

**The State of Economic, Social and Cultural Rights in Armenia: A Joint Civil  
Society Report on Economic, Social and Cultural Rights**

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**Eurasia Partnership Foundation**

**Disability Rights Agenda NGO**

**Law Development and Protection Foundation**

**Human Rights Research Center NGO**

**Child Protection Network**

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## **Executive summary:**

This Alternative Report was developed jointly by a number of non-governmental organizations in response to the 4<sup>th</sup> Armenian periodic report. The purpose of this report is to provide supplementary/additional information and a comprehensive understanding of the status of fulfillment of obligations by Armenia as regards the International Covenant on Economic, Social and Cultural Rights (hereinafter: Covenant).

During the reporting period, no significant progress was registered in Armenia regarding Articles 2, 6, 7, 12 and 13 of the Covenant, and positive trends towards the effective implementation of the mentioned rights remained invisible.

After the Constitutional amendments of 2015, there was a regression as regards a number of constitutional guarantees for economic, social and cultural rights, and their protection regime was weakened. Some of these rights are no longer enshrined in the list of human rights and some have been removed from the text of the Constitution. With the above-mentioned changes, both individuals and the Human Rights Defender were deprived of the mechanism to challenge the constitutionality (Article 2) of economic, social and cultural rights.

A ban on discrimination on certain grounds is stipulated by the Constitution of the Republic of Armenia and a number of legislative acts. However, there is no separate law on the elimination of discrimination. In order to regulate all issues related to discrimination, a new law on “Ensuring Equality” should be adopted.

There are also gaps in the Labor Code regarding discrimination (the whole concept of discrimination is not set out in the Labor Code); Armenian legislation fails to provide a procedure for distribution of burden of proof in favor of the claimant under all cases regarding discrimination in employment relations, nor does it provide for a fully-fledged system of compensation for cases of discrimination in employment relations (Article 6). Securing effective enjoyment of the right to work for persons with disabilities is problematic. In particular, there are issues related to the inefficiency/ineffectiveness of the Government programs to hire persons with disabilities, the cessation/suspension of state employment programs, and there are difficulties associated with job-seeking platforms (Article 6).

In order to implement the legislation on the right to just/fair and favorable working conditions in Armenia, it is necessary to ensure the effectiveness of labor inspection (Article 7). Although some documents have been adopted, there is still a need to develop relevant policies and tools for conducting inspections by the competent body.

The improvement of environmental legislation is important for the implementation of legislation related to the right to health. Prior to the recent changes and amendments to the Law on Protection of Ambient Air (2022), the legal regulation of ambient air in Armenia was based on the legislation of 1994. The Law is not implemented in practice. According to the data of international organizations (WHO), the air quality in Armenia is considered moderately unsafe (Article 12).

There are still difficulties related to the effective enjoyment of the right to education. In particular, there is poor implementation of the Government decision on identifying children excluded from compulsory education, and education is not fully accessible for children of ethnic minorities, as well as children with disabilities. Children of ethnic minorities are deprived of the opportunity to exercise their right to education due to various reasons (incomplete secondary education, early

marriages, etc.), there is a lack of fully accessible schools, and absence of progress in the inclusion of blind, deaf-blind, deaf or hard-of-hearing students in public education. There is also lack of educational interpreters for Armenian sign language and lack of reasonable accommodation for university and college students with disabilities, etc, (Art.13).

## ARTICLE 2.

### Overview:

1. After the constitutional reforms, there has been a regress in terms of a number of constitutional human rights guarantees. Some of these rights are no longer enshrined in the list of human rights and some have been removed from the text of the Constitution. Through the above-mentioned changes, individuals and the Human Rights Defender were deprived of the mechanism to challenge the constitutionality of economic, social and cultural rights.
2. The ban on discrimination is stipulated by the Constitution of the Republic of Armenia and a number of legislative acts. However, there is no separate law on the elimination of discrimination. In order to regulate all issues related to discrimination, a new law on “Ensuring Equality” should be adopted.

### Issues:

3. Regress in terms of constitutional guarantees: As a result of the 2015 Constitutional amendments<sup>1</sup>, there has been a regress in terms of a number of constitutional guarantees for economic, social and cultural rights, and their protection regime has been weakened. The following rights – to social security, health, decent living, minimum wage, adequate working conditions and housing and the right to participate in cultural life – are no longer enshrined in the list of human rights which can be directly applicable. Additionally, a number of rights, including the right to an adequate standard of living, including the rights to the improvement of living conditions, access to scientific achievements, and the right to live in a healthy environment, were removed from the text of the Constitution altogether. Thus, these rights do not have direct applicable effect. The principles of proportionality, legal certainty and inviolability of the essence of basic rights do not apply to these rights. Moreover, with the above-mentioned changes, individuals and the Human Rights Defender were deprived of the mechanism of challenging the constitutionality (through applying to the Constitutional Court) of legal acts in relation to the economic, social and cultural rights which were left out of the section on “basic human rights” stipulated by the Constitution<sup>2</sup>.
4. Likewise, there has been a regression in terms of constitutional guarantees for the protection of environmental rights. The right of everyone to live in an environment conducive to their health and well-being, and the obligation to protect and improve the environment individually and in association with others, were also removed.
5. Within the scope of the List of issues proposed with respect to the Fourth Periodic Report submitted by Armenia, once again, the Committee on Economic, Social and Cultural Rights

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<sup>1</sup> Constitution of the Republic of Armenia, 2015, <https://www.president.am/en/constitution-2015/>

<sup>2</sup> Human Rights Research Centre, “Review and Improvement of Human Rights and Freedom Guarantees Enshrined in the Constitution of the Republic of Armenia”, 2021, available in Armenian at [https://www.rightsresearch.net/files/ugd/fla9eb\\_be91ea375c7948e190d80df59d1a5cdc.pdf](https://www.rightsresearch.net/files/ugd/fla9eb_be91ea375c7948e190d80df59d1a5cdc.pdf). Summary in English is available at [https://www.rightsresearch.net/files/ugd/fla9eb\\_5814c14ab8ca4c5682f43c9597c3de07.pdf?index=true](https://www.rightsresearch.net/files/ugd/fla9eb_5814c14ab8ca4c5682f43c9597c3de07.pdf?index=true)

highlighted the need to clarify in the country's Constitution the status of the rights in the Covenant<sup>3</sup>.

