



2023 LEGAL REPORT

 **RIGHT SIDE**
HUMAN RIGHTS DEFENDER NGO

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LEGAL
REPORT**

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ABOUT THE ORGANIZATION

Right Side is a community-based human rights defender NGO founded in January 2016 by Transgender activists in Armenia. The organization mainly works on protection of Transgender LGBQI+ health and rights, mobilization and visibility of Transgender and sex worker communities, as well as breaking negative stereotypes and norms with regards to diverse gender identities and sexual orientations in Armenia. Right Side NGO has worked hard for the past 6 years on mobilizing specifically Transgender and sex worker activists, in addition to other members of the LGBQI+ community to gain new knowledge, skills and capacities for protecting their own rights and shifting negative attitudes with regards to Transgender and queer people within Armenian society. The organization provides legal and psychological services free of charge for community members, in addition to supporting Transgender activists and beneficiaries during times of crisis by mobilizing resources and providing them with rent, food and other basic needs.

The mission of the organization is to create lasting solutions for promoting the quality of dignified lives of Transgender people and sex workers to prevent violations of human rights and to overcome difficulties. Our external vision is: A harmonious society promoting inclusion of Transgender people and sex workers in Armenia. Our internal vision is: A sustainable and experienced organisation overcoming challenges professionally.

The organization has three strategic directions:

- Human rights protection and legal reforms;
- Protecting community health, safety and ensuring well-being;
- Changing public opinion and breaking norms and stereotypes.

In the past 6 years, the NGO has established cooperative relations with diplomatic missions, UN agencies, the CoE, other intergovernmental, non-governmental, international, local organizations and networks. The Founder and President of the NGO, Lilit Martirosyan, was awarded the Human Rights Tulip in 2020 by the Government of the Netherlands for promoting Transgender rights in an innovative way.



BASIC CONCEPTS, ABBREVIATIONS, AND THEIR EXPLANATIONS

Bisexual	an individual who is emotionally and/or sexually attracted to more than one sex/gender
Gay	a gay man who has a set of deep emotional, sensual, and sexual attractions, as well as an intimate and sexual relationship and/or desire for a relationship, to a man
Gender	refers to people's internal perception and experience of masculinity and femininity, as the social structure in which certain behaviors are defined for the roles of men and women depending on history, societies, cultures, and classes; gender is related to societal expectations and not just a biological issue
Gender identity/ self-expression	refers to each person's internal perception and individual experience of their gender, which may or may not correspond to the sex assigned at birth, including their body perception and other gender expressions such as clothing, speech, and behavior
Intersex	a person who biologically has both male and female biological characteristics, both chromosomally or hormonally, and in the form of genitalia, as a result of which they cannot fully identify with either male or female
Transgender LGBTIQ+ community	a community of lesbian, gay, bisexual, transgender, intersex, and queer people united by common interests, issues, and goals; it in turn consists of various sub-communities, groups, and communities
Lesbian	a homosexual woman who has a set of deep emotional, emotional, and sexual attractions, as well as an intimate and sexual relationship and/or desire for a relationship with a woman
Vulnerable person or vulnerable group	a person or group who, due to some characteristic or status of theirs, is in a vulnerable position for a long period

Heterosexual	an individual who has a set of deep emotional, sensual, and sexual attractions, as well as intimate and sexual relationships and/or desire for relationships, to persons of other genders
Homophobia	fear, unreasonable anger, intolerance and/or hatred of homosexuality
Non-binary	any gender identity that does not conform to the bipolar system of femininity and masculinity
Sexual orientation	the totality of an individual's deep emotional, sensual, and sexual attractions, as well as intimate and sexual relationships and/or relational desires toward another individual
Sexuality	the set of biological, mental, behavioral, and social characteristics of each person that define a person's identity, behavior, character, and role as an individual and as a member of society
Transgender (transgender woman, transgender man)	a person whose gender identity and/or gender self-expression differs from the sex assigned at birth and includes women and men with a transsexual past, transsexual identifying persons, transgender persons, cross-dressing persons, etc.; is an umbrella term and is inclusive of people with transgender, transsexual and other non-binary gender identities
Transsexual	a person who fully identifies with a gender role opposite to the established gender and permanently wishes to live in the preferred gender role. It is often accompanied by a strong rejection of one's primary and secondary gender characteristics and a desire to conform to the body typical of the preferred gender. A transsexual individual desires or undergoes a social change (gender transition) from male to female or female to male, which in many but not all cases also includes a bodily change, such as hormone therapy to the opposite sex and genital surgery.
Transphobia	negative cultural and personal beliefs, opinions, attitudes and behaviors based on prejudice, disgust, fear, and/or hatred towards trans people or variations in gender identity and gender expression

SOGI	sexual orientation and gender identity and/or gender self-expression
ECHR	European Convention on Human Rights
ECHR	European Court of Human Rights
MM	Mass media

INTRODUCTION

2023 was a productive year for Right Side Human Rights Defender NGO (from now on referred to as Right Side Human Rights Defender NGO or Organization) with its achievements, new collaborations, and victories in legal cases. Throughout the year, the organization continued to provide legal advice, legal representation, and social support to Transgender LGBTQ+ people, their family members, supporters, and activists who applied to the organization.

The challenges in the world and Armenia in particular force the Organization to be attentive in protecting the rights of Transgender LGBTQ+ people. The Armenian-Azerbaijani war, the Artsakh blockade, the forced displacement of the Armenians of Artsakh, and the Russian-Ukrainian war have created significant problems in Armenia related to social, and economic sectors, security and, of course, the protection of human rights, all of which has significantly affected the Transgender LGBTQ+ community.

We regret to note that 2023 was a year of tribulations and heavy losses for the Transgender LGBTQ+ community.

On August 20, 2023, Adriana, a 28-year-old transgender woman, was brutally murdered in her apartment. To hide traces, the criminal also burned her apartment. On the night of March 13-14, at the intersection of Amiry-an-Zakyan streets, more than ten masked persons attacked and beat a transgender woman, causing her various physical injuries and subjecting her to psychological violence. On June 11, a transgender woman was attacked and beaten by 2 people in her apartment, and her mobile phone and money were stolen from her at knifepoint. In 2023, 8 Transgender LGBTQ+ people committed suicide. All these cases were committed with the motive of hatred, caused by discrimination based on the victim's sexual orientation and/or gender identity (this hypothesis is also discussed in the case of the murder of transgender woman Adriana).

It is a fact that society continues to be intolerant, and transphobic, and discrimination based on sexual orientation and/or gender identity has become quite active in social networks: TikTok, Facebook, Instagram, YouTube, media, and other internet platforms. The comment section of any news about transgender LGBTQ+ people, regardless of its nature, was filled with hate comments. For a year, the organization has been collecting hate speech, threats, and calls for violence directed at Transgender LGBTQ+ people by various people on social platforms.

The report presented the results of the organization's human rights activities carried out in the period from January 1 to December 31, 2023, strategic judicial cases, and the Organization's vision regarding future strategic directions.

The report summarizes the quantitative indicators of legal consultations and legal representation provided by the Organization during the year, the recorded offenses, their process, and legal interpretations, the description of the cases successfully completed by the legal team of the Organization, several key cases that are of significant importance for the protection of rights of Transgender LGBTQ+ people have also been included, also recommendations were presented to the state and other bodies, which are aimed at improving the legislative framework, the level of education, creating effective mechanisms to better protect the rights of Transgender and LGBTQ+ people, as well as strategic trials, which are currently being examined by the European Court of Human Rights in court (hereinafter ECHR).

SUMMARY INFORMATION OF THE LEGAL CASES OF 2023 OF RIGHT SIDE HUMAN RIGHTS DEFENDER NGO

In 2023, the Right Side Human Rights Defender NGO continued to provide legal support to Transgender LGBTIQ+ people, their family members, supporters, and activists.

The analysis of the cases collected during one year shows that Transgender LGBTIQ+ persons in Armenia continue to suffer harassment, and physical and psychological violence in the family, workplace, educational institutions, law enforcement agencies, armed forces, healthcare sector, public, and other places. This intolerant attitude is also due to the lack of information and knowledge in society regarding sexual orientation, gender identity, and sexuality issues. The part of the society that witnesses the violations of the rights, pressures, and mockery of Transgender LGBTIQ+ persons shows indifference.

During the reporting year, the lawyers of the organization provided legal advice to Transgender LGBTIQ+ persons and acted as representatives in courts, police, investigative, and other state bodies as part of legal support.

During the 12 months of 2023, **478 people** applied to the Organization for legal consultation. Legal consultation was provided in law enforcement bodies, and courts with the direct participation of lawyers, as well as by phone and at the Organization's office.

Consultations were provided on the following issues:

- changing the name in the passport, obtaining a new passport, or identity card,
- applying for a pension,
- illegal dissemination/threat of dissemination of information related to personal life,
- hate speech, insult, bullying,
- problems related to compulsory military service, exemption from military service,
- problems related to hormone therapy,
- domestic violence,
- divorce, child custody, alimony,
- labor relations, illegal dismissal,
- problems related to the service sector,
- fraud, extortion, threats,
- murder, bodily injury, robbery,
- in a criminal case, issues related to the rights of the victim, of the accused,
- other legal issues.

The organization has provided legal assistance to 293 Transgender LGBTIQ+ persons through phone calls.

The following statistical figures should be distinguished from phone calls:

- 37 of the calls were related to the problems faced by Transgender LGBTIQ+ people in the police.
- 51 were related to the questions of other state bodies (the Ministry of Internal Affairs of the Republic of Armenia, the Ministry of Internal Affairs, the military service, ministries, and local self-government bodies).
- 28 were problems encountered in the service sector when transgender people have faced discrimination in receiving services (supermarkets, cafes, sports clubs, pharmacies, etc.);
- 55 were problems of transgender people with friends, within the family, or in everyday life,
- 38 were hate speech (insult, bullying, discrimination):
- 84 were other legal issues.

In 2023, 57 Transgender LGBTIQ+ persons applied to the Organization for cases of hate crimes, hate speech, and discrimination.

