



HELSINKI CITIZENS'  
ASSEMBLY VANADZOR



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# REPORT

## HUMAN RIGHTS SITUATION IN ARMED FORCES OF THE RA IN 2013

Vanadzor 2014

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Authors:

Artur Sakunts

Armine Sadikyan

Nazeli Movsesyan

This report was prepared with the financial support of the Open Society Foundations.

The opinions, interpretations and conclusions expressed in this report belong to the authors and may differ from those of the funding organization.

## INTRODUCTION

This Report on the Human Rights Situation in Armed Forces of the Republic of Armenia in 2013 summarizes the findings of the HCA Vanadzor activities for the protection of the rights of servicemen and conscripts. The Report particularly covers the issues below:

- Issues revealed throughout the activities for the protection of the rights of conscripts during the spring and winter call-ups of 2013;
- Issues revealed throughout lending legal assistance to officers discharged from the armed forces;
- Description and comparative statistics of mortality in the armed forces in 2010-2013;
- Issues revealed during the pre-trial and trial investigation of the criminal cases on mortality in the armed forces;
- Changes in the legislation on military service and call-ups and issues arising thereof.

The report pinpoints the systemic problems at hand and provides recommendations on how to improve the level of ensuring the exercise and protection of human rights in the armed forces.

## LEGISLATIVE CHANGES IN CALL-UP AND MILITARY SERVICE AND ISSUES RELATED TO THEIR LEGAL REGULATION

The legislative acts below set out the legal provisions for call-up, medical examination of conscripts and their fitness for military service:

- RA Law on Military Conscription that regulates the foundations of enrolment in the military register, preparation for military service, coordination and implementation of conscription and grounds for draft deferment and exemption from military service;
- RA Law on Defense that regulates the foundations and coordination of the military defense of the Republic of Armenia, the structure and principles of coordination, activities and functions of the armed forces of the Republic of Armenia, relations concerning their management, administration, deployment and use, issues of other troops as well as related authorities of national and local government bodies, functions of organizations, and rights and duties of officials and citizens;
- Order № 410 of the RA Defense Minister that establishes the procedure and agencies responsible for the medical forensic examination of conscripts.

On April 8, 2013, the Order № 175-N of the Defense Minister of the Republic of Armenia on Approving the Procedure for Medical Examination of Citizens Liable for Call-Up and Military and Medical Examination of Servicemen dated February 26, 2010 was declared void and replaced by the Order of the Defense Minister № 410 (hereinafter referred to as Order). It should be noted that the Order became effective on June 11, 2013, during the spring call-up. This means that some of the conscripts were examined under the procedure set out in the Order № 175-N of the RA Defense Minister, and some other conscripts were examined under the procedure set out under Order № 410, which is a violation of the principle of legal certainty of a legal state.

The Order fails to clearly lay out the severity criteria of a number of diseases and, consequently, conscripts with a disease of the same degree of severity may be considered on discretion both fit and unfit for military service. Such uncertainty may entail corruption risks.

It is noteworthy that the Republic of Armenia as a member of the World Health Organization (WHO), must draft such documents in compliance with the WHO criteria, i.e. the classification of diseases and their severity criteria in Order № 410 must meet the WHO standards.

It should be noted that the formulations of the diagnoses made by the medical institutions and commissions responsible for the medical examination of conscripts are either incomplete or non-

compliant with the WHO criteria. Consequently, such diagnoses make it impossible to identify the disease or health problem revealed by the medical examination of the conscript with the diseases listed in the Order. As a result, it becomes impossible to make a final decision by conscript's health status on whether he is fit for military service.

This conclusion rests on the findings of the expert examination of the diagnoses issued by the medical commission to the conscripts who applied to the Organization.

Despite the assurances of the representatives of the Defense Ministry on the alarms and recommendations repeatedly expressed by the Organization, the Order № 410 still fails to regulate the issue of fitness for military service of conscripts suffering from several diseases.<sup>1</sup>

Conscripts with certain diseases are considered fit for regular military service with some limitations, whereas the unresolved issue of fitness of conscripts with several combined diseases leads to incomplete and ineffective fulfillment by servicemen of their duties and as consequence, to breach of statutory relations and violations of human rights.

**Hence, the Order № 410 that came to replace the previous Order № 175 fails to comply with the WHO standards and principles of the RA Law on Legal Acts.**

The Organization has submitted some recommendations on regulatory legislation for call-up and military service and on various issues related to the enforcement of such legislation to the Standing Committee of the RA National Assembly on Defense, National Security and Internal Affairs and to the RA Ministry of Defense.

On April 15, 2013, the Standing Committee of the RA National Assembly on Defense, National Security and Internal Affairs initiated public discussions and hearings on strengthening the interaction between the army and the public<sup>2</sup>, and the Organization pinpointed the current legislative defects and issues related to the application of legislation in the armed forces as well as incidences of violated statutory relations during the military service, issues related to the living conditions and health of servicemen, corruption risks and fitness of conscripts for the military service.

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<sup>1</sup> [http://hcav.am/wp-content/uploads/2012/12/%D5%80%D5%94%D4%B1%D5%8E\\_%D4%B6%D5%A5%D5%AF%D5%B8%D6%82%D5%B5%D6%81\\_%D5%A1%D5%BC%D5%B8%D5%B2%D5%BB%D5%A1%D5%AF%D5%A1%D5%B6\\_2012.pdf](http://hcav.am/wp-content/uploads/2012/12/%D5%80%D5%94%D4%B1%D5%8E_%D4%B6%D5%A5%D5%AF%D5%B8%D6%82%D5%B5%D6%81_%D5%A1%D5%BC%D5%B8%D5%B2%D5%BB%D5%A1%D5%AF%D5%A1%D5%B6_2012.pdf)

<sup>2</sup> [http://www.parliament.am/news.php?do=view&cat\\_id=2&day=15&month=04&year=2013&NewsID=5830&lang=arm](http://www.parliament.am/news.php?do=view&cat_id=2&day=15&month=04&year=2013&NewsID=5830&lang=arm)  
[http://www.parliament.am/news.php?do=view&cat\\_id=2&day=27&month=06&year=2013&NewsID=6011&lang=arm](http://www.parliament.am/news.php?do=view&cat_id=2&day=27&month=06&year=2013&NewsID=6011&lang=arm)  
<http://www.parliament.am/committees.php?do=show&ID=111168&showdoc=2135&lang=arm>  
<http://www.parliament.am/committees.php?do=show&ID=111168&showdoc=2136&lang=arm>

On December 12, 2013, issues related to the spring call-up of 2013 and concerns over its coordination and implementation were also presented to the RA NA Standing Committee on Defense, National Security and Internal Affairs.

