



# **ANNUAL REPORT 2011**

**RA HUMAN RIGHTS  
DEFENDER**

**YEREVAN 2012**

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## 1. RA Ministry of Labor and Social Affairs

### Shortcomings and problems identified

- The problems of compensation for damage caused to the employee's life or health during accidents at work and occupational diseases are not regulated yet in respect of those persons who were caused damage by organizations which were liquidated since 1st August, 2004.
- Though the quantitative and qualitative indicators illustrating the effectiveness of inspections, conducted by the RA State Labor Inspectorate have been significantly improved, citizens continued complaining of cases of employment without a contract, non-payment of wages, arbitrary dismissal from work, not providing final settlements and many cases of non-payment for a vacation.
- As a result of legislative changes, a pension payment procedure has been prescribed which was done by a verified warrant of a notary acting only in the Republic of Armenia, which leads to limitation of the social security rights of citizens left to other countries for temporary or permanent residence. The Human Rights Defender applied to the Constitutional Court to clarify the compliance of the abovementioned legislative changes with the RA Constitution.
- Though, as a result of adoption of the RA Law "On Making Amendments to the RA Labor Code" on 24 June, 2010, certain provisions of the Code were harmonized with the requirements of the ILO Conventions and the Reviewed European Social Charter, and some changes were aimed at improving the business environment, however, certain legislative gaps remained unsolved, which lead to violations of the rights of employees.
- Though certain trainings for trusteeship and guardianship commissions were implemented in 937 rural communities during 2009, however, the issue of efficiency of the Commissions' activities is concerning, and the measures taken by the Ministry are not sufficient enough for the comprehensive solution of the problem.
- Sufficient measures for prevention of problems of vulnerable/risk groups of children have not been taken. In certain cases, some vagrant and beggar children are not included in any social program.
- The Ministry has not raised the problems of trade union development, and appropriate measures have not been taken for systemic solution of those problems.
- The actual cost of the minimum consumer basket has not been set in the basis of calculation of implemented social policy and social fees.

### Positive Developments

- State programs targeting vulnerable groups have been increased.
- As a result of data inspection in family support systems, 17 thousand needy families lost their right to family benefits, instead, about 9 thousand families were recognized as needy and were included in the system.
- About 65 thousand personal cases were specified in pension system, partially paid sums of almost 5000 pensioners was restored; payments to 17-18 thousand "not existing" pensioners were terminated.
- Amounts of all kinds of state benefits and pensions were increased in 2011.

## 2. RA Ministry of Health

### Shortcomings and problems identified

- As a result of changes in the appropriate Government decision, the threat of importing counterfeit medicines and pharmaceutical drugs has increased, however the Ministry hasn't foreseen any additional mechanisms to reduce the threat, to increase control in this direction in the pharmaceutical market. Moreover, the Ministry does not want to prevent the counterfeit drug distribution, it even does not conduct statistics of detection and punishment of such crimes.
- Medical institutions have authorities to release from co-payment or apply a lower threshold co-payment based on the patient's degree of solvency, which is decided by those institutions based on the patient's or his/her relative's application. Certain criteria for such decisions are not clearly prescribed by the legislation, as a result of which in some cases differentiated and subjective approaches were demonstrated by the medical institutions. Allowance and existence of such approaches cause corruption risks.
- The concept "medical error" is not defined by the legislation. That is why negligence is not distinguished from the medical error, which in its turn makes difficult to evaluate the case. Currently the medical error is defined by various commissions without clear criteria, as a result of which doctors are unfairly exposed to liability or unfairly avoid it.
- Though, the free in-patient care certificate program and a child's health profile for 7 years old children has been installed since 1st January, 2011, in certain cases parents, having a certificate defined for free medical care of a 7 years old child, had to make extra payments to certain doctors.
- The Ministry didn't provide the Ombudsman with information on how many night-time monitoring it had conducted in medical institutions and how many cases of human rights violations were revealed as a result. Lack of the statistics or its non-provision significantly reduces the public confidence towards efficiency of appropriate supervisory functions of the Ministry.
- Examination of complaints addressed to the Defender in the respect of non-provision or improper provision of medical aid in the framework of the Government order shows that people, being included in lists of /special/ groups receiving free medical aid and service ensured by state, were registered in an appropriate institution for receiving such aid or had a certificate given by the Ministry of Health; however, medical institutions refused to carry out their treatment or did not provide them with a proper medical aid. In certain cases, as a result of a change of a medical center, a citizen was deprived of the right to surgery in the framework of the Government order. In some cases, a disrespectful attitude was demonstrated towards patients receiving treatment in the framework of the Government order.

## Positive Developments

- Since 1st January the free in-patient care certificate program and a child's health profile for 7 years old children has been installed.
- Since May 2011, the medical examination and treatment, if necessary, of young people of 14 pre-conscription-age –is free of charge.
- The quality of emergency medical service has been improved. 38 rural and urban medical institutions received 88 modern ambulance cars, GPS unified new system of call acceptance has been launched with operation of a unified dispatcher center. As a result, speed of responding to calls increased by 2 times. Salaries of medical staff raised for 1.5 up to 2 times.
- Shadow business in health system was reduced by installment of the co-payment program, 439.6 million AMD - formerly in shadow circulation - was put in the state budget. Taxes from medical institutions- paid to the state budget – increased by 39% or 735 million AMD, salaries of medical staff, involved in the program of “co-payment”, were raised for 1.2 up to 2.3 times.
- Armavir, Ijevan, Hrazdan, Ararat and Goris medical centers were staffed with modern technics and equipments, 20 new aid stations were constructed and 30 community aid stations – repaired.
- Provision of various certificates (not stipulated by law) by clinics to citizens was terminated.
- In 2011 the RA Ministry of Health received 78 written complaint regarding activities/ inactivities/ of healthcare centers' officers; 147 complaints were received by the “Hot Line”. For elimination of the revealed violations appropriate measures were taken. The Ministry's response to the complaints and taken measures are assessed positive.
- Website of the Ministry of Health and easiness of access to its information are positively assessed.

### 3. RA Ministry of Justice

#### Shortcomings and problems identified

- The RA Ministry of Justice has not taken sufficient measures for increasing notary service quality. The notary offices required from citizens different-sized payments for the same notary service.
- In some cases demanders' rights have been violated by the Compulsory Enforcement Service (CES) employees; as a result the judicial acts' requirements continued to remain undone or done partially. In certain cases the CES did not take appropriate measures to reveal fugitive debtors. Compulsory electronic auctions objectivity was often controversial, which caused also corruption. The CES continued its inactivity towards public officials in cases the latter did not carry out verdict requirements.
- In some cases the Civil Status Acts Registration (CSAR) bodies, the Compulsory Enforcement Service, State Register Agency continued illegally demanding from citizens notary confirmed certificates, which is contradicting Article 23 of the RA law "On Administration Principles and Administrative Procedure".
- In some cases Civil Status Acts Registration bodies continued to require from citizens non-binding legal documents (mainly in cases of marriage registration, change of names and surnames). In addition, the quality of services in some Civil Status Acts Registration Agency departments was very low, unregulated working schedule, creation of unnecessary queues, etc which resulted from the lack of proper control.
- Though, a single window system was invested in the State Register Agency, however, confusion and overcrowding occurred due to insufficient number of serving officers.
- In Penitentiary Institutions (PI) the medical aid and the quality of food for detainees and convicted persons were not sufficient. Insufficient living/communal conditions were registered in some PIs.
- During parcels giving, cells' airing and other cases in PIs corruption phenomena took place.
- The right to walk for persons sentenced to life imprisonment was sometimes given 2-3 times a week instead of 7.
- An alarming fact is that in the "Prison Hospital" PI- under the RA Ministry of Justice- the separate unit providing specialized medical service to the RA Ministry of Justice "Abovyan" PI and the "intensive care department" were absent.
- Though the Ministry of Justice offered long-term reform program for judicial system, some proposals of which can promote more efficient realization of the right to a fair trial, however, the Ministry has not taken sufficient and actual measures for elimination of existing defective phenomena in the system; in particular it has not sufficiently realized the authority of holding disciplinary proceedings against judges.

