

## **INFORMATION NOTE**

### **on activities of the Armenian Human Rights Defender in the state of emergency**

On 16 March 2020, the Armenian Government approved the Decree “On declaring state of emergency in the Republic of Armenia” in response to the outbreak of the novel coronavirus (COVID-19) in the world and in Armenia, as well as the declaration by the Head of WHO on the recognition of the spread of this disease as a pandemic. Further, the RA Government decision on Declaring State of Emergency in the Republic of Armenia was amended several times, and extended the restrictions imposed by the decision till May 14, 2020<sup>1</sup>.

Since the first COVID-19 case has been reported in the Republic of Armenia on March 1, the whole process was under the direct attention of the Human Rights Defender of Armenia. The contact with all competent bodies and services has been maintained from the very beginning.

In the State of Emergency, the Human Rights Defender works 24-hours a day. These days the number of applications, complaints and inquiries addressed to the Defender is significantly higher than in ordinary circumstances. Complaints mostly relate to issues on: (1) entering and leaving Armenia; (2) salaries; (3) human rights in closed institutions (penitentiary institutions, psychiatric establishments, etc.); (4) lack of possibility to pay for utilities (water, gas and electricity) due to isolation or self-isolation, restoration of interrupted supplies, etc.

#### **Activities of the Human Right’s Defender’s Office (HRDO) with regard to providing legal opinions**

All the legal initiative and amendments related to the COVID-19 pandemic have been provided for the Human Rights Defender’s legal opinion taken into account its independent mandate and role in protection of human rights and prevention of torture.

One of the main observations of the Defender concerns the legal status of isolation. In particular, it underlined that the isolation of a certain person based on the instruction of the state authority (not a general call of the Government addressed to the population based on the well-known principle “stay home”) must be as deprivation of liberty, rather than restriction of freedom of movement.

As for the draft legal acts with regard to COVID-19 and State of Emergency, the Human Rights Defender raised a number of issues related to the interconnection of freedom of movement and deprivation of liberty. In particular, it was highlighted, that:

- legal grounds for any restriction related to the deprivation of liberty should be regulated by the law adopted by the Parliament;
- grounds for the deprivation of liberty should be also precisely regulated, according to the RA Constitution and well-known international documents ratified by Armenia (e.g. ECHR);
- procedure for the deprivation of liberty should be prescribed by law, as directly required by the Constitution;
- application of minimum rights and guarantees under Article 27 of the RA Constitution and Article 5 of the ECHR should be prescribed by law ensured in practice. <sup>i</sup>

In this regard, the Human Rights Defender made a reference to the Advice of the SPT to States Parties and NPMs relating to the Coronavirus Pandemic, by stating that since quarantine facilities **are de**

**facto a form of deprivation of liberty**, all those so held should be able to benefit from the fundamental safeguards against ill-treatment. Furthermore, the Defender highlighted the need of having right oriented restrictions with precise legal proceedings and guarantees, which was not ensured in the initial stages. Following that observation, the Government changed the mentioned approach.

In order to combat the virus and minimize the risk of infection, amendments and supplements were made in the RA Law on Legal Regime of State of Emergency, giving the possibility to supervise the movement of people isolated in their homes and identify their location by using the personal data generated through electronic means of communication.

The Defender provided legal opinion on the regulations imposing the above-mentioned restrictions considering the necessity to ensure right to protection of personal data, inviolability of private and family life, as well as freedom and secrecy of communications based on the principles of “legal certainty”, “proportionality”, “necessity in democratic society” and “prescribed by law”.

Another comment related to disproportional restriction **on the freedom of media** allowing publishing only information provided by state authorities. This clause was further removed *inter alia* based on the observations of the Defender. However, the Minister of Justice underlined that this restriction may be recovered if there will be any abuses by media representatives. Therefore, the Office of the Human Rights Defender is conducting monitoring of media in the respective perspective, in order to present grounded arguments on suggestions of restrictions if there will be any.

### **Activities in the field of preventing domestic violence**

The restrictions imposed during the State of Emergency aimed at preventing the spread of novel coronavirus (COVID-19) increase the risk of violence in the family, especially against, women, children and the elderly.

Following the declaration of the State of Emergency in the country, the Human Rights Defender’s Office has received 13 complaints on violence against women, children and a case against an elderly man. As a comparison, last year during the same period 5 such complaints were received. Besides, we should consider that these cases are latent or hidden.

Since the first days of the State of Emergency, domestic violence issues have been subject of separate discussion at the Defender’s Office. However, during these days, the prevention of domestic violence requires more professional approaches, which will ensure proper and coordinated preventive activities, as well as a full identification of the problems and solutions. Therefore, the Human Rights Defender established a specialized working group on domestic violence prevention issues.

The working group is tasked to pay special attention to violence against women, children and the elderly. Moreover, the working group will discuss both written and oral complaints, as well as will conduct monitor (media publications, work of state bodies, etc). The HRDO is in contact with law enforcement bodies and relevant NGOs: more effective information exchange will be carried out and joint discussions will be held on the issues with regard to domestic violence prevention.

### **A guide on Frequently asked questions (FAQ) on COVID-19 and human rights in the State of Emergency**

The Human Rights Defender has published a guide on frequently asked questions on the new Coronavirus and human rights in the state of emergency. The guide provides information on various issues starting from means of protection from the new Coronavirus to the legal regime of the state of emergency

and restrictions in the penitentiary institutions. It also presents essential information on the main restrictions in force and the rights that cannot be restricted. The guide shows how to apply to the Human Rights Defenders in the state of emergency and gives useful links and hotlines of other competent state bodies.

