



**From: Peace Dialogue NGO**

12/40 Myasnikyan Str. Vanadzor, 2002,  
Armenia. Tel. + 374 (93) 82 06 32; E-mail:  
ekhachatryan@peacedialogue.am

---

**Discussion on the HRD Strategic Action Plan**

**Recommendations on Revision of the Action Plan Deriving from the RA National Strategy for Human Rights Protection 2017-2019 by the Monitoring Group developed within the scope of Peace Dialogue NGO's initiative "Proactive Civil Society Participation in the Protection and Promotion of Human Rights in the Armenian Military Forces"**

**Recommendations for the articles 28, 29, 31, 34 in the Action Plan Deriving from the RA National Strategy for Human Rights Protection 2017-2019**

1. Article 28 of the "2017-2019 Action Plan deriving from the National Strategy for Human Rights Protection established by the RA Government Decree N 483-N on May 4, 2017, states that mechanisms for compulsory provision of medical examination reports to conscripts should be developed during the first quarter of 2018. As the expected outcome for the above-mentioned action, the Article states that the decisions concerning conscripts made by the medical and military medical commissions, as well as the medical examination reports by medical institutions shall be provided to the conscripts in an obligatory manner.

In response to the inquiry by Peace Dialogue NGO with the RA MoD note No.MOD/510-A2-292, as a mechanism for the mandatory provision of medical examination reports to conscripts, Article 15 Part 5 of the RA Law on "Military Service and the Status of Military Servicemen" and Appendix 1 of the RA Government Decision N 405-N of April 12, 2018 were cited.

We believe that as a mechanism for the mandatory provision of medical examination reports to conscripts, the legal acts presented by the RA MoD do not ensure the implementation of the RA Government Decision N 483-N of May 4, 2017, and therefore, may not be regarded as an adequate insurance of the expected outcome of the Government Decision. Particularly, in the Article 28 of the 2017-2019 Action Plan deriving from the National Strategy for Human Rights Protection established by the RA Government Decree N 483-N on May 4, 2017, the term "mandatory provision" has been used, which means that in the content of the legal act adopted as a result of the implementation of the stated actions, the provision of the medical examination reports to conscripts must be imposed in an imperative form and the provision of the act of medical conclusions must be of mandatory nature. The analysis of the formulation of the above-mentioned Government Decision envisages the adoption of such a legal act which will define the provision of medical examination reports to the conscripts as a mandatory condition independent of the addressee's requirement of obtaining the conclusion.

Meanwhile, Article 17 Part 5 of the RA Law on “Military Service and the Status of Military Servicemen” and Appendix 1 of the RA Government Decision N 405-N of April 12, 2018 do not define the provision of medical examination reports as mandatory.

After receiving the response from the MoD, the issue has been partially settled (but only in terms of conclusions) by the provisions of Article 26 Part 4 and Article 28 Part 4 of the Procedure of Compulsory Conscription for Ordinary Military Staff established by the RA Government Decision N 1132-N on 4 October 2018.

**We suggest**

- **Formulating the provision of medical examination reports to conscripts in the Article 17 Part 5 of the RA Law on “Military Service and the Status of Military Servicemen” and Appendix 1 of the RA Government Decision N 405-N of April 12, 2018 as mandatory.**
  - **Making an addition to Article 26 Part 4 and Article 28 Part 4 of the RA Government Decision N 1132-N. On the Procedure of Conscription for Mandatory Military Service for the Ordinary Military Staff adopted on October 4 2018, which will define regulations for the provision of decisions to conscripts by the regional (Yerevan City) Recruitment Committee.**
  - **We also consider that in order to avoid possible problems, it is necessary to define the way of providing the documents by legal acts (directly, by post, by e-mail, or other).**
2. Article 29 of the Action Plan states that during the first quarter of 2018 a reasonable timeframe will be set for the provision of documents to persons with early retirement from the military due to health problems. As an expected outcome to the aforementioned action, it has been stated that a reasonable timeframe has been defined for the realization of the rights of persons discharged from the military due to health problems, which properly reveals the reasons for early discharge from the military.

