

Armenia 2023

Information from: Human Rights Defender of the Republic of Armenia

Impact of previous year's rule of law reporting

Follow-up by State authorities

Follow-up by State authorities

The Armenian NHRI reports that state authorities did not have a systemic or consistent approach in addressing or mitigating the issues identified in the 2022 Rule of Law Report. Nonetheless, it emphasizes that some issues reported in the 2022 report were nevertheless addressed.

In particular, in the previous report, the Office of the Human Rights Defender of Armenia (hereinafter “HRD”) expressed concern over a draft initiative by the Ministry of Justice which proposed to allow persons holding public office to acquire any partaking (shares, stocks, shares) in the statutory capital of commercial organisations during their tenure as public officials, provided that the person holding public office will transfer that partaking to trust management within one month. The Defender considered this proposal problematic, considering the inevitable corruption risks arising from such an amendment, and suggested to refrain from the adoption of the draft.

As a result of lengthy discussions and thanks to also to the unequivocal stance against the amendments of the Corruption Prevention Commission, the draft¹ was revised to exclude the possibility of acquaintance of any partaking in the statutory capital or commercial organisations by public officials during their tenure.

Follow-up initiatives by the Institution

Follow-up initiatives by the Institution

Concerning the NHRI's follow-up to the ENNHRI rule of law report 2022, The HRD published a press release² informing the public about the publication of the ENNHRI 2022 rule of law report both in its official website and on the official social media accounts of the Office of the Defender. The press release highlighted some of the key recommendations included in the report, as well as made reference to issues presented in the 2022 ENNHRI Country Report on Armenia.

The Office of the HRD did not organize specific follow-up events dedicated to

the discussion of the ENNHRI Rule of Law Report of 2022, as the findings of the country report mostly reflected the issues and recommendations presented in the 2021 Annual Report of the Human Rights Defender of Armenia, which was previously presented before the parliament. However, the institution made reference to the report while presenting recommendations to the government during various discussions and found it to be a useful source for both understanding the general trends and developments in regard to the state of the rule of law in Europe, as well as for informing the institution's activities aimed at the protection of rule of law.

Recommendations to national and European policy makers

Recommendations to national and European policy makers

The HRD recommends that national authorities consider the ENNHRI rule of law report as a unique tracker of the state of the rule of law in Europe and consider the findings and recommendation while devising relevant strategies and action plans.

In addition, in order to support the Human Rights Defender's institution's activities, capacity-building measures, such as training, workshops, and seminars, are recommended to solve the institutional issues recorded in the report.

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Information from: Human Rights Defender of the Republic of Armenia

Independence, effectiveness and establishment of NHRIs

International accreditation status and SCA recommendations

International accreditation status and SCA recommendations

The Human Rights Defender of Armenia was last re-accredited with A-status in March 2019³.

The SCA recognised that the NHRI interprets its mandate in a broad manner.

However, the SCA encouraged it to advocate for appropriate amendments to explicitly include provisions in its enabling law in relation to encouraging ratification of or accession to international human rights instruments, promoting human rights, and covering acts or omissions of the private sector.

Additionally, it encouraged the NHRI to strengthen the implementation of its anti-discrimination mandate, particularly regarding LGBTI and women's rights.

Regarding the selection and appointment process, the SCA acknowledged that the NHRI reported that, in practice, vacancies are advertised, the process is broad and transparent, and that civil society can participate in the screening and selection process. However, this practice is not explicitly enshrined in law, regulation, or in another binding administrative guideline. The SCA encouraged the NHRI to advocate for amendments for the formalisation and application of the selection and appointment process in this direction.

Finally, acknowledging that the budget of the NHRI had increased significantly since the previous review, the SCA encouraged the NHRI to continue to advocate for the funding necessary to ensure that it can effectively carry out the full extent of its mandate, including all additional responsibilities with which it has been mandated, such the NPM under the OPCAT.

Regulatory framework

Regulatory framework

The main legal act regulating the mandate of the Human Rights Defender of Armenia is the Constitutional Law on the Human Rights Defender (hereinafter also referred to as "the Constitutional Law"). The Constitutional Law was amended on 7 December 2022, to enlarge the scope of the mandate of the HRD, expanding its mandate also on the protection of whistle-blowers.

