PARTNERSHIP
FOR OPEN SOCIETY

UNIVERSAL PERIODIC REVIEW

An assessment by group of civil society organizations of government's performance in implementation of UPR recommendations

Shadow Interim Progress Report

September 2010 – December 2012

Yerevan, Armenia

2012

EXECUTIVE SUMMARY

Overview

Armenia underwent its first review under the Universal Periodic Review in May 2010 rendering a total 96 recommendations by member-states out of which 52 were accepted as already implemented or in the process of implementation, 27 as enjoying support, 1 was rejected and 5 were submitted for further examination. In this document, we are presenting a collective monitoring report on Armenia's implementation of the recommendations by the Partnership for Open Society Initiative.[1]

Acknowledging the Universal Periodic Review as a unique mechanism to assess the state of human rights, the Partnership became involved in the process at an early stage through preparation of a joint submission in advance of Armenia's first review under the mechanism. Since then, members of the Partnership have closely followed the implementation process through systematic collection of data on the recommendations. We would like to stress, that while the Government views 52 of the recommendations as already implemented or in process, we believe that many of these recommendations are from being implemented and the implementation process falls short of democratic standards.

Below we present a selective overview of human rights and democracy areas that are fully elaborated in the monitoring report:

Right to participate in public and political life

The electoral process has failed to provide a means for free and fair formations and/or changes of the political power. Elections in Armenia are typically accompanied by a number of violations that call into question the integrity of the administration of the process and the legitimacy of the outcomes of elections. There is an urgent need for Armenia to reestablish public trust in the legitimacy of the government in order to ensure the success of its political, economic and social reforms and rehabilitate its reputation as a democratic country. Although some legislative changes took place in the Electoral Code in 2012, as the previous elections show we are still far away from free and fair elections. The new Electoral Code provides a generally solid framework for the conduct of democratic elections, but contains a number of substantive shortcomings that remain to be addressed. Many NGO reports and observers prove that the election process was carried out with violations. Specifically, they were accompanied by serious violations, such as multiple voting, vote buying, a 'carousel' of pre-elected ballots, terror tactics and intimidation of voters, observers and proxies, ballot box stuffing, and the falsification of results, that are not adequately pursued by law enforcement bodies and or sentencing by courts. Hence, elections are naturally followed by turmoil and protests, the culmination of which was the aftermath of the 2008 presidential election, when the civic unrest against controversial elections was met with the government's use of police and military force and which resulted in the death of at least 10 people.

Electoral processes are broadly perceived to be a public ceremony and merely serve to appease the concerns and certain principles of Western democracies. In reality, Armenian elections have further entrenched the intransigent oligarchic structure and guaranteed the continued reproduction of the existing political forces in which there is no legitimate role for citizens and their votes. Armenian citizens have become increasingly disappointed in the electoral process and democratic institutions. The 'elected' authorities are not recognized as legitimate and, hence, it is not surprising when those act against the interests of their constituencies. Meanwhile, the recognition of the integrity of electoral processes and the authority of elected persons by the citizens of Armenia is critical to the development of democratic processes and the progress of its political, economic and social reforms.

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[1] The Partnership for Open Society Initiative is an open coalition of more than 60 non-governmental organizations. For information on Partnership's activities please visit www.partnership.am

Administration of justice and the rule of law

Several positive developments were registered in the reporting period. Particularly, the new draft Criminal Procedure Code (CPC) raises the bar for the administration of criminal justice and brings Armenia in compliance with international standards. The draft CPC addresses such critical issues as equality of arms, balance in the protection of public and private interests during investigation and resolution of criminal cases, creates mechanisms to guarantee an effective system of justice and fair trial, ensures protection of rights and liberties of the participants in the criminal process, develops equal and transparent mechanisms for restricting these rights in accordance with international standards, etc.

As of 2012, the 2012-2016 RA Strategic Program for Legal and Judicial Reforms and the list of actions to implement the reform have been in effect. Despite the set goals, the activities envisaged by the reform program do not completely address these goals and fail to address critical issues in court management, budget allocation and interference from Minister of Justice in starting disciplinary proceedings against a judge.

Despite these developments, several major issues remain that leave doubt on the possibility of having genuine safeguards for administration of justice and rule of law. Particularly, lack of real separation of powers on both legislative and practical levels hinders progress in this area. The executive continues to have discretionary power in influencing the process of judicial appointments, disciplinary sanctions and termination of judicial powers.

Enforcement of judicial decisions, particularly against the executive, is a lingering problem. Despite some improvements in provision of free legal aid, further progress is needed to ensure access to justice for vulnerable populations. The Office of the Public Defender needs additional structural, financial and human resources to provide aid effectively.

All of this leads to the loopholes for selective justice as we have witnessed in 2012 particularly in the cases of criminal proceedings being initiated against the former foreign minister and MP Vartan Oskanian[2] and in investigation of a murder case in Harsnakar restaurant[3].

Right to life, liberty and security of the person

The armed forces remain one of the most closed structures in Armenia with frequent reports of abuse, ill-treatment, hazing and non-combat fatalities. The deteriorating human rights situation in the army was in the spotlight during 2011-2012 particularly because of wide media coverage of non-combat deaths. According to Helsinki Citizens' Assembly – Vanadzor's data, in the period of January- November 20, 2011 thirty five death cases were registered[4]. Although the statistics show a decrease in the number of fatalities within the military, the nature of claimed violations resulting in fatal outcomes is worrying. Despite the government's stated determination to carry out full and impartial investigation into the army death cases, nearly all family members of the deceased express distrust towards investigation effectiveness and the fact that all perpetrators are the in end held accountable. Although several structures[5] carry out some form of civilian oversight over the army,

[2] Out of these, eleven cases were a result of violation of ceasefire regime, six were a result of violation of statutory relations, six were due to accidents, seven due to suicide, three because of violation of security rules, one was due to health condition, the reason for one of the deaths was unclear.

[3] Human Rights Defender, Public Council under the authority of the Ministry of Defense, the Standing Committee on Defense, National Security and Internal Affairs of the National Assembly.

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independent civil society has repeatedly been denied access to the army for regular human rights monitoring. Despite the fact that the Public Council of the Ministry of Defense is comprised of civil society organizations their accountability and trustworthiness is an issue: none of the renowned and trusted human rights organizations or activists are engaged in that Council. The practical oversight of these institutions remains very limited and none of them have reflected on the public's discontent with the army situation, particularly on the non-combat deaths, or pledged more scrutiny in their oversight function.

Conscripts and their relatives continue to complain and express concerns about inadequate medical examination during the process of conscription and throughout military service. Incomplete medical examination results in some diseases being left undiscovered. These diseases negatively affect the performance of military duties by these soldiers later on, which leads to new violations of their human rights. Also of concern are cases of early discharge from the military for health reasons and the fact that these cases are not properly investigated. The state does not provide adequate compensation to such military servicemen for the damage to their health. It also does not provide appropriate resources for further treatment. Military servicemen and their family members report that the conscripts, who are deemed unfit for troop service or are deemed fit for restricted service only, are nevertheless involved in troop service, while the defense authorities do not take any steps to address this problem. The body in charge of investigating human rights violations in the armed forces operates in the ministry of defense system, and in most cases it covers up the reason circumstances of deaths in the army. Investigation of such cases is neither complete and objective, nor effective.

Equality and Non-discrimination

While the magnitude and scope of gender disparities remain alarming, in 2012 gains were registered in crucial gender equality reform areas. The establishment of Gender Policy Committees in Yerevan municipality and in Regional Governor's Offices represents an important step in the direction of strengthening the capacity of public administration and local government officials to address gender equality issues on the policy and legislative levels. Another positive development was recorded in 2012 with the adoption at the first reading of the draft law on *Ensuring Equal Rights and Opportunities for Men and Women* by the National Assembly. However, despite the above-mentioned legislative efforts, as well as significant achievements on the institutional and formal levels, strong grounds for equal social inclusion in the policymaking process and labor market are still poorly developed. Armenia's failure to effectively implement gender-mainstreaming strategy in all governmental policy areas hinders the achievement of formal and substantive equality between women and men. Another source of grave concern is gender-based violence (GBV) and government's continues failure to provide protection services to victims at all levels, from police (no standard investigation and reporting system for domestic violence cases), emergency assistance structures (no state referral system for identification and provision of services to victims), and the justice system (no protective law). Legislation protecting the rights to live a life free of violence is currently lacking in Armenia, although significant progress has been made towards this end in 2012.The Draft Law on Domestic Violence has been going back and forth between the government and the National Assembly since 2008 and, as of December 2012, the draft is allegedly in its final stages of review.

Freedom of religion or belief, expression and association, peaceful assembly

Media freedom and pluralism continues to remain a problem. The broadcast licenses granted in December of 2010 under the current legislation and valid for 10 years will have a negative impact on freedom of expression. These licenses were granted through a tender conducted by a problematic regulatory body with no real transparency, no clear licensing criteria and no guarantees of fair competition. "A1+" contested the results of the tender and took the NCTR decision to court. Although on September 10, 2012 "A1+" has started to broadcast "Ayb-Fe" program on ArmNews TV channel, and the authorities might perhaps consider this fact as tolerance towards freedom of speech, however, this step is not enough to ensure pluralism on the Armenian air.

During 2012 the number of defamation suits against journalists and media has dropped compared with the previous year. The decision of the Constitutional Court of November 15, 2011 fostered improvement of this

situation to some extent, which was adopted in response to the Armenia's Human Rights Defender's appeal to the Constitutional Court. In particular, it ruled that media outlets could not be held liable for their "critical assessment of facts" and "evaluation judgments." However, amendments made in Civil, Criminal and Criminal Procedure Codes of Armenia on May 18, 2010 to decriminalize libel and insult, welcome step by the international community, became a tool for restricting freedom of expression and media. Although libel and slender court cases against journalists and media reduced in 2012 compared with the previous year, the situation is still worrisome in this regard. "False crime reporting" still remains in the Criminal Code and lacks proper definitions, which may cause vague interpretation and gives grounds to assert that we do not have a complete decriminalization of defamation.

The process of transition from analogue to digital broadcasting remains problematic. The tender for formation and management of digital broadcasting multiplexes is not transparent; negotiations between the government and private companies are closed. The digitalization process so far has only resulted in diminishing pluralism on air by de-facto decreasing the number of TV companies on air.

Freedom of thought, conscience, religion or belief remains problematic in both legislation and practice. The existing Law of the RA on Freedom of Conscience and Religious Organizations contradicts to the Constitution of the RA (Article 26) and the international standards in this field. During the last years the authorities three times embarked on legislative changes to the Law on Freedom of Conscience and Religious Organizations. Each time the Venice Commission rendered critical opinions on proposed amendments as they pose serious restrictions on religious freedom. Currently the third Draft Law of the RA on Freedom of Conscience and Religious Organizations presented by the Ministry of Justice in 2011 is in the circulation, also receiving critical feedback from both religious organizations and civil society. In general, amendments aim to scrutinize every aspect of religious life and communities other than the Armenian Apostolic Church. The amendments include viewing attempts of "soul hunting" - or improper proselytism (no adequate definition for soul hunting is provided), as a crime punished by imprisonment, denial of registration to small communities, introduction of compulsory registration, fining for non-registration, limitations on funding to religious communities and other issues of concern.

Religious intolerance does not receive adequate response from the authorities. The media continues to play an important role in instigation of religious intolerance. Newspaper articles, television and radio programs containing hateful and offensive content towards those who are not Armenian Apostolic Church members are repeatedly issued and broadcasted[6]. Street walls in Armenian cities are covered with leaflets calling for hostility and even physical violence[7]. The Armenian Apostolic Church enjoys discriminating position towards other religious organizations and access to public institutions.

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[6] See at http://www.osce.org/yerevan/74894; http://armhels.com/DownloadFile/344eng-Freedom_of_Religion_in_Armenia.pdf;http://religions.am/eng/index.php?option=com_content&view=article&id=104:international-religious-freedom-report&catid=1:articles&directory=9

[7] The organization behind these leaflets - "Mek Azg" (One Nation), operates openly, giving press conferences and appear on television, including Public Television.

As mentioned above, the Government of the Republic of Armenia reviewed all recommendations made during the Eighth Session of the UPR Working Group on 6 May 2010 as contained in document A/HRC/WG.6/8/L.8. Towards this end, a round-table discussion was organized with the participation of all Government agencies and international and regional organizations represented in Armenia. A total of 96 recommendations were presented by member-states, 52 were accepted as already implemented or in the process of implementation, 27 as enjoying support, 1 was rejected and 5 were submitted for further examination. Armenia's position with regard to the pending recommendations and those already implemented are articulated in document A/HRC/15/9/Add.1.

1. SCOPE OF INTERNATIONAL OBLIGATIONS

93.3. Consider expediting (Brazil)/finalize the ratification of (Algeria)/ratify the Convention on the Rights of Persons with Disabilities (Brazil, Algeria) and the Optional Protocol thereto (Argentina, Iraq, Kyrgyzstan) as soon as possible (Greece)/ratify the Optional Protocol to the Convention (Azerbaijan);

The Convention on the Rights of Persons with Disabilities (CRPD) was ratified in September 2010 and came into force on October 22. The new law on the social inclusion and the rights of people with disabilities is drafted based on the UN CRPD. The key advantage of the law is the fact that it defined the term "disability" based on the UN CRPD definition. National Disability Council established in 2008 is granted more responsibility to act as a platform for the government and civil society organizations to enter into a dialogue for proper protection of the rights of persons with disabilities in Armenia. However, the main changes are still at the legal level. In practice, no significant changes are anticipated. Development of clear mechanisms that will ensure the implementation of the new legislation in the country is still pending.

The Convention defines that State Parties are obliged to ensure complete implementation of the rights and fundamental freedoms of persons with disabilities. On November 3, 2005 the RA adopted the Project for Social Protection of Persons with Disabilities 2006-2015, and on September 27, 2012 the RA Government adopted the Annual Project for Social Protection of Persons with Disabilities 2013. While it becomes obvious even from the title of the project that the state did not adopt the approach of the Convention "On the Rights of Persons with Disabilities", specifically the premise that persons with disabilities must be treated not as an object of benevolence, medical assistance, and social protection, but as full members of society exercising rights. Point 31 of the concept of the Project directly states that, as in previous years, so in 2013, measures directed at social protection of persons with disabilities and their involvement and improvement of the quality of their life will be implemented.

There are a number of open questions at the moment regarding the country's commitments in the scope of the CRPD such as: accessibility of the environment and public transport; inclusive professional education and training; access to labor market and employment. Moreover no significant attempts have been undertaken to decrease the number of children and youth with disabilities leaving in orphanages.

Government undertakes no steps and demonstrates no willingness to ratify CRPD Optional Protocol (OP). The problem is that a huge number of individual applications to Committee on the Rights of Persons with Disabilities will follow if the Government ratifies the OP. Meanwhile, the Government is not able to ensure full accessibility and it does not consider OP ratification rationale now.

The positive developments can be expected if the RA National Assembly adopts the law on social inclusion and the rights of people with disabilities. Adoption of the law will follow with the adoption of a number of legislative acts which will ensure the implementation of the law. It can be anticipated that the situation is improved and the ratification of the OP can become realistic in 3-5 year period. Otherwise, the ratification of the OP is not realistic in near future.

2. CONSTITUTIONAL AND LEGISLATIVE FRAMEWORK

93.4. Work effectively in order to bring all laws into line with the revised Constitution (Finland);

No steps have been taken in this respect, insofar as civil society is aware. It was expected that a professional group would be set up to take stock of the provisions of laws adopted prior to the Constitution, which would need to be brought into line with the revised Constitution.

