the number of prosecutors is envisaged by the RA draft law[15] on making amendments to the "RA Law on Prosecutor's Office" adopted by the RA NA in the second reading and as a whole on 14.04.2021. It is envisaged to establish a responsible unit in the structure of the RA Prosecutor General's Office, which will control the legality of pre-trial criminal proceedings by the Anti-Corruption Committee. The strategic documents envisage a remuneration increase for the prosecutors, which will be implemented through stages.

The RA Law on making amendments to the law on "Remuneration of Persons Occupying State Positions and State Service Positions" of 16.04.2020 HO-247-N and the RA Law on making amendments to the law on "Remuneration of Persons Occupying State Positions and State Service Positions" of 25.06.2020 HO-342-N envisage the highest remuneration for the prosecutors of the department dealing with the cases of the Confiscation of the Property of Illegal Origin. The rate coefficient of the remuneration of the head of the department dealing with the Confiscation of Property of Illegal Origin is 10.00, and the rate coefficient of the remuneration of a prosecutor dealing with the Confiscation of Property of Illegal Origin is 9.00. At present the rate coefficient of the remuneration of the prosecutor of Yerevan equals to 9.00, while the rate coefficient of the remuneration of the prosecutor of the Yerevan administrative region

[14] With the following structure: four prosecutors, two senior prosecutors, deputy head of the department, and the head of the department, five economists and a support division.

[15] Correspondence of the present law on "Making Changes and Amendments to the "RA Judicial Code" Constitutional Law along with the constitutional law and adjacent legislation is under the dicussion in the Constitutional Court, based on the request of RA President.

equals to 8.00, and the rate coefficient of the remuneration of the prosecutors in the provinces and in the districts of Yerevan equals to 6.00. The Law on making changes and amendments in the RA Law on "Remuneration of Persons Occupying State Positions and State Service Positions" HO-152-N was adopted on 24.03.2021. Article 4 of this Law states, that "due to peculiarities in special high-risk and requiring specialisation positions, additional allowances are paid".

The draft decision of the RA Government[16] "On the amount and procedures on payment of allowances due to peculiarities in special high-risk positions and requiring specialisation positions, as well as determining the scope for the special high-risk and requiring specialisation positions" was published for public discussion for the period 01.11.2021 – 16.11.2021. The draft proposes to provide allowances according to positions with a percentage increase based on the position rate. It is proposed to set the increase for the RA Prosecutor General at 95%, for the RA Deputy Prosecutor General at 100%, for the RA Deputy Prosecutor General (coordinating the work of the Department for Supervision of the Legality of the Pre-Trial Proceedings in the RA Anti-Corruption Committee) at 120%, for the RA Deputy Prosecutor General (coordinating the sphere of functions aimed at confiscation of property of illegal origin) at 90%, and of the prosecutors of the newly established Department of Supervision of Legality of Pre-Trial Proceedings of the Anti-Corruption Committee of the RA Prosecutor General's Office, at 100%. The increase of the prosecutors' salaries and corresponding allowances and increase of the number of prosecutors should not be limited to the control of corruption related criminal cases and carrying out the supervision. It turns out, that the goal of the authorities is not the increase of the salaries of the prosecutors in general, but to set a higher salary than it is envisaged in the case of other prosecutors, having the similar status. The Constitutional Court has stated numerous times that "discrimination exists, when a differentiated treatment of a person or persons under the same legal status is exercised, in particular, they are deprived of this or that right, or they are restricted, or they are granted privilleges." We consider, that within this action steps should be taken to review the salary rates and allowances of all prosecutors of the RA Prosecutor's Office, as well as for proportionate, justified and substantiated increase.

Action: To implement the capacity building activities of investigators for investigating corruption, economic, official and other crimes, to work with electronic evidence and other fields.

In response to the enquiry carried out in the framework of this monitoring, the Ministry of Justice informed, that in the period 2020–2021 following trainings for the investigators were organised (training – number of investigators): investigation of corruption cases (45), investigation of cases of official corruption (124), qualification and peculiarities of investigation of cybercrimes (53), corruption related financial crimes and fight against transnational organised crime (38), methods of investigation of crimes related to property and economic activities (45), investigation of crimes related to intellectual property and fight against them (17), main issues related to application of electronic evidence in the criminal trial (88), corruption related financial crimes and fight against transnational organised crime (31), current issues in the fight against corruption and methods of investigation of corruption related crimes (12), qualification of crimes related to legalization of property obtained through criminal means (money laundering) and methods of investigation (12), main issues related to the return from abroad of property, assets and other valuables obtained through criminal means (12). It must be noted, that the strategic objective of "Reform of investigation bodies" refers also to the investigation department of the National Security Service. The Helsinki Citizens Assembly Vanadzor has indicated numerous times the need of structural changes within the National Security Service (NSS), in order that it

[16] Available at: https://www.e-draft.am/projects/3685/justification

corresponds to the requirements of a democratic state and the rule of law, and not to non-transparent and illegal activities of investigators of the investigation department of that body.[17]

- **Authorities of a judge of the SJC**

Action: To envisage in the RA Judicial Code a possibility for a judge to appeal to the SJC the decisions to terminate the authorities of a judge and subject the judge to a disciplinary liability.

The draft laws on making changes and amendments to the "RA Judicial Code" Constitutional Law and on making changes and amendments to the RA Constitutional Law on the "Constitutional Court" together with the adjacent legislation were published for public discussion on e-draft.am website in the period 09.08.2019-26.08.2019.[18] The RA NA adopted the "draft aw on making changes and amendments to the "RA Judicial Code" Constitutional Law" and the adjacent legislation in the second reading and as a whole on 25.03.2020. The draft envisages a change related to the opportunity for a judge to appeal a disciplinary liability. The adopted regulation does not mean an appeal of the SJC decision, but a review of the case by the same body only due to newly appeared circumstances; the legality and content of the decision are not examined by another body on the basis of the same facts and evidence.

An efficient appeal procedure needs to be envisaged with respect to the adopted disciplinary decisions. The Venice Commission stresses the importance of the appeal body, determined by the law. The decisions need to be reviewed by such a body, which is independent and provides all the guarantees for the judicial processes/fair trail.[19] The Venice Commission mentioned that it welcomes such regulations, which envisage the participation of the person, who brought the appeal in the trial. Nevertheless, some indicators for participation need to be envisaged, as well as the consequences of information dissemination. The judge must be aware of the pre-trial period and need to have an opportunity to receive a consultation during all the stages of the trail.[20] At the legislative level, the biggest shortcoming and problem with the issue of a disciplinary action against the judge is the lack of mechanisms for appealing a decision. Thus, the Judicial Code determines, that the decision of the SJC on a disciplinary liability against a judge enters into force from the moment of its publication and is final. It is noteworthy, that this approach and the concern was also expressed in the opinion issues by the Venice Commission on the RA Judicial Code (194). In particular, the Commission noted, that appealing the decision concerning the disciplinary liability to the Constitutional Court cannot be considered as a review. First of all such a possibility for appeal has a rather narrow scope and the issue of constitutionality does not often arise in such cases. Moreover, as the Venice Commission has already stated, the examination of appeals against disciplinary decisions is not one of the main functions of the Constitutional Court. Consequently, the Constitutional Court is not a body, which examines such appeals and filing an appeal to the Constitutional Court by a judge, who has been subjected to a disciplinary liability, is not a proper mechanism for appealing a decision on disciplinary liability. As a consequence, the lack of an appeal system is a matter of concern. The Commission reaffirmed the necessity of an appeal mechanism. As a solution either the Cassation Court, although the Constitution does not provide such an opportunity, or

[17] See following links: https://hcav.am/15-01-19/; https://hcav.am/13-5-19-lragir/; https://hcav.am/mamul-29-11-19/; https://hcav.am/azatutyun-12-12-19/; https://hcav.am/sashik-sultanyan-30-07-21/

[18] Accessible at: https://www.e-draft.am/projects/1852

[19] See: Venice Commission Opinion on the laws on the Disciplinary Liability and evaluation of Judges of the Former Yugoslav Republic of Macedonia, No 825/2015.

[20] See Joint Opinion of the Venice Commission and the Directorate of Human Rights of the Directorate General of Human Rights and Rule of Law of the Council of Europe on the Draft Law on Making Changes to the Law on Disciplinary Liability and Disciplinary Proceedings of Judges of General Courts of Georgia.

the establishment of a separate panel within the SJC structure. The author of the draft is the Ministry of Justice.

- **Independence of a judge of the SJC**

Action: To clarify the rules of conduct of a judge and the basis for subjecting a judge to a disciplinary liability in the "RA Judicial Code" Constitutional Law, the Law on "Corruption Prevention Commission", and the Law on "Public Service", to add such rules of conduct, violation of which questions the independence of a judge, impartiality and honesty, to determine necessary structural guidelines for the evaluation of the judges ethics, aimed at:
a. submitting the declarations of all the judges of RA on their owned property, incomes, profits, expenses within the legal period determined by the members of the SJC Council to the Corruption Prevention Commission,
b. examination by the Corruption Prevention Commission of declarations presented by all the judges of the Republic of Armenia and members of the SJC.
c. discovering by the members of the SJC of the problematic declarations from the point of view of ethics, presentation of relevant materials to the SJC for discussing the issue of subjecting a judge to a disciplinary liability on the basis of that,
d. discovery of the problematic declarations from the point of view of the judges' ethics, on the basis of that initiation of a disciplinary action and presentation to the SJC.
e. Efficient examination of the above-mentioned declarations by the SJC.

The National Assembly on 25.03.2020 adopted as a whole in the second reading the laws on "Making Changes and Amendments in the "RA Judicial Code" Constitutional Law" and in the adjacent legislation,[21] which envisages to include submitting the declaration about the property, income and profit as a general rule of the judges' conduct, as well as, in the cases and according to the procedure stipulated by the law on "Corruption Prevention Commission" to present to the Corruption Prevention Commission appropriate documents or clarifications, which confirm that the changes in the judge's property (increase of property and (or) decrease of liabilities) is reasonably justified by the legal incomes, or the judge does not have undeclared or partially declared property, or that the source of income is legal and trustworthy. This is relevant also for the SJC members. In case of violation of the rules of the above-mentioned conduct only the Corruption Prevention Commission is able to initiate a proceeding of a disciplinary liability against the judges and members of the Supreme Judicial Council.

Reforms of the Law Enforcement System: The Investigative Committee

- **Increasing number of prosecutors, remuneration, allowances**

Action: To develop legal amendments aimed at increasing the salaries of prosecutors and allowances determined by that and increasing the number of prosecutors.

Starting from 25.05.2020 following amendments and changes were made in the Law on "Remuneration of Persons Occupying State Positions and State Service Positions" and approved on 29.12.2020. To

[21] Available at: http://parliament.am/draftreading_docs7/K-428_DR2.pdf

amend Article 5 with the following content in part 2.2: "2.2 The basic salary of persons occupying state positions or state service positions in 2021 may not be less than 70% of the nominal amount of the minimum monthly salary determined by the law". Approved on 10.12.2021. To amend Article 5 with the following content in part 2.3: "2.3 2 The basic salary of persons occupying state positions or state service positions in 2022 may not be less than 70% of the nominal amount of the minimum monthly salary determined by the law".

Action: To develop legal amendments aimed at increasing the salaries of investigators and allowances determined by that and increasing the number of investigators.

Thus, following changes and amendments were made in the chapter "Investigative Committee" of the table of Annex 1 of the Law on "Remuneration of Persons Occupying State Positions and State Service Positions". Approved on 01.07.2021, the amendment with the following content and with new lines was made "The adviser of the Chairman of the Investigative Committee - 4.75 (coefficient), assistant of the Chairman of the Investigative Committee – 4.50, press secretary of the Chairman of the Investigative Committee – 4.50, assistant of the Deputy Chairman of the Investigative Committee – 3.50. Approved on 24.03.2021 the Law was amended with the following content of Article 14.4 Remuneration of persons occupying autonomous positions in the Anti-Corruption Committee: 1) The coefficients for calculating the official rates of persons holding autonomous positions in the Anti-Corruption Committee are determined by Annex 1 of this Law. 2) A person holding an autonomous position in the Anti-Corruption Committee is paid an allowance for holding an autonomous position in the Anti-Corruption Committee, Investigative Committee and (or) in the Special Investigative Service (including holding that position as a special state servant) of two percent for each year of service as a prosecutor, investigator in the prosecutor's office or an investigator. 3) A person holding an autonomous position in the Anti-Corruption Committee receives an allowance for the rank. 4) The total amount of the allowance paid to the person holding an autonomous position in the Anti-Corruption Committee may not exceed the amount determined according to part 2 of Article 6 of the pesent Law. 5) A person holding an autonomous position in the Anti-Corruption Committee, as a person holding a particularly risky and requiring a specialisation position, shall be paid a supplementary allowance in the amount of one hundred percent of the rate in accordance with the guidelines determined by this Law".

The Law was amended with the following content in Article 16.1 Remuneration of staff of the Anti-Corruption Committee: 1) The coefficients for calculating official rates for the staff of the Anti-Corruption Committee (hereafter staff of the Anti-Corruption Committee), except for the persons mentioned in Article 14.4 of this Law, are defined by Annex 1 of this Law. 2) The employee of the Anti-Corruption Committee receives an allowance for the rank. 3) The employee of the Anti-Corruption Committee, as a person holding a position requiring specialisation due to complications and particular risks, shall receive an allowance in the amount of one hundred percent of the respective rate in accordance with this Law".

After amending the "Judicial Department" chapter, amendment was made by adding a new "Anti-Corruption Committee" chapter with the following content: Head of the Department of the Anti-Corruption Committee, including the Head of the Regional Department - 8.00, Deputy Head of the Department of the Anti-Corruption Committee, including the Deputy Head of the regional department, senior investigator of the Anti-Corruption Committee for the particularly important cases - 7.75, investigator of the Anti-Corruption Committee for particularly important cases, Head of the Department of the Anti-Corruption Committee - 7.50, Deputy Head of the department of the Anti-Corruption Committee, senior investigator of the Anti-Corruption Committee - 7.25, investigator of the Anti-Corruption Committee - 7.00, senior detective of the Anti-Corruption Committee - 4.50, adviser of the Chairman of the Anti-Corruption Committee - 5.00, press secretary of the Chairman of the Anti-

Corruption Committee - 5.00, assistant of the Chairman of the Anti-Corruption Committee - 4.50, assistant of the Deputy Chairman of the Anti-Corruption Committee - 3.50.

- **Developing the capacities of investigators**

Action: To implement capacity building of investigators in investigation of corruption, economic, official and other crimes, in working with electronic evidence and other areas.

To include in the curricula for 2021 of the RA Academy of Justice among other topics following ones: 1) "Annual retraining program of investigators of the RA Special Investigative Service" – current issues in the fight against corruption and methods of investigation of corruption crimes, criminal-legal characteristics of torture and peculiarities of investigation and others. 2) "Retraining program of persons holding autonomous positions (investigators) in the RA Investigative Committee" – investigation of corruption cases, prevention of violence against women in Armenia and domestic violence and fight against that, qualification of cybercrimes and peculiarities of their investigation, financial crimes of corruption nature, and fight against transnational organised crime, characteristics of violence against children and peculiarities of investigation, major issues in the use of electronic evidence in the criminal proceeding and others[22].

Reforms of the Law Enforcement System: Criminal Police, Patrol Police and Border Guard Service

- **Ministry of Internal Affairs**

Action: Establishment of the Ministry of Internal Affairs. Establishment of Patrol Police (Patrol Service, PS). Removal of patrol service functions from the functions of the militarised unit of the police. Legal increase of public accountability of the implementation of release functions of persons, vehicles, animals and other goods at the state border (by transferring the functions to the MIA or other means). Creation of legal guarantees for protection of personal data of citizens by the Operational Management Center. Transfer of a number of police functions and demilitarization of services provided to the citizens to the civil servants of the MIA.

The 2020-2022 police reform program envisaged establishment of the Ministry of Internal Affairs (MIA) already in 2021, which should include in its structure the migration services and the Police, which presupposed that the National Assembly should have adopted the package of draft laws related to the "Law on Making Amendments on Structure and Activities of the Government[23]". Despite the fact that the package has been presented and approved by the Government[24], nevertheless, it was not included in the agenda of the National Assembly of the 7th convocation, and after the National Assembly of the 8th convocation it was again returned to the Prime Minister's Office. At the same time a new deadline[25] for the establishment of the MIA was determined by the N 1902-L, annex 1RA Government decision of 18.11.2021 on "Approving the RA Government 2021-2026 Action Program". Despite the circulation of

[22] Available at: https://www.justiceacademy.am/assets/attachments/qnnich_verap_%202021.pdf
[23] Available at: https://www.e-draft.am/projects/2980/justification
[24] Available at: https://www.e-gov.am/gov-decrees/item/35996/
[25] Available at: https://www.e-gov.am/gov-decrees/item/37300/

the new legislative package, the MIA de facto has not been established yet, moreover, the deadline for that process was determined 2023.

According to the 2020-2022 police reform program, the phased operation of the patrol service throughout the whole country was planned to be completed in the first half of 2022,[26] and in Lori and Shirak regions from January 2022. However, the patrol service was launched in Yerevan in July 2021, and in Shirak and Lori regions it will be launched presumably not earlier, than April 2022. Currently the training stage of Shirak and Lori is in process, and according to the RA Government 2022-2026 Action Program[27] the deadline has been postponed again. The new deadline for the operation of the Patrol Service in the whole territory of the Republic of Armenia was determined 2024.

A number of various issues arose during the different stages of operation of patrol service. One of the legal issues was the issue of cars. Patrol cars were equipped with blue and red flashing beacons, in violation of the government decision. Only in the framework of this monitoring and voicing of the problem by the CSOs, the n 2329-n RA Government decision of 29.12.2005 was amended on 30.09.2021, according to which transport means of the "road police" service of the RA police and of the patrol service of the RA police having color scheme may also be equipped by blue or blue and red flashing beacons. Similar problem existed in relation to the arm stripes of the patrol officers. The patrol service is the only unit of the police, whose arm stripe has not been defined by a legal act, contrary to the requirements of the law. With respect to this, even though the police with some months delay has circulated the draft decision defining the uniform and the arm stripe, however it has not been adopted yet, and it turns out that the patrol officers are carrying out the service in illegal uniform and with illegal arm stripes. In addition to all this, there is a number of issues related to the technical equipment of patrol cars, the communication means, speedometers, video-computers recognizing the number plates of the cars were delayed.

The recruitment of Patrol officers in Yerevan was carried out through an open competition, the announcement[28] of which was published on 06.07.2020 both on the official websites[29] of the RA Police Educational Complex and the RA Ministry of Justice, as well as other platforms. The recruitment of patrol officers in the regions of Lori and Shirak was also carried out through an open competition. An Admission Commission, consisting of the representatives[30] of executive authorities, police, legislative body and the NGOs, was created for approving all the competition documents, monitoring and finalization of the process.

The whole process of entrance exams for the applicants to the Patrol Service, as well as, the interviews was open and transparent for observer groups, international organisations, and NGOs. In parallel to the ongoing interviews, each of the seven commissions consisted of one representative of the RA Ministry of Justice, RA Police, international organisations, NGOs, as well as, one pshychologist.[31] Despite the open and transparent process, however, the public awareness campaigns were deficient, which can be proved by the low rate of participation of women among the applicants, as well as among the patrol officers and the trainees. Although it was originally intended that about 30 percent of patrol officers in Yerevan should be women, nevertheless the proportion of female applicants was too small, resulting that only 6-7% of patrol officers were female. The similar problem exists for the already admitted trainees of Shirak

[26] Available at: https://www.arlis.am/documentview.aspx?docID=141877
[27] Available at: https://www.e-gov.am/gov-decrees/item/37300/
[28] Available at: https://www.youtube.com/watch?v=3Hx5pfZD5fc&feature=youtu.be&ab_channel=POLICERAV_ostikanutyun
[29] Available at: https://www.moj.am/article/2755
[30] Among others from a member organisation, implementing this joint monitoring "Union of Informed Citizens" NGO
[31] The "Helsinki Citizen's Assembly Vanadzor Office" member organisation of this joint monitoring represented NGOs in other commissions

and Lori regions, where 570 places were determined for the admission-competition, out of those 258 places for the Lori region (77 places for female applicants (officers)), 257 places for the Shirak region (77 places for female applicants (officers)), 55 places for Yerevan (16 places for female applicants (officers)). However, eventually 19 female representatives passed to the training stage in Yerevan, 10 in Shirak, and only eight trainees in Lori. As a positive step, it should also be noted, that following the report submitted to the Police Reform Coordination Council by the Union of Informed Citizens NGO, the Prime Minister decided to create a police reform working group to discuss the reform process implementation, where the NGOs are also involved.

Reforms of the Penitentiary, Criminal and Criminal Procedure Legislation

- **Reforms of criminal and criminal procedure legislation**

The draft Criminal (new Criminal Procedure Code) and Criminal Procedure (new Criminal Code) Codes were approved in 2021. The new Criminal Code has registered a significant progress related to a number of crimes, in particular, with respect to clarifying elements of corruption crimes, the legal entity is determined as a subject for criminal liability. According to the new Criminal procedure code a progress was registered with respect to the mechanisms and guarantees of protection of human rights. In particular, a house arrest as a precautionary measure was enacted, which will significantly improve the efficiency of criminal policy, will reduce the unnecessary overcrowding of prisons, as well as will support the establishment of substantial alternative to detention, which is an extreme measure of restraint. Additional legal regulations are envisaged with respect to the institute of detention. In particular, it was considered as a judicial sanction, and structures aimed at protection of human rights were envisaged.