The HCA Vanadzor conducted numerous analyses of the legislation regulating the conscription and military service that resulted in relevant recommendations<sup>3</sup> particularly, in the reports below: Report on Conscription Process and Human Rights Situation of Conscripts during Spring Call-up of 2013; Report on Human Rights Situation in RA Armed Forces in 2012; Report on Situation of Violations of Human Rights of Conscripts and Servicemen in terms of Medical Services.

## DATA AND IDENTIFIED ISSUES ON CASES OF CONSCRIPTS AND SERVICEMEN WHO APPLIED TO HCA VANADZOR IN 2013

In 2013, the Organization received applications on military service from 55 persons, including 33 draftees, 9 conscript servicemen of regular military service, 9 officers, 3 dischargees and 1 former officer.

18 applicants (including 13 draftees, 2 conscript servicemen of regular military service and 1 dischargee) to the Organizations received verbal counseling. As for other applicants, the Organization submitted official inquiries and applications on the legality of decisions on conscription and issues related to repeated medical examination and draft deferment for treatment. The medical expert of the Organization reviewed and analyzed the medical examination records and diagnoses of conscripts and servicemen.

29 out of the 33 draftees<sup>4</sup> applied to the Organization on issues related to health examination, other 2 draftees sought clarification on legal regulation of draft deferment for education, and 1 draftee applied

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<sup>3</sup> [http://hcav.am/wp-content/uploads/2013/11/%D4%B6%D5%B8%D6%80%D5%A1%D5%AF%D5%B8%D5%B9\\_2013\\_%D5%A6%D5%A5%D5%AF%D5%B8%D6%82%D5%B5%D6%81.pdf](http://hcav.am/wp-content/uploads/2013/11/%D4%B6%D5%B8%D6%80%D5%A1%D5%AF%D5%B8%D5%B9_2013_%D5%A6%D5%A5%D5%AF%D5%B8%D6%82%D5%B5%D6%81.pdf)  
<http://hcav.am/publications/%D5%B4%D5%A1%D6%80%D5%A4%D5%B8%D6%82-%D5%AB%D6%80%D5%A1%D5%BE%D5%B8%D6%82%D5%B6%D6%84%D5%B6%D5%A5%D6%80%D5%AB-%D5%BE%D5%AB%D5%B3%D5%A1%D5%AF%D5%A8-%D5%B0%D5%B0-%D5%A6%D5%AB%D5%B6%D5%BE%D5%A1%D5%AE/>

[http://hcav.am/wp-content/uploads/2012/12/%D5%80%D5%94%D4%B1%D5%8E\\_%D4%B6%D5%A5%D5%AF%D5%B8%D6%82%D5%B5%D6%81\\_%D5%A1%D5%BC%D5%B8%D5%B2%D5%BB%D5%A1%D5%AF%D5%A1%D5%B6\\_2012.pdf](http://hcav.am/wp-content/uploads/2012/12/%D5%80%D5%94%D4%B1%D5%8E_%D4%B6%D5%A5%D5%AF%D5%B8%D6%82%D5%B5%D6%81_%D5%A1%D5%BC%D5%B8%D5%B2%D5%BB%D5%A1%D5%AF%D5%A1%D5%B6_2012.pdf)

<sup>4</sup> As the autumn (winter) call-up of 2013 was conducted in the period of December 2013-January 2014 in compliance with the RA Presidential Order NH-283-N, this Report also includes data for January-February 2014 (RA Presidential Order on 2013 Winter Call-Up and Discharge, <http://www.arlis.am/DocumentView.aspx?DocID=86521>).

on the issue of transport expenses provided by the Ministry of Defense for him to leave for the capital from his place of residence to undergo the republican medical examination.

8 out of the 9 conscript **servicemen** of regular military service sought to find out the issue of fitness for military service on medical grounds, and the other serviceman wished to learn about the legal regulations on doing his service at a military unit near his place of residence.

2 out of the 3 **dischargees** applied on issues related to health problems developed during their military service. Particularly, the issue raised by one of them concerned instigating a criminal case on damaging his health due to inadequate medical care under the support by the Defense Ministry and in course of his military service. And the other issue concerned launching the internal investigation in terms of the officers of the military unit for their violations. The 3<sup>rd</sup> dischargee sought resolution of the criminal case instigated against him during his military service and still in progress after his discharge.

8 out of the 9 **officers** sought legal aid to learn about the procedures for their early discharge to reserve. They sought legal aid since the superior commanders and the Ministry of Defense failed to follow the terms and procedures of early discharge as provided by law.

The Organization applied to the RA Ministry of Health to resolve the issue of the officers.

One of the officers raised an issue on reimbursement of tuition fees due to staff reduction.

Due to the legal aid, the issues of 7 officers out of 9 were resolved, and all of them were discharged by a relevant decree. The cases of the other 2 officers are still under consideration.

