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Collection of data on discrimination, hate crimes, and hate speech in Armenia

Situational analysis report

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Table of contents

Introduction	3
Methodology.....	4
Legislative framework.....	4
Available data on hate crime, hate speech and discrimination at the national level	7
The current recording and data collection framework for hate crime, hate speech and discrimination, including roles and responsibilities	9
Data collection by the Information Center of the Police	9
Data collection by investigative bodies	11
Annual reports of the Prosecutor General’s office.....	12
Annual reports of the Judiciary.....	12
Data of the National Statistical Service	13
Annual reports of the Ombudsman	14
Data collection by human rights NGOs.....	14
Recommendations	15
References	17
Appendix 1. Relevant legislation.....	18
Appendix 2. Registration and search cards.....	20
Appendix 3. Number of cases	23

Introduction

The aim of this report is to study the current situation of hate crime and hate speech data collection and processing legal frameworks and mechanisms in Armenia. Armenia as the Member State of the Council of Europe has international obligation of establishing effective legal frameworks and remedial mechanisms against discriminatory practices. One aspect of that obligation is to have effective hate crime data collection and processing mechanisms capable of detecting not only the number but also the trends of discriminatory practices involving hate crimes. In order to reach that goal, it is necessary to have disaggregated data collection and processing mechanisms in place as otherwise, where information is collected by aggregated form, crimes committed with motives of hate or other discriminatory motives often remain undetected and therefore unpunished.

Armenia has not taken effective measures to reform its antidiscrimination laws and practices in order to bring them in line with European standards. Despite it took efforts in the past to reform its laws, it has not yet adopted a distinct non-discrimination law. The law on equal rights of men and women (gender law) was not effectively put in practice as there are still deep-rooted stereotypes in the society about many aspects of equality and non-discrimination. This includes also the lack of practice and knowledge among legal practitioners of handling cases with bias motivations and of detecting bias indicators in order to ensure effective redress. The Criminal Code lacks basic substantive grounds to tackle offenses committed with bias motivations. It stipulates overly narrow grounds of discrimination as aspects of hate motives. The investigator, prosecutors and judges who decide on criminal matters often lack basic knowledge about key aspects of non-discrimination.

The above shortcomings in the system of criminal justice have negative influence on the system of collecting and processing of data on hate crime and hate speech. The major shortcoming identified is that all data frameworks are designed per major provisions of the Criminal Code without specifying the subcategories of the articles that define crimes committed by hate and bias motives. Such aggregated method of data collection leaves it undetected the crimes committed by hate. In order to eliminate this systemic problem, a complex approach is suggested. Given the fact that the authorities are intended to adopt new criminal procedure code and criminal code by which effective structural and substantive changes are expected to be made in the criminal justice system it is suggested to use this momentum in order to incorporate all necessary principles, substantive law grounds and procedures of disaggregated data collection in the criminal and administrative frameworks. In particular, it is suggested to follow the practice designed by the Judicial Department and work out codes for all types of offenses constituting hate crime and hate speech. Once complete set of the codes are elaborated, it is suggested to incorporate them in the already existing frameworks under Police, investigative bodies and Judiciary. Along with this process, all relevant employees and officers responsible for data entry need to be trained on the basic

principles of non-discrimination, hate crime and hate speech. Wide activities may also be envisaged such as designing training programs for legal practitioners.

Methodology

This situational analysis was compiled through desk research and review as well as in person interviews. The desk research included the research and analysis of legislative acts, statistical reports and periodic reviews of the Police Information Center, the Prosecutor's office, Judicial Department, Human rights NGOs and the Ombudsman's office. The documents of the Council of Europe such as the findings of ECRI, PACE and the Committee of Ministers were reviewed to tackle the systemic problems raised by these bodies. Special consideration was given to the statistics of OSCE/ODIHR and the hate crime country reported conducted few years ago in which data collections mechanisms were also studied. In addition to review of papers, in person interviews were conducted with several officials such as Mr. Arman Abovyan, deputy head of Police IC, Ms. Nina Pirumyan, representative of the Ombudsman's office, leading attorneys such as Hovsep Sargsyan, prosecutors and other legal professionals, such as Ruben Melikyan, attorney, co-founder of "Path of law" NGO. These interviews alongside with the desk research and review helped the researcher to represent the comprehensive situational analysis on data collection and analysis in Armenia.

Legislative framework

The fundamental right to non-discrimination is provided in the article 29 of Constitution with such grounds as race, colour of skin, age, property status, language, ethnic or social origin, religious belief, etc. In the end, the list of substantive grounds is finalised by a widely defined concept of "*other circumstances of personal or social nature*". Given that the constitutional provision does not set such grounds as gender identity or sexual orientation, the above wide provision may embrace the above grounds in order to have it reflected in the statutory laws. It is to be noted that Armenia ratified the Protocol 12 of the European Convention of Human Rights which supplements the above constitutional concept of general prohibition of discrimination.

Further, the article 77 of the Constitution provides the principle of abuse of basic rights and freedoms which is in fact equivalent to the principle enshrined in the article 17 of the European Convention of Human Rights. It prohibits the use of fundamental rights and freedoms with the aim of violent overturn of constitutional order, incitement of national, ethnic, racial hate and propaganda of violence and war. This is in fact the constitutional principle of prohibition of hate crime and hate speech.

The Criminal Code of Armenia provides the general article 143 by which any direct or indirect violation of basic human rights and freedoms based on such characteristics as race, colour of skin, ethnic origin, age, sex, political or other views, etc. is defined as a crime.

