



## **HUMAN RIGHTS DEFENDER INSTITUTION OF THE REPUBLIC OF ARMENIA**

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### **SUBMISSION TO THE UNIVERSAL PERIODIC REVIEW (UPR) ARMENIA**

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## INTRODUCTION

1. The Human Rights Defender of Armenia (hereinafter Defender) welcomes the fact that Armenia has wholly or partially accepted almost all (more than 90) recommendations presented by member-states, which signifies the Armenian authorities awareness of the need to take action across a wide range of human rights. The Defender recognizes the efforts of Armenia aimed at improvement of the current human rights situation in the State. At the same time, the Defender deems it necessary to comment on main issues of concern which remain to be resolved, including the ones which have not yet been mentioned in the UPR recommendations to Armenia.

## RATIFICATION OF INTERNATIONAL TREATIES

2. The Defender welcomes Armenia's ratification of the International Convention for the Protection of All Persons from Enforced Disappearance and the Convention on the Rights of Persons with Disabilities. At the same time, the Defender recommends Armenia to sign and ratify the **Second Optional Protocol to the International Covenant on Civil and Political Rights**, aimed at abolishing the death penalty, as well as to ratify **Optional Protocol to Convention on the Rights of Persons with Disabilities**.

## CONSTITUTIONAL AND LEGISLATIVE WORK

3. Although torture is prohibited under the Armenian Constitution, a major obstacle in bringing alleged perpetrators to justice is that the **current definition of torture** under Article 119 of the RA Criminal Code doesn't comply with Article 1 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment.
4. The Defender is concerned about **insufficient legislative basis** on the OPCAT National Preventive Mechanism (NPM) as well as inadequate budget for ensuring the institutionalized participation of the civil society in the activities of NPM. The Defender has accordingly prepared amendments to the Law on the Human Rights Defender that would comprehensively establish the NPM mandate as well as duties of the state institutions regarding cooperation with NPM, which are recommended to be adopted shortly.

## GENERAL POLICY IN THE FIELD OF HUMAN RIGHTS

5. The Defender welcomes that the **Action plan for the Armenian National Human Rights Protection Strategy** has been approved by the Government decree in the year 2014 encompassing all fields of human rights protection and including numerous recommendations submitted by the Defender. Additionally, under "Plan of Actions of the National Strategy of Human Rights Protection" an institution of Military Ombudsman subordinated to the Ombudsman is planned to be established (in 2014) in compliance with the Law on Human Rights Defender of RA as well as the PACE Recommendation 1742 (2006).
6. The Defender welcomes that 2013-2016 National Action Plan for the Protection of Children's Rights has been approved by the Government decree. However, numerous problems in the area, such as **detection and support of beggar children in the streets, ineffective deinstitutionalization of orphanages, lack of practice of adopting children with disabilities by the citizens of Armenia, no active steps towards establishing institute of foster families and alternative daycare centers, legislative flaws and inefficient state supervision over custody and guardianship institute, the existing high rates of child poverty, especially for children with disabilities, inadequate care conditions in children's care institutions, lack of effective collaboration between state bodies responsible for the protection of children's**

**rights** remain to be resolved due to lack of effective mechanisms on law enforcement, financial and other resources.

### **STRENGTHENING OF HUMAN RIGHTS INFRASTRUCTURE**

7. Starting in the year 2011 The Human Rights Defender signed MoUs with more than 90 human rights NGOs, hence **the level of cooperation with the civil society** has seriously increased. In 2014 State budget adopted by the Parliament allocated funds which kept three out of six regional offices running. Collaboration of the NPM with a number of NGOs in the framework conducting joint visits to closed institutions has also been established. However, the issue of financial resources necessary for institutionalized participation of those NGOs in the activities of NPM, as well as to provide public awareness and adequate education regarding human rights and the Defender's Institution are still insufficient. There is a separate issue of financial resources necessary for civil society organizations to operate due to the gradual reduction of financing from international donors as well as insufficiency of their financing on national level.

### **EQUALITY AND NON-DISCRIMINATION**

8. Although the law on "Equal Rights and Equal Opportunities of Men and Women" stipulating provisions on non-discrimination against women was adopted in 2013, there's a lack of specific measures and projects aimed at its implementation. As a result, there are still cases of hidden **discrimination against women** in Armenia. In particular, cases of discrimination against women are prevalent within protection of their labor rights as well as there is insufficient representation of women in political and public life.
9. The Defender is concerned that the employment issue of the persons with disabilities continues to remain unresolved and practical steps taken to provide them with workplaces are insufficient. Despite the fact that the new Law "On employment" provides them with mandatory workplaces, it is due to be consecutively enforced in 2015 and 2016. Meanwhile, various studies indicate that around 90% of people with disabilities in Armenia who are able to work are unemployed.
10. Despite the fact that discrimination is prohibited by Armenian legislation, namely in the Armenian Constitution, the Criminal Code, the Labor Code, and the Family Code of Armenia, at present, **there are no comprehensive anti-discrimination legislative regulations** in Armenia protecting the rights of women, the elderly, persons with disabilities, ethnic, national and religious minorities, children and other people, and effective legal, comprehensive and clear mechanisms for the prevention and combating discrimination are still lacking. Consequently, there are still cases of discrimination, and the Defender has received numerous complaints on this. Hence, there is a need for a comprehensive anti-discrimination legislation providing for effective protection for underrepresented groups and minorities, and, most importantly, establishing a separate equality body as an effective means for protecting rights of victims of discrimination.