In response to Peace Dialogue NGO’s inquiry, Article 29 Part 3 of the RA Law of “Military Service and the Status of Military Servicemen” and Appendix 1 of the RA Government Decision N 405-N of April 12, 2018 have been cited by the RA MoD in their note N ՊՆ/510-Ս.2-292 of April 20, 2018 as legal acts which define the reasonable timeframe for the provision of documents to military servicemen who have been discharged from the military due to health problems. However, Article 29 Part 3 of the RA Law of “Military Service and the Status of Military Servicemen” and Appendix 1 of the RA Government Decision N 405-N of April 12, 2018, which have been cited as legal acts which define the reasonable timeframe for the provision of documents to military servicemen who have been discharged from the military due to health problems, do not contain any provisions concerning the timeframe for the provision of the documents to persons who have been prematurely discharged from the military due to health problems.

- **We suggest that a clear timeframe be set for the provision of the documents to persons who have been prematurely discharged from the military due to health problems in the Article 29 Part 3 of the RA Law of “Military Service and the Status of Military Servicemen” and/or Appendix 1 of the RA Government Decision N 405-N of April 12, 2018. Moreover, the provision timeframe must be the shortest possible (not**

exceeding 7 days) so that the citizens have enough time to study the documents and file a complaint properly if needed.

- Besides, it is necessary to define by a legal act the way of submission of documents by the legal act (directly, by post, by e-mail, or other).
  - We also think that instead of obtaining the necessary document the law should state the provision of *copies* of the documents.
3. As per Article 31 of the 2017-2019 Action Plan deriving from the National Strategy for Human Rights Protection, the following has been defined as an action to be implemented in the first quarter of 2018: "Provide mechanisms for informing the conscripts about their rights and the protection of their rights by developing a procedure for issuing a leaflet clarifying the rights of conscription deferment, exemption from military service, serving close to the place of residence, and other rights of the conscripts alongside the conscription notice. Raising the awareness of conscripts on their rights has been set as the expected outcome of the aforementioned action.

In response to Peace Dialogue NGO's inquiry, the RA MoD stated in their note NՊՆ/510-ԱԴ-292 of 20 April, 2018 that the rights and responsibilities of conscripts are defined by law; the procedures have been provisioned by the "Procedure for Conscription for Military Service"; the draft decision for the establishment of the aforementioned Procedure is already ready and will be presented to the RA Government in the near future. On 4 October, 2018 the RA Government made the decision N 1132-N on establishing the Procedure for Conscription for Military Service.

We think that the RA Government Decision N 1132-N of 4 October, 2018 should not be considered a legal act ensuring the proper implementation of the action provisioned by Article 31 of the 2017-2019 Action Plan deriving from the National Strategy for Human Rights Protection because

- **The aforementioned decision defines a procedure of informing the conscripts about only a few of their rights. The decision does not even set regulations for the provision of information on some of the rights mentioned in the Article 31 of the 2017-2019 Action Plan deriving from the National Strategy for Human Rights Protection;**
- **No mechanisms for raising the awareness of conscripts about their rights are available in the RA Government Decision;**
- **The regulations for the notification procedures set in the RA Government Decision N 1132-N are not imperative and clear. Besides, according to the content of the aforementioned Decision, the notification procedure is implemented only in case of exercising the right prescribed by law. The aforementioned formulation implies that the provision of notification leaflets to the conscripts in accordance with the Forms N6 and N6.1 established by the RA Government Decision is conditioned to some circumstances and the mentioned notifications are not provided in all cases. Such an approach does not correspond to the Article 31 of the 2017-2019 Action Plan deriving from the National Strategy for Human Rights Protection which does not relate the mechanisms of notifying military servicemen about their rights and the protection of their rights to any precondition.**

**Moreover, the condition defined in Article 21 of the RA Government Decision N 1132-N of 4 October, 2018 is vague and arbitrary. It is unclear which criteria or which legal procedures will the military commissar base his decision of granting the opportunity of exercising their legal rights to selected conscripts.**

