



EURASIA PARTNERSHIP FOUNDATION

Administration of Justice

[Eurasia Partnership Foundation](#) (EPF) implemented the [Partnership for Justice Reform Project](#) from September 2019 to June 2022 in a consortium with Human Rights Power (HRP) and Helsinki Association for Human Rights (HAHR) with financial support from U.S. Department of State. The goal of the project was to contribute to the judicial reform in Armenia by strengthening capacities of civil society and mass media to enhance court efficiency, ensure public oversight and establish cooperation platforms.

As a part of the project, EPF granted sixteen sub-grants¹ to local civil society organizations. Through sub-grant scheme the project expanded its scope of action, addressing a wide range of issues relevant to judicial reform. This approach facilitated the production of a significant evidence base for policymaking and the enhancement of public oversight mechanisms.

Sub-grant projects supported by EPF aimed at enhancing protection of vulnerable groups, improving their access to courts, the practice of implementation of the European Court of Human Rights (ECtHR) decisions against Armenia, ensuring a fair trial, contributing to the development of the transitional justice scheme, as well as Constitutional reforms. Special attention has been given to addressing legislative opportunities for transitional justice, and providing restitution/compensation to individuals whose right to property was unjustly violated. Considering the state's agenda on Constitutional reforms, the project actively contributed to public discussions about these changes.

This paper presents the findings and recommendations of selected sub-grants, primarily research projects that focused on analyzing the current policy framework, identifying loopholes and developing recommendations.

1. Adjudication of cases involving vulnerable groups:

➤ Trials of cases of domestic violence

According to a study of **Your Defender** organization conducted as a part of the sub-grant scheme in 2021, in case of domestic violence, charges are imposed for causation of bodily injuries. There is no distinct crime of domestic violence. Causation of mental pain and suffering remains unpunished. Criminal cases often conclude with a settlement, lacking subsequent follow-up. It remains unclear whether the chain of violence has ceased, or if the victim is compelled to settle due to factors such as the threat of financial dependence or the denial of the

¹ List of grants awarded in 2020 can be found here: <https://epfarmenia.am/subproject/Partnership-for-Justice-Reform-Sub-Grants>; list of grants for 2021 can be found here: <https://epfarmenia.am/subproject/Partnership-for-Justice-Reform-Sub-Grants-2021>

opportunity to care for children. Many female respondents expressed that escaping the violent environment was the only way to break the chain of violence. Additionally, these respondents lacked sufficient information about non-governmental organizations (NGOs) providing support and protection to women in such cases.

In general, mild punishments are imposed such as fines (up to a maximum of 100,000 AMD) and/or imprisonment which is not applied conditionally². Frequently, women refrain from reporting incidents to the police, as interviews suggest they anticipate, at best, a monetary fine for the abuser, with a lengthy judicial process yielding minimal results. Instances have been documented where criminal cases were dismissed in court due to the expiration of the statute of limitations. Court proceedings are often prolonged because defendants frequently fail to attend hearings, and courts generally do not impose sanctions for such absences.

Women respondents highlighted that they were summoned to the police or investigative department four to five times to provide explanations or testimonies, causing significant stress due to repeated explanations and cross-examinations.

It is recommended that the Government and/or National Assembly:

- adopt changes to Criminal Procedural Code and develop and introduce procedural measures, for instance online cross-examination, and other possibilities to conduct investigative actions that will prevent re-victimization of women,
- develop and introduce terms and conditions to ensure access of parties of the case to the case materials by online tools,
- introduce a supervision mechanism to find out to what extent friendly settled disputes are maintained and whether violence has ceased.

This study is available at this link (in Armenian): <https://epfarmeria.am/documents/Domestic-Violence-and-Convicted-People-Analyzing-Monitoring-Results>

➤ **Access to justice of people with disabilities**

The study on access to justice of people with disabilities conducted by the **Rule of Law** NGO in 2021 unveils serious issues with regard to physical accessibility of courts for the people with disabilities. Ramps, courtrooms, restrooms, waiting rooms, or other facilities are not accessible. Communication measures pose serious challenges. Intermediary interpreter in civil and administrative proceedings for people with hearing impairments and support services for people with visual impairments are not provided free of charge by the state. Access to procedural documents and written evidence are not fully ensured in an accessible manner. State policies, strategies, and state budget do not include measures for addressing these issues.

² According to Article 84 of the Criminal Code, if the court, while imposing a punishment of imprisonment, makes a conclusion that the goals of the punishment can be achieved without serving the punishment, it may decide not to apply the punishment conditionally.

If the sentence is not imposed conditionally, the court sets a probationary period of 1-5 years, during which the person is under the supervision of the competent body exercising control over the behavior of the convicted person and is obliged to fulfill the duties defined by the court's decision.