According to the latest amendments, the HRD is authorized to consider complaints from whistle-blowers and affiliated persons regarding the violations of their rights not only by public bodies and officials but also by private organisations (Article 15(1)(3)). Furthermore, according to Article 24(1)(8), during the consideration of a complaint of a whistle-blower or affiliated person, the HRD is authorized to apply to the relevant body for the application of special protection measures as provided in the Criminal Procedure Code of the Republic of Armenia (hereinafter "RA"). Moreover, according to Article 30.2(5), the Defender is tasked with publishing a report and statistical data regarding the protection of whistle-blowers as a part of its Annual Report.

In 2022 the Defender also adopted the Code of Conduct of the staff of the Defender's Office, which includes both general rules regarding ethics and integrity, as well as specific provisions on conduct during monitoring visits.

Altogether the HRD considers the legislative framework regulating the functions of the Defender to provide sufficient safeguards for its independence, as well as a broad scope of functions appropriate for the effective protection and promotion of human rights. At the same time, in order to ensure even higher standards of institutional independence, the HRD considers it necessary to limit the possibility of the re-election of the Defender, in line with the SCA March 2019 recommendations on Armenia and the UN Paris Principles General Observation 2.2⁴. On this point, in 2022 the HRD made a recommendation to the Constitutional Reform Council to amend the Constitution envisaging that the same person may be elected as a Human Rights Defender only for one term.

It is also noteworthy that during the reporting period, the staff of the Office of the HRD transitioned to civil service personnel, as a result of the amendments to the Law on Civil Service, as well as amendments to the Constitutional Law on the HRD, both adopted back in 2020.

While the amendments resulted in certain changes related to staff management, the HRD remained responsible for exercising relevant key powers, such as:

- From the Office of the HRD by establishing the structure of the Staff;
- Approve the statute of the staff, prescribe the functions of each division, adopt the job descriptions and requirements for the positions in her staff, create regional offices;
- Appoint and dismiss civil servants and persons holding discretionary positions (advisers, aides, etc.);
- Manage, coordinate, and supervise the activities of the subdivisions and the Secretariat of the Staff of the Defender;
- Approve and make changes to the number of employees and staff structure, as well as job descriptions.

The transition to civil service was made as a result of substantive discussions between the Office of the HRD and the Civil Service Agency, as a result of which, on 7 September 2022, the job descriptions and nomenclature of about 70 positions were agreed without changes to the versions presented by the Defender. While the HRD considers this practice to be in line with the principles of autonomy and independence of the Defender concerning staff management, the legislative requirement of presenting and discussing job descriptions and nomenclature of positions with the Civil Service Agency, which operates within the Office of the Prime Minister, is viewed as problematic. For the purposes of securing full autonomy and independence of the Defender, the HRD retains it would be preferable to repeal these specific amendments to the Constitutional Law, as well as to the Law on Civil Service.

Enabling and safe space

Enabling and safe space

The Armenian NHRI reports that in 2022 the Office of the HRD and state authorities remained to be on a good level of cooperation, allowing for the effective exercise of the Defender's mandate.

As already noted in the ENNHRI 2021 Rule of Law Report (the country report for Armenia), in accordance with the Constitutional Law on HRD, the Defender is authorized to submit written opinions on draft legal acts concerning human rights prior to their adoption. Furthermore, the 252-L decision on Approval of the Government Rules of Procedure⁵ envisages a mandatory requirement to submit draft normative legal acts on human rights and freedoms to the Defender's opinion. During the reporting period, the Armenian NHRI considered that these regulations were sufficient to ensure the effective and active involvement of the Defender in the drafting process of the legislation, especially concerning the initiatives put forward by the government.

Importantly, the HRD also largely made use of the right to participate in the sessions of the government, and the representatives of the Defender regularly attended Ministerial level meetings presenting recommendations and raising concerns over draft initiatives concerning human rights. The HRD considers this an important opportunity to effectively influence the policy-making processes, as in a number of cases draft proposals were amended based on the recommendations and concerns voiced by the Defender's representatives.

Cooperation with the Parliament was instead ensured by the representative of the Defender in the National Assembly of the RA, who maintained the necessary and constructive dialogue with the Parliament. An example of such effective collaboration is related to the Draft Amendments to the Law on Mass Media, initiated by one of the parliamentarians. The Draft aimed to present changes to the proceedings of terminating the accreditation of the media outlet in state bodies. The HRD provided an opinion to the Draft, stressing that it poses a serious threat to the unimpeded professional activities of journalists. Moreover, the Defender initiated discussions with the authors of the amendments to ensure that the Draft is revised to introduce sufficient guarantees preventing the abuse of the proceedings of the termination of journalistic accreditation.⁶

The Defender also continued actively working on issues related to constitutional justice⁷, presenting two applications and five amicus curiae briefs to the Constitutional Court. The Defender further reports that smooth cooperation with the Constitutional Court was ensured by the representative of the Defender before the Court.