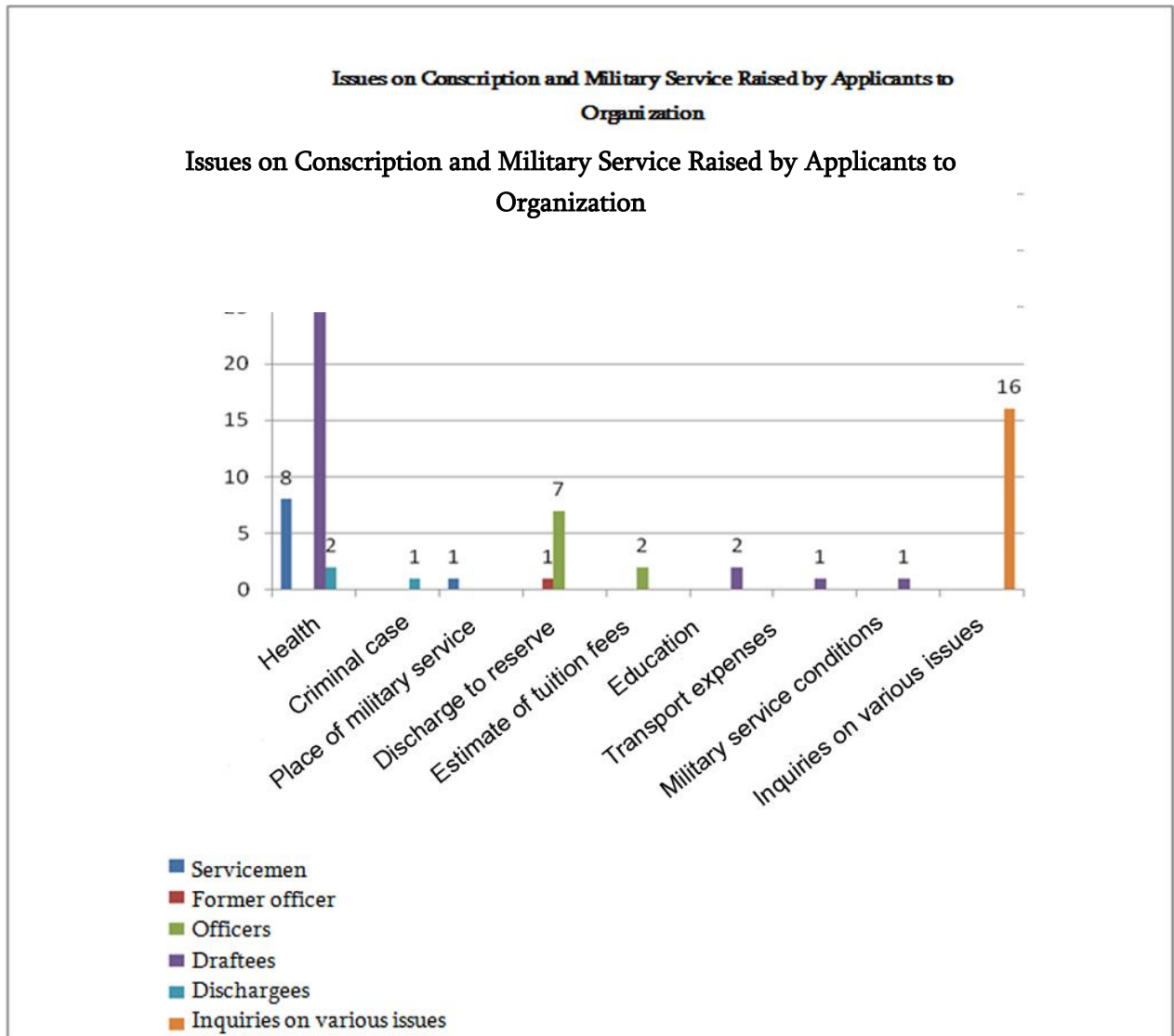
1 **former officer** applied to the Organization with an issue related to the estimation of the length of service.

Concerned with such a flow of applications from officers seeking early discharge, the Organization embarked on studying the underlying causes. Later, the Organization submitted an official letter with the finding to the RA Defense Minister and attended a workshop with the staff of the HR Department of the RA Defense Ministry. At the workshop the representatives of the Organization raised their concerns over the rights of officers and discussed their possible solutions.

The Diagram 1 below indicates the issues on conscription and military service raised by the applicants to the Organization.



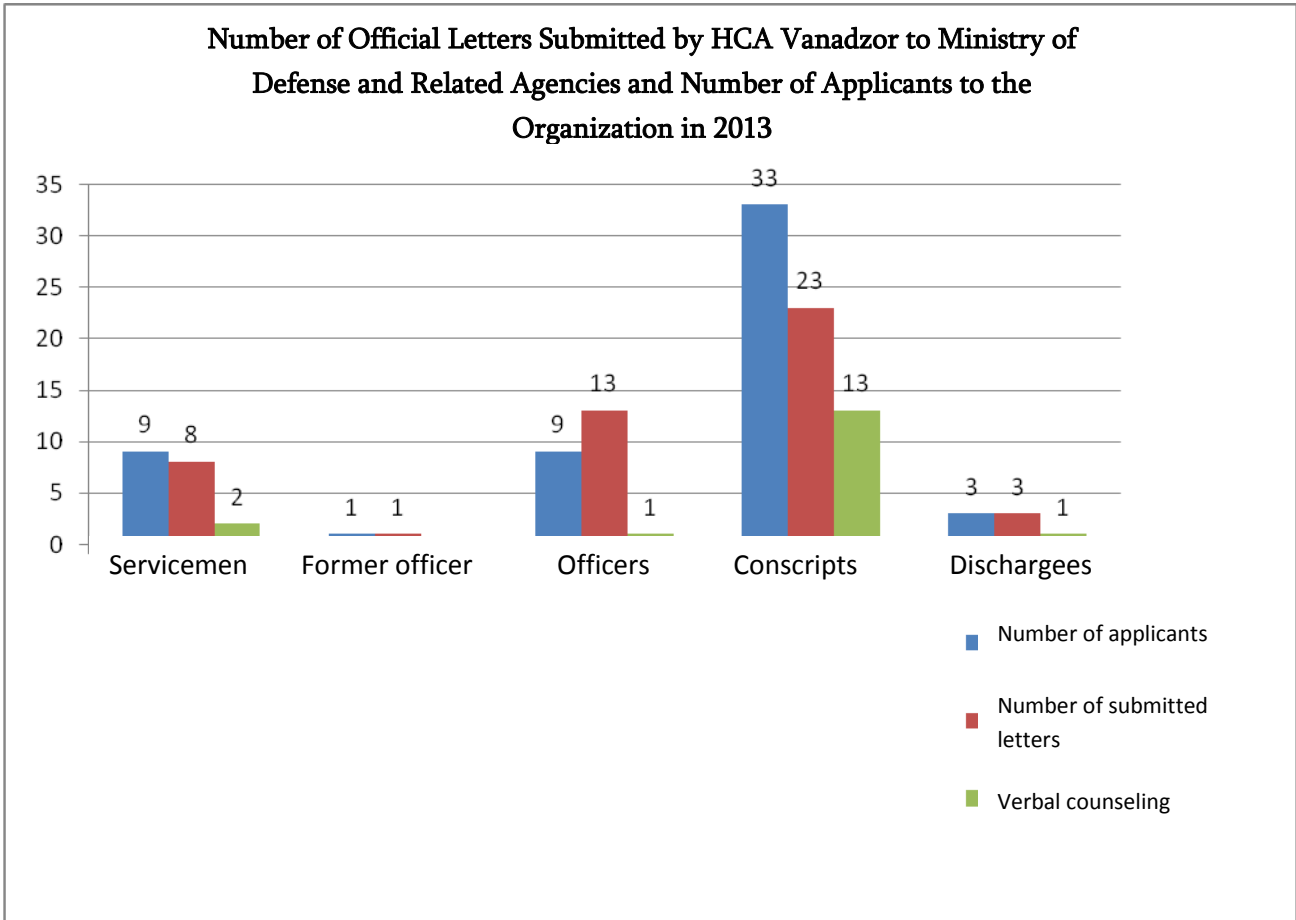
Diagram 1



Along with making inquiries on specific cases to the defense department or its divisions, the Organization also sent inquiries particularly on official clarifications on certain provisions of the RA Law on Military Conscription and RA Law on Military Service and on information about the mortality during military service, penalties and incentives for servicemen and vacations.

The Diagram below covers the general picture of the official letters and inquiries submitted by the Organization to the Ministry of Defense and related agencies.

