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Helsinki Citizens' Assembly-Vanadzor



Open Society Foundations - Armenia

Բաց Հասարակության Հիմնադրամներ - Հայաստան

# REPORT

## On Human Rights Situation of Conscripts during Winter (2015) and Summer (2016) Call-ups

Vanadzor

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Report prepared by: Armine Sadikyan

Data collection: Hasmik Karapetyan

Editor: Artur Sakunts

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## Introduction

Helsinki Citizens' Assembly Vanadzor hereby presents the data on the human rights violations throughout the winter call-up of 2015 (December 2015 – January-February 2016) and the summer call-up of 2016 (May-July), the legislative gaps and law enforcement issues recorded then.

The report summarizes the information provided by 57 individuals from overseas and RA citizens, namely, conscripts and their families from various RA marzes (regions) and residential areas, particularly Lori, Shirak, Syunik, Gegharkunik marzes and the city of Yerevan, who sought advice with the Organization, and the responses of the Ministry of Defense to relevant inquiries of the Organization. As a comparison, note that the number of citizens having applied to the Organization during the same period last year was 45. This Report features both the systemic problems repeatedly raised and still unsolved so far and specific issues leading to the violation of conscripts' rights, as well as the issues recorded during the aforementioned call-ups.

We also addressed the legislation on call-ups and fitness for military service and assessed the impact of its gaps and drawbacks in terms of violations of conscripts' rights.

## Methodology

The Report relies on the information sources below:

1. information provided by conscripts and their families;
2. medical records on the health state of conscripts;
3. notes from the RA Defense Department;
4. mass media outlets.
5. RA Legislation

The medical records on the health state of the conscripts, who sought advice with the Organization, were reviewed by an expert physician, whose opinion fed into the related official letters addressed to the RA Ministry of Defense. The medical commissions' expert opinions on the conscripts' health were compared with the available medical records issued by civilian medical institutions and the data provided by their parents.

The data on conscripts' health state were viewed in line with the list of diseases specified in RA Defense Minister's Order 410 dated June 11, 2013, and each conscript's fitness for military service was assessed by the standards set by the Order.

## **Conscription Process, Legislation on Health Examination of Pre- Conscripts and Conscripts and Deficiencies of Legal Framework on Fitness for Military Service**

The legal acts below cover the regulations of the conscription process and medical examination of conscripts:

- **RA Law on Conscription**<sup>1</sup> dated September 16, 1996. The Law regulates the military registration of citizens, preparation for military service, compulsory military conscription, military service, relations within coordinating and holding military training in reserve, as well as establishes the regulatory standards for medical examination and grounds for exemption and deferral from compulsory military conscription in the Republic of Armenia. It is noteworthy that in October 2014, an RA Draft Law on Conscription and Military Service, created earlier in 2014 and stipulating the RA citizens' constitutional duty to participate in the protection of the Republic of Armenia, was submitted to the RA Government. The Government has not approved the Draft yet.

As stated above, Section 3 of the RA Law on Conscription provides the preparation of citizens for the military service. Pursuant to Paragraph 1 of Article 7, medical checkups shall be mandatorily conducted by the expert physician of the commissions of military commissariats during the registration of conscripts, the call-up to military service, joining military service and training musters. If it is not possible to receive a medical conclusion of the citizen's fitness for military service, then the local military call-up commission shall be obliged to send the citizen to a relevant medical institution to undergo a medical examination, and to undergo treatment upon necessity. The list of those medical institutions shall be approved by the Government. In the aforementioned cases the medical check-up and examination of conscripts shall be carried out on priority and free-of-charge basis.<sup>2</sup>

Article 15 of the RA law provides the order of granting a deferral from compulsory military service due to health condition.

Clause 1 and 2 of the Article feature the terms and order of granting a deferral from the call-up of compulsory military service to conscripts in need of treatment due to health condition and conscripts temporarily unfit for compulsory military service.

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<sup>1</sup> <http://www.arlis.am/>

<sup>2</sup> <http://www.arlis.am/DocumentView.aspx?DocID=91500>

According to Clause 3 of the Article, the decisions on granting deferral prescribed by Clause 1 and 2 of this Article shall be taken by the republican military call-up commission, on the ground of the conclusion of the central medical commission, established by the decision of the Government of the Republic of Armenia.