## Positive Developments

- The Inspectorate of Staff Legality Control has been established in the RA Ministry of Justice.
- Reception of citizens and provision of applications' and complaints' proper processing have been organized by the Ministry in a systemic way.
- Working groups for analyzing decisions made by the RA Constitutional Court and the European Court of Human Rights, with the aim to comply domestic legislation with the requirements of the decisions of the mentioned bodies. In particular, on the basis of Constitutional Court decisions, analyzed by the working group, the RA Government was presented with some proposals on amending the existing legislation.
- The RA 1990-95 Legislation was inventoried, analyzed, and proposals were introduced to all interested bodies in a form of a legislative initiative.
- New order and standards of training of notary candidates and appointment in notary position were set down, rates for notary services have been reviewed, and fixed rates for those services were set down and clarified. Citizens' complaints addressed to the Ministry of Justice were analyzed, and proper orders, based on them, were given simultaneously strengthening control over notary.
- Since April 2011 a single window principle has been installed in the State Register of Legal Entities, the possibility to make the registration of legal entities electronically (just in a few minutes), as well as simplification of all current procedures and terms reduction were carried out.
- Terms of registration of marriages and the number of required documents as well as the list of required documents for changing names were reduced; starting from December 1st the Civil Status Acts Registration territorial bodies started carrying out their work with the new electronic management system.
- In Penitentiary Institutions renovative and reconstructive works continued to be carried out, the number of rooms for long-term visitations was increased, medical center in some penitentiaries were staffed with modern equipment, as well as sufficient amount of medication was provided.
- The number of prisoners working in industrial, agricultural and bakery sections of "Support to Prisoners" Foundation branches was increased from 236 (as of 2010) to 271 in 2011.

## 4. RA Ministry of Nature Protection

### Shortcomings and problems identified

- Damage to the environment done in the result of activities of people and first of all economic entities is very concerning. Only according to the official data of 2011, 5 cases of environmentally harmful activities were revealed, when there was not any positive conclusion on investigation of environmental impact.
- Destruction of green spaces in the Republic of Armenia did not stop, particularly usage of forests (forest lands) for the implementation of various economic activities—moreover without a proper assessment of appropriate resources and estimation of environmental impacts. Cases of illegal logging continued, which weren't protocoled by the corresponding structures of the Ministry and corresponding administrative proceedings were not launched.
- One worrying issue, which coincides with mining and has environmental impact, is continuously increasing wastes and tailing as a result of the mentioned activities. The Ministry did not properly deal with analysis of lands (tailing, piles of metal mines) in the territory of Armenia broken and degraded as a result of mining industry.
- In certain cases the Ministry failed in the organizational process of informing the society about planned changes of life environment. And in some cases draft legal acts were not discussed with public institutions.
- During 2011 the “Hot Line” service of the RA Ministry of Nature Protection registered 36 calls. Such a low ratio evidences both about low level of awareness of the society, and lack of confidence towards the Ministry.

### Positive Developments

- The stable rising tendency of the lake Sevan level has been preserved, and public beaches were set up at the lake.
- Construction activities of the small Hydro Power Station on the river nourishing waterfall “Trchkan” are suspended, and the waterfall has been included into the list of monuments of nature of Armenia as a hydrographic monument of a special aesthetic value.
- Some projects for the improvement of forest area were implemented in Armenia with the support of several international donor organizations.

## 5. Prosecutor – General Office

Though many law violations by investigation and preliminary investigation bodies have been revealed and processed as a result of prosecutorial control including cases relating to records on crimes, their registration, record keeping and the process itself, however, the complaints addressed to the Ombudsman evidence that there were significant contradictions in the explanation materials given to citizens, and in some cases the investigation and preliminary investigation bodies have made decisions “on proceeding rejection of criminal cases by the materials”. Such kind of violations of the rights and interests of citizens by the investigation and preliminary investigation bodies mainly took place as a result of a non proper control by the Prosecution over the investigation and preliminary investigation, when disputable or illegal decisions have not been eliminated.

And again as a result of non proper control over the investigation and preliminary investigation there exist many cases when the investigation and preliminary investigation bodies have violated the 10 days time period – prescribed by Article 180 of the RA Criminal Procedural Code - of consideration of reports on crimes. Actually, the problem is a result of an unrealistic legislative regulation, about which evidences the Prosecution’s reply to the Ombudsman, where it is mentioned that the prescribed by law 10 days time period is not usually sufficient for revealing the grounds of criminal case proceedings.

In many cases, as a result of non sufficient control by the Prosecutor’s Office, the period prescribed by the Criminal Procedural Code was not kept towards detainees in the RA Police Detention Facilities (hereinafter – detention facilities).

Though the order of discussing complaints in the Prosecution is regulated by N59 order “About approving the order of the prosecutor’s office of the Republic of Armenia” of the RA Prosecutor General, made on 20.06.2008, and according to point 224 of the order it is forbidden to send the application for discussion to a state or local government body or an official, whose decision or activity (inactivity) is in the process of appealing, nevertheless, in certain cases citizens, complaining of an investigator’s activities, guided by the Article 290 of the Criminal Procedural Code, applied to the Higher Prosecutor and the latter in order to solve the further process of the application submitted it to the investigator, whose actions are challenged. As a result of such actions, citizens’ right to appeal that is- the right to effective legal protection was violated.

Though the legislative process of responding to possible cases of violence and torture in places of detention or penitentiaries is strictly regulated in the RA Prosecution system, however, according to citizens the Prosecutor’s Office not in all cases was informed or effectively intervened.

The court and the legislative body did not sufficiently ensured the parties’ equality- the principle of competition- at the trial stage. The results of monitoring carried out by human rights organizations evidence that the prosecutor while implementing its activities at the trial stage has advantages over the other party, which leads to an inequality of the trial parties. In such cases the right to a fair trial is violated.

A worrying fact is that the Prosecutor’s Office, generally, while solving the issue of precautionary measures, prefers submitting detention request to the court, whereas detention should be observed as an exclusive preventive measure and be applied in case when it is impossible to ensure the accused proper behavior in the course of proceedings by means of other preventive measures prescribed by the RA Criminal Procedural Code. In practice “Personal guarantee” and “Organization guarantee” preventive measures almost were not

applied. At the same time the most effective alternative preventive measures are not prescribed by the RA Criminal Procedural Code.

The RA Prosecutor’s Office, in the scope of its authorities, carries out control over application of Article 190 (“Subordination of Investigation”) of the RA Criminal Procedural Code. The controlling prosecutor should take measures to except the cases of violations of subordination of investigations transferring those cases to appropriate preliminary investigation bodies to be investigated accordingly. Some local and international human rights organizations and experts expressed their negative opinion on this function of Prosecutor’s Office, who think that subjective approaches should be minimized; the approaches and standards, which are applied while deciding the matter of subordination of investigation of criminal cases, should be clearly defined.

Despite of some favorable amendments and more effective and transparent implementation of works, however, there were complaints regarding the RA Military Prosecutor’s Office in the course of the year. In particular, complaints of parents and relatives of military servicemen – died or killed during military service in RA Armed Forces, related to non comprehensive, non complete and non objective preliminary investigation by the preliminary investigation body – in the result of no proper control carried out by the RA Military Prosecutor’s Office. Such kind of complaints mainly referred to crimes committed before 2011.

In the anti-corruption strategy program framework, prescribed by the RA decision N1272, 08.10.2009 “About Establishing the Program of Events of the RA Anti-corruption Strategy Implementation during 2009-2012”, the RA General Prosecutor’s Office took some measures in the sphere of prevention of corruption in the respect of elimination of gaps in legislative and law enforcement practices and also other issues. Nevertheless, the main conditions promoting to the reduction of corruption are social conditions, in the context of which legislative settings regarding salaries of prosecutors should be reconsidered – possibly increasing them and making independent from the executive body’s discretion.

The RA Prosecutor’s Office ensured to a maximum degree transparency and publicity of its activities, the evidence of which is presentation of its daily activities on the website. According to published monitoring results in 2011, conducted by “Freedom of Expression Committee” NGO, the Prosecutor’s web page was considered the most transparent one in terms of accessibility of information. Besides, the RA General Prosecutor’s Office received a letter of thanks from “Freedom of Information Center” NGO for promoting freedom and publicity of information in Armenia.