### The urgent need to adopt a Law on Discrimination:

6. The prohibition of discrimination is stipulated by the Constitution of the Republic of Armenia and a number of legislative acts, such as the Labor Code, Law on Education, Criminal Code, etc. However, there is no law defining the concept of discrimination, types of discrimination and protected grounds, hence the right of an individual to be free from discrimination is not yet secured in practice, and current legislation does not provide effective means for legal defense, nor does it provide mechanisms for effective protection against discrimination.

7. On July 15, 2019, the Government circulated a new version of the draft Law on Ensuring Equality<sup>4</sup>, which did not fully correspond to international standards<sup>5</sup> and would not be able to adequately protect the victims of discrimination. OSCE/ODIHR has provided a Final Opinion on the draft Law, highlighted concerns and suggested potential improvements. The Equality Body envisaged to be established under the draft Law will be ineffective as it does not provide a mandate to investigate cases of discrimination in the private sector, nor does it provide legal guarantees to ensure the implementation of its decisions. The list of protected grounds in the draft Law is incomplete: it does not include health status, family or marital status, place of residence, economic status, sexual orientation, and gender identity. The adoption of the draft Law has been postponed many times in recent years. According to the 2023-2025 Human Rights Action Plan, the draft Law is planned to be further amended and presented to the National Assembly by the end of 2024.

### **Recommendations:**

- Improve the legislative framework and Constitutional guarantees for economic, social and cultural rights, as well as for environmental rights,
- Recognize the right to a clean, healthy and sustainable environment on the constitutional level<sup>6</sup>,
- Adopt the Law on Ensuring Equality, ensuring that it provides that NGOs are entitled to bring cases on behalf or in support of an alleged victim of discrimination,

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<sup>3</sup> List of issues in relation to the fourth periodic report of Armenia/Committee on Economic, Social and Cultural Rights/ E/C.12/ARM/Q/4, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2FC.12%2FARM%2FQ%2F4&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2FC.12%2FARM%2FQ%2F4&Lang=en)

<sup>4</sup> Draft Law on Ensuring Equality, July 15, 2019 <https://www.e-draft.am/projects/1801/about>

<sup>5</sup> European Convention of Human Rights and precedents of the European Court of Human Rights

<sup>6</sup> This fundamental human right is now recognized in law by more than 80 per cent (156 out of 193) of States Members of the United Nations. According to the recommendations in the Second Environmental Performance Review of Armenia, the Economic Commission for Europe Committee on Environmental Policy advocated promoting the inclusion of strong wording on the right to a safe, clean, healthy and sustainable environment in the drafting of the revised constitution to be put before the people of Armenia in a referendum.

[https://unece.org/sites/default/files/2022-09/CEP-SS\\_InfoPaperNo.15\\_e.pdf](https://unece.org/sites/default/files/2022-09/CEP-SS_InfoPaperNo.15_e.pdf)

- Establish an independent and autonomous Equality Body - in line with Council of Europe European Commission against Racism and Intolerance (ECRI) recommendations and best international practices - members of which should be elected by the Parliament and be accountable to it. Equip the autonomous Equality Body with sufficient human, financial, and technical resources,
- Ensure the Equality Body has a mandate to: examine complaints against governmental bodies as well as private organizations and individuals, including ex officio procedures, impose administrative liability/penalties, implement conciliation, appear as amicus curiae, file lawsuits in court for protecting the public interest (actio popularis), implement legal mechanisms for obtaining enforcement of its decisions, undertake monitoring and provide legal assistance,
- Provide comprehensive compensation mechanisms and specific procedures as regards the burden of proof (respondents should prove that no discrimination has taken place) in cases of discrimination,
- Include additional protected characteristics, specifically referring to health status, family or marital status, place of residence, economic status, sexual orientation, and gender identity.

## ARTICLE 6.

### Overview:

8. Legislation on prohibition of discrimination at work: In December 2019, amendments and supplements were made to the Labor Code of the Republic of Armenia<sup>7</sup>. Although a new article on the prohibition of discrimination (Article 3.1) has been added to the Labor Code, however it fails to fully address the scope of the positive obligations of the State arising from the Covenant. In particular, the Labor Code does not include the definition of indirect discrimination, does not explicitly prohibit manifestation of discrimination when hiring and does not provide a comprehensive compensation system for discrimination cases.

9. Right to work of persons with disabilities: As per an official communication from the Ministry of Labor and Social Affairs, during the period from 2020 to the first half of 2023, a total of 3096 individuals<sup>8</sup> were successfully employed through the annual employment programs. According to the official information provided by the Ministry, only 222<sup>9</sup> persons with disabilities have found jobs in the last three years. According to the Labor Market indicators as of June 2023, 1969 (3.1% of the total number of jobseekers are persons with disabilities, of which 769 are women (1.9% of the total number of female jobseekers) and 1200 are men (5% of the total number of male jobseekers)<sup>10</sup>. The main reasons for this are the ineffectiveness of Government employment programs and difficulties experienced with job-seeking platforms.