The HRD also emphasizes that, similarly to what reported in the 2022 ENNHRI Rule of Law Report, relevant state bodies respond in a timely manner to the

NHRIs recommendations and address the concerns raised by the Defender.

On a less positive note, the HRD reports that in 2022 certain public and political actors used offensive and sexist speech against the Defender. While all previous Human Rights Defenders were also at the centre of public attention and target of hate speech, the HRD notes that the gendered nature of such statements against a woman Defender has been an issue of great concern. The Office of the HRD is of the view that this form of harassment is disproportionately used against women public actors and human rights defenders.

It was also revealed that the previous Human Rights Defender of Armenia, Ms. Kristinne Grigoryan⁸, was hacked using Pegasus spyware while still in office⁹. The cyber-attack happened in a context in which the previous Defender work focused on activities related to the protection and advocacy of human rights of the members of the Armenian armed forces.

Developments relevant for the independent and effective fulfilment of the NHRIs' mandate

Developments relevant for the independent and effective fulfilment of the NHRIs' mandate

Concerning developments related to the effective fulfilment of the NHRI's mandate, in line with the CoE Recommendation 2021/1 on NHRIs¹⁰, the HRD reports conducting necessary activities to establish a new regional office in Lori marz (region) of Armenia to ensure a greater accessibility to the Office. For this purpose, the HRD obtained a budget increase from the Parliament to ensure the payment of the rent of the office's building and communal expenses. Furthermore, the furnishing and renovation of the office premises were ensured thanks to the financial support of the EU. The Lori regional subdivision started its operations at the beginning of 2023, while the official opening ceremony took place in July 2023.

Importantly, considering the need to effectively carry out the new mandate on whistle-blower protection, the Office of the HRD conducted a needs assessment and started discussions with the government to make sure that sufficient resources are provided to the Office for the establishment of a new unit specialized in whistle-blower protection.¹¹ For this purpose, amendments need to be made to the Prime Minister's Decision 706-U of 11 June 2018¹², which stipulates the maximum number of employees in each state institution, including the Office of the HRD. The discussions in this regard are currently ongoing.

Also, in line with the CoE Recommendation on NHRIs (Para 15(b)), in 2022 the HRD continued the efforts aimed at strengthening and advancing the

cooperation with civil society organisations and human rights defenders. For this purpose, as well as to facilitate effective communication between the government agencies and parliamentarians with CSOs and activists, the HRD established two new advisory councils adjunct to the Defender: the Advisory Council on Women's Rights and the Advisory Council on the Rights of Children and Youth¹³. The Advisory Council on Women's Rights¹⁴ has a larger representation of women's organisations from the regions of Armenia, as the regional CSOs often have lesser participation of women, which limits their ability to influence public decision-making processes. The Council serves as a good platform for discussing pressing issues in the field of protection of women's rights and allows for effective collaborative work between the Office of the HRD and women's organisations.¹⁵

NHRI's recommendations to national and regional authorities

NHRI's recommendations to national and regional authorities

In order to ensure the independent and effective fulfilment of the Defender's mandate, the HRD recommends the national and regional authorities:

- Granting the Office of the Defender necessary resources, as well as making changes to the maximum allowed number of staff members of the Office to enable the HRD to establish a new specialized unit on the protection of the rights of whistle-blowers and ensure the necessary training of the employees of that unit;
- Providing the Office of the HRD with new office premises, with full accessibility for persons with disabilities;
- Increasing the salaries of the staff members of the Office of the HRD in line with the recent rise of salaries of the prosecutors and investigators by 92%.

The HRD also recommends regional authorities and organisations, including ENNHRI, to assist the Office of the HRD in conducting training and capacity building of the staff of the Defender related to the code of conduct.