The law provides that the check-ups of the conscripts is organized by the local military call-up commission, and among its other functions, the local military call-up commission takes decisions regarding the call-up and sending the conscripts to military service in the armed forces and other forces according to the types of troops, as well as granting a deferral due to family status and to continue studies.

In case of disagreement with the decision taken by the local military call-up commission, it can be appealed to the republican military call-up commission (Article 18 of the law).

The republican military call-up commission shall take decisions on complaints within a one-month period, by a simple majority of votes.

The decisions of the republican military call-up commission, within a one-month period after they are taken, can be appealed to the court in accordance with the procedure prescribed by law.

The conclusion of the central medical commission (hereinafter CMC) feeds into the decisions taken by the RA call-up commissions:

- Pursuant to the procedure set by **№ 748-N decision of the Government of the Republic of Armenia, dated July 10, 2008**,<sup>3</sup> all male citizens, among them pre-conscripts (aged 16-18), conscripts (aged 18-27), and post graduates above the age of 27, not having undergone military service, shall be subject to medical control and military registration. In accordance with the name list of persons subject to registration, submitted by the regional military commissariats, pre-conscripts are taken for medical registration by an expert of primary sector separated for the medical care of that specific age group within outpatient institutions (outpatient-polyclinic divisions of hospitals) pursuant to the order of the RA Minister of Health.

The expert of primary sector, separated for the medical care of pre-conscripts and conscripts, administers the regular medical check-ups of citizens taken for registration by him/her according to the volumes of medical check-ups and treatment of patients in

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<sup>3</sup> <http://www.arlis.am/DocumentView.aspx?DocID=100207>

line with targeted annual programs of state healthcare under free medical assistance and care ensured by the state. The outpatient treatment of pre-conscript and conscript aged male citizens residing in the marzes of the Republic of Armenia is administered in any hospital, according to the place of residence, while in case of diseases requiring narrow specialized medical assistance, it is carried out in relevant medical institutions of Yerevan city by the choice of the Minister of Health of the Republic of Armenia. In congruence with the targeted annual programs of state healthcare under free medical assistance and care ensured by the state, the referral issued by the medical commission of the military commissariat and sealed by the military commissar serves as grounds for the free inpatient treatment of pre-conscript and conscript aged male citizens.

- **RA Law on Defense<sup>4</sup>** dated November 27, 2008.

Under Article 13 of this Law, the RA Defense Ministry shall establish the procedure for compulsory military conscription and musters, as well as that for medical examination of persons liable for military service and military medical examination of servicemen. Under Article 14 of the Law, the General Headquarters of the armed forces shall coordinate the compulsory military service conscription and musters, as well as registration and recruitment of mobilization resources, preparatory military training and military registration.

- **RA Defense Minister's Order № 410 dated June 11, 2013** on Approving the Procedure for Medical Expert Examination of Persons Liable for Military Service and Servicemen and Revoking the RA Defense Minister's Order № 175 dated February 26, 2010 /hereinafter referred to as the RA Defense Minister's Order № 410/.

The RA Defense Minister's Order № 410 provides as follows:

- Procedure for medical expert examination of citizens upon their registration at conscription districts and during the compulsory military call-up;
- List of diseases and physical defects determining the citizens' fitness for military service by their health status and physical development data during their registration, conscription, military service, musters, commander or general staff-directed military trainings and drills (war games).

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<sup>4</sup> See the same source





According to the information provided by the RA Ministry of Defense, at the suggestion of the RA Minister of Health and by Order of the RA Minister of Defense, it was intended in 2014 to revise the procedure for the medical examination of the persons liable for military service and military medical examination of servicemen as established under the RA Defense Minister's Order № 410; to this end, a working group was set up. As reiterated in our previous reports<sup>5</sup>, neither the RA Defense Minister's Order № 410 above and any previous orders, nor any other legal act by the year of 2014 has ever established the framework for combatant, non-combatant (no longer applicable by the recent order) and restricted military service types and volume of military service. As for our inquiries on the availability of any regulatory act on combatant and "non-combatant" military service, the RA Defense Ministry provided contradictory responses.<sup>6</sup>