<sup>7</sup> Labor Code, 2004 <https://www.irtek.am/views/act.aspx?aid=150003>

<sup>8</sup> This is a total number which includes everyone who were employed through the programs

<sup>9</sup> Official response of the Ministry of Labour and Social Affairs to the Disability Rights Agenda NGO, 21 July, 2023

<sup>10</sup> Labor Market indicators, 2023, [https://armstat.am/file/article/sv\\_06\\_23a\\_141.pdf](https://armstat.am/file/article/sv_06_23a_141.pdf)



## Issues:

10. Prohibition of discrimination<sup>11</sup>: The Labor Code of the Republic of Armenia and the legislation of the Republic of Armenia do not envisage a specific and comprehensive definition and prohibition of indirect discrimination that would cover all aspects of employment relations and areas of employment. In addition, the prohibition of potential discrimination when hiring is also not fully prescribed by the Labor Code of the Republic of Armenia. Setting discriminatory conditions is only prohibited in job announcements, but discrimination may be manifested in a wide variety of ways when hiring. The prohibition of discrimination is defined as a display of less favorable treatment or as the prohibition of recognition and/or exercise of any right prescribed by the labor legislation on the basis of equality grounds, while additional employment rights, conditions and guarantees as set out in collective and individual employment contracts and internal legal acts are not within the scope of this prohibition. Consequently, the definition of discrimination is also incomplete from the perspective of the scope of rights included therein.

11. Lack of specific procedure for burden of proof: A procedure for distribution of burden of proof in favor of the claimant under all cases regarding discrimination in employment relations is not provided for by Armenian legislation. According to the Civil Procedure Code of the Republic of Armenia, the employer (respondent) shall bear responsibility to prove the relevant facts during change or termination of an employment contract or during examination of personal labor disputes with respect to subjecting an employee to disciplinary liability. Meanwhile, in all other cases of discrimination in employment relations (i.e. remuneration (set when signing the contract), promotion, training, use of incentive measures and in other fields), a specific procedure for distribution of burden of proof is not established, each party to the case has to prove the facts they have submitted.

12. Lack of a fully-fledged compensation system: Legislation does not provide a comprehensive compensation system for all cases of discrimination in the workplace. According to the Revised European Social Charter, a compensation system for all cases of discrimination must be proportionate to the damage suffered by the victim of discrimination and be of a sufficient to act as a deterrent to the employer. The Labor Code stipulates compensation for discrimination only in cases of termination of the labor contract and changes of working conditions, while in other cases of discrimination in the workplace (for instance, promotion, benefits, etc.), compensation cannot be sought<sup>12</sup>.

13. Discrimination in employment relations may be manifested in a number of other ways not linked to the termination of the employment contract, in which case the possibility of compensation for non-pecuniary damages is not prescribed by Armenian legislation. Besides, in cases of unlawful dismissal from work, a maximum threshold is envisaged for the prescribed compensation (no more than an amount equivalent to twelve times the average salary); what is also problematic

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<sup>11</sup> Research on labor relations and legislation: problems and solutions, Yerevan, 2021. Law Development and Protection Foundation, available in Armenian at <https://hcav.am/wp-content/uploads/2021/11/Այխստանըսային-իրավունք-հետազոտություն-ԻԶՊՀ-.pdf>

<sup>12</sup> Article 265(2) of the Labor Code regulates the provision of compensation to employees. It stipulates that in cases when the working conditions have been changed, or the working relationship with the employee has been terminated without due legal grounds or in violation of the requirements established by the legislation of the Republic of Armenia, then the violated rights of the employee shall be restored. In these cases, the average salary for the entire period of forced layoff, or the difference in salary for the period during which the employee performed work at reduced pay for the given employer, is charged to the employer.

is that this compensation only applies in cases where it is impossible to reinstate the employee in the position.

14. Lack of provisions regarding child labor in the informal economy: The provisions of the Labor Code only apply to the employment relations of children engaged in the formal economy. Taking into account the fact that there is a large number of children working in the informal economy, it is necessary to undertake adequate measures to ensure that children who are not in lawful employment relations enjoy all the prescribed guarantees and protection. It is necessary to expand the powers of the Health and Labor Inspection Body of the Republic of Armenia to conduct oversight within the informal economy as well and reveal the cases of child labor in the informal economy.

15. Inadequate Government programs for hiring persons with disabilities: In 2021, the Government of Armenia initiated a program to assist employers interested in hiring individuals who had acquired disabilities due to military operations<sup>13</sup>. The support offered was in the form of income tax deductions based on the employee's salary, which could amount to 100,000 drams per quarter. Additionally, a lump sum of up to 500,000 drams was available for reasonable accommodations if needed. A total of 463 individuals with disabilities and 375 employers sought advice with the intention of participating in the program. Despite the program's potential, it ultimately only facilitated 1 employer in hiring an individual who had acquired disabilities due to military operations. There is a mandatory requirement for employers to announce job opportunities through the Unified Social Services (USS)<sup>14</sup> if they want to be beneficiaries of the government support programs. Consequently, employees with disabilities must also seek employment through the USS to be eligible for program support. This restriction means that employers who hire individuals with disabilities outside the USS system will not receive any assistance or support from the program.

16. Cessation of state employment programs: Between 2021 and 2022, there was a systemic cessation of state employment programs<sup>15</sup>, purportedly for the purpose of evaluating their efficacy by the Government. For a long period, no new programs were introduced to replace the cancelled programs, which constituted a breach of the state's obligation under article 6 of the Covenant to promote equal employment opportunities for persons with disabilities. According to the observation of the Committee of Experts on the Application of Conventions and Recommendations<sup>16</sup>, "the Committee requests the Government of Armenia to continue to provide detailed updated information, including statistical data disaggregated by sex, age and region, on the nature, scope and impact of the measures and programmes implemented to promote the

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<sup>13</sup>Government of Armenia Decision N 460-L, April 1, 2021: "On approving the regulation of provision of state compensation to the employer in the case of employment of ex-servicemen (or those having equal status) who have received an injury as a result of military operations and are recognized as persons with disabilities"

<sup>14</sup> Unified Social Service; <https://socservice.am>

<sup>15</sup> "Several employment assistance programs are no longer in operation", "Zhoghovurd" daily, information verified by Disability Rights Agenda NGO, available in Armenian: [armlur.am/1221256](http://armlur.am/1221256)

<sup>16</sup> Observation of the Committee of Experts on the Application of Conventions and Recommendations, 2023, Employment Policy Convention - [https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID,P13100\\_COUNTRY\\_ID:4318054,102540:NO](https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P13100_COUNTRY_ID:4318054,102540:NO), adopted in 2022 and published during 111st ILC session (2023)

employment of groups vulnerable to decent work deficits, including persons with disabilities and persons vulnerable to intersectional discrimination”<sup>17</sup>.

