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**The Human Rights Defender of**

 **the Republic of Armenia**

**Written Submission of the Human Rights Defender of Armenia to the Human Rights Committee 129th Session on the implementation of the International Covenant on Civil and Political Rights**

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**Introduction**

1. Constitutional amendments took place in Armenia in 2015 that significantly strengthened the mandate of the Human Rights Defender (HRD). A separate chapter (Chapter 10) of the Constitution is dedicated to the HRD's functions and powers, terms of eligibility and election, guarantees for independence and activities of the HRD (immunity, criminal liability for hindering the HRD's activities, administrative liability for not responding to the HRD's requests or not providing the requested materials, state funding for the HRD cannot be less than the amount provided the year before, etc.).
2. Everyone has an absolute constitutional right to receive the assistance of the HRD in the event of violation of their rights and freedoms, enshrined by the Constitution and laws, on the part of state and local self-government bodies and officials, whereas in the cases prescribed by the Law on the HRD - also on the part of organisations (Article 52 of the Constitution).
3. Provisions of the Constitution are further developed in the Constitutional Law "On the Human Rights Defender" adopted in December of 2016 (the Constitutional Law). Being in full compliance with the Paris Principles on the status of national institutions for the promotion and protection of human rights and enjoying "A" status, the HRD's activities include the following two fundamental directions: human rights protection mainly by investigating and resolving complaints, as well as monitoring activities; and human rights promotion through contributing to the improvement of legislation, human rights education and awareness-raising, breaking stereotypes and in general supporting the improvement of the human rights system and strengthening the rule of law in the country.
4. The Constitutional Law provides three conventional mandates to the HRD: (1) National Preventive Mechanism (NPM) provided for by the Optional Protocol, (2) independent monitoring mechanism under the UN Convention on the Rights of the Child and (3) independent monitoring mechanism under the UN Convention on the Rights of Persons with Disabilities.
5. The HRD has permanent representatives in the Constitutional Court and Parliament, which helps to keep strong institutional ties with the latters. A vivid example of this cooperation is the HRD's participation in preparing amicus briefs and applications to the Constitutional Court and intensive participation in Parliamentary Plenary and Committee hearings accordingly.
6. The HRD contributes to the restoration of violated rights and freedoms and to the improvement of regulatory legal acts related to human rights and freedoms (Article 191, Constitution). The HRD has the right to submit written opinions on draft normative legal acts regarding human rights and freedoms prior to their adoption (Article 29, Constitutional Law). In all the cases where the HRD reveals issues not regulated by law or any other legal act, the HRD may submit a relevant recommendation to the body adopting the legal act, indicating the necessity and the extent of making amendments or supplements to the legal act. The body having received the recommendation shall be obliged to consider it and inform the HRD on the results thereof.
7. The Constitutional Law authorizes the HRD to organize human-rights-related trainings for their staff, as well as for beneficiary bodies and organisations. The HRD established a Human Rights Research and Education Centre within the office to fulfil this mandate. This function is fulfilled through cooperation with special education institutions (e.g. Academy of Justice, Police Academia, School of Advocates, Universities, etc.) and universities in order to compose their respective syllabi.
8. The mandate of the HRD extends throughout the whole territory of Armenia. Currently, four regional offices operate in the Gegharkunik, Shirak, Tavush and Syunik Provinces. A strong cooperation has been established with the Yerevan office: regular consultations, joint meetings, independent and joint conducting monitoring visits. In addition, representatives from the regional offices consistently attend working meetings and public events alongside the staff of the Yerevan office.

**Peoples right of self-determination (Article 1)**

1. Each conflict is unique by its root causes, essence, and principles of resolution. Attempts to generalize conflicts and put them into a certain unified model, also in the context of human rights may seem good in theory, but don’t fit into reality even if in some cases, brought in the background paper it was seemingly shaped some decades ago by a single political process such as the dissolution of the Soviet Union.
2. For instance, in the case of the Nagorno-Karabakh conflict, the principle of equal rights and self-determination of peoples is recognized by both the international community and parties to the conflict as one of the principles for its resolution. Article 1(2) of the UN Charter stated that "friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples".
3. Human rights protection is of the universal nature. Hence, the guarantee and protection of the human rights of people living in Nagorno-Karabakh (Artsakh) should not depend on the disaccord related to the political status of Nagorno-Karabakh. The universality of human rights protection entails that rights of all persons, including children, women, people with disabilities living in Nagorno-Karabakh, should be protected, regardless of the political status of the territory or other political factors, whether it is a conflict or post-conflict area.

**Prohibition of discrimination (Article 2)**

1. The principle of non-discrimination is enshrined in the Armenian Constitution and in a number of legal acts, including the law on "Equal rights and equal opportunities for men and women" which regulates only the gender equality sector.
2. The existing legal framework mostly contains general provisions such as common principles and directions of state policy in ensuring gender equality. For example, the law defines the general principles and directions of the state policy in guaranteeing gender equality, the principle of prohibition of gender discrimination, concepts as gender discrimination and its types, gender equality and gender stereotypes. It contains general articles on monitoring the state policy and the procedure for lodging complaints with administrative bodies or courts (Articles 9, 19). However, the law does not envisage special procedures for the protection of and restoration of rights in specific cases. In that light, Armenia still lacks a comprehensive anti-discrimination law.
3. The law on "Equal rights and equal opportunities for men and women" lacks precise implementation mechanisms for the protection and restoration of violated rights. Thus, to adequately protect victims of discrimination, proper legal mechanisms for the effective investigation of discrimination cases and remedies for them should be set.
4. The HRD welcomes the efforts of the Government to adopt a Law on Ensuring Equality, which is still under consideration and has not yet been sent to the Parliament for the adoption. The Law on Ensuring Equality designates the HRD to become an equality body.
5. The HRD receives complaints that relate to discrimination based on age, the protection of their labor rights, differentiated regulations for mothers and fathers while receiving one-time childbirth benefit, the economic empowerment of women, representation of women in political and public life, sexual orientation, accessibility of different services for persons with disabilities, etc.
6. Discrimination between men and women in the sphere of labor rights is an important direction of the HRDO’s work, and relevant issues have been raised by the HRD for years. Though the principle of prohibition of discrimination is stipulated in Labor Code (Articles 3, 180), women encounter vertical and horizontal discrimination in the workplace. In terms of vertical discrimination, women do not enjoy equal opportunity in being promoted or appointed to high offices, while for horizontal discrimination, women have difficulties in taking up employment in specific professions and spheres. Issues with keeping work in case of childbirth are also recorded.
7. With regard to the representation of women in political life, women are inadequately represented as state officials and leaders in local self-governing bodies and are often not viewed as decision-makers, policy developers, and implementers. In his annual reports and public announcements, the HRD also addressed the instance of insulting women during political discussions by targeting gender and classified such acts as absolutely unacceptable.
8. Regarding the discriminatory treatment of patients, the HRD is concerned with cases of discriminatory and disrespectful treatment of patients based on their health conditions (persons with disabilities, with Down syndrome, HIV-positive people, people living with Hepatitis A/B). The issue of accessibility of health services for women, particularly in regions and rural areas, also remains.Women with disabilities encounter difficulties in receiving medical care due to lack of access to medical services, the level of preparedness, and improper behavior by the medical staff.
9. The HRD also addressed the issue of preventing discrimination against students from socially insecure families and ensuring their equal right to education. In 2018, the HRD raised the issue of lack of a consistent regulation on fee collection for the use of textbooks in educational institutions, which, as stressed by the HRD, resulted in discriminatory treatment. The problem was brought before the Constitutional Court, which ultimately concluded that the procedure of providing free textbooks for students from socially insecure families should be precisely provided under the law and by-laws.
10. In an ad-hoc report and application to the Constitutional Court, the HRD recorded that a problem of discriminatory practice was present when police officers had their rights limited during criminal prosecution against them. Specifically, the HRD raised the issue of inability of police officers to resign from service at their own initiative and to be appointed to another position during a criminal prosecution against them. In 2020, the Constitutional Court satisfied the application and declared deriving the police officer from the opportunity to resign from service at their own initiative as unconstitutional.
11. The annual report of the HRD has separate chapters in regards to discrimination and the state of protection of persons’ rights based on gender ground, discrimination in the sphere of labor rights, rights of the elderly and persons with disabilities, on ground of sexual orientation, etc. In this regard, proper awareness-raising campaigns are needed to eliminate hate speech and insulting speech, as well as intolerance related to the matters discussed.
12. To prevent discrimination HRDO implements a number of activities (seminars, discussions, video and other awareness-raising events) throughout the country. In 2019 short animated and documented videos on women’s rights, domestic violence, rights of persons with disabilities, rights of the elderly, have been disseminated, including special translations in sign language.