## 6. RA Ministry of Agriculture

### Shortcomings and problems identified

- New food safety public service of the Ministry of Agriculture has not fully taken control over the sale of meat, while among other functions food safety is also included into the functions of the Ministry of Agriculture.
- Agricultural insurance has not been invested yet; however, insurance can provide the agricultural sector entrepreneurs with assistance in case of damages caused by natural disasters.
- Despite the favorable business environment created for manufacturers and practical and positive steps undertaken by the Ministry, the results were not sufficient.
- State Security Service of the Ministry did not properly supervise the activities of the companies producing bread.
- There are not sufficient slaughterhouses in the country for performing butchering properly.

### Positive Developments

- In Agriculture the increase of gross product was around 14.1% compared to the last year, due to the increase in volume of livestock production, fisheries, vegetables, fruits.
- In 2011 production of grain crops has exceeded the previous year's level by 34.8 percent, the size of crop yield and production efficiency has significantly increased.
- Positive changes were registered in the field of horticulture. Fruit gross output increased by 83.7 percent over the previous year. Growth in the production of the crop was also registered.
- The provision of fruit and vegetable processing companies exceed the previous year's level, respectively, 1.7 and 3.9 times. Corresponding payments were fully made.
- Fairs for agricultural products were organized in Yerevan every Saturday and Sunday in order to support the sale process of agricultural products.
- Considerable work has been done in favor of entrepreneurs in terms of credit available to agriculture activities. By two phases of the project more than 25 000 unit credits were provided by interest rate subsidies with 17.4 billion AMD.
- Legislative changes have been made by the Ministry that allow to import agricultural tractors, other equipment, fertilizer, seed, pesticide, as well as by exempting the sale of the value added tax to promote the availability of their purchase by agricultural entrepreneurs as well as promote their import and expansion of the volume of their usage.
- Assistance was provided to increase the level of technical equipment of cooperatives. Consumer cooperatives were established in 33 communities of 5 marzes of Armenia specialized in cattle-raising.

## 7. RA Ministry of Economy

### Shortcomings and problems identified

- A control on non-food labeling, using and maintaining requirements has not been properly provided.
- The Ministry has not taken sufficient measures to protect consumers' rights in the field of non-food quality and safety control requirements.
- Despite the measures taken by the Ministry, public awareness of consumer rights issue is still essential.
- In spite of fact that state control over the requirements of technical regulations and metrological rules and norms was implemented by Ministry of Economy state Inspectorate of the market and consumer rights in 221 business entities in 2011, however, it is was evaluated by the specialists as inadequate, so there is a need for activating the control in this direction.
- While licensing of the commercial facility, the agency for licenses and permits of the Ministry has not provided a unified approach to the examination and evaluation of circumstances leading to possible infringement of the rights and freedoms of the others.
- Enough steps have not been taken to increase the offer for hotel services and other recreation services in the regions, their quality and competitiveness.

### Positive developments

- Types of activities subject to licensing were reduced from 169 to 96 and electronic possibility for acquisition of licenses has been made available.
- During the inspections violations of the requirements on no food labeling was found in 32 business entities, which resulted in the orders for suspension of the batches of products not complying with their orders, and the people responsible for violations were charged with of the administrative penalties in the amount of 7160000.
- The scope of liability of joint stock companies' directors has expanded, thereby enhancing the protection of investors.
- According to the statistics the tourism has expanded.

## 8. RA Ministry of Energy and Natural Resources

One of the most frequently raised problems in the sphere of consumption and maintenance of lithosphere are shortcomings in the process of providing a license for exploration and extraction of the lithosphere. The society opinion was not taken into consideration in the process of licensing the mineral extraction, and the necessary analysis has not been conducted in forms of harmful impact on the environment as a result of such activity. Whereas, according to the RA Code about the Lithosphere (6 November, 2002), which was repealed on 1st January, 2012, a provision was prescribed about obligations to consider the participation in discussions about recommendations on maintenance of the lithosphere by citizens, public associations and public bodies.

The RA Control Chamber has also registered violations in the process of licensing. The RA Ministry of Energy and Natural Resources did not carry out a proper control over maintenance of requirements of mining industry legislation by mining organizations. Due to Control Chamber's researches violations by mining organizations were registered in the process of concession fees calculation and payments to the state budget, prescribed by the law and by the N562 decision « About definition of the amount and payment procedures of concession fees » of the RA Government, on 8 May, 2003. The calculated concession fee for 20 mineral extraction companies with a license was 158.979.6 thousand AMD, but only 79,812.2 thousand AMD had been paid to the state budget. The number and nature of the registered violations itself evidence about the inadequate control by the Ministry over the corresponding organizations.

In the sphere of security assurance of electricity use the level of the effective control by the Ministry towards maintenance of safety rules prescribed by technical regulations and other legal acts was not sufficient. Due to the Ministry's official data – as a result of technical inspections conducted by the State Energy Inspectorate of the Ministry in energy sector company devices during 2011, proceedings were carried out and penalties imposed for administrative violations made towards 10 officials.

Violations were also registered in the respect with proper recording of residents' expenditures of electricity. As a result of joint researches carried out by specialists of the Ministry and « Electric Networks of Armenia » CJSC, some inaccuracies, relating to electricity consumption in the cards of 124 resident-customers, were registered and canceled. For violations or inadequate implementation of the norms, prescribed by technical regulations, energy supply rules and supplier-customer (resident) contractual obligations, criminal cases were initiated against 5 officers of the corresponding organizations, 34 officers were fired from the occupied positions and disciplinary sanctions were imposed towards 206 officers. The abovementioned statistics itself evidences about necessity of taking consistent and effective measures in the sphere of implementation of control over assurance of maintenance of security norms of life, property and environment of citizens, prescribed by technical regulations and other legal acts, as well as implementation of contractual obligations by the supplier.

Lack of adequate control by lithosphere users over implementation of environmental and mining industry legislation norms remains a concerning issue in the field of mining industry.

During 2011 ecological and human rights organizations were regularly raising the issue of not ensuring public discussions about draft RA Code "About Lithosphere", as well as the process of closed and hasty adoption of the Code. Though the RA Ministry of Energy and Natural Resources informed that it had conducted public hearings on the draft of the new Code about the RA Lithosphere with representatives of NGOs (members of the Public Ecological Alliance) on 23 September and 8 October, 2010, as well as the Ministry partook

in discussions on the project held by several bodies and organizations (ecological issues and recommendations had been transferred to the RA Ministry of Nature Protection, which recommendations had been fully included in the project by the Ministry), however, concerns and complaints on the process expressed by several civil society organizations evidence, that the civil society's full participation was not conducted, and the public opinion mostly was not taken into consideration.

Relations relating to rocks of a stripping layer of mining wastes have not been regulated by the RA Legislation so far. According to the 1<sup>st</sup> part of Article 2 of the RA Law « About Wastes », the law applies to the use of wastes accumulated during production and consumption, and, according to the 2<sup>nd</sup> part of the Article, the law does not apply to radioactive wastes, materials mixing up with sewages and flowing into natural waters, materials emitting to atmosphere with gas mixtures isolating from emission sources, rocks of a stripping layer of mining industry organizations. Relations regarding the use of the mentioned wastes are regulated by other laws and legal acts of the Republic of Armenia. During the eight years next to the adoption of the abovementioned law any legal act regulating the mentioned relations has not been adopted, as a result of which the mining organizations were relieved of the obligation to pay ecological fees for installing mining wastes in the environment.

## 9. TRA State Committee of the Real Estate

### Shortcomings and problems identified

- In some cases the State Committee of the Real Estate of the Republic of Armenia (hereinafter Cadastre) provided citizens with information existing in the system, but which wasn't sufficient for implementation of the required functions.
- During the state registration the Cadastre in certain cases required from citizens such documents or refused the state registration for such reasons which are not foreseen by the Legislation.
- Some lands formerly provided to citizens with gardening purposes and not used by the latter for a long time were included in a communities' land balance and given to other people by community leaders. In these cases the Cadastre did not take into account the fact of lands previously given to citizens by gardening firms, and the rights of the new owners have been registered upon them.
- In certain cases the information given to persons on state registration of property rights and registered rights and restrictions did not coincide with reality.
- The Cadastre officers, in assessing the cadastral value of property, in certain cases were not led by coefficients foreseen by the Legislation.
- Discussions of the Human Rights Defender's recommendations on reconsidering the norms that contradict the legal acts of a higher legal force have been carried out with delay (for instance, the RA Government decision N719, made on 7th April, 2005, the 30.10.2008 joint official clarification of the RA State Committee of the Real Estate President and the Yerevan Mayor).