Hate crimes and other hate offenses against Transgender LGBTIQ+ people in Armenia can be classified both as criminal acts and as non-criminal acts. Regional, national, and international conventions and human rights protection bodies have always emphasized the importance of fighting against hate crimes because hate crime is not only the offense directed against the victim, but also against the community, and in addition to violations of fundamental human rights, it also involves a serious state security challenge.

This is also evidenced by the calls and threats of hatred against Transgender LGBTIQ+ persons collected by the Organization on social networks - TikTok, Facebook, Instagram, YouTube, media, and other Internet platforms within the year.

For example, On June 13 of this year, a user registered with the name “@maxutka_arm” posted a video on the TikTok social media platform, calling for committing physical violence against LGBTIQ people. In particular, this user wrote that a new group is forming in Yerevan, which will free the city from gays, write a direct message to join. The TikTok has collected more than 37,800 views and more than 200 comments within a week. The vast majority of comments welcomed the initiative, many people called for murder and violence, and several dozen people expressed their willingness to join the group. Some users publicly provided their phone numbers or Telegram account names to join the organizing group, and many wrote that they informed the admin of their details by direct message. Another user named “@xx_armiran_xx_official” offered in the comments to cooperate with them, as they are also planning to form a similar group. On the same day, the user “@maxutka_arm” posted another video, in which they informed that they are “14-15 years old, and those who want to join should write their information to form a Viber group and discuss”. In the comments of this video, many people provided their information and expressed their willingness to join the group as well.

The legal team of Right Side Human Rights Defender NGO sent materials regarding these publications to the Ministry of Internal Affairs of the Republic of Armenia, but no proceedings were initiated in the case, as the threats of violence were described as "unaddressed".

On August 21, 2023, during the candlelight vigil organized by Right Side Human Rights Defender NGO in memory of the transgender woman Adriana, in Komitas Park, Yerevan, a group of people attacked the participants of the candlelight vigil, throwing stones, bottles, eggs, and sand to their direction. Although the police were notified about the gathering in advance, the policemen on duty in the area did not take any action regarding the incident. After the incident, Lilit Martirosyan, the president of Right Side Human Rights Defender NGO, filed a complaint with the police, but it was not processed either.

Taking all this into account, it is not surprising that often Transgender LGBTIQ+ people do not trust and do not contact law enforcement agencies, putting up with the fact that there is a stereotypical and discriminatory attitude among the public as well as among the employees of state and legal bodies.

In 2023, 46 Transgender LGBTIQ+ persons applied to the Organization with cases of offenses by the police and investigative bodies.

The problems in the police and law enforcement agencies are related to the confiscation of personal items, violence, ill-treatment, publication of personal data, and other cases. Transgender LGBTIQ+ people almost do not turn to law enforcement agencies since they are treated inappropriately in police stations, they are ridiculed and discriminated against by the police, and they are not allowed to exercise their rights. From this point of view, it should be noted that in the past, the Organization addressed appeals to the RA human rights defender in several cases, which refer to the violation of the rights of Transgender LGBTIQ+ persons in the police. In particular, in one case, the investigator of the Kentron and Nork-Marash Department of the Yerevan City Department of the RA Investigative Committee refused to return the phone taken from a trans person during a search, and only after the Organization complained to the RA Human Rights Defender, the investigator returned the phone.

Such cases show that there is still a lot of work to be done to achieve the exclusion of similar cases and the protection of the rights of Transgender LGBTIQ+ people.

We should add that Transgender LGBTIQ+ people do not apply to law enforcement bodies also for the reason that they do not trust them, these bodies do not work effectively, they have assumptions that the police officers will investigate their cases not objectively, they fear that the data about them may be published, their identity will be revealed, the criminal may take revenge, and due to other reasons. Therefore, when they are victims of crime, they prefer to turn to non-governmental organizations, that work in the field of human rights or tell and share with their friends.

The problems of the service sector were mainly related to the manifestation of discrimination against Transgender LGBTIQ+ persons while receiving services (entertainment places, cafes, etc.).

¹ See the publication by visiting https://www.tiktok.com/@maxutka_arm/video/7243882026825305346

Transgender LGBTIQ+ persons are also discriminated against in the relations with state bodies, in the bodies of the Ministry of Internal Affairs of the Republic of Armenia, in the passport departments of the Police of the RA Ministry of Internal Affairs, in the military commissariats of the RA Ministry of Defense. Therefore, the Organization supported Transgender LGBTIQ+ persons to change their name on their passports and helped them during the problems that arose in Yerevan and various regional military commissariats (exemption from military service, postponement).

Since 2023, 9 court cases have been in progress, 6 of which are in the criminal court of first instance of general jurisdiction of Yerevan city, 1 in the civil court of first instance of general jurisdiction of Yerevan city, 1 in the administrative appeals court of RA. In 3 of the mentioned criminal cases, the lawyers are involved as representatives of the victim, in 3 cases - as defenders of the accused, and in administrative and civil cases - as representatives of the plaintiff. 1 court case was completed. Lawyers of the organization participated in 59 court sessions called for the mentioned court cases.

The lawyers of the organization provided representation in the police and investigative bodies and participated in interrogations in 65 criminal cases, 11 of which are in progress. In 1 of the criminal proceedings, the lawyers act as the representative of the accused, and in 10 cases - as the authorized representative of the victim.

2 cases of strategic proceedings conducted by the legal department of the Organization continue to be in the European Court of Human Rights. In January and March of 2023, both cases were given a number.

In addition to legal support, the lawyers of the Organization regularly carry out research aimed at identifying the vulnerabilities and problems of the community.

In the period from February to September 2023, the lawyers of the organization carried out "The Situation of LGBTIQ+ Victims of Domestic Violence in Armenia" research (hereinafter also the Research), which aimed to reveal and analyze the prevalence of domestic violence cases among Transgender LGBTIQ+ people in the Republic of Armenia, its forms of expression, types, which will make it possible to assess the prevalence of violence against Transgender LGBTIQ+ persons according to the types of violence, frequency, regularity, as well as to identify the motives and motives of the abuser's use of violence, the physical and psychological consequences of the victims of violence. The purpose of the research was also to obtain information on cases of domestic violence against Transgender LGBTIQ+ persons by human rights defender organizations operating in RA, to collect statistical data from the competent authorities, to analyze the current legislation, to highlight the existing legislative and institutional gaps and to come up with recommendations to the authorities related to the field, and also find solutions to reduce domestic violence against Transgender LGBTIQ+ people.

In the course of the research, the cases of domestic violence against Transgender LGBTIQ+ persons between 2021 and September 2023 were studied. Transgender LGBTIQ+ individuals aged above 16 participated in the study. The study included 61 cases reported by Transgender LGBTIQ+ individuals from 300 interviews conducted between January 2021 and September 2023.

It is noticeable that the cases of domestic violence against the Transgender LGBTIQ+ community have increased in recent years. It should be noted that Transgender LGBTIQ+ people generally do not receive sufficient support and protection from law enforcement agencies when speaking about violence or filing a complaint, moreover, such cases are not disclosed and not made public. The process of domestic violence is different from other types of violence because the victim usually loves or trusts the abuser, the abuser is the victim's parent, relative, or partner. Such circumstances cause dependency in the victim, which prevents the abused person from leaving the family, or due to the financial situation, the person does not have the opportunity to leave and run an independent economy. Very often, parents themselves make their children leave the house.

Only in 2023, 29 Transgender LGBTIQ+ persons applied to the organization with cases of domestic violence

As it became clear during the research, there is no centralized mechanism for collecting statistical comprehensive and sorted data on domestic violence cases in Armenia, which is a serious obstacle and complicates the process of collecting clear information by competent authorities. Moreover, in the statistical data of cases of domestic violence in Armenia, there is no mention of a person's sexual orientation, gender identity, and self-expression, which, in our opinion, is related to the lack of political will, resources, and relevant knowledge.

From the above, it should be noted once again that Transgender LGBTIQ+ persons subjected to violence do not always turn to the police, which, as we have already mentioned, is related to improper treatment of Transgender LGBTIQ+ persons by the police, failure to respond to incidents of violence in the past, insufficient education and other factors.

CIVIL AND ADMINISTRATIVE CASES

TRANSGENDER WOMAN'S PARENT'S RIGHT TO PENSION WAS RESTORED

In March 2023, one of the members of the Transgender community applied to the Organization and reported that her mother, A.E., had reached the retirement age, but the RA Ministry of Labor and Social Affairs rejected her mother's application for a pension. In particular, the rejection of the Application was based on the fact that the period from 01.01.1992 to 25.05.1999 was not taken into account as work experience, because although there is a note in the workbook that the applicant from 17.05.1989 to 25.05.1999 worked in the Sevan branch of the Dilijan knitting factory, there is no information about it in the organization's electronic database, so it is necessary to apply to the court.

The organization sent a letter to the Ministry of Labor and Social Affairs of the Republic of Armenia, asking them to once again make a request to the "National Archive of Armenia" SNOC and find out if there are any documents related to A.E. because the employment stamp of the latter's workbook belongs to the Dilijan knitting factory, not to the Sevan branch.

On October 4, 2023, we received an answer that the application was satisfied, and A.E. was included in the October payment list.



"Everyone, in accordance with the law, has the right to social security in cases of maternity, multiple children, illness, disability, accidents at work, the need for care, the loss of a breadwinner, old age, unemployment, the loss of a job and other cases"

RA Constitution, Article 83

"1. Old-age labor pension is assigned to a person who has turned 63, if he has at least 10 calendar years of work experience."

RA Law "On State Pensions", Article 9, Part 1

According to Article 9 of the RA Law "On State Pensions" (hereinafter: the Law): "1. Old-age labor pension is assigned to a person who has turned 63 years old if he has at least 10 calendar years of work experience".

According to Article 29, Part 1, Sub-Clause 1 of the Law: "1. When assigning a pension, the length of work experience is taken into account:

1) Public service in the Republic of Armenia, employment with employers (hiring), employment in an international organization (official duties), receiving income from work performed within the framework of civil law contracts after January 1, 2013, services provided, and other the periods of activity, as well as the periods of work and other activities in the territory of the USSR.

According to parts 1 and 6 of Article 32 of the Law: "1. For the period up to January 1, 1992, the main document confirming the work experience is the workbook or other document specified by the Government."