*Discrimination on the ground of disability*

1. The prohibition of discrimination on the ground of disability is provided under Constitution. The Constitution sets out that the prevention, treatment and rehabilitation of persons with disabilities is an important pillar of state policy (Articles 29, 86). The issues of social protection of persons with disabilities are regulated under the law “On social protection of persons with disabilities”, adopted in 1993 and amended several times. For a number of years, the HRD stated that the approaches reflected in the law are not in conformity with international standards, as they do not entirely enshrine the principle of social model.
2. The Government plans to adopt a law "On the Protection of Rights of Persons with Disabilities and Social Inclusion", which is at the stage of drafting. The law is aimed at providing guarantees for the rights of persons with a disability, enacting a system of protection of rights and regulating the financial aspect for the reformed system of protection.
3. The HRD cooperates with the Government on the issue of improving the Law by providing opinions and recommendations. It should be noted that while the Law gives a comprehensive definition to the term "discrimination based on disability", it does not define the types of "discrimination" (direct discrimination, indirect discrimination, victimization, etc.), which significantly hinders discriminated persons with disabilities from full realization of their rights. The Draft Law still does not provide the list of persons who can qualify as a personal assistant, etc. This is a matter that should be solved in the comprehensive anti-discrimination legislation.
4. The Government also considers to adopt a law "On the assessment of the needs of persons with disabilities", which aims to incorporate the system of functional assessment of disability that will enable to carry out such assessment comprehensively. Instead of the current system, it is envisaged to provide degrees of functional limitation of persons with disabilities (light, medium, heavy, and profound). In the Annual Report for 2019, the HRD stated that the Draft Law contains deficiencies. For example, several principal issues were addressed not by legislative acts or governing principles, but by references to by-laws or blanket norms. In this regard, the HRD noted that the primary issues on the functional assessment of persons with disabilities should be regulated mainly by law.
5. The HRD is entrusted with the mandate of monitoring the application of the provisions of the UN Convention on the Rights of Persons with Disabilities. To implement that function, the Unit for Protection of the Rights of Persons with Disabilities was established within the HRDO in 2019.
6. Discrimination against women and children with disabilities is a serious issue, where they face an intersectional form of discrimination based on gender and disability. Women with disabilities encounter difficulties while seeking reproductive health service due to lack of awareness among medical personnel and issues with accessing relevant devices.
7. The Annual Report of the HRD of 2019 once again recorded that the problem of accessibility of buildings for low-mobility groups and people with disabilities in urban construction, as well as the issue of access to transportation, remain unresolved.
8. The State should provide accessibility of public buildings (courts, administrative bodies, hospitals, health centers, libraries, schools, and all public institutions), as well as ensure implementation of accessibility principles in the area of transportation, services, information, and communications and define sanctions in case of non-implementation. Detailed programs should be prepared and implemented to ensure that the transportation system is accessible for persons with disabilities.
9. The HRD receives complaints on non-provision of medical care to persons with disabilities due to the inaccessibility of medical services and institutions. As it was recorded by the Committee on the Rights of Persons with Disabilities, the low level of awareness of the staff of medical institutions about the rights of people with disabilities remain an issue.
10. Thus, it is necessary to ensure that persons with disabilities are able to fully realize their right to receive medical care by making medical services and buildings, as well as information more accessible. Continuous awareness-raising activities on the rights of persons with disabilities should be carried out for medical personnel.

1. Concerning the employment issue of persons with disabilities, the state implemented programs on regulating their employment. 425 persons with disabilities seeking work were registered within 13 employment programs implemented by the Ministry of Labor and Social Affairs, and a considerable number of persons of disabilities found employment as a result. Nevertheless, there are still insufficient governmental programs and environmental barriers, as well as stereotypes concerning persons with disabilities in the work environment. Thus, the HRD is concerned that the employment issue of persons with disabilities continues to remain unresolved.
2. The HRD recommends taking steps to promote employment opportunities for persons with disabilities both in private and public sectors. It is necessary to prepare and implement effective programs, to review the current quota system and to introduce an efficient system that will enable to ensure the labor rights of persons with disabilities.
3. The HRD also recommends ratifying Optional Protocol to Convention on the Rights of Persons with Disabilities. The report submitted by the Government on the implementation of the UN Convention on the Rights of Persons with Disabilities noted that the Optional Protocol to the Convention will be ratified in the coming years after significant improvements of the conditions for persons with disabilities. At the same time, the long duration of the process for the ratification of the Optional protocol is concerning.