However, in practice this article has been rarely used given its obscurity and vagueness. In general, the Criminal Code provides two types of approach in defining hate crime and hate speech. With the first approach, some specific acts are defined as distinct hate crime. These are the crimes defined by article 226 (incitement of racial, ethnic or religious hatred), article 392 (crimes directed against security of mankind), article 393 (genocide), article 397¹ (denial, derogation of genocide and other crimes against peace and human security, their approval or justification) and some provisions of the article 390 (serious violation of international humanitarian law norms during armed conflicts and committed with motives of apartheid, racial discrimination, degrading person's dignity and other non-humanitarian or humiliating actions). With the second approach, the Code defines *religious, ethnic* and *nationality* hatred as aggravating elements to the crimes defined in the Code. In this sense, the general article 63(1) provides that any criminal act motivated by national, racial or religious hatred shall be defined as elements aggravating the criminal liability and the measure of punishment. Further, several criminal acts in the Code are defined both with basic constituent elements (e.g. article 104 – murder) and with aggravating grounds (section 13 of part 2 to article 104 – murder committed by motive of religious, national or ethnic hatred). Another example is the article 112 (willful infliction of heavy damage to health) the section 12 of part 2 of which aggravates the liability if it is committed by motive religious, national or ethnic hate).

One specific aspect of the Criminal Code, which is open to criticism, is that it provides only three grounds of hate motives – ethnic, nationality and religious – whereas the prohibited grounds of discrimination and the motives of hate crime are much wider to the extent that they embrace the concept of general prohibition of discrimination. This gap in the law leaves undetected an unpunished several crimes committed by hate motives. For example, if a representative of LGBG community is taken to police and ill-treated by police officers for his/her sexual orientation, even if charges are brought against police officers for ill-treatment, they will not be sentenced for hate crime as the general article 63 or the specific article 112 of the Criminal Code, cited above, do not define a sexual orientation or a gender identity as distinct elements of hate aggravating criminal liability or punishment. The same approach is rendered in the Code with respect to other crimes defined with aggravating grounds (article 113 (infliction of medium gravity damage to health), 119 (infliction of grave physical pain or psychological anguish), article 185 (willful destruction of property), article 265 (mutilation of bodies or burial places), etc.

The above shortcoming in the Criminal Law will disappear if the government adopts the draft criminal code which is posted currently for public discussion at www.e-draft.am public portal. The draft envisages wider and, in fact, unlimited grounds for claiming violation of discrimination under criminal law. The authors of the draft took into account the recommendations of ECRI (European Commission against Racism and Intolerance).¹ The draft provides, from the one hand, wider scope of prohibited grounds of discrimination, and from the other hand it envisages the concept of general prohibition of discrimination. If the present

¹ ECRI report on Armenia (fifth monitoring cycle), Adopted on 28 June 2016, pp. 35-36

code envisages only the race, ethnicity and religious belief as aspects of hate crime the current draft suggests ideology, ethnicity, nationality, racial and religious hate, intolerance and hostility, including such wide grounds as *“motives of hate, intolerance, or hostility or religious fanaticism towards other social group.”*² It can be assumed that the broad definition of “other social group” meant to cover, *inter alia*, the sexual and religious minority groups as ECRI recommended to reform the criminal code so to include the grounds of sexual orientation and gender identity in the list of prohibited grounds.³ The above language stipulating aggravating grounds appears also in the general part of the draft law which provides that the above prohibited grounds of discrimination can be used to claim that the offense is committed with hate motive and therefore it shall be classified as a crime committed with aggravating grounds.⁴ Thus, the draft criminal law will potentially put the criminal law in line with European standards with respect to the classification of acts as hate crime. As such, it will effectively contribute or even serve as a platform in the formation of disaggregated data collection framework in the future.

Provisions on non-discrimination are defined in several statutory laws. The Annex 1 provides the list of the statutory laws with indication of the relevant non-discrimination provisions. It is to be noted that none of the laws in the list provide legal framework on non-discrimination. The mentioned articles appear in the statutory laws as sole statutory law grounds of non-discrimination without providing wider concepts and relevant grounds such as types of discrimination, exclusions to non-discrimination, the concept of comparator, standards and forms of proof, the definition of discrimination, etc. Therefore, despite to availability of standard non-discrimination clauses in many laws, the legislation as a whole does not provide a comprehensive non-discrimination legal framework. In addition to this, such central statutory laws as the Civil Code and the Law on Fundamentals of Administrative Action and Administrative Proceedings do not have a non-discrimination clause at all which raises an issue of a fundamental gap in the law. Moreover, none of the laws mentioned in the last provide any definition of hate speech. The Civil Code provides a separate article and a comprehensive framework on insult and defamation (article 1087.1). This provision, which was incorporated in the law in May 2010 gave rise to many civil disputes and court cases forming a stable and well-elaborated body of law on defamation. Often, this framework is used to challenge hate speech in civil disputes. However, there is also an uncertainty as to dimensions of hate speech involving civil rather than criminal responsibility. The Civil Code and the civil law in general lacks clear definitions and court practice as to the hate speech. The criminal investigation and prosecutorial bodies in turn rarely institute proceedings under article 226 of the Criminal Code.

² See, for example, articles 156(2)(13), 167(2)(12), 168(2)(12) and several other articles of the draft Criminal Code.