In response note of November 25, 2014 to the Organization's inquiry addressed on October 23, 2014 to the RA Ministry of Defense, the Head of Legal Department, RA Defense Ministry, stated that in order to determine the contraindications to staff appointment among the compulsory conscript servicemen in the RA Armed Forces, as well as to establish procedures for involving servicemen in the RA Armed Forces in therapeutic physical training groups and the list of permitted exercises in compliance with the Procedure for Medical Expert Examination of Persons Liable for Military Service and Military Medical Examination of Servicemen, a manual was introduced by secret order of the Head of the RA Armed Forces General Staff of January 15, 2014 to approve the characteristics of the limited military service, list of permitted physical exercises and restrictions of staff appointment among the military servicemen. The note also read that the manual above was developed by the specialists of the RA Armed Forces Departments of Military Medicine, Combat Training, Armed Forces General Headquarters conscription divisions, and experts of the Defense Ministry Central Military Medical Commission. According to the note, the manual also covers the procedure for involving conscript servicemen with restricted fitness for military service in combat duty in peacetime, as well as contraindications to military service in high-mountain climate zones and limited physical training in compliance with the Procedure

<sup>5</sup> [http://hcav.am/wp-content/uploads/2014/11/%D5%A6%D5%B8%D6%80%D5%A1%D5%AF%D5%B8%D5%B9\\_2013-2014\\_%D5%A6%D5%A5%D5%AF%D5%B8%D6%82%D5%B5%D6%81.pdf](http://hcav.am/wp-content/uploads/2014/11/%D5%A6%D5%B8%D6%80%D5%A1%D5%AF%D5%B8%D5%B9_2013-2014_%D5%A6%D5%A5%D5%AF%D5%B8%D6%82%D5%B5%D6%81.pdf)

<sup>6</sup> REPORT on conscription process and human rights situation of conscripts during 2013Spring call-up, page 4-5, APPENDIX 1.1-1.5

for Medical Expert Examination of Persons Liable for Military Service and Military Medical Examination of Servicemen.

Thus, the secret order above regulating the combatant and limited military service types and the list of permitted exercises stipulating the rights of the servicemen doing limited military service is unavailable for the conscripts and their families. The Organization constantly highlights the settlement of this issue, since the citizens considered eligible for "limited combatant" service allegedly did and still do combatant military service, including combat duties, which leads not only to deterioration of their health, but also improper performance of their military duties, violation of statutory relations and even death of serviceman in some cases.

The RA Defense Minister's Order 410 also lacks any clearly-cut severity criteria of a number of diseases; as a result, a disease of the same severity might be considered as grounds for both exempting conscripts from service and for declaring them fit. The Organization has raised this issue for numerous times, since we consider such ambiguity of legal regulations to violate the principle of legal certainty, which may lead to subjective and discretionary approaches and corruption risks.

Hence, the RA Defense Minister's Order 410, in terms of its contents, actually entails violation of the conscripts' rights and discretionary approach to determining their fitness for military service.

The RA Defense Minister's Order 410 also fails to resolve the issue of military fitness of conscripts with several diseases, despite the regular alerts by the Organization on the consequences of the lack of such regulations and examples of violated rights of certain servicemen. In this regard, the RA Defense Ministry provides the explanation below: "The fitness level of a conscript eligible for limited military service under several articles cannot be combined under a single conclusion, since each disease leads to certain limitations on the service duties which are carried out under the control of the military unit commanders and heads of medical service.<sup>7</sup> The lack of united approaches and legislative regulations leads to the differentiated approach in practice under the application of the same legislation, and dissimilar administration entailing the ongoing breaches of the human rights of conscripts and servicemen.

The Order also covers the functions of the Central Medical Commission below,

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<sup>7</sup> [http://hcav.am/wp-content/uploads/2014/10/M\\_2014-04.06\\_202-1.pdf](http://hcav.am/wp-content/uploads/2014/10/M_2014-04.06_202-1.pdf)

- 1) Subject conscripts, having undergone preliminary medical check-up and expert examination in the military commissariats, to medical examination;
- 2) provide hands-on and methodological assistance to medical commissions of military commissariats in the works of medical expert examination of pre-conscripts and conscripts;
- 3) cooperate with healthcare agencies aiming to increase the efficiency of medical examination and treatment of pre-conscripts and conscripts;
- 4) submit written conclusions on the health status of the conscripts, if they:
  - a. were declared fit for military service (or fit for limited military service);
  - b. were granted a deferment due to health issues to undergo treatment;
  - c. were recognized temporarily unfit for compulsory military service due to health status;
  - d. were recognized unfit for military service in peacetime;
  - e. were recognized unfit for military service removing from military registration;
- 5) Oversee the activities of the medical commissions of military commissariats,
- 6) Upon necessity review the previous decisions,
- 7) Submit the CMC's conclusions to the RA conscription commission for approval in a 20-day term after the call-up.