### **RIGHT TO LIFE, LIBERTY AND PERSONAL SECURITY**

11. Effective investigation of complaints on **police brutality** remains a serious concern. According to numerous complaints against the Police as well as complaints received during NPM visits to places of detention most cases of torture or ill-treatment are conducted in places allotted for detainment in order to receive information and/or testimonies. In order to prevent potential ill-treatment or pressure, the Defender recommends the State to provide police stations with video recording equipment, specifically in interrogation rooms for preventing possible ill-treatment at this stage.

12. In a number of cases recorded by the NPM in the penitentiary institutions detention conditions can be qualified as continuous inhumane and degrading treatment towards prisoners. During prison visits inadequate provisions of medical conditions have also been recorded by the NPM. Frequent cases of hunger strike and self harming, that are being used by the persons in detention as extreme measures of desperateness to attract attention of the authorities and society to their problems, continues to be worrying.
13. **Violence against women** continues to be a matter of concern. In 2013 the Government decided to discontinue the process of adopting the draft law on “Domestic Violence”, making amendments to several laws instead. As a result, the State lacks comprehensive legislation effectively combating widespread cases of domestic violence. Additionally, there is a lack of adequate mechanisms of protecting the victims of domestic violence and providing them with shelters.
14. There are certain cases when the Defender’s Rapid response service’s visits to the police stations is unnecessarily impeded as a result of which the Rapid response group meetings with persons in penitentiaries and detention centers whose rights have been allegedly violated is unduly prolonged. Hence, the Defender recommends to undertake specific measures aimed at elimination of the aforementioned issue, inter alia, through adoption of an internal regulation.

### **ADMINISTRATION OF JUSTICE AND RULE OF LAW**

15. Despite the fact that the question concerning high-profile cases has always been in the center of public attention and continuously addressed in the Defender’s annual reports, there are certain criminal cases which have been investigated for years and have not been completed yet. Therefore, the Defender recommends to undertake immediate effective measures aimed at completing those investigations in the shortest possible time frame and/or to duly and periodically inform the public about the progress of investigation of those cases.
16. Guaranteeing **the independence and impartiality of judiciary** remains to be a major issue. Disciplinary proceedings initiated against judges remain a dangerous tool for exerting pressures on judges and obstructing their independence. In the end of 2013 the Defender published a public report on the right to a fair trial, where he described obvious unlawful practices and double standards applied in the Council of Justice resulting in evidently differentiated treatment towards judges in identical disciplinary cases. The report also described illegal practices of agreeing outcomes of judicial acts with the Court of Cassation by lower instance court judges for receiving instructions, as well as evident double standards applied by the Court of Cassation in accepting or rejecting cases for examination. The report also underlined huge public distrust towards judiciary. At the same time, according to Presidential decree strategic program of judicial reforms and a relevant action plan for 2012-2016 has been approved. However, the process of implementation needs further improvement and strengthening.
17. The **Juvenile Justice system** is not implemented in Armenia yet. There are also problems concerning juvenile convicts' right to education. In a number of cases the Defender receives complains about mistreatment of juveniles in the Police station, apprehending of juveniles to Police Departments without their parents' awareness and interrogating them.
18. The Defender is concerned about cases of intimidation, suppression as well as physical violence against **human rights defenders**. The cases of physical violence have been also recorded within civil initiatives expressing social intolerance towards various social and political issues. Additionally, cases of suppression and threats against women’s rights NGOs have been registered which should be also deemed highly reprehensible and dangerous.