- **The Form N6 established by the RA Government Decision, which defines the procedures for the right of exclusion from combat duty, does not include any note on the provisions referring directly to the conscripts, which states that they may not be engaged in combat duty or military operations. The aforementioned statement is defined in the last sentence of Article 26 Part 2 of the RA Law on “Military Service and the Status of Military Servicemen”.**
4. Article 34 of the Action Plan defines the mandatory provision of a notification for each legal act (fines and other) concerning conscripts, military servicemen, and persons equated with them and the provision of one copy to the conscripts or their family members, as well as the development of mechanisms for raising the awareness on their appeal as an action to be implemented in the third quarter of 2018. It has been set as the expected outcome of the aforementioned action that the necessary grounds have been created for raising the awareness of conscripts, military servicemen, and persons equated with them about decisions made on them, as well as mechanisms have been set up to appeal these decisions.

In response to Peace Dialogue’s inquiry, the RA MoD has stated in their note N ՊN/510-U2-914 of 25 October, 2018 that a process of revision and amendment in the RA Law of “Disciplinary Code of the RA Armed Forces” is envisaged for 2019, within the scope of which the norms for notification of encouragement/promotions and disciplinary sanctions exercised on military servicemen and their application acts will be clearly defined in the legislation. Likewise, the provisions of Article 47 defining the procedure of appeal against the disciplinary sanctions mentioned in this Law will be presented in a more articulated form.

In the Note of the RA MoD Article 17 Part 5 of the RA Law on “Military Service and the Status of Military Servicemen” has been cited according to which citizens have the right to get acquainted with the health status and medical examination process and obtain the resulting medical conclusions and other documents, to submit suggestions, explanations, or objections, to appeal against the conclusion on their health condition in a manner prescribed by the mentioned law and other laws.

**The formulation of the legal norm makes it clear that the provision of the medical examination conclusion report is not defined as a mandatory condition.** In the cited legal norm, obtaining the medical examination conclusion report is defined as the citizens’ right, which means that the Legislative Body has linked the obtainment of medical examination reports with the implementation of the citizens’ rights. It may be concluded from the formulation used by the Legislative Body that in case the citizen does not exercise their right or take steps for obtaining the medical conclusion report, the report will not be provided to them.

Such a legal regulation contradicts the logic of the RA Government Decision N 483-N of 4 May, 2017 according to which the provision of notifications and a copy of all legal acts concerning conscripts, military servicemen, and people equated with them are considered a compulsory condition irrespective of the actions of the legal addressee.

The other legal norm cited in the RA MoD's response was the Article 25 Part 12 of the RA Law on "Military Service and the Status of Military Servicemen".

The regulations of the Article 25 Part 12 of the RA Law on "Military Service and the Status of Military Servicemen" refer to the appeal against the legal acts, yet the mentioned Article does not include provisions for raising the awareness on the mechanisms of appeal against legal acts.

Besides, as an expected outcome of the aforementioned action, it has been defined that mechanisms for appealing against the decisions should be developed for conscripts, military servicemen, and persons equated with them, but the regulations of Article 25 Part 12 of the RA Law on "Military Service and the Status of Military Servicemen" refer to a limited number of persons:

- **citizens subject to ordinary military conscription;**
- **citizens subject to military conscription as reserve officers.**

Therefore, in terms of subjects, the regulations of Article 25 Part 12 of the RA Law on "Military Service and the Status of Military Servicemen" do not provide the outcomes of the mentioned actions.

The other legal norm cited in the RA MoD's notes the Article 29 Part 3 of the RA Law on "Military Service and the Status of Military Servicemen" which states that according to Part one of the same Article, the military servicemen of sergeants and officers get discharged from the military in a manner prescribed by the order of the RA Minister of Defense. In case of premature discharge from the military due to health problems, the military servicemen are provided with the available documents on their health condition.

**The mentioned law does not define any timeframe for the provision of documents; therefore, such a legal regulation contradicts the logic of the RA Government Decision N 483-N of 4 May 2017 according to which clear regulations must be defined by the established legal act for the provision of the documentation to military servicemen who have been prematurely discharged from the military due to health problems within reasonable timeframes.**

The other legal norm cited in the RA MoD's note is the Article 36 Part 4 of the examination procedure defined by the RA Government Decision N 405-N of 12 April, 2018. According to the Article 36 Part 4 of the health condition and medical examination procedure defined by the RA Government Decision N 405-N of 12 April, 2018, the medical institution shall provide the citizens or their legal representatives with information on their health condition, the results of medical examinations, the diagnoses and methods of treatment, the risks related to them, possible ways of medical intervention, consequences, and the results of the treatment.