**Gender equality and gender-based violence (Article 3)**

*Gender stereotypes*

1. The HRD notes that although the Government undertook steps to break gender stereotypes (trainings for the state, Police officers, series of meetings in educational institutions, etc.), nevertheless, there are no sufficient guarantees for the factual legal equality between women and men. The HRD recorded cases of violation of women’s rights and discrimination against women. The state encounters difficulties while realizing the state policy to protect women’s rights also due to the stereotypes about the role of women in society. The dissemination of misinformation by the media also plays a significant role in forming misconceptions about the role of women in society and the problem of domestic violence. Hence, the HRD recommends that eliminating stereotypes should be a state priority; appropriate steps should have a periodic nature and be implemented as a matter of priority.
2. For example, a number of misunderstandings and opposing views emerged during the discussions on ratifying the CoE Convention on preventing and combating violence against women and domestic violence. Though the Government published relevant commentaries, there is still a need for complex and periodic activities from the state to eliminate respective issues.

*Gender-based violence*

1. The cases of gender-based or domestic violence are another subject of concern. Progress with setting standards, new legislative measures, concept papers, and protective mechanisms is recorded. However, the issue of effective implementation of those tools persists. Further significant steps need to be taken by training professionals and changing their mind-sets concerning domestic violence; conducting sensitization campaigns to raise public awareness on domestic violence and gender equality, enhancing efforts in the area of prevention; as well as providing services for victims, especially in rural areas.
2. The Law օn Prevention of Domestic Violence, Protection of Persons Affected by Domestic Violence, and Family Restoration and several related laws have been adopted since 2017. Despite a number of positive changes, the HRD considers that law does not qualify all types of domestic violence as being such; therefore, competent bodies are sometimes unable to provide a proper response to those cases. In particular, the national legislation does not regulate acts of harassment, forced marriage, and forced termination of pregnancy.
3. The HRD’s Annual Report of 2019 reflected that even though the chapter 12 of Criminal Procedure Code envisages protective measures for the victims of domestic violence, no case of imposing a protective measure was recorded during 2019. The implementation of laws is also problematic from the viewpoint of services provided by the state and through the means of inter-agency cooperation. As of 2019, there are no state-operated shelters for survivors of domestic violence, and the issue of 24-hour free-of-charge operation of hotline numbers remains a challenge as well. The HRD finds important to note that the issue of implementation of the laws continues to remain also due to the lack of systemic activities by competent bodies.
4. The HRD, in cooperation with international organizations, continuously implements awareness-raising and capacity-building activities both in Yerevan and rural areas aimed at preventing violence against women and domestic violence. As part of the cooperation with the CoE, an analysis was conducted in 2017: it compared Armenian criminal legislation to the CoE Convention on preventing and combating violence against women and domestic violence and was aimed at the facilitation of the ratification of the Convention. In 2019, the HRD published guides on receiving the HRD’s support regarding domestic violence issues in 4 languages and the Braille system.

**Right to life (Article 6)**

*Ensuring the right to life in the army*

1. Ensuring the rights and freedoms of conscripts and military servicemen in one of the main directions of the HRD’s activities. To deal with relevant complaints and conduct analytical work, a specialized Unit for the Protection of the Rights of Military Servicemen and Their Family Members is functions within the HRDO.
2. The HRD continuously studies issues on the right to life of the military servicemen based on the information provided by state bodies. The important work undertaken by state bodies, particularly by the Ministry of Defense and Military Prosecutor’s Office, to prevent cases of non-combat deaths should be recalled.
3. The HRD is of the opinion that the undertaken steps by the Government were necessary, but not yet sufficient to prevent the cases of non-combat deaths and self-injury in the army. It is extremely urgent and important to have a unified concept of prevention of cases of death and self-injury in the army, that will enable to achieve a systemic solution through the examination of the facts of the particular case in conjunction with other cases. It is necessary to take into account that every delay in providing information on a non-combat death may result in the publication of information by unverified sources; this, in turn, may undermine the public trust.
4. The next issue on the right to life in the army concerns cases of failure to provide adequate medical care and treatment during the pre-conscription and conscription period. The HRD believes that it is necessary to increase control over the realization of the right to free medical care of the pre-conscripts and conscripts who need treatment.
5. To solve the mentioned issues, the HRD recommends taking practical steps in preventing non-combat deaths and cases of self-injury in the armed forces, as well as steps in raising overall awareness (by providing psychological services). The HRD proposes to adopt a unified concept of prevention of cases of death and self-injury in the army, as well as to provide the public with credible first-hand information on each non-combat death in a timely manner. Considering the issue of medical care in pre-conscription and conscription periods, the HRD recommends conducting medical examinations using more focused tools in order to ensure the effectiveness of the process of obtaining detailed and accurate information about the recruits’ state of health through medical research.

*Ensuring the right to life in penitentiary institutions:*

1. In recent annual reports, the HRDO reflected that it receives complaints connected with cases of death in the penitentiary institutions (death due to illness, natural causes, and accidents, as well as cases of suicide). It is concerning that in 2019, the mortality and suicide rates in penitentiary institutions have increased in comparison with 2017 and 2018.
2. The HRD welcomes that the fact that the Government continuously provides relevant information conducts capacity-building activities for the staff of the Prison medical center. With regard to concerns on cases of mortality, the Government specified that it prepares materials, conducts investigations, and socio-psychological work in each case of self-injury.

1. However, the increase of cases of death and suicide attests to the insufficient effort by the authorities, which would be aimed at discovering the contributing factors ad suicide prevention. Issues with organizing proper psychological assistance and identifying persons with suicide risk continue to remain. In particular, there are still no precise mechanisms for the early discovery of persons of self-injury risk group, and prevention for such cases. It is important to note that the systemic issue with the access for persons identified as a suicide or self-injury risk group to the means of killing themselves (also recorded by the European Committee for the Prevention of Torture) remains unresolved.
2. The HRD recommends introducing preventive mechanisms and precise strategies to discover persons identified as a suicide or self-injury risk group and prevent death in penitentiary institutions. The HRD also advises to provide individual psychological consultation for each person admitted into a penitentiary institution, which will help to discover persons from suicide risk group.

