

SEMI-ANNUAL REPORT

ON

ACTIVITIES IMPLEMENTED BASED ON THE 2012-2016 STRATEGIC PROGRAM OF THE RA LEGAL AND JUDICIAL REFORMS

Within the scope of measures approved by the Executive Order N NK-96-A of the President of the Republic of Armenia “On Approving the 2012-2016 Strategic Program for Legal and Judicial Reforms in the Republic of Armenia and the List of Measures Derived from the Program”, dated as of June 30, 2012 the Ministry of Justice of the Republic of Armenia, in the period January –June 2015 has fulfilled the following activities:

1. “1.2.2. Provide the hardware and software support for the performance evaluation system for judges”.

The activities to provide support the hardware and software for the performance evaluation system for the judges are under implementation.

2. “1.11.2. Provide the hardware and software support for the digitization of the documents”.

With the purpose of improving the application of information and communication technologies in the courts relevant activities are fulfilled to provide software and hardware support for the digitization of the documents. The relevant reforms of the court management e-system are in process: activities are implemented to provide the opportunity for electronic submission of Applications for Civil Cases.

3. “1.12. Develop and introduce a more effective model of financing of the judicial power of the Republic of Armenia in conformity with European standards and best practice”.

A study of the European standards and best practice of the model of financing the judicial power has been implemented. As a result of the study, a conclusion was issued that the current model of financing, in terms of ensuring the financing guarantees for the judicial power corresponds to the international standards.

4. “2.1.1. Adopt a Decision of the Government of Armenia on “Approving the Concept Paper for the New Criminal Code of the Republic of Armenia”.

The Draft Decision of the Government of Armenia in Approving the Concept Paper for the New Criminal Code of Armenia has been approved by the protocol Decree N 25 of the Government of Armenia, dated as of June 4, 2015.

5. “2.1.2. Draft a new Criminal Code of Armenia”.

The first draft of the new criminal Code of Armenia is in its final stage. It is envisaged that the working group will present the first Draft to the Ministry of Justice of Armenia in July 2015. Besides, discussions related to the Draft Criminal Code are planned to be implemented with the GIZ. Currently, the synchronization of the Drafts of the RA new Criminal Code and new Code of Criminal Procedure is in the process.

Based on the discussions of the Draft of the RA new Code of Criminal Procedure in the Committee on State and Legal Affairs of the National Assembly of Armenia, the Draft has been reviewed /amended and submitted to the National Assembly of RA.

With the purpose of supporting the integrity of reforms in the sector of criminal justice, the RA Ministry of Justice has initiated the process of drafting the new Penal Code of Armenia. A Committee and a working group have been established to fulfill this purpose. Within the framework of the activities of the Committee, the Draft Concept Paper of the new Penal Code of Armenia has been developed and submitted to the international expertise. The new Penal Code of Armenia shall be based on a number of fundamental principles, such as:

- Ensuring integrated legal policies in the sector of compulsory enforcement (penitentiary?) measures;
- Fulfilment of the requirements of international human rights laws;
- Revision of the system of disciplinary sanctions and procedure of application of those towards the persons subject to compulsory measures due to custody (imprisonment);
- Reform of the system of compulsory enforcement applied towards juvenile inmates (detainees??);
- Clarification of the criteria for separating the sentenced (detained) persons and convicts.

6. “2.3.1. Drafting a Legal Act regulating the activities of the probation service”.

The Concept Paper on Introducing the Probation Service in the Republic of Armenia was approved by the Government of Armenia by Protocol Decision N19, dated as of April 30, 2015. The activities on introducing the probation service are ongoing.

On June 17, 2-15 pilot probation services were launched in Shengavit administrative district of Yerevan and in the town of Vanadzor. The piloting is carried out on the basis of the Division of Execution of Alternative Punishments of the Penitentiary Department of the RA Ministry of Justice. Social re-integration programs are planned to be implemented. At the same time, the Ministry of Justice of the Armenia, with the support of the Yerevan office of the Council of Europe, have organized training courses for the penitentiary officers, judges and prosecutors.