Diagram 2



The letters were mostly addressed to the RA Defense Minister.

One letter was submitted to Vanadzor and Masis military commissioners, respectively to obtain copies of medical examination records of a serviceman and of the decree on considering him fit for the military service; 1 letter was submitted to the RA Ministry of Health to obtain information on the treatment expenses for a serviceman; 2 letters were submitted to the RA Military Prosecutor's Office on cases of the servicemen who died during their military service, and 1 letter was submitted to the RA Prime Minister, with a copy sent to the RA Defense Minister to stop the inaction of the Defense Minister and demand to restore the violated rights of the officer.

Diagram 3 and Diagram 4 below contain the letters submitted to the RA Defense Ministry and relevant data in compliance with the RA Law on Information.

Diagram 3

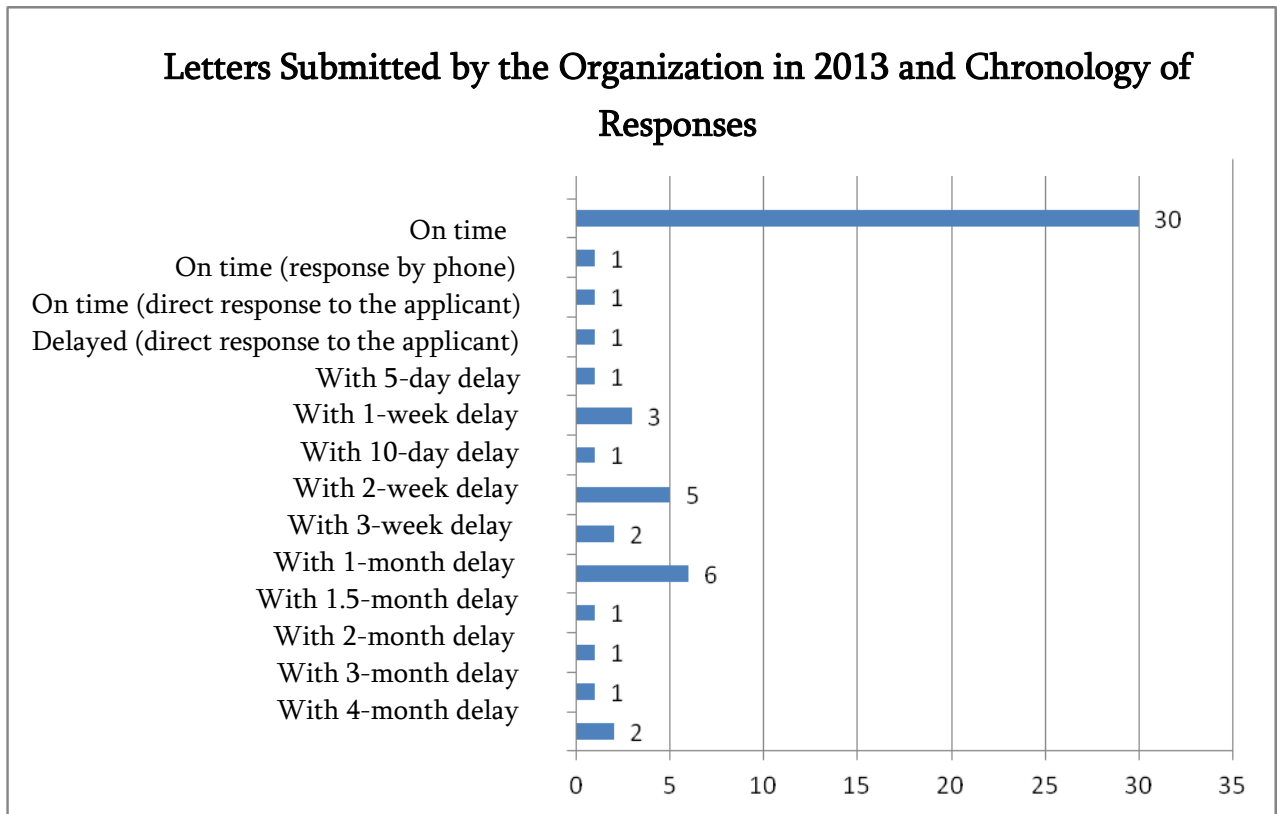
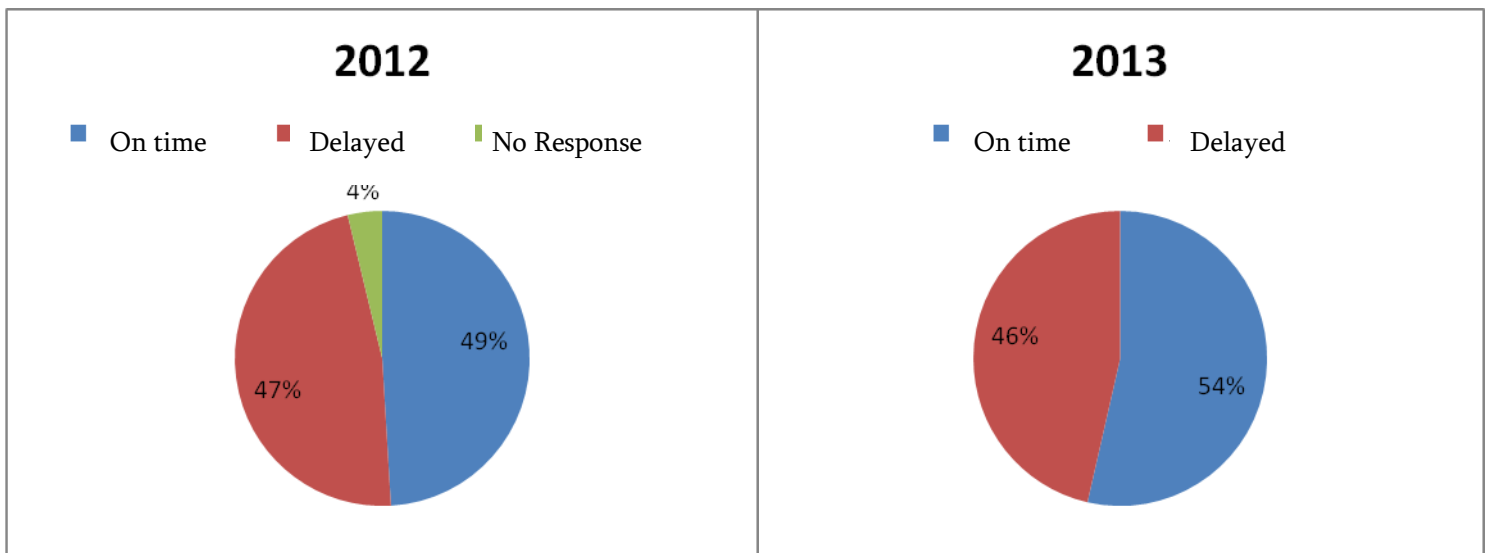


Diagram 4



Sometimes, the Organization received only one response to its several letters on the same person or issue.