93.5. Review the definition of torture in its national legislation so that it fully complies with that set out in article 1 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Czech Republic); adopt a definition of torture fully in compliance with article 1 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Ireland); adopt a definition of torture in line with article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Uruguay);

The definition of torture as stipulated by RA Criminal Code (articles 119 and 341) does not correspond to the definition of Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Specifically, the wording does not allow holding public officials accountable for direct involvement in the acts of torture, cruel, inhumane or degrading treatment or punishment and does not prescribe accountability "at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity" as stipulated by the UN Convention. Article 341 of the Criminal Code provides an exhaustive list of public officials who can force a testimony, provide false conclusions, or false translations. This list of officials includes judges, prosecutor, investigator or person carrying out investigation. At the same time, this list includes persons subject to coercion – witness, suspect, accused, defendant, victim, expert and translator. Meanwhile, Article 119 of Criminal Code does not stipulate a subject for torture, as any person can be subject of torture. This Article does not include all objectives of "torture" as stipulated by the Convention, namely "to receive information or confession", "to punish or intimidate" and "any kind of discrimination based on other reasons".

In May 2011, two draft laws (by the government and by an MP) were submitted to the RA National Assembly "On making amendments and supplements to the Criminal Code of the Republic of Armenia", which provides for making amendments in *corpus delicti* of "torture". The first draft law was submitted by MP Davit Harutyunyan, which suggests inclusion of torture crime in the section of crimes against State Service as opposed to the section on crimes against human life and health. The following wording is suggested. "Torture means any act, committed by a public servant or a person acting upon his order, command or consent, by which severe pain or bodily or mental suffering is intentionally inflicted on a person for such purposes as obtaining from him information or a confession, punishing him for an act he has committed or is suspected of having committed, or intimidating or coercing him". This wording does not contain all the objectives as stipulated by the Convention for the crime of torture: the purpose of the torture includes obtaining information or a confession both from a person subject to torture and a third person, punishing him for an act he or a third person committed or suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind.

The Government's draft law proposes the following definition of torture. "Torture means any act, committed by a public servant or a person acting upon his order, command or instruction in official capacity, by which severe pain or bodily or mental suffering is intentionally inflicted on a person for such purposes as obtaining from him or a third person, information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind". So the Government's draft law reiterates the definition of the torture as it is stipulated in the Convention, however as a person who can commit a torture is mentioned public servant or a person acting upon his order, command or instruction missing the objective of torture that it can be committed also by the consent or acquiescence of a public servant (public official) or other person acting in an official capacity as stipulated by the Convention.

On October 24, 2011, both drafts were included in the agenda of 4-day sessions. As of December 25, 2012 no decision has been taken with regard to these drafts.

93.6. Provide a legislative basis for the OPCAT National Preventive Mechanism, and ensure the institutionalized participation of civil society (Slovenia);

Armenia ratified the Optional Protocol to UN Convention against Torture in 2006. In 2008 the National Assembly of Armenia amended the RA Law on Human Rights Defender (HRD) to designate the Defender as a National Preventive Mechanism (NPM) envisaged by the Optional Protocol. The HRD has published reports on the work and findings of the NPM for 2010 (available only in Armenian) and 2011. On 6th of January 2010, the HRD established the Torture Prevention Council within NPM, with the Defender chairing the Council ex officio. It consists of NGO representatives and three independent experts. The Council is authorized to make unrestrained visits to any place where persons are or may be deprived of their liberty. The NGOs that are part of the Ombudsman + NPM model cannot conduct visits of closed/semi-closed institutions on their own without participation of an expert from the Ombudsman's office. At the same time, expert's participation should be sanctioned by the Ombudsman. Any finding or observation cannot be published without the Ombudsman's authorization. Such centralized and vertical subordination of the civil society groups makes effective implementation of OPCAT unfeasible.

93.29. Complete the reforms of the justice system and ensure the compliance of domestic legislation with the revised Constitution and the new legislation on the judiciary (Poland);

The RA Government has adopted a Concept Paper for Judicial System Reforms (2012-2016), which implies certain changes in this system, but many of the amendments are inadequate and are already in conflict with the development trajectory of international law. For instance, the presumed reforms concerning the internal (systemic) independence of judges will preserve the current legal provisions on sanctioning judges for the application or interpretation of laws in a judicial act that has become final and/or has not been appealed by the parties.

Armenia needs to bring its legislation into compliance with the requirements of the European Charter on Judicial Statute as well as the Council of Europe (CoE) COM recommendation to the member states N R-94/12 "On independence, efficiency and role of the judges". In particular legal mechanisms set for judicial appointments and promotions, as well as those for disciplining the judges should become more transparent and predictable in their application. The judges should enjoy the right for judicial remedy, i.e. there should be given an opportunity to challenge decisions of the Council of Justice in a judicial body. The Experience of several European countries, such as Spain and Italy, who enable judges to apply to the Supreme Court should be closely analyzed. In addition, disciplinary proceedings against the judges should provide the procedural guarantees of the fair trial, such as right to a transparent and public hearing, legal certainty of grounds of judicial discipline, etc. The judges should not be punished for their interpretation of the law and decisions of the higher instances which would override the judge's decisions. Moreover, there should be of no relevance for the purposes of calling judges to personal liability. The principal goal of all the safeguards of the judicial independence should be avoiding a chilling effect and empowering judges. The recruitment of the judicial cadre should be balanced and the successful judicial candidates with prosecutorial/investigational background should not be of vast majority as is currently the case. The judicial bench is not considered as the pinnacle of the legal profession, rather it is a progressive step in the law enforcement career. (Note: in the year 2011 all the judicial appointments were from the pool of police/prosecutors). Such attitude to the judicial recruitment strengthens the culture of judges working hand in hand with prosecutors during the trials which impairs such guarantees of fair trial as presumption of innocence and right to an independent and impartial court). Thus, current modifications do not bring serious changes (e.g. the mode of judges' appointment), as a result the judicial power remains dependent on president and on executive power.

94.2 Introduce changes to laws on drugs, given the increase in drug use in the country (Kyrgyzstan);

The Law on Drugs of the Republic of Armenia – Article 14. Destruction of Drugs states that "Drugs not valid for administration shall be subject to destruction. Drug destruction shall be implemented with consideration of environmental and sanitary norms and codes. The procedure and conditions of drug destruction shall be defined by the Government Drug Authority. Drug destruction shall be funded by the drug owner organization".

The results of inspection of the process of control over the quality and sale of drugs conducted in 2012 in 10 Yerevan pharmacies[8] revealed that there were different unregistered and expired drugs stored almost in all 10 pharmacies. Yerevan pharmacies explain that they have to store expired drugs because there is no procedure for destructing them.

The drugs imported to Armenia go through laboratory testing by the Pharmaceutical Agency, CJSC before registration and approval for sale. There are cases when drugs imported through humanitarian assistance are not sold and when the date is expired they are still stored in the pharmacies because of absence of adequate procedures for destructing the drugs. There is also no guarantee that expired drugs won't be sold.

Pain relief medication - Experts in this field have noted that not all patients with the pain syndrome have access to strong palliative drugs. Moreover, there is an inconsistency between Paragraph 6 of Article 22 of the Republic of Armenia Law on Narcotics and Psychotropic Substances (which provides that health care pharmaceutical institutions and organizations are prohibited from releasing narcotics and psychotropic substances included in the list of narcotic drugs on the basis of a prescription issued more than 10 days ago), Government Decree 759 dated 14 August 2001 "On Approving the Prescription Form Applied in the Republic of Armenia," and Minister of Health Decree 100 dated 26 February 2002 "On Approving the Procedure of Issuing Prescriptions and Releasing Drugs" (which provides that prescriptions are valid during 20 days of being issued), which obstructs the exercise of the right of access to pain relief drugs.

Medical assistance for drug users - There are no mechanisms for providing appropriate full and effective medical assistance and support to drug-addicted persons in the Republic of Armenia, which also contributes to the growth of drug usage in the country. Thus, for example, the RA Law "On Narcotic Drugs and Psychotropic Substances" defines that medical examination is conducted in order prescribed by the RA Legislation. However, the Legislation does not define procedures for conducting medical examination (including mandatory) of a person to discover drug usage, the order for subjecting persons, who are suspected in being drug addicts, to mandatory medical examination and treatment and so on. As a result of deficient legislative regulations a person also does not feel guaranteed against the violation of his rights and consequently, avoids turning to relevant bodies for receiving treatment.

Since 2009 methadone replacing therapy is applied in the Republic of Armenia, in the scope of which relevant treatment is provided to the citizens of Yerevan, and since July, 2012 it has been provided in Vanadzor as well. Thus, methadone replacing therapy is not available in the majority of communities, which, in its turn, can contribute to the growth of drug usage in the country.

94.3. Intensify efforts aimed at the adoption of the draft law "on ensuring equal rights and equal opportunities for men and women" (Brazil); ensure that the draft law "on ensuring equal rights and equal opportunities for men and women" is finalized in accordance with international protection standards and that it is adopted as soon as possible (Greece); continue its efforts to enact laws in the area of equality of opportunity and rights for men and women (Kuwait);

[8] The aim of the inspection conducted at random by Supervision Services officers, a Public Television crew and employees of the Pharmaceutical Agency, CJSC was to find out whether there are unregistered drugs in Armenian pharmacies.

In 2010 the Gender Policy Concept was approved for 2010-2014, which is allegedly designed to guarantee equal rights and opportunities for men and women.
Gender Policy Concept Paper is the first national strategic document of the primary importance, which outlines main strategies of the state policy in relation to men and women enjoying equal rights and opportunities in all spheres of social life regardless of their sex. The Policy Concept focuses on all spheres of life and has a special accent on education. The main goals of the Policy Concept education-wise are establishment of gender balanced representation at all levels of the education sphere, support of gender equality in society, integration of the gender component into the state education policy and raising gender awareness trough gender education.
Even though the adoption of Gender Policy Concept is an important step for Armenia, the Concept is not properly implemented yet, especially in terms of education. There are many gaps to be fulfilled: gender education is still being provided by grassroots NGOs gender component is not integrated in any of educational subjects, especially in the "Social Sciences" textbooks. Moreover, there is still a huge gender imbalance among teaching staff in public schools where male teachers constitute 15.8%, as well as among bachelor and master students the majority of whom are female.

In order to facilitate operationalization of the 2011-2015 Gender Policy Implementation Strategy, Gender Policy Committees were established in Yerevan municipality and in Regional Governor's Offices in all marzes (regions) of Armenia. These new structures, headed by the deputy mayor and deputy marzpets, are created to strengthen the capacity of public administration and local government officials to address gender equality issues on the policy and legislative levels. However, to some extent, their establishment has an artificial meaning. The Gender Policy Committee members are quite inactive. Moreover, many of them are not properly trained and aware of gender problems existing in Armenia.

In 2012 the RA government submitted the draft law on *Ensuring Equal Rights and Opportunities for Men and Women* to the National Assembly, which was adopted at first reading. In the context of continuous underrepresentation of women in political and public life, especially in leadership and decision making positions, this represents an important step in the direction of reducing oppressive gender hierarchies at the legislative level. However, the parliament of RA rejected a number of important points in the draft law, including Article 6 of the law, which prohibited:

1) men's and women's social and cultural behavioral models - those behavior based on customs and traditions which are contrary to this law and to the provisions of the international law regulating gender equality relations.

2) making insulting and degrading public statements (including through mass media) related to the sex of the person.

3) promotion as well as the advocacy of those cultures and traditions, (including through mass media) which contain gender discrimination aspects.

Thus, despite the adoption of the Law, as well as significant achievements on the institutional and formal levels, the rejection of this important article demonstrates the government's resistance to developing strong grounds for equal social inclusion in the policy making process and labor market. This results in a fragmented approach to the recognition and enforcement of gender equality. Women generally do not have access to the same professional opportunities as men and are often forced to choose caring professions or "light" occupations. Unemployment among economically active women in the 30-39 age range remains high – 60%. Outflow of women from the financial and banking sectors (well-paying jobs) continues. According to 2012 Gender Gap Index Report, Armenia falls eight places, ranking 91st position this year. The report suggests that this fall is the consequence of a significant decrease in the estimated earned income ratio.[9]

94.24. In line with the Government's commitment to protecting fundamental freedoms of its citizens, review its legislation and practices in order to guarantee the free exercise of the right to assembly and

[9] The Global Gender Gap Report 2012. Available from http://www.weforum.org/reports/global-gender-gap-report-2012

freedom of expression, without any limitations other than those permitted by international law (Mexico); fully respect and promote freedom of expression (Azerbaijan); guarantee freedom of expression and assembly for all political parties, media and human rights defenders (Switzerland);

A new law regulating the exercise of the right to the freedom of assembly, the RA Law on the Freedom of Assembly, entered into effect on 2 May 2011. The law that existed prior to it had been amended and supplemented several times, including in the context of the events that followed the 1st of March 2008. Prior to March 1, 2008 events Armenia had a fairly progressive law on Freedom of Assembly, which was later amended in light of the post-election violent events. The new Law in fact, comes to restore the situation after the post March 1 negative amendments. The amendments had been harshly criticized by numerous organizations, including the Venice Commission, the RA Human Rights Defender and civil society.

Article 32 of the Law on the Freedom of Assembly provides that, if an assembly is peaceful, the police shall be obliged, within the limits of its authority, to facilitate the assembly. The Law also stipulates protection of protest participants from provocateurs by law enforcement agencies: organizers of a public event have the right to request the police officers to remove from the demonstration venue the persons that gravely violate the peaceful and natural course of the assembly (Para. 1(4) of Article 31). At the same time, implementation of this provision is problematic. During the sit-in of the opposition that started on September 30, 2011 there have been numerous requests by the organizers to remove agent provocateurs from the site with no adequate response from the police.

The Law does not contain special provisions on conduct and facilitation of counter-demonstrations.

Article 4 of the Law stipulates that officials and local government bodies in implementing their duties should be guided by principles of proportionality and administrative principles under the RA Law on Fundamentals of Administration and Administrative proceedings.

Article 5 of the Law stipulates that an assembly may be restricted only in instances of necessity in a democratic society in the interest of national security or public safety, public order protection of public health and morale or the protection of Constitutional rights and freedoms of others. Article 5(2) of the Law bans rallies aimed at "forcibly overthrowing the constitutional order, inciting ethnic, racial, or religious hatred, or advocating violence or war. The Venice Commission and OSCE/ODIHR review of this provision pointed out to the need of a reference to "element of violence" requirement to ensure adherence to international standards for this clause. With regards to the legal status of spontaneous demonstrations, in essence, the legal provisions stipulated by the new Law concerning spontaneous assemblies and the practical application of the new Law can be deemed compliant with the international commitments of Armenia.

Article 20 of the Law provides that an assembly conducted with the aim of immediately reacting to a certain event shall be called a "spontaneous" assembly. The right to the freedom of spontaneous assemblies is often violated in Armenia.

Article 15 of the Law stipulates that notifications on assemblies should immediately be registered by the authorized body and copies should be posted in the administrative building of the authorized body in a publicly visible place. If the authorized body has a website, the information on the rally should be posted on the website within 3 hours of notification registration but no later than the end of that working day. Previously, the authorized body would not take into consideration rally notifications claiming that there already is a public event planned for that particular space and in that time and the organizers had no way of checking whether in fact another event was planned.