17. In 2021, the Ministry of Labor and Social Affairs rolled out the joint job search engine “Jobs without Borders.”<sup>18</sup> Despite its promise, the platform has not been entirely successful in bridging the employment gap for individuals with disabilities due to its non-compliance with web content accessibility guidelines.<sup>19</sup> Furthermore, the platform’s inability to ensure a fully digital employment process mandates physical visits to USS centers, thereby presenting an additional hurdle for job-seekers with disabilities.

### **Recommendations:**

- Define, by law, the concept of indirect discrimination and the potential ways of its manifestation, as well as provide for complete prohibition of discrimination during the hiring process,
- Establish a procedure for distribution of burden of proof in favor of the claimant in all cases regarding discrimination in employment relations,
- Establish a mechanism for full compensation in all cases of discrimination in employment relations, without setting the maximum threshold for compensation,
- Expand the powers of the Health and Labor Inspection Body of the Republic of Armenia to conduct oversight within both the formal and the informal economy, in order to fully ensure guarantees for protection of the rights of the child,
- Introduce new employment programs and affirmative actions designed according to universal design principles to promote the employment of persons with disabilities, both in the public and private sectors,
- Eliminate formal restrictions (including, but not limited to, those established by USS) to ensure the effective functioning of job-seeking platforms, in order to guarantee complete accessibility for persons with disabilities.

## **ARTICLE 7.**

### **Overview:**

18. In order to implement the legislation on the right to just and favorable conditions of work in Armenia, it is necessary to ensure the effectiveness of labor inspection. Although the methodology and criteria for determining risk-based inspections were adopted, there is still a need to develop relevant policies for conducting inspections by the competent body.

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<sup>17</sup> Observation of the Committee of Experts on the Application of Conventions and Recommendations, 2023, Employment Policy Convention - [https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID,P13100\\_COUNTRY\\_ID:4318054,102540:NO](https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P13100_COUNTRY_ID:4318054,102540:NO)

<sup>18</sup> A platform of the Ministry of Labour and Social Affairs for job seekers and employers, [workforall.am](http://workforall.am)

<sup>19</sup> “Web Content Accessibility Guidelines” (WCAG) 2.1 - W3C Recommendation 05 June 2018 <https://www.w3.org/TR/WCAG21/>

## Issues:

19. Lack of proper oversight by the inspection body: The body responsible for ensuring working conditions and occupational safety is the Health and Labour Inspection Body (hereinafter, “Inspection Body”)<sup>20</sup>.

20. In 2019 and 2020, the methodology and criteria<sup>21</sup> for determining risk-based inspections of the Inspection Body and the risk-based inspection checklist<sup>22</sup> were adopted. While the checklist contains references to both documentation and visual inspection methods, a mandate for the Inspection Body to use other tools (such as interviews of the staff of the entity being inspected, alone or in the presence of witnesses) is not provided<sup>23</sup>.

## Recommendations:

- Specify the inspection methodology utilized by the Inspection Body for conducting inspections, including establishing the right of the Inspection Body to use such methods as employee interviews, employee questionnaires and discussions with employees,
- Establish the responsibility of the Inspection Body to guide and assist employers in conducting workplace risk assessments,
- Develop policies for the Inspection Body to aid in the collection and analysis of workplace statistics,
- Increase the human and technical resources of the Inspection Body.

## ARTICLE 12.

### Overview:

21. Right to clean air: Air pollution is one of the biggest public health issues we face globally, and it is getting worse.<sup>24</sup> According to the World Health Organization's guidelines, the air quality in Armenia is considered moderately unsafe. The most recent data indicates the country's annual mean concentration of PM2.5 is 33 µg/m<sup>3</sup>, which exceeds the recommended maximum of 10 µg/m<sup>3</sup>.<sup>25</sup> To have significant changes in this field, the legislation should be improved, new bylaws must be adopted, adequate measures must be implemented and a law on climate change should be adopted.

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<sup>20</sup> The powers of the Inspection Body are enshrined in the RA Law on Inspections and the charter of the Inspection Body. The charter is available at <https://www.hlib.am/charter/>

<sup>21</sup> Government Decision No. 1124-N, available in Armenian at <http://www.irtek.am/views/act.aspx?aid=151770>

<sup>22</sup> Government Decision No. 718-N, available in Armenian at <https://www.arlis.am/DocumentView.aspx?DocID=145652>

<sup>23</sup> Working Conditions and Occupational Safety in the Mining Sector of Armenia/Discussion Paper/Cooperation-based research with the Center for Responsible Mining of the American University of Armenia, 2021, <https://www.rightsresearch.net/research-and-publications>

<sup>24</sup>Health and Air Pollution. A global health emergency.