At the same time, it should be noted, that in 2021 the Ministry of Justice presented a draft law on making amendments in the criminal procedure code, where the legal regulations related to the investigative subordination contained a major drawback, in particular related to the investigative subordination of torture related cases, by reserving them to the investigative department of the NSS. In addition, investigation of criminal cases committed by the law enforcement officers in connection with their official position was again reserved to the NSS investigation department. As a result of the criticism by the representatives of the civil society related to the proposed regulations, investigation of torture related cases was reserved to the investigative subordination of the RA Investigative Committee. However, the investigative subordination related to the other part remained with the NSS, which is controversial due to a possibility of exerting possible pressure using the tools possessed by the NSS.

- **New draft RA Criminal Code**

Action: To present the new draft RA Criminal Code to the RA Government and after to the RA NA for discussion.

The new RA Criminal Code was approved by the NA on 05.05.2021, which will enter into force on 01.07.2022. As a result of this joint monitoring by the civil society, proposals resulting from the comprehensive research of the freedom of information, were presented to the competent authorities, however, were not included in the text of the Criminal Code (although it was announced that the crimes mentioned in the final version of the draft code, will be edited taking into consideration also the

proposals made by the Fund). In particular, the article on criminalising environmental pollution and hiding information on its dangers or deliberately distorting that information, is completely missing in the Code. It should be noted that the mentioned article even in the currently functioning criminal code has a number of shortcomings both in terms of the objective side, and from the side of the subjective composition, as well as it does not envisage proportionate liability for this actually extremely dangerous public action: 1/ does not envisage a liability for concealing information on environmental contamination with substances that do not pose a threat to human life and health, but to the environment /including flora and fauna/; 2/ does not envisage a liability for concealing or distorting information about threat to the environment; 3/ does not envisage a liability for those holders of information, who are not considered as "officials" under the current criminal law, for instance, for officials from the private enterprises of public importance, who, according to part 2 of Article 7 of the RA Law on "Freedom of Information" are obliged to immediately publish information, publication of which may prevent the danger to the environment, as well as, for the officials of those organisations, whose activities may be directly related to the exploitation of natural resources, as well as, to the exploitation of such hazardous facilities, exploitation of which or violation of rules of their exploitation may involve a risk of environmental pollution. The present regulation is already controversial, and elimination of the article from the Code, regardless of the number of cases of its application or absence of such cases is more problematic.

- **New draft RA Criminal Procedure Code**

Action: To develop and submit to the RA NA new draft RA Criminal Procedure Code

New RA Criminal Procedure Code was approved by the NA on 30.06.2021, which will enter into force on 01.07.2022. However, the new Code establishes very problematic regulations related to investigative subordination, which contradict the RA Anti-Corruption Strategy, adopted by the RA Government in 2019. Thus, the Strategy envisaged to maintain the Special Investigative Service, as a body implementing investigation of torture and other cases of ill treatment and crimes (with the exception of corruption crimes) committed in connection with their official position by the leading staff of the bodies of the RA legislative, executive and judicial authorities, persons implementing public service. The same strategy envisages to dissolve the staff-positions of the investigative body of the National Security Service and respectively transfer its functions to the Special Investigative Service, Investigative Committee and the Anti-Corruption Committee.

Meanwhile, according to Article 5 of the RA Law on "Making Changes and Amendments to the RA Criminal Procedure Code" of 24.03.2021 SIS ceased to exist as an independent body implementing investigation of crimes committed in connection with their official position by high-level officials and persons implementing public service, including torture. While investigative subordination of investigation of torture related crimes was reserved to the National Security Service. The same regulation is defined in the new RA Criminal Procedure Code adopted on 30.06.2021. A number of civil society organisations made an announcement[32] related to the mentioned changes, registering, that investigation of torture related cases by the RA National Security Service does not correspond to the international standards of efficient investigation of torture. The function of this structure is intelligence and counter-intelligence, also investigation of crimes against the state security related to the latter, it

[32] Available at: https://www.osf.am/2021/10/%D5%B0%D5%A1%D5%B5%D5%A5%D6%80%D5%A5%D5%B6-%D5%B0%D5%A1%D5%B5%D5%A1%D5%BD%D5%BF%D5%A1%D5%B6%D5%A8-%D5%A3%D6%80%D5%A1%D5%B6%D6%81%D5%B8%D6%82%D5%B4-%D5%A7-%D5%A7%D5%A1%D5%AF%D5%A1%D5%B6-%D5%B0%D5%A5/?lang=am

does not ensure effectiveness of investigation of torture, other cases of ill-treatment on the basis of its international obligations due to its lack of guarantees of independence and impartiality.

Therefore, it was proposed to reserve the investigative subordination for torture cases to the RA Investigative Committee. In particular, in order to ensure the efficiency of investigation of torture related cases to establish a separate unit in the central office of the Investigative Committee, as well as to establish a separate unit carrying out the management of appropriate judicial proceedings in the Office of the Prosecutor General. At the same time, for the investigation of the cases of alleged crimes by the officers of the Investigative Committee, by the decision of the Prosecutor General the subordination of investigation of such cases should be transferred to another preliminary investigation body. In parallel, the government and the legislature should address the issue of strengthening of guarantees of institutional independence of the Investigative Committee and the issue of accountability to the NA in the context of the forthcoming constitutional reforms. The mentioned statement was followed by the development of the draft Law on "Making Changes and Amendments to the RA Criminal Procedure Code" (hereafter, also The Draft) and its presentation for public discussion by the RA Ministry of Justice.

In particular, according to the new draft it was proposed to maintain the preliminary investigation of torture related crimes with the investigators of the RA Investigative Committee, in fact by editing regulations related to the subordination of investigation, both according to the current Criminal Procedure Code, and the new Criminal Procedure Code, that will enter into force on 01.07.2022. Preliminary investigation of crimes (including torture) committed by the persons occupying autonomous positions in the RA Investigative Committee was reserved to the RA National Security Service in order to ensure the objectivity of investigation, and to reserve the preliminary investigation of the crimes determined by Articles 149,150, 154.1 of the RA Criminal Code to the RA Investigative Committee. Assessing positively the changes proposed by the draft related with the changes of investigative subordination determined in points 1 and 3, nevertheless it should be noted that there is a need to change the investigative subordination connected with a wider range of cases. In that regard, the CSOs issued a joint statement related to the assessing problematic the ability of national security bodies to conduct the pre-trial proceedings in general, emphasising the importance of the issue, especially in terms of authority to conduct investigation of crimes committed by the high-ranking officials and public servants.[33] The mentioned issues were also discussed with the competent state bodies; however, no result was registered on the raised issues. Based on the above, it was proposed to amend the draft, reserving the right of preliminary investigation of crimes committed by the RA high-ranking officials, crimes related to their official position committed by the civil servants, to the investigators of the RA Investigative Committee, as determined by the current RA Criminal Procedure Code. At the same time, it was proposed to reserve the investigation of cases of complicity due to their official position or crimes committed by the officers of the Investigative Committee to the investigators of the RA Anti-Corruption Committee. It was also suggested to start the reform of the system of existing investigative bodies, excluding the authority of the bodies subordinated to the executive power, including the authority of subdivisions of the RA NSS and the State Revenue Committee, to carry out pre-trial proceeding and by delegating the pre-trial examination of cases submitted to them under the Criminal Procedure Code entering into force in 2022, to other investigative bodies.

Regarding other proposals related to the Criminal Procedure Code it should be noted, that in the result of this monitoring three of the proposals submitted by the CSOs were accepted and found in the text of the new Criminal Procedure Code. In particular, it was proposed in the RA Criminal Procedure Code to regulate the possibility of merging two cases being in one proceeding, when they are heard in the same

[33] See also: http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=16689&lang=en

instance court/courts, but in proceedings of different judges.[34] Accordingly, the Code stipulates that the cases subject to merging in the proceedings of different judges in the same court on the basis of the application of one of the judges may be merged into one proceeding by the decision of the Chair of the Court.

Another proposal was conditioned by the fact that the implementation of the pre-trial act disputing proceedings does not envisage any maximum and short period for the implementation of that proceedings. It was proposed to implement the mentioned proceeding in a short period, since in the majority of cases it concerns the rights of individuals and in particular private participants of the proceedings, including restrictions on the exercise of fundamental rights or such matters, requiring urgent intervention, as for example the alleged illegal refusal to prosecute or termination of criminal prosecution. Accordingly, the Criminal Procedure Code stipulates a maximum period of one month for the disputing proceeding of the pre-trial act.

The most significant proposal was the videorecording or recording (in case of out-court proceeding) of the proceeding activities, which is reflected in the new Criminal Procedure Code. This proposal was based on the simple fact, that when the record of the interrogation or any other action is recorded (computer or manuscript), its effectiveness falls significantly both in terms of quality, as well as in terms of time (several times). In particular, the effectiveness of qualitative actions, especially the interrogation and face-to-face interrogation, falls taking into account the fact that the interrogated or confronted persons have some time to construct their answers, as well as their non-verbal behavior is not recorded, such as gestures and facial expressions, body movements, etc. which also have a big importance for the further evaluation of the resulting evidence. At the same time the videorecording or the audio recording of actions is an effective guarantee for avoiding pressure on the private participants and witnesses of the proceeding. The authority of audio or video recording of actions outside the location of the investigative body will enable the investigator to carry out urgent actions, including interrogations, efficiently without delays in any place permitted by the law, including the home or workplace of the interrogated person, etc., will increase the effectiveness of examination of the scene or material evidence, etc. However, besides the above-mentioned proposals a number of other proposals were also made (see below), which were not included in the new Criminal Procedure Code adopted on 30.06.2021.

Thus:
1) Disproportionate restriction on the publicity of the proceedings: Restrictions on the publicity of proceedings should be justified on unique and very specific grounds. The concept "interest of justice" is too vague and broad, and in that respect creates a wide range of arbitrary approaches, thus the mentioned basis needs to be detailed and instead the security of the person involved in the proceedings or his or her relatives needs to be ensured, as a basis for restricting the publicity in the interests of justice.
2) Necessity of enlarging the scope of exceptions of the pre-trial secrecy: It was proposed to amend part 3 of Article 186 of the new RA Criminal Procedure Code and envisage that the determined restrictions also do not apply to those cases, when the data is published in the framework of the court session related to the mentioned criminal case, including the open court session, is used within the mentioned criminal case, or a criminal case that has been separated from that case in the content of motions, applications, complaints and other court proceeding documents, as well as in the documents addressed to national and international human rights protection organisations and courts. The need of such a regulation is proved by the fact that such regulations already exist in such foreign legislation, that has a similar court procedure legislation and structure of preliminary investigation, as for instance in the Criminal Procedure Code of the Russian Federation (Article 161).

[34] It was proposed to authorise the Chair of the Court with such authority on the basis of application of one of the judges.

3) The need to enlarge the circle of entities entitled to present applications for lifting the detention or applying other alternative measure of detention instead of arrest: According to Article 289 of the new RA Criminal Procedure Code the detained accused, his defender or legal representative have the right to petition to lift the detention or apply alternative measure of restraint instead of detention. In fact, the Code does not provide for the opportunity to make such an appeal to that accused, towards whom the detention measure was applied in his absense, and de facto he is not in detention. Such a regulation unjustifiably discriminates persons in the same judicial status and in the presence of the same new circumstances, challenging the lawfulness of detention, those who are not actually detained shall be deprived of that opportunity.

4) The need to expand the scope of pre-trial acts subject to judicial appeal: Article 299 of the new RA Criminal Procedure Code envisages the decision on imposing a precautionary measure as pre-trial acts subject to judicial appeal (part 1 point 6), however, it does not envisage decisions to reject motions for the abolition of a precautionary measure or to replace it with a more lenient one, while these decisions in the same way limit the rights of the convict. Of course, the appeal of these decisions can be deduced from Article 299 part 2, as acts that clearly deprive the appellant of a real opportunity to effectively defend his or her legitimate interests, however, in practice such decisions are not considered by the courts on the grounds that they are not subject to judicial review of a pre-trial proceedings. It was proposed to envisage in the Article, as acts subject to judicial appeal, the decisions on the rejection of the motions to remove the pre-trial detention measure or to replace it with a more lenient pre-trial detention, with the exception for motions to remove or replace detention, for which the code has established a separate procedural procedure, court guarantee.

5) Grounds for applying precautionary measure: Article 116 of the new RA Criminal Procedure Code envisages ensuring fulfillment of obligations by the convict imposed on him by the Code or the decision of the court as a basis for applying precautionary measure. It should be noted, that such a broad formulation is problematic, from the point of view of conceptual interpretation and application risks, in addition it follows that a precautionary measure may be imposed on the accused for refusing to undergo a medical examination or to be photographed, as such obligations are imposed on him under Article 43 part 2 of the Code, which is simply unlawful.

6) The need to provide an opportunity to ask questions directly to the respondent: According to Article 44 of the Code the legal representative of the accused has a right to participate in the interrogation of the latter and in the actions carried out with his participation (including confrontation), moreover, according to the regulations of the same article, the legal representative also has all the rights and responsibilities of the accused, that are not inseparable from the person, by which it is logical to understand the right to ask questions to the other person during the confrontation. However neither the first, nor the second regulation will ensure the full realization of this right in practice, and this concern stems from the fact that the current Criminal Procedure Code also provides for such regulations, in particular, in case of the defender, the right to participate in the interrogation during the confrontation, in case of the victim's representative the right to enjoy all the inalienable rights of the victim, however in practice, they are not given the opportunity to ask questions directly to those who are confronted. Besides that, it is also important to guarantee the right of the legal representative to ask questions directly to the convict. The need of the regulation under discussion is justified by the fact, that in contrast to the legal representative of the accused, his defender, the right of the representative of the victim, and even of the advocate of the witness to ask questions during the interrogation of the latters, as well as to the interrogated during the confrontations, is determined according to special and clear regulations.

7) Regulations concerning video, video-audio recording or photographing of the court session process: According to Article 267 part 1 of the new draft RA Criminal Procedure Code (...) The video or video-audio recording, photographing or broadcasting of the court session is allowed by the court with the consent of the accused. In case of the consent of the accused the video, audio recoding, photographing or broadcasting of the court session after hearing the opinions of the sides, may be prohibited by the decision of the court, if it is required for the interest of justice. We consider that the unconditional

agreement on the possibility of video, video-audio recording or photographing the trial with the consent of the accused, regardless of the circumstances of the case or other important interests, is problematic in terms of the requirements of Article 10 of the European Convention on Human Rights. The European Court of Human Rights has repeatedly stated concerning the ongoing criminal proceedings, that in cases when the article is published in the newspaper, the protection of the right to privacy must be balanced with the right to freedom of expression guaranteed by Article 10 of the Convention[35]. With respect to the use of the photograph, the court has stressed, that when the photograph published in the context of ongoing criminal proceeding does not have any informational value, convincing reasons are needed to justify the interference with right to respect of the private life of the accused[36]. Following circumstances need to be evaluated in the context of publishing the photograph: the status of the applicant, the status of the media, nature and subject of the article[37]. With respect of the above, we consider, that depriving the court of the power to allow video, video-audio recording or photographing of the court session process on the basis of the above provision (conditioning it solely with the consent of the accused), cannot be considered as a proportionate restriction of the right to freedom of expression from the point of Article 10 of the ECHR.

8) Establishing necessary legal regulations to exclude the possibility of inspecting the lawyers and their belongings without the use of special devices. This proposal is related in particular to the process of inspecting the lawyers implementing their professional duties entering court buildings, other bodies conducting the proceeding or places of detention and penitentiary institutions.

- **Life imprisonment for persons under 21 (twenty-one) years of age**

The new draft RA Criminal Code was approved on May 5th, 2021. The present Code will enter into force on 01.07.2022, with the exception of cases determined by Article 551 parts 2-5. According to the current RA Criminal Code (Article 60), as well as the new RA Criminal Code (Article 67) the threshold for life imprisonment is 18 years old. However, according to the new RA Criminal Code, taking into consideration the age peculiarities of minors, as well as to ensure their normal physical, mental, emotional, moral, and social development, to educate them and to protect them from the negative influence of other persons, the peculiarities of imposing punishment on juveniles have been defined according to age groups. It was envisaged that the minimum or the maximum term or amount of the sentense imposed on the juvenile, who has committed a crime before the age of 16 (sixteen) years, may not exceed one third of the maximum or minimum term or amount of the sentence provided for in the relevant Article or Part of the Article of the Special Code. The minimum or the maximum term or amount of the sentence, imposed on a person, who has committed a crime from sixteen to 18 (eighteen) years, shall be reduced by one second. Short-term imprisonment for a juvenile is imposed only when a milder form of punishment cannot contribute to the realization of the goals of the sentence, and imprisonment, when no other means can ensure the realisation of the goals of the punishment.[38] At the same time, peculiarities of imposing punishment on persons from 18 to 21 (twenty-one) years old were envisaged, considering the fact, that, due to their maturity, level of mental development, and tendency to be influenced by other people, regardless of actual age, they have more similarities with the minors. While applying the mentioned peculiarities, the state of health, living and upbringing conditions of the latter will be considered. In addition, a juvenile (a person, who has reached the age of 14 (fourteen) years at the time of the crime, but has not attained the age of eighteen), or a person under the age of twenty-one, for committing a crime of not large or medium gravity for the first time, in case of accusation is released from criminal liability, if it is substantiated that the realization of the goals of punishment is possible by

[35] Węgrzynowski and Smolczewski v. Poland, no. 33846/07, § 56-58, 16 July 2013, with further references.
[36] Khuzhin and Others v. Russia, no. 13470/02, § 117, 23 October 2008.
[37] Verlagsgruppe News GmbH v. Austria (no. 2), no. 10520/02, § 34, 14 December 2006, and News Verlags GmbH & Co.KG v. Austria, no. 31457/96, § 58, ECHR 2000-I.
[38] Please, see: http://www.parliament.am/drafts.php?sel=showdraft&DraftID=11680&Reading=0

applying coercive measures of educational nature. Respectively, upon expiration of the period of limitation for a person, who has committed a crime before the age of eighteen, while releasing the person from the criminal liability the period of limitation shall be reduced by half, and in the case of persons, who have committed a crime from the age of eighteen to twenty-one, by one third.

Action: Improve legal bases and criteria for the implementation of operational-intelligence measures, use of the obtained data in accordance with the international standards

In accordance with part 1 of Article 86 of the new RA Criminal Procedure Code the evidence in criminal proceedings are (…) protocols of other evidentiary and procedural actions. According to part 2 of Article 86 of the Code documents prepared in the result of operational-intelligence measures and data recorded on some carrier is not evidence in the criminal proceeding. According to the law on the operational-intelligence activity (OIA) the biggest part of envisaged measures has been planned in the new RA Criminal Procedure Code as secret investigative actions. At the same time those operational-intelligence measures (OIM), that have not been separated in the Code, as secret intelligence actions, will continue to be regulated by the law on OIA, however, data received in the result of these actions are not evidence in the criminal proceeding. Regulations determined in the Code allow to use the data obtained in the result of measures determined by the current law on OIA, as protocols of secret investigative actions to be used in the criminal proceeding evidence process. In addition, the Code provides for higher guarantees of their legality, taking into account the fact of them being evidence.[39]

The Law on "Operational-Intelligence Activities" has been amended connected with the discovery of information and data on property of illegal origin, in the cases determined by the Law on "Corruption Prevention Commission" to study the conduct of persons, together with supporting the Competition Commission. Amendments made in the law:
Adopted on 16.04.2020 to amend part 1 of Article 4 of the Law by the following content of point 7.1: "7.1) Disclosure of information and data on property of illegal origin, supporting the process of its confiscation".
Adopted on 19.01.2021 to amend point 15 of part 1 of Article 4 of the Law after the word "study" with the words ", among that in the cases determined by the Law on "Corruption Prevention Commission" to study the conduct of people". To amend part 1 of Article 11 of the Law with the following content of point 1.2: "1.2) in the framework of the process of analysis of declarations determined by the Law on "Corruption Prevention Commission" and examination of ethics cases to check the presented information on the basis of the request of the Corruption Prevention Commission and submit to the Commission the identified data".
Adopted on 24.03.2021 to amend Article 14 of the Law with the following content of part 7 "7. The Anti-Corruption Committee has a right to carry out operational-investigative measures envisaged by points 1-16 of part 1 of this Law". The amendments to the Law are conditioned by the adoption of other laws, such as RA Law on "Corruption Prevention Commission", RA Law on Anti-Corruption Committee. The amendments were adopted in point 1.2 on the mentioned dates.
Adopted on 03.03.2021 to amend part 1 of Article 4 of the Law with point 17 with the following content: "17) Prevention or detecting violation in the field of protection of economic competition, such as anti-competitive agreements, abuse of a monopoly or dominant position, or prohibited coordination of economic activities, with the justified mediation of the Commission for the Protection of Competition or in cases determined by the law". To amend part 1 of Article 11 of the Law with point 5 with the following content: "5) In case it is impossible for the Commission for the Protection of Competition to acquire the necessary information directly on the basis of a justified request of the Commission for the Protection

[39] Available at: http://www.e-rights.am/file.php?class_name=company_document_file&file_uniq_id=976038ef7fd6eba6832&size_mode=1

of Competition to assist the latter in preventing or detecting offenses in the field of protection of economic competition, by implementing activities determined by part 1 of Article 10 of this Law, operational-intelligence measures defined in part 1, points 7, 8, 11, and 12 of Article 14 and their results, including information, materials and documents, providing those to the Commission for the Protection of Competition".

Action: To conduct a comprehensive study of the workload of public defenders and infrastructure reforms of the public defender's office, implementation of relevant legal reforms based on the results of the study.