According to the Order above, **the conclusions of the CMC on the health state of conscripts are final** and are approved by the RA call-up commission.

### **Appealing Commissions' Actions (inactions) Regarding the Problems Revealed During the Call-Up**

The right to appeal regarding the activities (inactivity) of state and local self-governing bodies is deemed a constitutional right. Thus, the right to appeal is guaranteed and ensured by the RA Constitution. Pursuant to Article 6 of the RA Constitution, state and local self-governing bodies and public officials are competent to perform only such acts for which they are authorized by Constitution or laws.<sup>8</sup> This constitutional norm obliges all state bodies, including the military commissions, to act within the framework of powers set by the Constitution or laws. In case of actions (inactivity) outside the scope of such powers, the person shall have a right to effective protection of his/her breached rights. According to Article 61 of the RA Constitution, everyone shall be entitled to effective legal remedies to

<sup>8</sup> <http://www.arlis.am/DocumentView.aspx?DocID=102510>

protect his/her rights and freedoms. In conformity with Article 63 of the RA Constitution, everyone shall have a right to fair public hearing by an independent and impartial court within a reasonable time<sup>9</sup>.

According to Article 3 of the RA law on administrative principles and administrative proceedings, republican and territorial administrative bodies of the RA executive power, as well as local self-governing bodies are considered administrative bodies. Given this norm, the conscription process is administered by the bodies below,

- Local military call-up commission,
- Regional military call-up commission,
- Republican military call-up commission,

The conscript's or another person's complaint regarding the decision of the local and regional (Yerevan city) military call-up commission, does not avert the execution of the decision before its review. The republican military call-up commission shall take decisions on complaints within a one-month period, by a simple majority of votes.

The decisions of the republican military call-up commission, after they have entered into force, can be appealed to the court in accordance with the procedure and terms prescribed by law.

The actions (inactivity) of military call-up commission can be appealed to the RA Administrative Court. The RA Administrative Procedure Code envisages the procedure and term for applying to the RA Administrative Court.

### **Outline of Conscripts' Human Rights Situation and Issues Identified by the Organization Throughout Winter Call-Up of 2015 and Summer Call-Up of 2016**

Both before and throughout the call-up of 2015-2016, the conscripts and their family expressed their concerns and complaints, which as in the past, were related to improper administration of medical examinations, diseases as well as co-morbid diseases (relevant explanation of the RA Defense Ministry Department is provided above) revealed among the conscripts and their conscription into the armed forces without proper solution of their health problems.

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<sup>9</sup> See the same source



Throughout the 2015-2016 winter call-up and 2016 summer call-up, 57 persons, respectively 28 and 29, sought advice with the HCA Vanadzor. 47 of the persons above encountered problems with inadequate medical examination and disagreement with the medical findings on their health. 7 out of the persons above sought advice and clarification about the grounds for deferral and exemption from military service as stipulated under the RA Law on Conscription, as well as consultancy and clarification about the privileges set by the Law,<sup>1</sup> 1 person sought advice with the Organization to rescind the refusal on providing the relevant documents by the military commissariat over the deferral issued on the grounds of further education. 1 person sought clarification of the legality of refusing the acceptance of documents by an educational institution. 1 person, who had already done their military service in another country, sought clarification of conscription duties in the Republic of Armenia (see Table 1). 32 of the 57 persons who sought advice with the Organization received verbal advice, and the other 16 received further legal assistance along with the verbal advice, while 25 were provided with legal assistance apart from verbal consultations. 6 out of the 57 persons above turned to the Organization during both the winter and summer call-ups.

**Table 1. Image of provision of legal assistance in 2015-2016**

Issue	2016 summer	2015-2016 winter	Total
Health problems /provision of inadequate medical assistance	26	21	47
Clarification of the grounds for deferral and exemption from military service as stipulated under the RA Law on Conscription	1	6	7
Clarification of educational issues	1	1	2
Clarification of conscription duties in the Republic of Armenia having completed military service in another country	1	-	1
<b>Total</b>	<b>29</b>	<b>28</b>	<b>57</b>

The verbal advice and subsequent legal assistance to the 57 persons yielded the results below:

- 6 persons were exempted from compulsory military service by relevant decrees; (as a result of written assistance 3 cases regarding which criminal cases had been instituted based on evading military service, while in cases of the other 3, consultations were

provided after reviewing the medical documents and medical opinion based on existing documents).

