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Memorandum

on Implementation of Action Plan for National Strategy on Human Rights Protection (excerpt)

(Period: January-December 2014)

Human rights protection ranges among the fundamental principles forming basis for adequate treatment not only to the state, law and public order, but also to the civil society as such since its maturity and development largely depend on the level of human rights protection and the level of development and interaction of the human rights protection institutes.

National Strategy on Human Rights Protection
(RA President's Order № NK-159-N of October 29, 2012)

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List of Abbreviations

RA	Republic of Armenia
AP for HRPNS	Action Plan for National Strategy on Human Rights Protection
NA	National Assembly
MoJ	Ministry of Justice
MLSA	Ministry of Labor and Social Affairs
MoH	Ministry of Health
MFA	Ministry of Foreign Affairs
NSC	National Security Council
NSS	National Security Service
AJ	Academy of Justice
ITP	Individual Training Plan
MNP	Ministry of Nature Protection
MES	Ministry of Education and Science
SCREC under the GoA	State Committee of Real Estate Cadastre under the Government of Armenia
PSEN	Persons with Special Educational Needs
NCTR	National Commission on Television and Radio
MC	Ministry of Culture
HRD	Human Rights Defender
MD	Ministry of Defense
MSYA	Ministry of Sport and Youth Affairs
MTAES	Ministry of Territorial Administration and Emergency Situations
ChA	Chamber of Advocates
SA	School of Advocates
MUD	Ministry of Urban Development

General Outline

The RA Government Decree № 303-N dated February 27, 2014 approved the Plan of Actions for the National Strategy on Human Rights Protection. The development of the Action Plan in its turn relies on the National Strategy for Human Rights Protection approved by the RA President's Order of October 29, 2012.

The Action Plan approved by the RA Government covers 119 actions in 20 sectors.¹ The timetable for the performance of the actions under the Plan is scheduled on quarterly basis.

According to the Action Plan for the Human Rights Strategy, the heads of the competent national executive agencies were also assigned to report each six months to the RA National Security Council Staff, RA Government Staff and RA Ministry of Justice on the work done. None of the competent RA state agencies above, i.e. neither the RA NSC, nor the RA Government, nor the RA MoJ, have published any information on the reports above. On January 19, 2015, the HCA Vanadzor submitted an inquiry to the RA National Security Council to find out whether the heads of the competent national agencies as prescribed by the Action Plan and the agencies established by law had submitted any report on the work done in 2014. The Organization also requested the copies of such reports. In its response to the inquiry, the RA NSC stated that NSC Staff had received reports on the actions carried out under the Action Plan in the 2nd half of 2014 from the RA MFA, RA MLSA, RA MoH, RA MoJ, RA MD and State Nuclear Safety Regulatory State Committee under the GoA. It is noteworthy that the State Nuclear Safety Regulatory State Committee under the GoA is not ranged among the agencies responsible for the implementation of the actions under the Action Plan. At the same time, the NSC failed to provide the copies of the reports and in response to the 2nd inquiry for the copies, the NSC suggested that the Organization contacted the agencies that had provided the reports above.

Under the RA President's Order № NK-16-N dated February 7, 2013, an interdepartmental commission on provisions and Action Plan of the National Strategy on Human Rights Protection was set up, with its members approved. Note that there is no further information available on the activities of the Commission.

¹ See Annex 1.

Hence, the agencies responsible for the control over the implementation of the Action Plan failed to exercise an ongoing adequate control, which resulted in decreased efficiency of the implementation of the Action Plan.

The Reference covers a study into the performance of the actions scheduled for 2014 of the Action Plan for the National Strategy of Human Rights Protection.

72 actions, i.e. 63%, of the total of 119 actions were scheduled for the year of 2014. These actions cover the areas below:

1. right to healthcare and life (6/1²);
2. freedom of thought, conscience and religion, combat against discrimination (4/3);
3. right to education (4/4);
4. right to social security, adequate standard of living and work (8/3);
5. freedom of expression, freedom of assembly and association (8/7);
6. right to be free from torture and inhuman or degrading treatment or punishment (13/5);
7. children's rights (15/10);
8. rights of the elderly (4/4);
9. rights of persons with disabilities (13/7);
10. rights of refugees, asylum seekers and stateless persons (11/9);
11. cultural rights (5/2);
12. right to favorable environment (5/4);
13. economic rights, right to property (4/3);
14. right to fair trial (3/1);
15. rights of military servicemen and conscripts (4/3);
16. improvement of human rights protection mechanisms (7/6).

