

EPF'S INFLUENCE ON ARMENIAN LEGISLATION

IN BRIEF

In 2021, EPF's recommendations to the "Law on Higher Education and Science" were accepted to empower Student Councils, as well as to allow a non-limited number of such bodies to be established at higher education institutions

Intending to increase the effectiveness of the management of education and science systems, in 2021 the Armenian Government presented the new draft "Law on Higher Education and Science". EPF together with "Restart" student initiative prepared observations and recommendations to it. The proposal was discussed with several MPs, and the recommendations were included during the second hearing of the draft law at the National Assembly. EPF and "Restart" proposed amendments to the draft, to empower the Student Councils, as well as to allow a non-limited number of them to be established at higher education institutions, and other related proposals. All these recommendations were included in the final text of the legislative package.

In 2021 EPF recommendations for a mandatory mediation process for family-related disputes, development of referral procedures, and other related amendments have been included in the draft amendments to the "Law on Mediation"

In 2021 a draft law circulated on amendments to the "Law on Mediation." A number of recommendations have been proposed by EPF, which are reflected in the document; certain cases (family-related disputes) should have a mandatory mediation process, a referral procedure is developed, etc. In 2020 EPF conducted a study [on arbitration and mediation](#), revealing the loopholes in legislation and in practice. The expert team has reviewed legislation, conducted a study of international best practices, and interviewed the stakeholders. Problems were revealed and a number of recommendations were developed to improve the application of alternative dispute resolution mechanisms. The study was presented to the decision-makers; close cooperation was developed with the Ministry of Justice; and some of the proposals are currently included in the draft package on amendments to the "Law on Mediation".

In 2020, EPF's years of advocacy efforts contributed to removing employment restrictions for religious minorities in the laws on "Rescue Service," "Penitentiary Service," "Compulsory Enforcement Service" and the "Law on Public Service of the Republic of Armenia"

The Republic of Armenia Constitution states everyone shall have the right to freedom of thought, conscience, and religion, and only allows restrictions on this right in order to protect state security, public order, health and morals, and/or the fundamental rights and freedoms of others. However, although the Constitution provides that religious organizations shall enjoy legal

equality and shall be vested with autonomy, Armenian legislation does contain restrictions on the rights of religious minorities. In particular, several laws restrict the freedoms of religious minority groups at the time of employment. Relying on national and international platforms; such as the UN Universal Periodic Review, EU-Armenia Human Rights Dialogue, Human Rights Action Plan discussions, and direct communication with the Ministry of Justice, EPF has advocated to remove the employment-related restrictions against followers of a religious organization that do not apply to members of the Armenian Apostolic Church. As a result of EPF's recommendations; joint actions with partners; advocacy work; and consistency in focusing on freedom of religious belief issues, several laws containing discriminatory clauses which have been restricting the employment rights of members of religious organizations have been reworded. In particular, the restrictions on employment in the law of 04/04/2020 and 01/01/2022 on "Rescue Service;" the law of 28/05/2020 – 01/01/2022 and 01/01/2022 on "Penitentiary Service;" the law of 01/01/2022 on "Compulsory Enforcement Service;" as well as the law of 02/05/2020 on "Public Service of the Republic of Armenia," no longer prohibit the employment of members of religious organizations, which is a major achievement in terms of tackling institutional discrimination in Armenia. Such restriction for employment still exists in the "Law on Service in the National Security Bodies" and the "Law on Service in Police". It is noteworthy, however, that on February 18, 2020, Armenia's Constitutional Court declared the religious ban for police officers unlawful and unconstitutional.