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Human rights defenders and civil society space

Laws, measures and practices negatively impacting on civil society space and/or on human rights defenders' activities

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The HRD reports that draft amendments to the Law on Martial law were proposed by the Ministry of Justice, which were found to be in contradiction with international standards on freedom of expression and freedom of media. The Defender emphasizes that such amendments, if adopted, could significantly hinder the functioning of media organisations, as well as, in certain cases, of human rights activists and CSOs.¹⁶

Notably, the Draft Law provides for the possibility to restrict the broadcasting publications on the Internet of any information or content during the martial law, except for information or shows with military-patriotic themes, as well as to temporarily block or suspend the functioning of Internet websites, social media, internet applications, or fully or partially restrict the access to them in the territory of the Republic of Armenia. The Draft Law also envisages the possibility to restrict access to the Internet.¹⁷

The Office of the HRD has recorded some cases of online targeting and harassment of human rights defenders and representatives of CSOs. The HRD remains concerned over the disproportionate targeting and persecution of human rights defenders working on women's issues, as well as the proliferation of online sexism towards female public figures.¹⁸ Moreover, in recent years, Armenian public discussions have become increasingly polarized, oftentimes with the use of offensive language, including hate speech. High levels of intolerance have led to the obstruction of open public dialogue, as verbal attacks might have the effect of silencing some members of the public, especially from more vulnerable and discriminated groups ¹⁹ .

The HRD numerously called on relevant state actors to implement comprehensive measures for the fight against hate speech, and addressed this issue in the Alternative Report to the UN CERD, highlighting the importance of conducting awareness-raising campaigns for the public and capacity building trainings for judges, prosecutors and investigators.

Concerning further practices negatively impacting human right defenders the HRD notices that in 2022 the trial of Sashik Shultanyan - a Yezidi human rights activist - was still ongoing, and no further progress was registered in this regard. Mr Sultanyan is being criminally prosecuted for expressions made during an interview, which were classified by the Armenian law enforcement as an 'incitement to national hatred and hostility'. The staff members of the Office of the HRD attended the court hearings to conduct trial monitoring, and

according to the information received by the HRDO, Mr. Sashik Sultanyan was forced to leave the country and he has been put on the wanted list.

Access to and involvement of civil society actors in law and policy making

Access to and involvement of civil society actors in law and policy making

The HRD reports that while there have not been concerning legislative shortcomings hindering the involvement of CSOs and human rights activists in the law and policy-making process, in 2022, some worrying practices were noted in a number of cases. The Defender observed on several occasions that the members of the Parliament and the relevant state agencies did not consult with CSOs, human rights defenders, or relevant experts at the initial stages of drafting processes, when most changes to the draft are possible. Because of this, discussions or consultations made at a later stage have had a lesser impact on influencing legislative initiatives due to the limited possibilities to make substantial changes at a later stage of the policy cycle.

The HRD reports that while draft laws are subject to public discussions (Article 3 of the Law on Normative Legal Acts), this provision applies only to draft initiatives of government agencies, whereas most drafts proposed by parliamentarians do not undergo any form of public discussions. Concerning initiatives of the executive branch, as required by Article 4 of the Law on Normative Legal Acts²⁰, the drafts are published on the official website for public discussions for 15 days, and anyone willing might provide their comments or recommendations to the draft, to which the initiator is obliged to respond. It is in the HRD's view, however, that many legislative initiatives require broader consultations, and the use of online platforms may not be considered sufficient.

The above-mentioned issues have led to less meaningful engagement of civil society actors, and of the public at large, in the decision-making process. The HRD observed the lack of public consultations in several cases, particularly regarding the Draft Amendments to the Law on Martial Law, mentioned above, and the Draft Amendments to the Law on Police, which stipulated the right of the police to mass video-surveillance, and were deemed by the HRD to be inconsistent with the ECHR case law on Article 8 (right to respect for private and family life)²¹.

Abuse of laws to intimidate civil society actors, including strategic litigation against public participation (SLAPPs)

Abuse of laws to intimidate civil society actors, including strategic litigation against public participation (SLAPPs)

In 2022, the Armenian eco-activist and journalist Tehmine Yenokyan filed a complaint to the Defender, informing about two civil lawsuits brought against her, which the Office of the HRD considers to be SLAPPs. Tehmine Yenokyan first informed the Defender that the company Zangezur Copper Molybdenum Combine filed a civil lawsuit requesting to denounce the information she published, which the company considered to be defamatory, as well as requesting compensation of 6 million AMD (about 13.500 EUR). The mentioned information published by the activists concerns alleged the pollution of a river by the Combine. In the publication made on her Facebook page, Ms. Yenokyan stated that this is yet another instance when the Combine's activities result in the pollution of the river and expressed concern that even though criminal proceedings were initiated regarding the incident, "it will again be forgotten, concealed and they [the authorities and the factory, HRDO's note] will move on". Importantly, the lawsuit was initiated and civil trial proceedings are currently undergoing.