³ ECRI Report on Armenia (fifth monitoring cycle), Adopted on 28 June 2016, paragraph 1, p. 35

⁴ Article 71(1)(7), Draft Criminal Code

With adoption of the law on domestic violence in 2017⁵ the government initiated the reform of setting a unified domestic violence data recording framework. On October 10, 2019 the government adopted the Decree No. 1381 on the Regulation of Centralised Data Recording of Cases of Domestic Violence.⁶ It provides a unified data collection mechanism where data is collected and processed by regulatory body and where data is received from different bodies such as Police, the Prosecutor General's Office, the investigative bodies, the Judicial Department, the territorial or municipal custodian and guardianship bodies, the Ministry of Health and other bodies involved in domestic violence cases. The resolution provides annexed forms designed for each of the above stakeholders in order to fill data and forward them to the regulatory body. The study of the forms shows that they do not provide a disaggregated form of data collection mechanism. Instead, the forms provide narrative questions about circumstances and types of violence which in general may disclose the motive of hate but not in the form of a data for which further processing is needed. It is believed that the regulatory body may substantially contribute in the future formation of unified or centralized disaggregated data collection system.

Finally, it is to be noted that Armenia has not adopted a distinct non-discrimination law. This is a major gap in the legislation which substantially weakens redress mechanisms against discrimination, hate speech and hate crime, including the process of forming a disaggregated data collection mechanism. In sum, legislation lacks a comprehensive legal framework and redress frameworks against discrimination, hate crime and hate speech which includes also the lack of unified disaggregated data collection and processing framework.

Available data on hate crime, hate speech and discrimination at the national level

In 2016 the government of Armenia reported to OSCE/ODIHR 3 prosecuted hate crime cases. In 2017 the government reported 14 recorded and 1 prosecuted hate crime case⁷. No similar information was provided to OSCE before or after these dates in previous or subsequent years. In the past years, the government officials used to respond that there was no hate crime in Armenia. However, it is still unclear how the above figures were received as there is not disaggregated data collection framework and practice in the country. The webpage then refers to government decrees no. 1495-N and 1225-N as the sources of the above information. However, as indicated below, data collected by these regulations is not detailed and is not disaggregated per motives of crimes. Therefore, the above figure cannot be accepted as a reliable and accurate data on hate crime cases. Information provided by NGOs is more reliable. However, such information mostly demonstrates the figure of reported cases whereas no data is available as to the outcome of proceedings which is also very important in order to understand the trends of investigation of hate crime cases.

⁵ Law on Prevention of Violence within the Family, Protection of Victims of Violence within the Family and Restoration of Peace in the Family.

⁶ The text in Armenian is available at: https://www.e-gov.am/u_files/file/decrees/kar/2019/10/19-1381.pdf

⁷ The information is available here: <http://hatecrime.osce.org/armenia>

Several government bodies, as indicated in detail below and among them are the Police, the Prosecutor General Office, the investigative bodies and the Ombudsman, provide periodic reports of crimes and violations of human rights. However, none of them gather and process disaggregated crime data. All the above agencies exercise a common practice of data processing by which the type of crime is defined per general article of the Criminal Code without further specifying sections or subsections of the articles that often define aggravating aspects of *corpus delicti* such as hate motives. The result of this approach is that crime statistics do not provide detailed data on crimes committed by hate. They refer usually the principle aspects of crimes (e.g. murder) without indicating the aggravating aspects which are usually defined in the subsections (e.g. with motive of national hate).

Therefore, there is no accurate and reliable data on the number of hate crimes reported, investigated, acquitted, forwarded to courts for trial and tried. It is due to the lack of a comprehensive data processing system that the information provided to ODIHR is incomplete as it does not show the outcome of the reported cases and not does it show the trends of investigation and trial of the reported crimes.

Where the given type of hate crime is defined as the main aspect of crime in the Criminal Code, the annual statistics of the Judicial Department will show accurate number of judgments delivered with regard to that crime. For example, in the article 226 the *corpus delicti* of hate crime is defined as the main aspect or the main constituent element of crime. Therefore, the article 226 will appear in the reports as a separate and a distinct category which as such will be detected easily. A quick search through annual reports of the Judicial Department will show that there has not been a single reported judgment delivered under article 226 since 2015. It appears that no hate speech cases have been investigated in the recent years as otherwise some data would still be available about the number of cases transferred to court for trial. As to other forms of hate crimes, data cannot be searched and detected in the reports of the Judicial Department because, as already indicated, they provide disaggregated data of crime statistics.

Further, it is not possible to receive data on hate crime cases investigated by investigative bodies because such data, even if collected and processed, are forwarded to the Information Center of Police on semi-annual and annual basis without reporting them to public. These reports are not published and they are used by investigative and prosecutorial bodies solely for their operative needs. Data collected in these reports is relayed to the public only through annual reports of the Prosecutor General to the National Assembly. However, as indicated in detail below, crime data for this stage of criminal proceedings is collected and processed in an aggregated form without sorting out data per aggravating aspect of crimes such as hate motive. Therefore, information on, for example, the number of murder cases will not reveal the number of murders committed by hate motives.

In order to receive more or less reliable information of specific areas of discriminatory practices, one may refer to NGO statistics which are more reliable. However, often they present only narrowly tailored data concerning very specific areas of discrimination or hate crime. For example, the PINK reported 25 cases of hate crime for the year 2018. Given that

PINK is specialised in protecting the victims of discrimination based on sexual orientation and gender identity, this information can be accepted as reliable.

The current recording and data collection framework for hate crime, hate speech and discrimination, including roles and responsibilities

Currently, there is no centralised body and a mechanism of collection of disaggregated data on hate crime, hate speech and discrimination in Armenia. Therefore, it is not possible to obtain a comprehensive data in order to form a general picture of the practice of discrimination in Armenia. No comprehensive and disaggregated statistical data on crimes motivated by hate is available due to outdated data collection and processing methodology and mechanisms.

