



Հելսինկյան Քաղաքացիական Ասամբլեայի  
Վանաձորի գրասենյակ



## REFERENCE

### On Implementation of the Action Plan of the National Strategy on Human Rights Protection

(Period: January – December, 2015)

The united, targeted and coordinated policy implementation in the field of human rights protection is the crucial tool utilized by the modern democratic state for the purpose of implementing its commitments undertaken in the field.

National Strategy on Human Rights Protection

(#NK-159-N decree of the RA President dated October 29, 2012)

Vanadzor  
2016

## List of Acronyms

RA Republic of Armenia,

NSHRP National Strategy on Human Rights Protection.

NA National Assembly

MJ Ministry of Justice

MLSA Ministry of Labor and Social Affairs

MH Ministry of Health

MFA Ministry of Foreign Affairs

NSC National Security Council

NSS National Security Service

JA Justice Academy

MNP Ministry of Nature Protection

MEC Ministry of Education and Science

MC Ministry of Culture

HRD Human Rights Defender

MD Ministry of Defense

MTAD Ministry of Territorial Administration and Development

CA Chamber of Advocates

SA School of Advocates

MUD Ministry of Urban Development

ME Ministry of Economy



## General Outline

### General information on the Action Plan

On February 27, 2014, by its Decree N° 303-N, the RA Government approved the [Action Plan](#)<sup>1</sup> of the National Strategy on Human Rights Protection. And the Action Plan, in its turn, was developed based on the [National Strategy on Human Rights Protection](#) approved by the RA President's Order dated October 29, 2012.<sup>2</sup>

The Action Plan approved by the RA Government covers 119 actions in 20 fields.<sup>3</sup> The timetable for implementation of the actions covered in the Action Plan is presented by quarters.

HCA Vanadzor considers it important that the actions under the Action Plan are completed properly and timely. The Organization analyzed the progress of implementation of the actions to be taken in 2014 and in July 2015 published the HCA Vanadzor [Reference](#)<sup>4</sup> on Implementation of the Action Plan of the National Strategy on Human Rights Protection.

In July 2015<sup>5</sup> and February 2016<sup>6</sup> workshops on the Action Plan of the National Strategy on Human Rights Protection were held with the responsible agencies. The workshops were also attended by the civil society members and representatives of international organizations. At the workshops, the responsible agencies assigned under the Action Plan presented the actions taken under the Action Plan. The civil society members expressed their judgments on the implementation of the Action Plan, and asked questions on the progress in its implementation and the actions taken. The discussions made it obvious that the responsible agencies failed as such to focus properly on the implementation of the actions under the Action Plan. Such an approach had a negative impact on the proper, full and effective implementation of the actions under the Action Plan.

According to the Action Plan of the National Strategy on Human Rights Protection, the heads of the responsible national executive agencies are also assigned to submit semi-annual reports on

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<sup>1</sup> See RA Government Decree N° 303-N dated February 27, 2014, <http://www.arlis.am/DocumentView.aspx?DocID=97193>

<sup>2</sup> See RA President's Order dated October 29, 2012, <http://www.arlis.am/DocumentView.aspx?DocID=79027>

<sup>3</sup> See Appendix 1.

<sup>4</sup> See HCA Vanadzor Reference, <http://hcav.am/wp-content/uploads/2015/07/%D5%84%D4%BB%D5%8A%D4%B1%D5%8C%D5%84%D4%BE%D5%8F%D5%A5%D5%B2%D5%A5%D5%AF%D5%A1%D5%B6%D6%84%D5%80%D5%94%D4%B1%D5%8E-1.pdf>

<sup>5</sup> July 24, 2015, Workshop on Action Plan of the National Strategy of Human Rights Protection, <http://www.moj.am/article/1340>

<sup>6</sup> February 26, 2016, Workshop on Action Plan of the National Strategy of Human Rights Protection, <http://www.moj.am/article/1471>

their activities to the Staff of the RA National Security Council (NSC), the Staff of the RA Government and the RA Ministry of Justice. None of the competent RA state agencies, i.e. neither the RA NSC, nor the RA Government, nor the RA MoJ, provided any information on such reports. In response to the inquiries HCA Vanadzor submitted on February 25, 2016, the Staff of the RA Government and the RA Ministry of Justice provided the copies of the reports on the actions taken in 2015 submitted to the Staff of the RA Government and the RA Ministry of Justice, respectively. It is noteworthy that like with the previous inquiry, this time the NSC did not provide the reports as well and suggested to turn to the agencies that submitted such reports. Another fact of particular interest is that the RA State Nuclear Safety Regulatory Committee under the RA Government also submitted reports to the Staff of the RA Government and the RA Ministry of Justice. It is not clear why this agency submitted reports as it is not an agency responsible for taking the actions under the Action Plan.