Ms. Yenokyan considered that this action seeks to silence her criticism of the Combine and its negative impact on the environment. Importantly, before filing the lawsuit, the lawyer of the Combine wrote a letter to the eco-activist, threatening her with a lawsuit unless she publicly refutes the information previously published by her.

Another lawsuit against Ms Yenokyan was brought by the Lidian Armenia mining company for calling the company "criminal" in her speech made during an assembly, as well as stating that "Lyidian Armenia numerously made provocations, disseminated false information, attempted to incite hostility and communal, intercommunal and interstate disputes". In July 2022, the Appeal Court decided the case in favour of Lyidian Armenia and obliged Ms Yenokyan to publicly refute the statements, which the Court found defamatory, as well as to pay compensation of non-pecuniary damages and legal fees, in total amounting to about of 1.224.000 million AMD (2.900 EUR).

The Office of the HRD found that over the previous several years, the Lidian Armenia mining company has brought dozens of civil actions against journalists and eco-activists, requesting compensation of damages for defamation. Considering also the fact that the exploitation of the Amulsar gold mine (where Lyidian Armenia operates) raised public resonance and is an issue of public interest, the behaviour displayed by Lyidian Armenia might be considered in line with the usual tactics of actors seeking to drain the financial and psychological resources of their critics, thus preventing them from further action against them.

In January 2023, several Armenian civil society organisations released a statement²², expressing their support for Ms. Yenokyan and calling on the

relevant actors (including the HRD) to address the issue of abusive lawsuits being brought up against environmental activists.

The Human Rights Defender notes that the Armenian legislation does not contain any provisions aimed at the prevention of SLAPPs or the protection of the victims of SLAPPs.

NHRI's role in promoting and protecting civil society space and human rights defenders

NHRI's role in promoting and protecting civil society space and human rights defenders

Concerning the engagement of the HRD in providing support to victims of SLAPPs, the Defender's activities in this field are very limited, as according to Article 24(4) of the Constitutional Law on the HRD²³, the Defender shall not have the right to intervene in judicial proceedings or the exercise of the powers of judges in a specific case. Accordingly, the Defender might only provide explanations to the applicant regarding their rights and applicable legal regulations.

Concerning the broader efforts of the HRD to ensure enabling civic space, the Defender engages in a wide variety of activities. Firstly, the Defender has continued its engagement in legislative process and strived to mitigate the impact of restrictive draft legislation devised by the Ministry of Justice. Namely, as mentioned above, the HRD provided an opinion on the Draft Amendments to the Law on Martial Law²⁴ analysing the provisions of the Draft from the standpoint of their compliance with international human rights standards. The HRD considered the Draft to violate the right to freedom of expression, as it allowed for not proportionate and absolute restrictions on the exercise of this right. Furthermore, the Draft did not envisage the procedure, grounds, and other specifics of imposing such restrictions, which allowed for excessively wide discretion from the executive.

The HRD also made a public statement highlighting the issues identified regarding the Draft, as well as expressed concern over the fact that the Draft was not properly discussed with the public, and consultations were not held with CSOs, individual experts and other relevant stakeholders. The Defender called on the Ministry of Justice to organize discussions and revise the problematic provisions of the Draft with the proper involvement of relevant specialists. Thanks to the engagement and negative reaction of both the HRD and various civil society actors, the draft has not yet been adopted.

The Defender also conducted activities engaging with various international monitoring bodies, aiming at the protection of CSOs and human rights defenders from targeting, harassment, and criminal prosecution. In the written

submission²⁵ to the Committee on the Elimination of Discrimination against Women, the HRD emphasized the necessity to address the issue of harassment and targeting of human rights defenders, particularly those engaged in the protection and promotion of women's rights. Moreover, the HRD also expressed concerns regarding the criminal proceedings against Mr Sashik Sultanyan in the alternative report to the Committee on the Elimination of Racial Discrimination, calling once again on the government to drop all charges against Mr. Sultanyan.

Aside from the establishment of the abovementioned councils (the Council on Women's Rights and Council on Child and Youth Rights), there are three other advisory councils, currently operating on the prevention of torture, the protection of human rights in armed forces, as well as on the protection of rights of persons with disabilities.