The Organization received responses to 46% of its letters submitted to the Defense Ministry and its divisions in 2013 in due terms, while 54% of the letters were answered in violation of the terms prescribed by law.

As provided in Diagram 3, the response might be issued with a delay from 5 days to 1.5 months, a period that might be of essential importance for resolving the issue of the citizen in question.

As compared with analogous findings of 2012, Diagram 4 shows that half of the letters submitted in 2012 were responded in violation of the terms fixed by law. However, some letters remained unanswered.

To sum up, it can be observed that the Ministry of Defense and its related agencies fail to meet the terms under the RA Law on Freedom of Information in respect of the letters of the Organization.

## HUMAN RIGHTS VIOLATIONS IN COURSE OF CALL-UP

*In course of the spring<sup>5</sup> and winter<sup>6</sup> call-ups of 2013, the Organization identified several concerns related to the conscription.*

- **Issues related to the coordination of call-up and expert medical examination of persons of pre-conscription age and conscripts**

Like previous call-ups<sup>7</sup>, the conscripts of the spring and winter call-ups of 2013 underwent no comprehensive medical examination and as a result, the conscripts with grave health problems were drafted as well.

Irrespective of the medical examination results, many conscripts were not issued referrals for re-examination. Nevertheless, the re-examination is frequently a mere formality and proves ineffective.

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<sup>5</sup> <http://www.arlis.am/DocumentView.aspx?DocID=82689>

<sup>6</sup> <http://www.arlis.am/DocumentView.aspx?DocID=86521>

<sup>7</sup> [http://hcav.am/wp-content/uploads/2012/12/%D5%80%D5%94%D4%B1%D5%8E\\_%D4%B6%D5%A5%D5%AF%D5%B8%D6%82%D5%B5%D6%81\\_%D5%A1%D5%BC%D5%B8%D5%B2%D5%BB%D5%A1%D5%AF%D5%A1%D5%B6\\_2012.pdf](http://hcav.am/wp-content/uploads/2012/12/%D5%80%D5%94%D4%B1%D5%8E_%D4%B6%D5%A5%D5%AF%D5%B8%D6%82%D5%B5%D6%81_%D5%A1%D5%BC%D5%B8%D5%B2%D5%BB%D5%A1%D5%AF%D5%A1%D5%B6_2012.pdf)

[http://www.hcav.am/attachments\\_/2df5c\\_zorakochoi\\_zekuyec.pdf](http://www.hcav.am/attachments_/2df5c_zorakochoi_zekuyec.pdf)

[http://hcav.am/attachments\\_/5f854\\_zekuyec\\_zorakoch\\_2008111.pdf](http://hcav.am/attachments_/5f854_zekuyec_zorakoch_2008111.pdf)

The call-ups again revealed the ongoing vicious practice of not providing the conscripts with the medical opinion on findings of their health examination, whereas a person is entitled to access such information as prescribed under Article 7 of the RA Law on Medical Assistance and Services to the Population.<sup>8</sup>

According to the representatives of the Defense Ministry, conscripts or their relatives may access a copy of their medical opinion upon request. The Organization has repeatedly alerted the Ministry to change this practice in compliance with the requirements of the law above.

As already mentioned in the section on Legislative Changes on Call-Up and Military Service and Issues Related to Their Legal Regulation, the Order of the Defense Minister fails to regulate the issue of whether conscripts with several diseases are fit for military service and has led to the vicious practice of drafting conscripts with combined diseases.

The monitoring of the spring call-up of 2013 revealed that the medical institutions responsible for the health examination of conscripts received clear instructions to use the mildest wording possible for their health problems detected by the examination, which created a distorted picture of the real state of conscripts' health.

In course of the spring call-up of 2013, the Organization also identified incidences of conscription of persons with one or several draft deferments, regardless of their unchanged state of health. As for the state of health, whereas during the previous call-up or call-ups, conscripts with certain diagnoses were granted draft deferment, conscripts with the same diagnoses were drafted during the spring call-up.

Throughout the coordination of the call-up, the Organization also revealed issues identified some years ago and still unresolved. Medical examinations at both local and republican levels lack respect for human dignity of conscripts. In particular, all the conscripts subject to medical examination are invited at the same time on the same day that usually results in queues and long lines, and the conscripts and their relatives have to wait for their medical examination for up to 12 hours.<sup>9</sup> Moreover, the conditions of the facilities intended for the medical examination are not tailored for receiving many conscripts at a time.

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<sup>8</sup>Everybody is entitled to access information on their health, findings of their health examination, their diagnosis and treatment methods, any associated risks, possible medical interventions and their consequences and treatment outcomes, <http://www.arlis.am/>

<sup>9</sup> <http://hcav.am/events/hujunwupnupnjnli-qntufphntf-lu-qnpw/http://hcav.am/events/hujunwupnupnjnli-qntufphntf-lu-qnpw/>

**To resolve this issue, the Organization recommended drawing a schedule of medical examination that has not been done so far.**

In its statements, the Organization considered the violation of the rights of conscripts by improper coordination of medical examination.<sup>10</sup>

## **HUMAN RIGHTS VIOLATIONS IN COURSE OF MILITARY SERVICE**

In 2012-2013, the HCA Vanadzor studied the laws related to the discipline, penalties and incentives for servicemen, effective legal remedies, appeal mechanisms and their efficiency, quality medical care and services in course of military service and the application of such laws.<sup>11</sup> These issues mostly arose from the study of the RA domestic legislation, international legal instruments and findings of the surveys of the dischargees.

The study revealed that violations of human rights were caused by both legislative gaps and ineffective application of the legislation. In particular, the Codes of the RA Armed Forces, i.e. the Disciplinary Code of the RA Armed Forces lacks any listing of servicemen's rights in line with human rights standards. The law lacks any clear definition of the rights and responsibilities of servicemen in the disciplinary battalion, so that such battalions are not identified as disciplinary detention, which is a common practice. Both this study and the other studies of the Organization conducted since 2008, show that the servicemen have no absolute access to copies of the opinions by the Central Military Medical Commission on their state of health. Moreover, the servicemen almost never receive such copies even upon their parents' or their own request, and this renders the appealing inefficient, since if the serviceman has no copy of such decree, he also lacks the opportunity to give an assessment to it, even a subjective one. It should be borne in mind that in this case, the Central Military Medical Commission of the RA Defense Ministry is an administrative agency under Article 2 of the RA Law on the Principles of Administration and Administrative Proceedings and is therefore obliged to make administrative acts that must be necessarily available to the addressee of the act.