6. The rules for calculating the length of work experience, including the length of work experience giving the right to a labor pension following the international agreement of the Republic of Armenia, shall be established by the Government.

Annex 2 of the Government's Decision No. 665-N of May 5, 2011 "On State Pensions" (hereinafter referred to as the Decision) on the rules for calculating the length of work experience for assigning an approved pension (Rules).

9. "The main document confirming the length of work experience is the workbook, and starting from January 1992, the workbook and the document confirming the payment of mandatory social security (until January 1, 2008 - mandatory social insurance) payments (hereinafter referred to as social payments) or receipt of salary). From the analysis of the above articles, it becomes clear that for the certification of AE's work experience, only the workbook was not enough, it was necessary to submit the document confirming the payment of mandatory social security payments or receiving salary for 1992 to 1999. Since the appointment department of the RA Unified Social Service did not find information about the Sevan branch of the Dilijan knitting factory in the electronic database, A.E. was directed to apply to the court.

The lawyers of the organization submitted an appeal to the Ministry and asked to make a request once again to the "National Archive of Armenia" SNOC and find out if there are any documents related to A.E. in the archive documents related to the Dilijan knitting factory because according to the latter's workbook, employment stamp belongs to the Dilijan knitting factory, not to the Sevan branch.

On 20.06.2023, the Ministry of Labor and Social Affairs of the Republic of Armenia informed that on 07.06.2023, the Unified Social Service made a request to the Agency of the State Register of Legal Entities of the Ministry of Internal Affairs of the Republic of Armenia regarding the issue raised in the application, and after receiving the answer, the issue of calculation of A.E.'s work experience, appointment (rejection) of pension will be re-examined.

In October 2023, we were informed by a letter received from the Eleventh Department of the Appointment Department of the Unified Social Service of RA on 11.09.2023 that according to the letter received in response to the inquiry made by the Agency of the State Register of Legal Entities of the Ministry of Internal Affairs of RA, the application for receiving a pension was processed and A.E. was appointed an old-age labor pension from 28.01.2023.

PERSON'S RIGHT TO BE HEARD WAS VIOLATED BY PATROL POLICE OFFICERS

In August 2022, A.M., a supporter of the Trans LGBIC+ community, contacted the organization and reported that on August 27, 2022, officers of the RA police patrol service stopped him and the vehicle he was driving, and checked his sobriety. A protocol was drawn up in accordance with Article 126, Part 1 of the RA Code "On Administrative Offenses", and a temporary certificate was issued to him on the grounds that he was drunk while driving.

According to the decision of the Patrol Service of the RA Police of 12.09.2022, A.M. was subjected to administrative responsibility in accordance with part 5 of Article 126 of the Code of Administrative Offenses of the RA, which resulted in the deprivation of the right to drive a vehicle for one year (driving vehicles again while intoxicated within one year after the date of imposition of the administrative penalty).

A.M. submitted an administrative complaint on 04.10.2022, and an administrative hearing was scheduled for 18.10.2022 at 11:30, the notice of which was delivered to A.M. by postal delivery on 20.10.2022, that is, 2 days after the scheduled administrative hearing.

On behalf of A.M., the lawyers of the Organization submitted a lawsuit to the RA Administrative Court against the RA Police Patrol Service, disputing the decision of the RA Police Patrol Service, by which A.M. was deprived of the right to drive a car for a period of one year. The lawyers also submitted a motion to the court to suspend the implementation of the disputed administrative act, that is, to suspend the decision of the patrol service until the judicial act that essentially resolves the case in the case enters into force, which was satisfied by the decision of 12.12.2022. As a result, A.M.'s driver's license was returned to him.

The Administrative Court of the Republic of Armenia by the judgment of 23.10.2023 satisfied the claim submitted by the lawyers and recognized the decision of the Patrol Service of the Police of the Republic of Armenia as invalid.



"1. Everyone has the right to an impartial, fair and reasonable investigation of cases related to them by administrative bodies.

2. During the administrative proceedings, everyone has the right to get acquainted with all the documents related to them, with the exception of secrets protected by law.

3. State and local self-government bodies and officials are obliged to listen to a person before adopting an individual act intervening for a person, except for cases defined by law."

RA Constitution, Article 50

According to Article 267 of the Code of RA "On Administrative Offenses" (hereinafter referred to as the Code of Administrative Offenses), "A person subjected to administrative liability has the right to familiarize himself with the materials of the case, to give explanations, to present evidence, to initiate motions, to use the legal assistance of a lawyer during the examination of the case, to speak in their native language and to use the services of an interpreter, if they do not know the language in which the proceedings are conducted; appeal decision. The case regarding the administrative offense is investigated in the presence of the person subject to administrative liability. The case can be examined in the absence of that person only in cases where there is information on timely notification of the place and time of the examination of the case and if no petition has been received from him to postpone the examination of the case."

According to Article 275 of the Code of Criminal Procedure, "When preparing the case for an administrative offense, the body (official) resolves the following issues:

- 1) does the examination of the given case refer to his jurisdiction?
- 2) whether the record of the administrative offense case and other materials have been drawn up correctly;
- 3) have the persons participating in the examination of the case been notified of the time and place of its examination?
- 4) were necessary additional materials requested?
- 5) about the petitions of the person subject to administrative responsibility, the victim, legal representatives, and lawyer".

From the analysis of the above norms, it follows that the right to proper administration is enshrined in the RA Constitution, which includes the right to get acquainted with all the documents related to the given person, as well as the right to be heard before the adoption of the intervening individual act.

Based on the analysis of the above-mentioned norms and the comparison of the facts of this case, the court recorded that A.M., as a person subject to administrative liability, was not notified of the time and place of examination of the administrative offense case, and the administrative offense case was examined in the absence of the person subjected for administrative liability, as a result of which the rights of A.M. to familiarize themselves with the case materials, to give explanations, to present evidence, to initiate petitions were violated, as a result of which the right of A.M. to implement the effective protection of his rights and freedoms was not protected.

Therefore, the court decided to satisfy the claim submitted on behalf of the organization's lawyers A.M. against the Police Patrol Service: invalidate the decision of the Police Patrol Service of 12.09.2022 in the administrative offense case.

In this case, the Police Patrol Service submitted an appeal, which was accepted for proceedings. The court hearing was scheduled for October 17, 2024.

FAMILY LAW: ALIMONY OBLIGATIONS

In May 2023, the Organization was approached by minor members of the Transgender LGBTQ+ community and reported that his parents had divorced and now their father was evicting him, his mother, and their minor sisters from their jointly rented house.

The attorneys of the organization filed a lawsuit on behalf of the boy's mother in the Civil Court of General Jurisdiction of Yerevan city with demands to determine alimony for three minor children and the place of residence of the children at the mother's place of residence.

The court accepted the claim. The children's father filed a counterclaim to the court regarding the request to establish a visitation order with the children, at the same time, he petitioned for enforcement of the claim, which was partially granted.



"1. Parents have the right and are obliged to take care of their children's upbringing, education, health, full and harmonious development."

RA Constitution, Article 36, Clause 1

"2. If the parents do not provide a means of livelihood to their children, then the funds for supporting the latter (alimony) are confiscated from the parents by court order".

RA Family Code, Article 68, Clause 2

In this case, after the divorce, starting from May 2023, the mother lives separately with her three minor children, the children are under her care, and they do not want to live with their father. The mother alone cannot take care of three children, and the father does not want to support his children.

According to paragraph 1 of Article 3 of the Convention "On the Rights of the Child": "In all actions against children, regardless of whether they are undertaken by public or private institutions dealing with social security issues, courts, administrative or legislative bodies, priority attention is paid to the best interests of the child."

According to points 1 and 2 of article 9 of the same convention: "States shall ensure that a child is not separated from the parents against the wishes of them, unless the competent authorities decide in accordance with applicable law and procedure, subject to judicial review, that such separation is necessary in the best interests of the child. Such a decision may be necessary in this or that particular case, for example, when the parents treat the child badly or do not take care of him or when the parents live separately and it is necessary to make a decision about the child's place of residence. According to paragraph 1 of this article, during the investigation, all interested parties are given the opportunity to participate in the investigation and present their views."

According to clause 3 of Article 53 of the RA Family Code: "3. If the parents live separately from each other, the place of residence of the children is determined by the consent of the parents. In the absence of agreement, the dispute between the parents is resolved by the court based on the interests of the children and taking into account the child's opinion. Moreover, the court takes into account the attachment of the child to each of the parents, and siblings, the age of the child, other moral and personal characteristics of the parents, the existing relationship between each of the parents and the child, the possibility of creating conditions for the upbringing and development of the child (parents' activities (work) nature, their property and family situation, etc.)"

Taking into account the fact that the children have lived with their mother after the parents' divorce, the lawyers of the Organization wrote in their claim to define the place of residence of the children as the place of residence of the mother.

As for the father's counterclaim on establishing a visitation order, as a result of the lawyers' direct negotiations, the mother allows the father to visit his children without hindrance.

The investigation of the case continues in court. The next court session was scheduled for February 2024.

CRIMINAL CASES UNDER INVESTIGATION

THE CRIMINAL PROSECUTION AGAINST THE TRANSGENDER WOMAN WAS TERMINATED ON JUSTIFIED GROUNDS

On May 27, 2021, a criminal prosecution was initiated against a transgender woman, M., under the features of Article 262, Part 2, Clauses 5 and 6 of the former Criminal Code of the Republic of Armenia, that is, facilitating prostitution, which was carried out using two or more persons, as well as a minor, which provided for imprisonment for a period of 3 to 6 years.



"1. Establishing, managing or keeping an establishment for engaging in prostitution or using any public institution for engaging in prostitution or regularly providing an apartment or other accommodation for another person to engage in prostitution or contributing to prostitution in another way by receiving property benefit, if there are no characteristics of the crime provided by articles 132 or 132.2 of this Code shall be punished by a fine in the amount of two hundred to four hundred times the minimum wage, or imprisonment for a period of up to three months, or imprisonment for a period of one to four years.

2. The same act that was committed:

...

5) using two or more persons,

6) using a minor,

...

shall be punished by imprisonment for a period of three to six years with or without confiscation of property, deprivation of the right to hold certain positions or engage in certain activities for a maximum period of three years, with or without it".