[https://www.cleanairfund.org/theme/health/?gclid=Cj0KCCQjwoemBhCfARIsADR2QCtno1RbF7fKwXAivmjLFFCwuNNFvdbO6foy2oAJ4rZuqMtw2wkYCg4aAqFvEALw\\_wcB](https://www.cleanairfund.org/theme/health/?gclid=Cj0KCCQjwoemBhCfARIsADR2QCtno1RbF7fKwXAivmjLFFCwuNNFvdbO6foy2oAJ4rZuqMtw2wkYCg4aAqFvEALw_wcB)

<sup>25</sup> Armenia: General Health Risks: <https://www.traveldoctor.network/country/armenia/risk/air-pollution/>

22. In December 2022, amendments and supplements were made to the Law on Protection of Ambient Air<sup>26</sup> (the Law) concerning the procedure for state recording of ambient air pollutant emissions, approval of the procedure for state recording and documentation of greenhouse gas emissions, introduction of internationally defined air quality assessment systems, technical norm setting for emissions, and recording of emissions.

23. More than 7 months have elapsed since the adoption of the above-mentioned Law. It is worth noting that until the recent legislative amendment, the Law adopted in the '90s was still in force, pursuant to which the territory of Armenia was not divided into zones and agglomerations based on internationally recognized ambient air quality standards; projects based on health standards have not been implemented.

### **Issues:**

24. Urgent need to adopt bylaws: In order to ensure the implementation of the Law on Protection of Ambient Air, it is necessary to develop and adopt bylaws deriving from the requirements of the Law, since a long delay in the adoption thereof may lead to non-application of the Law, as a result of which continuous deterioration of the ambient air pollution will persist. In addition, while developing a strategy, the State, as per the Committee on Economic, Social and Cultural Rights<sup>27</sup>, is obliged to take into account the need to carry out measures aimed at reducing air pollution. Whereas Armenia not only does not take steps for implementing the amended Law, but also fails to take into account measures necessary to reduce air pollution when developing strategies, including sector-specific strategies.

25. Impact of air pollution on the public health: According to the World Health Organization<sup>28</sup>, each year in Armenia, 16% of deaths from stroke and ischemic heart disease are caused by air pollution. 90% of air pollution in Armenia is a result of transport and waste incineration emissions and a weak waste management system as well as deforestation<sup>29</sup>. In addition to these causes, construction dust emissions from active construction works in the country have become another cause of air pollution.

26. It has been officially stated<sup>30</sup> that numerous cases of levels exceeding the maximum permissible concentrations of ambient air pollutants were recorded in the city of Yerevan and in a number of large towns in Armenia: Gyumri, Vanadzor, Alaverdi, Hrazdan and Ararat. The problem of dust concentrations in the air (especially in the air of Yerevan) has been raised at different levels: state, local public and international organizations. For example, the 2023 WHO

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<sup>26</sup> Law on Ambient Air Protection in Armenian, 23.12.2022,

<http://parliament.am/legislation.php?sel=alpha&ltype=3&lang=arm#20>

<sup>27</sup> Substantive issues arising in the implementation of the International Covenant on Economic, Social and Cultural Rights. General comment no. 14, 2000:

<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDzFEovLCuW1AVC1NkPsgUedPIF1vfPMJ2c7ey6PAz2qaojTzDJmC0y%2B9t%2BsAtGDNzdEqA6SuP2r0w%2F6sVBGTpvTSCbiOr4XVFTqhQY65auTFbQRPWNDxL>

<sup>28</sup> Struggling to Breathe: Public Transportation and the Air Pollution Crisis, 2023 <https://evnreport.com/raw-unfiltered/struggling-to-breathe-public-transportation-and-the-air-pollution-crisis/>

<sup>29</sup> Preserving Forests is Key to Armenia's Climate Goals and Economic Sustainability, 2021: [Preserving Forests is Key to Armenia's Climate Goals and Economic Sustainability \(worldbank.org\)](https://www.worldbank.org/en/press/2021/04/29/preserving-forests-is-key-to-armenia-s-climate-goals-and-economic-sustainability)

<sup>30</sup> Data by Hydrometeorology and Monitoring Center SNCO and the Environmental Protection and Mining Inspection Body of the Republic of Armenia, 2022

the air quality guideline value for PM<sub>2.5</sub> is 5 mg/m<sup>3</sup>, while the annual average in Armenia was estimated at 46 mg/m<sup>3</sup>.

27. Dust emissions caused by mass construction: In the Republic of Armenia, although the Administrative Offences Code<sup>31</sup> (hereinafter the “AOC”) defines liability for failure to implement measures preventing dust emissions during facilities being built, reconstructed or demolished within the territory of Armenia in the form of administrative penalties, in particular fines, in practice, the requirements for protecting ambient air during construction of facilities being built, reconstructed, or demolished are not observed, in particular construction sites are not fenced to prevent dust emissions, are not covered with an impermeable cover at the height appropriate to the construction, are not regularly watered and kept moist when the air temperature is above zero, devices and technologies preventing dust emissions are not used during grinding works, and bulk materials are not stored in closed areas. There is not a single building/construction which is covered with an impermeable cover. In other words, the norms set out in the AOC are not observed.

28. These requirements provided for by the AOC are also defined by the Law on Protection of Ambient Air<sup>32</sup>. In particular, the Law stipulates that when allocating, designing, constructing and operating new and reconstructed enterprises, structures and other facilities, improving existing technological processes and equipment and introducing new ones, it is necessary to ensure that the maximum limits of harmful impacts on the state of ambient air are observed and reduced. However, the requirements offset out in this Law are also not observed.

29. Lack of proper oversight by the competent body: Oversight of the application of the AOC and the Law is carried out by the Environmental Protection and Mining Inspection Body (hereinafter “Environmental Inspection Body”)<sup>33</sup>. If the economic operator or developer fails to implement measures to prevent dust emissions during construction, the Environmental Inspection Body shall draw up a protocol on the offence, and an administrative fine shall be imposed. The amount of these fines is minuscule compared to the harm they do to human health. These kinds of fines are not effective and cannot be considered to have preventive effect. It is much preferable for the economic operator or developer to pay fines than to follow the legislative requirements.