*Terminations of pregnancies based on the gender of the fetus*

1. From a systemic point of view, the issue of termination of pregnancies based on the gender of the fetus is not solved. The issue arises when a preference if given to give birth of boys as opposed to girls, and when the gender of the fetus is a ground for the termination of pregnancy. This is still a pressing problem even though the state bodies have taken steps that improved the gender balance for newborns.
2. The HRD records that women are often not the decision-makers on the issue of termination of pregnancy based on the gender of the fetus, but are usually coerced to terminate their pregnancy by members of the family.
3. To solve the issue raised, the HRD recommends to increase public awareness of the role of a woman as a decision-maker and fully-fledged member of society. To observe the compliance of medical personnel with the medical-social instructions on termination of pregnancy after the 12th week, the HRD proposed to prepare and to implement binding mechanisms together with the Ministry of Health.
4. *Investigation of cases concerning the events occurred on 1 March of 2008*
5. The HRD believes that cases concerning the events that occurred on 1 March of 2008 (March 1 cases) are of great public significance and concern a very sensitive topic. These factors place a high level of responsibility on law-enforcement bodies and an important benchmark while examining the case. In the annual reports of HRD from 2011-2019, reference was made to the preliminary investigation about the facts of the deaths of 10 victims on 1 March 2008 and to the issue of public awareness.
6. Regardless of the strong public demand, in previous years, the public was not provided with sufficient information on the investigation of March 1 cases. The HRD notes the importance of increasing the level of public awareness of the activities undertaken within the scope of criminal cases.
7. The HRD has continuously stated in annual reports that the full, objective, and comprehensive investigation of the criminal cases under the acceleration principle within a short time should be ensured.

**Prohibition of torture or cruel, inhuman or degrading treatment or punishment (Article 7)**

1. The HRD is entrusted with the mandate of the National Preventive Mechanism (NPM) envisaged by the Optional Protocol. Under Article 27 of Constitutional Law on HRD, the objectives of the HRD’s functions as the NPM is to prevent torture and other cruel, inhuman, or degrading treatment in places of deprivation of liberty. The Constitutional Law defines the HRD’s powers as the NPM as well as provides a clear definition of places of deprivation of liberty. Article 8 of the Law prescribed the requirement of financing the activities of the HRD as NPM. In this sense, it is essential that the amount of allocation for funding provided from the state budget to the HRD as NPM cannot be less than the amount provided from the state budget of the previous year (Section 5 of Article 8).
2. The new Constitution endowed the HRD with the power to facilitate the improvement of the regulatory legal acts related to human rights and freedoms. To illustrate, the HRD prepared a relevant package concerning the improvement of detention conditions, that was adopted by the Parliament and signed by the President in June 2019.
3. In its Annual reports, the NPM reflects the main findings from the received complaints, as well as makes recommendations for effective solutions of the issues raised. Those findings are shared with state bodies, international organizations (UN Subcommittee on Torture Prevention, CoE Committee for the Prevention of Torture), and civil society sector.
4. The Annual Report of the NPM of 2019 contains a separate chapter both on the legislative and practical issues of the implementation of the prohibition of torture or cruel, inhuman, or degrading treatment or punishment in Armenia. The Annual Report of the NPM particularly addresses the problems with the relevant articles of the Criminal Code, presents the statistics of imposing criminal responsibility for the crime of torture, issues with the effective investigation, compensation, and rehabilitation for the victims of torture.
5. The NPM elaborates legal standards based on the results of its work. The legal standards are of practical use for state bodies and are incorporated in the case-law of Armenian courts.
6. The Constitutional Law also makes a special reference to another guarantee for the operation of the HRDO officials and the operation of NPM experts. Persons holding positions in the HRDO and NPM experts may provide explanations or be interviewed on the nature of requests or complaints addressed to HRD or on the respective decisions made by the HRD, or share such findings and decisions with third parties exclusively upon the written consent of the HRD (Constitutional Law, Article 11, part 2).These guarantees are also protected under criminal law, which prescribes responsibility for restricting the HRD in exercising his or her legal authority (Criminal Code, Article 332.1).

**Prohibition of arbitrary detention (Article 9)**

1. The annual reports of the HRD continuously raise issues related to deprivation of liberty and the problematic aspects of the practice of domestic courts and law-enforcement authorities. The issues relate to choosing detention as a preventive measure over non-custodial preventive measures, the necessity of a reformed set of preventive measures, the issue of ensuring minimal rights of persons deprived of liberty and the rights of persons held under police custody without procedural status.
2. The HRD believes that the adoption of the Draft Criminal Procedure Code will reform in this sphere, address the issues of choosing detention over non-custodial preventive measures, and proper reasoning of detention motions (Article 19 of the Draft Code). Draft Code also obliges to substantiate relevant circumstances every time the extension of detention is considered (Article 118).
3. The Draft Code sets forth that the system of preventive measures includes detention and non-custodial preventive measures. The reformed set of non-custodial preventive measures is composed of house arrest, administrative control, bail, suspension of office, prohibition on absence, guarantee, educational supervision, military supervision (Article 115 of the Draft Code).
4. The forthcoming legislative change provides that the status of an arrestee should be provided to the person from the moment of factual deprivation of liberty (Article 108, Part 2 of the Draft Code). Thus, in case a person is invited to a police station or other office premises and has no real opportunity to leave that location, they should be assigned the status of the arrestee and enjoy the set of minimal rights. It is recommended that the authorities not only incorporate this set of minimal rights but also ensure that persons deprived of liberty have a real opportunity to enjoy these rights.
5. The adoption and implementation of the Draft Code will ensure that pre-trial detention is correctly and proportionately applied in line with international standards.

**Rights of persons deprived of liberty (Article 10)**

*Penitentiary institutions*

1. Monitoring visits to penitentiary institutions of the RA Ministry of Justice, as well as the investigation of individual complaints addressed to the HRD revealed specific issues relating to the ensuring of right to health of persons deprived of liberty necessitating reforms in this sphere. These issues mostly relate to the adequate staffing and institutional independence of the health personal in penitentiary institutions, availability of medicines and medical equipment, proper organization of health care for persons deprived of liberty, etc. The mentioned issues remain up-to-date despite the establishment of “Penitentiary Medical Centre”, since the effective guarantees of independence, social and other guarantees of medical staff, the flexible recruitment mechanism of the staff and other key issues remain insufficient.
2. Another issue of concern is overcrowding. Although the occupancy does not exceed the official capacity of institutions, however, persons deprived of liberty are not properly allocated that result in overcrowding in separate cells. This issue is particularly evident in closed and semi-closed rather that in open and semi-open regimes. Insufficient living conditions are recorded in confinement and quarantine cells in several penitentiary institutions. The HRD periodically recommends the state to take continuous actions to provide persons deprived of liberty with adequate personal space in line with national and international standards.