There are several state agencies that collect and process crime data in Armenia, including the Human Rights Defender's Office (Ombudsman) and some NGOs specialized in the sphere of non-discrimination. The central crime data collection and processing body is the Information Center of the Police of Armenia.

[Data collection by the Information Center of the Police](#)

The Information Center (hereafter referred to also as Center) maintains the most comprehensive and centralized database of crimes in Armenia. The forms used by the Center are presented in Annex 2. Data collection and elaboration is done based on the procedures prescribed by Government Decree N933-N. The following information of crime is entered in the database:

- Data of on citizens of the Armenia and on foreign citizens charged and convicted for crimes committed on the territory of of Armenia,
- data on citizens of Armenia convicted or sentenced in other countries who were later extradited to Armenia for serving the sentence,
- data on persons searched for committal of crime,
- data on persons accused of committal of crime who were later acquitted on non-acquittal grounds (e.g. application of limitation period of crime)
- data on persons on the wanted list,
- data on mino, exempted from criminal liability in relation to whom compulsory disciplinary measures were applied,
- data on the persons who committed crime envisaged by the Criminal Code in relation to whom compulsory medical measures were applied by decision of
- court,
- data on the convicted persons, who were pardoned before the verdict entered into force,

- data on the persons in relation to whom institution of criminal proceeding was rejected on non-acquittal grounds (e.g. limitation period, immunity, etc.),
- data on persons released from arrest on the ground of lack of crime.

The Center receives data from law enforcement, investigative and prosecutorial bodies, as well as from courts and penitentiary facilities.

The data are kept upon the person reaches the age of 80 with the exception of cases when a person was convicted for a heavy crime, or died at the place of detention, or the criminal prosecution was terminated on acquittal grounds.

Data entry is done per name, second name, patronymic name, day/month/year of birth and place of birth. The personal data is followed by information regarding nationality, place of work and residence, date of arrest or detention and data on the nature of the crime and the specific article of the crime in the Criminal Code. This data entry mechanism suggests that the data is entered and search is conducted per person's name rather than article or nature of the crime as indicated in the Criminal Code. Thus, the nature of crime or article of the Criminal Code are not primary data on the basis of which the data collection and processing is performed.

The Center operates by the principle of confidentiality and as such does not publish statistics. It provides data upon request by designated state agencies and by individuals. The state agencies request information for their operational needs and goals. The individuals may request and get information only if the information concerns them. The only exception are the requests coming from lawyers (defence attorneys) who may request information about a third party based on the Access to Information Law and the Law on Advocates in connection with the legal representation that they carry out. Thus, data collected by the Information Center is of operative nature and as such information may be provided by the Center only upon the request by state bodies or individuals where such information is requested for specific purposes. The Information Center does not process and publish statistical data for general use. Moreover, the Information Center collects and processes crime data per types of crimes as classified under the Criminal Code. Namely, information on crime is entered in the database per article of the Criminal Code and the subsection that indicates specific aspect of the crime such as the aggravating ground. If the aggravating ground concerns the hate motive, so further clarification is data entered as to which specific hate motive the crime concerned (national, ethnic or religious). Moreover, given that the law provides the above three limited grounds of hate motive, there is no option that other grounds of discrimination, constituting hate motives, be data entered in the database. Therefore, the information of crime is data entered in an aggregated manner and the final output, the database information, does not provide by which specific motive of hate the crime was committed.

Given the very limited scope of data disaggregation, the officers of the Information Center elaborated guidebooks which provide 28 more detailed data classification grounds each of which are coded by specific figure The Guidebook no. 14 provides the list of motives of crimes among which it defines five hate motives which are prescribed as "racial", "national",

“religious”, “other personal” and “other motives” and which are coded by figures 90, 91, 92, 95 and 99 accordingly. Thus, when data of crime is entered in the paper-based or electronic database, not only the article of the Criminal Code is indicated but also to code corresponding to the above motive of crime. However, this practice is not consistently followed as the guidebooks were elaborated as complimentary rather than binding tools of crime classification.

Data collection by investigative bodies

The investigative bodies of Armenia conduct criminal investigation which is comprised of two stages - preliminary inquiry and pre-trial investigation. These two stages together comprise investigation stage of criminal proceedings before trial court proceedings. These bodies do major data collection activity and report data to the Information Center and the Prosecutor General Office. The preliminary investigation bodies are located mainly with police. The investigative bodies are divided between four agencies currently – the Investigative Committee, the Special Investigative Service, the Investigative Department of the National Security Service and the Investigative Department of the Central Revenue Service. All the above bodies, comprising major investigative framework, must collect on monthly basis and report semi-annually or annually detailed statistical data about the number and types of crimes investigated by them. This activity is regulated by the Government Decree No. 1225-N of 23 October 2008 on the “Unified Forms and the Manner of Filling and Reporting Statistical Data of Pre-Trial Proceedings”. In addition, police officers who receive reports on incidents, crimes or misdemeanour (administrative offense) must file period reports which is regulated by Government Decree no. 1495-N of 23 November 2017.