This Reference presents the results of the study on the implementation of the actions to be taken in 2015 under the Action Plan of the National Strategy on Human Rights Protection.

In 2015, 56 out of the 119 actions, i.e. 47 % of the total number of the actions, were to be taken.

Those actions cover the fields below:

1. Right to life and health (6/4<sup>7</sup>);
2. Freedom of thought, conscience, religion and belief; non-discrimination (4/1);
3. Right to education (4/1);
4. Right to social security, adequate standard of living and employment (8/4);
5. Right to respect for private and family life (1/1);
6. Right to free and fair elections (1/1);
7. Freedom of expression, freedom of assembly and association (8/4);
8. Right to be free of torture or other cruel, inhuman or degrading treatment or punishment (13/8);
9. Rights of the child (15/9);
10. Rights of persons with disabilities (13/6);
11. Right to preserve one's national and ethnic identity (2/1);
12. Rights of refugees, asylum seekers and stateless persons (11/3);

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<sup>7</sup> The number in the parenthesis denotes the general quantity of the actions to be taken in a particular field /the quantity of the actions to be taken in 2015/ as intended by the Action Plan of the HR Strategy.

13. Cultural rights (5/4);
14. Right to a sound environment (5/1);
15. Economic rights, right of ownership (4/3);
16. Right to a fair trial (3/3);
17. Right to liberty and security of person (1/1);
18. Improvement of human rights protection mechanisms (7/1)

15 of the actions to be taken in 2015 are regular in nature, i.e. they should be taken also during the previous and following years of the Action Plan of the HR Strategy.<sup>8</sup>

#### Methodology of collecting information on implementation of the actions and assessing such implementation

To collect information on the implementation of the Action Plan, the official electronic sources were studied and inquiries were sent to the state agencies recognized responsible under the Action Plan.

The inquiries were sent in 2 rounds to a total of 23 state agencies:

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

#### RA Ministries:

3. RA Ministry of Justice
4. RA Ministry of Territorial Administration and Development (MTAD);
5. RA Ministry of Foreign Affairs (MFA);
6. RA Ministry of Finance (MoF);
7. RA Ministry of Economy (MoE);
8. RA Ministry of Nature Protection (MNP);
9. RA Ministry of Health (MoH);
10. RA Ministry of Defense (MoD);
11. RA Ministry of Education and Science (MES);
12. RA Ministry of Labor and Social Affairs;

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<sup>8</sup> Actions 14, 22, 27, 29, 30, 32, 42, 43, 54-56, 60, 66, 75, 105 of the Action Plan

13. RA Ministry of Culture (MoC);

Agencies under the RA Government:

14. National Security Service (NSS) under the RA Government;

15. Police under the RA Government;

16. State Committee of Real Estate Cadastre under the RA Government;

Regional Government Offices (RGOs) (marzpetarans):

17. Yerevan Municipality (YM);

18. RA Human Rights Defender (HRD);

19. RA Judicial Department (JD);

20. RA Investigative Committee (IC);

21. RA School of Advocates (SA);

22. RA Academy of Justice (AoJ);

23. RA Central Electoral Commission (CEC)

All the agencies above responded to the inquiries. Some of them responded with delay (RA Ministry of Justice, RA Government, RA Ministry of Urban Development (MUD); RA Ministry of Culture, RA Academy of Justice).

Thus, the study covered the implementation of 56 out of 119 actions of the Action Plan of the National Strategy on Human Rights Protection.