### Positive developments

- During 2011 comprehensive reforms in the real estate cadastre system have been implemented, which aimed at increasing transparency of the system functions, simplification of administration, exclusion of necessity of the official-citizen direct contact, hence leading to the reduction of corruption risks.
- Since 25th April the applicants have an opportunity to get the registration certificates in shorter terms by means of applying coefficients towards charged fees.
- The compulsory notary ratification requirement of real estate transactions (except for unilateral transactions), foreseen by the RA Civil Code, has been eliminated; in this respect an institute of execution of transactions by recognition of authenticity of signatures has been imported by cadastre system, and execution of transactions in cadastre system in the order prescribed has been carried out free of charge.
- By introduction of electronic document circulation system between cadastre offices and territorial subdivisions the applicants got an opportunity to introduce applications on registration of rights and provision of information and obtain the documents by their choice in any cadastre service office (even without coming to a service office – by e-mail) regardless the real estate location.
- The obligatory requirement of providing information about the real estate property or an obligatory requirement of property measurement or technical inspection in case of state registration of rights emerged from deals with regard to the property.
- The requirement to introduce applications about implementation of functions of providing information and a state registration of rights according to the location of the property has been eliminated, as well as specialized facilities- service offices have been established aiming to serve applicants to use the system services.

## 10. RA National Security Service

“Yerevan-Kentron” PI, included into the system of the RA Ministry of Justice, is perceived by the majority of citizens as a national Security Service Institution and in the course of implementation of its daily organizational authorities is guided by the internal rules of the National Security Service. Though some discussions have been held, the situation has not changed, and the problem may be resolved only after bringing out “Yerevan-Kentron” PI under the RA Ministry of Justice out from the administrative building of the National Security Service.

In some cases, some citizens have applied to the RA Human Rights Defender informing that checkpoint inspectors, violating the requirements of the decision N821 of the RA Criminal Procedural Code adopted by the RA Government in December 1998, took a citizen’s passport without having grounds for it (there was probably a fake visa or any other reason) further refusing to return it. To avoid further problems the citizens did not want to process their cases. Despite the National Security Service’s readiness to consider any cases of the kind – in cases of existence of complaints- and severely punish the law-breaking inspectors, nevertheless, we find that preventive measures are necessary to be taken to eliminate such cases.

There were cases, when the Service refused to provide citizens with information about them. Thus, a citizen wanted to take a reference from the National Security Service on the fact when he had crossed the border by land or air for the last time, but received an explanation that the data was not preserved. The National Security Service presented substantial reasons, that the surveyed information was not preserved due to objective reasons and in accordance with the terms prescribed by law. We consider, that all the cases and conditions when citizens can get the abovementioned information should be defined by appropriate legal acts, as not providing a citizen with an information about him/her leads to violation of the right of effective legal protection.

The complaints addressed to the Ombudsman towards the NSS in some cases referred to the activities of NSS Investigation Department officers for failing to implement an objective, complete and thorough investigation. The Ombudsman’s powers in the course of investigation are very limited; consequently either the citizens were provided with information on the mechanisms for the protection of their rights, or their applications were not discussed. However, in 2011 a number of espionage cases were prevented in the result of operative actions of NSS officers as well as cases of corruption by other state officials, smuggling and cases of illegal RA state border crossing.

## 11. RA Central Electoral Commission

During 2011 head of community elections were held in 97 communities of the Republic of Armenia, and in 44 communities – elections of a community council member. District administrator elections in 38 communities and elections of community council members in 25 communities were held according to the RA Electoral Code entered into force in May, 2011.

The Defender was informed by the RA Central Electoral Commission, that any application or complaint in the respect of the elections of 2011 were not submitted to the Commission. Complaints on the abovementioned elections addressed to the Defender were not submitted as well. Due to our sources, as well as mass media publications, serious violations were not registered during the mentioned elections.

More thorough analysis on the implementation and protection of the right to vote, organization and conduct of elections, particularly in the respect of the RA Parliamentary elections in May, 2012 will be presented in the Defender's 2012 interim or annual report.

## 12. RA Ministry of Education and Science

### Shortcomings and problems identified

- The Ministry failed to take measures in time to establish clear legal basis for organization of competition of textbooks for comprehensive schools.
- In the result of not submitting published textbooks to necessary examination, in some cases there were editorial, spelling and printing errors in them and as a result pupils' right to proper education was violated.
- Though, each year the RA State Budget foresees financial means for assurance of heating system in educational institutions, however the problem of heating provision during winter months in many schools remain unsolved, as a result of which absence of children, who are concerned about their health and do not attend classes, is considered as unexcused. In particular, the schools (mainly in villages), where number of pupils is few (schools are funded based on the number of pupils), are not provided with necessary laboratory equipments and materials. Schools in villages were not provided with food delivery services.
- Though, the Ministry has constantly taken measures for elimination of corruption in educational institutions, however, they were not sufficient for prevention and elimination of cases of money collection in schools and corruption in the sphere of education.
- The Ministry of Education and Science provided about 365 million AMD to same 7 NGOs. The 38% of the whole amount was given to "Support to Classical Music" NGO, activities of which are mainly related to cultural issues. According to the Ministry, these organizations carried out educational work envisaged by the application.
- As a result of lack of control carried out by the Ministry, in some cases relatives and friends of school directors, who not only did not teach, but also did not attend schools were included in school staff lists, in the result of which extra money has been spent from the state budget. Despite of all these, in the applications addressed to the RA State Inspectorate of Education, only 12 cases of money collecting and 11 cases of corruption have been reported during 2011; any confirming results in the course of examination of these cases were not registered.
- According to our sources Appliance Formulation has been terminated in Universities, though it has not been terminated by any legal act, and according to the Ministry it is operating and is regulated by appropriate legal acts.
- The Ministry should present to the Staff of the RA President and National Security Council Staff for opinion (according to the RA President corresponding order) Government draft decisions on granting a delay from compulsory military service recruitment up to the end of education as draft legal acts concerning security issues. The mentioned Government draft decisions were not coordinated with National Security Council Staff and in some cases were not presented to the Staff of the RA President.
- In the result of the slow process of providing general inclusive education, the right of equal access to education of children with mental problems continued being violated.
- The Ministry failed to take appropriate measures especially in regions to raise awareness about its hotline (the Ministry's "Hotline" received 138 calls, 114 of which relating to Yerevan, and 24- relating to regional schools; total number of applications, complaints and recommendations received from citizens is 4632):

## Positive Developments

- List of inclusive education schools has increased by 15, thus becoming 81 in total in the Republic.
- Implementation of the pilot program for organization of general inclusive education has been launched in Tavush region- according to the RA Government decision -with an aim of improving education of children with special educational needs.
- The Ministry carried out several programs addressing improvement of the quality of education; trainings for teachers and school directors, renovation of buildings, re-equipments, etc.
- “Chess” course was included in the 2nd grade schools’ curriculum beginning from 2011-2012 academic year.
- “Healthy Lifestyle” course for 10-11 grades has been developed and approved.
- “Trafficking” theme has been included in the “Social Sciences” subject for senior classes in comprehensive schools.

## 13. RA Public Services Regulatory Commission

### Shortcomings and problems identified

- Though in 2011 new rates were prescribed by the Commission for the services, however, the list of rates- approved by N340 N decision made by the Commission on 24 August, 2007 and also by decision N530 N on 16 November, 2007 – has not been complied with the list of services subject to rate regulation - approved by decision N273 made on 20th May, 2008.
- In the sphere of wireless telephony, in certain cases, the service company did not provide equal facilities for the population.
- The society has not been properly aware of handling of disputes on electric power fluctuations or outages and the Commission’s powers on resolution of such problems.
- Lack of alternative laboratories (basically inspection of gas and electricity meters) caused distrust of the population towards reliability of metering devices test results. The Commission has not raised the problems.
- The problem of twenty-four-hour water supply is still topical.

### Positive Developments

- The Commission has provided free “short” telephone numbers to 19 public bodies and organizations (ESM, HRDO and etc.).
- In 2011 the Commission reconsidered tariffs for drinking water and made a decision to reduce the tariff in 8 AMD.
- Certain changes have been made -in electric energy supply and utilization rules, as well as in fees of new consumer or the consumer’s reconstructed consumption system accession to electrical network- according to decisions made during the session of the RA Public Services Regulatory Commission, held on 7 December, 2011. Prepayment dimensions of installation of single-phase and three-phase electronic multi-tariff meters have been reduced according to decisions made by the Commission.
- The Republic of Armenia is the fifth in the world, which has invested 4G wireless Internet network (LTE).