Another mechanism used by the Office of the HRD for strengthening the cooperation with CSOs is memoranda of cooperation²⁶. In 2022, the HRD signed such documents with both Armenian, as well as foreign NGOs²⁷, agreeing to collaborate in specific areas²⁸.

NHRI's recommendations to national and regional authorities

NHRI's recommendations to national and regional authorities

Given the above-mentioned practices impacting human rights defenders and civil society space, the Defender recommends the national and regional authorities to:

- Enforce a comprehensive anti-harassment policy, including also online harassment, which will be tailored to the specifics of targeted vulnerable groups, such as in the case of women's rights and LGBTIQ+ rights activists);
- Establish a mandatory requirement to hold public discussions and consultations for the draft initiatives of members of the Parliament;
- Introduce legislative and practical Anti-SLAPP measures to protect human rights activists and journalists from SLAPPs, as well as provide support to the victims of such actions;
- Conduct awareness-raising campaigns for the general public on the unacceptability of hate speech, as well as training of judges, prosecutors and investigators to improve their capacities of investigating cases of hate speech.

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Implementation of European Courts' judgments

Assessment of follow-up activities of State authorities

Assessment of follow-up activities of State authorities

The HRD considers that while the Government of the RA seems generally committed to the due execution of the judgments of the European Court of Human Rights (ECtHR), in certain cases, specifically related to violations of Articles 2, 3, 5 and 6 of the European Convention of Human Rights (ECHR), the measures and actions taken by the state authorities have lacked effectiveness. At the same time, the HRD commends the Government's efforts aimed at improving the execution of several leading judgments, specifically through resuming the functioning of the Inter-Agency Commission²⁹, which was established in December 2021 to coordinate the execution process of the ECtHR judgments. The HRD is also involved as a member in the activities of the Commission.

Leading European Courts' judgments awaiting implementation

Leading European Courts' judgments awaiting implementation

Currently, there are 71 cases against Armenia transmitted for supervision, which are pending execution³⁰. Some of the main leading judgments of the European court awaiting execution, which we would like to highlight, are the following:

1. European Court of Human Rights, the case of Ashot Harutyunyan v. Armenia(No.34334/04)³¹ which is a leading case for a group of cases concerning the inhuman and degrading treatment of persons deprived of their liberty, mainly due to denial or lack of adequate medical treatment, resulting in violations of Article 3 of the Convention.
2. European Court of Human Rights, the case of Muradyan v. Armenia (No.11275/07)³², which is another leading case for a group of cases concerning the deaths of servicemen during military service and the authorities' failure to implement sufficient measures to prevent such

cases (including the cases when conscripts committed suicide) and to conduct an effective investigation into those deaths. In most of these cases, the Court found both substantive and procedural violations of Article 2 of the Convention.

3. European Court of Human Rights, the case of Virabyan v. Armenia (No.40094/05)³³, a leading case for a group of cases concerning death and/or torture and ill-treatment of the applicant or their relative by the police, which resulted in the violation of Article 2 and/or Article 3 of the Convention. The Court also pointed out the failure of authorities to conduct an effective investigation into those cases.
4. European Court of Human Rights, the case of Mushegh Saghatelian v. Armenia, (No. 23086/08)³⁴, which is a leading case for a group of cases concerning various violations of the Convention during and after the wide-scale opposition protests after the 2008 presidential elections. The violations are mainly related to the unlawful arrest, ill treatment by the police, ill-founded convictions, absence of the official investigation into the actions of the police, etc.
5. European Court of Human Rights, the case of Oganezova v. Armenia (No.71367/12)³⁵ concerning an arson attack on a club, which was owned by a well-known member of the LGBTI community in Armenia and served as a place for Armenian LGBTI community to socialize, as well as the homophobic hate campaign preceding and following the arson attack. The Court found that violation of Article 3 of the Convention in conjunction with Article 14, particularly having considered the failure of the authorities to protect the applicants from homophobic attacks and to carry out an effective investigation.

The HRD emphasizes that the main reason behind the lack of implementation in the above-mentioned cases is that while there is a general political will for the implementation of the ECtHR judgements, state agencies often lack well-designed and coordinated policy in this field, resulting in limited efficiency. Oftentimes, state agencies are not guided by the need for the execution of specific judgments, which is not considered when elaborating their strategies in relevant fields. This results in uncoordinated activities, with the general measures being implemented ad hoc, rather than systemic manner, which causes unnecessary delays and hardships. From this viewpoint, the HRD deems important the functioning of the Inter-Agency Commission established in December 2021 to coordinate the execution process of the ECtHR judgments.