30. Lack of information on fines in Environmental Inspection Body’s reports: Twice a year, the Environmental Inspection Body submits reports on the results of the monitoring carried out within its powers. According to the released reports, no fines have been imposed both during the current and the previous year in connection with the provisions of the above Laws.

31. Lack of law on climate change: The bylaws on mitigation, adaptation, and greenhouse gas emissions were adopted during the last few years. There is no law on climate change in Armenia. With the adoption of a law on climate change, comprehensive regulation on climate change issues can be set out.

32. The Government of Armenia has adopted a number of documents on mitigation and adaptation to climate change<sup>34</sup>, however, a law on climate change has not yet been adopted. Only the conceptual recommendation to elaborate such a law was drafted.

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<sup>31</sup> RA Administrative Offences Code, Article 81.1, <https://www.arlis.am/documentview.aspx?docid=73129>

<sup>32</sup> RA Law on Protection of Ambient Air, Article 21, <https://www.arlis.am/documentview.aspx?docID=71305>

<sup>33</sup> See information on Environmental Protection and Mining Inspection Body on <https://www.ecoinspect.am/en/activity>

<sup>34</sup> Nationally Determined Contributions (NDC) under the Paris Agreement, <http://nature-ic.am/en/news/The-Government-of-Armenia-approved-Armenia's-updated-2021-2030-Nationally-Determined-Contributions--supported-under-EU4Climate-project/12734>, the Draft Financial Strategy for the implementation of the Nationally Determined Contributions (NDC) for 2023-



33. Climate legislation is an essential part of climate change governance, as successful action against climate change requires a legal basis<sup>35</sup>.

34. The future law on climate change should include, inter alia, the following main requirements:

- Climate litigation: the right to apply to the court on climate change issues;
- Disaster risk management;
- Establishment of a greenhouse gas emissions inventory system;
- Establishment of a system on Monitoring, Reporting and Verifying adaptation and mitigation policies and measures (MRV system);
- Strengthening the role of the inter-agency advisory council on the implementation of requirements of the United Nations Framework Convention on Climate Change and the Paris Agreement.

35. According to the ECE Committee on Environmental Policy<sup>36</sup>, the Government of Armenia is obliged, inter alia, to prepare or complete legislation on climate change, establish a national greenhouse gas emissions inventory system and a system on monitoring, reporting and verifying of adaptation and mitigation policies and measures (MRV system) etc.

#### **Recommendations:**

- Adopt a law on climate change in accordance with the requirements stipulated by the international legal acts ratified by Armenia,
- Develop and adopt bylaws deriving from the Law on Protection of Ambient Air,
- When developing national strategies, take into account the need to carry out measures aimed at reducing air pollution,
- Adopt legislation to enable the Environmental Protection and Mining Inspection Body to carry out oversight and impose fines,
- Introduce an effective compensation mechanism for damage caused to health by air pollution,
- Increase the amount of fines defined by the Administrative Offences Code, both for first time and second time offences,
- Make public all information about the imposition of fines,
- Strengthen oversight in respect of covering constructions with an impermeable cover, regular watering of construction sites, transportation of bulk materials and observance of the requirements defined by legislation.

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2030 of Armenia; the Draft Decision of the Government “On approving the long term low-emission development strategy (until 2050) of the Republic of Armenia” etc.

<sup>35</sup> Shaikh Eskander, Sam Fankhauser and Joana Setzer, “Global Lessons from Climate Change Legislation and Litigation”, <https://www.journals.uchicago.edu/doi/10.1086/711306#:~:text=Climate%20legislation%20is%20an%20essential,them%2C%20are%20rooted%20in%20law>

<sup>36</sup> Economic Commission for Europe Committee on Environmental Policy: Second Environmental Performance Review of Armenia, 2022 [https://unece.org/sites/default/files/2022-09/CEP-SS\\_InfoPaperNo.15\\_e.pdf](https://unece.org/sites/default/files/2022-09/CEP-SS_InfoPaperNo.15_e.pdf)

## ARTICLE 13.

### Overview:

36. Difficulties with access to education: For the purpose of regulating the problem of children left out of compulsory education, the relevant bylaws were adopted. But the existence of the legal act itself does not completely solve the problem. The main problem is the weak implementation of the relevant Government decision as described below. The other problem is connected with the implementation of the right to education of the national minorities, including the Molokan and Yezidi communities etc. Many members of these communities are deprived of the opportunity to exercise their right to education due to various reasons (incomplete secondary education, early marriages, etc.). The problems with inclusive education are the lack of schools with full accessibility, absence of progress in the inclusion in public education of students who are blind, deaf-blind, deaf or have trouble hearing, the lack of educational interpreters for Armenian sign language, lack of reasonable accommodations for university and college students with disabilities<sup>37</sup>, etc. There is no legal mechanism for resolving these issues.

### Issues:

37. Weak implementation of the Government decisions: In 2020, 44,516 school-age children (both primary and secondary) were out of school, representing 9.6% of the compulsory school-age population. Of the total number of out of school children, 40% were of primary, 42% of lower secondary and 18% of upper secondary school-age<sup>38</sup>. The Procedure for identifying and directing children left out of compulsory education was approved by the Government decision dated February 11, 2021<sup>39</sup>, but there are still problems. Though the Procedure defines the groups of children who may be considered excluded from compulsory education and regulates the issues concerning involvement of children left out of education, the identification of reasons for being excluded from educational institutions, the identification of children excluded from education, implementation of social supportive programs for the child (or their family) as needed, assessment of the child's educational needs and development of an individual learning plan are not conducted properly. The situation indicates that the bylaws are not being fully implemented, and thus there is a large number of children who are left out of education.