1. As for the separation of juveniles from adults, it should be outlined that given the small number of juveniles, there is no separated penitentiary institution in Armenia. However, they are deprived of liberty in separate confinement of "Abovyan" penitentiary institution dedicated for women, which is problematic, because the cells are not accommodated to the specific needs of minors.
2. Protection of rights of penitentiary officers should not be undermined. Human rights protection is a comprehensive process requiring to guarantee the rights of all participants in the process, ensure a dignified attitude towards each of them and mutual respect. The HRD periodically emphasized that the improvement of the social security for staff members of the penitentiary system has a direct positive impact on the situation of ensuring the rights of persons deprived of liberty in penitentiaries, inhumane treatment and prevention of corruption risks.
3. As a result of monitoring places of deprivation of liberty in the capacity of NPM and investigation of individual complaints by the HRD, legislative gaps and inefficiencies (e.g. in the field of contact of persons deprived of liberty with the outside world) which are in contradiction with international human right standards were revealed and analyzed. Thus, the HRDO developed a relevant package of draft laws and recommendations to strengthen contact between persons deprived of liberty and their close relatives, as well as to improve their situation at penitentiary institutions. Eventually, the package of the draft law was adopted by the Parliament on 3 June 2019, signed by the President of RA on 13 June 2019 and came into force on 29 June 2019.
4. The enacted laws provide:
* transfer of prisoners to a penitentiary institution, which is close to the residence of their family members,
* possibility of long-term visits to persons under pretrial detention,
* possibility of granting short leave to prisoners on an individual approach based on latter’s behavior in the penitentiary institution, despite the type or gravity of the offence committed by them,
* right of detainees to receive identification cards substantiated by the need to exercise their constitutional rights,
* a mechanism of transferring persons sentenced to life imprisonment through prison regimes from the highest segregation level to the lowest one,
* elimination of segregation of persons sentenced to life imprisonment,
* possibility of postponing execution of disciplinary penalties imposed on a person during in-patient treatment.
1. Considering the HRD’s educational mandate, in 2019 the HRDO organized 6-day training for the Penitentiary Service’s and penitentiary institutions’ staff members, including doctors, psychologists and members of the security department who has a direct contact with persons deprived of their liberty.
2. In 2019 the HRD presented “Legal Counsel for Detainee” automated system, which operates in the Facebook Messenger application. The automated system provides consultation on the basic rights in Armenian and English to the persons deprived of liberty, their relatives or any other person. The system contains more than 300 responses to questions with regard to issues on deprivation of liberty. The tool has been developed with the support of the European Union funded “Promotion and Protection of Human Rights in Armenia” Project, implemented by UNDP, UNFPA and UNICEF.
3. The HRD also published Legal standards of the Human Rights Defender as the National Preventive Mechanism in Armenian and in English. The standards are the HRD’s jurisprudence and the principles that the HRDO is guided while recording human rights violations in places of deprivation of liberty. The legal standards are prepared by the special principle, based on the results of the work of the European Court of Human Rights, the Committee for the Prevention of Torture, other international organizations and the Office of the Human Rights Defender.[[1]](#footnote-1)

*Re-socialization and Probation system*

1. It is concerning that the penitentiary system in Armenia continues to be of punitive nature. Deprivation of liberty, including detention, must be the measure of last resort. Along with this, the state has a positive obligation to conduct re-socialization and rehabilitation programs with the convicts. It is of crucial importance to eventually prepare the detainees for releasing and re-socialization from the very first day of their detention. Risk assessment mechanism of every prisoner’s behavior should be established and all inmates should be treated with an individual approach regardless of the severity or the nature of the committed crime.
2. The role of the Probation Service is also essential in this regard. In 2018, the Human Rights Defender has conducted a comprehensive observation of the operation of the Probation Service. The result of the monitoring were illustrated in the ad hoc public report on Monitoring of the State Probation Service of the Republic of Armenia.[[2]](#footnote-2) The report was prepared by a special methodology, reflecting the results of visits made to all units of the Probation Service, interviews and surveys. The report contains a comprehensive study of the current state of the Probation Service.
3. The monitoring showed that Service does not operate properly because of the lack of capacity. Inadequate material and technical conditions for the work of the staff of the Probation Service, as well as staffing, especially with regard to the involvement of psychologists and other professionals on permanent basis are among the recorded issues.
4. In 2019, the Government of Armenia approved the 2019-2023 strategy and action plan for the country's penitentiary and probation. It should be highlighted that the strategy reflected the HRD’s recommendations on individual planning of punishment and control, development of tools for assessing risks and needs and their consistent implementation.

*Psychiatric institutions*

1. In recent years, the HRDO received an extensive number of complaints with regard to mental health issues and alleged human rights violation in psychiatric institutions. As a result, in 2017 a series of unannounced monitoring visits were initiated in psychiatric organisations throughout Armenia.
2. The visits were unannounced, followed a specific methodology and were carried out within the mandate of the NPM, by the NPM subdivision and experts (lawyers, psychologist, psychiatrist, physicians and sociologist).
3. Issues identified during the monitoring visits, professional analyses and the proposals for solutions were then presented to competent bodies in a coordinated and professional manner and were later on finalized in the HRD’s ad hoc public report on Ensuring the Rights of Persons with Mental Health Issues in Psychiatric organisations, published on 21 March 2018[[3]](#footnote-3).
4. With no aim at assessing the professional activities of the psychiatric institution’s staff, since the high humanitarian mission of the physician is always appreciated in the HRD’s activities, the Report solely analyzes issues concerning the institution’s management and supervision, as well as legislative gaps of the field. It played a critical role in the field, since up to that date relatively little had been published regarding the human rights issues in Armenia’s psychiatric organisations.
5. The following issues were identified: (1) instances of paid psychiatric services where psychiatric care should legally be free of charge; (2) inaccessibility of mental healthcare services at the community level; (3) legislative and practical issues related to compulsory treatment (e.g. the absence of review mechanism for compulsory treatment and lack of ex officio revision by the court); (4) Inadequate numbers of medical staff in psychiatric establishments, lack of narrowly focused specialists, specialists for child mental health services and psychiatrists on duty at night time, etc.
6. The RA Ministry of Healthcare has accordingly examined the HRD's ad hoc Report thoroughly. Psychiatric organisations have been instructed to eliminate in a short period of time all existing violations and shortcomings, which are of organizational and disciplinary nature. It should be noted that a number of the shortcomings mentioned in the Report have already been addressed. In its annual reports as NPM, the HRD periodically followed up on the raised issues and the implementation of HRDOs recommendations in that regard.
7. Protection of rights of persons in other places of deprivation, such as places for holding of arrestees and detainees; garrison disciplinary isolators; vehicles for transferring persons deprived of liberty and other places that person may not freely leave are also under the HRD’s primary attention. The issues recorded are illustrated in the HRD’s Annual Report as NPM.

**Right to fair trial (Article 14)**

Analysis of the judicial practice and administration of justice carried out, as well as investigation of complaints within the capacity of the HRD, show that serious reforms are needed in the system of judiciary. Particularly, there are issues related to external and internal independence of the courts, not sufficient trust of citizens towards judicial system, lack of mechanisms for the guarantee of a fair trial and other constitutional rights, court hearing delays, etc.

The HRD welcomes that in 2019, the Government approved 2019-2023 Strategy for Judicial and Legal Reforms of the Republic of Armenia and the Action Plans deriving therefrom.