In 2020, the compulsory school subject "History of the Armenian Apostolic Church" (AAC) has become optional as a result of a new government decision

According to the Armenian Constitution, everyone shall have the right to education, and pursuant to the "Law on Education", all schools in Armenia should be secular. However, a course titled "The History of the Armenian Church" has been compulsory for all students of public (state) schools from primary school age. This subject exclusively teaches the history of the Armenian Apostolic Church. This course is approved by representatives of the clergy, and the Armenian Apostolic Church has the right to participate in the development of the program and textbooks for the course, as well as to nominate and evaluate its teachers. In practice, the entire teaching process for this course is controlled by the AAC. No alternatives are offered to students of other religious groups or atheists. These children are also not allowed to skip these classes and must perform religious rites in class or - as reported in the case of Yezidi children in some schools - must stay in school corridors while the others pray in the classroom. There is also evidence that teachers of this course display a negative attitude towards children from religious minorities. Throughout the years, EPF advocated via national and international platforms to revise the teaching of "The History of the Armenian Church" compulsory school subject ensuring that it is in line with the secular spirit of the Law on Education. In 2020, Armenia's Ministry of Education circulated [a draft regulation on "New Standards for General Education"](#) that would overhaul the country's public education system. According to the new standards, "The History of the Armenian Church" is being taken out of the curriculum and instead incorporated into "Armenian History" as well as a new subject called "Me and My Homeland".

Based on these new standards, the subject will be taught in new courses called “Me and My Homeland” and “Me, My Homeland, and the World” in the fifth and sixth years of schooling. The two new courses will cover Armenian history, culture, religion, geography, and more. Church history will then be taught as a part of history classes in the seventh and eighth years of schooling.

In 2017, EPF advocacy efforts contributed to the withdrawal of a discriminatory draft “Law on Freedom of Conscience and Religious Organizations”

The area of freedom of thought, conscience, religion or belief is currently regulated by the “Law on Freedom of Conscience and Religious Organizations” adopted by the Supreme Council of the Republic of Armenia back in 1991. Bearing in mind that the law has a number of deficiencies, contradictions and fails to comply with Armenia’s international obligations; on June 1, 2017, the Ministry of Justice of Armenia developed and circulated the draft “Law on Making Amendments to the Law of the Republic of Armenia on the Freedom of Conscience and on Religious Organizations”. However, instead of improving the legislation, the new draft included disappointing content, a number of restrictive and discriminatory provisions, unclear wording, and showed a lack of understanding by its drafters of human rights, religion, and religious life. EPF approached the OSCE/ODIHR Senior Adviser on Freedom of Religion or Belief, who suggested that the national human rights institution (the Ombudsman of Armenia) should officially apply to OSCE/ODIHR with a request to provide a review of the draft. Thanks to the timely measures, any possible plan by the Government to pass the law quietly via the Parliament failed since too many local and international actors were already engaged. The outcome of the campaign was the legal opinion on the draft law provided by OSCE/ODIHR on October 16, 2017, and finally, the withdrawal of the draft altogether.

Removing discriminatory provisions and making amendments to the draft “Law on Equality”, 2015-2021

The ban on discrimination is stipulated by the Constitution of the Republic of Armenia and a number of legislative acts, such as the Labor Code, Law on Education, Criminal Code, etc. However, there is no law defining the notion of discrimination, types of discrimination and protected grounds, hence the right of an individual to be free from discrimination is not yet secured in practice, and existing legislative acts do not provide effective means for legal defense, nor do they provide mechanisms for effective protection against discrimination. In 2015, EPF conducted legal research entitled “Is it expedient to adopt a separate ‘non-discrimination law’?” which highlighted the need for adopting a stand-alone anti-discrimination law in Armenia. Based on this research, an agreement was reached with the Ministry of Justice of Armenia (MoJ) to draft a new non-discrimination law, bearing in mind the fact that the adoption of comprehensive stand-alone anti-discrimination legislation has been prescribed as one of the specific conditions under the EU Direct Budget Support Agreement with Armenia. The “Law on Equality” combating discrimination was drafted by two independent experts and two representatives of the

Ministry of Justice. Problematically enough, Article 6 of the draft law gave special status to the Armenian Apostolic Church and its values. EPF's and its partners' advocacy efforts, however, resulted in the removal of the interpretative clause of the draft law which was discriminatory and risked leading to restricted protection for certain minority groups, including women and LGBT persons. Since then, EPF has submitted several packages of recommendations primarily referring to definitions used in the draft law, on the concept of the burden of proof, on limited protected grounds, on an independent Equality Body, etc. While the Law is not yet adopted, efforts for improving the draft are ongoing.