The level of completion of the actions was assessed by the scale below:

- fully completed (5);
- mostly completed (4);
- half completed (3);
- mostly not completed (2);
- not completed (1);
- actions not prescribed by the Action Plan of the National Strategy on Human Rights Protection (covers the actions taken before the approval of the Action Plan or the actions prescribed under other legal acts)

It is noteworthy that in 2015, the terms of the actions under the Action Plan above were changed. Thus, the 1<sup>st</sup> stage of large-scale changes in the period covered by the Reference were made on November 12, 2015 by RA Government Decree №[1302-N](#); accordingly, the terms of over 16 actions prescribed under the Action Plan were extended till 2016.<sup>9</sup> Moreover, in the original version, the deadline for some of these actions is set as 2014. The Decree of November 2015 extended the deadlines of the actions (Actions 81, 92, 97, 101, 114-119) not taken in 2014:

- The RA Ministry of Justice justified the extension of Action 81 by assigning another agency responsible for its implementation;

- The extension of the terms of Action 92 was justified by the fact that the RA Government Decree №[1058-N](#) dated September 11, 2014 set another deadline. It follows that when drafting the RA Government Decree above, the terms in the Decree were not brought into compliance with those under the Action Plan of the National Strategy on Human Rights Protection. And the responsible agencies identified the necessity of specifying those deadlines only after a year;

- The extension of the terms of Action 97 was justified by the fact that negotiations were in progress on involving international experts as necessary for taking the action;

- The delay of action № 101 was justified by the large-scale reforms currently in progress in the labor and social protection sector in RA. The Action intends to “consider the expediency of ratifying the Optional Protocol to the United Nations International Covenant on Economic, Social and Cultural Rights and submit a recommendation”;

- 5 of the 6 actions №№114-119 in the ‘Improvement of human rights protection mechanisms’ section were delayed on the pretext that the Human Rights Defender’s Office submitted the draft RA Law on Making Changes and Amendments to RA Law on Human Rights Defender and a number of other draft laws also to the European Commission for Democracy through Law (Venice Commission), Association for the Prevention of Torture and the UN Subcommittee on Prevention of Torture and Inhuman or Degrading Treatment or Punishment for their opinion.

The extended actions of 2015 with expiring deadlines:

- The RA Ministry of Justice justified the extension of the action under Para 26 by the fact that no discussion had been held so far between the co-performers over the concept paper in form of a draft legal act on standards of classification of information processed under the cooperation program between the RA and the OSCE Office in Yerevan back in 2013.

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<sup>9</sup> See RA Government [Decree](#) 1302-N of November 12, 2015 <http://www.arlis.am/DocumentView.aspx?DocID=101581>



- The RA Ministry of Justice conditioned the delay of the action under Para 45 by drafting a new Penal Code noting that the issue of defining under the international standards the rights and obligations of persons on hunger strike at the penitentiaries would be discussed during drafting the new penal code.

- The RA Ministry of Justice conditioned the delay of the action under Para 70 by making amendments to the RA Civil Procedure Code under which it was intended to discuss the specification of the grounds for declaring persons with mental health problems and/or mental disorders legally incapable and the problem of the expediency of developing differentiated criteria for assessing incapacity.

- The RA Ministry of Nature Protection conditioned the delay of the action under Para 97 by the necessity to involve international experts in the development of Chapter 8 of the Law on Environmental Policy, and currently negotiations on getting relevant assistance are in progress.

The timeframes for Actions 6, 33, 40 and 106 of the Action Plan to be taken in 2015 were extended by the RA Government Decree [485-N](#)<sup>10</sup> of May 12, 2016.

Thus, the terms of the actions to be taken in 2015 under the 2 decrees of the RA Government above were extended. Furthermore, those terms were extended after the expiry of the deadlines of the actions. It can be assumed that the extension was caused by the failure of the responsible agencies to take the actions in time, but the responsible agencies neither justified their failure, nor provided any grounds for obstructed implementation of the actions.

As for the delay in the deadlines of the actions on legislative changes on the grounds of drafting a new code, it is not clear either why the agency responsible found it more reasonable to delay the legislative change by adopting a new Code rather than to make such legislative change.