According to the information provided by the Ministry of Justice on 12.08.2021 "a new conceptual working document on advocacy reform has been developed, where in addition to other reforms of the advocacy field, special attention was paid to expanding the circle of beneficiaries of free legal assistance, introduction of structures encouraging provision of free voluntary legal assistance (pro bono) by the advocates, ensuring efficiency of activities of the public defender, redefining advocacy training and qualification structures, review of the framework of rules of conduct, development of internal management systems of the Chamber of Advocates. The document is planned to be the basis for the substance of the draft legislative package and, in fact, it will be possible to get familiar with its content after the substance of the draft is presented for public discussion". According to the report of the Ministry of Justice of the 2nd half of 2020 the implementation of activities was delayed due to the existing military situation in the country as a result of the war, as well as in the result of the COVID 19 pandemic. The draft was published for public discussion in the period of 13.01.2022-28.01.2022.

Action: Legislative restrictions on the use of date of limitations for the crime of torture

According to Article 83 part 9 of the new RA Criminal Code no date of limitation is applied towards persons who committed torture crimes, regardless of the time of the crime. The new draft RA Criminal Code was adopted on May 5th, 2021. The present Code will enter into force on 01.07.2022, with the exception of the cases envisaged by parts 2-5 of Article 551. The present *Code* will be put into action in accordance with the Law on "Putting the RA Criminal Code into Action".

Action: To equip special cells in the Penitentiary Institutions for persons with suicidal ideation.

According to the information provided on 14.09.2022 by the RA Ministry of Justice in the framework of fight against suicides and self-harm among persons held in the penitentiary institutions the N 513-L decision of the RA Minister of Justice on "Approving the Strategy on Prevention of Suicides and Self-Harm in the Penitentiary Institutions 2021-2022 and the Program of its Implementation Measures 2021-2022" was adopted on 10.12.2020. Within the framework of this strategy a toolkit has already been developed for the assessment of mental health in the penitentiary institutions, suicide, self-harm prevention and assessment of risks, which will allow to evaluate the mental health of the person deprived of freedom upon entry to the penitentiary institution, and afterwards, if necessary, to identify the level of the risk to commit a suicide or self-harm in individuals. The mentioned decision on "Making Amendments to the Law on "Keeping Detained and Arrested Persons" together with the drafts of the adjacent legislation was published for public discussion during 19.08-08.09.2020 period[40]. The "New Generation" Humanitarian NGO made 4 proposals through the e-draft platform, on which the conclusion has not been published.

Helsinki Citizens Assembly Vanadzor, member organisation of this collective monitoring, in its written position assessed positively regulations envisaged by the Drafts, such as primary medical examination

[40] Available at: https://www.e-draft.am/projects/2681/about

upon entry to the penitentiary institution, expanding the concept of a right to healthcare, excluding access to life-threatening or harmful means, abolishing the practice of using the punishment cell as a disciplinary sanction for self-harm. However, in order to bring these issues in line with the rules on penitentiary institutions, set out in international documents, observations and suggestions have been made on some of the Draft regulations under discussion.

Helsinki Citizens Assembly Vanadzor, among others has proposed to consider, that isolated convicts have the same rights as other convicts, at the same time, stipulating, that convicts in solitary confinement should be daily visited by a doctor and a psychologist, reduce the possibility of a six-fold extension of the time limit set in Article 3 part 2 of the Draft, allowing an extension of a maximum three times, in parallel to which according to the above-mentioned position, by all means to ensure guarantees to mitigate the negative effects of isolation, moreover in case of each extension more intensively; to fix that the head of the penitentiary institution makes a decision on the application immediately; to determine, that in case of a justified suspicion of a threat to a person's safety, the management of the penitentiary institution shall take measures to prevent those threats, their causes, including the decision to isolate the person on their own initiative. The Draft has not been approved.

The process of legislative changes to ensure effective protection of the rights of people with self-harm and suicidal ideation is currently underway. In the framework of the mentioned reforms, in case of availability of appropriate financing means, specially equipped cells will be made available in the RA Ministry of Justice Penitentiary Institutions for the persons with suicidal ideation. Due to the fact that the legislative changes were not accepted and the specially furnished cells were not separated in the penitentiary institutions, the activity has not been implemented. To strengthen the staff of the Special Investigative Service with operational staff. The package of legislative reforms containing draft laws on "Making Amendments to the RA Criminal Procedure Code", on "Making Changes and Amendments in the Law on Special Investigative Service", on "Making Changes and Amendments in the Law on Operational Intelligence Activities", on "Making Amendments to the Law on Remuneration of Persons Occupying State Positions and State Service Positions" was developed by the RA Special Investigative Service and on 01.02.2020 sent to the RA Ministry of Justice, which create a legal basis for increasing the number of staff of the service with operational personnel. According to the information provided by the RA Ministry of Justice, in accordance with Article 48 part 20 of the law on "Anti-Corruption Committee", upon entry into force of this law the HO-255-N law on "Special Investigative Service" adopted on November 28, 2007 shall be declared invalid and the activities of Special Investigative Service considered terminated. According to Article 1 of the HO-163-N law on "Termination of Validity of the Law on "Special Investigative Service" of 24.03.2021, the HO-255-N Law on "Special Investigative Service" of 28.11.2007 is declared invalid upon entry into force the Law on "Anti-Corruption Committee". On the basis of the above, it turns out that activities of the SIS shall be terminated, consequently, there is no need to staff the body with the operational personnel.

Action: By the RA Judicial Code to ensure the right of NGOs to apply to the court in relation to the protection of public interests.

The proposal was not accepted, however positive steps were registered in relation with ensuring the right of NGOs to apply to the court. However, it must be mentioned that HO-22-N "Law on NGOs" of 16.12.2016 was amended on 05.05.2021 by the following point, which enables the organisation to represent the legal interests of its beneficiaries in the court, also in the field of protection of rights of people with disabilities. Before that only the protection of environment was envisaged. The organisation can file a lawsuit regarding issues related to the field, if:

1) the right of groups of persons with disabilities to be protected from discrimination on the grounds of disability has been violated, or the right of a person with disability to be protected from discrimination

has been violated, and, who due to health condition or other circumstances cannot personally represent his or her rights and legal interests in the court.
2) the protection of the rights of persons with disabilities is defined as a goal by the charter of the organisation, and the simple majority of the members are persons with disabilities.
3) during at least two years prior to the moment of filing a lawsuit, activities were undertaken in the field mentioned in part 1 point 2 of this Article.

Action: To make changes in the Judicial Procedure Codes eliminating the authority of the judge to impose a fine on the lawyer. (RA Criminal Procedure Code, Article 314.1 Judicial sanctions and general rules of their application).

Current legislation envisages three sanctions: 1) warning, 2) removal from the court room, 3) court fine. Both in the current and in the new Codes the maximum amount of the court fine applied is AMD 100.000. The new Criminal Procedure Code provides for stricter regulations; the procedural sanctions are: a) warning, b) restriction of the exercise of the right, c) removal from the court room, d) compulsory submission to the body conducting the proceeding, e) court fine, f) removal from the proceedings.

Action: Legally register the obligation of the body conducting the proceedings to provide the copy of the decision on the suspension of the criminal proceedings

The obligation of the body conducting the proceedings to provide a copy of the decision to suspend the criminal proceedings to the participants of the proceedings is defined by the new RA Criminal Procedure Code. Clear deadlines and procedures are defined for providing the mentioned decision to the participants of the proceedings, as well as the obligation to notify about the deadlines and procedures for its appeal.
Thus, 1) The decision to suspend the period of criminal prosecution is made after performing all necessary and possible procedural actions in the absence of the accused, but it does not restrict the performance of other proceedings during the preliminary investigation, if the need of that arose after the suspension of the period of criminal prosecution.
2) The investigator shall immediately send the motion to suspend the term of the criminal prosecution together with the materials of the proceedings to the supervising prosecutor. The supervising prosecutor shall make a decision on suspending the term of the criminal prosecution or rejecting the motion by a decision no later than seven days after receiving the motion. These decisions are immediately sent to the investigators.
3) Upon receiving the decision of the supervising prosecutor to suspend the period of the criminal prosecution, the investigator immediately hands over its copies to the private participants of the proceedings, by explaining to them in writing the procedure for appealing the decision and the deadlines.
4) The decision on the suspension of the period of the criminal prosecution may be appealed by the private participant in the proceedings to the superior prosecutor within fifteen days of receiving it. The superior prosecutor shall make a decision on satisfying or rejecting the appeal within fifteen days from the moment of receiving it.

The legislature set clear deadlines for appealing the decision, which was previously lacking. The body conducting the proceedings is responsible for notifying the person about the procedure and the deadlines of appealing the decision. Both, the new RA Criminal Procedure Code, as well as the current Code, do not regulate the procedure and limits of getting acquainted with the materials of the suspended criminal case. The absence of the possibility to get familiar with the materials of the suspended criminal case, procedure for providing copies of it to the persons participating in the proceedings in the current RA Criminal Procedure Code and the new Code, in practice poses serious problems, especially for the

victims and legal successors of criminal cases, in the context that, after the suspension of the criminal case, the participant of the proceeding looses the opportunity to get acquainted with those materials, to receive information about the circumstances of the case. In this case, the right to a fair trial is questioned, because, for example, in the event of a violation of the right to life in the armed forces, after the suspension of the criminal proceedings the legal successor of the victim is deprived of the opportunity to know the circumstances of the case and the circumstances of the death. The change has not been adopted yet.

Action: Improve the legal regulations regarding the notification of a person to appear before the body conducting the proceedings.

The new RA Criminal Procedure Code has introduced a new procedure and conditions for notifying the participants of the proceedings, which can minimize cases of infringement of rights upon notification. In particular, the proposed draft presents in more detail the action of making a notification, properly delivering the notification to the addressee. Application of electronic notification system in practice will minimise delays due to the violation of postal delivery deadlines, if the established system is used responsibly. Article 150 of the new RA Criminal Procedure Code defines the notification and its content, where among others is mentioned… "The list of rights and responsibilities arising from the status of the invited person shall be attached to the notification addressed to the person invited for the first time with this status".

On January 19, 2021 the current criminal procedure was amended with a new 24.1 chapter, which envisages also the method of electronic notification. Article 174.4 of the current Code defines: "#6. Electronic notification is sent to the person to be notified in the case, when the person has agreed in writing to receive the notification in that way. The electronic notification is sent to the e-mail address or the telephone number of the person to be notified, that he or she has provided in writing. #7. In case of sending the electronic notification, the body carrying out the proceedings attaches the electronic message to the criminal case, as well as the receipt confirmation. #8. In case of electronic notification, the notified person is obliged to confirm the fact of notification within one day. If the receipt of the notification is not confirmed within two days after it was sent, the notification shall be sent by registered mail with the confirmation of the delivery, or delivered to the notified with the receipt".

Action: Legally strengthen the guarantees of criminal protection of human rights defenders.

Especially in the context of recent events, human rights NGOs and their employees were targeted the most. In the immediate aftermath of the war (2020), persons and groups became active, who targeted organisations, and widespread attacks were launched, especially against human rights organisations. The attacks ranged from property damage to psychological pressure, insults and slander. From the point of view of the right to a fair trial, human right organisations are particularly vulnerable, since the declarations about the crime are not properly investigated, are not revealed, the already known persons are not prosecuted. The bodies conducting the proceedings, especially the police, during the preparation of materials, carefully disguise a very well-known person in the society, moreover, the person, who has worked in the police system for many years, stating that they could not find or interrogate him.

On 03.10.2020 the RA National Security Service initiated a criminal case on the basis of inciting national hatred against a Yezidi human rights defender Sashik Sultanyan. The criminal case investigation lasted for many months, the preliminary investigation was completed on 29.07.2020, and the NSS, which carried out the proceedings, noted, that "sufficient combination of evidence" was obtained during the investigation that Sashik Sultanyan committed actions aimed at inciting national enmity between Yezidis and Armenians. Meanwhile, the criminal case against the human rights activist is another case

of targeting human rights defenders.[41] Thus, the draft RA Criminal Code submitted to the RA NA does not provide any guarantees for the human rights defenders or their activities.

Action: Expand the mandate of the Public Defender's Office enabling public defenders to file cases also to the RA Constitutional Court and to the European Court of Human Rights.

According to Article 41 of the current RA Law on Advocacy: #2. Free legal assistance includes: a) consulting – compilation of lawsuits, applications, complaints, and other legal documents related to court proceedings, including provision of legal information; b) representatives or defenders – on criminal, civil, administrative and constitutional cases. #3. For the purposes of this Article, representation or defense is exercised in pre-trial criminal proceedings, in the RA First Instance, Appeal, and Cassation Courts, as well as in the RA Constitutional Court.

Action: Ensure with the RA Judicial Procedure Code the right of NGOs to apply to the court for protection of public interests.

According to the SDO-906 decision of the RA Constitutional Court of 07.09.2010 NGOs, being major components of civil society, occupy a unique place in the frame of social structures. Their role is not an end in itself, since the activities of the unions are envisaged by the Constitution and the European Convention for the Protection of Human Rights and Fundamental Freedoms, secondly, NGOs have the function of participating in public administration by fulfilling private interests of groups and individuals, thirdly, it is through NGOs that the public gets the opportunity to establish public control and oversight over public administration and local self-governance. This fact is especially important in the case, when there is a violation of the subjective rights or legitimate interests of the collective subject of the law, not of the individual. Taking into account the role of NGOs in the life of the state and civil society, guided by the considerations of increasing the efficiency of the latter, the Constitutional Court considers, that the RA Administrative Procedure Code for interested (endowed with relevant statutory competence) NGOs as a legal entity, can define the cases of exercising the right to apply to the court for the violated rights of persons in the given field and the procedure, taking into account the current European development trends in relation to the actio popularis appeals institute. Such legal regulation would not only contribute to the protection of violated rights and legitimate interests, including effectiveness of judicial protection, but would increase the role of NGOs as a component of civil society. Moreover, when defining the procedure and cases for exercising the right to apply to a court or other bodies and officials for the violated rights of others, only those NGOs, whose *goals are the protection of specific collective or community interests* should be taken into account. This position corresponds also to Article 15, part 1 point 3 of the RA "Law on NGOs", according to which in order to achieve the goals envisaged by its charter, the organisation has a right to represent and protect its rights and the rights of its members, legal interests in other organisations, *courts*, public administration and local self-government bodies in the manner prescribed by the law.

Articles 18 and 19 of the RA Constitution, as well as Article 6 part 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms do not rule out the possibility of applying to the court for protecting violated rights of others. Moreover, the RA legislation determines different ways of exercising that opportunity. In particular, according to Article 103, part 4 point 3 of the RA Constitution in cases provided by the law, the prosecutor's office defends the accusation in the court. Subjects mentioned in Article 101, part 1 point 3, moreover in part 1 point 8 of the RA Constitution, when appealing to the Constitutional Court on the constitutionality of legal norms, they act not only in the public interest, but also for the protection of the interests of the victims of the application of certain

[41] Available at: https://hcav.am/sashik-sultanyan-30-07-21/

legal norms. In particular, Article 101, part 1 point 8 of the RA Constitution defines that the Human Right Defender may apply to the Constitutional Court "on the issues of compliance of the normative acts listed in point 1 of Article 100 of the Constitution with the provisions of Chapter 2 of the Constitution". At the same time, in a number of cases, the RA Civil Procedure Code defines the right to apply to the court for the protection of the violated rights of another person, as the right of an interested person. In particular, the latter refers to the legal representative.

According to the current Administrative Procedure Code, NGOs may apply to the administrative court also in the cases provided for in Chapter 29.3 of this Code. In cases determined by the law the party participating in the elections, bloc of parties, the candidate for the head of the community or the council member, or the NGOs, conducting election observation mission during the elections, as well as a party carrying out the campaign during a referendum, may apply to the administrative court on cases of subjecting a person to administrative liability according to the procedure determined by Chapter 29 of this Code.

Chapter 29.3, Article 216.6. 1. The NGO represents legal interests of its beneficiaries in the court in the following fields: a) protection of environment, b) protection of the rights of people with disabilities. 2. An NGO may file a lawsuit in the field defined by point 1 of part 1 of this Article, if: a) the lawsuit is based on the statutory goals and objectives of the organisation and is aimed at protecting the collective interests of the beneficiaries of the organisation in relation to the statutory goals of the organisation; b) participated in public discussions on fundamental documents or planned activities or was not allowed to participate in the framework of the RA Law on "Environmental Impact Assessment and Expertise"; and c) has been active in the field mentioned in part 1 point 1 of this Article for at least 2 years prior to the moment of filing a claim. According to Article 226 of the current RA Civil Procedure Code, a plaintiff in court can be represented by any plaintiff in a group lawsuit, a human rights NGO or a lawyer, who has the proper formal authority to conduct a case in the court. The issue under discussion is directly related to the RA Civil Procedure Code, the RA Administrative Procedure Code and other legal acts. No changes or amendments have been made to the RA Judicial Code in this regard. No information is available about this activity.

Action: To grant to the RA Special Investigative Service the authority to carry out operational intelligence activities.

The RA law on the Special Investigative Service was declared invalid on 24.03.2021. The authority to carry out operational-investigative activities was provided to the Anti-Corruption Committee. In accordance with Article 5 of the RA Law on Anti-Corruption Committee, the Anti-Corruption Committee carries out operational-investigative activities within the framework of its powers in accordance with the procedure established by the Law on "Operational-Investigative Activities".

Action: Ensure unhindered monitoring by civilian monitoring teams in all closed and semi-closed institutions.

There is also a group of public observers in the detention centers of the RA Police system, members of which can visit the centres on any day (including a non-working day), meet with the person kept in the denetion centre. The group of public observers, implementing monitoring, as a rule can meet with the detained person and persons carrying out psychiatric assistance and services (including non-action). Members of the observers' group, implementing public monitoring, without a prior notification can visit any place in the center, have a private conversation with the patients, get acquainted with the content of the documents related to the patients' medical care and services, including the patients' medical documents, with the written informed consent of the patient, etc.

Reforms of Administrative Justice and Administrative Proceedings

- **RA Administrative Procedure Code**

Action: To make changes in the RA Administrative Procedure Code, envisaging an Administrative Chamber within the Cassation Court

The draft laws on "Making Changes to the "RA Judicial Code" Constitutional Law", on "Making Changes to the RA Administrative Procedure Code", and on "Making Changes and Amendments to the RA Civil Procedure Code" were published on e-draft.am website on 27.03.2019 for public discussion[42]. The drafts were published for discussion in the period 27.03.2019-11.04.2019. The process of discussion can be considered as participatory, to the extent, that users had the opportunity to leave suggestions. However, the summary sheet does not contain any information about accepting or rejecting the suggestions. The amended draft on 17.01.2022 was included in the agenda of the 3rd session of the NA of the eighth convocation.[43]

It should be noted, that in the revised draft, compared to the draft posted on the e-draft.am website, certain changes have been made, which we assess positively. Thus, according to the draft the Cassation Court will have: 1) Criminal Chamber with eight judges; 2) Civil Chamber with seven judges; 3) Administrative Chamber with five judges. At the same time the transitional provisions of the draft stipulated that: a) from the day the law enters into force the judges of the Civil and Administrative Chambers of the Cassation Court having experience of a judge of only civil specialisation will serve in the Civil Chamber of the Cassation Court, from the day the law enters into force the judges of the Civil and Administrative Chambers of the Cassation Court having experience of a judge of administrative or economic court will serve in the Administrative Chamber of the Cassation Court, b) from the day the law enters into force the Chairman of the Civil and Administrative Chambers of the Cassation Court servs as the Chairman of the Administrative Chamber of the Cassation Court.

In this respect the provision on, that from the day the law enters into force, the Chairman of the Civil and Administrative Chamber of the Cassation Court serves as the Chairman of the Administrative Chamber of the Cassation Court has been removed from the revised draft. Instead, the powers of the Chairman of the Court of Cassation are terminated in case of abolition of the respective Chamber, and after the formation of the Civil and Administrative Chambers, the SJC resolves the issue of nominating the Chairmen of the Chambers in accordance with Article 134 of the Law.

The draft submitted to the NA also clarified the procedure for the election of the judges of the chambers, thus, in accordance with Article 11 of the draft:
"...2. Within one week after the entry into force of this law, the SJC shall determine the details of the need to complete the list of candidates for promotion to be appointed judges in the Court of Cassation and the procedure for the implementation, taking into account the provisions of this Article.
3. Judges of the Civil and Administrative Chambers of the Court of Cassation, who have previously served in the Administrative or Administrative Appeal Courts in case of submitting a written consent to the Supreme Judicial Council within ten days from the moment of publication of the decision defined in part 2 of this Article, shall continue to serve in the Administrative Chamber of the Court of Cassation

[42] Available at: https://www.e-draft.am/projects/1590/about
[43] Available at: http://www.parliament.am/draft_history.php?id=12955

(hereafter Administrative Chamber) after the formation of that Chamber. Judges, who have given their written consent, shall serve as judges of the Civil and Administrative Chambers of the Court of Cassation until the formation of the Administrative Chamber.
4. Judges of the Civil and Administrative Chambers of the Court of Cassation, who do not meet the criteria set forth in part 3 of this Article, and judges, who meet the criteria set forth in part 3 of this Article, but do not submit a written consent to serve in the Administrative Chamber of the Court of Cassation, after the formation of the Civil Chamber (hereafter Civil Chamber) of the Court of Cassation and Administrative Chamber, continue to serve as judges of the Civil Chamber before the completion of the term determined for their authority, regardless the number of judges determined in Article 1 of this Law.
5. Within three days from the moment of resolving the issue defined in part 3 of this Article, the SJC shall publish an announcement on the number of vacancies to be filled and the procedure in the Administrative Chamber to be formed in the Court of Cassation in accordance with Article 132 part 1 of this Law.
6. Within two weeks from the moment of publishing the announcement defined in part 5 of this Article, the persons envisaged by part 2 of Article 132 of the Law may submit an application to the SJC to be included in the list of candidates for promotion to be appointed a judge in the Court of Cassation. When submitting the application, envisaged by this part, the persons envisaged by Article 132, part 2 point 1 of the Law, shall attach to the application the code of ethics defined by Article 98, part 2 point 13.1 of the Law. The questionnaires on ethics, submitted by the persons envisaged by Article 132, part 2 of this Law, are submitted to the Corruption Prevention Commission for receiving an advisory opinion within fifteen days.
7. The SJC compiles and approves the list of candidates for promotion to be appointed judges in the Administrative Chamber within two weeks after receiving the advisory opinion of the Corruption Prevention Commission on the conduct of persons, envisaged by Article 132, part 2 of the Law.
8. The preparation, compilation of the list of candidates for promotion of judges, envisaged by part 7 of this Article, its approval and submission of the proposal to the candidates shall be carried out in accordance with the procedure defined by Articles 132 and 133 of the Law, taking into account the peculiarities defined by this Article.
9. The Civil and Administrative Chamber of the Court of Cassation is considered abolished, and the Civil and Administrative Chambers are considered formed from the moment of filling all vacant positions of judges in Administrative Chamber and if at least 5 judges will hold the position in the Civil Chamber. Judges of the Civil or Administrative Chamber appointed for promotion until the formation of the Chambers shall continue to hold their positions and, respectively, shall assume the position of a judge of the Civil or Administrative Chamber from the moment of the formation of the Chambers…" The major issue, which was also mentioned by some deputies during the discussion of the draft, remains the early termination of the powers of the Civil and Administrative Chamber of the Court of Cassation[44].