Former Criminal Code of the Republic of Armenia, Article 262, Part 2, Clauses 5 and 6

In particular, according to the accusation, M. rented an apartment in Yerevan in December 2019 and lived together with Sh.M., who engaged in sex work. During the same month, the minor S.K. was also moved to the same apartment according to a prior arrangement, after which, according to the accusation, the transgender woman M. allowed the minor S.K. to engage in sex work.

From the beginning of the investigation, the lawyer of the organization was involved in the proceedings and defended the interests of the transgender woman. During the preliminary investigation, due to the defense planned by the lawyer, including the submission of motions, and face-to-face interrogations, it became clear that the presented accusation had nothing to do with reality.

Through the questioning of numerous witnesses, and through face-to-face interrogations, the commission of the crime attributed to M. was denied.

During the preliminary investigation, the defense justified the absence of a criminal act in M.'s actions with appropriate legal arguments. In particular, in the criminal case No. YSHD/0041/01/14, the Court of Cassation of the Republic of Armenia recorded in a precedent decision that: "The crime discussed from the subjective side is manifested by direct intention, that is, the person realizes that by his actions he contributes to the prostitution of other people, foresees its dangerous consequences for the public and wants it. The subject of a crime can be any sane natural person over the age of sixteen at the time of the crime."

An element of the objective aspect of the offense in question is, inter alia, contributing to the practice of prostitution by obtaining a pecuniary benefit.

The Court of Cassation documents that the specified action constituting the objective aspect of the crime provided for in Article 262 of the Criminal Code of the Republic of Armenia can be manifested:

- 1) in the form of pimping, i.e. soliciting sexual intercourse in exchange for remuneration or other property benefit, or
- 2) by performing the same act, which was also demonstrated by providing an apartment or other accommodation once, or
- 3) without soliciting for sexual intercourse, but not regularly providing an apartment or other accommodation in return for property benefit, or
- 4) receiving property benefit by contributing to prostitution in other ways.

Based on the analysis made in the previous point, the Court of Cassation notes that for the considered action constituting the objective aspect of the crime provided for in Article 262 of the RA Criminal Code, the existence of a mutual connection between the chosen method of obtaining property benefit and contributing to prostitution is mandatory. In other words, the property benefit must be the result of facilitating prostitution. In that regard, the Court of Cassation deems it necessary to emphasize that to consider the relevant circumstance established, the body conducting the proceedings must at least find out:

- 1) the source of the received property benefit,
- 2) its correlation with the chosen form of promoting prostitution,
- 3) whether the property benefit received is remuneration for facilitating the practice of prostitution.

Based on the above, the Court of Cassation records that to determine whether a person's act contains the objective aspect of the crime provided for in Article 262 of the RA Criminal Code (contributing to engaging in prostitution by obtaining property benefit in another way), among others, it is necessary to determine whether that person acted with direct intent (that is, he was aware that his actions contributed to the prostitution of others and wanted it), and whether the property benefit received was the result of promoting prostitution."

During the preliminary investigation of the criminal proceedings, such a sufficient combination of relevant, credible, objective evidence was not obtained that, overcoming the presumption of innocence, could lead to the conviction beyond a reasonable doubt that transgender M. committed the act of which she was accused.

As a result, after a long struggle, on October 30, 2023, the investigator conducting the proceedings submitted a petition to the prosecutor to stop the criminal prosecution against the transgender woman, on the basis that she did not commit the act she was accused of. The petition was accepted by the prosecutor and the criminal prosecution was stopped

As a result, transgender woman M. has acquired the status of acquitted.

A GAY MAN WAS TORTURED DURING MILITARY SERVICE

In 2022, H.A. appealed to Right Side Human Rights Defender NGO and reported that he had made a statement about the crime in the Garrison Prosecutor's Office No. 1 of the RA Military Prosecutor's Office in 2021, regarding which a criminal case had been initiated and 4 people were charged under Article 309.1 of the RA Criminal Code, Part 1, 2, Clause 4 (torture). H. A. applied to Right Side NGO and asked to protect his interests as a victim.



"1. Intentionally causing severe physical pain or severe mental suffering to any person by an official or other person authorized to act on behalf of a state body or by his instigation, order or knowledge, in order to obtain information or confession from that person or a third person or to punish for the act that or a third person has committed or is suspected or accused of committing, as well as for the purpose of intimidating or coercing that or a third person to do or refrain from doing any act or for any reason based on discrimination of any nature; shall be punished by imprisonment for a term of four to eight years, with deprivation of the right to hold certain positions or engage in certain activities for a maximum period of three years.

2. The same act that was committed:

...

4) by a group of persons or an organized group,

...:

shall be punished by imprisonment for a period of seven to twelve years, with deprivation of the right to occupy certain positions or engage in certain activities for a period of three years".

Former Criminal Code of RA, Article 309.1, Part 1, Part 2, Clause 4

H.A. told the organization that in 2020, when he was in the Armed Forces x military unit in the Republic of Artsakh, during his service, he was regularly beaten by officers due to his sexual orientation. After submitting a report about the crime, a criminal case was initiated, which was transferred from the Republic of Artsakh to the Department of Investigating Crimes of Torture and Abuse of Power by Officials Using Violence of the Main Department of the RA Investigative Committee.

From October 5, 2022, the lawyer of Right Side Human Rights Defender NGO was involved as the authorized representative of the victim H.A.

Prosecutor H. Mashadyan of the Department of Crimes against the State Authority of the General Prosecutor's Office of RA, after investigating Sargsyan's motion against the defendants G. Lalayan, G. Babayan, M. Nersisyan, R. Gabrielyan in the cases of torture and abuse of authority using violence by officials, made a decision on 04.09.2023 to stop the criminal prosecution against all the above-mentioned accused persons.

The lawyer of the organization appealed the decision to stop the criminal prosecution to the Criminal Court of First Instance of Yerevan City, however, the Court rejected the initiation of the proceedings, which was appealed to the RA Criminal Court of Appeal.

On December 6, 2023, the Criminal Appeal Court of the Republic of Armenia satisfied the lawyer's complaint and overturned the decision of the first instance court, sending the case for examination on the merits.

THE APARTMENT WAS PROVIDED TO ENGAGE IN SEX WORK AND PAY OFF DEBTS /TRAFFICKING/

In January 2023, sex worker J.N. applied to the organization and reported that some people tried to subject her to trafficking, and she wanted to report to the police with the help of the organization's lawyers.

In January 2023, with the participation of the Organization's lawyer, J.N. submitted a report to the police.

Criminal proceedings were initiated in the investigative department of the Arabkir and Kanaker-Zeytun administrative districts of the Yerevan City Department of the RA Investigative Committee under Article 299 of the RA Criminal Code (facilitating prostitution). J.N. was recognized as a victim.



"1. Contributing to engaging in prostitution: creating, managing or maintaining an institution for engaging in prostitution or operating a public institution for the same purpose or providing an apartment, building, car or other accommodation for another person to engage in prostitution, if the features of the crime provided for in Article 298 of this Code are absent: shall be punished by a fine in the amount of ten times to thirty times, or public works for a period of one hundred to two hundred hours, or restriction of freedom for a maximum period of two years, or short-term imprisonment for a maximum period of two months, or imprisonment for a maximum period of three years."

RA Criminal Code, Article 299, Part 1

As we learned, J.N. met A.K. in 2022. She borrowed money, property, and gold jewelry from A.K., which were pledged but was unable to repay the debt and pay the full amount of the property and gold jewelry on time. A.K. suggested that J.N. engage in sex work in his rented apartment and give him the money received as debt repayment. J.N. had to agree to the offer and engaged in sex work between November and December. A.K. has agreed with the clients in advance. J.N. transferred the received money to A.K. However, seeing that the amount of her debt did not decrease, J.N. had to contact the Organization as well as the police.

In January 2023, with the participation of the Organization's lawyer, J.N. submitted a report to the police. Criminal proceedings were initiated and J.N. was recognized as the victim, after which she was interrogated. As we learned, A.K. also submitted a statement to the police that J.N. committed fraud, as if the latter did not want to return the debt, property, and gold jewelry. Criminal proceedings were initiated and A.K. was recognized as a victim.

Several other investigative actions were carried out, including face-to-face interrogation. During the interrogation, J.N. stated that she could return a part of the property to A.K., to which the latter did not object. The day after the interrogation, J.N. returned part of the property to A.K., which was recorded by the investigator.

The investigation is ongoing.

RIGHT SIDE HUMAN RIGHTS DEFENDER NGO HAS BECOME A VICTIM OF CYBERCRIME

In June 2022, the president of Right Side Human Rights Defender NGO L. Martirosyan accidentally found out that an unknown person downloaded pictures belonging to the Organization and the Organization's logo from the Organization's website and published them on another website without the Organization's permission.

The president of the organization presented a report on the crime on the mentioned occasion.

On July 14, 2022, in the investigative department of the Kentron and Nork-Marash administrative districts of the RA Investigative Committee of the city of Yerevan, a criminal proceeding was initiated under Article 362, Part 1 of the RA Criminal Code (illegal hunting or possession of computer data).



"1. Hunting or taking possession of data not intended for general use stored on a computer, computer system, computer network or other computer equipment, without authorization provided by law or contract or other legal basis, for the purpose of using that data or making it available for use by other persons or in any other way for the purpose of shall be punished by a fine in the maximum amount of twenty times, or by public works for a period of eighty to one hundred and fifty hours, or by deprivation of the right to hold certain positions or engage in certain activities for a period of two to five years, or by restriction of freedom for a maximum period of two years, or by short-term imprisonment for a maximum period of two months term, or imprisonment for a maximum term of two years."

RA Criminal Code, Article 362, Part 1

The organization also has a registered official website at www.rightsidengo.com. In 2022, the President of the Organization found out by chance that the information, logo, and pictures of the Organization's website page were illegally taken over by illegally accessing the website page data and using the information. The mentioned information and data of the organization were found on the website <http://imsaytik.weebly.com/>.

On August 18, 2022, the criminal proceedings were transferred to the cybercrime and high-tech crime investigation department of the RA Investigative Committee's General Directorate of Criminal Investigation, and on the 22nd of the same month, a decision was made to recognize the Organization as a victim.