- 11 persons were granted deferrals from compulsory military service by relevant decrees, with **3 persons** for 10 months (one of them was deferred at the 2015-2016 winter call-up as a result of written assistance, while in the cases of 2 persons medical consultation was provided and a medical conclusion was issued); **1 person** for 6 months (as a result of written assistance during 2016 summer call-up); **7 persons** for 1 year and more (5 of them were deferred at the 2016 summer call-up, and the 2– at the 2015-20166 winter call-up), one person of which for 1 year /due to health issue/, 1 person for 2 years /on the grounds of education/, 4 for 3 years /due to health issue/, and 1 person for 4 years / on the grounds of education /.  
1 person out of the 7 above were provided with written and verbal advice, 6 persons received only verbal advice, whose medical documents were examined, medical consultations were also provided, along with medical opinion issued.
- 7 persons (6 during 2016 summer call-up, and 1 during 2015-2016 winter call-up) were declared fit for military service although medical records revealed grounds for exemption and deferral from military service. The aforementioned persons refused to leave for military service, and criminal cases were filed against them on the ground of avoiding military service. The decisions reached over the cases of 2 persons above are being appealed to the court by the Organization.
- 17 persons were recognized fit for combatant or limited military service and were conscripted despite the records on their health problems and flaws in their medical examination files, which were not, however, removed even by the subsequent medical commission re-examinations or no re-examinations were scheduled. The organization continues providing legal assistance over the case of the aforementioned 2 persons.
- No further actions were undertaken on cases of 2 persons at the citizen's discretion or due to failure to obtain medical documentations or fear for further possible problems.
- 1 person with health problems will be conscribed during the next in-turn call-up, since he has not reached the conscription age yet.
- 12 persons (4 of which through anonymous, 5 through phone or electronic consultations) were provided with oral advice, their medical records were examined, the Organization does not possess any data regarding the further outcomes.



- There are no specific data regarding 1 person.

The Organization drafted relevant official notes and inquiries on the issues of all the persons seeking to protect their rights. Throughout the 2 call-ups above, the Organization drafted 34 notes.

As shown in Table 2, 33 of the 34 notes are addressed to the RA Defense Ministry, 1 note to Arabkir medical center. 20 out of the 33 notes addressed to the RA Defense Ministry received full responses (to the point and in terms specified by law), 11 notes received responses within the specified terms but not to the point, 1 note received a well-grounded response within the terms specified in the Law on Freedom of Information, the response to 1 letters was belated but to the point.

In the responses of the above-mentioned 11 notes did not anyhow address the raised issues and demands.

The response to the note addressed to Arabkir medical center was received timely, and complete.

**Table 2. Response to the notes addressed by the Organization**

State Agency/ Response Terms	RA Defense Ministry	“Arabkir” medical center	Total
Timely complete/to the point response	20	1	21
Timely response not to the point	11		11
Timely well-grounded response with relevant reference	1		1
Belated complete response	1		1
<b>Total</b>	<b>33</b>	<b>1</b>	<b>34</b>

It is noteworthy that 4 of the conscripted persons with health issues were taken to hospital after only one or several days due to the aggravation of the health state.

*During the aforementioned 2 call-ups both previously recorded and currently ongoing, as well as new problems were recorded, which can be categorized as follows:*

1. Conscripts' fitness for military service is determined without taking into account their complaints or health problems which essentially constitutes an act of deteriorating their health.