## 14. RA Special Investigation Service

In certain cases investigators of the Service didn't follow the reasonable timeframes for conducting preliminary investigation and they were unduly delayed. In addition, the latter in such cases did not violate the timeframes prescribed by the RA Criminal Procedural Code for preliminary investigation of criminal cases, and in all cases they have been extended in prescribed timeframes and order. The abovementioned assessment has been accepted by the head of the Service in some sense- in the course of summarizing the work done during 2011 particularly noting that the Service should demonstrate special consistency towards preparation of materials and maintenance of prescribed by law timeframes for preliminary investigation of criminal cases.

Criticism towards the Service work went on in the respect of efficiency of preliminary investigation conducted with respect to facts of deaths of 10 people on 1st March, 2008. Relatives of the deceased persons are convinced that the Service has not conducted its functions with sufficient effectiveness. Thomas Hummerberg in his 2011 report expressed his concerns on the matter as well, pointing out the importance of the issue as from the point of view of human rights protection, as well as in terms of increasing public confidence. A favorable fact is that the Service has published thorough information on the work done referring to investigation of the mentioned cases, nevertheless- the relatives of the victims as well as the society expect complete disclosure of the cases.

Investigation of cases- subject to the Service investigation by law, was carried out by other bodies. The RA Criminal Procedural Code clearly points out all the cases, when investigation is subject to the jurisdiction of the Service, but this requirement of the law has been ignored sometimes. For instance, due to data, presented by the Service, a single criminal case has been investigated in the service relating to a criminal case conducted with the participation of a RA MoD officer. This itself evidences about a law violation, as the society is informed about various crimes conducted with the participation of the RA MoD officers, which were investigated in the RA MoD Investigation Service. Such kind of cases also exist in the Police system. Violation of legislative requirements on subordination led to the violation of general conditions of preliminary investigation, as a result of which the objectivity of the preliminary investigation was doubted.

Public officials working in the Service system haven't take sufficient measures to exclude corruption risks and violations of restrictions on a special investigation servant- prescribed by Article 11 of the RA Law "About Special Investigation Service". Highlighting maintenance by officials, working in the Service system, of restrictions on a special investigation servant prescribed by Article 11 of the RA Law "About Special Investigation Service", the Ombudsman had applied to the Service with a written inquiry to reveal what information on the issue the body had and what kind of measures were being taken for exclusion of corruption risks. In response, the Service informed that the employees got acquainted with restrictions for a special investigation servant prescribed by Article 11 of the RA Law "About Special Investigation Service", and were warned to follow the presented requirements.

According to data provided by the Service- 7 criminal cases of ill-treatment (violence) were investigated by officials, 2 of which has been sent to court with an accusatory conclusion, 2 were discontinued for lack of offense, 1 was discontinued for reconciliation of parties and 2 remained unfinished. The presented data evidence that not all the citizens, subjected to ill-treatment (violence) by the officials, reported the cases to the Service, which evidences that realization of appropriate functions by the officials of the Service is highly disproportionate to the actual number of cases of torture, and that results from the insufficient confidence towards the Service by society and unsatisfactory awareness raising campaigns about its functions.

A favorable fact is that 193 criminal cases were investigated in the Service proceedings during the year, 69 of which were sent to the court with an accusatory conclusion. By the cases sent to court mainly Police, PI, National Security Service, State Revenue Committee officers were charged. For taking measures towards elimination of circumstances promoting to crimes investigated in the Service proceedings, 14 petitions have been represented by the order of Article 200 of the RA Criminal Procedural Code, which were discussed in prescribed timeframes, and the investigation body has been informed about the measures taken.

## 15.RA National Commission on Television and Radio (NCTR)

### Shortcomings and problems identified

- Especially in case of various infringement of the law in television broadcasting, including lack of pluralism, violations of advertising law, not fulfilling the requirements of the legislation on Armenian Language and ignoring the ethical rules the results of the monitoring of TV and Radio companies activities carried out by the NCTR were extremely insufficient.
- As a result of spatial interpretation of appropriate provisions of RA Law “On Advertisement” and “On TV and Radio” in the respect to advertising restrictions on Public TV airtime the NCTR did not ensured the rights of private TV channels and Armenian taxpayers, who fund and observe the Public Television.
- Declaring that the digitalisation process is not within its jurisdiction, the NCTR not only does not accept the responsibility for the most essential processes of its area, but even is not aware of the information of utmost importance. Realization of its own functions in such a way testifies to their insufficient and inadequate implementation.
- In the respect to assurance of antimonopoly guarantees prescribed by the law, the NCTR displayed inactivity during 2011 and did not carry out its oversight functions for prevention of over-concentration and monopoly of broadcasting market.

### Positive Developments

- Due to May 26, 2011 amendments to the Article 9 of the RA Law “On Advertisement” advertisement volume abuse possibilities in Public TV airtime were eliminated which derived from spatial and non-legal interpretations of the law.
- The NCTV revealed two cases of law violation in the result of monitoring of TV and Radio companies activities and legitimately reacted to it.
- An addition was made to the RA Law “On TV and Radio”, according to which the Public TV and other private TV channels of Armenia are obliged to broadcast at least one TV program for children and one news program with sign language translation or Armenian subtitles in their programs for children and (or ) news programs during the day airtime.

## 16. RA Ministry of Culture

### Shortcomings and problems identified

- The Ministry has not taken sufficient measures for maintenance and development of museums. In the result of shortage of space only around 9 % of the state museum collections are presented in the museums.
- Sufficient measures for equipment of theatres have not been taken. In particular, the National Academic Opera and Ballet Theater needs to be renovated and equipped with modern technical features; in certain cases, State Mime Theatre does not possess its own territory.
- The Ministry hasn't taken appropriate measures for maintenance of libraries. Although the conditions of 13 libraries under the Ministry control have been considerably developed, they are still far from adequate.
- Sufficient measures for creation of sustainable and effective mechanisms for proportionate development of cultural life in regions have not been taken.
- Problems were identified in the sphere of maintenance of cultural values, historical and cultural monuments. Some buildings included in the list of maintenance of RA historical and cultural monuments - not subject to alienation - are under threat of demolition. According to some studies, several buildings in "Kumayri" architectural reserve-museum are in hazardous state.
- Appropriate measures for assurance of necessary conditions for realization of the right for people with disabilities to partake in cultural life have not been undertaken.

### Positive Developments

- A series of state official concerts have been organized.
- Information about around 12.500 museum pieces was made available for the public through the RA National Gallery 3 language new website ([www.nga.am](http://www.nga.am), [www.gallery.am](http://www.gallery.am)) which was enriched with modern design and technical possibilities.
- Around 200 permanent and individual presentations were organized in the museums of Armenia; in addition 59 museums participated in the "Museum Night" pan-European event with 107420 visitors and during Days of European Inheritance 36 museums participated with 11791 visitors.
- Museum funds were enriched with 6661 pieces, 2645 pieces were repaired and 1168 pieces revamped.
- Libraries were enriched with 59515 pieces.
- With the aim of ensuring information and service simplification the electronic sources for library users were updated (EBSKO and Integrum World).
- The program "Library as a meeting place" devoted to the Library Day was implemented with participation of 102 libraries and 257 events organized in its framework.
- A number of events were organized for celebration of 500 Anniversary of Armenian typography and "Yerevan 2012: World Book Capital" event.
- The "Family Librarian" program has been implemented through Lori and Shirak regional libraries for implementation of library services for people with disabilities.
- The "Arev" information communication program has been installed in Kotayk, Vayots Dzor, Gegharkunik regional libraries for people with eyesight problems.
- Around 74 theatre and concert tours, Armenian films presentations, book fairs were organized in regions of Armenia in the framework of "Cultural region" program, as well as regional creative teamworks presentations in Yerevan.
- For the first time in Gyumri and Vanadzor the "Regional ArtExpo" was organized in the frameworks if events devoted to the establishment of local self-government system in Armenia.