Action: To make changes in the RA Administrative Procedure Code and the RA Criminal Procedure Code.

Considering that the Penitentiary Institution is not considered an administrative body in the classical sense, does not exert any external influence on detainees and convicts, considering the latter's activities as administration and making it subject of examination in the Administrative Court is problematic, and needs urgent solution.

[44] Available at the following links:
http://www.parliament.am/news.php?cat_id=2&NewsID=15897&year=2022&month=1&day=17;
https://www.aravot.am/2022/01/17/1241830/

- **New simplified written proceedings in the RA Code of Administrative Procedure**

Action: To make changes in the RA Administrative Procedure Code by introducing new written and simplified proceedings.

The draft RA Law on "Making Changes in the RA Administrative Procedure Code"[45] was published for public discussion already on 25.11.2020-10.12.2020, which:
- The Code introduces written proceedings, - mandatory written procedure is envisaged for the examination of cases on administrative offenses determined by Articles 123.3, 123.5 Parts 1-2, 123.6, 124, 124.3, 124.4, and 124.7 of the RA Code on Administrative Offenses /administrative offenses in the transport, on the roads and in the field of communication/ if there are no grounds for excluding the written procedure,
- In the case of examination of other administrative cases, the discretion of the Administrative Court to apply the written procedure is envisaged,
- The Administrative Court of Appeal is given the opportunity to review the judicial acts made as a result of a written examination in the Administrative Court through a written procedure. On 13.04.2021 the draft was included in the agenda of the regular session of the NA[46]. The draft was fully adopted on 05.05.2021 and signed on 18.05.2021.

- **Law on "State Duty"**

Action: To make changes in the Law on "State Duty" of the RA Administrative Procedure Code, defining an obligation to pay a state duty on appeals against compulsory actions of compulsory enforcement officers, as well as on appeals against decisions made by the relevant authorised bodies on administrative offenses

According to the changes proposed by the draft, among others, the plaintiffs, challenging the decisions of relevant authorised bodies on administrative offenses will no longer use the privileges of paying the state duty. The privilege, by which individuals and non-commercial organisations were exempted from the obligation to pay state duty was revoked on applications to overturn the execution of court decisions, to restore missed deadlines, as well as to appeal against the actions of enforcement officers. On 02.03.2021 the draft was included in the agenda of the NA session[47], and signed on 28.04.2021. We consider, that the right to access the court is violated to the extent that the essence of this right is violated by the definition of rates proposed by the draft related to the lawsuits filed against the administrative bodies, appeals against judicial acts. The opinion on the changes made by the mentioned draft is presented on the website of the member organisation, carrying out this monitoring[48].

- **Types of special proceedings in the RA Code of Administrative Procedure**

Action: To make changes in the RA Administrative Procedure Code by reviewing the types of special proceedings.

The draft RA law on "Making Amendments to the RA Administrative Procedure Code", which envisages a special procedure for examining the application of tax body for tax information for obtaining

[45] Available at: https://www.e-draft.am/en/projects/2877
[46] Available at: http://www.parliament.am/draft_history.php?id=12281&lang=arm
[47] Available at: http://www.parliament.am/draft_history.php?id=12176&lang=arm
[48] Available at: https://prwb.am/wp-content/uploads/2020/12/%D4%B4%D5%AB%D5%BF%D5%A1%D6%80%D5%AF%D5%B8%D6%82%D5%B4%D5%B6%D5%A5%D6%80-%D6%87-%D5%A1%D5%BC%D5%A1%D5%BB%D5%A1%D6%80%D5%AF%D5%B6%D5%A5%D6%80-2.pdf

confidential information on the basis of obligations under international treaties ratified by the Republic of Armenia, was included in the NA session agenda.[49] On 30.11.2021 according to Article 71 part 3 of the RA Constitutional Law "Rules of Procedure of the National Assembly" the discussion of the package of draft laws at the sitting of the Standing Committee has been postponed for a period of up to two months. The NA also adopted and on 18.05.2021 signed[50] the draft law on "Making Amendments in the RA Administrative Procedure Code", which envisages, that a foreign citizen or stateless person, who has illegally crossed the RA state border or is subject to criminal prosecution or extradition to a foreign state, or who is being prosecuted in the territory of the Republic of Armenia, or who is subject to extradition to a foreign state with the demand to appeal the unfavorable administrative act made by the authorised body defined by the Law of RA on "Refugees and Asylum" on the recognition of refugee status or asylum, or to make a favorable administrative act, may apply to the RA Administrative Court. As a special proceeding, the procedure and the deadlines for the examination and appeal of this group of cases in the Administrative Court and in the Administrative Court of Appeal were defined.

- **Law on "Fundamentals of Administration and Administrative Proceedings"**

Action: To make changes in the law on "Fundamentals of Administration and Administrative Proceedings and in the Administrative Procedure Code", by expanding the scope of disputing administrative bodies and their actions.

Mandatory procedure for filing a complaint by superiority now applies only when filing a lawsuit against acts made by the Traffic Police (also added the Patrol Service), as a precondition, moreover, the norm is defined by the Code on Administrative Offenses. In particular, in accordance with the amendment made to Article 287 of the RA Code on Administrative Offenses by the law HO-206-N dated 23.10.19, administrative acts on cases of administrative offenses defined according to Articles 123, 123.1, 123.3, 123.4, 123.5 (with the exception of violations envisaged by parts 8, 9, 14, and 15), 123.6, 123.7, 124-124.4, 124.6, 125, 126, 128, 129.2, 129.3, 131, 132, 135.3 and 140, can be challenged in the court only after being administratively challenged (appealed).

Reforms of Electoral Legislation

- **RA Electoral Code**

Action: Development of a draft package of changes and amendments of the RA Electoral Code and submission to the NA.

Four organisations from this joint collective monitoring team (Union of Informed Citizens, Helsinki Citizens' Assembly Vanadzor, Transparency International Anti-Corruption Center, Law Development and Protection Foundation) have been involved in the Electoral Reform Working Group, the activities of which started in the end of May 2020. A number of proposals developed in the scope of the RA NA Electoral Reform Working Group aimed at the reform of the Electoral Legislation, were included in the Laws on Changes and Amendments in the Electoral Code adopted on 01.04.2021 and 07.05.2021. In particular, in the package adopted on 01.04.2021 solutions were proposed to guarantee the reform of the proportional electoral system and to eliminate the possibility of holding elections through the

[49] Available at: http://www.parliament.am/draft_history.php?id=12834&lang=arm
[50] Available at: https://www.arlis.am/DocumentView.aspx?docid=152751

regional electoral lists for the NA elections. In addition, legal grounds have been established for holding elections in accordance with special rules in case of quarantine in the whole territory of Armenia or in certain territories, ensuring a smooth election process. The package adopted on 07.05.2021 has created serious grounds for proper organisation of electoral process, prevention of the use of illegal influence on the free will of citizens, ensuring equal opportunities during the election campaign, ensuring financial transparency of election campaign, providing guarantees for higher representation of under-represented sex, ensuring access to the electoral process for people with disabilities, reducing impact of financial means on election results, ensuring the transparency of election campaign spending. Nevertheless, a number of issues remain unresolved or insufficiently regulated, they are related to electoral commissions, system of voters registration, accreditation of observer organisations and the mass media, pre-electoral campaign, use of administrative resources, financing of electoral campaign, regulation related to engaging third persons, implementation of control-auditing functions, summarizing and appealing the election results. Current issues and proposals are presented in more detail in the final report "Akanates"/"Eyewitness" of the observer mission of the RA NA 20.06.2021 extra-ordinary parliamentary elections.[51]

The Working Group on the Electoral Code has been working for quite long time, trying to involve in the process all the sides and opinions, although due to the pandemic and the war the works were interrupted, often were implemented online. Nevertheless, the amendments to the Electoral Code and the adjacent legislation were finalized already in the beginning of 2021 and were sent to the Venice Commission of the Council of Europe. The Venice Commission has evaluated the changes quite positively and published its opinion in April. Although it must be noted, that after changes, lasting and inclusive work, after the positive opinion of the Venice Commission, the draft was changed by the ruling faction and the amended version was presented to the Parliament. The Parliament adopted it by the majority of votes.

The Working Group implemented its activities in an open manner, ensuring participation, a page was created in the social networks (Facebook),[52] for more efficient interaction with the public. Proposals for amendments to the Electoral Code by chapters and topics were posted through online public discussion platforms. Announcement[53] of public discussions was also made on the National Assembly website. The "Union of Informed Citizens" NGO has organised a separate public discussion related to electoral changes[54]. However, although the process of the reforms of the electoral code can be considered as a purely inclusive process, nevertheless its content is not complete, taking into account the final version adopted by the NA, changes made in it. It should be noted, that the RA Government 2021-2026 Action Program envisages to solve the issues identified during the application of electoral legislation until 2023.[55]

In February 2021 the draft amendments of the Code were sent to the Venice Commission for comments. In March 2021 the draft was put into circulation. However, the adoption of the amendments to the Electoral Code was interrupted by the extraordinary parliamentary elections. Thus, the adoption of the amendments was questioned after the announcement of the RA Prime Minister on the agreement between the parliamentary sources on conducting extraordinary elections, with the justification, that, according to international standards importance was given to the predictability of the legislation, and the electoral legislation should not have undergone significant changes in the year before the elections.

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[51] Available at: https://res.elections.am/images/doc/report_akanates20.06.21.pdf
[52] Available at: https://www.facebook.com/ElRefGroup
[53] Available at: http://www.parliament.am/news.php?cat_id=2&NewsID=13227&year=2020&month=08&day=06&lang=arm&fbclid=IwAR3nu2QsG6heum8U-4Bw-n7VGf6qSjs1wSjrhGcwxPoPTZBsLPdW0nGSWAA
[54] Available at: https://www.facebook.com/events/1546668788864899/
[55] Available at: https://www.e-gov.am/u_files/file/decrees/kar/2021/11/1902_1.pdf

However, it should be noted, that, there were long and multifaceted discussions on the planned changes, in particular, the transition to a simple proportional electoral system, in addition, these changes simplified the electoral system and corresponded to the earlier expressed approaches and opinions of major political actors, or publicly enjoyed their support. Only the Bright Armenia Party directly opposed the changes by proposing a mix of proportional and rating systems and insisting on the inadmissibility of changes in such a short period of time.

Numerous civil society organisations issued statements prior to the snap elections calling for amendments to the Code, in particular, the adoption of a simple proportional electoral system without regional lists, a ban on the misuse of administrative resources, and amendments to the Criminal Codes related to administrative offenses. Taking into consideration the priority and choosing the way of minimum resistance, the ruling "My Step" faction of the NA first of all accepted the amendments to the Code only in terms of the proportional electoral system. The separate draft of the amendments to the Code was adopted within 24 hours 01.04.2021 with 82 votes in favor, 0 against, 0 abstentions. Only the ruling "My Step" faction and two independent deputies co-authors of the draft, voted in favor of the changes. Welcoming the adoption of this amendment, the CSO representatives called for the adoption of other amendments guaranteeing free and fair elections.

On 17.04.2021 the RA President, stressing the principle of maintaining a one-year period for the amendments before the elections, announced, that he would not sign the amendment, at the same time he would not apply to the Constitutional Court to determine the constitutionality of the changes. In the result, after the expiration of the 21-day term defined by the Constitution, the NA Chairman on 22.04.2021 signed the law on changes. On the same day the Venice Commission published its opinion on the amendments to the Code, which was exclusively positive, including accepting exceptions to non-compliance related to terms. The Commission referred to simplifying the electoral system and voting. On 27.04.2021 the NA adopted changes on Administrative Offenses and amendments to the Criminal Code, which were signed by the RA President on May 6th. These provisions entered into force on the next day after the publication, to be applied during the NA snap elections.

The package of changes of the Electoral Code was adopted on 07.05.2021, the provisions of which were not applicable during the extraordinary elections and will enter into force gradually. Most of them were used during the Local Self-Government Elections in 2021, which were held for the first time in many communities by the proportional electoral system. It should be noted, however, that the adopted package does not include a number of provisions that were positively assessed by the Venice Commission and does not respond to some of the concerns raised by the organisations involved in the change process. A number of deficiencies and gaps were identified in the Code in the result of Local Self-Government Elections of 2021, the elimination of which will most likely start in 2022.

The following picture exists with respect to including the changes in the Code, proposed in the result of this joint monitoring by the CSOs of provisions and actions underlined and expected by them. Criminal liability for making a false statement on behalf of another person or submitting a statement with a false signature attached to the application was eliminated in case of negligent false statement. And in case of intentionally committing the same crime, the maximum term of imprisonment was reduced to two years instead of the previous 5. The prohibition of the campaign with the abuse of the position or administrative resources has been tightened, and formulation on the use of administrative resources was included. However, the election campaign observation experience of both snap parliamentary, as well as the local self-government, demonstrated that the tightened legislation contains such gaps, that allow the use of administrative resources quite freely, at the same time formally following the letter of the law. In fact, the CSOs included in the Working Group on Amendments to the Code are of the opinion,

that it is necessary to return to the discussion of the reviewed most rigorous options, excluding the use of administrative resources.

Discussion of the principle of formation of precinct election commissions, mechanisms for ensuring independence, readiness and availability of counterbalances, as in the past led to the unresolved dilemma of professional/state commissions and party commissions, due to which the issue was left to the future and the regulations remained unchanged. The analysis of the results of the long-term observation, however, shows, that the insolvability of the problem is somewhat objective due to insufficient human resources, even formally elected members of factions are often elected not by factions, but by the Territorial Electoral Commissions. At the same time, the factions representing the members of the commission assumed the possibility of electoral fraud due to the influence of rivals in this or that commission, thus conditioning the possibility of having their representative in the commission.

The maximum expenditure threshold from the pre-election fund was raised to 800 times the minimum wage, instead of 500 times, and at the same time the threshold for donating funds to the fund by the party/bloc participating in the election became equal to the above-mentioned amount, instead of the previous maximum of 100 times. Along with such liberalization, taking into account the position of local observer organisations, the list of expenses incurred by the foundation has been expanded, including the costs of distributing propaganda materials, as well as the costs of renting headquarters, and starting from 01.01.2022 expenditures made from the fund are done only by non-cash transactions. At the same time the legislation continues to allow non-declaration of staff salaries, proxies' compensations not exceeding AMD 10 000 and means for the use of up to 7-seater vehicles, which allows for making significant undeclared expenses, as well as the use of administrative resources without any requirement to register that.

The Code does not stipulate the requirement to establish a mandatory condition for summarizing the election results by the Electoral Commissions, registering violations in the registers of precinct election commissions and determining a mandatory requirement for a justified and reasoned decision on the examination and reporting facts of violation on own initiative, instead, an obligation for the Precinct Electoral Commissions to provide information to the Central Electoral Commission was determined. At the same time, it should be noted that the Precinct Electoral Commissions separately examine and make a decision on all the assessments recorded in the registers of the Precinct Electoral Commissions, and recalculation of polling stations on one's own initiative has become a common good practice, especially during the elections of the Local Self-Government bodies. Definitions of the mechanisms for identifying irregularities that have a significant impact on the election results and the mechanisms needed to assess their possible impact on the election results were left out during the discussions.

The requirements for professional experience in the articles defining the procedure for forming the CEC and the PEC have remained unchanged, despite the expectations of the CSOs. Instead, as a result of the discussions, the circle of candidates for the PEC membership has expanded, accepting the option of having six years of work experience in any non-commercial organisation instead of only state non-commercial organisations. Regulations concerning the announcement and the timing for the competition were also determined in such a way, that will stimulate a real competition. While in the framework of this monitoring the CSOs proposed to impose an obligation on the PEC to monitor media coverage in their area of service to detect violations of the Code, such mechanisms have not been discussed by the Working Group and have not been enshrined in the Electoral Code. At the same time, the regulations for television and radio broadcast media have been improved, as well as the regulations for the internet media were developed. Although the RA Code on Administrative Offenses envisages conducting the proceedings of election campaign violations by election commissions, however the Code

does not provide for media campaign oversight in the communities with less than 70 000 voters, the legislative restrictions are virtually ignored.

To exclude the crowds near the polling stations mentioned as a danger of electoral violations and a source of pressure repeatedly mentioned in the reports of the local observer organisations, the legislation has defined not only groups, but also the local presence of one person in a radius of 50 meters, as well as the accumulation of cars. In recent years the observer organisations have also recorded the more proactive and committed activity of police officers on duty on election day. To guarantee the mechanisms of impartiality and neutrality of observer organisations, the changes of the Electoral Code envisage two provisions: the inadmissibility of the persons running for the given elections in the management or in the board of the observer organisation, and exclusion of the same person playing different roles in the election process due to online registration of candidates, commission members, media representatives and observers through the CEC online platform.

Due to the amendments of the Electoral Code the legal entity of observer organisations was recognized in relation with the cases of violation of the rights of observers arising from their status, but the right of observers and observer organisations to challenge violations of objective suffrage, as well as defining the right of voters, observers and observer groups to directly challenge the voting/election results, which was seriously discussed by the Working Group and was included in the draft sent to the Venice Commission, has not been included in the adopted package of changes. The draft also proposed to state that organisations carrying out observation missions ensure public control over the electoral process. This definition was also left out from the adopted version. These provisions continue to remain central to advocacy for observer organisations.

As a result of reviewing the legal regulations of the appeals defined by the RA Electoral Code and the deadlines for making decisions by election commissions, the Working Group came to the conclusion that the change of the deadlines may disrupt the post-election process. Instead, it has introduced a possibility of filing appeals electronically, and an application for recognizing the voting results as invalid may be submitted without the obligation of the commission member to make a note of a special opinion in the minutes of the voting day.

Fight against Corruption

- **Corruption Prevention Commission**

Prevention is an important functional direction in the framework of the fight against corruption. For its implementation according to the RA Law on "Corruption Prevention Commission" adopted by the RA NA five members of the Corruption Prevention Commission (hereafter Commission) were elected by the RA NA, which elected the Chairman of the Commission from their members. After that one of the members of the Commission submitted a resignation letter. In order to evaluate the activities of the Commission in the field of corruption prevention, it must be mentioned that, according to the decision of the RA Government of 10.09.2020 an opportunity of a 40-member staff for the Commission was planned: staff of 6 specialised departments, assistants of the Commission chairman and members and other positions. In 2020, however, the staff of the Commission was not formed, the fact of which was used as a justification for an obstacle to the efficient implementation of Commission's functions.

The above-mentioned positions as such were filled in 2021, 36 out of 40. In addition, a possibility of 15 more staff positions was provided to the Commission, to fill which a competition announcement was made. In 2021 international donors provided support to the Commission in carrying out its functions by engaging international experts.

In 2021 the Departments of the Commission on Control of Public Servants' Conduct and Methodological Support reviewed in total 45 applications on incompatibility requirements in the media sphere and the conflict of interest. As a result, 10 official clarifications on incompatibility requirements were provided, which mainly related to carrying out other paid activities in parallel to a public position or occupying another public or municipal position. 3 incompatibility proceedings were initiated, one of which against a governor, one against a head of the community, and another one against a judge. The authorities of the judge were terminated on the basis of a conclusion of incompatibility requirements violation. The reason for the proceedings against the mentioned officials was the business activity carried out in parallel to occupying the official position. As of 2021 the draft sample codes of conduct for the public servants and persons occupying state positions, as well as community leaders and their deputies are not yet developed.

In 2021 the Commission developed the updated concept and an action plan on forbidding acceptance of gifts, which was reflected in the draft RA Government action plan. At the same time it must be mentioned, that the regulations determined by the ban on accepting gifts are not specified, as well as the list of exceptions from the RA Law on "Public Service" is quite broad.

Based on the results of the analysis of the declarations of 2021 five cases were sent to the RA Prosecutor General's Office. In two cases the basis for sending the materials was, that the persons, who submitted the declarations, during the process of analysing the declarations did not provide clarifications concerning the discovered inconsistencies. In two cases it was discovered, that the persons received a donation exceeding AMD 3.000.000 in cash, which is not considered as a legal income according to the RA Laws on "Public Service" and "Corruption Prevention Commission". In one case a fact that should have been declared was hidden. In 2021 the Commission conducted a study of the morale of 103 candidates for a position of a state official, as a result of which 96 advisory opinions were submitted to the relevant bodies. It should be mentioned, that even though the conclusions of the Commission according to the law are not subject to publication, however in the result of public investigation the content of some conclusions of the Commission on the conduct of some officials has become known and was not perceived appropriately by the public. The issue relates both to the negative conclusions (as a result were appointed to the position), and to the positive conclusions, which have not been perceived by the public.