### **Scale to assess completion of actions**

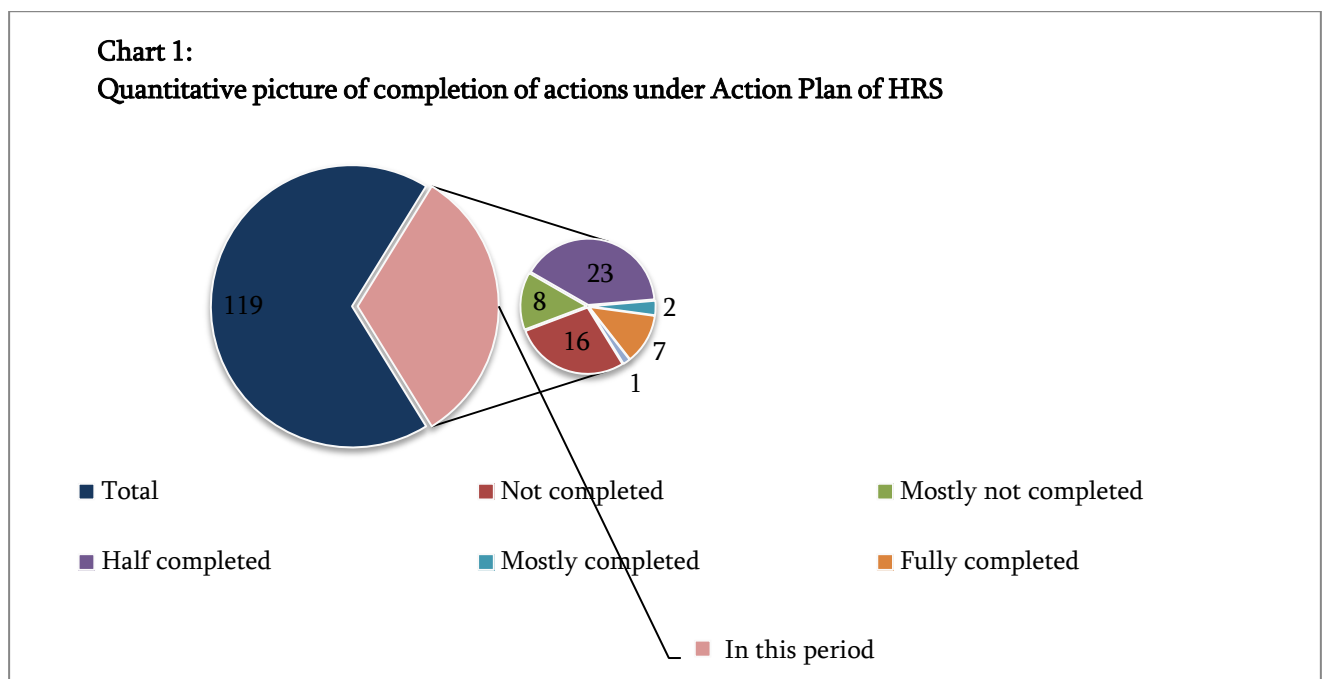
The actions were assessed under the expected results of the Action Plan. This explains the fact that while the measures taken for a number of actions were considered important, such actions were considered incomplete taking into account that those measures did not lead to the expected result of the action. The actions on workshops/seminars, trainings and/or awareness campaigns were also considered by the assessment of their impact by the responsible agencies.

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<sup>10</sup> See RA Government Decree 485-N of May 12, 2016, <http://www.arlis.am/DocumentView.aspx?DocID=105817>

The study of the information obtained leads to the conclusions below:

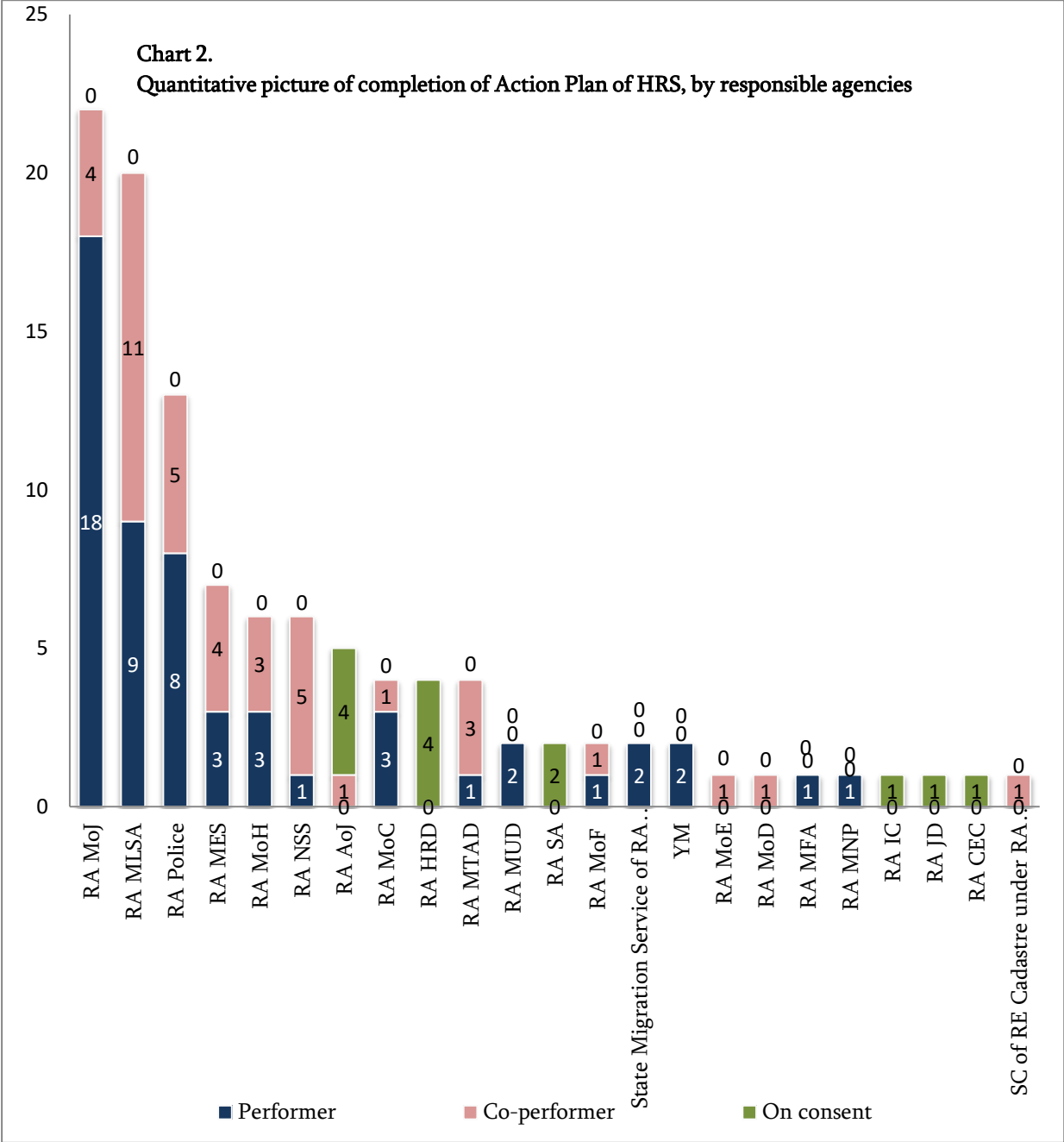
- 7 actions (13 %) were fully completed;
- 1 action (2 %) was mostly completed;
- 23 actions (41 %) were half completed;
- 8 actions (14 %) were mostly not completed;
- 16 actions (29 %) were not completed;
- and the completion of 1 action (2 %) was not prescribed under the Action Plan of the HR Strategy (see Chart 1, Appendix 1)



Most of the actions were taken by the RA Ministry of Justice: 22 actions, 18 of which it took as 1<sup>st</sup> performer and the other 4 as a co-performer, followed by the RA Ministry of Labor and Social Affairs (MLSA): 21 actions, 9 of which it performed as 1<sup>st</sup> performer and 11 as a co-performer. It is noteworthy that under 1 of the actions the MLSA did not consider itself as an addressee (Action 55) and found that the performance of the action fell beyond the Ministry's jurisdiction. The RA Police was involved in 13 actions: as a 1<sup>st</sup> performer in 8 actions and as a co-performer in the other 5. The RA MES is responsible for a total of 7 actions, as a 1<sup>st</sup> performer in 3 actions and as a co-performer in the other 4. The RA Human Rights Defender acted as a performer on consent in 4 actions. The RA School of Advocacy and the Academy of Justice are responsible agencies acting on consent in 2 and 4 actions, respectively.