7. “2.4. Reform the procedure for early conditional release and for substituting the unserved portion of the sentence with a mitigated punishment”.

The RA Government Draft Decision on “Early Release of the Person Sentenced for a Fixed Term on for Life-Term or On Substituting the Remaining (Unserved) Portion of the Sentence with Mitigated Punishment” has been developed and submitted to the Government of Armenia. The Draft has been amended with clear criteria on early conditional release and re-sent for the stakeholders’ opinion.

8. “2.5. Reforming the procedure for releasing, on the ground of a serious disease, a convict serving the punishment in the form of imprisonment”.

The RA Government Draft Decisions on “Making Changes and Amendments to the RA Government Decision N 825-N, dated as of May 26, 2006” and “Making Changes to the RA Government Decision N 1636-N, dated as of December 4, 2003” have been submitted to the Government of Armenia.

It is worth mentioning the Program on Strengthening Healthcare and Human Rights Protection in Prisons of Armenia, implemented by the Council of Europe in Armenia, launched on June 2, 2015 in partnership with the Ministry of Justice of RA. Within the scope of the project, reforms will be implemented in the

sector of healthcare in prisons, not only on infrastructure level, but also on legal level. Consequently, there will be need to revise and amend the procedure of releasing a convict serving the punishment in the form of imprisonment, on the ground of serious disease.

9. Including in the concept of “administrative body” within administrative proceedings those private entities, upon whom the State vests public functions, as well as ensuring judicial protection of private individuals from the decisions, actions and omissions of such entities”.

The Ministry of Justice of RA has developed Draft Law on Making Amendments to the “RA Law on Administration and Administrative Proceedings” and has submitted that to the Government of Armenia. The Draft envisaged including the concept of “administrative body” those entities upon whom the State has vested public functions, ensuring the judicial protection of the persons from the decisions, actions and omissions of such entities.

10. “3.4. Ensuring, in practice, the exercise of the rights granted by the Administrative Proceedings Acts adopted by virtue of Article 48 of the RA Law on Fundamentals of Administrative Action and Administrative Proceedings”.

The Ministry of Justice of RA has developed a Draft Law on Making Changes to the RA Law on Administrative Acts and Administrative Proceedings and has submitted that to the Government of Armenia. The Draft envisages the exercise of the rights stipulated by the Article 48 of the Law.

11. “3.6. Developing a new Administrative Offences Code of the Republic of Armenia”

The Draft Administrative Offences Code of the Republic of Armenia was put into circulation on March 9, 2015. Currently the draft is under the revision, based on the opinions received. At the same time, the draft has been submitted for international expertise.

12. “4.1. Adjusting the Civil Code of Armenia to modern approaches for regulating private legal relations”.
13. The following changes have been introduced to the RA Civil Code and approved by the RA national Assembly:
 - The Draft Law on Making Changes and Amendments to the Civil Code of Armenia, which envisages the introduction of the institute of “Ensured Rights”, which will enter into force from October 1, 2015.
 - Legal package introducing changes and amendments to the legal regulations on purchasing real estate in a building under construction in the RA Civil Code and other Legislative Acts.

The Draft Law on Making Changes and Amendments to the Chapter on Legal Persons of the RA Civil Code has been developed.