NHRI's actions to support the implementation of European Courts' judgments

NHRI's actions to support the implementation of European Courts' judgments
In January 2023, the HRD presented a Rule 9 Communication³⁶ regarding the

case of *Shirkhanyan v. Armenia* (54547/160) ³⁷, which is one of the cases from the “*Ashot Harutyunyan v Armenia*” group of cases. The case concerns inadequate medical care, assistance and opportunity of outdoor exercise for the detainee with health issues resulting in degrading treatment. The HRD stressed that the issues raised in the judgment of the Court are among the most problematic within the penitentiary system.

In the Rule 9 submission, the HRD presented relevant information on the issues related to medical treatment, medical examination, daily assistance, hygiene, and outdoor exercise in the penitentiary institutions, as well as proposals for possible solutions to the revealed systemic problems. The information presented by the HRD was obtained both during the consideration of various individual complaints (including the case of Mr. Shirkhanyan), as well as by exercising its NPM mandate.

It is also important to note that the HRD has already submitted a communication regarding this group of cases. Namely, in January 2019, the HRD presented a Rule 9 Communication in regard to execution of the *Ashot Harutyunyan v. Armenia* judgment.³⁸

NHRI's recommendations to national and regional authorities

NHRI's recommendations to national and regional authorities

In order to improve the coordination of the execution process and the cooperation and dialogue between different state agencies, the HRD recommends the Government devise an action plan, identifying the main actions that should be implemented for the execution of the main leading cases, setting clear deadlines and specifically mentioning the agencies responsible for the implementation of each action. The process of the elaboration of the action plan should be transparent and inclusive, with the participation of not only relevant state agencies, but also main stakeholders from civil society who are most actively engaged in the advocacy for the execution of ECHR judgments or have expert knowledge related to specific issues identified in the relevant judgments by the European Court.

Most importantly, there should be a collegial body responsible for the supervision of the implementation of the Action plan (the Inter-Agency Commission mentioned above can also serve such purpose), which would meet periodically, assess the reports on the implementation of each action, decide the implementation status (implemented, partially implemented, not implemented) and be authorized to provide recommendations and set specific deadlines for each state body to meet the requirements of the respective recommendation.

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Artificial intelligence

Impact of AI on human rights, democracy and rule of law

Impact of AI on human rights, democracy and rule of law

Currently, the Office of the HRD does not yet specifically monitor the impact of the use of artificial intelligence on human rights. This area is newly emerging in Armenia, and there is no specific legislation explicitly regulating the use of AI.

NHRI's actions to address challenges regarding the use of artificial intelligence

NHRI's actions to address challenges regarding the use of artificial intelligence
The Office of the HRD conducted research with its internal resources on the impact of AI on human rights and the need for a comprehensive study of the situation in Armenia. Accordingly, in 2023 the Office developed a concept note which envisages, inter alia, capacity-building activities for HRD Office's staff, as well as awareness-raising activities among other stakeholders and the whole society. The implementation phase of the concept note is planned to start in 2023. The inception program is being negotiated with USAID and will be summarized by the end of the year.

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Other challenges to the rule of law and human rights

Safety of Journalists

Numerous cases of police violence towards journalists were recorded during protest actions held from April to June 2022. The media monitoring conducted by the HRDO revealed several cases when police officers threatened or used excessive force toward journalists covering the assembly. During the visits of detention facilities for arrestees, some journalists informed the representatives of the HRDO about the use of violence towards them by police officers and violations of procedural requirements for administrative arrest.

The HRD made several statements highlighting the violations of journalists' rights by the police, and calling on the authorities to conduct due investigations of all recorded cases. The Defender also initiated correspondence with the Police and the Office of the Prosecutor General regarding all recorded issues, presenting the documented information and requesting clarifications. The HRD was informed by state authorities that disciplinary proceedings were launched regarding about 90 cases of misconduct by police officers; about a third were terminated, criminal proceedings were initiated in regard to 63 cases, and 2 police officers were brought to disciplinary responsibility.