The RA criminal law prescribes sanctions for hindering the conduct of or participation in assemblies: Article 163 of the Criminal Code criminalizes the obstruction of conducting lawful assemblies and the imposition of participation in lawful assemblies by violence or threat thereof.

A similar prohibition is prescribed by the RA Code of Administrative Offences: Paragraph 17 of Article 180.1 stipulates an administrative sanction in the form of a monetary penalty for obstruction of participation in lawful assemblies without violence or threat thereof.

The legislation contains no special provisions stipulating sanctions for the arbitrary use of force by law-enforcement bodies against demonstrators or for the disproportionate use of force in case its use is lawful. However, in case of such interference by law-enforcement staff, criminal sanctions may be imposed on them for abusing or exceeding their official powers (Articles 308 and 309 of the Criminal Code).

The exercise of the freedom of assembly has improved in 2012 and the campaigns of all political forces in the parliamentary elections of May 2012 were unhampered. However, it is still of concern that the Law on Rallies, Meetings and Demonstrations enables authorities with certain discretion to grant or deny permission for conducting meeting and rallies remained.

In practice, throughout 2012 the situation with freedom of assembly remained positive, given numerous dynamic street activities carried out by social movements on public issues and political parties during the Parliamentary elections' campaign. The authorities did not hinder rallies and demonstrations. For example, during three-month long street protest activities of social movement on Mashtots park against installation of boutique-shops, the police did not interfere in the actions of the activists and environmentalists, *except installation of a tent, which had been forcibly removed by the police forces.*

The exercise of freedom of movements has improved in 2012. Particularly no restrictions by blocking the roads or other actions limiting free movement have been registered.

During 2012, there were numerous violations against the right to the freedom of expression. In April, law enforcement agencies, in the face of credible threats, demonstrated intentional passivity during an attempt by the "Asparez" Journalists' Club of Gyumri and the Vanadzor Branch of Helsinki Citizen's Assembly, to screen Azeri films in their respective cities. Similarly, in October, an EU and German Embassy film screening of the film "Parada", which shed light on LGBT issues, was met with the same response by the relevant authorities. In both instances, law-enforcement bodies neither prevented, nor held any suspects and perpetrators responsible.

Similarly, a cultural diversity march organized in May by the Women's Resource Center and PINK-Armenia NGO was labeled as a disguised gay parade. A counter – protest was organized by nationalist youth who attempted to stop the march. In this case the police intervened to stop potential violence.

3. POLICIES

93.7. Strengthen the work of the institute of public defence by providing free legal aid to the population (Kyrgyzstan);

Free legal aid is regulated by the RA Law on Advocacy, which does not ensure real access to justice for the vulnerable groups in the society. Despite the repeated calls of civil society to adopt a separate law on free legal aid, the RA National Assembly passed a law to amend the RA Law on Advocacy on December 8, 2011, which provided partial solutions to some issues related to free legal aid.

The new amendment expanded the categories of people eligible for free legal aid – family members of military servicemen killed (died) during protection of the RA borders; people with 1st and 2nd group disability; convicts; unemployed and indigent individuals who have provided credible information proving their inability to pay; members of families with scores above zero in the family benefits system; participants of the Great Patriotic War and of military action during protection of the RA borders; pensioners living alone; children without parental care and individuals who are equivalent of children without parental care; refugees and individuals who have received temporary asylum in the RA.

The implementation of these amendments (norms) was postponed until January 1, 2013, while the implementation of norms about indigent people was postponed till January 1, 2014. Yet, the expanded list of cases eligible for free legal aid still does not include all the necessary cases. For example, the list does not include children who have been victims of sexual abuse, or does not stipulate the possibility of free legal aid to all persons with social-psychological disabilities.

It failed to offer a comprehensive coherent and forward-looking policy aimed at ensuring effective access to justice in all judicial instances and to all proceedings, irrespective of the capacity in which the persons concerned act. Firstly, there are no clear-cut and objective criteria for determining who is insolvent. Secondly, there are no mechanisms for providing the needed aid, which can have far-reaching negative consequences of the relevant stakeholders. The procedures for granting legal aid, remedies in cases of unjustified refusal or delays are not regulated. Finally, without structural and institutional changes within the Public Defender's Office, the latter cannot ensure the provision of free legal aid and its involvement will have formal nature without promoting effective protection of the clients' interests.

Civil society has identified a number of key issues in this area that disrupt the effectiveness of the right to protection in criminal cases. These include: people being uninformed about the right to free legal aid, shortage of information about how to apply for free legal aid, lack of public confidence in free legal aid service, advocates being involved late in the case, getting confessions in the absence of advocates, advocates covertly cooperating with investigators, and unsatisfactory quality of legal services provided by advocates.

93.9. In line with Human Rights Council resolution 9/12, consider elaborating a national human rights programme and plan of action to strengthen the capacity of the State to promote and protect human rights (Brazil); complete within the envisaged time the comprehensive national programme on human rights protection (Egypt); implement the comprehensive national programme on human rights protection efficiently and within the envisaged time (Bosnia and Herzegovina); continue to promote human rights cooperation based on its actual conditions (China); continue to improve the human rights situation in the country, in the light of the improvements made so far (Italy);

In 2012, November 17, National Strategy on Human Rights Protection came into force by the RA President's decree from 2012 Oct 29, NK -159 N-N. This strategy is a list of good ideas with no indication of how to achieve them. There is no analysis of key problems and deficiencies, prioritization of issues, nor an allocation of plans and resources (institutional, human and financial) for implementing the priorities. Moreover, It does not correlate with either the UPR and PACE recommendations nor the issues raised within CAT review.

With regards to the participation of local human rights groups in developing the strategy- all and any of the recommendations proposed were ignored, claiming that they were not submitted to the Security Council. In fact there is proof that the recommendations had been submitted and received within the set deadline for contributions.

Adjustments have not been made to distinguish general measures from concrete actions, and additional measures have not been introduced.

93.11. Further its activities aimed at gender mainstreaming in Government policies (Egypt); adopt a gender-specific approach in Armenia's policies and programmes (Greece);

In the context of a lack of comprehensive legal provisions prohibiting discrimination against women, the government does not prioritize gender-neutrality of each policy and program. Armenia's failure to effectively implement gender-mainstreaming strategy in all governmental policy areas leads to inadequate protection for women against discrimination, and hinders the achievement of formal and substantive equality between women and men.

93.13. Expand the programme to prevent the spread of HIV/AIDS, in particular in remote areas (Kyrgyzstan); continue its efforts to promote public knowledge about HIV/AIDS, particularly among young people (Islamic Republic of Iran);

In the area of HIV/AIDS the Government of Armenia has received the amount of approximately USD 21.5 million for HIV and tuberculosis programmes for the years 2007 to 2012. The funds were contributed to developing a National Strategy Plan on HIV/AIDS for 2012-2016 in order to reduce the transmission of and morbidity and mortality caused by HIV. Armenia has joined all the conventions of the UN and European Union on Elimination of Discrimination, as well as ILO N111 Convention concerning Discrimination in Respect of Employment and Occupation. The Government of Armenia lifted its travel restrictions for people living with HIV on 14 July 2011; amended supplements to the "Law on the prevention of disease caused by Human Immunodeficiency Virus" which was approved by the National Assembly of the Republic of Armenia on 19 March 2009, particularly the article related to condition of entry into Armenia as well as the prohibition of mandatory HIV-testing of targeted groups; adopted Law on General Education in September, 2009. During 2008-2009 TOT courses were delivered to 24 teachers with the support of UNESCO. Selected teachers from 204 schools of Armenia underwent training courses. In 2010, within the frame of the Global Fund Program to Fight HIV/AIDS, Tuberculosis and Malaria the capacity of the National Institute of Education has been strengthened and 4-day training module on "Healthy Life Style" has been developed and incorporated into the teacher's retraining curricula. About 1230 teachers were retrained on the expended curricula during August-September, 2010. To fill the gaps the strategy envisages: to assess and amend legislation concerning human rights priorities in areas of particular relevance to the effective response to HIV (this includes the improvement of the drug dependence treatment system, elimination of the registration of people who using drugs, limitation of wide provisions for drug testing, removing the compulsory drug dependence treatment;

-To amend the legislative acts by which ARV treatment will be ensured by the government of RA

-To discuss and amend, if necessary, any relevant laws that are discriminatory and to advocate for the formation of anti-discriminatory laws relating to PLHIV and key affected populations.

93.14. Continue to work to protect the rights of the child (Kyrgyzstan);

Realization and implementation of children's rights on a national level remain an issue both in terms of legislation and practice. Thus the country possesses legislation that contains vague and ambiguous provisions, none of them provide mechanisms for enforcing the law. There is no special legal framework on juvenile justice as well.
The Parliament in first hearing adopted new amendments to the Laws on Education and on Mainstream Education on first reading according to which the whole education system is to become inclusive. But both these amendments do not guarantee provision of quality education to the children with special educational needs and the Government has no established mechanism yet to ensure the implementation of the new amendments. Though early childhood development has been on the state agenda, there has been no step forward to increase the accessibility to early childhood development centers or preschools.
There are a large number of cases of violence against children, occurring both in the family and within various special institutions. Research indicates the cases of intolerant treatment of children from families following any other religion or denomination in public schools.
A National Committee for Child Protection (NCCP) has a crucial role in the field of child rights protection. Nevertheless, it considers processing of applications received as its only task, often done just formally.
In 2003 the government approved National Program for the protection of children's rights for 2004–2015. In practice, there has been no solid investment to implement the strategic plan. In 2012 Government also undertook drafting of the new Strategy of the Protection of the Rights of Children for 2012-2016. The general impression from the new Action Plan is the following: a) it repeats many things from the previous plan; b) the authors preferred to give extremely generalized descriptions of situations and proposed very general and vague solutions; c) it does not include any specific activity for ensuring the protection of child rights and mechanisms to prevent

violence; d) many activities included for upcoming years have been already completed by different programs implemented by local and/or international organizations; e) many activities are still aimed at supporting institutional care structures and mechanisms rather than redirecting resources towards alternative family or community-based care solutions.
On March 12, 2010, upon the order of the RA Minister of Education and Science, a Civic Monitoring Board was set up with a mandate to monitor special educational institutions under the supervision of the Ministry of Education and Science. But this Civic Monitoring Board has not become an independent civil society mechanism. The reports of the Board fall short in documenting and presentation abuse and ill-treatment practices in closed and semi-closed institutions. An incomplete and unsatisfactory performance of some of the group members is a matter of both civic attitude and a lack of professional knowledge and skills in the monitoring field.

93.31. Take measures to combat corruption (Azerbaijan);

According to the national Anti-corruption Strategy 2009-12 Action Plan an annual report on the implementation of the measures enlisted in the that Action Plan shall be published for each year of its implementation. After substantial delay, on December 29, 2011, the Government finally posted on its web-site the Report on the Monitoring of the 2010 Results of the Implementation of 2009-12 Anti-Corruption Strategy Action Plan and Report on the Monitoring of the first half of 2011 Results of the Implementation of 2009-12 Anti-Corruption Strategy Action Plan. The preparation of both reports was funded by USAID Mobilizing Action against Corruption (MAAC) Program and was carried out by experts, hired by the Government. Both reports are available only in Armenian. By December 13, 2012, there is no similar report neither for the second half of 2011, nor the whole period of 2011. Also, there is no information in print media or on the web-site of the Government on the meetings of the Council on the Fight against Corruption and/or Anti-Corruption Strategy (ACS) Monitoring Commission. Neither the Council, nor the Monitoring Commission met during the reporting period.

According to the mentioned above reports, many outputs foreseen to be achieved in 2010 and 2011 have not been implemented. In particular, out of 351 outputs to be achieved in 2010, only 148 were completely achieved, 141 were achieved in part and 62 outputs were not achieved (see p. 15 of the Monitoring Report on 2010 Results). For the first half of 2011 out of 271 outputs to be achieved by the ACS Action Plan 97 were completely achieved, 116 were achieved in part and 58 outputs were not achieved (see p. 14 of the Monitoring Report on First Half of 2011 Results).

There were a number of legal acts adopted in 2012, which could reduce the risk of corruption in some spheres, if properly implemented. Among them were changes and amendments introduced to the Law on National Assembly Procedures: the rules of ethics regulating conflict of interest situations for parliamentarians; Law on Public Service: strengthening preventive measures against involvement of public officials in business and related conflict of interest situations; and Government decrees stemming from that Law, Law on Political Parties - stricter regulations on party property and donations and the requirement of an audit for parties having large assets (more than 10 mln. AMD), as well as for parties receiving funding from the state budget. Transparency International Anti-Corruption Center (TIAC) is closely monitoring Public Service Law implementation just from its adoption by Armenian National Assembly on May 26, 2011, in particular, functioning of the Commission on Ethics of High-Ranking Public Officials. Legal analysis carried out by TIAC at the beginning of 2012 revealed several new ones, as well. First, declarations on assets and income together with the high-ranking official shall be submitted only by those of his/her relatives, who live with him/her. This means that his/her close relatives, such as adult child(ren), siblings or parents, who live separately from that official, are not obliged to submit such declarations, which seriously restricts the scope of legitimate persons, who shall submit their declarations. Second, as mentioned before, neither the Law, nor related sub-legislative acts do not set clear terms and/or procedures for the analysis of declarations aimed at their verification. Finally, information about already acquired income and assets, which is contained in the declaration, is not publicly available.

Starting from June 20, 2012 Armenia is under a one-year peer review on the compliance of its legislation to the provisions of Chapters 3 (Criminalization and Law Enforcement) and 4 (International Cooperation) of UN Convention against Corruption, to which Armenia is party (it ratified the Convention on March 8, 2007). On December 5, 2012 the completed Country Self-Assessment Questionnaire was posted on the web-site of the Armenian Ministry of Justice (see http://moj.am/storage/uploads/Corruption.pdf). According to the unofficial statement of one of the Armenian Deputy Ministers of Justice, who is the country focal point for the UNCAC peer review process, the on-site visit of peer reviewers will take place in the middle of March 2013.

In 2012, calculated using new methodology and new scale (0 to 100 instead of 0 to 10) Transparency International's Corruption Perception Index (CPI) score for Armenia (CPI 2011 launch was on December 5, 2012) changed very little compared to CPI 2011 and was equal to 34 on the 0 to 100 scale, where 0 is a perception of absolutely corrupt and 100 – of absolutely clean from corruption country (in 2011 the score was 33) sharing 105-112th places among 176 countries. Though was no decline in CPI, it is, however, difficult to predict the trends in corruption perception in the coming years. Such low value of Armenia's CPI score points to the existence of widespread corruption in the country, making Armenia less attractive for foreign investors.

93.34. Carry out further activities aimed at supporting the rehabilitation and reintegration of remand prisoners and convicts by organizing professional training for them (Bosnia and Herzegovina);

The legislation of the Republic of Armenia presently contains no provisions on professional training for convicts. State bodies do not work with former convicts at all after they finish serving the sentence. No social work is carried out for persons conditionally exempted from the sentence and persons conditionally released early from serving the sentence, and the only means of supervising persons exempted from the sentence is their registration and regular visits. The 2012-2016 Strategy for Legal and Judicial Reforms in the Republic of Armenia contemplates the creation of a probation service. There is a concept paper on the implementation of the probation service, the aim of which is to carry out post-penitentiary probation, including supervision, support, and assistance for re-socialization of persons conditionally exempted from the sentence, persons conditionally released early from serving the sentence, and persons that completed serving the sentence. At this stage, the plan is to carry out educational, social-psychological, and other rehabilitation programs for persons released from the sentence. The law on the probation service is expected to come into effect in 2014.