It should be mentioned that reforms in the field must be carried out in a strict compliance with the Constitution and the laws. Nonetheless, during the whole procedures the primary and essential commitment should be the guarantee of the judicial body’s complete independence, which has a direct effect on the right to fair trial and other constitutional rights.

One of the main issues in the continues to be undue delays of the court hearings. The courts have a particular obligation to ensure that all parties to a court proceeding make all the necessary efforts to avoid undue delays of case examination. However, violations of reasonable time requirement become widespread in our country. Court proceedings take months and even years․ Issues requiring court’s assessment are also delayed causing problems for individuals. This is mainly justified by the overloaded court system, which is an unacceptable justification.

The HRD records that the state should organize legal systems in a way that enables the courts to guarantee the right to obtain a final decision within a reasonable time. In order to comply with this requirement, states may initiate different mechanisms, such as increasing the number of judges, setting a time limit for particular cases, etc. However, if the state allows the judicial proceeding to go beyond the reasonable time clause, without developing the aforementioned mechanisms, then the state is ultimately responsible for the delay.

Thus, the HRD summarized the complaints concerning examination of cases within reasonable time in the courts and published an ad hoc report with regard to this issue. Later on, the HRD, based on the findings and examination applied to the Constitutional Court.

**Presumption of innocence (Article 14)**

Respect for the presumption of innocence is a cornerstone principle in any criminal proceeding and the most important component of the right to fair trial. It entails that public authorities and officials are obliged to refrain from making biased or premature evaluations of the guilt of an individual, in the absence of judicial act which has entered into legal force. Failure to observe the presumption of innocence may disrupt the entire process of justice, as well as form or contribute to the formation of a public perception about the guilt of an individual as a confirmed fact. Therefore, this principle must be undeviatingly maintained in the course of any criminal proceeding, regardless of the exact criminal act, the individual’s reputation in the society, etc.

However, awareness-raising videos and statements of law enforcement bodies, public officials or media outlets often contain preconceived idea that the accused has committed the offence charged and other statements that shape public opinion and affect the presumption of innocence.

**Right to recognition everywhere as a person before the law (Article 16)**

1. In 2019 the HRD published an ad-hoc report on not considering the opinions of children and incapable persons while placing and keeping them in a psychiatric hospital. In particular, the ad-hoc report records that under the current RA legislation the consent of the legal representative is already considered as a sufficient condition for providing psychiatric assistance to children and incapable persons, including for their placement in a psychiatric hospital. As a result, their rights to be heard and be informed consent are violated.
2. Moreover, due to the insufficient legal regulations, there are often cases in practice when people, who are kept there on the basis of their legal representative’s consent, are considered to be treated voluntarily. In such cases, however, they are in fact kept and being treated against their will (that is, involuntary) and thus are automatically deprived of the opportunity to raise the issue of the involuntary treatment in the court.
3. It should be noted that the HRD has applied to the Constitutional Court to address the issue. Moreover, the Constitutional Court recognized unconstitutional legislative regulations allowing treatment of children and incapable persons in psychiatric hospitals without considering their opinions based on the application of the Human Rights Defender. The Court set the 1st of June of 2020 as a time period for repealing provisions recognized as unconstitutional, enabling the National Assembly to bring several legal regulations into conformity with the requirements of the Constitutional Court decision.

**Freedom of Expression (Article 19)**

*Right to seek, receive information*

1. The consideration of the issues with regard to the quality of the response by state and local self-government bodies to information requests, the grounds of denials and the attitude of public bodies towards such inquiries in general, is one of important directions of the HRD's activities.
2. The examination of complaints received by the HRD shows that state bodies respond to citizens’ information requests in violation of the time period prescribed by law, which violates the person's right to receive a proper response within the established timeframes. Moreover, the provision of information is often denied on the grounds that the requested information contains personal data in accordance with Article 8 of the RA Law on Freedom of Information. By refereeing to the mentioned Article, state authorities also often refuse to provide other information that does not include personal data.
3. The observed practice does not comply with the legal requirement that if part of the required information contains information which provision is prohibited, then the rest information should be provided. Such practice gives grounds to conclude about the lack of awareness about the relevant legislation by state servants.
4. Moreover, the legislation lacks relevant regulations for realization of the right of persons with disabilities to receive information on an equal basis with others and through the means of communication they prefer.
5. A number of media representatives and journalists posed questions to the Human Rights Defender on the legality of refusal by state bodies to provide requested information. The analysis of such cases showed that in order to answer to the raised questions, a legal research should be carried out to specify concrete standards that should be implemented by journalists while requesting information containing personal data and by state bodies while discussing the issue of providing it. In this connection, the HRD published Legal Standards on the request for information containing personal data by journalists and the obligations of state bodies in this regard.

*Protection of journalists’ rights*

1. Considering the protection of freedom of opinion and expression, the HRD follows the insurance of journalists’ professional activities, especially during mass rallies and events of public concern.
2. During April 2018 events, a number of illegal interventions in journalistic freedom and violations against journalists took place and proper legal assessment should be provided to such acts. They were accompanied by damaging journalists’ equipment proving that infringements were aimed at hindering their activities. Hence, the HRD stresses the importance of initiating criminal proceedings by law enforcement bodies as a guarantee of the principle of inevitability of criminal responsibility.
3. The HRD monitors cases when journalists are engaged in criminal proceedings. Given the importance of non-disclosure of the source of information by the journalist, the HRD particularly observes whether conditions justifying obligation to disclose the source of information by the journalist are met (e.g. revealing grave or particularly grave crimes, overwhelming public interest).

*Insulting and hate speech in social networks*

1. The HRD conducts regular monitoring of mass media and social network publications that shows considerable increase in offensive, insulting speech and hate speech. In separate cases, the tendency to divide society into different groups provokes hostility against specific people. In this context, it is necessary to carry out large-scale public campaigns regarding hate speech and insulting speech, its negative impact and respect of dissenting opinions.
2. The HRDO continuously organizes capacity-building activities for journalists (on national/international standards on freedom of opinion and expression, right to private life, the HRD mandate, rights redress mechanisms, etc.) where journalists are urged to remove from their accounts any comment containing hate speech or insulting speech.
3. It is worth mentioning the National Assembly adopted law of the Republic of Armenia "On Making Amendments to the Criminal Code of the Republic of Armenia", which envisaged criminalizing public calls for violence, publicly justifying or propagating violence in April 2020.