2. A clause of the RA Defense Minister's Order № 410 inconsistent with the health issues revealed by medical expert examination is applied to declare the conscripts fit for military service; this again constitutes an act deteriorating their health.
3. The medical documents contain a number of contradictory diagnoses, and later the most convenient for declaring the conscript fit for service is selected, this again constitutes an act deteriorating their health.
4. Such norms are applied against the conscripts, which, according to the Order, are subject to treatment and improvement, and can be applied only after the treatment and improvement of health condition, but the clause is being applied without administration of any treatment.
5. No further medical examinations are scheduled to confirm or deny the disease and determine whether the conscript in question is fit for military service, as stipulated by RA Defense Minister's Order № 410, namely:
  - In case of diseases, when the military fitness is determined according to the severity of the dysfunction. The severity of the dysfunction<sup>10</sup> is not often determined, and the clause of the RA Defense Minister's Order № 410 without that justification;
  - The severity of blood circulation dysfunction often goes undetermined, which is mandatory in case of a number of diseases;
  - In case of allergies, sensitivity to allergy is not often determined;
  - The Syncope attacks do not ultimately confirm or deny the presence of Syncope, which serves as a crucial factor for the military fitness of conscripts;
  - According to the Order, persons with arrhythmia and conduction disorders must mandatorily undergo Holter monitoring, which is not often conducted;
  - Pursuant to Article 10 of the RA Defense Minister's Order № 410-13, epilepsy must be confirmed through inpatient examination of up to one-month, and provocation tests are administered upon necessity. However, they are diagnosed in shorter terms, for instance in one-week period, provocation tests are not also conducted.

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<sup>10</sup> Under the RA Defense Minister's Order № 410-N of 2013, the conscripts' and servicemen's fitness for military service shall depend on the severity of the dysfunction of their organs due to their disease. Accordingly, the disease might be of the severity below: 1. slight dysfunction or no dysfunction: fit for military service; 2. moderate dysfunction: fit for limited service; 3. severe/apparent dysfunction: unfit for military service or eligible for deferral. This classification of dysfunction is quite subjective since its severity is not regulated by the Defense Minister's Order and in many cases is determined by the medical expert examination commission.



And in this case, without necessary course of examination, conscripts are mainly found fit for military service, and are conscripted.

6. During the deferral for treatment, the conscripts actually receive no treatment at all or just formalistic treatment and are declared fit for the service at the next in-turn call-up despite any improvement in their health state. None of the conscripts, who sought advice with the Organization, received any sort of treatment after being previously granted a deferment for treatment. None of the conscripts, having sought advice with the Organization, received any treatment during the deferment issued at the previous call-ups for the purpose of treatment, and no health improvement was recorded, but during 2015-2016 call-ups they were recognized fit for military service.
7. Disregarding the findings of the medical examinations, more often mechanical changes are made in the decision of the central medical commission, which deteriorate the real picture of the conscript's health. Particularly, the "moderate" degree of the disease diagnosed by medical examination is without justification replaced by "slight" wording in the CMC's decision. As a result of which the conscript is unlawfully recognized as fit for military service.
8. Sometimes articles regarding certain diseases are not included in the RA Defense Minister's Order № 410 of 2013, which are covered by the International Classification of Diseases, 10th Revision. Meantime, commissions issue such diagnoses, which are incorporated neither in the WHO International Classification of Diseases, 10th Revision,<sup>11</sup> nor are defined by the RA Defense Minister's Order № 410. Thus, the objectivity and standardization of diagnoses is not ensured.
9. No diagnosis is given even after undergoing a medical examination in case of health issues and complaints, but a decision on military fitness is taken.
10. Sometimes the causes for conscript's health complaint is not revealed, which expert examination commission is entitled to do, but a decision on military fitness is given without the aforementioned action.
11. Civil medical institutions are usually instructed not to administer any medical examination of pre-conscripts and conscripts in case of complaints and not to issue a medical opinion by demanding that conscripts submit a reference attesting the fact of being a conscript without any legal grounds. Besides, sometimes pressures are

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<sup>11</sup> <http://apps.who.int/classifications/icd10/browse/2016/en>

also exerted against physicians for providing a diagnosis and an opinion aimed to change relevant diagnoses and to recognize fit for military service.