93.38. Pursue the policy aimed at improving the position and participation of women in public life, and promote programmes for the protection of the rights of children (Algeria); consider further measures to improve and encourage women's participation in society, and ensure that such measures include benchmarks with timetables or increased quotas and that their implementation is closely monitored (Norway);

In 2000, the RA Prime Minister established the Women's Affairs Council to enhance women's status in social, political, and economic spheres, as well as at all levels of democratic governance. The Council is also called to ensure equal rights and equal opportunities for men and women by providing a mechanism to improve the status of women and implement national gender policies. The Board includes prominent female representatives of the executive, legislative and judicial branches, as well as the business community, NGOs, and international donor organizations.

While women's and children's protection is guaranteed by international conventions that Armenia signed and ratified, government policies still fail to outline implementation tools and innovative measures that need to be taken to improve women's position in public life.

The existing quota system has been ineffective, which the 2012 Parliamentary Elections results proved yet again, but the government is not considering utilizing other temporary special measures in the run-up to Presidential

Elections as a matter of general policy to accelerate the achievement of the de facto equality between women and men, in particular with regard to the participation of women in politics. Women's representation in decision-making bodies, including the National Assembly, the Government, the diplomatic services, regional and local municipalities and the high level of judiciary remains very low.

94.13. Intensify measures to address factors driving women and girls into prostitution (Poland);

There are numerous factors for why women go into prostitution in Armenia. The continuous discrimination towards women who are involved in sex work is of considerable importance in this regard. Once a woman is involved in sex work she believes that the attitude from the society will never change towards her, because she is labeled to be a sex worker forever. The state has not foreseen the importance of affirmative actions, i.e. positive discrimination for women for their further empowerment, which would serve a basis for self-establishment, engagement and therefore employability of the latter. Moreover, the state does not take appropriate measures to provide opportunities for men and women to act equally in different fields of public relations.

It is worth noting that the state does not appropriately address the fact of prostitution itself, as according to the revised Administrative Code of the Republic of Armenia (from June 2012), the involvement in prostitution results penalty of 20.000 AMD for the first time, and 40.000 AMD for the second and other times, which is twenty (forty) times higher than before. This norm is discriminatory in its character, thus it cannot be viewed as an appropriate measure to address prostitution, as only women who are involved in sex work are fined according to the Code, which is contrary to the fundamental human rights and freedoms enshrined in the Constitution, according to which everyone is equal before the law and discrimination on any grounds is prohibited (Article 14.1, RA Constitution).

4. INSTITUTION (HUMAN RIGHTS INFRASTRUCTURE)

93.7. Strengthen the work of the institute of public defense by providing free legal aid to the population (Kyrgyzstan);

In the Republic of Armenia, free legal aid is provided through the Office of the Public Defender. The legislative amendments made in 2011 expanded the scope of free legal aid to cover all aspects of not only criminal, but also civil and administrative law. The law prescribes certain categories of individuals that are eligible for free legal aid provided in accordance with the procedure defined by law. However, these amendments have imposed a heavy burden on the Office of the Public Defender, which was already overburdened with work, and no solutions have been designed for this problem yet. During 2011 and 2012, when the Office of the Public Defender handled only criminal cases, the number of cases increased by 60 to 100 each quarter. This workload of the advocates significantly affects the quality and effectiveness of the services provided by them. The physical conditions of the premises of the Office of the Public Defender are poor; the advocates do not have conditions for effective performance. There is no effective arrangement for reimbursing the transportation expenses incurred by advocates working in the Office of the Public Defender. The regional distribution of public defenders is disproportionate, which makes it difficult to carry out timely and proper protection in the regions. Moreover, the public defenders receive a fixed monthly salary irrespective of a particular advocate’s workload, diligence, and delivered results; under these circumstances, the advocates are not motivated to improve their knowledge, skills, or performance.

5. COOPERATION WITH INTERNATIONAL MECHANISMS

94.7. Invite the Special Rapporteur on the independence of judges and lawyers (Hungary, Germany); consider extending an invitation to the Special Rapporteur on the independence of judges and lawyers (Uruguay);

As to the Republic of Armenia, neither visit requests nor extended invitations to the Rapporteur were sent.[10]

94.8. Ensure that the visit by the Working Group on Arbitrary Detention, which has been agreed upon in principle, is also given priority and that it takesplace in the near future (Norway);

The Working Group conducted a country mission to Armenia between 6 and 15 September 2010, at the invitation of the Government. During the visit, the Working Group held meetings with various authorities of the executive, legislative and judicial branches of the State. It also had the opportunity to meet with detainees, prisoners, representatives of the civil society and the United Nations agencies.

The Working Group visited 14 detention facilities, including prisons with convicted and pretrial detainees; police stations and police detention centers; an immigration reception centre; psychiatric hospitals; and facilities for women and juveniles. The facilities visited were located in Yerevan, Aboviyan, Artik, Goris, Sevan and Vanadzor. Three unannounced visits were also made to police stations in Aparan, Goris and Sevan. The Working Group was able to privately interview 153 detainees chosen mostly at random.[11]

93.36. Ensure the implementation of the judgment of the European Court on Human Rights that found the Government's denial of a license to A1 broadcasting company to be in violation of Armenia's human rights obligations (Netherlands);

On June 10, 2011 the Resolution CM/ResDH(2011)39 on execution of the June 17, 2008 judgment of the European Court of Human Rights on the case of "Meltex" LLC versus Republic of Armenia was released. The Resolution was adopted at the June 8, 2011 Meeting of the Ministers' Deputies by the Committee of Ministers of the Council of Europe.[12] According to which the case was closed. The tendering rules and the procedure satisfied the implementation requirements. the CoE Committee of Ministers Resolution stresses that over and above the payment of just satisfaction, the respondent state where appropriate should take individual measures to put an end to the violations and erase their consequences so as to achieve as far as possible *restitutio in integrum*. However, on the other side, the Resolution ignores the fact that the rights of "Meltex" LLC have not been restored in any way. Regarding this the Armenian Civil Society representatives found out that the decision had neither sufficient legal nor other grounds and A1+ company's rights are in ongoing violation procedure. Moreover, according to the Communication of 2009 to the Department for the execution of the judgments of ECHR on the state of execution of the above-mentioned case, the representatives highlighted the failure by Armenia in implementing individual measures for restoring to the extent as possible the violated rights of the Meltex ltd. after judgment of the European Court against Armenia on 17/06/2008.

Based on a judgment of the European Court, the domestic proceedings in the case of A1+ were reopened, but the domestic court applied a provision declared as invalid and contradicting the Constitution, and refused to review the judicial act and to restore the situation that existed prior to the violation of the right. A1+ then applied to the Constitutional Court of Armenia, and the latter found this fact, creating a new possibility for reviewing the former judicial act. A1+ again applied to the Cassation Court, and review proceedings were initiated again, but the Cassation Court now applied the new amendments enacted by the National Assembly, which contradicted the Constitutional Court's decision, and refused to review the former judicial act and to restore the situation that existed prior to the violation of the right. A1+ applied to the Constitutional Court again, and the latter invalidated the legal provision applied by the Cassation Court. A1+ got another opportunity to apply to the Cassation Court demanding enforcement of the judgment of the European Court. The Cassation Court, however, refused to initiate review proceedings to enforce the last three decisions of the Constitutional Court and the European Court's

[10] http://www.ohchr.org/EN/Issues/Judiciary/Pages/Visits.aspx.
[11] http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/108/49/PDF/G1110849.pdf?OpenElement
[12] http://www.coe.int/t/cm/humanRights_en.asp

judgment, interpreting the legal provisions in a way that contradicted the previous decisions of the Constitutional Court. A1+ applied to the Constitutional Court again, demanding to declare the legal provisions as unconstitutional. The Constitutional Court did not admit the case, but in its decision declining admissibility, it noted that the decisions of the Constitutional Court are not being implemented. Therefore, the decision of the Committee to consider that Armenia has implemented the judgment of the European Court (i.e. removal of the judgment from the list) contradicts the official position expressed by the Republic of Armenia in decisions of the Constitutional Court. A1+ has filed an application to the European Court on the failure to implement the judgment of the European Court and the resulting violation of the right safeguarded by Article 10 of the Convention, but the application has not been communicated to the Government of Armenia yet.

6. EQUALITY AND NON-DISCRIMINATION

93.17. Increase efforts to end discrimination against women and provide adequate access to health-care services for all women (Austria);

Domestic violence, limitation of freedom or depriving of an opportunity to make decisions about their lives are common issues in the country. This is especially a sensitive subject in the rural areas of Armenia where men are dominant and act as the main decision makers within their families. Many women don't earn their own money; they are financially dependent on their husbands. A woman has no right to go to see a doctor or take some tests without her husband's or the mother-in-law's knowledge or approval.

Women living with HIV: This is especially a sensitive issue for women living with HIV as they need to be followed up by doctors, and visit the AIDS Center periodically to receive their ARV treatment or taking their tests, but their family members, particularly their husbands, and in some cases, their mothers-in-laws, do not allow them to attend the National AIDS Center or NGOs which provides medical care and psychosocial support services.

During the talks to the women and some of their husbands several facts were identified as major reasons of not allowing their wives to attend the National AIDS Centre or the NGO. Men are afraid if the women get much informed and educated about HIV, healthy lifestyle and other related issues they will begin accusing and blaming their husbands. Women will become more independent and empowered if they become socializing with their peers or with psychologists and social workers.

Sex workers: Women who are involved in sex work do not have adequate access to healthcare services. One reason is the stigma and discrimination towards women sex workers, which hinders for the healthcare services to be appropriately accessible for them. Although the law requires compulsory STD (sexually transmitted disease) testing for sex workers, it is accompanied with human rights violations towards these women. Every time police forcibly take these women to the police station, it is usually accompanied by degrading treatment towards them. They may be kept at police stations for longer time than necessary to take them to the STD testing center and kept even longer at police stations after the testing. It is also worth mentioning that there is no equal treatment by doctors who do the testing just because of the fact that these women are involved in sex work. This unequal treatment can be accompanied but not limited to not using hygiene equipment for testing, using the same equipment for more than one sex worker without washing hands and without gloves, which is to fact about the intentional bad treatment they want to provide to these women.

LGBTI: LBGTI population faces discrimination towards access to health care, while the Constitution of the Republic of Armenia, specifically article 14.1 prohibits discrimination on any ground, nevertheless, the practice shows that the state has not come up with its obligations to prevent, to prohibit and/or to provide responsibility for discrimination cases on grounds of gender identity and/or sexual orientation (other grounds have not been taken into consideration by the state as well). The state has not provided for definition and responsibility for «hate speech" cases, which is widespread in mass media and other fields. Besides, Armenian legislation, specifically, the Penal Code does not provide for the motive of sexual orientation/gender identity as an aggravating

circumstance for hate crime cases, i.e. if there is a criminal act against an individual because of her/his sexual orientation and/or gender identity, this motive for the crime is not taken into consideration by both investigation bodies and the courts.

However, it is worth mentioning, that the Institution of Human Rights Defender of RA is said to draft an anti-discrimination legislation to prevent and punish all the discrimination cases based on different motives (sexual orientation and gender identity included). Anyway, the draft of that legislation is not available for the civil society yet.

94.9. Establish measures in order to provide for equality of rights and opportunities between women and men and the elimination of discrimination against women, including through legal reforms; and devote priority attention to effectively eliminating all forms of violence against women, especially domestic violence, inter alia, by establishing a national mechanism for the advancement of women, and to addressing the issue of violence against women (Uruguay); take measures to eliminate discrimination against women, especially domestic violence (Azerbaijan);

In 2012 the Human Rights Defender's office engaged in a series of discussions with civil society groups regarding the Law on Discrimination that is designed to legalize punishment of all types and forms of discrimination. However, the government has not yet enacted an appropriate national legislation on the prohibition of discrimination.
Armenia is obliged to continuously implement all the provisions of the Convention on the Elimination of Discrimination against Women and to accept it as an integral part of the domestic legal system. Nevertheless, the Armenian legislation does not provide a comprehensive definition of discrimination against women.

94.10. Continue to ensure equal rights for women in society (Belarus);

Armenia still has not adopted gender specific policies and programs that would cater to the specific needs of vulnerable groups of women, in particular the government failed to develop a national strategy on rights of girls and women with disabilities,13 including access to sexual and reproductive health, and family planning. Given the fact that women with disabilities are virtually isolated from the society, systematically subjected to domestic violence, and denied in their sexual rights, this issue needs to be prioritized by the authorities and urgent measures need to be taken. Another crucial issue of concern is the use of forced abortion of girls and women with disabilities (especially women with mental disabilities). The government has failed to enact national legislation banning such practices.

7. RIGHT TO LIFE, LIBERTY AND SECURITY OF THE PERSON

93.20. Ensure the proper and thorough investigation of torture cases in prison facilities and at police stations (Slovenia); ensure that all allegations of torture and inhuman or degrading treatment are investigated promptly and that perpetrators are brought to justice (Greece);

93.26. Ensure that allegations of the ill treatment of persons detained by the security/police forces are investigated and that perpetrators are held accountable (Canada); investigate cases of police abuse to prevent impunity and put an end to ill treatment by police (Azerbaijan); ensure a system for registering the complaints of victims of torture or ill treatment, in particular persons in detention or military conscripts (Czech Republic);

[13] 81900 girls and women with disabilities are currently registered in Armenia.

In 2012 the Prosecutor General made a decision to start treating reports of bodily injuries (that are also written down in medical records) as sufficient grounds for initiating a criminal case. In practice, the independence and effectiveness of investigations into torture allegations are compromised as the police themselves are in charge of such investigations. A Special Investigation Service, which is charged with investigating cases on possible abuses by public officials, in practice, becomes involved in the investigation after the official opening of the criminal case. Prior to that, it is the police that are responsible for verifying the grounds and reasons for instituting a criminal case. The Police Monitoring Group reports[14] alleged incidents of torture within the investigation rooms of the RA Police but cannot verify allegations as Group lacks access to these facilities.

Criminal prosecution of perpetrators of ill-treatment and torture in police stations is not guaranteed yet, because the fact of torture is not proven in the courts, and the perpetrators of torture go unpunished. Legal protection is not safeguarded for victims. Restitution and compensation are not available, either. When a trial participant makes an allegation of being tortured during the pre-trial stage, judges normally do not follow up on such allegations and often rely on the pre-trial testimonies.

Torture in the army remains an issue of concern, particularly in the light of widespread impunity and the number of non-combat deaths. According to official statistics, 44 deaths were registered in 2010, in 2011 – 39 deaths, and 46 deaths in 2012. Despite statements from high officials to carry out full and impartial investigation into the deaths, family members of the deceased have no trust towards the integrity of the investigation process and the fact that in the end the real perpetrators are held accountable. Civil society also raises concerns about the use of self-incriminating evidence is during the investigation.

The competent bodies of the Republic of Armenia do not make enough efforts to ensure the equal treatment of all apprehended persons, especially the treatment of apprehended persons who are homosexual, bisexual or transgender. There is a discriminatory attitude towards homosexual, bisexual or transgender apprehended persons, who have many times been accompanied by inhuman and degrading treatment and torture towards them. The torture of these persons has been accompanied by both physical and psychological violence by the representatives of competent authorities (police forces). Here is an illustrative example of the issue raised above:[15]

"A transgender person, who has been in her [male to female transgender person] car on Shahumyan Street at the time of accident, was with no reason apprehended by some police officers to the Central Police department which has been accompanied by name calling, inhuman attitude towards the victim and beatings. Moreover, the person was isolated in a dark room in police, where she has been beaten repeatedly, that has been accompanied by inhuman and degrading treatment towards the victim. After while, she was apprehended for the second time from hospital, where she went for recovering from the beatings of police officers, was harassed and threatened with physical violence to sign an unfilled paper later to be filled by the officers".