## 17. RA Police

### Shortcomings and problems identified

- In some cases, investigation and preliminary investigation bodies subjected people to cruel, inhuman, as well as humiliating treatment for obtaining testimony.
- In many cases a person has been unreasonably “invited” to a police department, kept there against his/her will, factually being deprived of liberty without having an appropriate status foreseen by the RA Criminal Procedural Code.
- There were often cases when a person suspected of a crime was brought to the police department (without any status) and kept there more than 3 hours violating the requirements of the Article 131.1 of the RA Criminal Procedural Code.
- In many cases reports on crimes were not followed up in the order foreseen by the Criminal Procedural Code, and they were “attached to a series”.
- In some cases, a person’s passport was taken from him/her by police officers without legal grounds and kept as a guarantee.
- In many cases, people, having physical injuries as a result of a crime, were not given a forensic examination official document or were provided with them after unduly delays and sometimes very untimely.
- There are many cases, when terms, defined by the Article 180 of the RA Criminal Procedural Code for consideration of reports about crimes, were violated.
- Sometimes criminal cases were not initiated in case of contradictions in explanations given during preparations of materials, which would enable the investigation body to carry out face to face interrogations to ensure objectivity, fullness and comprehensiveness of the case.
- In some cases, the terms of keeping detainees in Detention facilities were violated.
- During investigation and preliminary investigation people were sometimes invited to interrogation with violations of the requirements of the Article 205 of the RA Criminal Procedural Code.
- In some cases, people brought to police departments, were deprived of the right of having a defender.
- There were complaints that under the pretext of identifying the wanted person, police officers had entered one’s apartment and conducted a search without a corresponding court decision.
- The Passport and Visa Department and territorial departments often unreasonably denied the citizens of Armenia in providing them with passports, due to not being registered.

## Positive developments

- In the two last months of 2011 the police response to reports about cases of violence and violations carried out by its officers has changed, and the Ombudsman's mediation in 2011 regarding a similar complaint was positively processed. Due to a citizen A.A.'s report, the investigator S. Sedrakyan had derogated and insulted him, as well as had violated a number of criminal procedural norms. According to the official investigation, the investigator S. Sedrakyan was dismissed from his position by the order of the Chief of Police.
- The process of revealing violations of traffic rules has been improved by placing camera and photo devices.
- The RA Police has developed the concepts of introduction of observation systems in the crowded areas of Yerevan and concept of the rapid reaction center of Yerevan department, as well as their technical tasks and financial estimates.
- The RA draft Law "About Making Amendments and Additions" to the RA Law "About Confirming the RA Police Disciplinary Code" was approved, which aims to improve the legal protection level of the police officers, to establish a permanent Commission carrying investigation with respect to police officers.
- In November 2011, the Chief of the Police of Armenia signed the order N3327 "About implementation of trainings for police officers subject to appointment in Municipal Police Departments established in Yerevan Territorial Police Departments", which aims to promote the establishment of a district (municipal) police model.

## 18. RA Ministry of Defense

### Shortcomings and problems identified

- Some cases of deaths occurred in the RA Armed Forces were conditioned by the problems resulting from non statutory relations and insufficient effectiveness of the prevention measures undertaken by officer personnel.
- Some officers serving in the RA Armed Forces expressed their desire to early denounce the agreement of military service; however, supreme commanders made unreasonable delay in the process and in some cases a differentiated approach was displayed towards the officers.
- Numerous complaints were received from military servicemen concerning the fact that the servicemen without any disciplinary penalty were not released from service after the 24 months service prescribed by the law which was reasoned by different justifications not deriving from the law.
- Persons having service postponement because of health condition were forced to appear for the second examination earlier than the period of postponement.
- By the decisions of the Central Military-medical Commission under the Ministry of Defense 500 servicemen were recognized as unfit for military service and were early discharged. Such a number of early discharged servicemen testifies to the fact that military commissariats were unsuccessful in efficient organization of detailed medical examination when conscripting into the military service.
- The compulsory military service in the Central Apparatus of the RA Ministry of Defense was carried out by uncertainty of a number of conditions and criteria of the military service that is being carried out in the military station close to populated area. In some cases these conditions were breached.
- Compulsory military servicemen's relocation to the Central and Garrison Military Prosecutor's offices for continuation of the service included corruption risks: existence of compulsory military service in these bodies in not acceptable.
- The measures undertaken by the management of the Ministry of Defense towards preventing corrupted enrichment of state officials in the system of the Ministry were not sufficient. Existence of such corruption phenomena considerably threatens the productivity of the Ministry's activities and contributes to the increase of human rights violations made by this state body.
- The issue of housing conditions of many servicemen remained unresolved.

### Positive developments

- In 2011, Ministry of Defense Hotline received about 1370 calls, of which 650 were set in process and received a positive solution; the remaining 720 were registered as a false alarm.
- The Ministry of Defense built and rebuilt about 5 residential buildings, in the result about 210 soldiers were provided with the service apartments (about 90 servicemen in the city, and about 120 servicemen in the regions).
- According to official data, in 2011 the death cases were significant reduced in the RA Armed Forces as compared to previous years.
- A number of military barracks, medical centers, canteen buildings, etc. were renovated in compliance with typical structures.
- In 2011 in order to exclude non-statutory relationship, the following methodological guidelines have been developed by the Defense Minister and delivered to troops: special message "Commander is soldier's best friend", methodological guidelines

“For immediate increase of the fighting spirit and alertness of the Armenian Army”, “For immediate increase of military discipline”, “For immediate increase of military discipline and prevention of emergency cases and accidents”. The explanatory work for military units and discussions with participation of staff and commanders were carried out, as well as methodological guide “Crimes against Military Subordination Order and Statutory Relations between Servicemen” was prepared and delivered to the troops.

- In October 2011, the Defense Minister, the Military Prosecutor and the Human Rights Defender had a working meeting to discuss issues connected with struggle against crimes and human rights protection in the Armed Forces which resulted in the creation of a group working to prevent crimes in the RA Armed Forces.
- In 2011 the handbook “On Human rights and Fundamental Freedoms of the Armed Forces Personnel” was translated with the support of the OSCE Office in Yerevan and the “Human Rights in the Armed Forces” training program was developed.
- Before the introduction of the course in the Armed Forces and military educational institutions, with the support of the OCSE Office in Yerevan lectures on human rights in the Armed Forces and their protection mechanisms were delivered to all military units and military educational institutions of the RA Ministry of Defense; deputies of the heads of military units and stations, lawyers and other specialists were present at the lectures.
- With the support of the OCSE Office in Yerevan the draft of the handbook “Leadership in the Armed Forces’ was developed which aims at the development of the relations between the personnel of the Armed Forces, establishment of new management methods and means and prevention of non-statutory relations. After analysis of the textbook by the Ministry of Defense and the Armed Forces Supreme Headquarters Staff steps will be taken for the introduction of the same course.
- Working groups composed of the deputy Defense Minister and deputy head of the Armed Forces Supreme Headquarter were sent to military units deployed in the border of the country and remote areas, whose goal was to personally meet with staff members as well as to make orders aimed at strengthening the discipline and understand the moral and psychological conditions of the servicemen.
- A constructive cooperation has been underway between the Ministry of Defense and the Human Rights Defender’s office in consideration of complaints, solution of existing problems and in raising awareness on human rights protection in the RA Armed Forces.

## 19. RA State Revenue Committee

### Shortcomings and problems identified

- Verifications made in State Revenue Committee have shown that in certain cases, the taxpayer's accounts and reports were not analyzed and studied timely and properly by the officials of the Committee and activities were not effectively organized.
- In the specialized custom house for custom processing of motor vehicles the values of additional spare parts on the car having an impact on the customs value have not been properly represented.
- The full observance of the established rules of conduct for tax and customs officers is not still widespread in the work of the system.
- Only two or three courses of the study on the presentation of declarations were annually organized by State Income Committee for customs mediators and economic entities. In result the level of the process of self declarations of economic entities is still low, while the number of declarations made by the mediators is large. In such situations high prices set by customs mediators became additional economic burden for businesses.
- The changes made in RA law "On Value Added Tax" (06.12.2011), which was adopted in haste and without public discussion, are considered negative. The State Revenue Committee, within its jurisdiction did not provide the necessary consistency in conducting public discussion of the draft for changes in tax legislation and introducing and applying them within a reasonable time.