Under Decree no. 1225-N, investigative bodies and bodies conducting preliminary inquiry of crime are bound to collect on monthly basis wide number of statistical data such as, for example, on the number of criminal cases investigated and forwarded to courts, on the number of acquitted or suspended cases, on the number of juvenile crime cases, the types of crimes investigated (categorized per article of the Criminal Code), the number of preventive measures applied and terminated, data on property damage inflicted and compensated and many other statistics. For the subject of this survey, the most relevant section of the Decree is the one which instructs how to categorize data on the types of crimes. The types of crimes are categorized per provision of the Criminal Law without specifying the subsections which set the aggravating grounds of crime such as national, ethnic or racial hatred. It is therefore not clear how the authorities tackle hate crimes where the *corpus delicti* is defined in the aggravating aspect of the crime. Where the *corpus delicti* of the hate crime is defined by the main aspect of the crime, such as the article 226 of the Code (hate speech – incitement to violence), the statistical data is easily detected but where the hate crime is defined as an aggravating ground the data does not reflect it because aggravating grounds are usually defined in the subsections of the provisions which the statistical forms usually do not define as a separate category of crime. The forms usually refer to the norms in an aggregated rather

than disaggregated form. Therefore, the reporting system of pre-trial investigation data has the same defect as the one conducted by the Information Center – data is processed by an aggregated manner which as such does not display detailed statistical data and most of the hate crimes fall out of the statistical reports. It is therefore unclear how the government reported ODIHR 17 hate crime statistical data by reference to the Government Decree no. 1225-N if the methodology of this decree does not allow to detect and collect detailed data on hate crime.

Annual reports of the Prosecutor General’s office

The Prosecutor General is bound by Constitution to provide annual report of crime to the national parliament. The report includes both narrative and statistical analyses about trends of crimes in Armenia. There is no prescribed methodology of drafting the annual report. In describing the trends of crimes, the report refers to statistical data collected and processed per gravity (gross, medium and low gravity), nature (property, directed against human, committed by public officers, etc.,) and types (defined per provisions of the Criminal Code) of crimes. Main emphasis is put in the report on such crimes as murder, physical assault, crimes committed by use of arms, property crimes, house theft, hooliganism, traffic road crimes, juvenile crime. No specific reference is made on hate crimes, hate speech or in general crimes committed by discriminatory motives. Motives of crimes such as national, ethnic or religious hatred are not referred to or somehow categorized in the report at all.⁸ For example, if the data refers to crimes such as murder, assault, property damage, mutilation of body, the report does not provide further data on whether these crimes were committed with aggravating motives of hate.

As a summary, the annual reports of the Prosecutor General are published and widely disseminated in the public. However, they do not provide disaggregated data of hate crimes or, in general, crimes committed by discriminatory motives.

Annual reports of the Judiciary

The Judiciary publishes semi-annual and annual court practice reports in which it provides the number and types of court decisions issued by civil, criminal and administrative courts.⁹ The actual data gathering and processing is done by the Judicial Department which is a judicial administrative body taking care of all organizational, logistical and administrative matters within the Judiciary. The experts of the Judicial Department sort out data by special indexes (codes) elaborated several years ago where each index represents given statutory law provision. For example, more than 300 indexes were elaborated to cover data concerning

⁸ See Report of the activity of Prosecutor’s Office of the Republic of Armenia in 2014. Annual reports can be seen on the following page of the website of the Prosecutor’s Office: <http://prosecutor.am/am/messages-to-the-president-and-the-national-assembly/>

⁹ All reports are published in the online website of the Judicial power www.court.am

court decisions rendered by criminal courts. Each code represents one article of the Criminal Law. These codes are divided into 18 groups (Annex 3). Both the groups and the indexes are designed per sections and articles of the Criminal Code.¹⁰ For example, the first group titled “Crimes directed against life and health of citizens” includes 28 indexes each corresponding with one specific article of the Criminal Code: code 1.1. - article 104 – murder, code 1.9. – article 112 – infliction of willful heavy damage to health, code 1.16 – article 119 - torture, etc. The group “Crimes against public security” includes 37 indexes among which article 226 – inciting national, racial or religious hatred; 222 – banditry; 236 – illegal manufacture of weapons. Under each index and corresponding article of the Criminal Code statistical data is provided which shows the number of verdicts delivered, the number of appealed cases, the number of court decisions entered into force, the number of court decisions delivered during the reporting period, etc. The negative aspect of this method of data collection is in that it provides aggregated data per each article of the Criminal Code without specifying whether the data concerns the crime committed by aggravating grounds or, as stipulated in the national law, by qualifying objective aspects of the crime. As already said above, hate motive is one of such aggravating grounds under general article 63 of the Criminal Code. In the subject report, the aggregated method of data processing data fails to demonstrate whether the given information covered the crime committed by aggravating ground such as hate motive which is although one of the constituent elements of the crime under the given general article but the data does not reflect it. Even so, the positive aspect of this method of data collection is that unlike the data by the Information Center and the annual reports of the Prosecutor General Office, data processing of the Judicial Department is carried out by use of codes which is a more elaborated method. It allows to engage in disaggregated data processing of hate crimes in the future if necessary changes are done in the regulations, as well as in the statutory laws (see in the section of Recommendations). The use of codes allows to shift data processing easily from manual/paper based platform (used currently by the Information Center) into digital platform. Given the current reforms of transforming criminal justice into digital, electronic case processing infrastructure, the use of codes by the Judicial Department could serve as a good example to fulfill that goal.