Implementation of the Decisions of the Constitutional Court

The HRD reports that in 2022 one key unresolved issue is the lack of coordinated and timely response to the decisions of the Constitutional Court, as a result of which many decisions remain not implemented for a lengthy period. In the 2022 ENNHRI Country Report on Armenia³⁹, the HRD highlighted the case regarding the right of pilots with disabilities to compensation. As a result of the HRD's application back in 2021, the Constitutional Court recognised the right of the pilots to receive compensation, which at the time was denied by the state for 15 years.

In 2022, the HRD actively engaged in communication with relevant state authorities, being in touch on an almost daily basis to make sure that necessary steps are being taken to ensure the exercise of the rights of pilots. The issue was resolved only later in January 2023 when the Government adopted the Decision⁴⁰ stipulating the proceedings for paying the pilots' compensations. The HRD considered it highly problematic that following the decision of the Constitutional Court, the issue was not resolved for more than a year.

NHRI's recommendations to national and regional authorities

NHRI's recommendations to national and regional authorities

Concerning the abovementioned challenges, the HRD recommends national

authorities:

- To conduct trainings for the police officers on the use of force during protests, especially focusing on the prohibition to use force against journalists covering the assembly and providing knowledge on how to collaborate and communicate with journalists during protests;
- To introduce legislative and practical mechanisms to ensure an adequate monitoring of the implementation of the decisions of the Constitutional Court.

References

This list of references covers the whole country report.

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- ¹ [See the Amendments to the Law on Public Service, adopted on December 7, 2022, which prohibited public servants from acquiring any partaking in the statutory capital or commercial organizations during their tenure.](#) (in Armenian)
- ² [See the press release on the publication of the ENNHRI Rule of law Report, “European Network of National Human Rights Institutions’ \(ENNHRI\) Regional Report on the state of the rule of law in Europe, as well as the Report on Armenia, was published”](#)
- ³ [SCA Report March 2019](#)
- ⁴ [SCA General Observations 2018](#)
- ⁵ [See the 252-L Decision on Approval of the Government Rules of Procedure, adopted in 2021](#) (in Armenian)
- ⁶ [See Summary Report on the Activities of the Human Rights Defender](#), p. 16 (in Armenian)
- ⁷ [See Summary Report on the Activities of the Human Rights Defender](#), pp. 47-48, (in Armenian)
- ⁸ [See the article on the cyber-attack on a number of Armenian public actors, including the previous HRD, entitled “Hacking in a war zone: Pegasus spyware in the Azerbaijan-Armenia conflict”](#)
- ⁹ [See the article on the cyber-attack on a number of Armenian public actors, including the previous HRD, entitled “Hacking in a war zone: Pegasus spyware in the Azerbaijan-Armenia conflict”](#)
- ¹⁰ [Council of Europe Recommendation 2021/1 on the development and strengthening of effective, pluralist and independent NHRIs](#)
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- ¹² [Decision of Prime Minister of the RA N 706-U of June 11, 2018, on Establishing the Maximum Number of Personnel of State Bodies](#) (in Armenian)
- ¹³ [Press release regarding the inaugural session of the Public Council on the Rights of Children and Youth adjunct to the Human Rights Defender](#)

- ¹⁴ [Press release regarding the inaugural session of the Public Council on Women's Rights adjunct to the Human Rights Defender](#)
- ¹⁵ [See Summary Report on the Activities of the Human Rights Defender](#), p. 15 (in Armenian)
- ¹⁶ [Statement of the HRD on the Draft Amendments to the Law on the Legal Regime of Martial Law](#) (in Armenian)
- ¹⁷ [See Summary Report on the Activities of the Human Rights Defender](#), pp. 17-18, (in Armenian) [See the Statement of the Human Rights Defender based on preliminary conclusions of the activities of rapid response teams](#) (in Armenian)
- ¹⁸ [Written Submission of the Human Rights Defender of Armenia to the 83rd Session of the Committee on the Elimination of Discrimination against Women on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women](#), p. 5
- ¹⁹ [Message of the Human Rights Defender on International Day of Tolerance](#) (in Armenian)
- ²⁰ [Law on Normative Legal Acts, Articles 3, 4](#) (in Armenian)
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- ²³ [See the Constitutional Law on the Human Rights Defender, Article 24\(4\)](#)
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- ³⁰ Please, see [Armenia's country profile on the execution of EC\(t\)HR cases](#)
- ³¹ [European Court of Human Rights, Case Ashot Harutyunyan v. Armenia](#) (No. 34334/04)
- ³² [European Court of Human Rights, Case Muradyan v. Armenia](#), (No. 11275/07)
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