At the same time, the RA Ministry of Justice has developed Concept Papers on the following themes of the RA Civil Code (<http://www.moj.am/legal/drafts>):

- On introducing the provisions regulating the personal servitude in the RA Legislation;
- On reforming the Private International Law;
- On making changes to the provisions on utilizing the common share space in the multi-apartment buildings;
- On making changes to Division 10 of the RA Civil Code (on intellectual property);
- On provisions of the RA Civil Code related to the Right of Collateral;
- On the right related to the utilization of residential accommodation/space;

- Liabilities arising as a result of unjustified enrichment;
- On provisions of the RA Civil Code related to the Mortgage Norms;
- On provisions related to the common ownership by spouses;
- On making changes to the provisions of Chapter 5 (Legal Persons);
- On issues of legal regulations related to the e-trade in the Republic of Armenia;
- On introducing reforms to the provisions to the RA Civil Code related to regulating the right to use someone else's property;
- On reforming the Articles of the RA Civil Code on construction (landscape development) and land plot renting;
- On the provisions related to the neighborhood institute;
- On reforming the Chapters of RA Civil Code related to the ownership rights;
- On making amendments to the RA Civil Code related to the liabilities arising from causing damage (Chapter 60);
- On reforming the provisions of RA Civil Code related to the heritage rights.

The above-listed Concept Papers have been subjected to international expertise and based on the opinions of those the drafting is in process.

14. “5.11. Examining the issue concerning jurisdiction over appeals filed to court against the decisions of the Head of the penitentiary establishment”.

A study of the issue concerning jurisdiction over appeals filed to court against the decisions of the Head of the penitentiary establishment has been implemented. Based on the legal position expressed in by the RA Court of Cassation regarding the Administrative Case N EAQD/1369/02/09, dated as of December 3, 2010 and as a result of the study of international experience, it was revealed that it would be more efficient to put the appeals filed to the court against the decisions of the head of penitentiary establishment under the jurisdiction of the Court of General Jurisdiction. The planned legal amendments will be introduced to the RA new Penal Code.

15. “5.12. Improving the Judicial Acts search system”

With the purpose of improving the Judicial Acts search system the RA Ministry of Justice has drafted a Government Decree on Providing Funds, which plans to finance the given system, implemented by the Council of Europe Yerevan office, within the scope of Strengthening the application of the European Convention on Human Rights and the case law of the European Court of Human Rights in Armenia.

16. “6.1. Specifying the scope of free legal assistance and improving its quality”

With the support of the Judicial Projects Implementation Unit State Institution under the Ministry of Justice of the Republic of Armenia and within the framework of the World Bank funded Strengthening of Training Capacity of the School of Advocates of the Republic of Armenia” grant project Global SPC has implemented a study of the “Review of Existing Framework of Pro-bono Aid Services, Including International Best Practice on Pro-bono Legal Aid Services As Well As Financing Challenges”.

At the same time, as a result of the study of international experience and current system various alternative mechanisms have been recommended for the improvement of the pro-bono legal aid services. Particularly, the following recommendations have been drafted:

- 1) To create a pro-bono aid system, which will be an alternative to the office of the Public Defender, when these two systems will be not competing but complementary. The system will operate on

One Window principle, when the potential of pro-bono services available in the public sector will be completely and synchronously accessible to the beneficiary.

- 2) To apply the mentoring principle. To use the full potential of the trainees of the School of Advocates and the graduate level students of the Law Faculty. Particularly, to attach the trainees of the School of Advocates to the advocates of the Public Defender Office, so that the beginners combine their knowledge and skills with the experienced ones, hence resulting in increased efficiency of the advocates of the Public Defender Office.
- 3) To set tax privileges for pro-bono service.
- 4) To create positive psychological atmosphere to promote the pro-bono services among the advocate community of Armenia.
- 5) To apply the bonus system and other offers towards the organizations and persons providing pro-bono legal services, which will improve the given system.

Besides, the Chamber of Advocates of Armenia has drafted a Law that partially refers to the issues of pro-bono legal aid.

Currently, the Draft Law and the study are under discussion. By the Letter N 02/19.3/ 7835-15, dated as of June 5, 2015 the findings of the study are forwarded to the Ministry of Finance of Armenia to receive the position of the Ministry concerning the study and to appoint a representative for participation in further discussions.

17. “7. Measures aimed at enhancing the effectiveness of the activities of the Prosecutor’s Office”.