38. Non-accessibility of education for national minorities: The national minorities (Molokan and Yezidi communities) face a range of issues today, and the most significant of these are related to access to education. It is mandatory in Armenia to complete a 12-year school education; after completing basic education in grade 9, children are expected to go to a high school for grades 10 through 12 or continue their education in a training institution. But the situation is different in the

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<sup>37</sup> JamNews, Film, "Unheard stories about the life of those who are silent." 2022, <https://jam-news.net/a-film-about-the-deaf-in-armenia/?fbclid=IwAR2IlqCsebARVscxOzNZQYB5TritheuTv2fcbUMcuJOAPiHuGalRbJOIO-k>

<sup>38</sup> In 2020, 44,516 school-age children (both primary and secondary) were out of school, representing 9.6% of the compulsory school-age population, Education sector analysis for Armenia, Yerevan, 2022, ADB, Transforming Education, UNICEF for every child, [https://www.unicef.org/armenia/media/15496/file/Education%20Sector%20Analysis%20for%20Armenia.pdf?fbclid=IwAR0R1mIXDaEijnZaOPY\\_0U23NyhTi6Z0r1626Nd2QPPR8PsXs1\\_ZZqrVgcs](https://www.unicef.org/armenia/media/15496/file/Education%20Sector%20Analysis%20for%20Armenia.pdf?fbclid=IwAR0R1mIXDaEijnZaOPY_0U23NyhTi6Z0r1626Nd2QPPR8PsXs1_ZZqrVgcs)

<sup>39</sup> The procedure for identifying and directing children left out of compulsory education was approved by the Government decision on February 11, 2021, 154-N, available in Armenian, <https://www.arlis.am/documentview.aspx?docid=149923>



Yezidi community. Nowadays, for instance, the Yezidi children of Ferik community face educational problems such as incomplete secondary education (not completing one's studies after grade 9) and, as a result, almost a complete absence of any aspiration to obtain higher education. Ferik school is at the level of basic education. In order to continue their studies at a high school, the Yezidi children need to go to the Armenian schools in the neighboring communities. There are transportation problems. Admission to the higher education institutions is problematic, as some pupils have to take private classes with the tutor to successfully participate in the exams to higher educational institutions, and such tutors are not available in their community. In addition, young girls' early marriages are another challenge to continuation of the education. Moreover, due to the small number of pupils in the Ferik community school, classes combine children from several grades, which further complicates the education process, because the teachers have to use the same class time to deliver material from different textbooks to children from various grades. This greatly impedes full participation of children in the educational curriculum, and children lose interest toward the education process<sup>40</sup>.

39. The practice of early marriages of girls continues to be widespread in the Yezidi-populated communities of Armenia, which was noted also in the 2016 Report of the Committee on the Elimination of Discrimination against Women<sup>41</sup>. Although the Government has ratified international legal acts<sup>42</sup> and improved legislation<sup>43</sup>, the state still lacks appropriate monitoring mechanisms to identify and prevent the cases of early marriages and school dropouts. Non-registered marriages are also common practice, which complicates the supervision process even more<sup>44</sup>.

40. Lack of reasonable accommodations for children with disabilities: While there has been progress in the inclusion of children with disabilities into mainstream education, and new financing models for reasonable accommodations, substantial challenges remain. Schools continue to be inaccessible, despite the accessibility standards set in 2006. The building of new kindergartens, schools, and non-formal educational facilities often fails to consider the needs of all, leaving many children without requisite access<sup>45</sup>.

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<sup>40</sup> Nikolay Hovhannisyanyan, Anahit Khachatryan, Azniv Naslyan, Issues related to the rights of and opportunities for Yezidi girls residing in Armenia, Yerevan, 2020, Eurasia Partnership Foundation:

[https://epfarmeria.am/sites/default/files/Document/Issues\\_Related\\_To\\_The\\_Rights\\_of\\_And\\_Opportunities\\_For\\_Yezidi\\_Girls\\_Residing\\_In\\_Armenia\\_ENG.pdf](https://epfarmeria.am/sites/default/files/Document/Issues_Related_To_The_Rights_of_And_Opportunities_For_Yezidi_Girls_Residing_In_Armenia_ENG.pdf)

<sup>41</sup> Committee on the Elimination of Discrimination against Women, Concluding observations on the combined fifth and sixth periodic reports of Armenia, /C/ARM/CO/5-6, 25.11.2016, p. 14, periodic reports of Armenia, /C/ARM/CO/5-6, 25.11.2016, p. 14.

<sup>42</sup> Convention on Rights of the Child (1993), Convention on the Elimination of All Forms of Discrimination against Women (1993) etc.

<sup>43</sup> RA Family Code, 2012.

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<sup>45</sup> Disability and Inclusive Development NGO, Accessibility of Public Schools: Law in Practice, 2018, available in Armenian, [https://transparency.am/hy/publication/pdf/147/9486?fbclid=IwAR3E\\_vPIHv171L4zFQo-pPOz02kUycXyO1tfLPK1p8tNv7Qr9munUIhy790](https://transparency.am/hy/publication/pdf/147/9486?fbclid=IwAR3E_vPIHv171L4zFQo-pPOz02kUycXyO1tfLPK1p8tNv7Qr9munUIhy790)

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41. The government's failure to close special schools that segregate children with disabilities compels children from various regions to travel to Yerevan, where these specialized institutions are located. Separated from their families, these children are provided with an education that, though potentially more accessible, is compromised in quality. Additionally, there is a glaring absence of progress in the inclusion in public education of students who are blind, deaf-blind, deaf or have trouble hearing. The lack of educational interpreters for Armenian sign language results in discrimination, especially when students with these needs pursue vocational or higher education<sup>46</sup>.