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<sup>10</sup> <http://hcav.am/en/events/statement-regarding-the-call-up-for-december-2013-january-2014/>

<sup>11</sup> <http://hcav.am/publications/%D5%B4%D5%A1%D6%80%D5%A4%D5%B8%D6%82-%D5%AB%D6%80%D5%A1%D5%BE%D5%B8%D6%82%D5%B6%D6%84%D5%B6%D5%A5%D6%80%D5%AB-%D5%BA%D5%A1%D5%B7%D5%BF%D5%BA%D5%A1%D5%B6%D5%B8%D6%82%D5%A9%D5%B5%D5%A1%D5%B6/>

Likewise, the law fails to provide obligatory notification of the serviceman on any legal act (order, incentive, penalty, reports etc.) related to him and provision of its copy to him or his family; lack of such practices also makes it impossible for the serviceman to learn the content of such decrees.

The issue of non-reimbursement of servicemen with health problems for early discharge constitutes a concern calling for special attention.

## **MORTALITY IN THE ARMED FORCES**

The HCA Vanadzor proceeds with its case study on the mortality in the RA armed forces based on the media coverage and information provided by the families of the dead servicemen.

According to the findings of the study by the Organization, 30 cases were recorded in the RA armed forces in 2013, with 31 dead servicemen. It should be noted that 2 mortality cases were recorded at the Russian Federation Military Unit in the RA. The RA Defense Ministry and the NKR Defense Army are the primary sources of information only for 14 out of the 30 mortality cases. At the same time, official communications were conveyed only on 24 cases out of 31.

As compared to previous years, the mortality rate decreased in 2013, while the rate of incidents ending in death almost remained unchanged (See Table 1 for summary of mortality rate in 2010-2013).

As for the recorded mortality rate of 31 in 2013, 5 servicemen were killed due to the ceasefire violation; 8 servicemen committed or were instigated to commit suicides; 7 servicemen died in accidents, 4 servicemen died from their health problems due to inadequate medical services; another 4 servicemen were killed (1 willful homicide, 1 death case due to violation of military service rules; and 2 other death cases due to the breach of statutory relations; 3 cases due to breaching the rules of weapon use (*See Table 3*).<sup>12</sup>

According to official information sources, criminal proceedings were initiated on 28 cases. 1 criminal case was forwarded to a subordinate agency, and criminal proceedings on 3 cases were dismissed.

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<sup>12</sup> See also the Reference on Mortality in 2013; <http://hcav.am/wp-content/uploads/2014/01/%D5%8F%D5%A5%D5%B2%D5%A5%D5%AF%D5%A1%D5%B6%D6%84-2013.pdf>

Criminal proceedings on 4 of the cases instigated were subsequently discontinued, 2 cases were suspended and other 2 cases were sent to the court, 4 criminal cases are under investigation and 1 case was forwarded to a subordinate agency.

13 of the criminal cases are still under preliminary investigation. Moreover, according to official information, no division of Investigative Service of the RA Defense Ministry has ever investigated one of the cases above due to not having recorded such case. Whereas according to the information disseminated by a media outlet, Mary Sargsyan, the senior PR officer of the Investigative Service of the RA Defense Ministry stated in an interview to a journalist for NEWS.am that criminal proceedings were instigated on the case under Article 376(2):<sup>13</sup>

8 of the criminal cases were instigated under Article 110(1) of the RA Criminal Code, i.e. causing somebody to commit suicide or making an attempt at a suicide by indirect willfulness or by negligence, by means of threat, cruel treatment or regular humiliation of one's dignity; 2 cases – under Article 376(2) of the RA Criminal Code, i.e. negligent attitude to service negligently leading to grave consequences; 1 case – under Article 242(3) of the RA Criminal Code, i.e. breach of traffic and vehicle operation rules by the driver of a car or any other mechanical transport vehicle, which negligently caused the death of 2 or more persons; 2 cases – under Article 104(1) of the RA Criminal Code, i.e. murder as illegal and intentional deprivation of one's life;<sup>14</sup> 2 cases – under Article 104(2)(13) of the RA Criminal Code, i.e. murder by motives of national, race or religious hatred or fanaticism; 1 case – under Article 104(2)(13), i.e. murder by motives of national, race or religious hatred or fanaticism and Article 34-104(2)(1 and 13); 1 criminal case – under Article 104(2)(6) and Article 112(1) of the RA Criminal Code, i.e. murder committed in a way dangerous for the life of many persons; and 3 cases – under Article 104(2)(6 and 13) of the RA Criminal Code; 3 cases – under Article 373(3) of the RA Criminal Code, i.e. breach of rules for handling weapons, ammunition and radioactive materials, explosives and other items and devices dangerous for the environment, which negligently caused death of a person; 1 case – under Article 365(3) of the RA Criminal Code, i.e. violation of combat duty or combat service rules, if this action caused grave consequences; 2 cases: Article 377(2) of the RA Criminal Code, i.e. breach of rules for driving or operating vehicles. The article applicable for one of the criminal cases is not mentioned

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<sup>13</sup> <http://m.news.am/arm/news/154153.html>

<sup>14</sup> On January 26, 2013, junior sergeant Juri Gareginyan /patronymic: Hrayr/ at combat positions opened fire from the assault rifle attached to him on his fellow serviceman, junior sergeant Artak Galstyan /patronymic: Grigor/ and killed him. On January 27, 2013, a criminal action was brought on this case under Article 104(1) of the RA Criminal Law. The preliminary investigation revealed and proved that Yu. Gareginyan who was ordered to observe the combat positions opened fire from his assault rifle on A. Galstyan in compliance with his duties in the capacity of observer as prescribed by the established procedure. On June 25, 2013 the criminal proceedings were discontinued under Article 35(1)(2) of the RA Code of Criminal Procedure.



either in the press or in official sources (according to the official information, “the criminal case on the death of Tovmas Arakelyan was forwarded to a subordinate agency”).

22 of the death cases were recorded on the territory of the Republic of Armenia, and 9 cases – in the Nagorno-Karabakh Republic.