The opinions of the stakeholders have been received on the following documents: “Draft Law on Making Changes and Amendments to the RA Law on Prosecutor’s Office”, “Draft Law on Making Amendments to the RA Criminal Code” and “Draft Law on Making Changes and Amendments to the RA Public Service” and relevant revisions based on those opinions are in the process.

Law on Prosecutors’ Service has been drafted and submitted to the RA National Assembly.

18. “8.1. Improving and promoting alternative mechanisms for resolving disputes through arbitration”.

The Law on “Making Changes and Amendments to the RA Law on Commercial Arbitration” has been drafted and public discussion was organized. On June 19, 2015, the RA National Assembly adopted the Law fully, in second reading.

At the same time, within the same scope, the RA Law on Commercial Arbitration has been brought in compliance with the requirements of the Model Law on International Commercial Arbitration of the UN International Trade Rights Commission. Besides, studies have been implemented on the voluntary certification of the arbitrators’ qualification, introduction of mechanisms aimed at strengthening the oversight over maintaining the rules of ethics by the arbitrator, in line with international practice. In these terms, the Draft Law on Making Changes and Amendments to the RA Law on Commercial Arbitration defined the rules and principles of ethical conduct for the arbitrators, based on which the permanently operating arbitration institutions can develop and adopt Codes of Conduct for their arbitrators.

Other ongoing activities are implemented to promote the arbitration.

19. “8.2. Studying international practice and perspectives of introducing the institute of referral of civil cases by the courts of the first instance to conciliators”.

RA Ministry of Justice has implemented a study with regards the introduction of the institute of conciliator (mediator) and evaluated the efficiency of the introduction of such an institute, based on which relevant legal changes have been implemented.

On May 7, 2015, the RA National Assembly has adopted a package of draft Laws that envisages the introduction of the institute of conciliator and legal regulations aimed at solving the civil, family and labor issues through the conciliators (mediators).

The above-mentioned changes enter into force on September 30, 2015, with the exception of the Articles the 227.6, 227.7 and 227.9 that are added to the Judicial Code, in accordance with Article 2 of the “Draft Law on Making Changes and Amendments to the RA Code of Justice” These Articles will enter into force on the tenth (10th) day following the official publication of the Law.

Currently the RA Government is working on the Draft Decision of the RA Government “On Approving the Regulations of the Establishment and Operations of the of the Conciliation (mediation) Qualification Committee, Organization and Implementation of the Qualification Courses, Procedures and Dates of Issuing the Certificates”, the adoption of which is directly related to the adoption of the package of Drafts. Together with the Decision of the Government there are two Orders of the RA Minister of Justice that are meant to coordinate the program of the training courses for the Conciliators (mediators?) and the Conciliator Register Procedures.

20. “8.3. Introducing the electronic notary system and “one-stop-shop” principle in the notary office”.

Armenian E-Notary Information System (AENIS) has been established, which provide an opportunity to provide the notary service at “one-window-shopping” principle. The E-notary system is fully operated/utilized in the Republic of Armenia and has already impacted the improvement of the notary services.

21. “8.4. Developing the electronic system of civil status acts registration”.

The e-system of registration of civil status acts has been installed in all the offices of Civil Status Acts Registration.

22. “8.5. Providing centralized services to natural and legal persons on “one-stop-shop” principle through establishing integrated service centers for maintaining registers (registrations)”.

The Draft Decision of the Government of Armenia on “Establishing Integrated Service Centers for Maintaining Registers (Registrations)” has been revised, following the opinions received and with the purpose of circulating that again.

23. “9.2. Improving the quality of middle level and higher professional legal education and legal education requirements”.

The Work Group developed and put into circulation a Draft Decision of the RA Government on “Approving the Concept Paper on Re-structuring the System Legal Training, Legal Awareness and Legal Education”. Based on the feedback from the stakeholders, the document was revised and sent, as final document, to the discussion of the Staff of the President of the Republic of Armenia.