A detained transvestite who is in Penitentiary of "Nubarashen" of RA Ministry of Justice, who has serious health concerns and suffers from pain and diseases, needed to receive appropriate medical care and services which was not being provided to him by persons responsible to provide such services in the penitentiary for the reasons not known. The relevant medical services were provided to him after the intervention of human rights NGOs, which made several phone calls to the Ministry of Justice, wrote letters of concerns to the Ministry of Justice and Prison Monitoring Group.

Men who have sex with men (MSM) continue to face ill treatment in detention places and during military service. MSM factor is considered as a cause for humiliating a person that is reflected in following attitude towards MSM prisoners: separating the MSM prisoner's chair, household utensils, forcing to clean the toilet and its adjacent

[14] Please refer to Partnership for Open Society Initiatives previous reports on ENP implementation at www.partnership.am
[15] Cases were revealed by PINK-Armenia NGO and RWRP NGO in the framework of "Legal Clinic for most at risk population" project, 2012

places, etc. There has also been a case, when the MSM prisoner has tried to commit suicide as a result of being subjected to ongoing derogation and psychological pressures by other prisoners. MSM prisoners are usually subjected to sexual violence acts up to rape cases when the person refuses to have sex with the perpetrator.

It is also worth mentioning that all the above mentioned cases are considered to be a part of prison culture, which the inspectors not only do not interfere for preventing future violation cases and maintaining order, but also adapt themselves to this culture.

For detailed information on cases of allegation of torture and inhuman or degrading treatment please refer to Annex I attached to this document.

93.32. Strengthen fair-trial safeguards, including the non-admissibility before the court of any evidence obtained through torture or ill treatment (Czech Republic);

Although the national legislation prohibits the admissibility and the use of any evidence obtained through torture or ill treatment (article 105 of the Criminal Procedure Code), the Courts of first instance very often use unlawfully obtained evidence and judges prefer to turn a blind eye to torture allegations made in court and do not exclude confessions and other evidence obtained illegally. This issue is highlighted in the third periodic report of the Government of Armenia to the UN Committee against Torture as a provision of acting law.

94.14. Continue efforts to prevent and combat the sexual exploitation of children (Brazil);

The Republic of Armenia signed the Council of Europe Convention on the protection of Children against Sexual Exploitation and Sexual Abuse in 29/09/2010 and the UN Convention on the Rights of Child in 1993. However, the country hasn't yet ratified the Convention on the protection of Children against Sexual Exploitation and Sexual Abuse.
RA legislation does not regulate complex services for the care, rehabilitation and return to society of children subjected to sexual violence or abuse, which would allow for psychological healing and full socialization of the children. The victims of violence are observed by the investigation as carriers of information, and the rehabilitation measures are left to the family members and NGOs.
There is no legal obligation for reporting on cases of violence or abuse of children. The existing legislation does not place any responsibility on non-reporting. Only one provision in the RA Criminal Code envisages responsibility for not reporting on heavy and grave crimes, but some forms of abuse do not fall under the definition of “heavy” or “grave”. Adding a mandatory requirement to report on sexual violence against children will play a big role in the identification and further prevention of such crimes. More stringent responsibilities should be defined for professionals, such as Ministry of Education and Science staff, social workers, physicians and nurses.
There is no law on the protection of victims or witnesses and no regulation for the protection of underage victims or witnesses, which, if present, would give full guarantees for protection. After the legal reform only one separate chapter was inscribed in the RA Code of Criminal Proceedings. However, it is worth mentioning, that the chapter contains rather general definitions that could be applicable for investigation of any type of crime, without a specification of relations in case of involvement of underage. This assumes that the issue of practicing measures of protection is solved on the basis of a given case, in circumstances when the necessity to protect the underage victims or witnesses because of the vulnerability, is not legally recognized. On the other hand, the law has no special requirements or criteria for assessment of the expediency and correspondence of selecting an exact means of protection for an exact person. It is necessary also to elaborate programs of witness protection, which would include different measures of protection.
No protection of personal life for children that are victims of sexual violence is envisaged in the legislation. A realistic approach to enforcement of protection for the underage victims and witnesses is confidentiality of their personal information, close-door court proceedings and interrogation. A special procedure on investigation of cases of sexual violence against the underage is preferable. It could foresee a requirement to protect the

confidentiality of personal information for all the parties involved in a court proceeding, i.e. the justices, prosecutors, detectives, investigating bodies, attorneys, witnesses and the culprits.
Problems exist also on the part of providing proper support to the children who are victims of sexual violence, specifically free of charge legal advice or socio-psychological services. In practice, victims find themselves under pressure, as they are threatened to refrain from testimony. The State does not regularly train police, lawyers, advocates and judges on child right issues and their sensitivity, therefore the professionals from the legal sections most of the time do not consider the psychological harm they may bring to a child during investigation and trial of cases of sexual abuse. The media, often does not follow professional norms when publishing news about abuse cases, and may either reveal the name of the sexually abused child or a detailed description of the region/village, family of the child, so that everyone immediately recognizes the victim. In such cases the confidentiality that is a guarantee for avoiding continued abuse and trauma is ignored.[16]

93.21. Follow up the implementation of national machinery for the advancement of women and addressing violence against women (Islamic Republic of Iran); continue efforts aimed at combating domestic violence (Kyrgyzstan); consider devoting priority attention to the elimination of all forms of violence against women, in particular domestic violence, by establishing comprehensive measures, including specific legislation (Brazil); take additional measures to eliminate the phenomenon of domestic violence against women (Ukraine); ensure that the authorities and police services put in place appropriate measures to eradicate domestic violence, beginning with the adoption and implementation of the draft law on domestic violence to which the Armenian delegation referred (Switzerland);

In 2012 the Ministry of Labor and Social Affairs finalized the Draft Law on Domestic Violence based on the draft of this legislation developed by the Women's Rights Center. Following public discussions and hearings about the Draft of Law on Domestic Violence, in December it was submitted for further consideration and verification to the Prime Minister of RA.

The Draft Law on Domestic Violence regulates the legal definition of "domestic violence" and types of domestic abuse, domestic violence prevention measures, and the legislation enforcement mechanisms, including the funding sources for each activity and the basis for application of measures for protection of family members. The Draft Law stipulates that the police, the courts, the Prosecutor's office, the Ministry of Education and Science, the Ministry of Health, State Migration Service, custody and guardianship entities, organizations providing support service to the victims of domestic violence, advisory centers, psychological support centers, shelters designed for the victims of domestic violence, social service agencies, state and local governments are engaged in government efforts to guarantee prevention and protection of victims of domestic violence. A separate article in the Draft Law regulates the responsibilities of authorities, including law enforcement officials.

The Draft Law on Domestic Violence also defines the special prevention mechanisms, e.g. official warnings, and emergency intervention. These actions are clearly outlined and the implementation strategy is designed.

93.23. Take immediate steps to make domestic violence – including psychological abuse; beatings; rape, including marital rape; and sexual assault -- a criminal offence (United Kingdom of Great Britain and Northern Ireland);

The Draft Law on Domestic Violence that is currently being considered by the Prime Minister's office incorporates emotional, economic, physical, and sexual abuse into the definition of domestic violence and will ultimately ensure that violence against women and girls constitutes a criminal offense.

[16] For more details please refer to Partnership for Open Society Initiative's shadow report on CRC at www.partnership.am

94.11. Adopt legislation and measures to prevent violence against women and children, including through the strengthening of its monitoring mechanism (Indonesia);

In 2012 the government developed the draft protocol on "Women's and children's trafficking prevention, prohibition, and punishment," which represents another prevailing form of violence against women in Armenia.

Armenia must adopt the law on domestic violence or/and respective changes to its procedural and material codes aiming to first criminalise all the acts of gender-based physical violence. Armenia should ratify the CoE Convention against the domestic violence which was open for signing in Istanbul in 2011. Even before the ratification, Armenian legislation and practices should reflect the strong positions of the European Court on Human Rights as expressed in the case of *Opuz v. Turkey (2009)*, which are as follows: 1) empower the prosecutors to continue criminal proceedings against the abuser even if the victim recants the testimony and moves for termination of the proceedings; the EctHR rightly suggests that empowering a victim of domestic violence with the right to veto does further victimise the victims as they become targets of threats and suffer the acts of revenge; 2) the prosecutors should in each case analyze the reasons why the victims of domestic violence recant their initial testimony against the abuser and move for not proceeding with the case against their partner; 3) so-called provocative behaviour of the victims should not become an excuse of not prosecuting the DV cases, the last being a part of positive international obligations of Armenia under Article 2 (Right to life) and Article 3 (Prohibition of torture). These obligations involve: (a) prevention of crimes against endangered individuals; (b) investigation of the acts of domestic violence, which should be as effective as to discover those who are responsible and to prevent re-victimization of victims; and (c) imposing such punishments which would be sufficiently deterrent, sufficiently effective and proportional and commensurate to the crime of domestic violence.

94.12. Strengthen measures to ensure an effective fight against domestic violence; in particular, introduce the crime of domestic violence into its criminal code as a matter of priority and ensure that effective support and protection is available for victims of domestic violence (Czech Republic);

Provision of support and protection services to victims of domestic violence is the government's obligation under specific articles of the Draft Law on Domestic Violence that is still pending making combating impunity of perpetrators of violence against women very challenging. Meanwhile, the government is developing a legislative package for criminalization of domestic violence and harmonization of measures to counter all forms of domestic violence in a number of existing legislative documents, including the law on Police, the Administrative Code, Criminal Code, Administrative Procedure Code, and Criminal Procedure Code.

93.25. Intensify efforts to prevent and combat violence against children, including corporal punishment (Brazil); adopt specific legislation punishing violence against children, including the prohibition of corporal punishment; move forward in taking the measures necessary for the registration of the highest possible number of births; support educational policies aimed at enabling girls to continue their education and eliminating stereotypes regarding gender roles; initiate awareness-raising programmes, particularly in rural areas, in order to change the tendency to value child labour more than education, and encourage access for minority children to education in their mother tongue (Uruguay);

In 2011, conducted monitoring on the 'Protection of the Right to Education of Children Staying out of School' showed that the right to education of many children still is not exercised since these children do not receive compulsory education. Even public officials are often unaware of these children. Monitoring carried out in 55 communities resulted in identifying 101 children left out of education, while the official data showed that their number is 9. Mainly children from socially vulnerable families remain outside the compulsory education system. They are basically forced to help their parents in supplying the household needs and, as a result, get involved in different works. The problem is rather evident in rural communities where children take part in agricultural and live-stocking works.

There are many cases and incidents of violence against children, occurring both in the family and within various institutions, such as secondary schools and special schools. Of particular concern is the information on cases of violence against children in closed or partially closed institutions, as the law offers very limited opportunities for monitoring. The main issue here lies in the fact that cases of violence are not studied or investigated and as a result, problems are not discovered. There is no structure in place for revealing such specific crimes. Violence against children has become a normalized practice. Theoretically, slapping and other similar minor forms of physical punishment can be is regarded as permissible by relatively small number of parents. However, in the case of disobedience, many parents still consider beating a child to be a normal way of punishment.
According to the Fund for Armenian Relief statistics of 2009, of the 139 sheltered underage children who eventually appear in Special Child Care Centers, 72 have been victims of physical and psychological abuse, and 12 to sexual abuse. In the first quarter of 2010, from the admitted 35 children, 20 had been abandoned after being exposed to physical abuse, while 6 of them also were sexually abused.
Criminal proceedings are usually not initiated based on facts related to the domestic violence, as it is almost impossible to provide child protection, with the lack of alternative methods for intervention in violence cases, which can provide specialists with the relevant skills and knowledge. In many cases, the specialists working with abused children have to agree with the preconditions of the family as well as with the preferences of the child, given that placing the child in the corresponding institutions may be more traumatic for the child. The child returns home and in a short while later is faced with the same situation.
The results of the Survey on Violence against Children in Schools, implemented by the Focus Group Discussion and Armenian Helsinki Committee, illustrate that there are many different punishment techniques among teachers, such as marking low grades, asking the child to leave the class room, or slapping and beating the child. In some cases, teachers create an atmosphere of fear through psychological harassment of the child. Most parents and teachers alike, as well as some students, believe that these forms of discipline are "a natural response to the behavior of the child". Very often, the punishment type depends on the teacher's bias towards the child, which may be based on circumstances such as whether the child takes private lessons from the teacher, or the social status of the child's family.

93.33. Continue its efforts to bring its penitentiaries and detention centres into compliance with international human rights standards (Canada); ensure in practice regular access to all places of detention, including police stations (Czech Republic);

Prison overcrowding remains an unaddressed issue - approximately 4800 inmates are detained in penal institutions with an overall capacity of about 4400 places. To attract attention to this situation the prisoners have resorted to such means as hunger-strikes and self-mutilation: one prisoner sewed his eyes shut, while two others sewed their mouths and a third cut off his finger. The response that came from the authorities did not address the problem properly as the Minister of Justice stated that this practice has become common for inmates. [17] The government does not make effective use of alternatives to imprisonment, which could remedy the situation with overcrowding.

The European Committee for the Prevention of torture and inhuman or degrading Treatment and Punishment reflected on the conditions of penal institutions and detention centers after its visit to Armenia in 2010 and 2011. In its report CPT noted that the conditions are not uniform across the country and highlighted the need to address prison overcrowding. The same issue was also raised during Armenia's third periodic review under CAT.

Currently, there are three public monitoring groups conducting independent oversight of closed institutions: (1) A group of public observers conducting public monitoring of penitentiary institutions and bodies under the RA Ministry of Justice, established in 2004 ("Prison Monitoring Group"); (2) A group of public observers of the places where arrested people are held under the RA Police, established in 2005 ("Police Monitoring Group"); and

[17] http://www.eurasianet.org/node/66160

(3) A Public Monitoring Group of Special Boarding Schools under the RA Ministry of Education, established on 16 December 2009. The Police Monitoring Group has access to detention centers but doesn't have access to the investigation rooms within the police, where allegedly human rights violations occur.

8. ADMINISTRATION OF JUSTICE AND THE RULE OF LAW

93.27. Implement the recommendations of the OSCE/ODIHR trial monitoring report, and provide for an independent and credible investigation into the 10 deaths following the events of 1 March 2008 (United Kingdom of Great Britain and Northern Ireland); intensify efforts to present the cases in court in order to clarify, provide for reparations and punish those responsible (Spain); follow up on the recommendations set out in the March 2010 report of the OSCE Office for Democratic Institutions and Human Rights regarding shortcomings in Armenia's justice system (Netherlands);

93.28. Implement the recommendations of the ad hoc committee mandated by the National Assembly, and conduct an independent and transparent investigation into the excessive use of force leading to the punishment of those responsible (Switzerland);

The following facts are indicative of the authorities' attitude towards the murders committed on 1 March:

a) No criminal cases have been initiated on the basis of the 10 deaths, and although the need to investigate and solve them has been repeatedly mentioned in documents adopted by influential international organizations, among others, no one has been arrested or convicted to date for the murder cases;

b) Under the pressure of these international organizations, the incumbent President of Armenia finally create, in October 2008, a fact-finding group of experts to inquire into the events of the 1st and 2nd of March, primarily the circumstances of the murders: the opposition and the government had equal representation in the group, and a representative of the Human Rights Defender was engaged in the group, as well. After several months of productive work, the first report of the fact-finding group was published to the dismay of the authorities: firstly, obstacles were created to its work, after which it was liquidated;

c) Nonetheless, the fact-finding group published its subsequent reports, which contained sufficient materials for solving at least five of the murders, but nothing has been done to follow up on these publications; and

d) The families of the victims have not received either pecuniary or moral support from the state. Moreover, they were recognized by the pre-trial investigation body as legal successors of the victims only months after the 1st of March.