**The right of peaceful assembly (Article 21)**

1. A number of democratic processes and developments took place recent years aimed at changing the social and political life of the country (e.g. 2016 July assemblies, 2018 April-May demonstrations).
2. During the whole period of assemblies and demonstrations, the task of the HRDO as NHRI was to guide the human rights protection process, to provide advice and recommendations to all parties ensuring maximum level of publicity and openness.
3. Based on the results of monitoring of 2018 April-May assemblies, the HRD concluded that the assemblies took place in a largely peaceful manner, enabling the participants of the demonstrations to realize their right to peaceful assembly, and the police refrained from large scale activities aimed at dispersing the demonstrations.
4. However, a number of (systemic) violations have been recorded during the assemblies, with regard to the following:
* exceeding maximum time period of administrative arrest prescribed by law (identification of initial moment of deprivation of liberty remains an issue);
* minimum rights of persons deprived of liberty (right to be informed about the reasons of apprehension, access to lawyer and doctor, right to remain silent, right to immediately notify the person of his or her choice, etc.);
* excessive use of force by police towards persons deprived of liberty;
* ensuring an effective investigation of the events that took place during the rallies;
* failure to comply with the legal purpose of deprivation of liberty of participants of the assemblies.
1. Recorded systemic issues showed the need for trainings for law enforcement bodies on human rights standards related to the freedom of assembly and their obligations, as well as the need for strategic changes to improve police practice in ensuring freedom of assembly.

**Freedom of association (Article 22)**

*Right to strike*

1. The Constitution provides that employees shall have the right to strike for the protection of their economic, social and labour interests. The right to strike may be restricted only by law, for the purpose of protecting public interests or the basic rights and freedoms of others. However, the Labor Code narrow the scope of the constitutional right of an employee to declare a strike.
2. In particular, the Labor Code stipulates that a strike is the complete or partial temporary suspension of the work of employees or a group of employees of one or more organizations in order to resolve a collective labor dispute. Thus, the right to declare a strike is limited by the Labor Code by the presence of a collective labor dispute. It turns out that the strike will be considered illegal if it is carried out not for collective labor dispute. On the other hand, in case of an illegal strike, the measures of responsibility provided by the Labor Code (Article 82).
3. Moreover, Article 74 of the Labor code provides that right to declare a strike have trade unions in accordance with their charter and the Labor Code. Moreover, a strike shall be called in case if a corresponding decision thereon is approved by secret ballot: 1) by two‐thirds of the total number of the employees of organization at a time of calling a strike; 2) by two‐thirds of the employees of the detached (structural) subdivision of the organization at a time of calling a strike in that subdivision. If calling a strike in a structural subdivision of the organization hinders smooth operation of activities of other subdivisions of the organization, the decision on calling a strike should be approved by two‐thirds of the employees of the subdivision, which may not be less than the half of the total number of the employees of the organization.
4. The above regulations cause difficulties for organizations where there are no trade unions. The demand for the agreement of two thirds of the total number of employees defined by the Labor Code, in its turn, does not provide an opportunity to realize the right to strike provided by the Constitution.

*Role of trade unions*

1. Despite the existence of legislative grounds, both the field professionals and the Confederation of Trade Unions of Armenia (CTUN) have repeatedly raised the issue of existing problems and the need to strengthen trade unions.
2. The research conducted by the HRDO and the discussions with CTUN show that the trade unions in Armenia are not actively involved in labor relations. There is a necessity to increase the role of trade unions with legislative and practical steps, their involvement in labor relations, as well as strengthen their institutional capacity.

**Child Rights (Article 24)**

1. As Child Rights monitoring body, the HRD published Ad hoc public report on its commitments under UN CRC (United Nation Convention on the Rights of the Child) and its optional protocols: state of fulfillment by Armenia, noting that despite some positive changes, the Government failed to fully implement recommendations of Child Rights Committee. Besides, as a result of the monitoring visits and examination of private complaints address to the HRD a number of issues have been raised that are reflected in the HRD’s annual and ad hoc reports.
2. During the monitoring visits, several cases of corporal punishment against children have been recorded. HRDO receives more complaints on cases of children’s corporal punishment in schools, and express its concern on this matter. However, the Ministry of Labor and Social Affairs lacks both a tool to identify and monitor cases of violence and a clear frequency of applying such a tool. Databases of the Ministry, and the National Statistical Service lacks any violence statistics and analyses of such cases. HRD recommends that State should establish and improve mechanisms preventing violence against children and rehabilitation services; adopt legislation creating enforcement mechanisms, such as relevant sanctions, including sanctions for violations etc. The HRD notes that there no comprehensive strategy exists to prevent and address all forms of violence against children and there is a need to develop guiding principles for effective detection of violence cases and proper reporting and investigation of such cases. Clear guaranteed legal and practical protection procedures are needed for children to report in person the cases of violence.
3. During the monitoring visits, buildings’ conditions of child care institutions were also examined. The institutions have identified problems related to the sanitary and hygienic condition of kitchens, canteens, food storage warehouses, damaged dishes with broken edges, etc. There were cases when children were given medication and medical intervention was carried out without registering it in the medical documents. There were no procedures in place for obtaining the informed consent of the parent or legal representative and the child.
4. Since 2013 health and education allocations have not shown any significant progress. And the share allocated from the GDP to the Ministry of Labor and Social Affairs for the improvement of the child’s rights protection system also decreased. Thus, the HRD recommends to increase allocations to health, education, and improvement of child’s rights protection system; to highlight protection of children’s rights as an indicator within program budgeting and provide respective methodological instruction. In June 2019, the Government approved a decision to make medical care free for children. The volume of free of charge medical care for children has also been increased in 2019 in comparison to previous years.
5. The HRD is concerned that 2017-2021 Strategy for the Protection of Children’s Rights in Armenia lack enough financial support to implement the envisaged activities. Thus, the HRD highlights, that the State should among other activities connect the processes of children budgeting and gender-based budgeting as a step towards the realization of SDGs.
6. The HRD welcomes that the RA Government Decree № 551-Ն of May 26, 2016 defines the principles and criteria for providing alternative care to children in difficult life situations, including children with disabilities and regulates relations on guidance for alternative care provision. Such procedure is consistent with basic provisions of Common European Guidelines on the Transition from Institutional to Community-based Care and the UN Guidelines for Alternative Care of Children.
7. While the number of children under the care of social protection institutions of general type continues to drop, it does not generally drop in specialized institutions due to continuous transfer of newborns with health problems from medical facilities to children’s homes. This is also conditioned by the fact that it appears almost impossible for children with disabilities to return to their biological families, be transferred to an adoptive or a foster family. The State should, in parallel with the deinstitutionalization process, carry out social support programs for families of children with disabilities; implement projects aimed at enhancing and creating community-based multi-sectoral services especially for children with disabilities, etc.
8. The issue of organizing the care of children with disabilities in the family, as well as the introduction and promotion of the practice of adopting children with disabilities, remains problematic.