Data of the National Statistical Service

The National Statistical Service collects, processes and publishes statistical data on some specific legal sphere including crimes. Collection, classification and publication of crimes-related statistical data is performed in conformity with the Directive and according to the enclosed form, set up by Decision 05-N (February 23, 2004) of the Government of Armenia (Annex 4).¹¹ The Service receives data of crime periodically from Information Center of Police

¹⁰ Annual summary of the practice of criminal courts of general jurisdiction in 2014 can be seen on page <http://court.am/?l=lo&id=50>

¹¹ Examples of the Directive and Form can be seen at the following page of the website of the National Statistical Service: <http://www.armstat.am/am/?nid=302>

which is regulated by the Government Decree 11-N “On Approval of Procedure of Providing Statistical Information” of the State Council on Statistics of the Republic of Armenia (October 3, 2003).¹² Relevant report is submitted to the National Statistical Service before the tenth of the month, following the reporting period. The crime statistics is grouped into the following six groups:

- *crimes against human,*
- *crimes against public security, public order and public health,*
- *crimes against property,*
- *crimes against economic activity,*
- *crimes against state power, state service and procedure of governance.*
- *other crimes*

The data is further elaborated and displayed per gravity (less gravity crimes, medium gravity crimes and grave or especially grave crimes). No further disaggregation of data is done by the Information Center or the Statistical Service when information is processed. Each of the six groups may contain data on hate crimes, however, they are not processed and displayed as the data processing is done in an aggregated format – like all other remaining agencies mentioned above. Therefore, the National Statistical Survey does not provide distinct data on hate crimes in Armenia.

Annual reports of the Ombudsman

The office of the Human Rights Defender does not maintain a database of hate crime, hate speech or discrimination. Based on its mandate, it processes applications from legal and physical persons concerning human rights violations that may include also cases of discrimination, hate crime or hate speech. The office processes them in the general order and no separate procedure is envisaged for handling such requests. On the similar note, the Ombudsman issues periodic reports of different human rights violations in which references are done also on various discriminatory practices. Occasionally, references are made to certain statistical data in these reports, however, such references or data collection are not systemized but are done mostly on a case by case basis. The draft law on non-discrimination envisages for the Ombudsman to become the national regulatory body on non-discrimination. If so, the office will possibly conduct data processing activity and by such activity it will help other bodies involved in that sphere.

Data collection by human rights NGOs

Human rights NGOs specialised in different aspects of discrimination gather statistical data for specific areas of discriminatory practice. For example, the PINK which defends the rights

¹² See the text of Decision 11-N here: <http://www.arlis.am/DocumentView.aspx?docID=47765>

of sexual minorities provides periodic reports of *Human Rights Situation of LGBT People in Armenia*".¹³ It provides both narrative and statistical report. For the year 2018, it reported 25 assaults of discriminatory nature based on sexual orientation and/or gender identity.¹⁴ Similar report, but oriented mostly on the case by case approach, is provided by the "New Generation" human rights NGO on the rights of sexual minorities. These NGOs are important source of receiving elaborated information on the nature and types of hate crimes. Further, in its interim report on Monitoring of hate speech for the period of July-December 2018, Helsinki Committee of Armenia dedicated a chapter to the statistics of the observed cases¹⁵. The latter concerned the cases of hate speech by various online and print media outlets and TV channels and the statistics on the instances of hate speech and harmful speech spread by these media. Based on this monitoring most of the hateful and harmful speech was directed towards persons in the view of their religious beliefs and sexual orientation. What is more, the Coalition to Stop violence against women in its 2016-2017 report entitled "Silenced voices: Femicide in Armenia"¹⁶ devoted a section to the quantitative aspects of femicide, which was defined as the homicide of women based on misogyny. This report analyzed the overall framework of the concept of femicide and included the comprehensive analysis of the trials of ongoing domestic violence cases in Armenia. Besides, in 2017 New Generation Humanitarian NGO published a national report on violations of the rights of LGBTQ+ persons in Armenia¹⁷. The report discussed the legislative framework as well as analyzed several case studies on breaches of such rights as right to adequate medical care, right to dignity, right to privacy, right to effective remedy, etc. In short, the Human rights NGOs author researches and publish reports that are mostly of narrative nature and contain very little statistical data that does not cover the whole area of hate crimes, hate speech and discrimination.

Recommendations

- Elaborate data codes for hate crime and hate speech offenses per different types of protected grounds of discrimination and hate motives such as race, colour of skin, age, sex, gender identity, profession, views, etc. including the concept of general prohibition of discrimination. As a reference and guide, refer to the grounds of discrimination proposed in the draft criminal code when elaborating on the codes. The

¹³ See here for the latest report: https://www.pinkarmenia.org/wp-content/uploads/2019/05/2018annualreview_en.pdf

¹⁴ At page 1 of the above report.

¹⁵ See the full report here in Armenian: <http://armhels.com/publications/atelutyan-xosqi-mshtaditarkum/>

¹⁶ See the full report here: <http://coalitionagainstviolence.org/wp-content/uploads/2019/07/femicide2018en.pdf?x24321>

¹⁷ See the full report available in Russian here: <https://ngngo.net/files/pdf/1/15337385748058.pdf>

draft criminal code provides a comprehensive body of substantive grounds and types and discrimination – including the concept of general prohibition of discrimination.

