

## **EPF'S ADVOCACY EFFORTS AND INFLUENCE ON ARMENIAN LEGISLATION**

**(2017-2022)**

For many years, Eurasia Partnership Foundation (EPF), with the support of its donors, and in collaboration with a variety of partners and networks, has been engaged in advocacy work, aimed at influencing the policies of the Armenian government in the areas related to human rights and freedoms. This work has been based on thorough analysis and planning, as well as creative advocacy and flexibility. Apart from a thorough study of the need and developing evidence-based recommendations, a serious advocacy impact requires also communication skills to constructively engage with decision-makers, alongside a long-term perspective. It is thanks to this perspective (which its donors have given it over the years) that EPF is able to claim important results. Since acquiring significant locally-tailored advocacy experience, recently EPF has also been empowered to support and motivate its sub-grantees to use the same approach in their work; thereby expanding the culture of successful policy advocacy in Armenia. Below are examples of some of the notable advocacy processes that EPF and the civil society of Armenia have undertaken.

### **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 as well as 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. 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 (MoJ) to draft a new non-discrimination law. 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 MoJ. Problematically enough, Article 6 of the draft law gave special status to the Armenian Apostolic Church and its values. EPF and its partners' advocacy efforts resulted in the removal of the interpretative clause of the draft law which 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, including the concept of the burden of proof, limited protected grounds, an independent Equality Body, etc. While the Law is not yet adopted, advocacy efforts for improving the draft are ongoing.

### **The withdrawal of a discriminatory draft Law on Freedom of Conscience and Religious Organizations (2017)**

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 in 1991. This Law has a number of deficiencies, contains numerous contradictions, and fails to comply with Armenia's international obligations. On June 1, 2017, the MoJ 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. The draft, however, included disappointing content suggesting a number of restrictive and discriminatory provisions. The draft suffered from unclear wording on several occasions, and showed a lack of understanding of human rights, the universe of religion, and the context of religious life. EPF approached the OSCE/ODIHR Senior Adviser on Freedom of Religion or Belief, who suggested that the Ombudsman of Armenia should officially apply to OSCE/ODIHR with a request to provide a review of the draft. Thanks to timely advocacy measures, the issue became widely known to local and international stakeholders, and a possible risk of passing the Law with no public discussions was prevented. The legal opinion of OSCE/ODIHR was delivered on October 16, 2017. As an outcome of the campaign, the draft Law was withdrawn from consideration.

**The compulsory school subject *History of the Armenian Apostolic Church* has been opted out as a result of a new government decision (2020)**

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 called *The History of the Armenian Church* has been imposed on all children from primary school age. This course presents exclusively the history of the Armenian Apostolic Church (AAC). The course is approved by representatives of the clergy of AAC. AAC enjoys the right to participate in the development of the program and textbooks for the course, as well as to nominate and evaluate teachers. In practice, the entire teaching process of this course has been controlled by the Church. No alternatives were offered to students of other religious groups or atheists. Such children were also not allowed to skip these classes, they were required to perform religious rites in class or - as reported in the case of the Yezidi children in some schools - to stay in school corridors while others prayed in the classroom. Over the years, EPF and partners collected evidence that some teachers of this course displayed a negative attitude towards children from religious minorities. Throughout the years, EPF advocated to revise the teaching of *The History of the Armenian Church* compulsory school subject and to ensure that it is in line with the secular spirit of the Law on Education of Armenia. In 2020, Armenia's Ministry of Education circulated a draft regulation on New Standards for General Education, a public education system reform plan. According to the new standards, *The History of the Armenian Church* is incorporated into *Armenian History* and a new subject called *Me and My Homeland*. Based on these new standards, the subject will be taught in the fifth and sixth years of school. The two new courses will cover Armenian history, culture, religion, geography, and more. Church history will be taught as a part of history classes in the seventh and eighth years of school.

### **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 (2020)**

The Constitution of Armenia states that everyone has a 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. Also according to the Constitution, religious organizations enjoy legal equality and are vested with autonomy. Contrary to these rights and principles, the legislation still contains restrictions on the rights of religious minorities. Several laws restrict employment rights of members of religious minority groups. Using 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 advocated for the removal of the restrictions against followers of a religious organization (these restrictions do not apply to members of the Armenian Apostolic Church). As a result of EPF's recommendations as well as joint actions with partners, advocacy work, and consistency in focusing on freedom of religious belief issues, several laws containing discriminatory clauses - which were affecting employment rights of members of religious organizations - have been reworded. With the new wording, the Laws on Rescue Service, Penitentiary Service, Compulsory Enforcement Service, and on Public Service no longer prohibit the employment of members of religious organizations. This is a significant achievement in the fight against institutional discrimination in Armenia. Restrictions are still intact in the Laws on Service in the National Security Bodies and on Service in Police. However, on February 18, 2020, the Constitutional Court declared the religious ban for police officers unlawful and unconstitutional. EPF will be following the situation.

### **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 (2021)**

Intending to reform the management of education and science, in 2021 the Government presented the new draft Law on Higher Education and Science. EPF with the *Restart* student initiative prepared observations and recommendations to the draft. Their recommendations were discussed with several MPs, and were included in the draft prior to the second hearing at the National Assembly. The EPF/Restart amendments proposed to empower the Student Councils, and to allow an unlimited number of them to be established at Higher Educational Institutions. The Law on Higher Education and Science has been passed including these recommendations.

### **Mandatory mediation process for family-related disputes, development of referral procedures, and other related recommendations have been included in the draft amendments to the Law on Mediation (2021)**

In 2020 EPF conducted a study on arbitration and mediation, revealing the loopholes in legislation and practice of these activities. The expert team developed a number of recommendations aimed at improving the application of alternative dispute resolution mechanisms. The study was presented to the decision-makers and, in discussions with the MoJ,

some of its recommendations were included in the draft package of amendments to the Law on Mediation. Recommendations proposed by EPF and accepted included; the requirement of compulsory mediation in selected domestic disputes prior to application to the courts, selection of a mediator via electronic system by a judge, and giving honorarium to the mediator in all cases.

### **Recommendations to the Law on Commercial Arbitration (2022)**

In 2022, the draft law on amendments to the Law on Commercial Arbitration was circulated for public discussion. The draft law includes recommendations proposed by EPF, particularly to discuss a number of issues related to arbitration (such as releasing a judicial act enforcement decision and annulling the arbitration award) in one hearing, which will make the process more efficient.

Please contact us at [info-epf@epfound.am](mailto:info-epf@epfound.am) for more information.