*Child birth registration*

1. The HRD continued to receive complaints about not providing the child with a birth certificate or extending the issuance process.
2. For example, the birth of children was not registered, since the mother did not have a birth certificate issued by the maternity hospital where children were born. The children did not have birth certificate for many years and were deprived of the opportunity to exercise a number of rights. Moreover, the state registration of the birth of one of the children has not been carried out until the child turned 18. Even if the competent state body is aware that the child does not have a birth certificate and is deprived of the opportunity to exercise a number of rights, state registration of the child's birth requires a long time.
3. There was also a case when a child, living in an orphanage, did not have a state birth registration and was registered in the orphanage without the relevant documents.
4. The examination of complaints on birth state registration issue show that such complaints are often submitted by child rights organizations or competent individuals, since parents of children have low awareness on the issue, as well as on their rights.
5. To resolve the issues, it is necessary to established cooperation in community level between the Civil Status Acts Registration Agency, medical institutions, guardianship and trusteeship bodies and social services. As a result of effective cooperation between the mentioned bodies, children without state registration of births will be found at an earlier age, which will allow to exclude further violations of children's rights.

**Electoral rights (Article 25)**

1. The core of the HRD’s activity in this field is ensuring the constitutional right to vote of every citizen. The HRDO conducts an independent monitoring of the entire electoral processes, taking place throughout Armenia, guided by the principles of impartiality, publicity and transparency and other principles prescribed by the RA Constitution and international legal documents.
2. Prior to every election in Armenia, a working group is established at the HRDO within the mandate assigned to the HRD by the Constitutional Law, for the purpose of guaranteeing effective protection of electoral rights. The group consists of HRDO representatives from central and regional offices.
3. The main task of the group is ensuring proper examination of oral and written complaints on alleged human rights violations addressed to the HRD, including calls received via hotline. The group is also responsible for receiving citizens, providing legal consultation, as well as for carrying out rapid response visits. The monitoring of mass media publications regarding the alleged human rights violations is under the constant attention of the group.
4. Where the HRDO representatives record elections-related incidents that involve features of acts envisaged by the Criminal Code, they send the relevant materials to the criminal prosecution authorities, raising the issue of initiating appropriate proceedings, as well as requesting clarifications on the measures taken thereof.
5. After democratic developments in the country in April-May 2018, fundamental changes were registered with regard to elections in Armenia. Public trust towards state authorities increased, which in turn led to positive developments in the electoral processes.
6. In 2019 there were no national elections in Armenia. No systemic incidents or violations with regard to the work of journalists and observers during elections of local-self-government bodies were recorded in 2019. The latter is also the result of the event that took place in 2018.
7. In previous years, the HRD recorded various violations during regional and national elections. Main complaints received by the HRDO during election process:
* increase in the number of insulting speeches, threats, and intolerance, most prominently on social media,
* cases of hindering the journalist’s activities,
* lack of accessibility of polling stations for persons with disabilities,
* gatherings in the polling stations and in their vicinity,
* attempts to offer a bribe to voter,
* cases of involvement of schools and kindergartens in the political processes,
* the possibility of voting in a place other than the place of registration, etc.

**COVID-19: Human Rights protection in Armenia during State of Armenia**

1. On 16 March 2020, the Armenian Government approved the Decree “On declaring state of emergency in the Republic of Armenia” in response to the outbreak of the novel coronavirus (COVID-19) in the world and in Armenia, as well as the declaration by the Head of WHO on the recognition of the spread of this disease as a pandemic. Further, the RA Government decision on Declaring State of Emergency in the Republic of Armenia was amended several times, and extended the restrictions imposed by the decision till May 14, 2020.
2. Since the first COVID-19 case has been reported in the Republic of Armenia, a working group on the COVID-19 and state of emergency within the HRDO was established. The aim of the WG is to operatively and rapidly response to the emergency calls received through the hot line. Hence, the Office continues to work in a 24/7 regime. Moreover, a specialized working group on domestic violence prevention issues was established as well.
3. It should be emphasized that these days the number of applications, complaints and inquiries addressed to the HRD is significantly higher than in ordinary circumstances. Complaints mostly relate to issues on: (1) entering and leaving Armenia; (2) salaries; (3) human rights in closed institutions (penitentiary institutions, psychiatric establishments, etc.); (4) lack of possibility to pay for utilities (water, gas and electricity) due to isolation or self-isolation, restoration of interrupted supplies, etc.
4. All the legal initiative and amendments related to the COVID-19 pandemic have been provided for the HRD’s legal opinion takin into account its independent mandate and role in protection of human rights and prevention of torture.
5. One of the main observations of the HRD concerns the legal status of isolation. In particular, it underlined that the isolation of a certain person based on the instruction of the state authority (not a general call of the Government addressed to the population based on the well-known principle “stay home”) must be as deprivation of liberty, rather than restriction of freedom of movement.
6. As for the draft legal acts with regard to COVID-19 and State of Emergency, the HRD raised a number of issues related to the interconnection of freedom of movement and deprivation of liberty. In particular, it was highlighted, that:
* legal grounds for any restriction related to the deprivation of liberty should be regulated by the law adopted by the Parliament;
* grounds for the deprivation of liberty should be also precisely regulated, according to the RA Constitution and well-known international documents ratified by Armenia (e.g. ECHR);
* procedure for the deprivation of liberty should be prescribed by law, as directly required by the Constitution;
* application of minimum rights and guarantees under Article 27 of the RA Constitution and Article 5 of the ECHR should be prescribed by law ensured in practice.
1. Another important direction of the work of the HRD is the public awareness raising in the context of the COVID-19 and state of emergency. For that purpose, frequently asking question (FAQ) guide was published in Armenian and most common languages among foreigners, living in Armenia.[[4]](#footnote-4)
1. See the Legal standards of the Human Rights Defender as the National Preventive Mechanism <https://ombuds.am/images/files/93189aacc95a0241c91efbcd8a4a217c.pdf> [↑](#footnote-ref-1)
2. See Ad Hoc Report of the Human Rights Defender on the Monitoring of the Stata Probation Service of the Republic of Armenia <https://www.ombuds.am/images/files/02b6051bdacf0b6a9a90ac588b9b71a1.pdf> [↑](#footnote-ref-2)
3. See Ad Hoc Public Report of the Human Rights Defender on Ensuring the Rights of Persons with Mental Health Issues in Psychiatric organisations, <https://www.ombuds.am/images/files/10ea24ebac14fc8ae30a2da9283a1bec.pdf> [↑](#footnote-ref-3)
4. See Frequently asked questions about the new coronavirus and human rights in the state of emergency <https://www.ombuds.am/images/files/432082d18098a7a17bd88873277492da.pdf> [↑](#footnote-ref-4)