### Recorded positive developments

- There is a full transition to the risk based inspection system from ubiquitous control in tax and customs system; the risk based inspection system has been automated.
- In 2011, the State Revenue Committee has taken steps to exclude taxpayer - inspector communication, introducing electronic reporting system instead.
- The organization of services for taxpayers has been reformed, by running the taxpayer service centers in revenue system, by tax-payers call centers, information terminals, as well as the educational centre of the SRC.
- The tax and customs legislation for small and medium enterprises has been simplified by the introduction of favorable tax regimes and the optimization of number and frequency of reporting.
- The widespread use of cash machines and cash registers and the culture of receiving coupons has been developed.
- TWM automated declaration system has been inserted in Administration of the customs, which is aimed at reducing the time required for customs clearance and customs control efficiency.
- Documents and time required for customs formalities have been reduced, the number of documents required for customs control has been reduced by 5, now only 3 documents are required for customs clearance.

## 20. RA Ministry of Sport and Youth Affairs

### Shortcomings and problems identified

To solve youth issues there is a need for a particular strategy, where all the problems ensuring youth development and solutions to them in material, physical, mental, psychological, aesthetic sense will be reflected. Despite the fact that a Strategy on Youth Policy (2007-2012) has been elaborated it has not properly promoted to the solution of youth problems, and these problems continue worrying the society. Active social and political participation among the youth is stipulated exclusively in the interests of certain political parties. The Ministry has not properly expanded its cooperation with various apolitical youth NGOs or with critical youth civic initiatives, and it has not promoted to their activities and development.

The socio-economic situation of the youth or newly formed families is worrying particularly in the regions of Armenia. Comprehensive measures have not been taken to improve the situation. Sufficient number of leisure and cultural events have not been foreseen or carried out for the youth in regions, except for political initiatives. An inadequate approach was demonstrated for assurance of involvement of the youth living in Yerevan and regions in projects carried out by the Ministry.

The “Affordable Housing for Young Household” state target program was approved on 29 January, 2010 by the RA Government Decision N98. As of 30 December 2011, in the framework of the “Affordable Housing for Young Household” state target program, only 642 credits have been refinanced with an amount of 4 868 000 000 (four milliard eight hundred sixty eight million) AMD, 346 of which in Yerevan and 296 – in the regions of Armenia. However, in the framework of implementation of the state target program, in certain cases there have been reports on corruption phenomena. In the mentioned cases apartments were provided with violations of prescribed regulations, particularly – a family has obtained an apartment in case when the total age sum of the couple exceeded specified 60 years. It is necessary to supervise the abovementioned process, and take measures to ensure equal rights and opportunities for everyone.

Development of sports for disabled people and their involvement in the sphere of sports has not been properly ensured. In 2011, by the RA State Budget program “Services Relating to Sports for Disabled People”, 9.000.000 AMD was provided to 4 field NGOs to carry out sport activities. By the “European Wrestling Championship of Deaf People in Yerevan, 2011” program 13.747.000 AMD was provided to “Armenian Sports Committee of the Deaf” NGO, and 1.682.220 AMD was provided to “Armenian National Paralympic Committee” NGO for the participation in the Weightlifting Championships of Disabled People held in the United Arab Emirates. That is, extremely limited financial means were provided, and only certain NGOs have been financed for the organization of mass sport activities. In the interview with the Human Rights Defender’s focal point these issues were also highlighted by the “World Without Obstacles” NGO president Arman Musheghyan and Armenian National Paralympic Committee Secretary General Ruzanna Sargsyan.

## 21. RA Ministry of Territorial Administration

### Shortcomings and problems identified

Although the Ministry of Territorial Administration (MTA) in order to provide housing to n refugees expelled from Azerbaijan in 2011 presented financial application from the state budget for the total of 4 billion AMD, this year the application was not confirmed as in previous years, and one of the most serious issues of refugees, i.e.the housing issue, has not been solved yet.

Conditions of refugees living especially in remote villages continues to be difficult where the most part of persons deported from Azerbaijan still live in to stay in especially difficult situation of the refugees living in remote villages, where most of the persons deported from Azerbaijan, still live in dilapidated buildings, rental apartments or relatives.

Based on the corresponding information of the MTA State Migration Agency the term of the conventional travelling document has not been prolonged by the Visa and Passport Department of the RA Police for those refugees towards whom the process of discontinuation or invalidation of the status has been launched and the decision of the authorized body is the stage of appeal, despite of the fact that this guarantee is enshrined in the RA Law “On Refugees and Asylum”.

In the conventional traveling documents of refugees details of the person are written in English only by the Visa and Passport Department of the RA Police ignoring the RA law “On Language” and the corresponding decision of the RA Government.

The provided donations were not sufficient for comprehensive development of communities. Heads of village communities often declined persons’ request for necessary information reasoning the decline by non-payment of land or other taxes; transparency and publicity of local self-government bodies activities are violated, requirements for reception of citizens.

In spite of the administrative control that was carried out, various violations of the RA legislation were found out in communities; supervision performed by marz governor’s has not been satisfactorily assessed by interviewed specialists and representatives of non-governmental organizations.

### Positive Developments

On January 13, 2011 the RA Government positively assessed the concept on RA State Migration Regulation Policy, which defines 14 directions of State Migration Regulation Policy and mechanisms to achieve the identified goals.

On November 10, 2011 the RA Government approved the 2012-2013 Action Plan for the implementation of the State Migration Regulation Policy.

The process of privatization of housing of the persons who were deported from Azerbaijan from 1988-1992 and got Armenian citizenship was ensured.

## 22. Yerevan Municipality and Other Local Self-government Bodies

### Shortcomings and problems identified

- As a result of the Municipality's insufficient supervision, arbitrary constructions were often carried out in the yards of multi-residential buildings and also playgrounds, and these works were not prevented.
- While implementing the project of dismantling of kiosks, the Municipality mainly did not ensure the necessary legal procedures, as a result of which the corresponding people's rights were violated causing social tension.
- The authorized body, acting on behalf of the Republic of Armenia, was not defined, which should have to carry out a proper supervision of implementation of obligations of builders prescribed by law or contract in the territory considered as territory of supreme public interest.
- Yerevan Municipality did not sufficiently carry out control over activities of governing bodies of condominiums and residential buildings in the respect with implementation of renovation and preventive measures towards property (general equity-owned buildings) maintenance requirements and their assurance.
- In certain cases (address: Komitas 26) a citizen was provided with planning documents giving permission to carry out construction works, which were subsequently eliminated by the same body due to reasoning that it had been given with some legislative violations.
- Yerevan Municipality not in all cases subjected to administrative responsibility the persons who had made urban development and administrative legislative violations. That is, a discriminatory and arbitrary approach was demonstrated.
- The public transport situation in Yerevan is very concerning. Sufficient measures have not been taken to improve the exploitation of public transport, to make the management more effective and enhance the quality of passenger transportation.
- Yerevan Municipality did not carry out programs to adapt urban development facilities of urban significance and also public transport for free movement of people with disabilities people, and as a result the latter's rights continued being violated.

### Positive developments

- Landscaping and reconstruction activities have been carried out in communities.
- New public transport stops have been restored, furnished and constructed.
- The Municipality, in cooperation with a charitable foundation, managed to solve accommodation, food, hygiene, care and other essential issues of homeless people.
- The charitable program "Wish Implementation" was elaborated and put into action through the Municipality website aiming to support children in extreme need.

## 23. RA State Commission for the Protection of Economic Competition

The revealed problems and registered achievements during 2011 in the area of responsibility of the Commission are presented below, though they are not exhaustive.

The RA Law “About the Protection of Economic Competition” was adopted in 2000, and the Commission in Armenia was established in 13 January 2001. In 2011 the RA Law “About the Protection of Economic Competition” was reconsidered and as a result it was complied with international standards to a high degree. The new version of the Law gave wider opportunities to the Commission for working more effectively.

Despite all this, the level of assurance of economic competition in RA is still not sufficient. According to indicators of the World Economic Forum, though Armenia has registered a certain progress by the coefficient of efficiency of anti-monopoly policy, it continued occupying low positions in the internal competition and efficiency of anti-monopoly policy level. Only in 2011, 12 commodity markets out of 13, analyzed by the Commission, were rated as highly concentrated. There were also cases of hindrance for entering the market of new economic entities by dominant entities in those markets.

Though, the number of decisions of the Commission to subject economic entities to responsibility during 2011 raised twice compared to the previous year, which resulted in the increase of about 6 times of the sums paid to the RA State Budget have, however, in appropriate cases the measures taken by the Commission did not reflect the real picture of violations of the competitive legislation existing in different commodity markets and did not make sufficient influence on the situation of the protection of economic competition in the country.