Thus, in addition to violating a fundamental human right, the right to life, the relatives of the victims were deprived of the right to an effective investigation. The inaction of the Special Investigative Service was appealed in the General Prosecution Office of the Republic of Armenia, but in vein. The issue is now pending in court.

The legal successors of the victims have filed appeals in domestic instances, which have been classified into four groups in terms of the relative similarities between the circumstances of the murders.

The appeals to the domestic courts contained the following demands:

- To find a violation of the right to life, safeguarded by Article 2 of the European Convention, in respect of those that died on the 1st of March, insofar as it was committed by agents or other representatives of the state, and the circumstances of the murders were not effectively investigated; an
- To find a violation of the right of the relatives (legal successors) of those that died on the 1st of March to be free from torture and ill-treatment under Article 3 of the European Convention.

Terminate the inaction of the body conducting the proceedings, i.e. the Special Investigative Service of the Republic of Armenia, and to obligate it:

- To conduct an effective investigation into the circumstances of the murder of those that died on the 1st of March;
- To explain to the relatives of those that died on the 1st of March their right to receive compensation, and the procedure and terms of receiving it, and to provide effective support in this respect;
- To calculate (as the body that violated the right) and provide just compensation to the relatives of those that died on the 1st of March; and
- To safeguard, for the persons filing the appeal and for their representatives, access to the criminal case materials and the possibility of making copies thereof.

The domestic courts rejected the demands, and the higher courts upheld the decisions of the lower courts as lawful and justified, providing the following reasoning:

- There may be no judicial oversight of this process, because the pre-trial investigation has not ended yet; and

- The claim of just compensation has been rejected by the court. The decisions contain no mention of this in either their reasoning or conclusion parts.

The Cassation Court refused to admit the cassation appeals.

To protect the victims' rights under Articles 1, 2, 3, and 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, nine groups presented applications to the European Court of Human Rights on 28 February 2011 (the last applications were filed on 6 May 2011).

93.30. Take the measures necessary for the in-service training of the judges regarding judicial improvements on issues of human rights (Turkey); set up training programmes on human rights for police officers (Italy); strengthen human rights education provided to the police, prison staff and the military (Czech Republic);

The RA Judicial School is cooperating with international organizations in order to organize courses and seminars and to conduct the trainings based on European standards for human rights protection. However, the training in human rights should be included into the initial study courses for judges. The ECHR should be mainstreamed into different courses in the curriculum and training materials. Human rights training should be based on ECtHR jurisprudence and therefore made more valuable for future judges as well as acting ones.

Although the Armenian government approved the 2010-2011 Police Reform Program, which was developed in cooperation with the Organization for Security and Cooperation in Europe which recommended structural, organizational, and educational reforms in the police, yet there is no clear program and information about trainings for police officers.

94.15. Ensure the swift, transparent and effective prosecution of violence against journalists (United States of America); effectively investigate the cases concerning attacks against journalists, opposition members and human rights defenders (Azerbaijan); ensure that crimes and violations against human rights defenders, journalists and members of the opposition are effectively investigated and prosecuted, and that those responsible are brought to justice (Norway);

The RA Constitution provides freedom of speech and freedom of the press, however the government does not always respect these rights in practice. Consequently there are incidents of violence and intimidation of the press and press self-censorship. According to the report on "Human Rights practices in different countries" of US Department of State, during 2010 in the RA journalists were subject to physical attacks in connection with their professional activity. Many of the perpetrators remained unidentified, while representatives of law enforcement

agencies also occasionally harassed journalists. There were no new developments in the investigation of attacks against journalists recorded in previous years, there were no reports authorities took any special measures to protect journalists or to punish those who sought to intimidate them. According to the annual report of 2010 attacks on press of the US-based Committee to Protect Journalists, the following incidents occurred with media representatives in the RA without sufficient investigation: free-lance journalist Gagik Shamshian at the RA Procuracy building on February 24; detention of "Haykakan Zhamanak" correspondents Ani Gevorgian, Syuzanna Poghosian, and correspondent of "Hayk" newspaper Lilit Tadevosian during the opposition rally on May 31 in Yerevan.[18]
In some cases such as the case of Grisha Balasanian, correspondent of "Hetq" newspaper against RA National Assembly MP Ruben Hayrapetyan, the complaint of violation was revoked without any effective investigation. In the case of Chief Editor of "Lori" TV company Narineh Avetisian although proceedings were instituted, however the assaulters were not revealed and the case was dropped.[19] If previously rare defamation suits were observed, during 2011 the courts received around 25 cases against print media. In the vast majority of cases the plaintiffs were representatives of political and business elites and the fines claimed for moral damages and inflicted by the courts were the maximum amounts envisaged by the law. This undermines the financial viability of newspapers, putting them on the verge of bankruptcy and is regarded as a new leverage in the hands of the authorities to greatly hamper freedom of expression. Only the family of ex-President Kocharian filed three suits against various newspapers. One of the newspapers, *Haykakan Zhamanak*, had to organize fundraising to be able to pay off about 9000 USD for moral damage to three well known oligarchs. Almost in all the cases the plaintiffs demanded and received the highest amount for moral damage compensation, in addition to the court expenses. During 2012 the number of defamation suits against journalists and media has dropped compared with the previous year. Courts received 10 cases against journalists and media as of Jan-Sep 2012. The November 15, 2011 decision of the Constitutional Court fostered an improvement of the situation to some extent, which was adopted in response to the Armenia's Human Rights Defender's appeal to the Constitutional Court. In particular, it ruled that media outlets could not be held liable for their "critical assessment of facts" and "evaluation judgments." However, decriminalization of libel and insult still raises concerns regarding introduction of high monetary fines for insult and defamation to restrict freedom of expression and media.

94.16. Undertake effective measures to ensure the independence of the judiciary (Italy); ensure the full independence of the judiciary (Azerbaijan); strengthen measures to ensure the full independence of the judiciary (Uruguay);

The judiciary is not fully independent from the executive. The Judicial Code vests the President with undue authority in appointment, promotion and in taking disciplinary measures against judges. Loopholes in the legislation allow the executive to exercise control and put pressure on judiciary.

Strong links exist between judiciary and prosecution as close relatives serve in both camps and there is no discrete conflict of interest regulation between these two structures. All newly appointed judges in 2011 were former prosecutors or police servicemen. The Council of Justice by its decision on 15.07.2011 endorsed a list of judicial candidates for civil and criminal specialization. Out of nine candidates for criminal specialization, eight are former prosecutors or investigators. Among them is the son of the Prosecutor General, and the son of the Deputy Head of National Security Service. Such dependence is also illustrated by the rate of acquittals, which is not increasing and stands at less than 1% of all rulings.

The 2012-2016 RA Strategic Program for Legal and Judicial Reforms and the RA President's order to approve a list of actions to implement the program went into force on July 1, 2012. Despite the set goals, the activities envisaged by the judicial reform program do not completely address these goals. Moreover, the reform program

[18] http://www.cpj.org
[19] "A Year of unprecedented number of defamation lawsuits versus Media", Annual Report of Yerevan Press Club 2011

failed to address the following issues: the existence of several bodies managing the courts, limited influence of the courts' self-governing body (the RA Council of Justice) on the adoption of the budget, termination of judicial powers on the grounds of temporary incapacity to work, the right of the Minister of Justice to instigate disciplinary proceedings against a judge.

94.17. Push forward further reforms that will guarantee in practice the separation of powers and, in particular, the independence of the judiciary, including through the training of judges (Greece); make additional efforts to strengthen the judicial system, carrying out its reform and the training of judges (Bosnia and Herzegovina);

(Additionally, please, see comments on recommendation 93.30 and 94.16)

The Draft law on the Judicial Academy should be amended to exclude its subordination to the Ministry of Justice. The Council of Justice should become the executive representative body of the judiciary. In the relations with the President of Armenia, the Council's status should be the same as that of the Parliament, with extrapolation of this approach onto the decisions made by the Council of Justice. This would mean that the Council of Justice should cease from being a consultative body, but rather it should make the judicial appointments (the same was as the Parliament submits to the approval of the President not the draft laws, but the laws per se). In addition, this means that the Council of Justice should be empowered with the right to overcome the veto imposed by the President and thus, the Council's decisions should go into legal force signed by the Chief Justice (ex-officio – the Chairman of the Council of Justice), the same way as the Parliament's decisions can override the Presidential veto.

94.19. Strengthen efforts to establish a system of juvenile justice in compliance with international standards, and take specific measures to protect the rights of children and persons in detention or in prison (Czech Republic);

The RA juvenile justice system still needs reforms in order to be in conformity with international standards. The problems of this sphere derive from lacks in the legislation. For example the peculiarities of the juveniles are not totally disregarded in the Armenian legislation. Criminal Code and Criminal Procedure Code impose the obligation upon the body of criminal proceedings to take into consideration some peculiarities while administering Juvenile Justice. However, generally the approach is reduced sentences or enforcement of certain privileges. Currently the above-mentioned issues are much discussed by civil society representatives, but from state representatives there isn't any concrete step taken to change this system. During the period from 2010 to 2012, legislative reforms did not take place in the system of juvenile justice. The problems still linger in the Armenian system of juvenile justice. Neither legislation nor practice take into account the specifics and needs of juveniles. Armenia does not have juvenile courts or judges. The situation is the same in the prosecution and investigation systems: neither prosecutors nor investigators specialize in the investigation of juvenile cases. The Criminal Code of the Republic of Armenia prescribes the following sanctions for juveniles: penalty, public work, detention, and imprisonment. The Republic of Armenia lacks legislation for substituting criminal sanctions with alternative measures, because juvenile offenders are not viewed as substantively different from adult offenders, and as there is no autonomous system of juvenile justice, non-punitive restorative compulsion may be imposed only at the stage of trial, which contradicts the primary goal of substituting criminal sanctions with alternative measures—the solution of the case of a juvenile offender without resorting to court procedures. Pre-trial detention of juveniles is widely applied during the investigation. The law does not differentiate juveniles in terms of the grounds and time periods of pre-trial detention. The Criminal Procedure Code of the Republic of Armenia does not stipulate the possibility of in-camera hearing of court cases concerning juvenile defendants. In practice, courts do not take any measures to protect the security of the private life of juvenile defendants. There are no special educational centers to address the specific needs of juveniles. The new draft of the Criminal Procedure Code contains a number of progressive provisions on juvenile justice; its enactment is expected in January 2014.

9. RIGHT TO PARTICIPATE IN PUBLIC AND POLITICAL LIFE

93.37. Take measures to ensure free and fair elections in the future (Sweden); implement recommendations issued by the Office for Democratic Institutions and Human Rights of OSCE to improve the holding of the next general elections, in 2011, and the presidential elections in 2012 (France);

In spite of the introduced changes, neither the Electoral Code, nor its implementation ensures expression of the free will of the Armenian citizens. Parliamentary elections of 2012 were accompanied by a range of violations, such as multiple voting, vote-buying, circulation of pre-voted ballots ("carousel"), terror and intimidation of voters, observers and proxies, which were not adequately pursued by law enforcement bodies and condemned by courts. In addition, there was a widespread abuse of administrative resources, such as engagement of municipal community leaders in directing rural voters, drafting employees of educational and health institutions to attend campaign events and vote for the ruling party, instructions by the leadership of both public and private entities, use of students of kindergarten and schools in campaign events, etc. (Iditord.org crowd sourcing platform received about 150 complains related to the voters' lists, about 300 – to the vote-buying and pressure, about 180 - to the violations of the elections campaign, about 180 – to the violation of voting procedures on the day of elections, about 90 - to the falsification of results, about 180 - to the public order and about 300 – to miscellaneous types, including transportation of voters to the precincts and early disappearance of the seal intended for exclusion of multiple voting). Also, it is widely perceived that elections are falsified through illegal use of names of Armenian citizens that are abroad. These types of phenomenon, many of which are not forbidden by the Electoral Code, affect the expression of the free will of citizens and develop distrust in the power of own vote and the possibility to exercise the power of participation in governance of the state vested in Armenian citizens by the Armenian Constitution.

The new Electoral Code introduced a number of important changes in the electoral legislation. Some of those changes had a positive impact on the conduct and administration of elections, whereas others, as the practice of 2012 elections revealed, proved to be negative. Formally, all changes introduced into any legislation, pursue the goal to improve the legislation. However, many changes, though nominally positive, actually, considering political realities, bring negative effects. The ensuing discussion of the changes, introduced in the electoral legislation through the new Electoral Code, proves this proposition. Among the most important changes, introduced by the new Code were: Right (but not obligation) to video- and/or audiotape the voting process; Change of the principle of formation of the Central Election Commission (CEC) and territorial electoral commissions (TECs); Ban on corporate donations to the parties' or candidates' pre-election funds; Introduction of more fair mechanism of appointing the management (heads, deputy heads and secretaries) of precinct electoral commissions (PECs); More detailed regulation of the use of administrative resources during campaign (such as, for example, ban on locating electoral headquarters in the same buildings, where state or local self-government bodies are located); Introduction of the institute of re-voting in precincts, if serious violations were revealed during the vote; Training of local observers.

For detailed assessment on implementation of recommendations issued by the Office for Democratic Institutions and Human Rights of OSCE to improve the holding of the next general elections, in 2012, and the presidential elections in 2013, please refer to Annex II attached to this document.

10. FREEDOM OF RELIGION OR BELIEF, EXPRESSION AND ASSOCIATION, PEACEFUL ASSEMBLY

93.35. Take the legislative and administrative measures necessary to fully guarantee freedom of religion in the country, in particular to prevent any form of discrimination or undue obstacles in the registration of associations of religious minorities (Mexico); fully ensure freedom of religion for all, without discrimination (Azerbaijan);

The existing Law on Religious Organizations contradicts the RA Constitution and international standards in this field. Several attempts were made to propose amendments (in 2011 an attempt was made to pass a new Law) to

the Law and all were harshly criticized both by civil society and Venice Commission. Attempts are made to prescribe restrictions through other legislation, such as the standards accepted by the NCTR in 2012 according to which it is prohibited to criticize the Holy Armenian Apostolic Church on television.

In September 2012, the RA Ombudsman initiated another round of circulation of the draft law. The discussion was held at the Ombudsman's office with participation of stakeholders. Afterward, final and official document was sent to RA Ministry of Justice to be presented to the RA National Assembly.

94.20. Put in place measures to ensure full respect for the right to freedom of opinion and expression, and create a more amenable climate for investigative journalism (Canada); take all measures necessary to ensure full respect for freedom of expression, including freedom of the press, ensuring that no persons are deprived of their liberty solely for having exercised their freedom of expression, their right to peaceful assembly or their right to take part in the Government of their country (Sweden); ensure that civil society activists and journalists are able to carry out their work free from harassment or violence (United States of America);

Armenian legislation should get rid of the Soviet legacy approach according to which citizens are given their rights by the Government. For the purposes of the right to a peaceful assembly this means that the legislative changes should abolish the practices of giving state permission to exercise the right. The organizer of the peaceful public event should just let the authorities know about the intention of organizing an event. Any state interference should be deemed legitimate only based on certain grounds which come to light once the event started. An abstract intervention into an exercise of a right to a free assembly is arbitrary by definition and amounts to a prohibition to exercise a not-state-given constitutional right.