42. Despite the recognition in the Law on Rights of People with Disabilities that educational institutions have an obligation to make reasonable accommodations, and the presence of a specific government decision to this effect, universities and colleges consistently neglect to make such accommodations for persons with disabilities. This failure is compounded by an absence of legal remedies and mechanisms to address these shortcomings, leaving those affected without avenues to seek redress for violations of their rights.

### **Recommendations:**

- Provide a mechanism for the effective implementation of the Government decision on the Procedure for identifying and taking measures for children left out of compulsory education,
- Draft state programs for the involvement and full participation of children of national minorities in the educational programs,
- Provide state educational programs to be implemented among Yezidi women to increase their awareness of their rights and provide effective mechanisms for guaranteeing the right of Yezidi girls to education, and establish a monitoring system to identify cases of early marriages,
- Fully replace segregated systems with high-quality inclusive education, and enhance educational opportunities for persons with disabilities, particularly those who are blind, deaf, or deaf-blind. This includes providing Armenian sign language interpreters at all educational levels in every region,
- Ensure that all students with disabilities are provided with reasonable accommodations and the individualized support they need at all levels of education, including tertiary and vocational education. Provide appropriate remedies in cases of disability-related discrimination in education, including sanctions for perpetrators and redress for victims.

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<sup>46</sup> JamNews, Film, "Unheard stories about the life of those who are silent." 2022, <https://jam-news.net/a-film-about-the-deaf-in-armenia/?fbclid=IwAR2llqCsebARVscxOzNZQYB5TritheuTv2febUMcuJOAPiHuGa1RbJOI0-k>

## LIST OF RECOMMENDATIONS

1. Improve the legislative framework and Constitutional guarantees for economic, social and cultural rights, as well as for environmental rights,
2. Recognize the right to a clean, healthy and sustainable environment at the constitutional level,

### *Discrimination*

3. Adopt the Law on Equality, ensuring that it provides that NGOs are entitled to bring cases on behalf or in support of an alleged victim of discrimination, and that it establishes an independent and autonomous Equality Body - in line with Council of Europe European Commission against Racism and Intolerance (ECRI) recommendations and best international practices - members of which should be elected by the Parliament and be accountable to it. Equip the autonomous Equality Body with sufficient human, financial, and technical resources,
4. Ensure the Equality Body has a mandate to: examine complaints against governmental bodies as well as private organizations and individuals, including ex officio procedures, impose administrative liability/penalties, implement conciliation, appear as amicus curiae, file lawsuits in court to protect the public interest (actio popularis), implement legal mechanisms for obtaining enforcement of its decisions, undertake monitoring and provide legal assistance,
5. Provide comprehensive compensation mechanisms and specific procedures as regards the burden of proof (respondents should prove that no discrimination has taken place) in cases of discrimination,

### *Ban on discrimination in Labor relations*

6. Define, by law, the concept of indirect discrimination and the potential ways of its manifestation, as well as provide for complete prohibition of discrimination during the hiring process. Establish a mechanism for full compensation for all cases of discrimination in employment relations, without setting a maximum threshold for compensation,
7. Establish a procedure for distribution of burden of proof in favor of the claimant in all cases regarding discrimination in employment relations,

### *Child Labor*

8. Expand the powers of the Health and Labor Inspection Body of the Republic of Armenia to conduct oversight within both the formal and informal economy in order to fully ensure guarantees for the protection of the rights of the child,

### *The right to work of persons with disabilities*

9. Introduce new employment programs and affirmative actions designed according to universal design principles to promote the employment of persons with disabilities, both in the public and private sectors,
10. Eliminate formal restrictions (including, but not limited to, those established by the Unified Social Services) to ensure the effective functioning of job-seeking platforms, in order to guarantee complete accessibility for persons with disabilities,

*Right to the enjoyment of just and favorable conditions of work*

11. Specify the inspection methodology and toolkit utilized by the Inspection Body for conducting inspections, including establishing the right of the Inspection Body to use such methods as employee interviews, employee questionnaires and discussions with employees,
12. Establish the responsibility of the Inspection Body to guide and assist employers in conducting workplace risk assessments, and develop policies and a toolkit for the Inspection Body to aid in the collection and analysis of workplace statistics,
13. Increase the human and technical capital of the Inspection Body,

*Right to health (right to clean air)*

14. Develop and adopt bylaws deriving from the Law on Protection of ambient air,
15. Adopt legislation to enable the Environmental Protection and Mining Inspection Body to carry out oversight and impose fines, and increase by tenfold the amount of fine defined by the Administrative Offences Code, both for first time and the second time offences,
16. Strengthen oversight in respect of covering constructions with an impermeable cover (there is not a single building/construction in the entire country which is covered with an impermeable cover), regular watering of construction sites, transportation of bulk materials and observance of the requirements defined by legislation,
17. Introduce an effective compensation mechanism for damage caused to health by air pollution,

*Climate change*

18. Adopt a law on climate change in accordance with the requirements stipulated by the international legal acts ratified by Armenia,

*Right to education*

19. Provide a mechanism for the effective implementation of the Government decision on the Procedure for identifying and taking measures for children left out of compulsory education,
20. Draft state programs for the involvement and full participation of children of national minorities in the educational programs,
21. Provide state educational programs to be implemented among Yezidi women to increase their awareness of their rights and to provide effective mechanisms for guaranteeing the right of Yezidi girls to education, and establish a monitoring system to check whether their marriages are forced,

22. Fully replace segregated systems with high-quality inclusive education, and enhance educational opportunities for persons with disabilities, particularly those who are blind, deaf, or deaf-blind. This includes providing Armenian sign language interpreters at all educational levels in every region,
23. Ensure that all students with disabilities are provided with reasonable accommodations and the individualized support they need at all levels of education, including tertiary and vocational education. Provide appropriate remedies in cases of disability-related discrimination in education, including sanctions for perpetrators and redress for victims.

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