- Incorporate the codes in the paper-based and/or electronic forms used by the Information Center of Police. For that purpose, it would be necessary to make effective changes in the Government Decree no. N933-N.
- Incorporate the codes in the paper-based and electronic forms used by the relevant data processing specialists of preliminary investigation and pre-trial investigation bodies. It would be necessary to substantially amend the government Decree no. 12225-N in order to incorporate the codes in this infrastructure.
- Elaborate additional codes for the reporting system of the Judicial Department and add them in the already existing framework of codes. It would be necessary to amend the regulatory papers used by the Judicial Department to add new codes.
- As an alternative to the above 4 points, it would be ideal to work out unified codes for hate crime and hate speech offenses for the entire criminal justice system. Given the fact that the Criminal Code and the Criminal Procedure Code will be replaced by new codes in this or in the coming year, which also suggests wide infrastructural reforms, it is recommended to use this momentum and incorporate the new codes in the criminal justice system. This will enable the law enforcement bodies and investigative bodies to assign codes to cases from the very outset of the proceedings (from the moment of receiving crime report) which will enable to monitor the flow of cases within the entire criminal justice framework, including courts, to identify general trends of investigation of hate crime and hate speech cases.
- Design a comprehensive guidebook of codes to be used as a reference document for the specialists of the Information Center, the Judicial Department and the Investigative bodies who do data processing and data entry activity in the relevant databases. As a guidance or as a reference paper, use the guidebooks developed by the Information Center (for example, see the Guidebook no. 14).
- Design non-discrimination, hate speech and hate crime training programs oriented on such key concepts as protected grounds of discrimination, types of discrimination, international definition of hate crime and hate speech, concept of bias indicators, specifics of investigating hate crime and hate speech cases.
- Conduct capacity development trainings for legal practitioners such as investigator, prosecutors and judges on the basic aspects of discrimination, hate crime and hate speech with special emphasis on bias indicators and specifics of investigating hate crime and hate speech cases.
- Conduct capacity development trainings for data collection, data processing and data entry specialists of the Information Center of Police, Judicial Department and Investigative bodies on the basic aspects of the concept of non-discrimination, hate speech and hate crime with special emphasis made on protected grounds of discrimination, OSCE definition of hate crime and hate speech and the concept of bias indicators.

- Design and conduct capacity development trainings for human rights NGOs, aimed at enhancing their capacities in data collection and analysis that they come across during their NGO activities.

References

National International reports, Government decrees, guidelines:

1. ECRI report on Armenia (fifth monitoring cycle), Adopted on 28 June 2016
2. OSCE/ODIHR, Hate crime reporting: <http://hatecrime.osce.org/armenia>
3. Decree No. 1381 on the Regulation of Centralised Data Recording of Cases of Domestic Violence of 10 October 2019
4. Government Decree No. 1225-N of 23 October 2008 on the “Unified Forms and the Manner of Filling and Reporting Statistical Data of Pre-Trial Proceedings”
5. Government Decree 11-N “On Approval of Procedure of Providing Statistical Information” of the State Council on Statistics of the Republic of Armenia (October 3, 2003).
6. Report of the activity of Prosecutor’s Office of the Republic of Armenia in 2014. Annual reports can be seen on the following page of the website of the Prosecutor’s Office: <http://prosecutor.am/am/messages-to-the-president-and-the-national-assembly/>
7. Annual summary of the practice of criminal courts of general jurisdiction in 2014
8. Human rights situation of LGBT people, Annual review, Armenia, 2018, Pink Armenia: https://www.pinkarmenia.org/wp-content/uploads/2019/05/2018annualreview_en.pdf
9. Monitoring of Hate Speech, Interim Report (July-December 2018), Helsinki Committee of Armenia : <http://armhels.com/publications/atelutyan-xosqi-mshtaditarkum/>
10. National report on violations of the rights of LGBTQ+ persons in Armenia, New Generation Humanitarian NGO, Armenia, 2017: <https://ngngo.net/files/pdf/1/15337385748058.pdf>
11. Silenced voices: Femicide in Armenia report 2016-2017, Coalition to stop violence against women, Armenia: <http://coalitionagainstviolence.org/wp-content/uploads/2019/07/femicide2018en.pdf?x24321>

Appendix 1. Relevant legislation

	The Legal Act (according to alphabetical order (Armenian alphabet))	Article
1.	Law on Service in National Security Bodies	14(1)
2.	Law on Public Service in the Staff of the National Assembly	11
3.	Labour Code	3(1)(3) 114(4)(4) 180(3)
4.	Law on Health Care and Medical Services for the Population	4
5.	Law on purchases	3(2)(1)
6.	Law on Libraries and Librarianship	18(1)
7.	Law on Advertising	8(b)
8.	Judicial Code	10(2) 141(2)
9.	The Judicial Acts Compulsory Enforcement Service Act	9(1)
10.	Law on the Child Rights	4
11.	Family Code	1(5)
12.	Electoral code	3(3)
13.	Law on Education	6(1)
14.	Law on Political Parties	4(2)
15.	Law on Community Services	11
16.	Law on Non-Governmental Organizations	4(1)(2)
17.	Law on Television and Radio	22(1)(2)
18.	Law on Arrested and Detained Persons	2(3)
19.	Law on Medical Support for Human Blood and its Components Donation and Transfusion	14(6)
20.	Law on the Basics of Legislation on Culture	9
21.	Law on Police	5
22.	Law on Police Service	11(1)
23.	Law on the Use and Protection of Historical and Cultural Monuments and Historical Environment	7
24.	Law on Remuneration of State Officials and State Servants	4(1)(7)

25.	Administrative Offences Code	248
26	Law on ensuring equal rights and equal opportunities for men and women	3 (1)(9)
27	Law on Protection of Competition	7(2)(a)
28.	Law on Advocacy	29(3)
29.	Law on Citizenship	3(2)
30.	Criminal Code	6
31.	Criminal Execution Code	8
32.	Law on Criminal Execution Service	14(1)
33.	Criminal Procedure Code	8(2)
34.	Law on Foreigners	22(1) 32

Appendix 2. Registration and search cards

Registration Card

Form 1

Family name _____	_____
Name _____	(who has arrested, _____)
Patronymic _____	_____
Birth date « __ » _____ р.	without abbreviations) _____
Birth Place _____	_____
_____	_____
Address _____	Case NN _____
_____	Investigator _____
Place of work _____	Archive _____
(position, occupation) _____	Fingerprint formula _____
Citizenship _____	The fingerprint of the right hand forefinger
Arrested on (the date) « __ » _____	_____
The nature of crime _____	_____
_____	_____
The article of the Criminal Code _____	_____
_____	_____
The card was compiled by _____	_____
(the name of the body) _____	_____
_____	_____
« __ » _____ (the date).	_____
_____	_____
(The name of the serviceman who has compiled the card)	_____