The smallest number of incomplete actions was taken by the RA Ministry of Foreign Affairs and the Ministry of Nature Protection; they took 1 action each as 1<sup>st</sup> performers. The RA Ministry of Economy and the Ministry of Defense acted as co-performers in 1 action each.

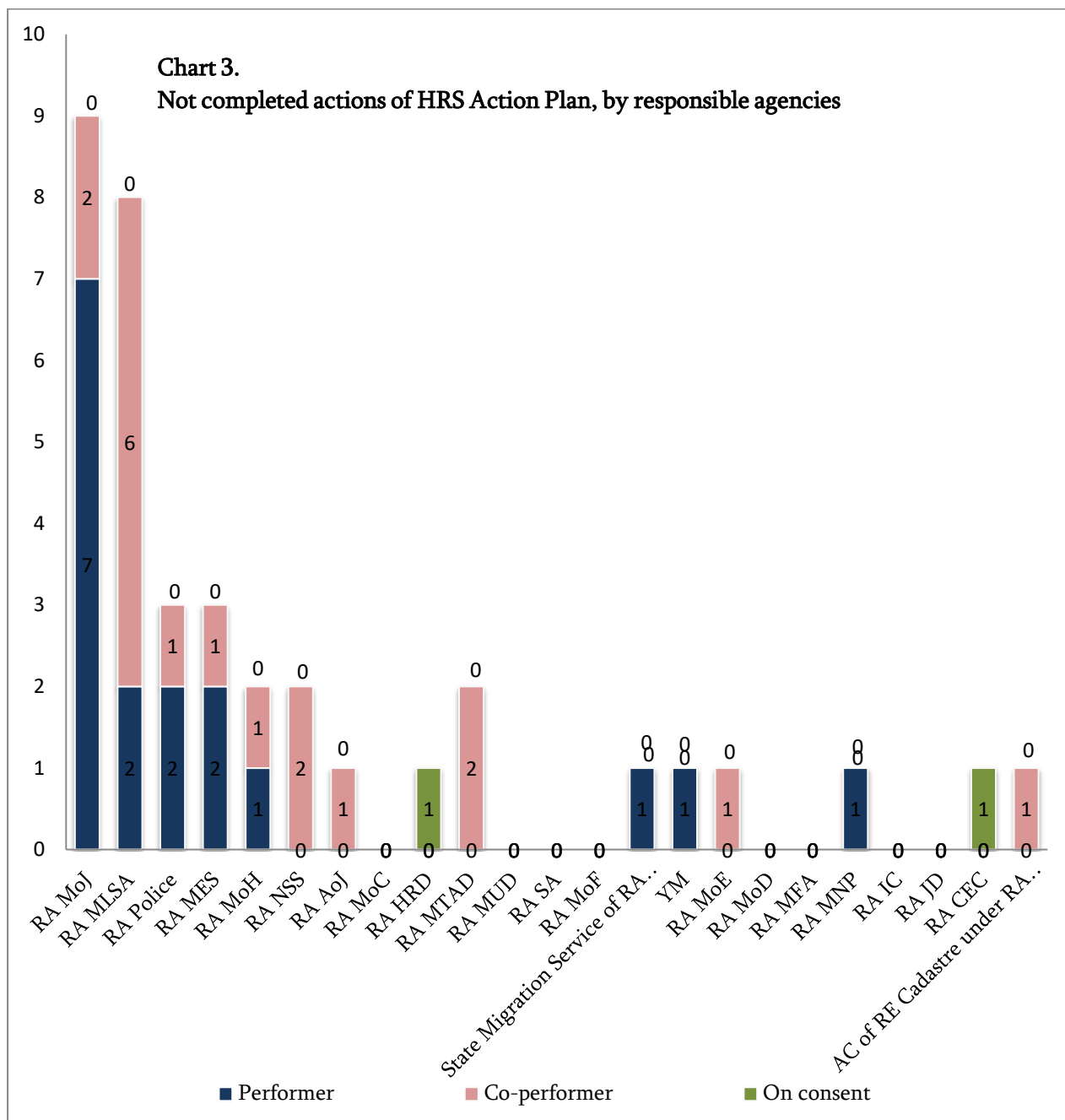
The largest numbers of non-completed actions was identified among the actions assigned to the RA Ministry of Justice: 9 (out of 22) and RA Ministry of Labor and Social Affairs: 8 (out of 20). 10 actions (out of 22) and 4 actions (out of 20) respectively taken by the RA Ministry of Justice and the Ministry of Labor and Social Affairs were assessed as half completed. 5 out of the 13 actions to be taken by the RA Police were assessed as half completed, 3 as not completed and 1 action was assessed as fully completed (see Chart 2, Appendix 2).