None of the actions in the sectors below were scheduled for the period above:

1. right to respect for private and family life (1³);
2. right to free and fair elections (1);
3. right to national and ethnic identity (2);
4. right to liberty and security of person (1).

² The numbers in parentheses show the general number of the actions to be carried out in relevant sectors, as provided under the Action Plan for the Human Rights Strategy / number of the actions to be carried out in 2014.

³ The numbers in parentheses show the general number of the actions to be carried out in relevant sectors as provided under the Human Rights Strategy.

13 of the actions scheduled for 2014 are regular; this means that they should be also carried out throughout the next years of the Human Rights Strategy (HRS) Action Plan. Another regular activity is scheduled to commence in 2015.

Methodology to Collect Information on Performance of Actions and Assess such Performance

To collect information on the progress of the implementation of the Action Plan, official electronic sources were examined and inquiries were submitted to the responsible state agencies.

Inquiries were submitted to 28 state agencies in 2 rounds:

1. RA National Security Council;
2. RA Government.

RA Ministries:

3. RA Ministry of Territorial Administration and Emergency Situations;
4. RA Ministry of Foreign Affairs;
5. RA Ministry of Nature Protection;
6. RA Ministry of Health;
7. RA Ministry of Defense;
8. RA Ministry of Justice;
9. RA Ministry of Education and Science;
10. RA Ministry of Labor and Social Issues;
11. RA Ministry of Sport and Youth Affairs;

12. RA Prosecutor General's Office;

Agencies under the RA Government:

13. National Security Service under the RA Government;
14. Police under the RA Government.

Marz (Regional) Governors' Offices:

15. Yerevan Municipality;
16. Aragatsotn Regional Governor's Office;
17. Ararat Regional Governor's Office;

18. Tavush Regional Governor's Office;
19. Gegharkunik Regional Governor's Office;
20. Armavir Regional Governor's Office;
21. Syunik Regional Governor's Office;
22. Lori Regional Governor's Office;
23. Kotayk Regional Governor's Office;
24. Shirak Regional Governor's Office;
25. Vayots Dzor Regional Governor's Office.

26. RA Human Rights Defender;
27. RA School of Advocates;
28. RA National Commission on Television and Radio.

All of the agencies above responded to the inquiries. Some of them responded with some delay (RA Government, RA MNP, RA MD, RA MES, RA Police).

Hence, the study focused on the performance of the 72 actions out of the 119 actions under the AP for HRPNS. Information on 3 of the 72 actions was obtained from other sources.

The scale below was used to assess the level of action performance:

- Fully completed (5);
- Mostly completed (4);
- Partially completed (3);
- Mostly uncompleted (2);
- Uncompleted (1);
- Actions not deriving from the AP for HRPNS (actions performed before the approval of the Action Plan or actions deriving from other legal acts).

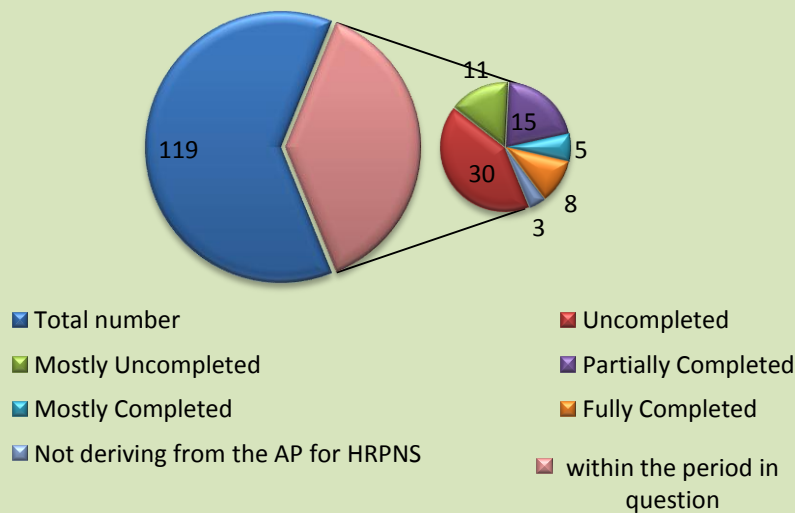
It is also noteworthy that actions were assessed by the expected outcomes under the Action Plan. This explains the fact that in spite of highlighted significance of the efforts invested in performing a number of actions, the actions as such were assessed as uncompleted since they had not achieved their expected outcomes.