## Causes/Consequences of Mortality in the Armed Forces in 2010-2013

Table 1

Year	Violation of ceasefire	Security rules	Suicides	Breach of rules of using firearms	Homicide			Accidents	Health problems	Unknown causes	Careless attitude to service	Number of cases	General rate of mortality	Official data
					Statutory relations	Willful/negligent homicide	Breach of rules of combat service							
<b>2010</b>	9	3	1	0	24	0	0	2	5	0	0	31	44	54
<b>2011</b>	11	3	9	0	5	1	0	6	2	1	1	36	39	36
<b>2012</b>	12	1	12	0	3	1	0	15	6	0	0	41	50	36
<b>2013</b>	5	0	8	3	2	1	1	7	4	0	0	30	31	-

## Causes/Consequences of Mortality in the Armed Forces in 2010-2013 in percentage terms

Table 2

Year	Violation of ceasefire	Security rules	Suicides	Breach of rules of using firearms	Homicide	Accidents	Health problems	Unknown causes	Careless attitude to service	Number of cases	General rate of mortality	Official data
<b>2010</b>	20.4 %	6.8%	2.2%	0%	54.5%	4.5%	11.3%	0%	0%	31	44	54
<b>2011</b>	28.2%	7.6%	23.0%	0%	15.2%	15.3%	5.1%	2.5%	2.5%	36	39	36
<b>2012</b>	24%	2.0%	24.0%	0%	8.0%	30.0%	12.0%	0%	0%	41	50	36
<b>2013</b>	16.1%	0%	25.8%	9.6%	12.8%	22.5%	12.9%	0%	0%	30	31	-

## Causes/Consequences of Mortality in the Armed Forces in 2012-2013 by months

Table 3

Month	Violation of ceasefire	Breach of rules of using firearms	Suicide	Homicide			Accident	Health problems	Number of cases	Total	Official communication on the cases
				Willful	With the breach of the rules of statutory relations	With the breach of the rules of combat service					
<i>January</i>			1	1			1	2	5	5	5
<i>February</i>	2		1						3	3	3
<i>March</i>		1							1	1	1
<i>April</i>			1						1	1	1
<i>May</i>					1		2		3	3	2
<i>June</i>					1		1		2	2	1
<i>July</i>		1	3					1	5	5	4
<i>August</i>	1								1	1	1
<i>September</i>						1	2	1	3	4	1
<i>October</i>	1	1	1				1		4	4	4
<i>November</i>									0	0	0
<i>December</i>	1		1						2	2	1
<b>Total</b>	<b>5</b>	<b>3</b>	<b>8</b>	<b>1</b>	<b>2</b>	<b>1</b>	<b>7</b>	<b>4</b>	<b>30</b>	<b>31</b>	<b>24</b>

The causes underlying the mortality in the armed forces /See Table 1 and Table 2/ suggest that only about 22% of the mortality rate is caused by violation of the ceasefire. The need for such classification is brought about by the fact that for a long time, the Defense Ministry attributed the mortality to violation of the ceasefire by concealing the real reasons, namely suicides, breaches of statutory relations, accidents, etc.

The causes /See Table 1 and Table 2/ of the mortality rate in 2010-2013 suggest that the proportional rate of mortality caused by murders has decreased rapidly, while the same rate of mortality caused by suicides increased in the same time-span.

It is also noteworthy that as compared to 2011, the proportional rate of mortality from health problems has doubled in 2012-2013.

The increased proportional rate of mortality caused by accidents constitutes another concern.

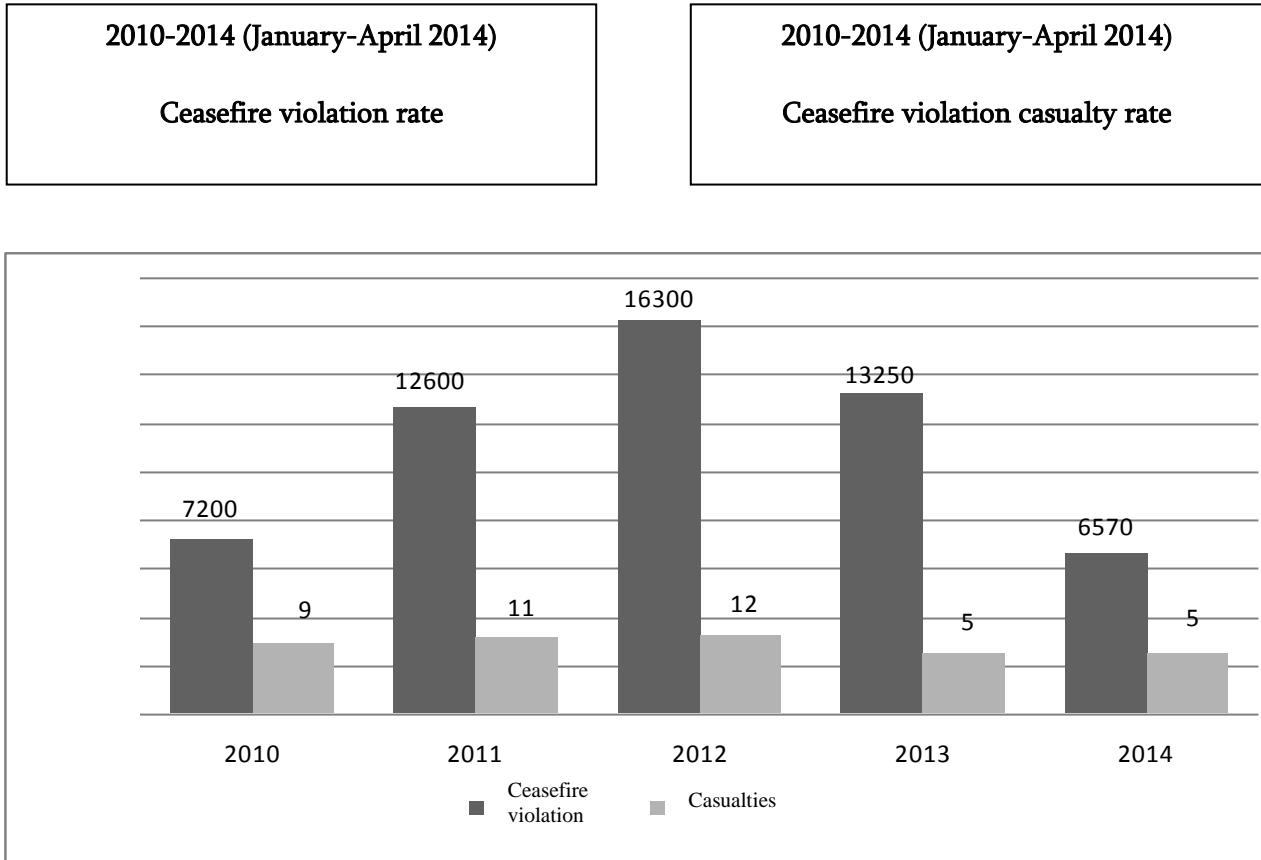
Every 1 death out of 4 was caused by suicide.

According to Diagram 5, the proportional rate of mortality caused by ceasefire violation has dropped in 2011-2013 as compared to the general mortality rate.

Hence, it can be stated that after 2010, the underlying causes of mortality have become more diversified; this can be attributed to the improved approach of the defense department to recording death cases. Nevertheless, we hereby range the increased proportional rate of mortality, especially caused by health problems and accidents, among the main challenges faced by the armed forces.