(Size 95 x 140)

Opposite side of the card

Had been sentenced by _____

When « __ » _____ (the date) _____
(Number of article of the Criminal Code) _____

Term _____
(please, mention in full the main and additional penalties) _____

The court sentence had entered into legal force on « __ » _____ (the date)

Changes of the sentence and notes on the movements _____

of the sentenced	_____	_____
	_____	_____
	_____	_____
	_____	_____

Form 2

Search card

Family name _____ name _____
Patronymic _____ " ____ " _____ (date)
Birthplace _____
Address _____
Sex _____ Nationality _____ Passport _____
Had fled (was lost) _____ (date).
Reason for search _____
The type of the crime, No. of the article of the Criminal Code _____
Preventive measure _____
Criminal case No. _____ Search case No. _____
Search case was compiled « ____ » _____ (date).

(Size 95 x 140)

Opposite side of the card

Shall be filled for the delinquents, evading from the payment of the means for livelihood
_____ court (marz, city, village)
200__ year. _____ No _____ writ obligatory (month) (date)
_____ is obliged to pay livelihood (compensated for damage pursuant to the claim)
for the benefit of
claimant _____ (name, family name, patronymic, legal entity)
_____ (name)
Address _____

The card was filled by _____
(position,rank, family name)

_____ Head of the Police Department _____
(rank, family name, signature)

_____ 200 year.

Form 3

REGISTRATION CARD

On subjecting to criminal liability of the RA citizen in foreign states

Family name _____ name _____

Patronymic _____ was born _____ 19 ____ year

_____ (state, province, city, village)

Address _____

Had subjected to criminal liability ____ 200 year.

Nature of the crime _____

Article of the Criminal Code _____ preventive measure _____

_____ the name of the state _____

The card was filled by _____ 200 year.
(the name of the serviceman of law enforcement structure)

Based on which documents _____

Appendix 3. Number of cases

	Verification formulas 1+3=7+8+10, 7=4+5+6, 14=12+13, 17=15+16	Articles of the RA Criminal Code	In the beginning of reporting period from the previous reporting period	Total of cases received in the	Total number of cases completed during the reporting period				Total number of unfinished cases during the reporting	The number of the appealed judicial acts based on types			The number of the annulled judicial acts based on types		
					Examined on merits and judgements	A decision on criminal case was adopted	A decision on insanity was adopted	Total of the completed cases		Including the acts on merits	Including interim acts	Total	Including the acts on merits	Including interim acts	Total
			1	3	4	5	6	7	10	12	13	14	15	16	17
1.	Total number of the crimes committed against life and health		310	188	116	54	17	187	308	35	17	51	4	0	4
1.1	Murder	104													
1.2	Murder in the state of strong temporary insanity	105													
1.3	Murder of a newly born child by the mother	106													
1.4	Murder of a criminal through the use of excessive measures when capturing the latter	107													
1.5	Murder by exceeding the necessary defense	108													
1.6	Causing death by negligence	109													
1.7	Making somebody to commit suicide	110													
1.8	Abetment of suicide	111													
1.9	In infliction of willful serious damage to health	112													

1.1 0	Infliction of willful medium damage to health	113													
1.1 1	Infliction of serious or medium damage to health in the state of strong temporary insanity	114													
1.1 2	Infliction of serious or medium damage to a criminal when capturing the latter, through the use of excessive measures.	115													
1.1 3	Inflicting serious or medium damage by exceeding the limits of necessary defense.	116													
1.1 4	Infliction of willful light damage to health	117													
1.1 5	Battery	118													
1.1 6	Causing severe physical pain or mental distress	119													
1.1 7	Inflicting serious damage to health through negligence.	120													
1.1 8	Inflicting medium damage to health through negligence.	121													
1.1 9	Illegal abortion	122													
1.2 0	Infecting with AIDS virus.	123													

1.2 1	Infecting with venereal or other sexually transmitted diseases.	124																
1.2 2	Breach of rules for transplantation operations.	125																
1.2 4	Subjecting a person to medical or scientific experiment without the consent of the latter.	127																
1.2 5	Abandonment in danger.	128																
1.2 6	Failure to help the patient.	129																
1.2 7	Failure to implement or improper implementation of professional duties by medical and support personnel.	130																
1.2 8	Other crimes																	
2	Total Crimes Against Freedom, Honour and Dignity of the Person																	
2.1	Kidnapping	131																
2.2	Trafficking or human exploitation	132																
2.2. 2	Trafficking or exploitation of a child or a person who is deprived of the ability to understand or direct the nature and significance of his or her behavior as a result of	132. 2																

	mental disorder														
2.2.3	Using the service of a person in exploitation	132.3													
2.3	Illegal deprivation of liberty	133													
2.4	Illegal placing or keeping in the psychiatric hospital	134													
2.7	The threat to murder, to inflict serious damage to health or destroy property	137													
2.8	Other crimes														
3	Total number of crimes against sexual immunity and sexual freedom														
3.1	Rape	138													
3.2	Violent sexual actions	139													
3.3	Forcing to sexual intercourse or sexual acts	140													
3.4	Sexual intercourse with a person under the age of sixteen or committing sexual acts with a person under the age of sixteen	141													
3.5	Harassment	142													
3.6	Other crimes														