The study of the information obtained suggests the conclusions below:

- 9 actions are fully completed (12,5 %);

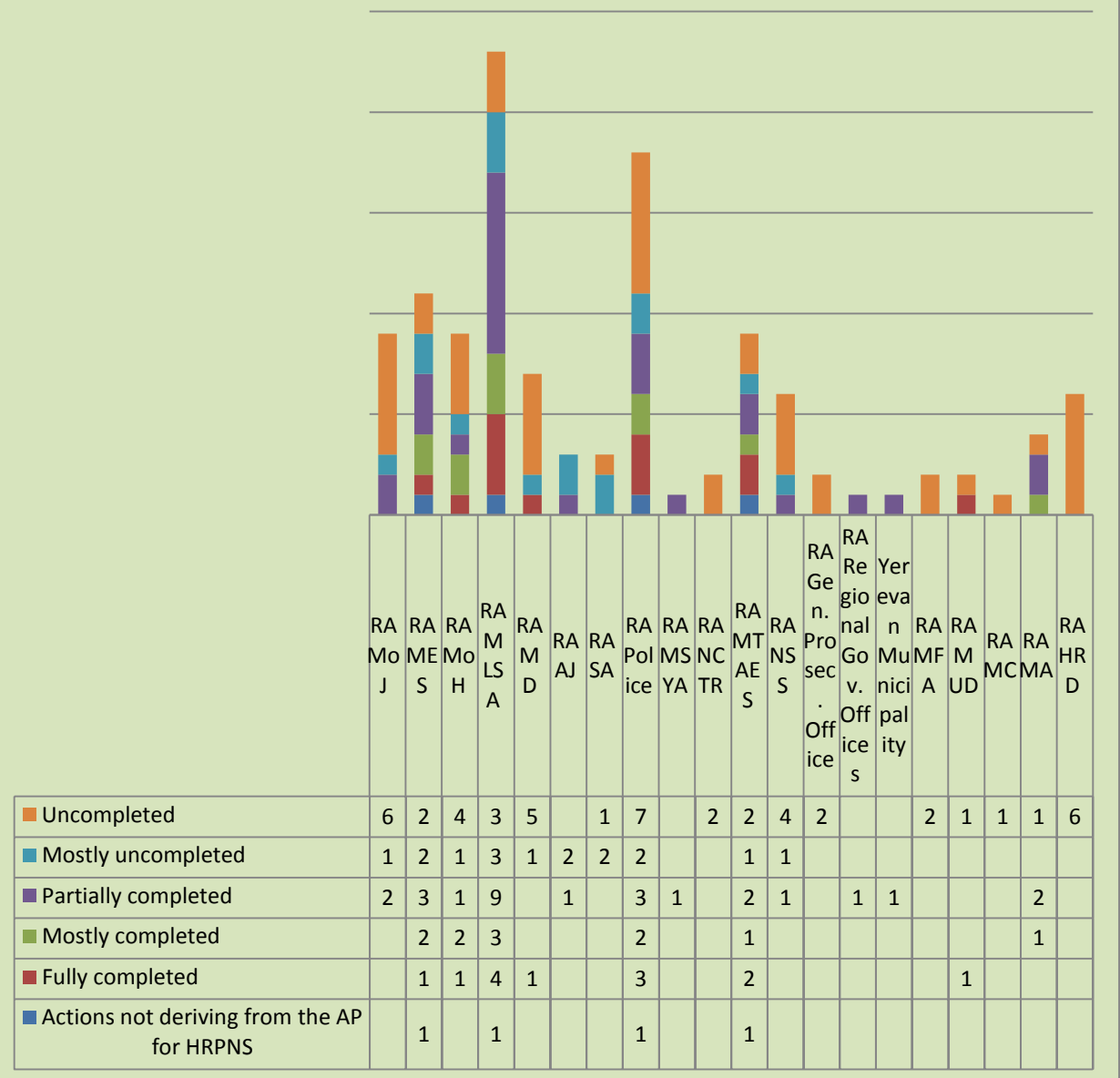
- 5 actions are mostly completed (9,7 %);
- 15 actions are partially completed (19,4 %);
- 11 actions are mostly uncompleted (13,8 %);
- 30 actions are uncompleted (41, 6 %); and
- 2 other actions were not intended to be performed under the Action Plan for the HR Strategy (2,7 %) (See Diagram 1, Annex 1).