**In the aforementioned provision of the Government Decision, the term "information" is used and the mode of information to be provided is not clarified in any way. Particularly, it is not stated whether the information should be provided in oral, written, electronic or another form. Likewise, the way of providing the information (by mail, directly, or other) and the timeframe for the provision of the information are not defined.**

After receiving the response note from the RA MoD, the issue has been partially settled (but only in terms of conclusions) by the provisions of Article 26 Part 4 and Article 28 Part 4 of the Order of Compulsory Conscription for Ordinary Military Staff established by the RA Government Decision N 1132-N on 4 October 2018.

We think that it is necessary to develop such general legal regulation that will refer equally to conscripts, military servicemen, and persons equated with them and in terms of object regulation will include all types of acts referring to all the aforementioned subjects rather than being directed to the regulation of a particular case or situation.

Concerning the mandatory provision of notifications on all the legal acts referring to conscripts, military servicemen, and persons equated with them, it is also necessary to set such legal regulations which will be general in terms of both subjects and objects of regulation, will refer to all cases and all the aforementioned subjects. In the formulations of the legal act concerning the mandatory notification on the legal act, it is recommended to be guided by the **regulations of Article 59 of the RA Law on “Administrative Principles and Administrative Proceedings”**.

#### **Other observations:**

Article 34 of the 2017-2019 Action Plan deriving from the National Strategy for Human Rights Protection established by the RA Government Decree N 483-N on May 4, 2017 defines the mandatory provision of a notification for each legal act (fines and other) concerning conscripts, military servicemen, and persons equated with them and the provision of one copy to the conscripts or their family members.

**Such a formulation is unacceptable since the mentioned provision refers to a military serviceman, who is an adult and exercises his/her right independently. The legal acts established for adults may be provided to other persons only if the mentioned person is the legal representative authorized by a military serviceman; whereas the provision of the legal act to a family member may result in a violation of the rights of the serviceman since the mentioned legal act may contain personal information, information not subject to publication, or for some reasons, the provision of the document to another person is not acceptable for the military serviceman.**

**Regarding the requirements of Article 17 Part 5 of the RA Law on “Military Service and the Status of Military Servicemen” and Appendix 1 of the RA Government Decision N 405-N of April 12, 2018, it should be mentioned that the relations connected with exercising the right of obtaining medical examination conclusion records are also not satisfactorily regulated. Particularly, the order and timeframes for the application of citizens are not defined clearly. Likewise, the timeframe for the provision of the conclusion to citizens is not set.**

5. Besides the recommendations on specific points, we also consider necessary the inclusion of mechanisms for sectoral monitoring by the civil society in the 2017-2019 Action Plan deriving from the National Strategy for Human Rights Protection. For example, in order to evaluate the efficiency of the envisaged actions, it will be necessary to meet and talk to the groups whose rights are protected by the Articles. By means of this type of interviews, it will be possible to access the compliance with the adopted legal acts. The availability of such mechanisms is necessary especially for the monitoring of provisions which aim to improve human rights protection in semi-closed and closed institutions.

Regards,

The Monitoring Group for the Activities of RA Armed Forces in the Frames of the 2017-2019 Action Plan deriving from the National Strategy for Human Rights Protection

**(Monitoring Group for the RA AF HRAP)**

- Edgar Khachatryan – Peace Dialogue NGO,
- Ani Sargsyan – “Asparez” journalists’ club NGO branch, Kapan Youth Civic Center,
- Anush Hakobyan – Transparency International Armenia Anticorruption Center,
- Eduard Danielyan – Socioscope NGO,
- Mane Grigoryan – Peace Dialogue NGO,
- Shahane Khachatryan – Independent Journalists Network NGO,
- Zhanna Aleksanyan – Journalists for Human Rights NGO,
- Artur Sukiasyan – lawyer,
- Diana Ter-Stepanyan – Transparency International Armenia Anticorruption Center

01 November, 2018.