12. The conscript disagreeing with the medical examination results actually cannot appeal them, since their conscription is not discontinued till final settlement of the issue.
13. The decision of the RA Central Medical Commission's chairman serves as basis for conscription to the Armed Forces, which, according to the RA Defense Minister's Order № 410, is final and its appealing mechanisms and terms are not specified. Whereas, RA Defense Minister's Order № 410 provides that the CMC's decisions/ opinions must be approved by the RA call-up commission, but in the current practice the CMC's decisions/ opinions are final acts, based on which the conscript is recognized fit for military service and is conscripted to the Armed Forces, since after the CMC's decisions/opinions, no administrative act on conscription is adopted by the RA military commissions. Therefore, another decision/act which can be subject to appeal does not simply exist. Thus, neither the RA law on Conscription, nor the RA Defense Minister's Order № 410 provides a procedure of appealing the CMC's conclusions.
14. The transport expenses reimbursement provided to the conscripts to undergo medical examination is still insufficient, and the conscripts are often unable to appear and undergo the republican medical examination.
15. Despite the assurances by the Defense Ministry, the practice of not providing on various pretexts the conscripts with conclusion on their health in violation of the RA Law on Medical Assistance and Services<sup>12</sup> to the Population still persists.
16. Another concern relates to the uncertain delivery dates of documents to the servicemen discharged earlier due to health problems by the Defense Department. In this connection, it should be noted that Article 34(2) of the RA Draft Law on Conscription and Military Service stipulates that the servicemen discharged earlier due to health problems shall be among others provided with their available medical records.

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<sup>12</sup>According to Article 7 of the RA Law on Medical Assistance and Services to the Population, everybody shall be entitled to access information on their health, health examination results, diagnosis and treatment methods, any associated risks, possible medical interventions and their consequences and treatment outcomes



It is noteworthy that during the same timeframe the Organization studied and summarized the decisions adopted by the RA Government, according to which, during that period separate citizens were granted a deferral or exemption from compulsory military service (Clause g of Article 12 (1), Article 14(1), and Article 16(2) of the RA law on Conscription).

Thus, during the 2015-2016 winter call-up 62 persons (43 persons, in case of which the grounds for deferral are not specified, 13 on the grounds of further education, 6 persons in case of which the grounds for deferral are not specified, but the same persons had before received a deferral for exceptional abilities in sports), were granted a deferral from the call-up of compulsory military service by the Government's decision, and 6 persons (1 person, in case of which the ground for deferral is not specified, 1 person, in case of which the ground for deferral is not specified, but the same person had before received a deferral for exceptional abilities in the field of culture, and 4 persons for exceptional abilities in sports) were exempted from compulsory military service:

During the 2016 summer call-up 77 persons (2 persons, in case of which the grounds for deferral are not specified, 65 persons, in case of which the grounds for deferral are not specified, but the same persons had before received a deferral due to being a priest, and 10 person for continuing education) were granted a deferral from the call-up of compulsory military service by the Government's decision, and 22 persons were exempted from compulsory military service, in case of all of them the grounds for deferral are not specified, but the same persons had before received a deferral due to being a priest. Thus, the expression of discrimination against conscripts based on their religious status or occupation persists.

## Recommendations

The HCA Vanadzor has submitted its recommendations below, which rely on specific facts and cases involving specific persons, to the defense department for several times. We hereby once again provide our recommendations:

1. Adopt a law on determining conscripts' fitness for military service based on their health state (whereas the RA Defense Ministry<sup>13</sup> finds it useless to replace the Order by a

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<sup>13</sup> [http://hcav.am/wp-content/uploads/2014/10/M\\_2014-04.06\\_202-1.pdf](http://hcav.am/wp-content/uploads/2014/10/M_2014-04.06_202-1.pdf)

law, since it is a medical document and any criteria changes will make it impossible to quickly react and make the relevant changes in the law).

2. Before adopting a relevant law, make the changes below to the RA Defense Minister's Order № 410:

- Clarify the diseases included in the list of diseases in accordance with their severity;
- Issue diagnoses pursuant to the WHO International Classification of Diseases, 10th Revision;
- Stipulate mandatory provision of conscripts with the act on their health medical examination opinion, regardless of their application;
- Establish the procedure for determining the military service fitness of conscripts with several co-morbid diseases;
- Necessarily include in the conscript's medical examination opinion the records on potential complications of his health state under the physical stress typical of the military service and instructions on preventing such health deterioration;

3. Ensure legal stipulation of the mechanism to appeal medical examination acts;

4. Ensure mandatory complex medical examination of conscripts and servicemen, regardless of their complaints;

5. Ensure conduction of further necessary examination to confirm or deny the disease and the compliance of the diagnoses with the real state of health;

6. Abrogate the medical institutions' demand of any reference from conscripts attesting the fact of being a conscript.

7. Ensure an independent control mechanism to prevent and exclude enrolling the conscripts deemed fit for limited military service in combatant service.

8. Eliminate discriminatory treatment against conscripts based on type of religion and occupation.