It is recommended that RA Government and/or National Assembly:

- make amendments to the Criminal, Civil and Administrative Procedure Codes. Specifically, institute adequate protection by introducing norms that consider the failure to provide an intermediary interpreter as a gross violation of procedural law. Additionally, establish provisions indicating that the absence of an interpreter should lead to the postponement of civil case trials.
- include people with disabilities in all discussions related to strategies, concept papers, policies, etc;
- take proactive measures to improve physical conditions of the court buildings, conduct needs assessment, and develop a timeline for solving these problems;
- provide wheelchairs and other special means to courts that can be used temporarily if necessary to ensure access for individuals with disabilities.

The study is available at this link (in Armenian): <https://epfarmeria.am/documents/Access-to-Justice-by-People-with-Disabilities>

➤ **Judicial practices involving convicts**

In 2021 **Your Defender** organization conducted a study on adjudication of legal disputes between penitentiary institutions and convicts.

Based on the decision number SDO-1439 of the Constitutional Court released in 2019, disputes between penitentiary institutions and the convicts should be addressed by the RA Administration Court. Following this decision there is a need to amend the Administrative Procedure Code, to incorporate this provision in the Code. However, administrative courts, like other courts, are overloaded with a high caseload. In practice, particularly, in cases involving the early conditional release of convicts, the requirement for a reasonable timeframe is often violated.

Based on the study results, it is recommended that the Government and/or National Assembly:

- adopt legislative amendments and establish special timeframes for reviewing cases involving penitentiary institutions and convicts in the administrative courts;
- amend the legislation and include a provision on the mandatory presence of the convict in the session held by the Placement Commission. The Commission is the entity that makes decisions about the penitentiary institution where the convict will serve their term;
- develop a rating scale to guide the decision-making process for transferring a convict to a penitentiary institution with less severe conditions. This will enhance predictability in the procedure and objectivity in the decisions.

The study is available at this link (in Armenian): <https://epfarmeria.am/documents/Domestic-Violence-and-Convicted-People-Analyzing-Monitoring-Results>.

2. Right to Fair Trial

➤ **Execution of the European Court of Human Rights judgements on the right to a fair trial (Article 6)**

The study conducted by the **Law Development and Protection Foundation** in 2021 identified several issues related to the execution of judgments concerning breaches of Article 6 (right to a fair trial) of the European Convention on Human Rights (ECHR). One of the problems concerns the adjudication of cases within a reasonable time, an issue highlighted by nearly all international organizations in reports related to the Armenian justice system. Despite this, the Armenian legislation has not established a system of necessary preventive and compensatory measures aimed at ensuring the right to a trial within a reasonable time. In the event of a violation of reasonable terms, individuals should have protective measures and have the right to receive compensation for the caused damages, serving as a deterrent against similar violations.

The Supreme Judicial Council has not set guidelines for the average length of proceedings yet, which could assist in ensuring a reasonable time requirement in practice. Effective remedies for compensation for damages resulting from non-execution or delayed execution of judicial acts are also lacking.

The study further revealed that the Public Defender's Office, the sole institution providing legal representation free of charge, is very overloaded. The fulfillment of the state's obligation to provide quality legal aid is directly dependent on its efficiency. Consequently, the inability of the Public Defender's Office to offer the required volume and quality of legal aid will inevitably result in the failure to exercise court representation, and the violation of the right to a fair trial.

It is recommended that the Government and/or National Assembly:

- adopt legislative amendments to establish a special procedure for recognizing a violation of the right to a fair trial based on the grounds of a reasonable time requirement. This should consider the specifics of the proceedings (including defining tight trial deadlines);
- adopt legislative amendments to implement effective remedies for the violation of the right to trial within a reasonable period of time as well as for damages resulting from non-execution or delayed execution of judicial acts.

The study is available at this link (in English): <https://epfarmeria.am/document/LDPF-research-ECHR-judgements>

➤ **Trial within reasonable time requirement in criminal, administrative, and civil proceedings**

In 2020 **Investigative Journalists** NGO conducted a study on the implementation of the reasonable time requirement by the courts of Armenia. Court sessions are appointed with significant time gaps, often spanning around two months, and in some instances, up to 6 months. Postponements of court sessions are frequent, attributed to the absence of judges (due to vacation, participation in training, etc.), prosecutors, witnesses, or changes in judicial composition or judges. Insufficient technical equipment, impeding the normal functioning of courts, is another reason for session postponements—instances where, for example, the lack of necessary equipment hinders the examination of video footage during a court session. In some cases, sessions are suspended without substantiated grounds. Another critical issue is

substantial delays in forensic-medical examinations and expertise, particularly problematic when conducted by overloaded public expertise organizations. The law does not specify maximum terms for providing forensic-medical examinations.

It is recommended that the Government and/or National Assembly:

- take measures to enhance alternative dispute resolution mechanisms;
- take measures to upgrade technical equipment available in the courts;
- make legislative amendments to establish specific timeframes for the execution of the forensic-medical expertise.