The mortality cases caused by ceasefire violation will be covered in another study.

Diagram 5



According to Diagram 5, the rates of ceasefire violation and mortality of its casualties are proportional to some extent in the period of 2010-2013. However, it should be stated that the ceasefire violations rates in 2013 decreased by about 19 percent, as compared with 2012, while the mortality rate dropped more than twice.

The dynamics of the ceasefire violation/casualty ratio shows increase of the rate of ceasefire violations with 1 fatal outcome (See Table 4).

Table 4

Ceasefire violation rate per fatal outcome	
Year	Ceasefire violation rates
2010	800
2011	115
2012	1356
2013	2650

The study findings above demonstrate the improved level of servicemen in terms of compliance with the combat duty security rules.

## **INCIDENCES OF PHYSICAL VIOLENCE, DEGRADING AND INHUMAN TREATMENT IN ARMED FORCES**

In 2013, the Organization revealed at least 17 incidences of physical violence and degrading treatment in the information provided by media coverage and on Datalex judiciary portal.

Most information on such cases usually remains unpublished and inaccessible.

The incidences of violence above mostly cover beatings or other acts of violence by commanders against their compulsory service conscripts.

A military contractor was involved in a dispute and later suffered beating. In another detected case, some servicemen used violence against each other by breaking the internal regulations of the RA armed forces.

On November 2, 2013, the mass media disseminated information on the 4 servicemen receiving in-patient treatment at the psychiatric unit of Kanaz military hospital who suffered violence by the hospital doctors.

The HCA Vanadzor conducted a case study and to that effect met the families of the victim servicemen in question. Once again, the Investigative Service of the Defense Ministry initiated criminal proceedings against the charged servicemen under treatment rather than against the officials who used violence against them.

The HCA Vanadzor provided one of the charged servicemen with an advocate to ensure his legal defense.

Appendix 2 gives a summary of the incidences of physical violence, degrading and inhuman treatment in the armed forces in 2013.

## VIOLATIONS OF PRE-TRIAL AND TRIAL EXAMINATION OF MILITARY CRIMINAL CASES

In 2013, the HCA Vanadzor was directly involved in 9 military criminal cases, with 7 fatal outcomes of servicemen. 2 cases resolved in national courts were appealed before the European Court of Human Rights. The HCA Vanadzor assigned its representative to act as the representative of the legal successor to the victims in 6 out of 9 cases and involved an advocate in the rest 3 cases.

The strategic litigations conducted by the Organization on military cases concern violations of the right to life and the right to be free from torture and inhuman treatment. Along with the violation of the material rights above, the Organization also detected violations of procedural norms in these cases.

The study of the strategic cases shows that during the pre-trial investigation of the cases on violated right to life and right to be free from torture and inhuman treatment, the preliminary investigatory agency commits the procedural violations below: witnesses to military crime cases are questioned in custody and subjected to torture, and degrading treatment. While the witnesses claim in courts of law to have been kept under custody and suffered ill-treatment during the pre-trial investigation, neither the court, nor the prosecutor's office take relevant rulings on the illegal actions of the officials. Despite the reports on custody and ill-treatment of the witnesses, the investigative agency fails to conduct adequate examination.

The violations continued during the court examination of these cases. Such violations include violations of the right to a comprehensive, thorough and impartial investigation and of the principle of competition.

Cases on incidents at the military units of the Nagorno-Karabakh Republic are forwarded for court examination to the RA Syunik Region Court of General Jurisdiction in the city of Stepanakert. According to the Organization, the practices of the Syunik Region Court of General Jurisdiction on coordinating and holding hearing on military cases outside the administrative area of the Syunik Region are unlawful and the Court cannot be considered as a court based on the rule of law.

It is of special note that all cases of the violation of the right to life are accompanied with the violation of the right to an effective legal remedy. Not only does the state fail to protect the right to life at an institution under its direct surveillance, but also fails to conduct an effective and efficient investigation into violation of this right and provide the victim family with access to the investigation. As for the issue

of compensation for violation of the right to life, this cannot be ensured either, since the Republic of Armenia lacks specific regulatory mechanisms.

Upon the preliminary investigation, the aggrieved party is not sometimes provided with copies of the criminal case materials and is therefore unable to get familiarized with the case before the trial and ensure adequate defense.<sup>15</sup>

Hence, the study of the materials of pre-trial and trial examination of military cases identified violations of the rights below: right to be free from ill-treatment (an absolute right for purposes of the Convention with no permissible limitations in any situation) under Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms; right to life under Article 2; right to liberty and security of person under Article 5; right to fair trial under Article 6; right to effective legal remedy under Article 13 of the Convention as well as rights enshrined under Articles 14-19 of the RA Constitution.<sup>16</sup>

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<sup>15</sup> <http://hcav.am/events/%D5%BD%D5%B5%D5%B8%D6%82%D5%B6%D5%AB%D6%84%D5%AB-%D5%B4%D5%A1%D6%80%D5%A6%D5%AB-%D5%A8%D5%B6%D5%A4%D5%B0%D5%A1%D5%B6%D5%B8%D6%82%D6%80-%D5%AB%D6%80%D5%A1%D5%BE%D5%A1%D5%BD%D5%B8%D6%82%D5%A9%D5%B5/>

<sup>16</sup> <http://www.arlis.am/DocumentView.aspx?docID=1>



## RECOMMENDATIONS

*Hence, we hereby provide the recommendations below based on the findings of the study of human rights violations in the armed forces in 2013.*

### **On Military Ombudsman:**

1. Ensure civil participation in the introduction of the military ombudsman's institute as prescribed under the Action Plan of the Human Rights Strategy.

### **On Call-Up:**

1. Stipulate legal regulations on conscripts' fitness for military service based on their health status;
2. Ensure comprehensive medical examination of conscripts and exclude conscription of citizens with health problems;
3. Establish the procedure for deciding on the fitness for military service of conscripts with several diseases, by excluding their conscription.

### **On Military Service:**

1. Draft a military service roadmap for officers' including exact procedures for their promotion, social security, service conditions and legal protection;
2. Lay down the fundamentals and precise effective appeal mechanisms in the internal disciplinary regulations;
3. Set out the strict requirement for the RA Defense Minister to submit an annual report on the RA armed forces to the RA National Assembly.

### **On Investigation of military criminal cases:**

1. Ensure fair trial on every mortality case;
2. Ensure effective legal remedies for the protection of witnesses to military criminal cases;
3. Ensure effective, comprehensive, impartial and thorough investigation of every case on the violence and degrading treatment by commanders, servicemen and representatives of military investigatory agencies and law enforcement authorities; ensure publication of the results of such investigations.