Action: Establishment of the Corruption Prevention Commission and ensuring its normal activities. To increase the efficiency of the activities of the Commission, to develop a package of proposals aimed at enlarging the scope of the functions of the Commission.

The amendments to the Law on Parties of end-2020 and to the Electoral Code of May 2021 have enlarged the functions of the Corruption Prevention Commission. From 01.01.2022 the Corruption Prevention Commission has taken the supervision of the political parties, and in 2023 the control of financing the political parties' pre-election campaigns. However, the Commission has launched the development of the tools for the supervision of parties in the end of 2021, which calls into question their operation within the set timeframe. In 2021 during the press conference[56] summarising its activities the Commission presented, that it will assume the function of financial control over parties, including

[56] Available at: http://cpcarmenia.am/hy/news/item/2021/12/28/1/

receiving declarations of the permanent governing bodies of the parties and mandating the audit of the parties.

Action: Improvement of the system of declaring property, incomes and profits. Introducing the system of declaring expenses. Modernising the mechanism of declaration for the officials, by including the actually used property.

According to the Corruption Prevention Commission, during its annual summary the Commission presented, that during 2021 the Commission carried out examinations of property situation of about 170 officials, including about 130 judges and members of their families by studying around 2500 declarations presented by them. Due to the legislative changes following mechanisms of declaring information were introduced:
1) expenses made during the reporting period and determined by the Law on "Public Service", if their one-time amount exceeds AMD 2 million or its equivalent in another currency, or if the total amount of similar expenses determined by the law exceeds AMD 3 million or its equivalent in another currency (expenses are declared only in case of official termination of responsibilities, or in the annual declaration),
2) property not owned by the declarant, but actually owned or used by the declarant for more than 90 days in the reporting period,
3) property, which belongs with an ownership right to a third person, but was bought on behalf of the declarant, for the declarant's benefit or at his or her expense, or the declarant receives a factual benefit from that property or owns that.

While the process of modernisation of the declaration system is continuing, the Corruption Prevention Commission has initiated 42 administrative proceedings according to various paragraphs of Article 169.28 of the Administrative Violations Code (failure to submit the declarations to the Corruption Prevention Commission within the set timeframe, or failure to fill the declarations according to the requirements, or violation of the submission procedure, or submission of incorrect or incomplete data by mistake). Out of 42 initiated proceedings 30 were initiated on the basis of failure to submit the declaration within the set timeframe, 10 on the basis of providing incorrect or incomplete data by mistake, and 2 for failing to satisfy the requirements to filling in the declarations. It should be mentioned, that the legislation now requires the candidates to the community councils and NA deputy candidates to submit declarations, which makes extremely important to raise the awareness about completing the declarations and adopting of a similar approach towards that to the extent possible.

Action: Clarification of incompatibility requirements for public officials and public servants.

During 2021 the Corruption Prevention Commission studied 45 applications and media publications for the violation of the incompatibility requirements and conflicts of interest by the public officials. The Commission provided official clarifications on 10 of the mentioned cases. In three cases proceedings were launched. First proceeding concerning the incompatibility concerned Gagik Khandanyan,[57] a judge from the Criminal Court of Appeal. In this case the violation of the incompatibility requirement was proved by the fact that the person has acquired shares in a trading company, already being an official, did not transfer the company to a trust management in due time and manner, and continued to have influence on its activities. The authorities of the judge were terminated on the basis of the conclusion. In the second case the Commission made a conclusion regarding Razmik Tevosyan,[58] the Governor of Ararat, for carrying out business activities incompatible with his position, that the incompatibility

[57] Available at: http://cpcarmenia.am/files/legislation/478.pdf
[58] Available at: http://cpcarmenia.am/files/legislation/526.pdf

requirement has not been violated, since the Governor had submitted a resignation in the LLC in due time, and he cannot be responsible for the late update of data in the state register.

The third proceeding conducted by the Corruption Prevention Commission is related to Martik Tevonyan, the Head of Aralez community of Ararat province at the same time an owner of a company. In the result of the proceeding initiated against him the Commission concluded that the official did not transfer the company to a trust management and in fact was engaged in an activity incompatible with his position. However, the existing legal regulations do not allow to ensure effectively the rules of incompatibility and exclusion of conflicts of interest. As a tool to prevent corruption, the Commission developed draft codes of conduct for public servants, public officials, as well as community leaders and their deputies, which, according to the Commission, will be presented for public discussion in January-February 2022. And in the first part of 2022 the Commission intends to develop a draft corresponding to international standards on accepting gifts by public officials. In 2021 the Commission implemented an examination of conduct of 103 candidates to state positions. The Commission gave 96 conclusions, out of that 56 positive, 8 negative, and 32 positive, but with a reservation. It is problematic, that two candidates for judges, related to whom the Commission gave a negative conclusion, were nevertheless appointed to relevant positions.

- **Investigation of corruption crimes**

The RA Anti-Corruption Strategy and its Implementation Action Plan 2019-2022 envisaged to establish a unified pre-investigation body for the corruption related crimes in the period 2021-2022, the anti-corruption committee (hereafter Committee). To achieve that in 2020 the RA Ministry of Justice developed and circulated the draft RA Law on Anti-Corruption Committee, which received a positive opinion of the RA Government and was approved by the RA NA. By assessing the establishment of the committee, as a unified body investigating corruption crimes, from the point of view of its independence and functional efficiency, we can state that the comprehensive and efficient mechanisms, ensuring independence and accountability were not introduced. In particular, the accountability of the Chair of the Committee before the highest representative body of the country has a formal nature, manifested by the legal regulation to submit official reports on the activities to the NA. In addition, according to the legal regulations the Chair of the Committee was appointed by the RA Prime Minister. At the same time, we can state that, despite the fact that legal regulations related to the election of the candidate to the Committee Chair determined in the law, contain progressive norms, with regards to determining transparent mechanisms for overseeing the competitive selection process, nevertheless, in 2021 during the competitive selection process of the Chair of the Committee the prevalence of formal manifestations was evident. In particular, the selection committee has not been formed completely (the Human Rights Defender did not propose a candidate, in fact also the NA council). In addition, the component of ethics assessment in the criteria for checking professional competences of the candidates for the position of the Chair of the Committee is set at a low percentage. The above-mentioned issue was raised during the competition by the representative of the NGO included in the competition committee, as well as by the international expert also included in the competition committee, stressing in particular, that the competition should not be just a competition, but to record the result in an objective manner. From the point of view of ensuring the publicity of the competition, the legislative requirement was ensured, both in the preliminary, as well as in the examination stage. At the same time, it should be noted, that out of three candidates to the Chair of the Committee in the result of the competition, the candidate appointed by the Prime Minister at the moment of appointment occupied the position of the Special Investigation Service (hereafter SIS). The anti-corruption cases that were under investigation of the SIS were transferred to the Committee. Regarding the political component of the ethics of the already appointed Chairman of the Committee, the issue of his political dependence was disputed in the public perceptions,

focusing mainly on the wiretapping published in 2019 of a conversation between the latter, the Prime Minister and the former head of the National Security Service (NSS).

With respect to the Operational Department of the Committee, it should be mentioned, that the law does not contain special legal regulations related to the selection of the candidates of the Operational Service staff, since it is not possible to form staff of secret services by the competition commission, as proposed by the law. In addition, the composition of the commission proposed for the investigation service, is not clarified yet. For example, 3 public servants, the requirements towards them are not clear, or one from the civil society, the required standards are not defined. It should be mentioned, that the selection of the staff of the secret operational services of the Committee must be implemented through the procedures formed exclusively in the framework of internal legal regulations, without external interventions. In order to form the operational-intelligence department of the Committee a competition was announced in December 2021, however the raised issues, that aimed at ensuring the independence of that staff, the impartiality of the employees transferred from other law enforcement bodies, were not resolved in the framework of the competition process. SIS investigators were transferred to the investigation department of the Committee as acting.

During a two-month period of functioning of the Committee, the Committee voiced the necessity to change the procedural norm related to investigative subordination, related to the workload of investigators. In particular, according to Annex 6 of the RA Criminal Procedure Code corruption crimes should be investigated by the Committee. However, in December 2021 the RA Ministry of Justice circulated a draft on amendments in the Procedure Code, according to which it is planned to withdraw the preliminary investigation of criminal cases with the damage caused by the crime of less than AMD 20 mln. from the investigative subordination of the Committee. Such approach is extremely unacceptable, since in the legal basis of the issue of transferring investigative subordination of corruption crimes to a specialised body lies the peculiarity of investigation methodology, and initially small amount of damage may increase. In addition, the importance of the case and the peculiarity of investigation is conditioned also by the person, who committed the crime, and not the amount of the damage. The public opinion about the draft is negative, also from the point of view of incompliance with the procedural logic. In particular, the workload is mostly an issue that should be solved through technical means, and the most important, as it was already mentioned, the amount of caused damage is a floating category, which is conditioned by the pre-investigation process. According to the calculations of the Committee the average workload of the investigators is 20 criminal cases. It is not clear, why such a calculation was not done during the formation of the Committee and drafting of Annex 6 of the Criminal Code. It is evident, that the issue could be solved by increasing the number of investigators. Such a policy reveals importance of systemic solutions by opposing to the policy of situational approaches.

- **Specialised anti-corruption courts**

The RA Judicial and Legal Reform 2019-2023 Strategy in order to alleviate the workload of the judicial system and to ensure the professional orientation in the investigation of corruption crimes has envisaged to establish an institute of the anti-corruption specialised court. With that objective in July 2020 the RA Ministry of Justice put into circulation the RA draft Law on "Making Changes and Amendments in the RA Judicial Code Constitutional Law", which was adopted by the NA. The Code provides for legal regulations, that can have a positive impact on increasing the degree of independence and professionalism of judges, investigating corruption cases. In particular, an opportunity to engage experts in the process of selecting judges for the anti-corruption courts, including international experts, is envisaged. The process is still continuing and is planned to be completed in 2022. An appeal court is also being established to appeal cases under the jurisdiction of the anti-corruption court. The mentioned measures in addition to increasing the level of investigation professionalism of cases, will also

contribute to the alleviation of the workload of the judiciary system. Implementation of this objective, however, requires correction of legislative gaps, causing disputed relations, and contradictions. It should be noted, that the anti-corruption court is not yet established, which, to some extent, impedes the implementation of the judicial stage of the confiscation of the property of illegal origin.

- **Confiscation of property of illegal origin**

Action: Establishment of institutions for the confiscation of the property of illegal origin

On 16.04.2020 the NA approved the RA Law on "Confiscation of Property of Illegal Origin" (hereafter Law). During the stage of public discussions proposals were made to improve the draft of the law, to correct the existing legal contradictions, which, however, were not taken into account in the content of the law. The proposals referred to the principal issues related to the grounds for initiating the confiscation proceedings and correspondence to the constitutional-legal regulations. In order to implement the provisions of the Law on 03.09.2020 a separate department dealing with the confiscation of property of illegal origin was established in the structure of the RA Prosecutor General's Office (hereafter Department). The selection of the prosecutors of the Department was organised through a competition, where a possibility to participate was also given to the representatives of the NGOs, without a possibility of asking questions. A possibility of video recording the sessions of the competition commission was also lacking. Out of 7 candidates, who received positive assessment 5 prosecutors and one deputy of the Prosecutor General coordinating the anti-corruption sphere, were appointed by a decree of the RA Prosecutor General.

During 2020-2021 the number of proceedings by the Department on confiscation of property of illegal origin was around 300 cases. Moreover, the vast majority of proceedings was initiated on the basis of information available in the criminal cases, use of which according to the existing in the law legal regulations may lead to endless legal disputes. There is no information about proceedings on the basis of information received in the result of operational activities. Provision of information on the proceedings by the Department in response to public inquiries, in fact, is not carried out for reasons of confidentiality. Opposite to that, the Department publishes information based on the materials still in the preparation phase, including related to the personal data**.** Moreover, the information is published selectively and does not fit into the logic of legal-regulatory general information restrictions.

Action: Legal issues related to procurement, system of appeal, introduction of the system of electronic procurement.

During 2021 changes in the law "On Procurement" were proposed by the Government, aimed at abolishing the non-court institute of appeal, which received a negative opinion of the NA expertise and analysis department. However, after the positive opinion of the NA Permanent Commission on Economic Issues in October 2021, it passed the first reading, and the second reading was postponed to the spring session of 2022. In order to neutralize possible corruption risks some amendments are necessary both in the RA Law "On Procurement", and in the Decision 526-N of the RA Government of 2017, regulating the process of implementation of procurement. In particular:

- According to paragraph 6 of Article 15 of the law "On Procurement" before envisaging financial resources an agreement can be signed in accordance with the procedure stipulated by the law, with a condition, that in the framework of that agreement the procurement can be done in case of allocating necessary financial resources. The concluded agreement may be terminated, if within six months following the day of its signature no financial resources were allocated for its implementation. The mentioned regulation is applied if:
  1) the customer is not able to predict (calculate) necessary financial resources for the procurement,

2) the supply of goods, implementation of works or provision of services should start in such a period since the moment of allocating financial resources for the given procurement, during which the application of any kind of competitive procurement is impossible in terms of time.
The RA Government 526-N decision of 2017 adopted to regulate also the above-mentioned regulation of the Law, however, does not envisage legal regulations in the frame of the above-mentioned process of procurement related to clear rules of conducting negotiations, which is the reason, that in different state structures the process is organised at their own discretion. For example, regarding the price offer, there is no limit to the size of the offer proposed by the bidder. Meanwhile, for instance, during the electronic tender the system allows to reduce the amount of the offer by a specific amount, which excludes the origin of disputed legal relations and corruption risks. Therefore, it is necessary to unify the negotiation procedure in all the state structures in the process of holding a tender without financial means.

- According to the above-mentioned RA Government decision, in case of identifying deficiencies in the procurement bid, the customer should give an opportunity to the bidder to correct it, although in the contractual stage the issue is left purely at the discretion of the customer, due to the absence of an appropriate legal regulation. In case of such an approach, the exercise of a discretion in the conduct of an official creates corruption risks. It is necessary to fill the gap in the legal act by unifying the regulation of enabling correction also in the contractual stage.
- The above-mentioned legal acts stipulate, that the bid security is sold at a specific % of the price of the bid. In this case the awareness of the financial structure about the actual price of the bid contains a possibility of information leakage. It is necessary to discuss and to exclude with the help of a special legal regulation the possibility of the above-mentioned situations.
- It is also necessary to improve the procurement software system in order to avoid the implementation of a number of functions by people, such as making the protocols, which is currently done manually.

The Armeps system of electronic procurement, which has not been functioning since the end of September of 2020 due to unknown reasons, has been working continuously since February 2021. At the same time, it should be mentioned, that there has not been any official explanation about the reasons for the closure of the system. However, according to the information available on the unofficial level, the system was not functioning due to the war.

- **Transparent and accountable governance**

No progress has been registered in 2021 in terms of increasing the efficiency of public participation in the process of drafting legal acts. In particular, before the preparation of draft legal acts by the public, no studies or analyses are carried out among the public by the subjects, having the right of the initiative, concerning their demand or necessity, specificity of the subject matter under regulation. The e-draft platform has had a drawback from the point of view of public access, since the draft acts are not sent to the electronic addresses of the subscribers. The results of the study show that the discussions of draft legal acts mainly have a formal nature, since the authorities do not try to fundamentally change the unsubstantiated policy on the basis of constructive proposals, such as changes implemented in the field of legal regulations of the judicial system, judicial proceedings, legal regulations related to the provision of public services.

With respect to the transparency of public administration, during 2021 the Government took a step back, by expanding the list of information that can be encrypted, according to the changes proposed in the RA Law "On State Secrets". Moreover, almost no justifications were provided in that regard. Representatives of the civil society provided specific proposals regarding the improvement of the situation (in compliance with the OSCE standards), which mostly were not accepted. The sphere of well-

grounded personnel policy for the development of the public administration remains unresolved. In particular, no apolitical personnel policy is functioning, nor (material and non-material) system of assessment of professional capacities. The illegitimate overall assessment system has in no way contributed to the introduction of effective governance mechanisms in public system.

Freedom of Assembly, Freedom of Media, Freedom of Information and Freedom to Express Opinion

- **Law on "Freedom of Assembly"**

Action: Improving the practices in accordance with the international standards provided by the Law on "Freedom of Assembly".

The above-mentioned action has not been implemented within the planned period of time. In its written answer addressed to us of 14.12.2021 the RA Ministry of Justice has informed, that envisaged by point 56 of 2020-2022 Action Program, which is arising from the National Strategy for the Protection of Human Rights, in accordance with the Law on "Freedom of Assembly" and in the framework of improving practices in accordance to international standards, the Ministry of Justice in cooperation with the RA Police is carrying out a study on the compliance of the RA Law on "Freedom of Assembly" and the adjacent legislation with the international standards, which is now being finalized. The deadline for this activity was set for the second half of 2021.

Action: Legally determine the procedures and terms of the RA Police actions in accordance to the international standards in relation to the rallies.

No decision of the Government regulating the actions of the RA Police in connection with the rallies has been adopted yet. The deadline for the implementation of this activity is set for the first half of 2022.

- **Trainings on the subject of freedom of assembly**

Action: To organise trainings on the international standards of the subect of freedom of assembly.

The above-mentioned activity was implemented partially. According to the information provided by the RA Police in the framework of the 2020-2022 Action Program, arising from the National Strategy for the Protection of Human Rights, in 2020 within the framework of regular trainings in accordance to international standards on the topic of the freedom of assembly it is envisaged to train 608 police officers. However, due to the COVID-19 pandemic in the Republic of Armenia, as well as the martial law declared due to the war, the trainings were temporarily suspended. 81 police officers were trained in the first half of 2020.

In the framework of the 2020-2022 Action Program, arising from the National Strategy for the Protection of Human Rights, according to the annual report[59] on the activities implemented in 2020, during 2020 in the RA Police Educational Complex trainings were organised for Deputy Heads of Regional/Marz Departments of the RA Police on operational issues, Heads of Regional Departments and

[59] Available at: http://www.e-rights.am/file.php?class_name=company_document_file&file_uniq_id=976038ef7fd6eba6832&size_mode=1

Deputy Heads on operational issues and on service issues, Heads of Criminal Investigation Departments, Departments of Juvenile and Prevention of Domestic Violence, Heads of Community Police Departments, as well as newly appointed mid-level staff, operational officers on criminal investigation, juvenile issues and prevention of domestic violence, mid-level officers of the Community Police, Protection of Public Order (PPO) and prevention/prophylactics, in total 117 servicemen. During the first half of 2021, 119 mid-level officers[60] were trained on freedom of assembly in accordance with international standards at the RA Police Educational Complex.

According to the information provided by the Police in 2021 it was planned to train 513 servicemen and the number of police servicemen to be trained in 2022 is not decided yet. According to the information provided by the Police on 30.12.2021 during the second half of 2021 Deputy Heads of RA Police Departments and Divisions on service issues, Heads of Prevention/prophylactics Departments, and Heads of Community Departments (CD), operational officers of the Criminal Investigation (CI), Juvenile Issues (JI) and Prevention of Domestic Violence (PDV) Departments of the RA Police (Head of Criminal Investigation Department/HCID, Deputy), Heads and Deputies of the Regional Departments, senior operational officers of CI, JI, PDV, Specially Important Cases (SIC) departments, senior operational officers, operational officers, servicemen holding the positions of senior and junior officers in the RA Police Troops, servicemen occupying mid-level positions in the RA Police CD, PPO and Prophylactics were trained. Total number of servicemen was 56. These trainings were organised on the basis of already revised curricula.

Action: Sign the Convention of the Council of Europe on "Access to Official Documents".