In 2023, the lawyer of the Organization was involved as an authorized representative of the Organization and participated in the investigative activities carried out by the investigator.

In particular, a number of applications were submitted by the lawyer about the location of the person and the need to summon him for questioning, who could provide information about the crime that took place. The investigator sent summonses to the mentioned person, which were returned, after which a decision was made to bring him into custody.

The investigation is ongoing.

TRANSGENDER WOMAN ADRIANA WAS BRUTALLY MURDERED IN HER APARTMENT

On August 20, 2023, a 28-year-old transgender woman named Adriana was brutally killed in the apartment she rented in Yerevan. In order to hide the traces, the criminal had also burned the rented apartment of the woman.

The friends of the murdered transgender woman called Lilit Martirosyan, the founder and president of Right Side Human Rights Defender NGO on the same day, around 4:30 p.m., and reported the murder.

A criminal proceeding was initiated in connection with the case, under the features of Article 155, Part 1 (murder) and Article 264, Part 2, Clauses 2 and 6 (destruction or damage to property) of the RA Criminal Code.



"1. Murder, the unlawful taking of another person's life shall be punished by imprisonment for a term of eight to fifteen years".

RA Criminal Code, Article 155, Part 1

"1. Destroying or damaging another's property, which caused substantial property damage: shall be punished by a fine in the amount of ten times to thirty times, or public works for a period of one hundred to two hundred hours, or restriction of freedom for a period of one to three years, or short-term imprisonment for a period of one to two months, or imprisonment for a maximum period of three years.

2. The act provided for in part 1 of this article, which:

2) committed by means of arson, explosion or other public danger,

6) caused particularly large property damage: shall be punished by imprisonment for a term of three to six years".

RA Criminal Code, Article 264, Part 2, Clauses 2 and 6

The day after the murder, on August 21, at 02:40 AM, the 26-year-old suspect from the Armavir region was found at the Bavra border checkpoint, arrested, and transferred to the Central Department of the Internal Affairs Police. He was presented to the body conducting the proceedings, and questioned about the circumstances of the incident, during which he admitted that he committed the murder, then set the apartment on fire and tried to cross the RA state border through the Bavra border checkpoint. According to the decision of the preliminary investigation body, the 26-year-old citizen was arrested. Administrative and evidentiary operations continue to be carried out with his participation.

According to the request of the family members of the murdered transgender woman, the legal teams of Right Side Human Rights Defender NGO and Pink Human Rights Defender NGO have been involved in this case and will provide legal representation at all stages of the case.

Several motions were submitted by the victim's representatives, such as a search of the apartment, obtaining information containing banking secrets, and additional interrogations, which were granted.

The investigation is ongoing.

² See <https://www.youtube.com/watch?v=i2Y6fqWClwY>

THE APARTMENT OF A TRANSGENDER WOMAN WAS SEARCHED ON SUSPICION OF SELLING DRUGS

On July 27, 2023, at 9:30 AM, the transgender woman D. called Right Side Human Rights Defender NGO and informed that at that moment the police were conducting a search in her apartment. D. also mentioned that according to the investigator, they are going to arrest her. As it became clear later, the search of the apartment was carried out in order to find drugs, but after nothing was found, the transgender woman's three phones for personal use, her computer, as well as all the money in the apartment - \$27,000, which the transgender woman had collected through years of sex work - were confiscated from her.

Right after the call, the lawyers of Right Side Human Rights Defender NGO went to the investigative department of the Kentron and Nork-Marash administrative districts of Yerevan, where the transgender woman D. was taken into custody after the search. The lawyers of the organization visited D. and took over her defense. A few hours later, D. was transferred to the Investigative Committee, where, after being interrogated in the presence of her defense attorneys, she was released at 4:25 PM on the grounds that the need to keep her in prison was no longer necessary, and her participation was denied in the cases of interest to the investigative body initiated by the criminal proceedings.

On the day after the incident, on July 28, a petition was submitted to the Investigative Committee regarding the return of the property, Lilit Martirosyan, the founder, and president of Right Side Human Rights Defender NGO, posted an alert about the incident on her Facebook page, as a result of which several publications were also posted on news websites, as well as by the Organization, letters of application were sent to the RA State Authorities, urging them to keep this case in the spotlight and calling for an impartial investigation in criminal cases related to Transgender and LGBTIQ+ persons, to refrain from any form of discrimination and to return the mobile phones and money confiscated from the transgender woman as soon as possible, restoring her right to dispose of her property.

On July 31, the lawyer of the organization submitted a motion to the body conducting the proceedings to return the funds and phones. On 07.08.2023, the investigator made a decision to reject the petition. A complaint was filed against the said decision to the RA General Prosecutor's Office. On 31.08.2023 G. Sargsyan, Deputy Head of the Department for Crimes Against the Health of the RA General Prosecutor's Office, rejected the appeal.

2023 In September, the prosecutor's decision was appealed to the first instance criminal court of RA.

Before the court's decision, on October 6, 2023, the Investigative Committee, not finding any illegal behavior in the actions of the transgender woman, returned the money and property confiscated from her more than two months earlier.

TRANSGENDER WOMAN WAS ATTACKED AND BEATEN BY PEOPLE MASKED AND ARMED WITH BETONS

On March 14, 2023, transgender woman E. came to the organization with bruises and wounds and reported that a day before, at night, she was attacked by masked persons, beaten, and managed to escape from the scene. She submitted a statement to the police regarding the incident and now needs a lawyer to further protect her rights.

As it became clear, on the night of March 13-14, 2023, at the intersection of Amiryan-Zakyan streets, more than ten masked persons with batons in their hands attacked transgender woman E. and brutally beat her. The trans woman ran away, then, noticing the patrols on duty in the area, approached them to ask for help, but before the patrols approached the scene, the abusers managed to flee. On the same day, half an hour after the incident, the above-mentioned persons beat another transgender woman in the territory of Yerevan Municipality, causing various degrees of injuries, besides, they targeted two other transgender women on Mashtots Avenue, who managed to escape. The transgender woman contacted the police regarding the incident. The legal department of Right Side Human Rights Defender NGO is involved in the framework of the case and is providing representation at all stages of the case.

E. stated that she managed to see the faces of some of the people, and also that there were many cameras in the area, and by studying their footage, it was possible to identify the abusers, especially since some of them were not masked. In the investigation department of the Kentron and Nork-Marash administrative districts of the Yerevan City Department of the RA Investigative Committee, criminal proceedings were initiated under the article of hooliganism.

Almost a year has passed since this case, but the preliminary investigation body has not managed to reveal the identity of the perpetrators.

In December, the lawyers submitted a complaint to the prosecutor's office regarding the incomplete implementation of the preliminary investigation.

The investigation is ongoing.



A TRANSGENDER WOMAN'S WALLET WAS STOLEN

In October 2023, G.K., a Russian citizen transgender woman, contacted the Organization and reported that an unknown person in the public transport stole her documents and money. Criminal proceedings were initiated under Article 254, Part 2, Clause 2 (theft) and Article 456, Part 1 (stealing, extorting, destroying, damaging documents, stamps, seals, or vehicle license plates) of the RA Criminal Code. or hiding).

In particular, G.K. reported that on September 7, 2023, between 19:30 and 21:00, she boarded the "203" route bus from France Square of Yerevan and left for Vagharshapat city.



"2. The theft committed by:

...

2) from the victim's body, clothes, bag, other storage or object,

...

shall be punished by a fine in the amount of twenty to fifty times, or public works for a period of one hundred and fifty to two hundred and seventy hours, or restriction of freedom for a period of one to three years, or short-term imprisonment for a period of one to two months, or imprisonment for a period of two to five years".

RA Criminal Code, Article 254, Part 2, Clause 2

"1. Stealing, extorting, destroying, damaging, or concealing another's passport or identification card or a document, stamp, seal, or vehicle license plate that provides rights, exempts from duty or responsibility, or contains information of legal significance: shall be punished by a fine in the maximum amount of twenty times, or public works in the duration of eighty to one hundred and fifty hours, or short-term imprisonment for a maximum period of two months, or imprisonment for a maximum period of two years".

RA Criminal Code, Article 456, Part 1

Before reaching Vagharshapat, on Isakov Avenue in Yerevan, at the stop before the "Argavandi" intersection, an unknown man, who had been standing on her right until then and kept touching her bag, got off the bus. After he got off, she noticed that the aforementioned unknown person stole the wallet from her bag, which contained 750 euros, 40,000 Russian rubles, and 115,000 Armenian drams, as well as the passport of a Russian citizen.

The organization's lawyer has been involved in the case as a representative.

The investigation is ongoing.

TRANSGENDER WOMAN WAS SUBJECTED TO PSYCHOLOGICAL INFLUENCE

In October of this year, G.K., a Russian citizen transgender woman, applied to the Organization and reported that on September 15, 2023, she was at the beginning of the Nubarashen administrative district of Yerevan, when an unknown young man approached her in a car and offered her to have sexual relations, but when she refused, he made threats.

Criminal proceedings have been initiated in connection with the case under Article 194, Part 1 of the RA Criminal Code (psychological influence), and a preliminary investigation is being conducted. A lawyer is needed to protect his interests in the future.



"1. The threat of murder, harm to health, torture, committing a crime against sexual freedom or integrity, kidnapping, illegal deprivation of liberty or destruction of large or particularly large property, if there was a real risk of carrying out this threat, as well as social isolation or regular honor and dignity humiliation shall be punished by a fine in the maximum amount of twenty times, or restriction of freedom for a maximum period of one year, or short-term imprisonment for a maximum period of one month".

RA Criminal Code, Article 194, Part 1

In October 2023, the lawyer of the organization was involved as a representative.

During the preliminary investigation, a face-to-face interrogation took place between the transgender woman and the person who committed the alleged crime, where G.K. insisted on her testimony and identified the person as the person who committed the crime.

The investigation is ongoing.



CRIMINAL CASES AT THE TRIAL STAGE

SUBJECTED TO TRAFFICKING FOR NOT PAYING DEBT

In 2022, a sex worker A.S. applied to Right Side Human Rights Defender NGO and reported that she was subjected to sexual exploitation, a criminal case was initiated and she was recognized as a victim, now she needs legal help.