If we try to separate also the performance of the actions by each responsible agency as 1<sup>st</sup> performer, co-performer and performer on consent, we will get the picture below.

The RA Ministry of Justice failed to take as 1<sup>st</sup> performer 7 of the 18 actions assigned to it and another 2 actions (out of 4), under which the Ministry was co-performer, were assessed as not completed. The RA Ministry of Labor and Social Affairs failed to take as 1<sup>st</sup> performer 2 of the 9 actions assigned to it, and 6 actions out of 11 under which the Ministry was co-performer, were assessed as not completed. The RA Police failed to take as 1<sup>st</sup> performer 2 actions (out of 8) and as a co-performer 1 action (out of 5). The RA Ministry of Health failed to take as 1<sup>st</sup> performer 1 action (out of 3). The RA Ministry of Nature Protection, the State Migration Service of the RA MTAD and the Municipality of Yerevan as 1<sup>st</sup> performers failed to take 1 action each.

As for the RA Ministry of Foreign Affairs, RA Ministry of Urban Development, RA Ministry of Finance, RA National Security Service, RA Investigative Committee, RA School of Advocates and RA Judicial Department, no incomplete actions were identified on the part of those agencies as 1<sup>st</sup> performers or co-performers. However, 2 actions assigned to the RA Ministry of Territorial Administration and Development as co-performers were assessed as not completed. One action to be taken on consent by the RA Human Rights Defender's Office and the Central Electoral Commission were assessed as not completed. One action to be taken by the RA Ministry of Economy and the RA State Committee of Real Estate Cadastre as co-performers was assessed as not completed (See Figure 3).



The issues below were identified:

1. The coordinating agencies failed to ensure proper control over the implementation of the actions under the Action Plan of the HR Strategy and the publicity of such implementation.
2. For a number of actions, the Action Plan prescribes agencies to take them by consent but prescribes no coordinating responsible agency; as a result, such actions were not completed at all or were not completed with due efficiency (Actions 29, 49 and 56).
3. The agencies responsible for a number of actions as prescribed under the Action Plan do not consider themselves addressees (Actions 55, 76, 113).
4. A number of actions and action results are not defined clearly and in a measurable manner which may cause problems while the actions are taken and make it difficult to assess the completion of such actions (Actions 66, 75).

5. Neither the Action Plan, nor its expected results provide any information on the funds intended and spent on the implementation of the actions.

6. No agency responsible for taking the actions under the Action Plan provided any proposal on prescribing an action to resolve any issue in its sector.

7. The representatives of the responsible agencies assigned under the Action Plan were not provided with any training on human rights.

This study also identified a number of issues on the contents of the completed actions and legislative proposals. Those issues and proposals are covered in the analysis of the implementation process of relevant actions.

### Proposals

Along with the issues above, we hereby propose to specify and reformulate the actions in the Action Plan of the HR Strategy that implied analysis and assessment of the reasonability of taking the measures based on the analysis. We propose reformulating and specifying such actions based on the analysis results (Actions 34, 36, 87, 102, 103, 112).

Also, we propose to add several actions to the Action Plan of the HR Strategy, particularly:

- 1.1. Draft legislation on missing persons and make relevant changes and amendments to the related legal acts;
- 1.2. Develop for the RA law enforcement agencies (RA Police, RA Investigative Committee, RA Special Investigation Service, RA NSS) a mechanism of accountability before the representative agency, by example of 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 provisions of the labor law, which will operate under the RA Ministry of Labor and Social Affairs. Add to the Action Plan actions to protect labor rights.<sup>11</sup>

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<sup>11</sup> See also Analysis on Labor Law Guarantees in the Context of Human Rights Protection, <http://hcav.am/wp-content/uploads/2014/09/ashx-zekuyc.pdf>