On 09.04.2020 the RA Government with its N 511-A decision approved the proposal to sign the Convention on "Access to Official Documents" of the Council of Europe. The Republic of Armenia signed the Convention of the Council of Europe on Access to Official Documents on 24.06.2020. Taking into account the necessity of determining international regulatory structures on information access in the context of the Convention of the Council of Europe on "Access to Official Documents" by the RA legislation, taking as a basis the study implemented in this sphere by the Foundation, the identified issues, the existing international standards and the best international experience, it was proposed to implement a number of legislative reforms, which are related to the fields of state and service secrets, operational investigative activities, archive field, criminal procedure, protection of personal data, procurement and public services.[61] Among others, it was proposed:

1. To make changes in the RA Law on "Freedom of Information" and expand the list of information holders, to envisage a test of public interest in case of restriction of freedom of information, to determine an obligation to provide information to the people with disabilities at their request in a manner accessible to them,
2. To make necessary changes in the RA Law on "Freedom of Information", RA Law on "State Duty", RA Law on "State Registration of Property Rights" and in other laws and by-laws with a purpose to review the cases of providing information for payment (with the exception of volume, more precisely, cases of payment based on the number of pages or by providing special services),
3. Define by law the obligation of public information organisations to notify the information requester of the need to make a payment, to define the concept of "need to do additional work",
4. To establish an independent body overseeing the rule of law in the field of freedom of information, which will be formed with at least by 3/5 of the total number of votes of the deputies of the RA NA and to authorise that body: 1) to make a decision on refusing in some way to provide information by the information holders, to review based on the complaint of non-

[60] Available at: https://www.moj.am/storage/uploads/MIP2020.pdf
[61] Available at: https://bit.ly/2PSZgjQ

action, to oblige the provision of information (the body should have the authority to make decisions, which are binding), as well as with the authority to request from the holder of information complete information necessary to resolve a dispute over the provision of information, 2) to monitor the sector, including controlling the fulfillment of the obligation to publish the information subject to mandatory publication by law by the entities holding information in a timely manner, 3) to assist the holders of information in the application of the legislation on freedom of information (in order to save resources, it is possible to combine the functions of a personal data protection agency within this body),

5. To complete the list of information subject to proactive publication defined by the RA Law on "Freedom of Information" with notifications of declassified information, with information available on the budget and its implementation in a single and accessible format (the detailed regulation may be defined by the RA Government decision) and other information,
6. To make changes in Article 189.7 of the RA Code on Administrative Offenses, which envisages administrative liability for non-fulfillment of the obligation to provide information, by envisaging liability for providing incomplete information, providing untrue information, failing to provide information within the prescribed period, as well as failing to publish information subject to publication by law, as well as to review the minimum thresholds for administrative sanctions,
7. To make changes in Article 282 of the RA Criminal Code, which stipulates responsibility for concealing or intentionally distorting information on environmental pollution, in connection with the objective side of the crime, the scope of subjects, as well as the toughening of the envisaged penalties,
8. To make changes in the RA Law on "State and Service Secret" in order to clarify the concept of "service secret", as well as to define the criteria for segregation of the degree of secrecy,
9. To make changes in the RA Law on "State and Service Secret", eliminating the possibility of defining expanded departmental lists, and envisaging the requirement to include the relevant information in the joint list adopted by the RA Government,
10. To make changes in the RA Law on "State and Service Secret" defining the responsibility of officials in encrypting each piece of information, substantiating the need for encryption, as well as timing of the encryption, specifying the exact time or condition for declassification,
11. To review and limit the scope of information subject to encryption provided by the RA Law on "State and Service Secret" and a relevant Government decision. To expand the list of information not subject to restriction on grounds of being a state secret, as defined by Article 10 of the RA Law on "State and Service Secret", as well as to clarify certain terms in the existing list.
12. To establish a provision defining the obligation to review the need/justification to keep confidential information at least once every five years by the RA Law on "State and Service Secret",
13. To establish a provision in the RA Law on "State and Service Secret" defining the right of individuals and organisations to submit the reasoned proposal to the state body / official, who encrypted the information to declassify it, and an opportunity to appeal the decision in case of a refusal,
14. To amend Article 16 of the RA Law on "State and Service Secret", providing duty of the public body to inform the public when declassifying information through public notification, a provision stipulating the possibility of getting acquainted with the documents for at least one year after the declassification, before assessing the fate of the documents,
15. To define a liability under the Code of Administrative Offenses for classifying information as state or service secret illegally or unjustifiably, for encrypting the documents for a longer period than necessary, for not reviewing regularly the need to keep the information confidential at the intervals prescribed by the law, and for failing to declassify information within the prescribed period,

16. To establish an independent state body overseeing the encryption, review, and declassification of information in accordance with the defined procedure, whose functions may be assigned to an independent body specializing in the field of freedom of information,
17. To review the exemplary list of archive documents with the indication of protection dates approved by the RA Government Decision N 397-N of 04.04.2019, by including other documents of archival value,
18. To make changes in the RA Law on "Archive Activity" reducing the time limit for accessing information containing personal or family secret information,
19. To determine a liability in the RA Code on Administrative Offenses and in the RA Criminal Code for the violation of archival legislation. To establish appropriate oversight mechanisms for compliance with archival legislation,
20. To review part 2 of Article 15 of the RA Law on "Procurement" and other legal regulations arising fom it, bringing it in line with the requirements of the RA Law on "State and Service Secret", excluding the encryption of any information, unrelated to the security of the Republic of Armenia, with respect to the costs, goods, works and services in the procurement process,
21. To review Annex 2 of the Government N 526-N Decision of 04.05.2017, bringing it in line with the requirements of the RA Law on "State and Service Secret", as well as to the international obligations undertaken by the Republic of Armenia with respect to ensuring right to the freedom of information,
22. To provide a liability according to the RA Code on Administrative Offenses for the violation of the requirements of accountability or transparency in the field of procurement.

Currently the report entitled "Issues of the Freedom of Information in the Republic of Armenia" [62] of the Law Development and Protection Foundation, member organisation of this joint monitoring, is being studied by the responsible divisions of the RA Ministry of Justice. According to the information provided by the RA Ministry of Justice the Foundation will be notified about the results of the study as soon as possible after the completion of the study.

Right to Health

Action: Raise awareness of state-guaranteed medical services.

For the implementation of this activity by the order of the RA Minister of Health N 3481-A of 21.11.2019 the list of organisations, where information posters should be posted in order to raise public awareness about state-guaranteed medical services. The RA Ministry of Health and 15 functioning medical institutions of Yerevan are included in the list. By the order of the RA Minister of Health N 3963 of 27.12.2019 changes were made in the previous order and 183 institutions of RA regions/marzes and Yerevan were included in the list (including the RA Ministry of Health). According to the information provided by the RA Ministry of Health the institutions were provided with one-two poster packages, which were properly placed in the mentioned organisations. Each package contained seven posters. The posters, as well as the procedures for providing health services, terms, changes, that were introduced, information about new conditions, were also posted on the website of the Ministry.

[62] Available at: https://bit.ly/2PSZgjQ

The expected result of this activity was that "the list of state-guaranteed medical services is posted in 150 medical institutions", therefore it can be mentioned that the activity has been implemented in that regard. At the same time, it is not clear what was its impact, "whether the cases of violation of the right to the state-guaranteed medical care and services have reduced" whether it was realized, since it has not been evaluated by the RA Ministry of Health.

Action: To increase the number of institutions providing psychiatric and rehabilitation services to children.

In September 2021 a Child Psychiatric Department was opened in the "Avan" Mental Health Center (number of beds: 12). On 09.04.2021 the Government program aimed at reconstruction of the National Center of Mental Health was also approved. Within the framework of this program, it is planned to construct a Child Psychiatric Center with 2 departments in the territory of the psychiatric hospital. From April 2021 Sevan and Chambarak Child Rehabilitation Centers were established. Sevan Child Rehabilitation Center is planned for serving around 170 children having a need of rehabilitation treatment, and 20 children in the Chambarak Rehabilitation Center from April to December 2021. The order of the RA Minister of Health N 1068-L of 23.03.2020 the procedures for early detection, early intervention and rehabilitation services for children with developmental disabilities/retardation, the general description of activities of the staff of the outpatient rehabilitation center (service, department). In the result of this activity, it was planned to establish 1 inpatient psychiatric department and 1 service center, providing child rehabilitation services. Based on the information above, we may conclude, that the activity has been implemented and mental health service has become more accessible for children *(the expected impact of the action is that the number of cases of violation of children's right to mental health has decreased and the availability of rehabilitation care has increased)*. At the same time, it should be noted, that services were established in some communities and in the majority of provinces/marzes they are not accessible. It must also be mentioned, that the establishment of a child psychiatric department in closed psychiatric institution is not in the interest of children with mental health problems, and contradicts the protection of their rights.

Action: To provide trainings on the topic of specifics of medical care and services of people with disabilities.

According to the information provided to Helsinki Citizens' Assembly Vanadzor by the RA Ministry of Health the topic of specifics of medical care and services of people with disabilities has been included in the trainings of the National Health Institute of the RA Ministry of Health entitled "Organisation and Management of Healthcare", "Legal Bases of Medical (Healthcare) Activity", "Bases of Medical-Social Examination". In the framework of trainings carried out by the trainers of the National Health Institute "legislation regulating the field of healthcare, the rights of patients, including vulnerable groups, medical care providers, medical workers, their protection guarantees, responsibilities, professional violations of medical workers, types of responsibilities, etc. are studied". The trainings are continuous, and carried out on request[63].

As of 01.06.2021 40 healthcare professionals from 19 medical institutions, as well as from the Department of Protection of Family, Women and Children of the Vayots Dzor provincial administration/marzpetaran and from the Healthcare and Labor Inspection Body of the Ministry of Health have participated in the trainings. The largest group, that participated in the trainings (10 persons) were the family doctors. Participated also – 1 each dermatologist-venerologist, cardiologist, infectionist, endocrinologist, epidemiologist, anesthesiologist-resuscitator, psychiatrist, urologist, nephrologist, 2 each obstetrician-gynecologist, radiologist, neurologist, four healthcare managers, five each surgeons and therapists. It should be noted, that information provided to the Helsinki Citizens'

[63] Training modules, agenda, as well as the schedule for June-December 2021 trainings were not provided.

Assembly Vanadzor and information included in the annual report on implemented activities in 2020 in the framework of the 2020-2022 Action Program arising from the National Strategy for the Protection of Human Rights do not correspond to each other.

According to the Annual Report on the activities implemented in 2020 in the framework of the 2020-2022 Action Program arising from the National Strategy for the Protection of Human Rights, a retraining program for the medical staff was developed by the Chair of Public Health Organisation and Management of the "RA Ministry of Health National Health Institute after Academician S.Avdalbekyan" Cjsc., which includes legal bases for the rights of persons with disabilities, medical care and services, acquisition of medicines, and medical-legal and bioethical regulations of the doctor-disability relationship. Courses on the specifics of medical care and services of persons with disabilities are compulsory included in the retraining modules of family doctors, in the framework of which 90 family doctors have been retrained[64]. The expected result of this activity was "5% of medical staff of the functioning medical institutions have been trained", and expected impact "cases of inadequate medical care and services for the people with disabilities have decreased". The total number of doctors of all specialisations in RA at the end of 2019 was 13.958, and the total number of mid-level medical staff – 16.772.[65] Therefore, we can note, that as of 01.01.2021 according to the information, provided by the RA Ministry of Health only around 0.1 percent of medical staff of the functioning medical institutions has been trained.

- **Implementation of measures against cancer**

Action: a) creation of a unified online platform for assisting patients with cancer, b) development of new and more comprehensive algorithms for the treatment of cancer in accordance with the guidelines of the European Association of Oncologists, c) development and introduction of tools to improve the quality of management of cancer patients, d) development of adult and child palliative services.

Although there is no information on any of the websites of the state bodies, it is evident, that all the measures are still in the development process. At the same time, some implemented projects are closely related to the given field. According to the order of the RA Minister of Health N 1094-L of 2020 the program of the early treatment of positive "HER2/NEU" breast cancer with the Trastauzumab drug, criteria for patient involvement and appointment, and on 30.03.2020 with the order N 1131-A the experimental screening program for early detection of colorectal cancer[66]. A series of training programs were implemented in October[67] "Breast cancer and breast mammography screening pilot program implementation for the Primary Health Care (PHC) Specialists" on clinical guidelines-procedures and data entry into the electronic healthcare system. It should be noted, that on April 7th by the order[68] of the RA Minister of Health N 1126-L the "Program of measures to combat malignant neoplasms" was approved, according to which it is envisaged from 2021 individual prevention of malignant neoplasms, increase information on diagnosis, decrease of new cases.

Elaboration and implementation of relevant by-laws aimed at ensuring the implementation of the RA Law on "Reduction and Prevention of Damage to Health Due to the Use of Tobacco Products and Their

[64] The percentage of trainings in the first half of 2020 totaled 14.5%
[65] Accessible at: https://www.armstat.am/file/doc/99520908.pdf
[66] RA Minister of Health Order N 1131-A from 30.03.2020, https://www.moh.am/images/legal-537.pdf
[67] Training on "Breast cancer and breast mammography screening pilot program implementation for the Primary Health Care (PHC) specialists", https://nih.am/am/publication_single/358
[68] RA Minister of Health Order N 1126-L from 07.04.2021, https://www.moh.am/images/legal-743.pdf

Substitutes" [69], which is also aimed at prevention of cancer and reduction of caseload. Changes[70] were introduced in the RA Law on "Advertisement", according to which a number of preventive legal norms were determined related to the advertisement of tobacco and alcohol. On 05.05.2021 the RA Government decision was adopted on "Approving the program of the measures for promoting healthy lifestyle",[71] where the risks related to the use and abuse of tobacco and alcohol are also determined, which can cause malignant neoplasms. The latest method of intraoperative examination has been introduced in the RA Ministry of Health National Center of Oncology after V.A.Fanarjyan, which will allow to reduce the post-surgical complications, and to substantially improve the results of surgical treatment[72]. Referring to the field of palliative care it should be mentioned, that an oncologist's medical history[73] of the adult patient receiving care has been established. The new list[74] of major drugs was determined by the RA Minister of Health order N 56-N of 28.07.2021, which also includes the names of drugs envisaged for the palliative care and dosages.

- **Development of a program of sustainable implementation of international health rules**

The program has not been developed yet, but according to the Ministry of Health the strategic directions and criteria were developed for the program of sustainable implementation of international health (medical) rules ("Health Security National Action Program") was developed and discussed with the WHO. In the event of international scale emergency of public health, the WHO should be notified immediately. Before that in 2019 the delegation headed by the RA Minister of Health visited a number of countries, where they referred to further programs for the implementation of international health regulations[75]. Following legislation is in force: The RA Government decision[76] on "Approving the mechanisms of cooperation of the national coordinating body on international health (medical and sanitary) rules and stakeholder bodies and coordinating procedures", the RA Government decision[77] on "Recognizing the National Coordinating Body for International Health (medical) Rules and defining the powers of the National Coordinating Body for International Health (medical) Rules". In order to ensure and develop the implementation of the rules, the last change was made by the decision 1222-N in summer 2020, according to which amendment was made in the RA Government decision[78] N 777-N on "Approving the program of actions of introduction of international health rules in the RA border points during crossing the state border and in emergency situations". No other information is available.

- **Establishment of unified registers of screenings and diseases, testing, training of specialists, upgrading and complete final installation**

[69] RA Law on "Reduction and Prevention of Damage to Health Due to the Use of Tobacco Products and Their Substitutes", https://www.arlis.am/DocumentView.aspx?docid=148983

[70] RA Law on "Making Changes in the RA Law on Advertisement", https://www.arlis.am/DocumentView.aspx?docid=139761, https://www.arlis.am/DocumentView.aspx?docid=144757

[71] RA Government decision N 827-L from 20.05.2021 on "Approving the program of the measures for promoting healthy lifestyle", https://www.arlis.am/DocumentView.aspx?DocID=152913

[72] The National Center of Oncology has introduced a latest method of intraoperative examination, Oncology.am, https://bit.ly/3hbz12T

[73] RA Minister of Health Order N 45-N on "Approving the oncologist's medical history of the adult patient receiving care", https://www.arlis.am/DocumentView.aspx?DocID=153186

[74] RA Minister of Health Order on "Determining the list of major drugs and on declaring invalid the RA Minister of Health Order N 07-N from 17.03.2018", https://www.arlis.am/DocumentView.aspx?docid=154804

[75] Arsen Torosyan is in Istanbul with a working visit, https://www.moh.am/#1/1867, Cooperation between Armenia and Russia will increase within the framework of the new signed agreement, https://www.moh.am/#1/1727, https://www.moh.am/#1/1198

[76] Available at: https://www.arlis.am/DocumentView.aspx?DocID=60842

[77] Available at: https://www.arlis.am/DocumentView.aspx?docid=87952

[78] Available at: https://www.arlis.am/DocumentView.aspx?docid=144704

Information on the establishment of the screening register and other actions is not available.[79] Activities were implemented with respect to the second one, but the register itself is missing. The "ARMED" e-health system, which was developed in 2014-2015 and was introduced in 2017, is a means of integrated coordination of input and storage of complete data on the heath of the population. The system includes around 470 medical institutions, which provide medical services within the framework of state order. The system allows to collect and enter data of hospital, primary health care, dental, pregnancy cases and information on services provided to the beneficiaries of the social package, which is currently used by the State Healthcare Agency of the Ministry of Health on the basis of performance reports provided by medical institutions within the framework of the state order in order to carry out compensation processes.

It should also be noted, that according to the N HO-268-N RA Law on Making changes to the Law on "Medical Care and Service of the Population", the mentioned law was reworded. By making a number of amendments, the concept of "the register of diseases" was defined, as well as, according to Article 10 comprehensive information on specific diseases is considered to be national, comprehensive information used as data for the register, while data is generated, stored and processed by the register. The list of register diseases, those responsible for maintaining the register and the procedure for keeping it are defined by the authorised body. However, no document related to the above regulation has been adopted by the authorised body. According to the order[80] of the RA Minister of Health N 456-L on "Approving the program of actions for the development of electronic healthcare system", published on the "IRTEK" legal website. A number of measures were planned (some of them were implemented) aimed at the establishment of the registers, in particular, until March 2021 to develop necessary legal regulations for the exploitation of the electronic healthcare system and management of healthcare databases and apply them by the adoption of the orders of the RA Minister of Health. These orders are:

- "Procedure for conducting telemedicine, including the mandatory requirements included in the procedure";
- "On approving the procedure for entering personal, including special category data and medical data by persons, licensed in the field of healthcare and in the e-health system";
- "On approving the procedure for training on the use of the electronic healthcare system" [81];
- "On determining the minimum requirements for technical conditions to connect to the electronic health system"[82];
- "Rules for viewing patient data stored in the e-information access window in the e-health system, scope of the patient's access to the information with the consent of the patient (or his/her legal representative) and their rights, procedure for entering the patient's electronic information access window and viewing his/her personal, including special category data, as well as defining the consent form for the patient to access the electronic information access window"[83];
- "On determining the procedure for the list of disease registers, responsibility for the maintenance of the register and management".

It should be mentioned, that some of these orders have not been adopted yet, but their adoption was planned in the 3-rd quarter of March 2021 according to the N 456-L order. According to this document it is also planned to develop a cancer register, implement it in "ARMED" e-health system and test it,

[79] Law Development and Protection Foundation has sent written inquiries to the authorised body on this as well.
[80] RA Minister of Health Order N 456-L from 16.02.2021 on "Approving the program of actions for the development of electronic healthcare system", http://www.irtek.am/views/act.aspx?aid=109847
[81] RA Minister of Health Order On approving the procedure for training on the use of the electronic healthcare system, https://www.arlis.am/DocumentView.aspx?DocID=151027
[82] RA Minister of Health Order On determining the minimum requirements for technical conditions to connect to the electronic health system, https://www.arlis.am/DocumentView.aspx?DocID=151012
[83] RA Minister of Health Order N 40-N, https://www.arlis.am/DocumentView.aspx?DocID=152988

training beneficiaries, launching subsystem and raising awareness, develop diabetes register, implement it in e-health system and test it, training of beneficiaries, launching subsystem and raising awareness. The start of the events is planned at the first decade of March 2022, and completion for the third quarter of November 2023.

According to the decision[84] of the RA Government on "Approving the state targeted health programs for 2022" following programs are planned in terms of screenings: for the prevention of tuberculosis to introduce in the new 2021-2025 strategic program implementation of secret TB screenings for the specially defined groups, using Mantoux skin or Gamma Interferon tests(IGRA test); aimed at ensuring mother and child health, implementation of screening programs, implementation of neonatal screening programs (for early detection of phenylketonuria, congenital hypothyroidism, congenital hearing impairment, retinopathy of prematurity, hip dysplasia, and critical heart defects). According to the programs approved by the RA Minister of Health with the aim of prevention of cancer, screening examination of cervix of women aged 30-60 years according to the procedure approved by the order of the RA Minister of Health N 77-N of 28.11.2013 on "Approving standard for the organisation of obstetrics and gynecology free outpatient medical care guaranteed by the state within the framework of the service provided by the state". And one of the guidelines of the 2021 state target program for ensuring the hygienic and epidemiological security of the population is to continue in 2021 the screening of the population at risk for the Non-Communicable Diseases within the framework of the loan program of the World Bank. Improvement of efficiency and quality of selected hospitals in the different provinces/marzes of the country, implementation of screening examinations in the age groups of 35-68 for the prevention and early detection of hypertension and diabetes, as well as in the age group of women of 30-60 years old for the early detection and prevention of cervical cancer.

- **Adoption of the Strategic Program for the development of the national laboratory system and list of activities for 2021-2025 arising from it**

There is no unified legal act or technical component on the strategic program for the development of the laboratory system. The RA Law on "Medical Assistance and Services to the Population" of 06.05.2020 has been reworded[85], as a result of which amendments were made in the norms related to the activities of laboratories and definitions of "laboratory activity", "unified laboratory network", "reference laboratory" were determined. According to other legal acts a number of RA Government decisions were adopted in 2021, which determine principles of activity of a unified laboratory network, coordination, levels and control procedures[86]; procedures for appointing reference laboratories in the field of healthcare[87]; system of quality management in the organisations carrying out laboratory activities and implementation procedures[88].