19. The Defender welcomes the fact that the Ministry of Justice of Armenia has prepared an entirely new draft law “**On the Freedom of Conscience and Religions**”, despite the fact that there are still additional changes to be made. However, the draft law hasn’t been adopted as of May 2014. The Defender is also concerned, that the public's attitude towards the **religious minority organizations** and its members continues to be negative, and, very often, even intolerant. These religious organizations are labeled as “sects” which have a negative meaning and are perceived as a deviation from the main direction, which, allegedly, splits the nation, spreads denationalized values, endangers national security, etc.
20. **Freedom of speech, particularly, freedom of media, newspapers, magazines, TV and radio, Internet, etc.** has significantly improved since 2010 and is sufficiently guaranteed and protected in Armenia. However, despite the broad media pluralism and low level of state censorship, there are still important challenges concerning media independence and the working environment of journalists. The Defender is concerned about the occasional cases of hindrance of the legal professional activities of journalists that still take place. Moreover, there is still public distrust towards investigation of cases on hindrance of journalists’ activities, in particular, in the context of the coverage of elections. Simultaneously, as a result of 2010 amendments to the Criminal Code of Armenia, defamation and insult were decriminalized, which demonstrated a big step towards guaranteeing freedom of speech and expression in Armenia. Consequently, the order and terms of compensation of damages caused by insulting or defamatory statements to honor, dignity and business reputation of a person have been prescribed in the RA Civil Code. Still, following the decriminalization there have been cases of complaints against journalists when the courts have adopted a policy of making the journalist pay the maximum amounts of compensation allowed by the RA Civil Code. That policy adopted by the courts put the newspapers into a tough financial situation, because the imposed compensation was essential financial burden for them. Nevertheless, as a result of the Constitutional Court’s decision of N997 in the year 2011 cases regarding disproportional decisions made by courts in relation to defamation and insult by journalists, newspapers etc. have significantly reduced.
21. By the amendments made to the RA law “On Television and Radio” the deadline of termination of analog broadcasting was set July 1, 2015. It should be mentioned that before the amendment the period from July 20, 2010 to January 1, 2015 was established as the period of transmission from analog broadcasting to digital broadcasting. Accordingly, the period was prolonged for six months. It should be noted that in July, 2010, as a result of the competition of eighteen television broadcasters, the number of TV companies was reduced by 4, which was justified by the transmission to digital broadcasting. However, the Defender notes, that the continuous cancellation of digitization process actually leads not only to the restriction of number of TV channels, but also to issues in the scopes of international obligations assumed by Armenia.
22. There is sufficient legislative background guaranteeing the freedom of assembly in Armenia. At the same time the Defender observes that the freedom of assembly is generally respected and ensured in practice as well. However, there have been some cases when Police officers have incorrectly applied national legislation and subjected the participants of assemblies to administrative detention or other restrictions. Thus, the Defender recommends the state to respect the freedom of assembly at all times by demonstrating equal respect to the right of one person to assembly and, if necessary, making relevant amendments to the law.
23. **The years 2012 and 2013 marked with local-self government, Parliamentary, Presidential elections as well as capital city Yerevan Mayoral elections.** The elections held in both 2012 and 2013 were rather peaceful and more competitive than in previous years. All the competing powers had free conditions for campaigns, and in precinct centers had enough representation and

real chance to monitor the election and voice calculation process. The legal regulations regarding the candidates' campaign media coverage, freedom of speech, and availability of equal opportunities to all candidates were properly adhered to and guaranteed. The journalists and non-governmental organization observers followed the whole process of elections with unprecedented activity and informed the society almost on all, even on the minor violation. However, despite positive improvements in guaranteeing free and fair elections certain issues, particularly, cases of violations of ballot secrecy, unlawful interference with the voting process, complaints regarding electoral bribes, an atmosphere of tension, complaints concerning stamps, certain cases of hindering activities of observers, proxies, journalists and other participants of the electoral process, improper responding to some cases of major and obvious electoral violations, cases of abuse of administrative power still prevailed.

24. In the year 2013 the state has granted a refugee status to 226 Syrian citizens who sought asylum in Armenia. In the year 2013 in accordance with the Governmental decisions 20 refugee families were donated with the residential areas occupied by them as well as 64 families privatized their residential areas within the "Shelters" SNCO shelter areas. However, in some cases the review of the refugee applications by the State Migration Service was conducted with the violation of the law, for example, the deadlines for the review of the complaints were not preserved, the refugee documents and references were not provided.
25. The analysis of applications addressed to the Defender by the representatives of national minorities revealed that violations of their rights were mostly of common nature, and had no connection with their national or ethnic origin. Majority of these complaints are derived from socio-economic situation of the country that requires complex solution.

#### **RIGHT TO SOCIAL SECURITY AND APPROPRIATE LIFESTYLE**

26. Armenia has not undertaken effective measures to provide **adequate standard of living**. The minimal consumer and food baskets are not taken as a basis for determining state benefits and allowances for pensioners, persons with disabilities and other vulnerable groups of society as well as for calculating other social payments. Additionally, with adoption of the new Law "On employment", state-provided unemployment benefits have been withdrawn since 2014, which does not comply with Armenia's international obligations.

#### **CONCERNS OF THE DEFENDER NOT COVERED BY THE UPR RECOMMENDATIONS**

27. As a result of legal gap the prisoner's right to vote remains unresolved. The Article 2.3 of the Electoral Code of Armenia in line with Article 30 of the Constitution provides that "citizens sentenced by a final court judgment to imprisonment and serving the punishment in a penitentiary institution shall not be entitled to vote and be elected", but omits to specify the cases in which a convicted prisoner's right to vote is withdrawn. It's a positive development that a regulation has been included in the Project of constitutional reform in Armenia aimed at resolving the issue. However, the state should be also consistent in adopting and practically implementing such a provision.