The mentioned guide has been translated into Yazidi, Kurdish, Assyrian, Russian, English<sup>1</sup> and Indian to be accessible for the national minorities in Armenia. It has also been printed in Braille and has already been sent to persons with visual impairments. The audio version is also available.

### **Translation of standards on COVID-19 and places of deprivation of liberty**

Statement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease (COVID-19) pandemic of European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment as well as Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Pandemic have been translated to Armenian by the HRDO and presented to all competent bodies.

Human Rights Defender addressed letters on the prevention of COVID-19 in places of deprivation of liberty to the Prosecutor General's Office, Ministry of Justice, Ministry of Health, Supreme Judicial Council and Police. The letters reflect the statements and criteria of the CPT and SPT and emphasize the need of special attention for the vulnerable or at-risk groups of detained persons such as older persons, persons with pre-existing medical conditions, pregnant women and juveniles by highlighting the need to resort alternative measures to the deprivation of liberty.

In response to the Human Rights Defender's letter, the Prosecutor General has informed that at his instruction the prosecutors have been examining the cases of at-risk persons deprived of liberty persons (elder people, persons with pre-existing medical conditions, persons who receive stationary treatment, etc.) to consider the possibilities of implementing alternative measures of restraint to deprivation of liberty. According to the Prosecutor General until April 16, 2020 by the initiative of prosecutors 21 persons were released from the detention on remand and 2 persons from imprisonment.

The Human Rights Defender addressed questionnaires on the medical and sanitary measures taken in special institutions in the context of prevention of the COVID-19 spread, the methods of detection of persons who may be contagious, frequency of measuring the body temperature of persons deprived of liberty and staff representatives, availability of personal protective equipment, disinfectants, etc.

One of the psychiatric establishments raised an issue of financial shortage to hire additional medical personnel for working in the state of emergency. The issue is under the Human Rights Defender's attention as well.

### **Cooperation with national and international actors**

The Human Rights Defender maintains an effective cooperation with the Commandant of the Republic of Armenia, and so do the representatives of their Offices. In the framework of rapid responses and general monitoring, the HRDO cooperates with all competent bodies. As for places of deprivation of liberty a constant contact is maintained with the Ministry of Justice, Penitentiary Service, medical

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<sup>1</sup> Available at:

[https://www.ombuds.am/images/files/432082d18098a7a17bd88873277492da.pdf?fbclid=IwAR2mbiwB9HrLDpxuBjixY0cu9AtPMgOu\\_cEMRitmCaaPuNcEx2j-dhmArdM](https://www.ombuds.am/images/files/432082d18098a7a17bd88873277492da.pdf?fbclid=IwAR2mbiwB9HrLDpxuBjixY0cu9AtPMgOu_cEMRitmCaaPuNcEx2j-dhmArdM)

personnel working in the penitentiary institutions, administrations of psychiatric establishments and with the Police.

The HRDO receives calls from penitentiary institutions and from psychiatric organizations related to the situation caused by Coronavirus pandemic. So far, the Office has received calls from the persons deprived of liberty, their relatives, advocates, as well as from the staff of penitentiary institutions and psychiatric organizations. Raised issues concern the restrictions imposed on contacts with outside world (granting visits and short leaves), provision of food and other supplies to the persons deprived of their liberty from their relatives, review of cases of pre-trial detention, etc.

Some calls from representatives of medical units in penitentiary institutions informed about lack of personal protective equipment and means of personal hygiene in those institutions. In this relation the HRDO collaborated with the contact persons of the Ministry of Justice and representatives of international organizations to address the shortcomings.

The HRDO maintains an effective cooperation with the international organizations. The representatives of the Human Rights Defender as NPM cooperate with the Delegations of the European Union, UN Agencies and ICRC in Armenia concerning the COVID-19 spread and its prevention in places of deprivation of liberty by keeping every day contact and by sharing relevant information.

In the frames of cooperation with the UN Agencies in Armenia (UNDP, UNFPA, etc.) **Personal Protective Equipment (PPE) and disinfectants were provided to the HRDO.** Also, a special training has been conducted for the relevant staff of the Human Rights Defender on proper exploitation of PPE.

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<sup>i</sup> Restrictions include closure of schools and universities, prohibition of events with more than 20 persons in attendance, restrictions on movement within the country, screening and quarantine measures, and restriction of entry into Armenia. Additional limitations are set related to the entry to country, economic activities in various fields, except those related to items of first necessity and for combat against the virus, etc.

Imposed restrictions concern also the right to liberty and security, as well as freedom of movement. In particular, the general rule was that all people must be self-isolated in their homes or other places of their choice, having possibility to go out in extremely necessary cases. Furthermore, those with suspicion of having the virus (contacted with a person infected with COVID-19 or arrived from risky countries in the context of infection) must be fully isolated either in their homes or other places chosen by relevant state authorities.

In order to supervise the movement of those fully isolated in their homes, amendments and supplements were made in the RA Law on Legal Regime of State of Emergency, which for the purpose of combating the virus, gave the possibility to restrict the right to protection of personal data, inviolability of private and family life, as well as freedom and secrecy of communications by using the personal data generated through electronic means of communication (e.g. phone calls).