- **Implementation of joint scientific activities, in particular: a) about the cost-effectiveness of introduction of new vaccines, impact and studies about the prevalence of diseases (EU**

[84] RA Government decision on "Approving the state targeted health programs for 2022", https://www.arlis.am/DocumentView.aspx?docID=156457
[85] RA Law on "Making Changes in the RA Law on "Medical Assistance and Services to the Population", https://www.arlis.am/DocumentView.aspx?docid=142602
[86] RA Government decision on "Principles of activity of a unified laboratory network, coordination, levels and control procedures", https://www.arlis.am/DocumentView.aspx?docid=153938
[87] RA Government decision on "Procedures for appointing reference laboratories in the field of healthcare", https://www.arlis.am/DocumentView.aspx?docid=154689
[88] RA Government decision on "System of quality management in the organisations carrying out laboratory activities and implementation procedures", https://www.arlis.am/DocumentView.aspx?docid=155644

decision N1082/2013, Article 191 adopted on 22.10.2013), b) about the prevention, diagnosis, treatment of coronavirus disease in RA

On 16.03.2020 the RA Government declared an emergency situation on the whole territory of Armenia (16.03.2020 N 298-N Decision)[89] due to the increase of the cases of the new coronavirus infection (COVID-19), which is periodically extended until end of 2021. In total during these two years, as of November 5th 316,839 cases of COVID-19 were registered in Armenia, out of which 6,582 death cases, 1,323 death cases among the patients with positive COVID-19 were due to "other reasons".[90] Quite extensive and effecitive measures have been taken in the direction of prevention, diagnosis and treatment of coronavirus disease in RA. Complex discussions were organised among doctors, scientists, and other specialists. The RA Ministry of Health also organised public awareness activities, by spreading information about the infection by all possible means. The RA Government, the corresponding bodies of the RA Ministry of Health and other persons have adopted a number of legal acts,[91] which determine new sanitary-epidemiological rules, regulate measures aimed at prevention of infection, application of extensive and rational personal protection means and implementation of diagnostic measures, development of methodological guidelines and algorithms. On April 7th the EU and the WHO have transferred to the RA Ministry of Health 100 oxygen concentrators. The transfer of oxygen concentrators was organised due to the joint efforts of the European Union and the WHO, in the framework of "Solidarity for Health" initiative,[92] the objective of which is to assist to prevent, diagnose, and respond to COVID-19 infection in the EU Eastern Partnership countries. The oxygen concentrators are a non-invasive way to provide oxygen to patients hospitalized with COVID-19. They will serve as the first necessary step in the treatment of those with low blood oxygen levels in the severe course of COVID-19.[93]

Taking into consideration the extremely quick spread of the new coronavirus infection in 2020 and the risks of death connected with the latter, the necessity arose throughout the whole world to implement other preventive measures, in addition to the use of personal protective means. Another part of prevention was the COVID-19 vaccine. In order to purchase vaccine against the COVID-19 in September 2020 the Ministry of Health joined the "COVAX FACILITY" initiative. For the purpose of purchasing the vaccine against the coronavirus disease (COVID-19) the Ministry of Health conducts negotiations with all possible producers of vaccines and partners.

As of 19.08.2021 Pfizer/Biotech, Moderna, AstraZeneca, Johnson&Johnson, Sinopharm and Sinovac vaccines have been approved by organisations accepted and strongly regulated by the World Health Organisation. At this moment information on the number of persons with COVID-19 and vaccinated is available at the information panel of the WHO, which is updated on a daily basis and contains information on the number of dozes of vaccine injected worldwide,[94] as well as a special information panel on the COVID-19 vaccine with a very detailed information.[95] In order to vaccinate the population Sputnik V, AstraZeneca, Sinovac, Sinopharm, Moderna, Sputnik light vaccines are purchased and imported to Armenia.

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[89] RA Government decision N 298-N from 16.03.2020, https://www.arlis.am/DocumentView.aspx?docid=145261
[90] Confirmed cases according to the law, https://ncdc.am/coronavirus/confirmed-cases-by-days/
[91] National Center of Disease Control and Prevention of the RA Ministry of Health, https://ncdc.am/coronavirus/technical-documents/
[92] The Solidarity for Health Initiative - Addressing the COVID-19 pandemic and building a resilient health sector in the Eastern Partnership, https://www.euro.who.int/en/countries/armenia/publications/eu-who-solidarity-for-health-initiative
[93] EU together with the WHO are launching a new project, which will support the readiness of the Eastern Partnership countries for vaccinations, https://bit.ly/3nUC1Do
[94] WHO's COVID-19 dashboard, https://covid19.who.int/
[95] Dedicated COVID-19 vaccination dashboard, https://bit.ly/3mMj8mL

- **Implementation of the "National Program of Extrauterine Viral Hepatitis 2021-2023" EU decision N1082/2013, Chapter I, Article 1, adopted on 22.10.2013[96] on the establishment of an epidemiological control system for the fight against infectious diseases**

The RA Government decision of "Approving the RA Government 2019-2023 action program" defines a number of goals depending on the sector. One of the sectors is the healthcare, which was aimed at implementation of measures envisaged by the program, including fight against extrauterine viral hepatitis, inclusion of at least 1000 persons with the viral hepatitis C annually in the treatment program. In order to make the prevention and fight against the viral hepatitis more coordinated and efficient the Ministry of Health has launched the "2019-2023 Program of prevention and control of the extrauterine viral hepatitis[97]", in the framework of which the process of early detection is implemented in the medical institutions among the groups at risk. Work is being carried out on the epidemiological monitoring system of viral hepatitis, laboratory improvement, as well as continuous improvement of the knowledge of medical staff. Clinical guideline on "Laboratory diagnosis of the extrauterine viral hepatitis (hepatitis B, hepatitis C)" is also available.[98] In the interview[99] with the Head of the Infectious and Non-Communicable Diseases (NCD) of the NCDC of the Ministry of Health on 27.07.2021 was mentioned that the cases of acute hepatitis have reduced.

- **Implementation of a new program of measures to promote a healthy lifestyle, including the development of a nutrition guide and its adoption**

According to the information received by the CSOs in the result of this monitoring a new program of measures to promote a healthy lifestyle is under implementation, including the development and adoption of a nutrition guide. By the RA Government decision N 827-L of 20.05.2021 a "Program of measures to promote a healthy lifestyle[100]" was developed and approved. According to the RA 2014-2025 Perspective Strategic Development Program approved by the RA Government decision N 442-N of 27.03.2014, the priorities of the Government are improvement of morbidity and mortality rates of the population, promotion of a healthy lifestyle, in particular, reducing the prevalence of risk factors (hereafter RF) contributing to the development of the mostly common non-communicable diseases. According to the Vienna declaration on nutrition and non-communicable diseases adopted in the context of the "Health 2020" policy of the World Health Organisation for the solution of issues, related to the overweight and obesity, as well as malnutrition, it is important to develop policies for food production, consumption, marketing, security, accessibility, as well as economic resources and economic system. According to the program in order to determine and study the risk factors of a healthy lifestyle a number of studies has been implemented, the study (STEPS), implemented according to the WHO STEP methodology, DEAV study.

In another document it is mentioned that the 2021 State Targeted Program of Primary Healthcare will be directed to the implementation of healthy lifestyle promotion and prevention programs implemented by the Primary Health Care specialists providing services (precinct therapists, precinct pediatricians,

[96] Decision № 1082/2013/EU, https://bit.ly/3z7gfzN
[97] "2019-2023 Program of prevention and control of the extrauterine viral hepatitis", https://ncdc.am/docs/programs/7_1.pdf
[98] https://www.moh.am/uploads/Hapatit%20clin%20ughecuyc.pdf
[99] https://bit.ly/2WSTnHm
[100] RA Government decision on approving the "Program of measures to promote a healthy lifestile", https://www.arlis.am/documentview.aspx?docID=152913

family doctors) for the entire population. In 2021 the public awareness campaign[101] aimed at ensuring the participation in the mentioned screening program in the whole territory of the republic, as well as the healthy lifestyle and the prevention of the main risk factors of NCD will continue. 100.000 AMD will be allocated from the 2021 state budget for measures to promote a healthy lifestyle and fight against smoking.

A measure has been determined by the RA Government decision[102] on "Approving the 2019-2023 RA Government Action Program" to implement a public awareness campaign for the promotion of healthy lifestyle, including the harmful effects of tobacco use and tobacco smoke (on television through programs, public service announcements, radio series, print media and posters). The activity started since 2019 and is expected to continue until the quarter of 02.11.2023. A number of measures are implemented:

- Within the framework of the program promoting healthy lifestyle among the population the specialists of the Ministry of Health on 21.09.2018 have participated in the opening ceremony of the chess championship organised by the Kung Fu Federation on the occasion of the Independence Day of the Republic of Armenia[103].
- In 2019 Lena Nanushyan, the Deputy Minister of Health has participated in the presentation of the results of the national survey "Health Behavior of School-Aged Children"[104].
- A separate department of sports medicine services has been functioning in the polyclinic of "Surb Grikor Lusavorich" medical center since June 2021, envisaged for all kinds of sports for the representatives of RA children, youth and national teams[105].
- In July 2021 on the initiative of the Ministry of Health, awareness-raising activities aimed at promoting a healthy lifestyle were carried out in 6 state organised camps for 1600 children aged 7-13 from the families of deceased servicemen, servicemen with disabilities, orphans and children from vulnerable families with many children.[106]

According to the received information the nutrition guide is in the development process.

- **Development and introduction of a nursing program**

The Ministry of Health informed, that activities aimed at the establishment and introduction of nursing development program are implemented and at the moment the program is in the development stage. A training on the topic "Organisation of nursing work" organised jointly by the Yerevan M.Heratci State Medical University and the "Management Mix" LLC. took place on 20.09.2021-27.08.2021.[107] An online expert mission was organised within the framework of the European Commission TAIEX[108] technical assistance grant program from March 23 to 25, where experts from Ireland, Anne-Maria Rayan, the Director of Nursing and Obstetrics Standards and Education Council, and from Poland, Dorata Kilanska, Head of Systematic Medical Care Department of the Medical University of the city of Lodz, representatives of the RA Ministry of Health, of the National Center for Disease Control and Prevention of the RA Ministry of Health, RA National Health Institute, RA Ministry of Education, Science, Culture and Sports, Department of Health and Social Security of the Provincial Administration/Marzpetaran of Shirak, nurses from the institutions providing medical assistance and services participated in the event.

[101] RA Government decision on "Approving the state targeted healthcare program for 2021", https://www.arlis.am/documentview.aspx?docID=146404
[102] RA Government decision on "Approving the 2019-2023 RA Government Action Program", https://www.arlis.am/documentview.aspx?docID=131287
[103] Measures aimed at promotion of a healthy lifestyle continue, https://www.moh.am/#1/1590
[104] Results of the survey on "Health Behavior of School-Aged Children" were presented, https://www.moh.am/#1/2394
[105] Newly opened medical sports department, https://www.moh.am/#1/4047
[106] Awareness-raising activities on healthy lifestyle for children, https://www.moh.am/#1/4180
[107] Training on the topic "Organisation of nursing work", https://bit.ly/3v431n1
[108] Manual of TAIEX rules and procedures, https://www.mineconomy.am/media/3158/2811.pdf

The objective of the mission was to provide expert advice in the process of the "Nursing Development Strategy". During this online event experts provided advice related to the following issues:
1. Develop evidence-based strategies to ensure universal health coverage and enhance the role of nurses in achieving sustainable development goals and ensure participation.
2. Analysis of challenges during COVID-19 pandemic.
3. Provision of safe, cost-effective, affordable, nursing services based on population needs.
4. Systems of quality control of nursing services (examples from the EU).
5. National accreditation standards for nursing education.
6. Priorities and accountability of nursing services.
7. Mechanisms of involving nurses in the decision-making process at all levels.
8. Capacity-based nursing education programs for changing health needs, including topics of leadership and negotiation skills.
9. Mechanisms to ensure the participation of nurses in the development of strategies.
10. Management of nursing education and activities and interdepartmental cooperation in that sphere.[109]

- **Measures against cardiovascular diseases: a) development of a roadmap and an algorithm for the provision of medical assistance to the patients with cardiovascular diseases, b) measures to limit the amount of salt in the diet and the amount of trans fats, c) development and introduction of new tools to improve quality of management of cardiovascular patients (quality indicators, evaluation of the medical institution, self-evaluation of doctors)**

The steps needed for the first component have not been clarified yet, and according to the data received from the RA Ministry of Health the measure is still under development. Second component is related to the limiting of the amount of salt and trans fats. According to the data received from the RA Ministry of Health a policy has been developed to reduce the use of salt in food, the draft is in internal circulation, according to which it is planned to reduce the amount of salt in public catering institutions, in particular, to remove saltshakers from the tables, to provide them on demand. One of the researches related to the mentioned event is in 2020 estimation of the actual and possible contribution of salt used in the production of industrially prepared food to the total amount of iodine consumed by the population.[110]

The third component has been implemented since 2016 in the framework of "Stent for life" and is planned to be implemented for a quite long period. A draft is published on the RA Government website, about which there are no other records, the draft is related to the process of Approving of the list of measures necessary for the implementation of the concept of the early detection and treatment of the most common non-communicable diseases[111]". In June 2021 the Minister participated in an international conference on the prevention of cardiovascular diseases, where mortality data from cardiovascular diseases, which is ranking first, was discussed. The Minister also participated in an international scientific conference on the prevention of cardiovascular diseases, which brought together experts in the field from different countries, both online and in person. The Government approved the program of measures promoting healthy lifestyle, one of the components of which is the creation of

[109] Online expert mission in the framework of the EC "TAIEX" technical assistance grant program, https://www.moh.am/#1/3696
[110] Estimation of the actual and possible contribution of salt used in the production of industrially prepared food to the total amount of iodine consumed by the population of RA, research of the Iodine Global Network, https://nih.am/assets/pdf/atvk/f567921e776f053d12fe5d476d169802.pdf
[111] Draft on "Approving of the list of measures necessary for the implementation of the concept of the early detection and treatment of the most common non-communicable diseases", https://www.gov.am/files/meetings/2010/4507.pdf

favorable conditions for the population health protection, and reduction of morbidity and mortality from the non-communicable diseases.[112]

The program of measures against cardiovascular diseases (CVD) has been defined by the RA Minister of Health Order N 2341-L, where the part of the measures is aimed at raising the awareness of the population and the doctors, another part to ensuring the accessibility of medical assistance and services for the CVD, the implementation period is from 2019 maximum to 2023[113]. According to the RA Government decision of 2022 on the targeted healthcare program for 2022 the financial means envisaged in the framework of the program will be allocated for: the cardiovascular surgery services, including heart surgeries, coronary stenting and balloon dilatation, surgical treatment of aortic aneurysm ruptures and exfoliations, implantation of a heart rhythm device, prosthetics of heart valves, implantation of cardioverter-defibrillator, catheter ablation of the heart, cylindrical dilatation of large and peripheral vessels and stenting, installation of a syringe (V.Cava) filter. Steps will be undertaken in the field of cardiovascular system diseases: a. organizing hospital treatment of patients with myocardial infarction through specialised, interventional cardiology and therapeutic departments, implementation of necessary laboratory-instrumental diagnostic tests for the whole population, b. implementation of emergency surgery services for acute myocardial infarction (coronary stenting), organisation of services for the whole population irrespective of the social status, in accordance with the procedure approved by the Order N 54-N of the RA Minister of Health of 15.07.2021.[114]

- **Awareness-raising activities on the risk factors of chronic obstructive pulmonary disease (COPD) among the population (printing and distribution of information leaflets and posters)**

According to the information received from the Ministry of Health, the awareness raising activities are still in process, in particular, posters are put on the information boards of the hospitals, information leaflets are distributed among the population. According to the list of measures providing the implementation of the Government 2019-2023 action program[115], it was planned until end of August 2019 to develop and present to the staff of the Prime Minister the draft Government decision on "Approving the strategy for the fight against chronic obstructive pulmonary disease". Despite a series of discussions and publications, the strategy was not approved[116].

- **Measures to strengthen the services within the framework of psychiatric services reform process: a) education of the staff of 7 psychiatric medical institutions of the country, b) creation and development of a community psychiatric service model**

The authorised body for the reform of psychiatric services has initiated actions aimed at improving the building conditions only in some places. There is no reference to community service development activities.

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[112] Anahit Avanesyan has participated in an international conference on the prevention of cardiovascular diseases, https://www.moh.am/#1/4049

[113] Order N 2341-L of the RA Minister of Health on "Approving program of measures of fighting against cardiovascular diseases", https://www.moh.am/images/legal-420.pdf

[114] RA Government decision on "Approving the 2022 healtcare targeted programs", https://www.arlis.am/DocumentView.aspx?DocID=156457

[115] RA Government decision on "Approving the Government 2019-2023 action program", https://www.arlis.am/Annexes/5/Lokal-2019N650.1k.v..pdf

[116] The Ministry has developed a five-year program of fight against chronic obstructive pulmonary disease, https://armenpress.am/arm/news/982716, https://www.e-draft.am/projects/1825/about

- **Development and implementation of relevant by-laws aimed at ensuring the implementation of the RA Law on "Reduction and Prevention of Damage to Health Due to the Use of Tobacco Products and Their Substitutes"**

After the adoption of the law a number of by-laws were developed and adopted to ensure the implementation of the law, in particular:

1) Government decision N 1398-N of 27.08.2020 on "Approving the procedure for informing the population about the harmful effects of tobacco products and tobacco substitutes by persons involved in the tobacco industry"[117],

2) Government decision N 675-N of 29.04.2021 on "Making changes and amendments to the RA Government decision N 219-N of 05.03.2015[118]",

3) The order N-14-N of the RA Minister of Health from 27.05.2020 on "Approving the requirements for signs containing prohibitions on the use and restrictions of tobacco or tobacco substitutes" [119],

4) Joint order of the RA Minister of Health N 09-N from 25.02.2021 and RA Minister of Justice N 47-N of 15.02.2021 on "Approving the procedure for implementation of preventive measures for the use of tobacco products and tobacco products substitutes in the places of detention of detainees, convicts, to reduce the negative impact of tobacco and tobacco smoke",

5) The order of the RA Minister of Health N 22-N from 07.05.2021 on "Defining the technical requirements for special areas designated for the use of tobacco products and tobacco products substitutes at airports", [120]

6) The order of the RA Minister of Health on "Defining technical requirements for specific areas designated for the use of tobacco products and tobacco products substitutes in organisations providing hospital-type psychiatric assistance and services",[121]

7) A manual on "Treatment and advisory services to stop smoking" for teachers and a guide-handbook on "Treatment and advisory services to stop smoking" for the primary healthcare doctors were developed, as well as a smoking cessation service was established, and a "Smoking cessation hot line" has been tested.[122]

Some of the provisions of the RA Law on "Reducing and preventing the damage to health caused by the use of tobacco products and their substitutes"[123] were delayed by one year. According to these provisions it is prohibited to display tobacco products or their belongings, or substitutes for tobacco products (except for substitutes for tobacco products used for medical purposes) in shops and in catering establishments, with the exception of the duty-free shops at the airport. The list of these products together with the indication of the price is provided by the salesperson to the adult, at the request of the latter. The list is not posted in the shop or in the public catering establishment. From March 15 the ban on the use of tobacco products and their substitutes in public catering establishment,

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[117] RA Government decision on "Approving the procedure for informing the population about the harmful effects of tobacco products and tobacco substitutes by persons involved in the tobacco industry", https://www.arlis.am/DocumentView.aspx?DocID=145553

[118] RA Government decision on "Making changes and amendments in the RA Government N 219-N decision of 05.03.2015", https://www.arlis.am/DocumentView.aspx?DocID=152170

[119] Order of the RA Minister of Health on "Approving the requirements for signs containing prohibitions on the use and restrictions of tobacco or tobacco substitutes", https://www.arlis.am/DocumentView.aspx?DocID=142877

[120] Order of the RA Minister of Health "Defining the technical requirements for special areas designated for the use of tobacco products and tobacco products substitutes at airports", https://www.arlis.am/DocumentView.aspx?DocID=152104

[121] Order of the RA Minister of Health on "Defining technical requirements for specific areas designated for the use of tobacco products and tobacco products substitutes in organisations providing hospital-type psychiatric assistance and services", https://www.arlis.am/DocumentView.aspx?docID=152782

[122] Society is strong with its citizens, https://www.moh.am/#1/4298

[123] RA Law on "Reducing and preventing the damage to health caused by the use of tobacco products and their substitutes", https://www.arlis.am/DocumentView.aspx?docid=148983

including open-air (canteens, restaurants, cafes, bars, cafeterias, other cooking and selling facilities) will enter into force. At the same time the application of these provisions of the law will enable to reduce various, non-communicable diseases, including diabetes, cardiovascular, chronic lung diseases, cases of cancer, by contributing to the effective fight against them and also the prevention of deaths and serious illnesses among people living with these diseases in case of various pandemics (like COVID-19).

- **Organising training courses for the relevant stakeholders of the bodies implementing the control of the implementation of the RA Law on "Reduction and Prevention of Health Damage Due to the Use of Tobacco Products and Their Substitutes"**

Training courses were organised for relevant stakeholders of the RA law enforcement bodies. Training courses were implemented, course presentations and information materials were developed.

- **Introduction of antimicrobial resistance system, spot epidemiological control system, in particular epidemiological control system of bloodstream infections (according to CEASAR methodology), training bacteriologists in EUCAST methodology**

It should be noted, that in 2016 the establishment of an interdepartmental commission[124] on the implementation of actions aimed at regulating the resistance to antimicrobial drugs, as well as their consumption, its individual staff and the working procedures of the commission was approved, and before that, in 2015, the antimicrobial resistance and prevention strategy and 2015-2020 antimicrobial resistance and prevention strategy action plan were approved.[125]

- **Creation of a register of antimicrobial drugs used for the animals, training of specialists in relevant methodology**

The program will be implemented in 2022. At the end of the project, it is planned to establish a monitoring system for the use of antimicrobial drugs for animals and implement the evaluation of its usage patterns.