On this topic, the organization has published a series of articles in Armenian, for instance: [Երկրաշարժից տուժած 12 հոգանոց ընտանիքը 7 տարի դատարանում պայքարելուց հետո կրկին անտուն է \(hetq.am\)](#), as well as a series of videos, e.g.: [Չավարտվող դատավարուբյուրները \(hetq.am\)](#).

3. Transitional Justice

In 2020, the **Rule of Law** NGO conducted a study to analyze mass violations of the right to property and developed recommendations to provide remedies for those whose rights were violated. In the early 2000s, highly controversial construction projects of the Northern Avenue and adjacent “Cascade” complex were initiated by the government and Yerevan municipality. As a result of these large-scale construction projects, layers of cultural heritage of Yerevan’s cultural heritage were destroyed, and a significant number of citizens were unlawfully deprived of property, or their property was unfairly redistributed. The construction of the Northern Avenue in Yerevan was the first case where a concept *overriding public interest* was introduced, and illegal expropriation of property was initiated at the government level.

The expropriation of property took place based on Government decisions that were insufficiently reasoned and substantiated. When delivering decisions on property expropriation, courts did not analyze the state’s needs, the *public overriding interest*, or why the area/property was deemed of exceptional importance for state expropriation. Moreover, almost 20 years later, there are still undeveloped land slots acquired in 2004. Property evaluation was conducted in a controversial manner. Evaluators often neglected site visits and inspections of real estates, omitted structures from their calculations, and disregarded the actual conditions of the real estates. Property owners lacked sufficient opportunities to challenge the assessed value, as courts adopted a formalistic and procedural approach, refraining from questioning the 'market prices' presented to the court. This case set a precedent for other similar processes and became an example of widespread and egregious human rights violations in Armenia, leading to numerous judgments by the European Court of Human Rights against Armenia regarding the Northern Avenue construction and related cases.

It is recommended that the Government and/or National Assembly:

- establish an independent body to review evaluations of the construction of the Northern Avenue, “Cascade” and other construction projects done under the public overriding interest concept, and identify instances where financial compensation was not provided to the owners;

- adopt a decree to provide compensations or remedies to the owners in cases where financial compensation was lacking, both for the mentioned projects and other relevant cases;
- amend the Law on the Expropriation of Property for the Purpose of Securing the Public's Overriding Interests. Include principles and objectives of the public overriding interest, and provide a legal definition for the concept;
- introduce monitoring mechanisms to prevent violations by property purchasers/development companies. This includes actions that contravene the territory allocation plan and its objectives.

The study is available at this link (in Armenian):

https://epfarmeria.am/hy/document/Opportunities-to-restore-property-rights-violated-as-a-result-of-overriding-public-interest?fbclid=IwAR0bCnklAQN5ffihSEDMIzEWRGwRb-F9sgyX-4w5_Gwp2968hp1JKyvGvME

4. Constitutional Changes

Human rights protection guarantees

In 2021 **Human Rights Research Centre** NGO carried out an analysis of constitutional guarantees for the protection of human rights and freedoms in order to prepare recommendations on amendments to the Constitution. Following the 2015 Constitutional amendments, there has been a regress in terms of a number of Constitutional guarantees for economic, social and cultural rights and the weakening of their protection regime. The right to social security, health, decent living, minimum wage, adequate working conditions and housing, and the right to participate in cultural life are no longer enshrined in the list of human rights. So as number of rights, including the right to an adequate standard of living, including the rights to the improvement of living conditions and access to scientific achievements, and the right to live in a healthy environment, were removed from the text of the Constitution altogether. Consequently, these rights lack direct applicability, and the principles of proportionality, legal certainty and inviolability of the essence of the basic rights do not apply to these rights.

Similarly, there has been a regression in terms of constitutional guarantees for the protection of environmental rights. The 2015 Constitutional amendments abolished the right of everyone to live in an environment conducive to their health and well-being, the obligation to protect and improve the environment individually and in association with others, and the accountability of officials for concealing or refusing to provide environmental information.

The obligation of the state to protect a healthy and safe environment, a provision stipulating the inadmissibility of rejecting environmental information, and accountability for concealing that information should be reinstated in the Constitution. Therefore, based on the findings of the study and discussions with professionals in the area, it is recommended that the Commission responsible for drafting constitutional changes:

- improves Constitutional guarantees for economic, social and cultural rights;

- improves Constitutional guarantees for environmental rights;
- includes a provision in the Constitution on inadmissibility of rejecting environmental information and accountability for concealing such information.

The Executive Summary is available in English at this link:

https://epfarmeria.am/documents/Ex_summ_Research_Review_and_Improvement_of_Human_Rights_and_Freedom_Guarentees_Enshrined_in_the_Constitution_of_the_Republic_of_Armenia

The full report is available in Armenian at this link: <https://epfarmeria.am/documents/Review-and-Improvement-of-Human-Rights-and-Freedom-Guarentees>