Diagram 1.
Quantitative Picture of HRS Actions Performance



Most of the actions, namely 23 actions, were taken by the RA Ministry of Labor and Social Affairs, and 18 actions by the RA Police. The smallest number of actions were taken by the RA Marz (Regional) Governors' Offices and Yerevan Municipality and the RA Ministry of Sport and Youth Affairs, each of which took 1 action, and the RA Ministry of Foreign Affairs, RA Ministry of Urban Development and RA Ministry of Culture, RA National Commission on Television and Radio each took 2 actions. The largest numbers of uncompleted actions were identified among the actions assigned to the RA Police, RA HRD and the RA Ministry of Justice: 7 (out of 18), 6 (out of 6) and 6 (out of 9) respectively. The largest number of completed actions were identified among the actions assigned to the RA Ministry of Labor and Social Affairs and the RA Ministry of Territorial Administration and Emergency Situations: 4 (out of 23) and 3 (out of 18), respectively (See Diagram 2, Annex 2).

Diagram 2. Implementation of Action Plan for HR Strategy, by Responsible Agencies



The issues below were identified:

1. The coordinating agencies fail to ensure adequate control over the performance of the actions under the Action Plan for the HRS and publicity of such performance.
2. A number of actions under the Action Plan for the HRS were carried out before the approval of the Action Plan. At the same time, some actions are to be performed under other legal acts (Actions № 13, 15, 82).

3. While the implementing agencies for a number of actions were identified on contractual basis, there was no responsible coordinating agency for such actions; as a result, such actions either failed or were not completed with adequate efficiency (Actions № 29, 56, 105).
4. A number of actions and outcomes lack clear and measurable definitions, which might cause problems at the action implementation stage and makes it difficult to assess the performance of the action (Actions № 8, 22, 62).
5. Another concern is caused by the refusal of the RA NSS to provide information on the performance of a number of actions on the pretext of official secret (Actions № 30, 43, 60).
6. As for a number of actions, not all the departments within relevant sectors are deemed responsible for their performance. In particular, a number of actions should also have the RA Investigative Committee, as well as the customs and tax investigative agencies among the bodies responsible for their performance (Actions № 60, 116).
7. An agency deemed as responsible for an action is unable to perform the action due to its powers and therefore should be removed from the list of the agencies responsible for its performance (Action № 72).
8. Neither the Action Plan, nor its expected outcomes provide any information on the funds allocated and spent for the performance of the actions.
9. The agencies responsible for the performance of the actions under the Action Plan provided no suggestions on any action to resolve any issue within their sectors.

The Study has also identified a number of issues concerning the content of the actions taken and the legislative proposals. Such issues and proposals are covered in the analysis of the performance of relevant action.

Proposals

Along with the issues above, we hereby propose to clarify and reformulate the actions in the Action Plan for the HRS entailing analysis and based on such analysis assess the feasibility of the performance of such actions. Such actions should be reworded and clarified based on the results of the analysis (Actions № 8, 36, 46, 87, 89, 96, 100, 101, 102, 103).

At the same time, the Action Plan for the HRS should be updated with at a variety of actions, particularly:

- 1.1. Develop legislation regulating the status of missing persons. Draft an RA Law on Missing Persons and accordingly make changes and amendments to relevant legislation;

- 1.2. Develop a mechanism of accountability before the representative body for the RA law enforcement (RA Police, RA Investigative Committee, RA Special Investigation Service, RA NSS) by example of the similar mechanism for the Prosecutor's Office;
- 1.3. Develop legislative regulations to guarantee prohibition of hate speech;
- 1.4. Develop and launch an effective mechanism of control and supervision over compliance with the labor law provisions to be operated under the RA Ministry of Labor and Social Affairs. Complete the Action Plan with the actions aimed at protection of labor rights.⁴

⁴ See also Labor Law Guarantees in the Context of Human Rights Protection Analysis.

[^] <http://hcav.am/wp-content/uploads/2014/09/ashx-zekuyc.pdf>