According to A.S., she was regularly sexually exploited by G.V. from 2020 to 2021. In 2021, a criminal case was initiated under Article 188, Part 1, Section 4 of the RA Criminal Code. In 2022, the case was sent to the criminal court of the first instance of Yerevan city, the interests of A.S. need to be represented in court by the lawyers of the organization.



"1. Human trafficking is the recruitment, transfer, concealment or receipt of a person for the purpose of exploitation, as well as the exploitation or placing or holding of a person in a position of exploitation by using violence or the threat of doing so or by other forms of coercion, kidnapping, fraud or breach of trust, a person's position or influence arising from official position or authority or to exploit the personal dependence or vulnerability of the person affected by the crime or to give or promise or offer a material or other benefit in order to obtain agreement with the person controlling the person affected by the crime or to obtain such a benefit by the person controlling the person affected by the crime or by accepting the offer: shall be punished by imprisonment for five to eight years".

RA Criminal Code, Article 188, Part 1

By examining the materials of this case, it was found that G.V., to put A.S. into sexual exploitation, gave her gold on the condition of returning 70 USD for each gram. Later, G.V. again gave gold jewelry and made her repay inflated sums every day. As a result, A.S. became financially dependent on G.V. and was forced to engage in sex work on a daily basis in a place called "Tetsi Krug", and he transferred the money she received to G.V. In addition, in 2021, G.V. used violence that was not dangerous to life or health against her at the house of A.S., forced her to continue transferring money to him daily, thereby putting her in a state of exploitation.

During the preliminary investigation of the criminal case, sufficient evidence was obtained, according to which, as a result of the actions of G.V., the victim A.S. suffered a large amount of damage - 6,144,530 AMD, which is confirmed by the evidence and receipts available in the proceedings. In particular, the mentioned transfers were entered through the terminals of "Telcell" and "Easy Pay" companies to the wallet identified by the mobile phone number operated by G.V.

For the criminal acts listed above, a criminal prosecution was initiated against G.V. under Article 188, Part 1 of the RA Criminal Code, during the criminal proceedings, A.S. was recognized as a victim.

During the preparatory stage of the trial of the case, on behalf of the victim A.S., the lawyers filed a property claim against the accused G.V. in the amount of AMD 6,144,530 as compensation for the damage caused to sex worker A.S.

Currently, the case is at the trial stage, another court session has been scheduled for January 2024.

THE ACCUSED ARE TRANSGENDER WOMEN

In 2022, Transgender woman A.A. applied to Right Side Human Rights Defender NGO and stated that, as a defendant, she needed judicial protection of her rights.

A.A. was charged with the fact that on September 12, 2017, around 00:00, with a group of people, among them T.K., A.S., S.P., as well as other persons not identified by the investigation, using violence against a person, as well as damaging someone else's property, she committed hooliganism by using objects that can be used as weapons in Yerevan at the intersection of Beirut, Grigor Lusavorich and Argishti streets of the city.

A criminal case has been opened under Article 258, Part 4 of the former Criminal Code of the Republic of Armenia (hooliganism)³. Charges have been brought against A.A.



"1. Hooliganism, the intentional gross violation of public order, which is manifested by open disrespect for society, is punishable by a fine of up to fifty times the minimum wage, or imprisonment for a period of up to one month.

...

4. The act provided for in the second or third part of this article, which was committed with the use of a weapon or objects used as a weapon: shall be punished by imprisonment for a period of four to seven years".

Former Criminal Code of RA, Article 258, Part 1 and Part 4

The lawyers of the organization got acquainted with the materials of the case and listened to the transgender woman. A.A., who said that on the night of September 12, 2017, she was near Beirut Street with T.K., S.P., and A.S. At around 00:06, a black car passed by the street of Beirut and stopped near them, and the girl sitting in the back of the car started taking pictures with her mobile phone and making fun of them. They asked not to film them, but the car driver cursed them and, getting out of the car, attacked S.P. and A.S., hitting them with his hands, as a result of which S.P. fell to the ground. The driver of the car took a stone, hit A.S. on the head with the stone, then started suffocating her with his hand, took off A.S.'s wig, and ran into the park. The police officers arrived, and the car driver pointed at A.S. and S.P., with whom he argued. A.A. and T.K. volunteered to go to the police in order not to leave their friends alone.

A criminal case was initiated and A.A. was charged with the fact that "on September 12, 2017, around 00:00, dressed in women's clothes and wearing wig and make-up, with T.K., S.P., A.S. and other persons whose identity has not yet been determined by the investigation, was in the area called Komaygi of Yerevan city, when A.Z. drove to the specified place in a BMW car with his wife R.H. and her sister, M.H.

³ Article 297 of the new RA Criminal Code.

A.A., T.K., S.P., A.S., and other persons whose identities have not yet been determined by the investigation, seeing the mobile phone in the hand of M.H., thinking that she is taking photos, approached the car and using that small opportunity, deliberately violated the public order, loudly shouted sexual insults at the people in the car, while damaging other people's property, hit the car with their feet and with stones and beer bottles used as weapons, damaging the roof of the car the left side stand next to the dashboard, the four doors of the car and the rear right wheel rim, the front windshield, and the glass of the front right door, causing a total property damage of 405,000 AMD to A.Z., and A.A., from the open window in the right rear part of the car, pulled the hair of M.H. sitting in the back of the car with both hands, causing severe physical pain to the latter's health. After that, A.A., T.K., S.P., and A.S. shouted curses at the people in the car, hit the car with their hands and feet, and threw stones and beer bottles towards the driver A.Z., who came out of the car. They ran and chased A.Z., and A.Z. was slightly injured."

Currently, the investigation of the case continues in court. The victims were interrogated. The next court session was scheduled for February 2024.

MONEY WAS EXTORTED FROM THE TRANSGENDER WOMAN

In January 2023, transgender woman A.A. applied to the Organization and reported that she became a victim of extortion in 2021, the case is in court, and she needs the help of a lawyer to represent her interests in court.

A.A. reported that M.M. demanded a significant sum of AMD 30,000 from her under the threat of publishing defamatory information about the latter.

A criminal case was initiated under the 1st part of Article 182 of the former Criminal Code of the Republic of Armenia (extortion), during the criminal proceedings A.A. was recognized as a victim.



"1. Extortion - publishing defamatory information about a person or his relative or causing significant damage to the rights and legal interests of a person or his relative, as well as threatening to use violence against a person or his relative or to destroy the property of a person, his relative or property under the management or custody of other persons (the demand to hand over someone else's property or the right to property or to perform other actions of a property nature under the threat of harming) shall be punished by a fine in the amount of four hundred to eight hundred times the minimum wage, or imprisonment for a maximum period of three months, or imprisonment for a maximum period of four years".

Former Criminal Code of the Republic of Armenia, Article 182, Part 1

From the materials of the case, it was found that the accused M.M. met a transgender woman A.A. on one of the social websites in 2019. A.G. was an acquaintance of M.M., whom he met 5 years before the incident. Knowing in advance about the close relationship between his and A.A.'s common acquaintance A.G. and A.A., he demanded from transgender woman A.A. to repay the debt A.G. had previously taken from him. Having received a negative answer, M.M. aimed to extort significant amounts of money by threatening to publish defamatory information about A.A. M.M. downloaded the semi-nude photos posted on the personal page of A.A.'s social platform, prepared three defamatory pages about the latter, which he posted on the social website on January 19-20, 2021, with headlines defaming the honor and dignity of A.A.

M.M. demanded 30,000 AMD from A.A. in exchange for deleting the pages containing the said defamatory information from the internet. Not fulfilling M.M.'s request, A.A. applied to the RA Police Central Department on February 2, 2021, only after which M.M. deleted the mentioned pages.

Currently, the investigation of the case continues in court. The witnesses, the victim, and the accused were interrogated. The accused and the defense must make their closing speeches. The next court session was scheduled for February 2024.

THE TRANSGENDER WOMAN WAS BEATEN AND HER WIG WAS BURNED

Transgender woman G.T. appealed to the Organization and reported that she was beaten by an unknown person, later became clear his identity - A.S., she suffered physical pain, after which he burned a 95 cm long wig made from natural hair on her head with a lighter, causing property damage of large size - 1,970,000 AMD.

A criminal case was initiated under Article 118 (beating) and Article 185, Part 2, Clauses 1 and 2 (intentionally destroying or damaging property) of the former Criminal Code of the Republic of Armenia. G.T. was recognized as a victim.



"Beating or committing other violent actions that did not cause the consequences provided for in Article 117 of this Code: shall be punished by a fine in the amount of a maximum of one hundred times the minimum wage, or by imprisonment for a maximum period of two months".

Former Criminal Code of the Republic of Armenia, Article 118

"1. Deliberately destroying or damaging another's property, causing significant damage: shall be punished by a fine in the amount of fifty to one hundred times the minimum wage, or imprisonment for a maximum period of two months, or imprisonment for a maximum period of two years.
2. The same action which:
1) committed by means of arson, explosion or other public danger,
2) caused large-scale damage,
...
shall be punished by imprisonment for a maximum term of four years".

Former Criminal Code of RA, Article 185, Part 1, Part 2, Clauses 1, 2

From the evidence obtained during the preliminary investigation, it was found that on July 14, 2019, around 03:30, G.T. was in a taxi with an unknown driver and her acquaintance K.N. and they were going to the place called "Tetsi Krug" on Bagratunyats avenue in Yerevan city, from where K.N. was supposed to take money. A taxi stopped on the road, and K.N. got out of the car to take the money. During that time, a silver car parked on the left side of the taxi, and three men got out of the car. She was approached by A.S., and then the other two men shouted sexual insults at her and demanded that G.T. and the taxi driver get out of the taxi to avoid problems. After arguing for a few minutes, G.T. got out of the car and walked to the left side of the taxi. G.T. was in women's clothes. A.S. hit G.T. with his hands and feet, beat her, causing physical pain, and burned the 95 cm-long natural hair wig on her head with a lighter, causing large-scale property damage worth 1,970,000 AMD.