- **Experience exchange, training and retraining of specialists in the field of immunization**

In 2021 the RA Government decision on approving the state program on the "2021-2025 National Immunization Program and the List of Priority Measures under the National Immunization Program" was approved[126]. A series of meetings were conducted, online discussions various experience exchange events organised. The RA Minister of Health, Anahit Avanesyan had a discussion with Ekaterine Tikaradze[127], the Minister of Displaced Population from the Occupied Territories, Labor, Health and Social Issues of Georgia; the Minister of Health received the newly appointed Ambassador of the Kingdom of Belgium Mark Mikhilsen and expressed her gratitude for the next batch of vaccines donated

[124] The decision of the RA Prime Minister N 31-A on the "Establishment of an interdepartmental commission on the implementation of actions aimed at regulating the resistance to antimicrobial drugs, as well as their consumption, its individual staff and the working procedures", https://www.arlis.am/DocumentView.aspx?DocID=103551
[125] Extract N 32 from the Protocol of the RA Government session on approving the "Antimicrobial resistance and prevention strategy and 2015-2020 antimicrobial resistance and prevention strategy action plan", https://www.arlis.am/DocumentView.aspx?DocID=99255
[126] RA Government decision on approving "2021-2025 National Immunization Program and the List of Priority Measures under the National Immunization Program", https://www.arlis.am/documentView.aspx?docID=148508
[127] Ministers of Health of Armenia and Georgia had a telephone conversation, https://www.moh.am/#1/4245

by Belgium to Armenia within the framework of COVAX initiative[128]; cooperation between Armenia and Lithuania has strengthened by the signature of an agreement on cooperation in the fields of healthcare and medical science, in particular, the agreement provides for exchange in the fields of public health, primary health care (PHC), mother and child health protection, introduction and development of health insurance, fight against contagious and non-communicable diseases and in other directions[129]; Armenia and France have discussed issues of organisation of specialists' training, clarified main directions of cooperation, also referred to vaccination process against COVID-19 in Armenia and details related to the acquisition of vaccines, etc.[130]

- **Modernisation of the list of main and narrow professions in the field of healthcare, as well as development of the list of medical services**

The list of medical services was approved by the order of the RA Minister of Health N 29-N on 06.05.2021.[131]

- **Training of family doctors pediatricians, adolescent doctors and school nurses and ensuring continuous professional development process within the framework of the PHC reforms**

According to the information received from the RA National Health Institute trainings of doctors, in particular, of pediatricians are carried out. The Chair of pediatrics has been established. It is planned to introduce a system of doctors' credits, according to which persons providing medical assistance and care should be retrained every 3-5 years. Although the number of people participating in the continuing professional development credit system has decreased over the past 2 years due to COVID-19 infection, the "Zoom" platform still provides training for professionals and the continuous development process. According to the RA Government decision[132], and 2022 healthcare targeted programs, during 2022 it is planned to implement a series of measures aimed at the development in the field of the primary healthcare (hereafter PHC). It is planned to ensure the continuity of the process of applying the principle of free choice by the population of primary care providers (precinct therapists, precinct pediatricians, family doctors, infectious disease specialists) and processing and summarizing the information collected during the year, continuous management of non-communicable chronic diseases for the secondary prevention of complications of non-communicable chronic diseases with the help of specialists providing PHC services, relevant offices of polyclinics, and, if necessary, also specialists of specialised medical centers, associations, dispensary departments of complexes.

- **Creation of a register of human potential in the field of healthcare, cooperation on the process of implementation of residency educational programs**

The program will be implemented in 2024. At the end of the program it is planned to create a comprehensive register of human potential in the field of healthcare, to bring the resident's educational process in line with international approaches.

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[128] Possibilities of exchange of experiences have been discussed, https://www.moh.am/#1/4295
[129] Anahit Avanesyan with a working visit in Lithuania, https://www.moh.am/#1/4371
[130] From humanitarian direction to professional cooperation, meeting with French Ambassador, https://www.moh.am/#1/4399
[131] Order of the RA Minister of Health N 29-N, https://www.arlis.am/DocumentView.aspx?docid=152474
[132] RA Government decision on "Approving the 2022 healthcare targeted programs", https://www.arlis.am/DocumentView.aspx?DocID=156457

- **Medical assistance to people with disabilities**

Action: To determine by law the rules of medical care and services for people with disabilities.

According to the National Human Rights Protection Strategy this activity consists of two sub activities, under which it is planned in the first half of 2020 to submit the draft laws on the "Rights of persons with disabilities" and on "Assessment of person's functionality" to the NA. The RA Law on "Rights of persons with disabilities"[133] and the RA Law on "Assessment of person's functionality"[134] were adopted by the RA NA in May 2021.Although the draft laws have been discussed for many years, nevertheless their adoption was carried out in the result of wide discussions with the RA civil society and stakeholders. According to point 2, Article 8 of the RA Law on "Rights of persons with disabilities (RPWD law), which entered into force on 04.06.2021, one of the directions of the state policy on ensuring, promoting and protecting the rights of persons with disabilities is "ensuring the social protection of persons with disabilities in order to ensure their full participation in employment, education, vital activities and other spheres of life". Article 13 of the same law determines prohibition of discrimination on the basis of disability. Point 2 of the same Article stresses the need of prevention of discrimination on the basis of disability, awareness raising and protection of the rights of persons with disabilities, application of special temporary measures.

In the framework of social inclusion of persons with disabilities Point 4, Article 14 of the RPWD law envisages implementation of measures for ensuring working rights, including ensuring accessibility and affordability of employment programs, for protecting and developing person's professional skills and abilities to make the work place accessible (implementing reasonable adjustments in the work place) and by other means. In accordance with Article 5 of instruction 2000/78/EU Article 20 of the RPWD law determines ensuring reasonable adjustments in the work place or in the educational institution, which can be rejected on the basis of point 4 of the same Article, without causing discrimination on the basis of disability, in case the responsible person justifies that the measure is not feasible (from the legal and (or) operational points), does not correspond (reasonable adjustment does not meet the purpose or is not necessary), is disproportionate in terms of the means used (time, cost, duration and impact) or creates an unnecessary burden.

Article 12 of RPWD law defines "the state ensures the right of persons with disabilities to access justice on an equal basis with others, creating accessible conditions for their participation in legal proceedings and providing the necessary adjustments", which reflects the requirements of point 1, Article 9, of instruction 2000/78/EU. The adoption of the law and the adjacent legislation also ensures the right of persons with disabilities and organisations to apply to the court for discrimination (actio popularis). At the same time, it should be noted, that this right is reserved only to the organisations (when the majority of its members are persons with disabilities) managed by persons with disabilities, however, those organisations dealing with the protection of rights of persons with disabilities, where the majority of members are not persons with disabilities, are deprived of the right to apply to the court for discrimination, which significantly limits this right. Thus, we may register that the RA law on "Rights of persons with disabilities" is based on the requirements of instruction 2000/78/EU, although there is a need of some improvement.

[133] Available at: https://www.arlis.am/DocumentView.aspx?DocID=152960
[134] Available at: https://www.arlis.am/DocumentView.aspx?DocID=152964

Equal Rights, Non-Discrimination

- **Hate speech**

Action: To determine responsibility for the hate speech in accordance with international standards. To raise awareness about the hate speech.

Carrying out the analysis is mentioned as an expected result related to international standards and best practices regarding the responsibility for hate speech (including online) and discussion of the draft law in the NA on making changes and amendments in the relevant legal act(s). According to the Monitoring Road Map the deadline for this activity is set at 2021, but the deadline for the same action of the Human Rights Defender's Strategy is 2022. In 2020, a Working Group was established by the NA Permanent Commission on Human Rights Protection and Public Issues to reform the RA legislation on combating hate speech. Although the representatives of civil society were also included in the Working Group, their participation in the discussion was limited to one online meeting. In this regard, the CSOs numerous times mentioned the nontransparent and non-participatory activities of the group.

The NA Commission on Human Rights mandated the analysis related to international standards and best practices regarding the responsibility for hate speech (including online) to Ara Ghazaryan, a lawyer. It is noteworthy, that both the research[135] and its results have already been published, but it was possible to find only on the website of the author of the research, since it has not been published on the website of the NA. The same research[136], by the same lawyer, with the involvement of international expert was implemented at the request of the RA Ministry of Justice. The research was implemented in the context of "Promoting access to justice for victims of discrimination, hate crimes and hate speech in the Eastern Partnership countries through out-of-courts compensation mechanisms" project in the framework of Partnership for Good Governance (PGG II) project co-funded by the European Union and European Council. Nevertheless neither the NA working group, nor the RA Ministry of Justice has published any package of legislative amendments developed as a result of the analysis including, the expected amendments to the draft Law on Ensuring Equality. Since any developed draft has not been made public yet, therefore a content-based assessment also cannot be done either.

Regarding actions to raise awareness about hate speech, three video materials,[137] were published on the website of the RA Human Rights Defender in December 2021, which raise awareness of public about the dangerous sides of hate speech and the necessity of fight against that. The materials were prepared in the framework of "Promoting access to justice for victims of discrimination, hate crimes and hate speech in the Eastern Partnership countries through out-of-courts compensation mechanisms" project, funded by the EU and EC in the framework of Partnership for Good Governance (PGG II) project co-funded by the European Union and European Council.

- **Providing gender equality**

Action: Development of the national strategy on the equality between women and men.

[135] Available at: https://aglaw.am/img/b845a3de0f2ca536e9af2769aa918008.pdf
[136] Available at: https://rm.coe.int/final-report-on-reforming-armenian-hate-speech-laws-arm/pdf/1680a0b84d
[137] Available at: https://ombuds.am/am/site/NewsVideoGallery?place=media_informing_video

The RA Gender Policy Implementation 2019-2023 strategy[138] was adopted by the RA Government's decision in 2019. The discussions with the civil society representatives preceded the adoption of the strategy. In this regard the process was implemented in a participatory and transparent manner. At the same time, it should be noted, that in our assessment this strategy cannot be considered as a comprehensive national strategy on equality between women and men, in particular as an activity implemented in the framework of CEPA. In the framework of CEPA RA undertook the responsibility of approximation of the Armenian legislation with a number of EU directives ensuring gender equality. These guidelines require presence and application of effective gender equality mechanisms, including the adoption of a comprehensive anti-discrimination legislation up to the revision of social policy, adopting the regulations preventing sexual harassment and introduction of measures to improve the safety and health of pregnant and recently born employees. Consequently, the comprehensive strategy adopted in the framework of these commiitments, should at least address the above-mentioned issue as priorities and objectives. Although the priorities and objectives of the strategy adopted in 2019 are also important, nevertheless they do not include any of the above-mentioned issues. The duration of the comprehensive strategy adopted in the framework of CEPA also should be at least up to 2026, thus, we consider, that the strategy for the implementation of the RA Gender Policy for 2019-2023 cannot be considered as a comprehensive national strategy adopted within the CEPA commitments, and a new 2023-2026 Strategy containing new priorities should be adopted.

Prohibition of Torture

Action: To determine by law "severe physical pain" and "mental suffering" terms

According to the draft new RA Criminal Code individual offenses for the physical assault and for the mental assault are envisaged, as well as for causing severe physical pain and mental suffering. Article 194 mental assault – the threat of murder, harm to health, torture, offense of sexual liberty or inviolability, kidnapping, unlawful deprivation of liberty, the threat of destroying large or particularly large property, if there was a real danger of implementing that threat, as well as, social isolation and regular humiliation of honor and dignity (…). Article 195 physical assault – striking or other violent acts, if the consequences provided for in Article 171 of this Code have not occur (…). Article 196 – causing severe physical pain or mental suffering to a person, if that did not cause the consequences provided for in Articles 166 and 167 of this Code and if the features of the crime provided for in Article 450 of this Code are missing (…).

The Right to a Fair Trial

- **Right to a fair trial, legal regulations of the institute of detention**

Action: Strengthen the legal guarantees of criminal protection of human rights defenders.

The issue of clarifying the legal regulations of the instititute of detention, clarifying the guarantees of protection of human rights in the mechanisms of its implementation has been solved in the draft

[138] Available at: https://www.arlis.am/DocumentView.aspx?DocID=134904

Criminal Procedure Code. It should be noted that the proper statistics of the trial process of the institute of detention are not kept by the law enforcement bodies, which does not allow to have a complete picture, especially of the reports of human rights violations. According to the information provided by the Prosecutor's Office, the National Security Service, the police a separate statistical counting on the complaints received from the detained persons in the field of protection of their rights in 2021 has not been done. Cases of disproportionate use of force are also recorded in the legal process of detention, which are not properly investigated. In addition, failure to record cases of detention by other law enforcement agencies, failure to conduct investigations can also lead to greater risks of concealment of cases. The staff of the RA Human Rights Defender envisages in 2021 annual report to refer to the cases of violation of human rights in the process of detention, as well as to the study of other issues in that field. The solution to have a complete picture of the sphere is the maintenance of joint statistics by the Prosecutor's Office, which will allow to identify the reasons for the violation of legal procedures during the detention process, to submit proposals as a result of the analysis.

It should also be noted, that the Ministry of Justice on 03.06.2021 has informed the members of the Human Rights Defender's National Coordinating Council that according to point 33 of the 2020-2022 Action Program arising from the national human rights protection strategy it is envisaged to legally strengthen guarantees of criminal-legal protection of human rights defenders. The immediate expected result of this action is implementation of a study of international standards and best practices related to the criminal-legal protection of human rights defenders, and development of legal initiatives and relevant guidelines based on the conducted study results. Within the framework of this action the Ministry of Justice cooperates with the project financed by the Swedish International Development Agency (SIDA) and implemented by the Raoul Wallenberg Institute of Human Rights and Humanitarian Law. The draft study carried out by the local and international experts involved in the project on international standards and best practices related to the criminal-legal protection of the human rights defenders was presented to the members of the Board also requesting the Ministry of Justice to present comments related to the draft. Observations related to the draft were presented by the organisations involved in the present monitoring. No information available about further developments.

- **Alarm system**

No legislative or non-legislative work on improvement of the alarm system was implemented in 2021. According to the system of corruption related crimes in 2021 the office of the Prosecutor General has not published any summarised results of received complaints.

Migration, Asylum and Border Management

Action: To provide assistance to the returnees in the framework of the Armenia-EU readmission agreement.

(1) Activities of the forum on return and reintegration

During 2021 at the initiative of the Migration Service of the RA Ministry of Territorial Administration and Infrastructure three meetings of the forum of organisations dealing with the main issues of the reintegration of RA citizens returning to Armenia (hereafter Forum) took place (on February 16[139], July

[139] Provision of assistance to the returnees to Armenia will start during 2021: http://migration.am/news/414

12[140] and November 9[141] of 2021). Issues related to the return to Armenia and reintegration and steps for their solution, related to the state policy in this field were discussed during the meetings. The results of the meetings were summarised in the protocols, where in addition to presenting the main issues included in the agenda, latest developments, changes and next steps of 2021 reintegration programs implemented by the state, international, and non-governmental organisations, members of the forum were summarised.

In particular, reforms of the migration system, planned in the nearest future were discussed during the meetings, according to which it is planned to establish in the nearest future the RA Ministry of Internal Affairs, in the result of which the RA Migration Service under the Ministry of Territorial Administration and Infrastructure and the Department of Passports and Visas of the RA Police will be merged (the new department will be called Migration and Citizenship Service). Other issues discussed were the role of the state in the process of return and reintegration of the RA citizens and activities of the RA Government implemented in that sphere, in particular implementation process of the "State Program of Primary Assistance to the Citizens of Armenia (including forced return) Returning to the RA Related to their Reintegration", changes made in the program, and registered results. Items discussed included also the RA Government decision N 801-L of May 20, 2021 on approving the "Republic of Armenia State Concept of Migration Management and the Action Plan", actions undertaken for the development of the draft "Strategy for the Regulation of Integration and Reintegration Issues of the RA Migration Policy 2022-2032", as well as main strategic objectives and directions determined by the document, summary annual statistics of the reintegration projects implemented in Armenia, provided by the organisations members of the Forum, statistics concerning the beneficiaries of reintegration assistance provided during 2021 in the framework of the projects implemented by the member organisations of the Forum, success stories about the returned migrants.

(2) Implementation of measures in the framework of the European Network of Return and Reintegration (ERRIN Armenia)

In the framework of the "ERRIN Armenia" project implemented by the Armenian branch of International Center for Migration Policy Development (ICMPD) the second component on "Capacity Development" was added to the "Reintegration" component and launched on July 1st, and two new experts, the responsible for the project and a psychologist were engaged in its activities. In the frames of the "Capacity Building" component during July-October 2021 number of activities aimed at strengthening the human and technical capacities of the migration service were implemented, the details of which will be presented below.

Retraining of the staff of the Migration Service and implementation of psychological work with the beneficiaries returning to Armenia. According to the provided information, 14 beneficiaries received psychological advice starting from the beginning of the Project, three of whom were children. In addition, practical meetings for psychological trainings were organised with the staff of the Migration Service, when problematic cases were discussed, issues related to the psychological side of the work, as well as, examples provided by the psychologist. In addition, theoretical events were organised with the staff of the Migration Service on the following topics: "Migration as a Traumatic Experience", "Vacarious Trauma of the Specialists Working with the Migrants", "Preserving the Professional Borderline", "Specifics of Working with the Beneficiaries Having Mental Problems", "Specifics of Working with the Complaining and Aggressive Beneficiaries", "Issue of Vulnerability of the Beneficiary and Psychological Aspect of Provided Assistance". On the basis of these theoretical topics original texts were developed for the planned guideline.

[140] 10th meeting of the Forum on return and reintegration took place: http://migration.am/news/423

[141] 11th meeting of the Forum on return and reintegration took place: http://migration.am/news/441

Organising retraining courses for strengthening the capacities of the staff working with the migrants returned to Armenia. In the framework of the capacity development component of the "ERRIN Armenia" project implemented by the International Center for Migration Policy Development (ICMPD), the staff of the Migration Service, as well as the representatives of the partner international organisations and NGOs participated in the communication skills trainings for the advisers on return and reintegration. From November 16 to December 3 retraining courses on communication skills of the staff working with the migrants returned to Armenia were organised in the Migration Service. The purpose of the training was retraining in communication of the staff of the Return and Reintegration Department of the Service, as well as of the staff of organisations and structures working in the field, and efficient organisation of work with the problematic beneficiaries.

(3) "EU4IMPACT ARMENIA" project

The official launch of the "EU for Strengthening the Potential of Migrants to Impact the Development of Armenia" (EU4IMPACT ARMENIA) project funded by the European Union and implemented by International Center for Migration Policy Development took place on March 15, 2021. Prior to the practical phase, active preparatory work was carried out in March-September, including, in the result of long discussions, selection of the partner for implementing the educational phase of the project, namely, "IRIS Business Incubator", cooperation modalities with the latter were clarified. At the same time a large-scale public awareness campaign was launched, in the framework of which the design and content of the awareness materials (both printed and video-audio) were first developed and approved, then with the assistance of the Migration Service of the RA Ministry of Territorial Administration and Infrastructure a contact was established with the RA governors' offices/marzpetarans with a purpose of efficiently planning the awareness visits. Relevant contact persons were appointed in the governors' offices and their coordination role was approved.

The above mentioned allowed to launch the series of regional awareness visits on September 23, according to the approved project action plan. 12 awareness visits to the provinces and municipalities were organised within one month until October 22, 2021 and meetings with the responsible persons in the governors' offices and municipalities, as well as with the representatives of the NGOs and muinicipal structures working in the sector, were organised. In total around 250 persons participated in the above-mentioned meetings, more than 1000 factsheets and 500 posters were disseminated. Content reports and interviews with the project coordinators were broadcasted on regional TV channels. At the same time the first call for applications was announced on October 1, with a two months period. The activity of submitting applications allowed to confirm the exceptional effectiveness of the awareness campaign. The project received 126 applications until 30 November. At the moment the preliminary analysis of the applications and telephone interviews with the applicants are taking place, on the basis of which the participants of the training phase will be selected. The start of the training phase is planned from the second week of January 2022. Those, 25-30 participants, who will participate in the trainings without absences, and who will pass the exam successfully, and will develop the business plan, that will be approved by the selection commission, will become the beneficiaries of the project and will receive a grant in the amount of EUR 2.000-10.000 (with the own investment of the same size) and will have an opportunity to start or to enlarge their own business.

Action: To cooperate with EU countries in the field of readmission.

According to the information of the Migration Service, the Service actively participated in the process of preparation and signature of a number of international agreements in the field of migration, in particular, interstate readmission agreements. In 2021 in the framework of the "Republic of Armenia and EU readmission of persons living without permission" Agreement of 19.04.2013 bilateral implementation agreements were signed with the Republic of Poland (October 29) and with the

Republic of Lithuania (June 15). The implementation protocol of the "RA Government and Republic of Latvia Government "RA and EU readmission of persons living without permission" Agreement is ready for signature. In general, since 19.04.2013 until now 5 implementation protocols were ratified under the "RA and EU readmission of persons living without permission" Agreement with 5 EU member-states.

Action: To introduce and test electronic system of management of readmission applications.

All the process of managing the readmission applications received from the representatives of the relevant bodies dealing with migration issues from Germany, Netherlands, Poland, Belgium, Bulgaria, Austria, France, Romania, and Italy is carried out through an Electronic System of Management of Readmission Applications. In 2021 such EU member-states, as Denmark, Luxemburg and Sweden with its migration service also joined the system. Continuous improvements were undertaken in 2021 on the ESMRA, which provide certain updated technical capabilities.

Action: Raising awareness about the irregular migration and its consequences among potential Armenian migrants and the population

In 2021, information campaigns and various programs aimed at preventing irregular migration, implemented jointly with international organisations, continued. On 27.07.2021 and 27.11.2021 the Analytical Center on Globalization and Regional Cooperation, member organisation, that carried out the present monitoring, organised seminars on the implementation of the "RA and EU readmission of persons living without permission" Agreement.[142] During the event a number of foreign diplomatic representatives, civil society representatives, experts, students, journalists were introduced to the history of Armenia-EU relations, developments in Armenia's return policy, as well as the developments related to the RA-EU readmission and visa liberalisation.

The staff of the Migration Service gives regular interviews to the media about the risks and consequences of irregular migration, as well as about the readmission, return and reintegration issues. On 15-06.11.2021 the Armenian office of the International Organisation of Migration in the framework of Enhancing Migrants' Rights and Good Governance in Armenia and Georgia project, in cooperation with the IOM office in Georgia and with the RA Ministry of Territorial Administration and Infrastructure and the Migration Service, organised a two-day conference, where they discussed the impact of COVID-19 pandemic and its consequences for different directions of migration, in particular, issues related to labour migration.[143]

[142] See, Conference on Return and Reintegration in Yerevan: http://migration.am/news/451
[143] Available at: https://armenia.un.org/hy/163825-migratsiayi-karavarman-erkrord-taracasrjanayin-hamazogovi-srjanaknerowm-karavarowtyownneri