As of 2011, the exercise of the freedom of assembly has improved in comparison with the situation after the 2008 post electoral crisis. The Liberty Square, a traditional site for opposition's rallies, was re-opened after closure for nearly three years following the tragic events of March 2008. As of May, the Armenian National Congress has been regularly holding meetings and rallies in the Square without undue police interference. Despite this improvement, civic groups enjoy less freedom than political parties and the police continue to intervene and restrict small-scale demonstrations by non-partisan activist groups.

Throughout 2011, authorities continued to restrict small-scale demonstrations, which were usually outburst of public discontent with government's new regulations or social developments in the country. Taxi drivers from Gyumri and Vanadzor organized a series of rallies in protest of amendments to the RA Customs Code. On the days of planned rallies, authorities restricted both freedom of movement and assembly by blocking the roads in between these cities. Similarly, skirmishes followed the pickets organized by Yerevan city street vendors as police forced them away from the municipality building claiming that they are distributing the activities of the municipality. The authorities actively use the "disturbance to ordinary activities of the institution" as an argument to restrict access to the Government building, a traditional venue for small-scale demonstrations and pickets. Cases of intimidation and harassment of outspoken activists takes places through detentions, either under the charges of hooliganism and insult to police officers or without any legal justification at all.

In the morning of 21 September 2011, police officers apprehended, from the area near the status of Saryan in Yerevan, Levon Barseghyan and Arno Kur, two participants of an attempted peaceful march of protest against the participation of army units of another country with foreign flags in a parade dedicated to the Independence Day of Armenia. After keeping them in the police for several hours, they were released.

In the morning of 27 October 2011, a protest of the civil initiative called "The Army in Reality" was going to take place in front of the Government building. The demonstration was obstructed by police officers that blocked the way to the Government building from early morning. Therefore, the demonstrators continued protesting near the fountains on the Republic Square. During the demonstration, Lala Aslikyan, a participant of the demonstration, was apprehended to the Yerevan Central Station of the Police on the ground of violating the procedure of

conducting demonstrations and failing to comply with the lawful demands of a police officer. After being held for two to three hours, Lala Aslikyan was released.

In practice, throughout 2012 the situation with freedom of assembly remained positive, given numerous dynamic street activities carried out by social movements on public issues and political parties during the Parliamentary elections' campaign. The authorities did not hinder rallies and demonstrations. For example, during three-month long street protest activities of social movement on Mashtots park against installation of boutique-shops, the police did not interfere in the actions of the activists and environmentalists, *except installation of a tent, which had been forcibly removed by the police forces.*

The Republic of Armenia has no legal regulation of indoors assemblies.

Organizations that are not favored by the authorities are very often denied rental of a hall by any entity that owns halls. In some cases, violence is exerted upon owners that are not under the direct control of the authorities and try to provide space to such organizations. Such attacks were committed against the office of the Asparez Journalistic Club of Gyumri and the Vanadzor Office of the Helsinki Citizens' Assembly. The screening of the film Parada was obstructed several times.

94.21. Ensure a fair and transparent process for issuing broadcasting licences and guaranteeing the independence of broadcasting regulatory bodies (Norway); take the measures necessary to bolster the independence of the National Audiovisual Commission as a regulatory body for the media (France); amend its broadcasting laws so as to ensure the real independence of the regulatory body for television and radio (Netherlands);

The broadcast licenses granted in December of 2010 under the current legislation are valid for 10 years. As a result of the tender, the number of TV channels deceased from 22 to 18, which would have a negative impact on freedom of expression by decreasing freedom of speech on the air. It became clear that the licensing system is not fair and leaves the door open for partiality. These licenses were granted through a tender conducted by a problematic regulatory body with a complete lack of real transparency, no clear licensing criteria and no guarantees of fair competition. The National Committee for TV and Radio (NCTR) is the only body regulating the digital environment under the current Law on Television and the Radio, and four of the eight members of the NCTR are elected by the National Assembly, and the other four members of the NCTR are appointed by the President. There is no mechanism through which society can influence the NCTR members' elections and oversee their activities. The current system of NCTR member selection and appointment do not guarantees for the independence of the NCTR, primarily because the election procedure stipulated by the By-Laws of the National Assembly is such that the parliamentary majority can always have its preferred candidate elected to the NCTR, and in Armenia, the parliamentary majority always consists of the parties that support the President. In other words, all eight members of the NCTR are representatives of the authorities. No mechanisms have been taken to provide guarantees for the independence of NCTR members by reforming the system of member selection and appointment.

94.22. Establish a transparent process for the digitalization process to ensure space on the airwaves for independent and small regional media outlets (United States of America);

The digitalization process so far has only resulted in diminishing pluralism on air by de-facto decreasing the number of TV companies on air. The broadcast licenses granted in December of 2010 under the current legislation are valid for 10 years. These licenses were granted through a tender conducted by a problematic regulatory body with a complete lack of real transparency, no clear licensing criteria and no guarantees of fair competition. As a result of the tender, the number of TV channels deceased from 22 to 18, and those 18 TV channels were allowed to provide both analog and digital broadcasting until 2015. The TV companies that received the licenses do not have sufficient information on the digitalization process or expectations from them, financial or technical. As a

positive step, the government allowed the regional TV companies that failed to get licenses to continue analogue broadcasting till 2015 but it is not clear what will happen to them afterwards.

94.23. Ensure that, if the amended law decriminalizing libel is adopted, it is implemented in a way that protects freedom of expression (United States of America);

On May 8, 2010 amendments were made in the Civil and Criminal Procedure Codes of Armenia that decriminalized libel and insult. However, decriminalization of libel and insult was still constricted with introduction of high monetary fines, which served to further restrict the freedom of expression and the press. Introduction of the institute of moral damage composition created financial risks for the media. On October 13, 2011 Armenia's Human Rights Defender appealed to the Constitutional Court questioning the constitutionality of the respective provisions of the Civil Code. On November 15, 2011 the Constitutional Court upheld the legality of the clause but issued several instructions on how it should be enforced by the judiciary. In particular, it ruled that media outlets could not be held liable for their "critical assessment of facts" and "evaluation judgments." The decision of the Constitutional Court fostered improvement of situation to some extent; courts received 10 defamation cases against journalists and media as of Jan-Sep 2012 compared to 25 cases for the same period in 2011. Nevertheless, "false crime reporting" still remains in the Criminal Code and lacks proper definitions, which causes vague interpretation and gives grounds to assert that complete decriminalization of defamation is not ensured.

95.4. Waive the moratorium on granting licenses to radio and television broadcasters and the 2008 amendments to the Law on Television and Radio of 2000, and carry out legislative measures safeguarding the independence of the National Commission on Television and Radio and the Council on Radio and Public Television (Spain);

The Law on Television and Radio was modified 15 times since October 2000 and most recently on June 10, 2010. Due to amendments related to the migration to digital broadcasting, the restated Law on Television and the Radio was enacted on 10 June 2010. Competitions for air broadcasting via the digital broadcasting network were announced and their results were summarized in December 2010. As a result of these competitions, the number of TV channels decreased from 22 to 18. The competition showed that really no new broadcasters appeared in the television field. The competitions for air broadcasting via the digital broadcasting network were not transparent. Only 2 of 18 competitions, announced for republican and capital broadcasting, were applied by two participants for each. One of those competitions was applied by A1+ TV Company which in 2002 was deprived of air. And 8 out of 10 regional competitions had only one participant each, and there was a real rivalry only in case of 2 competitions. Naturally, one of them was the 'Gala' TV in Gyumri which did not receive a license for digital broadcasting. As to the A1+ TV Company, it again failed to return on the air.
No legislative measures were taken to amend the Law on Television and Radio in order to ensure independence of National Committee for TV and Radio and Public Television and Radio Company Council. The mechanisms to select and appoint NCTR members do not provide guarantees for the independence of NCTR. Public Television and Radio Company Council, which is in charge of all the public broadcasters, is perceived as an organization serving the interests of the authorities, rather than society.

93.37. Take measures to ensure free and fair elections in the future (Sweden); implement recommendations issued by the Office for Democratic Institutions and Human Rights of OSCE to improve the holding of the next general elections, in 2012, and the presidential elections in 2013 (France);

Although some legislative changes took place in the Electoral Code in 2012, however as the previous elections show we are still far away from free and fair elections in the RA. the new Electoral Code provides a generally solid framework for the conduct of democratic elections, but contains a number of substantive shortcomings that remain to be addressed. A lot of NGO reports and observers prove that the election process was carried out with many violations. There is need of increasing transparency of the work of the electoral and state authorities,

additional voter education on the secrecy of the vote, campaigns against vote buying and vote selling, and continuing efforts to improve the accuracy of voter lists.

In a number of polling stations, a key principle of the electoral process—the secrecy of the vote—was reportedly breached, as manifested in a variety of ways, such as open voting, wrong furnishing of the polling station (resulting in a breach of the secrecy principle), presence of a photo or video device in the voting booth, presence of another person while the voter is voting, and so on. Violation of the secrecy principle allows controlling the expression of the voter's will. Criminal liability is prescribed for breaching this principle, but it is not applied in practice. Among the reported violations were also breaches of the voting rules. The more obvious ones were concurrent voting by more than one person in the voting booth, multiple voting, and the voting of a person registered at a different address in another polling station.

There is lingering concern over the giving and taking of bribes to vote for or against a particular candidate. A question of most serious concern is the ubiquitous lack of public trust in the elections and their outcome. The main issues casting doubt over the legitimacy of elections are concerned with abuse of administrative resources, inflation of voter lists, and distortion of the voting processes.

For detailed assessment on implementation of recommendations issued by the Office for Democratic Institutions and Human Rights of OSCE to improve the holding of the next general elections, in 2012, and the presidential elections in 2013, please refer to Annex II attached to this document.

94.25. Take concrete steps to meet obligations with regard to creating an environment that fosters freedom of expression, including respect for the independence of civil society organizations and the right to assemble (Norway);

There are intensified efforts by the Armenian authorities to expand the controversial model of the Public Council under the President of Armenia, which is a consultative body, created by the decree of the President, however claims itself to represent the Armenian civil society. There are endeavors by this Public Council to elaborate a concept paper on the development of the civil society, which among other activities suggest a statement that the "government grants its citizens with rights and freedoms", endorse the principle of "interpenetration" of CSOs and government organizations, claim the expediency of "consolidation of the civil society", propose formation of public councils under different ministries, state the necessity to "regulate" the foreign funding and establish a centralized funding facility, urge the need for closely "watching" and auditing the activities of charitable organizations. These measures apparently contain a danger of undermining the idea of freedom of association, alienating independent watchdog organizations, silencing the critical voices, and substituting the broader and genuine public participation with imitated democracy. The efforts are planned to be culminated with adoption of a Law on Public Council of the RA.

There is a new "technology" that may be named as "counter-public" used to neutralize activities and impact of independent associations and public events, though not violating the right to association, right to assembly and right to expression. Events such as the counter-rally against the Diversity March, violent opposition against showing the Azerbaijani films in Gyumri and Vanadzor and homosexuals rights film in Yerevan, facebook attacks of "thousands of bloggers" on a human rights defender who publicized an anonymous criticism on a senior military officer, etc., which do not get adequate reaction from the law-enforcement bodies, but instead are accompanied with hate statements of government representatives and/or participation of government-employed persons, indicate that these are organized and concurred efforts, whereas nobody may directly blame the government that it violates citizens rights.

94.26. Ensure, in its laws and regulations as well as in practice, that no arbitrary impediments are imposed with respect to exercising the right to freedom of assembly (Netherlands); ensure respect for the right to freedom of assembly, in line with its international obligations (Azerbaijan); respect – in law and in practice

– the right of individuals to assemble peacefully (United States of America); implement the Law on Meetings, Rallies and Demonstrations in a transparent and proportional manner (Ireland);

The ban on public assemblies in Yerevan's Freedom Square was lifted. The square had been closed to demonstrations since the March 2008 clashes. However, concerns continued. The Council of Europe Commissioner for Human Rights reported in May about the "unlawful and disproportionate impediments to the right of peaceful assembly, such as intimidation and arrest of participants, disruption of transportation means and blanket prohibitions against assemblies in certain places". The new Law on Assemblies was assessed by the Council of Europe's Venice Commission to be largely in accordance with international standards, but concerns remained. In this respect, the Commission highlighted the Law's blanket prohibition against assemblies organized within a certain distance from the presidential residence, the national assembly and courts; the seven-day notice period before a protest was allowed to take place as being unusually long; and the articles prohibiting assemblies which aimed at forcibly overthrowing the constitutional order, inciting racial, ethnic and religious hatred or violence as being too broad.

The exercise of the freedom of assembly has improved in 2012 and the campaigns of all political forces in the parliamentary elections of May 2012 were unhampered. However, it is still of concern that the Law on Rallies, Meetings and Demonstrations enables authorities with certain discretion to grant or deny permission for conducting meeting and rallies remained.

In the legislative field, despite overall improvement of the Law on Rallies, Meetings and Demonstrations adopted on April 14, 2011, some provisions within the new Law give authorities undisputed discretion to grant or deny permission for conducting meeting and rallies. Particularly, the law contains prohibitions for organization of public events in the vicinity of decision-making bodies20, creates additional bureaucratic burden for event notification21 and bans public outreach for prohibited rallies22.

In practice, throughout 2012 the situation with freedom of assembly remained positive, given numerous dynamic street activities carried out by social movements on public issues and political parties during the Parliamentary elections' campaign. The authorities did not hinder rallies and demonstrations. For example, during three-month long street protest activities of social movement on Mashtots park against installation of boutique-shops, the police did not interfere in the actions of the activists and environmentalists, *except installation of a tent, which had been forcibly removed by the police forces*.

The exercise of freedom of movements has improved in 2012. Particularly no restrictions by blocking the roads or other actions limiting free movement have been registered. However, the practice of creating obstacles with rental of premises continued in 2012. The situation with screening of the film "Parada" on the topic of non-discrimination and tolerance has become the best manifestation of it, when the venues being initially available, later were withdrawn, claiming technical difficulties for the venue's availability under the pressure of a group of protesters. It was remarkable that the authorities did not response adequately to such king of aggressive pressures.

12. RIGHT TO SOCIAL SECURITY AND TO AN ADEQUATE STANDARD OF LIVING

93.41. Continue its efforts in these fields to improve access to education and health and to promote the rights of women and children (Lebanon);

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[20] Article 19(1)(3)) of the law contains a prohibition for organization of mass public in the vicinity of decision-making bodies such as National Assembly, Government building, court buildings if "*organized in such a distance, which threatens their ordinary activities"*. Against the notion that assemblies should be organized in "sight and sound" of target audience

[21] Article 16(3) requires a by Ministry of Culture if planned nearby historical or cultural monuments, where historically most of central venues are located

[22] Article 19(5) of the Law

Right to health and safe environment: The South of Armenia, Syunik region, is polluted from decades of molybdenum mining in the towns of Kajaran, Kapan, Agarak and other communities. The land and waters are contaminated, high rate of cancer and birth defects are recorded. Research of the National Academy of Sciences Center for Ecological-Noospheric Studies revealed an extremely high level of heavy metals (mercury, cadmium, etc) in the skin and hair of all children who underwent analyses in Syunik region. As a result of the study conducted by the Center an entire bunch of heavy metals was found in the hair of 17 children living in Lernadzor and Kajaran. From the identified materials the high compound of lead influences the nervous system of the body, which can result to mental disabilities, disorders of sight, hearing and speech. It also has an impact on the kidneys and stomach and metabolic systems. Consequences of an excess of copper in the body can be the development of tumors. Excess of cadmium in the body results deformation of the skeleton and different lung diseases as well. These metals find their way into the body through land, water, air and domestic animals. The metals affect the nervous system, kidneys and liver.