With the combination of evidence, the circumstances of A.S. beating transgender woman G.T., burning her wig, and causing property damage were substantiated, and the criminal case was sent to the court for examination on the merits.

During the court case, the investigation carried out with the participation of the lawyer once again confirmed the accusation, however, as a result of the change of judges, the case was transferred to the third judge, as a result of which the trial was prolonged.

Currently, the case is under trial. The regular court session was scheduled for January 2024.



TRANSGENDER WOMAN WAS ACCUSED OF FRAUD

Transgender woman H.T. applied to the organization and stated that as an accused, she needs judicial protection of her rights.

H.T. was accused of allegedly refusing to return gold jewelry that did not belong to her to the owner after bailing it out.

A criminal case was opened and H.T. was charged under Article 178, Part 2, Clause 2 of the former Criminal Code of the Republic of Armenia (fraud).



"1. Fraud - theft of significant amounts of someone else's property or acquiring rights to someone else's property by means of deception or abuse of trust: shall be punished by a fine in the amount of three hundred to five hundred times the minimum wage, or imprisonment for a maximum period of two months, or imprisonment for a maximum period of two years.
2. Fraud committed by:
...
2) in large sizes,...
shall be punished with a fine in the amount of five hundred to one thousand times the minimum wage, or imprisonment for a period of two to five years".

Former Criminal Code of the Republic of Armenia, Article 178, Part 2, Clause 2

H.T. informed the lawyer of the Organization that several persons who are engaged in gold trade were in commercial relations with her. At a certain time, H.T. took gold jewelry from the mentioned persons, pawned it in the bank, then took it out of the bank and returned it to the owners.

However, once again, on August 20, 2019, when she pledged the gold jewelry taken from S.G. at the branch of "Ardshinbank" CJSC, she transferred the money received for the pledge to her account. After the transaction, the bank employee asked H.T. to wait outside because the working hours were over. S.G. and his friends suspected that H.T. did not want to hand over the money or the gold jewelry to them, they called the police and reported that H.T. wanted to steal the gold jewelry and leave. H.T. also alerted the police from the bank and reported that S.G. and his friends were quarreling with her and wanted to take more money from her.

During the preliminary investigation, the investigator submitted a petition to the court regarding the detention of H.T., however, as a result of the work of the Organization's lawyer, the court rejected the petition for detention, and a restraining order related to non-deprivation of liberty was applied to her.

During the preliminary investigation, the lawyer also submitted a motion to stop the criminal prosecution against H.T., but this was rejected by the investigator and the case was sent to the court to examine the merits.

Currently, the case is being examined at the trial stage, the victims of the case have been questioned. The regular court session was scheduled for January 2024.

1 STRATEGIC LAWSUIT

K. A. AGAINST THE REPUBLIC OF ARMENIA (GENDER CHANGE IN PASSPORT)

On 30.10.2018, K. A. applied the Civil Acts Registration Services Kentron and Nork-Marash Department of the Ministry of Justice of the Republic of Armenia to amend the birth certificate.

On 17.12.2018 the application was rejected by Civil Acts Registration Services Kentron and Nork-Marash department with the drawn up conclusion.

In 2019, K.A. submitted a lawsuit to the Administrative Court of the Republic of Armenia against the Ministry of Justice of the Republic of Armenia, the Kentron and Nork-Marash Territorial Department of the Ministry of Justice of the Republic of Armenia, to obligate the adoption of an administrative act and to invalidate the decision to reject the adoption of the administrative act. The court rejected the claim, the appeal administrative court of RA left the verdict unchanged, and the cassation court refused to accept the cassation appeal.

On August 12, 2022, the lawyer of the organization filed a complaint with the European Court of Human Rights on behalf of K.A.



"1. "No one shall be subjected to torture, inhuman or degrading treatment or punishment."

RA Constitution, Article 26, Clause 1

"1. Everyone, in accordance with the law, has the right to healthcare."

RA Constitution, Article 85, Clause 1

In this case, CARS Kentron and Nork-Marash department, rejecting the application of K. A., referred to the decision of the Minister of Justice of the Republic of Armenia dated 14.05.2007 to the order, which stipulates that the CARS body refuses to make changes, amendments, and corrections in the registration of the act of civil residence if the submitted documents are incomplete, do not follow the requirements of the legislation of the Republic of Armenia or the request to make changes, amendments and corrections is not justified, the documents contain information inconsistencies

The relevant regulations, which according to the Kentron and Nork-Marash section of the CCA, were absent in the application, were defined by the former RA Law "On Civil Residence Acts" at the time of submitting the application⁴, according to Article 70 of which, "The conclusion of the CCA body on making corrections, additions or changes in the record of the Civil Residence Act is made in particular in the following cases, when...

⁴ In 2021, the new law "On Civil Residence Acts" was adopted, which entered into force on 16.05.2021. According to the current law, the procedure for making corrections, or additions, or changes in the deed registration of civil residence is defined in the presence of the grounds established by Article 668, where there is no indication of gender change, in contrast to previous legal regulations.

c) The medical organization issued a document of the prescribed form on gender change following the procedure established by the legislation of the Republic of Armenia.

That is, previously, if a person wanted to make a change in the record of the Civil Residence Act (change of record about gender), he/she should:

1. perform a sex change,

2. submit a sex change document issued by a medical organization following RA legislation.

In the case under discussion, in order for the KA to correct the "female" note in the gender column with the "male" note, he had to perform the listed actions, that is, perform a sex change and submit a sex change document issued by a medical organization in accordance with RA legislation.

The European Court of Human Rights, in its ruling in the case of A.P., Garson and Nicot v. France (applications 79885/12, 52471/13 and 52596/13, ECHR 121 (2017) 06.04.2017) addressed the mentioned issues, in particular, noting that the recognition of the sexual identity of transgender persons after undergoing medical interventions, which they did not want to carry out, means the denial of the full guarantee of the right to respect for private life. The court considered that changing a person's appearance, through sex reassignment surgery, sterilization or other medical interventions, leads to irreversible consequences and violates a person's physical integrity. The Court held that the respondent State had failed to fulfill its positive obligation to ensure the right to respect for private life. The court considers that there was a violation of Article 8 in this regard.

In addition, mandatory sterilization was criticized by the European Court of Human Rights in Y.Y. v. Turkey (application 14793/08) (and Soares de Melo v. Portugal (application 72850/14). Therefore, the state cannot force a person to undergo sex reassignment surgery, because it completely undermines the state's obligation to respect the privacy and freedom of everyone. Gender identity is part of a person's private life and a person should not have to choose between his physical and spiritual integrity and his gender identity. In addition, requiring proof of gender identity is humiliating and violates a person's dignity.

It should also be noted that there are no legal regulations in Armenia that define the norms and mechanisms for providing information about sex change by a medical organization.

On August 12, 2022, after exhausting all domestic courts, the Organization's lawyer filed a complaint against the Republic of Armenia at the European Court of Human Rights on behalf of K.A.

On 23.01.2023, the Right Side Human Rights Defender NGO received a notification from the European Court of Human Rights, according to which a corresponding number was given to the application of K.A. against the Republic of Armenia.

⁵ See <https://hudoc.echr.coe.int/spa#%7B%22itemid%22:%5B%22001-172913%22%5D%7D>

⁶ See <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22002-10569%22%5D%7D>

⁷ See <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-160938%22%5D%7D>

**LILIT MARTIROSYAN AGAINST REPUBLIC OF ARMENIA
(HATE SPEECH, INCITEMENT TO VIOLENCE, AND PUBLICATION OF PERSONAL DATA)**

Transgender woman Lilit Martirosyan, president of Right Side Human Rights Defender NGO, on April 5, 2019, gave a speech at the RA National Assembly in the parliamentary hearings on the "National Human Rights Agenda, Universal Periodic Review of the United Nations." After the speech at the RA National Assembly, many people targeted Lilit Martirosyan with hate speech and death threats, stating that she is a transgender person and has no right to speak at the RA National Assembly.

On 06.04.2019, Lilit Martirosyan submitted a report to the Yerevan City Center Department of the RA Police that after her speech at the RA National Assembly, the courier of the "SAS" supermarket illegally published on his Facebook page her residence address, which is considered personal information. In particular, the courier of the "SAS" supermarket, who delivered food to Lilit Martirosyan at her order, seeing that the customer was Lilit Martirosyan, published the latter's address on his personal Facebook page and also expressed his willingness to provide L. Martirosyan's phone number.

On the same day, L. Martirosyan submitted a report to the Yerevan City Center Department of the RA Police that she received threats of murder and violence from a staff member of the "Artsiv 30 Ararat Assassination" group, which was posted as a video. In particular, at 2.52 seconds of the video available to everyone on YouTube, the person making the threats threatens to "kill" her and urges the authorities not to make him a murderer.

On 16.04.2019, A. Oskanyan, the investigator of the Central Department of the RA Police, made a decision to reject the initiation of a criminal case with the materials.

The said decision was appealed to the Prosecutor's Office of Kentron and Nork-Marash administrative districts of Yerevan. According to the decision of the Prosecutor of Kentron and Nork-Marash administrative districts of Yerevan A. Afandyan dated 13.05.2019, the appeal was rejected. On 03.06.2019, a complaint was filed against the decision of the Prosecutor's Office to the Court of General Jurisdiction of the city of Yerevan. The complaint was rejected by the decision of the Yerevan Court of First Instance dated 09.09.2019. An appeal was filed against the decision of the Yerevan Court of First Instance of General Jurisdiction, which was again rejected by the decision of the RA Criminal Court of Appeals dated 08.11.2019. On 16.12.2019, a cassation complaint was submitted, which the RA Court of Cassation returned to L. Martirosyan on 17.01.2020 on the grounds that L. Martirosyan did not send a copy of the cassation complaint to the interested parties, the courier of the "SAS" supermarket Karapet Karapetyan and Yefrem Margaryan, a member of the crew called "Artsiv 30 Ararat Assassination".

On 23.01.2020, Lilit Martirosyan again submitted the cassation appeal, at the same time, noting that Yefrem Margaryan and Karapet Karapetyan, according to Article 6, Clause 31 of the RA Criminal Procedure Code, are not participants in the trial and Lilit Martirosyan in the cassation appeal. has no obligation to send the copy to them, but the copy of the cassation complaint was sent to the other participants of the trial according to the RA Criminal Procedure Code. On 28.02.2020, the RA Court of Cassation made a decision to leave the cassation appeal unexamined, noting that Lilit Martirosyan did not correct the deficiencies in the cassation appeal.