Measures taken by the Commission for termination and prevention of cases of anti-competitive operations were not sufficient. The Commission with its decisions subjected several economic entities to responsibility for anti-competitive operations. The economic entities appealed against the Commission decisions not carrying out their requirements. During the entire trial period, which can last for 2 years, the Commission did not take any measures to ensure the process of implementation of its decisions. For instance, the Commission has a power to subject an economic entity to responsibility for not implementing the Commission’s decision, but the Commission waited until the trial was completed.

Measures taken by the Commission for termination and prevention of cases of unfair competition were not sufficient as well. A case was registered of production and realization of vodka by “Alex Grig” company which had almost similar name creating confusion. In this regard the Commission started proceedings in 2009, and the company appealed to court to protest the Commission’s decision. The Commission applied a penalty to the company for unfair competition, as well as required from the company to eliminate the violation, that is to remove the production from circulation in 1-month period. According to RA Law “About Protection of Economic Competition” a possibility of administrative responsibility is prescribed for not implementing the Commission decisions, as well as ban on its operation suspension in case of appealing against the Commission’s decision. However, during 2 years the Commission did not take sufficient measures for applying adequate means of administrative responsibility towards economic entity, which did not implement its decisions.

Though according to the last changes in the RA Law “About Protection of Economic Entities” the Commission’s powers in the process of obtaining evidences regarding anti-competitive operations were extended, however, the instruments were not sufficient for the Commission to effectively carry out the control over protection of economic competition. In particular, the Commission does not have such powers in the area of inspections, which allow them

to obtain evidences on hidden violations of the RA Law “About Protection of Economic Entities”, such as anti-competitive agreement, participants of which- economic entities- take all measures to keep their agreement in secret. Competition protection authorities almost in all countries have a wide range of powers of inspection, which gives opportunities to reveal even the most confidential agreements. That is the reason, that all international experts, who are studying the RA legislation on competitiveness, suggested to endue inspection powers to the Commission.

The Commission did not take sufficient measures to raise the public awareness on issues of economic competition, which in its turn reduced effectiveness of assurance and protection of consumers’ rights. Though the Commission’s official website was operating, it contained insufficient information on the issues of the area. At the same time the website even didn’t include statistics of the Commission’s activities. The Commission’s activities’ publicity and transparency in respect of issues of selling low quality and expired products, groundless raising of prices of products, and other issues of public importance which appeared as a result of unfair activities of economic enties in competition sphere were not sufficiently ensured.

## 24. RA Ministry of Transport and Communication

### Shortcomings and problems identified

- During 2011 several cases of violations in schedules of interregional minibus routes were registered.
- Proper measures were not taken for the compliance of sub-regulatory points with requirements set by the RA Government decision N1604 (27.12.2007) - (waiting room, booking offices, household, sanitary centers for passengers and drivers (sanitary unit, washbasin) and etc.).
- The issue of public transport accessibility for people with disabilities remains unsolved.
- Measures have not been taken for clarification of the procedure of state registration and requirements for homemade vehicles.

### Positive Developments

- During 2011, 4900 administrative violations were registered, as compared to 3700 during last year, in the result of which 34.5 million AMD was logged in the RA State Budget as compared to 23.0 million AMD during the previous year.
- During 2011, taxes, rental fees and other non-tax revenues with a total amount of 838,5 million AMD were logged in the RA State Budget.
- Changes were made in the licensing procedure of the organization of passengers regular transportation by motor vehicles of general use and taxi-automobiles, as a result of which procedures were improved and corruption risks – reduced.
- Regulations were implemented in the legal field regulating the process of compulsory technical inspection of vehicles to ensure an opportunity to conduct vehicles' technical examination in any station of an organization, which has a license on technical inspection activities.
- By the Ministry initiative several laws and draft legal act aiming at the prevention of law violations in the motor vehicle field, were submitted to the RA Government.

## 25. RA Ministry of Urban Development

### Shortcomings and problems identified

- The Ministry has not carried out a proper control over the assurance of project documents' compliance with the urban development norms.
- Most of the buildings under construction are not available for people with disabilities.
- Proper supervision has not been carried out towards the community leaders' obligations to prevent and suspend arbitrary constructions, and eliminate the consequences.
- Different organizations licensed by the Ministry gave different conclusions to citizens on the level of emergency of the same building.
- There are profound complaints concerning the process of re-registration in the lists providing special housing in the disaster zone areas.
- The RA Law "About Control and Supervision of Urban Planning Activities," as well as a law "About Architecture" have not been adopted.

### Positive developments

A number of law drafts and sub-acts were introduced to the RA Government by the initiative of the Ministry, which aim at definition of the joint requirements and standards and urban planning activities carried out by RA communities in territories subject to specific regulations, at optimizing the functions of construction documents coordination, reductions of terms of their implementation, increasing the effectiveness of fighting against arbitrary construction, reduction of the terms of documentation procedures of exploitation of a completed construction, etc.

## 26. RA Human Rights Defender

In 2011 the Defender and his staff provided legal service to 4596 individuals. 344 complaints out of 607 that were within the Defender's powers were resolved in favor of the applicant resulting in the restoration of the rights of all these people.

In November 2011 Defender launched the toll-free 116 Hot Line. The Rapid Response Group was reopened anew staffed with human and technical resources. The Defender's Hot line provided assistance to 778 citizens during the first two months of its operation.

The Defender applied to the Constitutional Court questioning the constitutionality of the provisions of defamation and insult prescribed by the RA Civil Code; the Court imposed mandatory legal provisions in favor of freedom of expression, thus significantly improving the acting legislation and its application. In this regard the Defender's contribution to the promotion of freedom of expression in the country was highlighted by the "European Friends of Armenia" Belgian organization. The "Reporters without Borders" in its 2011 statement highlighted the importance of Information Disputes Council established on the Defender's initiative in the development of journalistic ethics and media self-regulation mechanisms.

The Human Rights Defender signed MoUs with around 80 human rights NGOs, which resulted in the implementation of around 20 project-events with many of them.

The Defender's staff reviewed more than 50 draft laws and presented various comments and suggestions for protection of human rights, the majority of which were adopted by the authors of the draft laws.

The newly established Torture Prevention Expert Council carried out 60 monitoring visits to police departments, prisons, military units, psychiatric hospitals, orphanages, special schools, retirement homes. During monitoring visits a number of cases of violence and ill-treatment and other violations were revealed. The findings of the monitoring visits were published in a report issued in December 2011.

During 2011 the Defender organized a series of conferences devoted to freedom of expression, fair trial, protection of vulnerable groups and cooperation with human rights organizations. In addition, with the aim of highlighting and discussing human rights issues, the Defender and his staff participated in around 70 public discussions, dozens of TV-Radio programs, as well as gave hundreds of interviews to journalists.

In December 2011 the Defender participated in the EU-Armenia Human Rights dialogue, during which he addressed the functioning of the judicial system, freedom of expression, conscience and religion, law violations in the army, as well as 2012 parliamentary elections. The Defender's considerations were included into the European Parliament's recommendations on the negotiations of the EU-Armenia Association Agreement.

On December 10 – the International Human Rights Day- for the first time the Defender organized "Human Rights EXPO 2011", where the current acute topical issues in the protection of the rights children, women, victims of violence, refugees, people with disabilities, minorities, as well as issues of right to information were presented for the public's attention.

The Defender presented 3 ad-hoc public reports addressing the guaranteeing of the right to social security, protection of the rights of national minorities, and the right to participate in the cultural life of the country.

The Defender made around 30 official statements about his activities and on the issues of public importance, including the ban on Raffi Hovhannisyan's tent during his hunger strike, the Police and Mayor's illegal actions in kiosks' dismantling, investigation of circumstances of military servicemen deaths, realization of the right to a fair trial and necessity to subject several judges to disciplinary sanctions, the necessity of effective public control over law enforcement for the protection of freedom of expression, issues of torture and ill-treatment in the country, elimination of the consequences of March 2008 events, deficiencies of the tender system of the Ministry of Education and Science, freedom of assemblies, realization of property and social rights in the country and other issues.



**ԱՍՈՂԻԿ**

Տպագրված է «ԱՍՈՂԻԿ» հրատարակչության տպարանում:

Ք. Երևան, Սայաթ-Նովա 24, (գրասենյակ)

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