According to 2005 report of World Health Organization (WHO), Armenia has the second highest rate of birth defects in the post soviet area. The harm caused to the health of affected people is not compensated in any way (insurance, other mechanisms of compensation). Neither the Mining Code nor the legislation that regulates the RA health care sector does make corresponding state governing bodies liable for implementing regular medical researches or check-ups in mining zones aiming to identify health issues of the population and the causes for those issues. The law does not stipulate mandatory health insurance of people residing near mining zones or mechanisms for the compensation of the caused damage. No state governing body is legally bound to bear any liability for "ensuring the safety and health care of the population.

Therefore, both the health care legislation and the Mining Code should define mechanisms for the prevention and insurance of health damage caused as a result of mining. As a condition for reducing negative social impact the exploitation plan for the extraction of minerals submitted by the exploiter company should include a liability to provide health insurance for the populations of zones adjacent to the mine exploitation (affected communities), as well as for the employees of the mine complex during the entire period of the affect (including after the termination of the activities). Liable state bodies must bear responsibility for the health care of the population of other areas in the country (population outside the immediate impact zone) if it is proved that the damage to the person's health is a result of environmental pollution (pollution of water and land resources etc) caused by mining activities.

Access to education: Armenian legislation on school education is assessed as fairly advanced on paper, though lacking in implementation. Politicization of schools because of a principal's political affiliation is among the major concerns that could be addressed through improvement of the legislative framework. The current system of state financing per number of pupils enrolled in a given school creates incentives for some schools to perform better, but creates problems for smaller schools that struggle to maintain a minimum level of operations. The burden of providing for school needs not covered by the state budget is often placed on parents' shoulders. Overall, schools are accessible to the population; most of them are within walking distance. However, school accessibility is not entirely unproblematic. During the course of the research two villages could not be reached because of detrimental road conditions. One-fifth of the schools observed had poor conditions of main roads leading to schools, one-fourth of school children surveyed reported sometimes being unable to get to school because of bad road conditions. There are great discrepancies between overall conditions of school buildings: from freshly renovated to decaying. Among support premises (i.e. libraries, labs, workshops, cafeterias) conditions of gyms are perceived as most problematic and in need of improvement.
Conditions of computer labs in Yerevan are significantly better than those in the regions; village schools are particularly disadvantaged. Most pupils (89%) would like to use computer labs more often. Lack of equipment in labs prevents pupils' proper understanding the subject matter taught during classes. There is a widespread dissatisfaction with textbooks among children, parents and teachers.

Poverty impedes school performance: children with better home conditions and availability of some resources, such as nutrition, have better school grades. Teachers in regions, particularly in the villages, are more aware of difficulties poor children face at school. Solutions are often sought on community level, and there is a perception that communities help to alleviate the problem. Poverty of teachers impedes their status and respect in the eyes of their pupils, as well as creates corruption risks. One third of pupils think that teachers treat children with poor academic results worse than the rest of the class. Religious minorities are the group that is treated worst by classmates.
The government demonstrates a significant commitment towards the sustainable development of Inclusive Education in Armenia and these commitments are reflected in the new changes in Mainstream Education law that states that by 2022 the system of mainstream education in Armenia will be totally inclusive. However the main changes are still at legal. At practical level no significant changes anticipated. A pending issue is the development of clear mechanisms that will ensure the implementation of the new legislation in the country.

93.43. Continue to enhance and expand access to and the affordability of health-care services, with a specific emphasis on rural and remote areas, as well as most vulnerable groups (Egypt); guarantee access to health care for vulnerable social groups and populations in rural and remote zones (Algeria); improve the quality of primary health care, especially in rural areas (Kuwait); continue efforts to improve access to health care for all, particularly those in the most vulnerable categories, persons with disabilities and rural populations (Libyan Arab Jamahiriya);

Most at risk population: Despite the fact that some changes and law reforms are made in the health sector there are gaps in legislation. Moreover the procedural sub-legislative legal acts regulating the clinical issues of treatment, stipulating implementation of patient's rights especially right to accesses (including territorial, financial and other components of this right) are missing.

Sector Laws of the Republic of Armenia define specific aspects of the right of access to medical care and services for the most vulnerable groups of society However, certain marginal groups of the population face extreme stigma due to universal public denial, intolerance, and obvious discrimination, which essentially deprives them of their right of access to various (including state-guaranteed free-of-charge) health care services.

Another key aspect is the fact that not all members of society are protected against financial risks in case if their health condition deteriorates. The legislation does not stipulate a system of mandatory medical insurance, which means that a large segment of is not protected against financial risks in case of deterioration of their health. A person with stable employment, who receives a low wage, but is not included in any of the groups that receive state-guaranteed or co-payment medical care, will be unable, if necessary, to benefit from paid medical services, which are at times very The aforementioned rights stipulated by laws of the Republic of Armenia, including the right to medical care and services for persons with diseases that are dangerous for the surroundings, for victims of emergency situations, and foreign citizens and stateless persons, are not supported by legal acts stipulating the procedure of exercising such rights, which makes this aspect of the right of access incomplete. For instance, the extremely inadequate accessibility of narcotic pain relief and psychotropic drugs, which is directly related to deficiencies of the public health framework for preventing the illegal circulation of narcotics.

It is worth to mention about lack of human recourses in primary health care in rural areas. Particularly there are villages where, for example, a nurse provides services for approximately 1200 people (for some of them as a family doctor). Because of low wages and insufficient conditions no one wants to work in regions especially in border villages.

Injecting drug use: Many drug users have problems with law enforcement bodies, some of them are under investigation and usually investigators took their passports for the period of investigation. Without identification document people are not able to get medical services, particularly related with addiction. The most recent case was connected to a person who was under investigation and whish to get MST. After negotiations with authorities

and some pressure from an attorney the investigator office provided all necessary documents for applying to MST program. Currently this person receives substitution treatment.

Medically assisted therapy with methadone has low geographic coverage. Only 1 site in Yerevan and 1 site in Vanadzor provide substitution treatment. The number of clients of MST programs is low (200-210 in case of 12 600 estimated number of people, who inject drugs).

Needle and syringe programs have also low coverage because of restrictive laws and existing stigma towards drug users.

TB services are not specific for PUD. They have access to TB testing and treatment as every citizen of the Republic of Armenia.

Palliative Care: Each year, thousands of people suffer from untreated moderate to severe pain in Armenia due to excessively restrictive drug regulations. The United Nations has found that more than 7,000 people die each year in Armenia from cancer and HIV/AIDS. Yet, analysis of the use of strong pain medicines suggest that only about 600 were able to gain access to pain relief in the last stage of their illness, which is often characterized by excruciating pain. Although morphine is a safe, effective, and inexpensive way to improve the lives of the terminally ill, Armenia's current consumption levels of morphine and alternative strong opioids medicines are insufficient to provide care to all terminally ill cancer patients.

Human Rights Watch for Armenia research has shown that Armenia has unnecessarily onerous drug regulations that impede the delivery of adequate palliative care. Oral morphine is not available at all. Prescription procedures are overly cumbersome. Only oncologists are authorized to prescribe strong injectable opioids, and the procedure for prescriptions is cumbersome. Every polyclinic has a standing commission, including a deputy chief doctor, oncologist, and a general practitioner, and they all need to visit a patient together and examine him/her before strong pain medications are prescribed; the commission has to visit the patient again each time the dose is to be increased. The majority of doctors interviewed by Human Rights Watch start by prescribing a single injection of morphine, and there might be two weeks or more before additional doses are added. One injection of morphine is enough to treat severe pain for 4 to 6 hours, leaving the patients in pain for the larger part of the day and night.

The procedure for obtaining strong opioids is also onerous. Most polyclinics visited by Human Rights Watch only provide patients or family members with a two day supply of morphine, requiring them to come to the clinic three times a week, and every time the patient's relative has to account for the empty ampoules prior to receiving a new supply. He or she also has to obtain three different stamps on the prescription before filling it in a special pharmacy. Accessing this pharmacy may also require a special trip. Only one pharmacy in the capital, Yerevan, for example, fills opioids prescriptions. Requirements for obtaining licenses to dispense opioids drugs can be too costly and onerous, particularly for smaller health clinics and drug stores.

As a matter of practice, Armenian police tightly control opioids prescriptions. Oncologists inform police every time strong pain medications are prescribed, including details about a patient's name, address even diagnosis and dosage. Police are regularly involved in the destruction of unused, returned (when a patient dies) ampoules and sometimes also in the disposal of used ampoules: they check that the patient names attached to the ampoules match the names provided by oncologists.

Oncologists in Armenia face significant bureaucratic burdens, which interfere with their ability to provide essential healthcare. They lack necessary training in palliative care and on how to hold difficult conversations with patients. Most oncologists interviewed by Human Rights Watch do not inform their patients of the diagnosis, even when asked directly; and some would even lie to a patient. In many cases, this leads to the absurd situation where police officers know the diagnosis while the patients themselves do not.

Mental health services: "Mental health services in Armenia are insufficient, and what is available is poorly integrated into the primary care system. The current system focuses on inpatient care.

There is a lack of trained social workers and other mental health professionals which ends up at limiting the potential for providing services at community level. Essentially, psychiatric care is still exclusively provided in specialized mental health institutions including hospitals and social psychoneurological centers"23 .

There are no community-based services in the Republic of Armenia. The provision of psychiatric assistance, at present, mainly lies upon 10 psychiatric establishments, 4 of which are situated in Yerevan and are of closed and centralized nature. Psychiatric service is provided also by a few psychiatric organizations which are also located in Yerevan, and by psychiatric departments of 21 polyclinics. Thus, psychiatric service in the majority of communities of the Republic of Armenia is not available /"Article 25 of the UN Convention "On the Rights of Persons with Disabilities"/, as a result of which the right of a person to receive psychiatric help is violated.

13. MINORITIES AND INDIGENOUS PEOPLE AND CULTURAL RIGHTS

93.47. Ensure that children belonging to all minority groups have equal access to education (Austria); adopt measures to ensure access for minority groups, especially children, to education in their mother tongue (Azerbaijan);

In Paragraph 2 of Article 2 of the Republic of Armenia Law on Language ("in ethnic minority communities of the Republic of Armenia, general education and rearing may be organized in their native tongue, under the state curriculum and sponsorship, with mandatory teaching of Armenian"), the expression "may be organized" allows schools of communities where ethnic minorities reside to follow the general secondary education curriculum, rather than the ethnic minority curriculum.
In 2011, a survey conducted in eight Yezidi communities under the "The Voice of Communities for the Protection of Human Rights" project[24] showed that the teachers of the Yezidi language are mostly just persons who speak the language, rather than language specialists. There are some Yezidi communities in which the Yezidi language has not been taught at all for several years due to the absence of a teacher.
Although the Yezidi alphabet and textbooks for children of up to the 9th grades were published with the Armenian Government's support in 2012 (http://www.panorama.am/am/society/2012/10/06/tamoyan/), representatives of the Yezidi community complain about the absence of textbooks, especially the history, mother tongue, and literature textbooks, claiming that the existing ones do not reflect their real history and literary heritage.
Effective teaching is also hindered by the fact that, during a classroom hour, a teacher concurrently works with two or more classes.
The poor conditions of the school buildings and assets directly affect education quality.
The children are engaged in agricultural work from a very young age, and often miss school (especially in September and May, when Yezidi children live in the mountains with their parents, looking after livestock, and so on) or do not consider education to be necessary at all.
In Yezidi communities, there are reported cases especially of girls dropping out of school due to early marriage. In July 2012, the Government of Armenia submitted a draft law to the National Assembly, which provided that the mutual voluntary consent of the man and the woman are required for concluding a marriage, provided that they have reached the marital age of 18 (presently, under Article 10 of the Family Code of the Republic of Armenia, the age threshold for marrying is 17 for women and 18 for men). This news caused dissatisfaction in the Yezidi community. A. Tamoyan announced (http://medialab.am/Hasarakutjun/18-tarekan-aghdzhik-arden-parav-e.-ezdi-hamajnq-dem-e-amusnutjan-hamar-nvazagujn-tariq-sahmanvogh-voch-mardkajin-orenqin.html) that the draft law was a misfortune for them, because Yezidi girls are marrying around 15 or 16 years of age, and that "an 18 year-old girl is already a crone for us, and the Yezidi community is opposed to the adoption of this law." As a result, the inclusion of the draft law in the session agenda was postponed by a year according to a decision dated 10 September.

[23] WHO-AIMS Report on Mental Health System in Armenia, WHO and Ministry of Health, Yerevan, Armenia, 2009.
[24] http://armhels.com/wp-content/uploads/2012/06/1920arm-Mardu_Iravunqnere_HH_Marzerum2.pdf

14. MIGRANT, REFUGEES AND ASYLUM-SEEKERS

93.52. Take adequate measures to better protect the fundamental rights of migrant workers and refugees living in Armenia (Djibouti).

According to the procedure defined by the Republic of Armenia legislation, a large number of young men that were forced to migrate to Armenia from Azerbaijan during the period from 1988 to 1992 or were born in Armenia during such period were registered as refugees and had refugee certificates, but lost their refugee status due to illegal decisions of an administrative body—the State Migration Service of the Republic of Armenia, which took the initiative to decide terminating these young men's refugee status, leaving them with an indefinite status. These young men are now 23 to 37 years old and do not wish to adopt citizenship of the Republic of Armenia. The State Migration Service of the Republic of Armenia adopted these decisions in order to force a large number of young men to adopt Armenian citizenship and to be forced to be drafted to the Republic of Armenia army.

Paragraph 1 of Article 64 of the Republic of Armenia Law on Asylum and Refugees provides that persons forced to migrate to the Republic of Armenia from the Republic of Armenia during the period from 1988 to 1992, as well as those granted temporary asylum in the Republic of Armenia shall be recognized as refugees and persons granted asylum in the Republic of Armenia, if they received, prior to the entry into force of the law (24 January 2009), and are holding, under the procedure defined by the Republic of Armenia legislation, a valid refugee or temporary asylum certificate, respectively. These persons' refugee status has not been terminated under the procedure defined by law prior to the entry into force of the Republic of Armenia Law on Asylum and Refugees. Consequently, they could not be deprived of refugee status.

Interestingly, the legal grounds (Article 16 of the Republic of Armenia Law on Citizenship and Article 20 of the Republic of Armenia Law on Refugees) cited by the State Migration Service as bases for its decision were once obstacles to the Service either issuing statements confirming that such young men were refugees or extending the validity term of their refugee certificates. In other words, the State Migration Service of the Republic of Armenia cited legal provisions that were in effect before these young men turned 16 and after that—before the issuance of refugee certificates, the extension of the validity term thereof, and the issuance of new certificates. It means that the Service violated the requirements of the Republic of Armenia legislation and applied the law arbitrarily.