By not examining and not making a decision on L. Martirosyan's cassation appeal, the RA Court of Cassation violated a number of rights of L. Martirosyan, so an appeal was submitted to the European Court.



**"1. Everyone has the right to the protection of their data.
2. The processing of personal data must be done in good faith, for a purpose defined by law, with the consent of the person or without such consent, with the presence of another legal basis defined by law. ..."**

RA Constitution, Article 34, Clauses 1 and 2

In the complaint submitted to the European Court of Human Rights, it was argued that Articles 3, 6, 8, and 13 of the European Convention on Human Rights were violated.

The violation of Article 3 of the Convention is manifested in the threats of murder and violence against L. Martirosyan and in the fact that no investigation was carried out by the competent authorities in this regard. In particular, L. Martirosyan stated in her complaints to the investigation bodies and the courts that the death threats against her should also be considered in the context of torture, however, no investigation was conducted in that regard. Moreover, both the Court of First Instance and the Criminal Court of Appeal of the Republic of Armenia did not refer to that circumstance in any way in their decisions. In particular, we have noted that "the threat of torture to any person may amount to at least inhuman treatment" (see *Campbell and Cozans v. the United Kingdom*, applications 7511/76; 7743/76, § 26)⁸. and "in particular, the fear of physical torture may itself be considered mental torture. The qualification of whether a given threat of physical torture constitutes mental torture or inhuman or degrading treatment depends on the circumstances of the case, including, in particular, the severity of the pressure applied and the intensity of the mental suffering caused" (*Gefgen v. Germany*, application 22978/05, ECHR 2010)⁹. In such a case, L. Martirosyan's right to be free from torture was also violated, which was also demonstrated by the absolute refusal of state bodies and judicial bodies to examine this issue, in any way, no competent body addressed this issue and did not give any legal assessment.

The violation of Article 8 is manifested by the fact that L. Martirosyan, being deprived of effective legal protection, was unable to protect the right to respect her personal and family life. The national competent authorities did not take into account that the disclosure of L. Martirosyan's place of residence by the courier of the "SAS" supermarket violated Lilit Martirosyan's right to private life. The investigation bodies and the Criminal Courts of First Instance and appeals of RA noted that L. Martirosyan's registration address is publicly available information and its publication did not violate L. Martirosyan's rights, whereas L. Martirosyan complained that her actual residential address was published, which was not publicly available, no third party knew about it, and L. Martirosyan did not give permission for its publication, but no attention was paid to that circumstance. Moreover, even if the actual residence address of Lilit Martirosyan was publicly available to the public, even in that case, taking into account the circumstances of the case, the presence of hatred and death threats by certain members of society against L. Martirosyan, L. Martirosyan could expect her personal life, data protection, which was also mentioned by the European Court. "In the field of personal data protection, the fact that the information in question is already in the public domain does not necessarily deprive it of the protection provided for in Article 8" (*Satakunan Markinaporsi Oi and Satamedia Oi v. Finland*, application 931/13, § 134)¹⁰. Therefore, in the event that L. Martirosyan's actual residential address was not made public in any way, no person had the right to publish it without her consent. Therefore, in conjunction with Articles 6 and 13 of the Convention, Article 8 of the Convention was also violated.

⁸ See <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-57455%22%7D>

⁹ See <https://hudoc.echr.coe.int/tur#%7B%22itemid%22:%5B%22001-99015%22%7D>

¹⁰ See <https://hudoc.echr.coe.int/app/conversion/docx/pdf?library=ECHR&id=001-175121&filename=CASE%20OF%20SATAKUNNAN%20MARKKINAPORSI%20V.%20SATAMEDIA%20V.%20FINLAND.pdf&logEvent=False>

<https://hudoc.echr.coe.int/app/conversion/docx/pdf?library=ECHR&id=001-175121&filename=CASE%20OF%20SATAKUNNAN%20MARKKINAPORSI%20V.%20SATAMEDIA%20V.%20FINLAND.pdf&logEvent=False>

By leaving L. Martirosyan's cassation appeal unexamined, the RA Court of Cassation violated L. Martirosyan's right to an effective legal remedy, which is enshrined in Article 13 of the Convention. In particular, as a reason, the RA Court of Cassation stated that L. Martirosyan did not send a copy of the cassation complaint to the interested persons, and, as it was documented, they were not participants in the trial, because according to Article 6, Clause 31 of the RA Criminal Procedure Code: the participants in the trial are the prosecutor (accuser), the investigator, the investigative body, as well as the victim, the civil plaintiff, their legal representatives, the suspect, the accused, their legal representatives, the defense attorney, the civil defendant and their representative. Therefore, L. Martirosyan had no obligation to send a copy of the cassation complaint to any other person. The RA Court of Cassation, imposing an illegal obligation on L. Martirosyan, violated her right to an effective legal remedy and a fair trial by refusing to examine the grounds for accepting the cassation appeal.

The European Court has addressed the issue of judicial accessibility in several decisions, specifically stating: "The state can set certain conditions for exercising the right to appeal to the court, ...merely state-applied restrictions should not limit a person's right of access to a court in such a way or to such an extent that the very essence of that right is harmed. In addition, a restriction will not comply with Article 6 § 1 if it does not pursue a legitimate aim and if there is no reasonable relationship of proportionality between the means employed and the aim pursued" (Khalfau v. France, application 34791/97, 14/03/2000)¹¹, or "Restrictions cannot comply with the requirements of Article 6, Part 1 of the European Convention on Human Rights, if they do not pursue a legitimate aim or there is no causal connection between the means chosen and the pursued legitimate aim" (Marini v. Albania, application 3738/02, § 113)¹².

Therefore, the norm applied by the RA Court of Cassation not only did not comply with the law, and the RA criminal procedure, but also such application disproportionately limited L. Martirosyan's right to judicial access and therefore to a fair trial. The latter was subjected to a demand that did not derive from the RA Criminal Procedure Code, the fulfillment of which did not derive from her duties.

Simultaneously with the violation of Article 6 of the Convention, Article 13 of the Convention was also violated, because the illegal obligation imposed on Lilit Martirosyan by the RA Court of Cassation deprived her of an effective means of legal protection. The purpose of the rule of exhaustion of domestic remedies is to enable domestic authorities, particularly courts, to prevent or remedy alleged violations of the Convention. This is based on the presumption reflected in Article 13 that the domestic legal system must provide effective remedies for violations of Convention rights (Selmouni v. France, app. 25803/94, § 74¹³; Kudlan v. Poland, app. 25803/94, § 152)¹⁴.

Therefore, with the complaint submitted to the European Court, Lilit Martirosyan expects recognition of the violation of her rights by the European Court.

On 07.03.2023, Right Side Human Rights Defender NGO received a notice from the European Court of Human Rights, according to which a corresponding number was given to the application of Lilit Martirosyan against the Republic of Armenia.

¹¹ See <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-58374%22%7D>

¹² See <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-84061%22%7D>

¹³ See <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-58287%22%7D>

¹⁴ See <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-58920%22%7D>

SUMMARY

Summarizing the cases conducted by the legal department of the Organization during 2023, we should state that the offenses committed against Transgender LGBTIQ+ persons have not decreased compared to previous years and have not changed their nature, although the state policy has undergone certain changes, yet the problems have remained the same, and society's attitude is still intolerant and transphobic.

In Armenia, it is necessary to make certain legislative reforms to prevent violence against Transgender LGBTIQ+ people, as well as to make several vital services available to Transgender LGBTIQ+ people in a number of social and legal fields.

To this day, the intolerant and bad treatment of the police and investigative bodies towards Transgender LGBTIQ+ persons remains a problem, particularly in the police stations, they show inappropriate treatment towards the representatives of the community, ridicule, and do not allow them to exercise their rights.

Considering the low level of trust of LGBTIQ+ people towards the police, it is necessary to develop and implement educational programs among police officers that will increase the legal training of police officers. At the same time, bearing in mind that LGBTIQ+ persons are often mistreated in police departments, it is necessary to develop a sensitive attitude towards LGBTIQ+ persons among police officers through appropriate training.

Transgender LGBTIQ+ persons are also discriminated against in other state bodies and receive unequal conditions compared to other persons. It may refer to the receipt of services, rights-reserving documents, and other cases when the service provider unnecessarily delays the realization of the rights of Transgender LGBTIQ+ persons, which is guaranteed by law.

In the previous reports of the Organization, we have repeatedly referred to the problems of gender reassignment in Armenia. It is a fact that until now the gender change of a person is not regulated in any way in the Republic of Armenia, which leads to medical and legal problems arising from it. Transgender people face the issues of gender change and hormone therapy, and they are discriminated against because of both medical practice and lack of legal regulation.

Persons who undergo gender reassignment need medical supervision and treatment, which includes hormone therapy, and there is no clinical guideline for gender reassignment surgery and hormone therapy in the Republic of Armenia, therefore, there are no indications and regulations for surgical intervention and hormonal treatment. The list of hormonal medicines currently available in Armenia is limited and the modern medicines used in European countries are not registered and are not sold in Armenia.

Therefore, the RA Ministry of Health should develop clinical guidelines for gender reassignment surgery and hormone therapy for transsexual persons, as well as develop legislative regulations to facilitate the importation and consumption of RA hormonal medicines for transsexual persons.

It is necessary to ratify the Istanbul Convention, which is a comprehensive legal and normative basis for ending gender-based violence. The Venice Commission is of the opinion that there are no such provisions in that Convention, regarding which it can be said that they "contradict" the RA constitution. On the contrary, the main obligation of the Istanbul Convention, i.e. the prevention and fight against all forms of violence against women and domestic violence, already derives from the Constitution and other human rights treaties to which Armenia is a party. Therefore, the process of validating it should be completed.

+374 11 880 770
rightsidengo@gmail.com
www.rightsidengo.com

Social media



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RIGHT SIDE HUMAN RIGHTS DEFENDER NGO
Armenia, Yerevan

